

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY (“COI”)

COMMISSIONER OF POLICE MARK COLLINS QPM POSITION STATEMENT

The following Position Statement is provided in response to the letter of 19th May from Andrew King, Senior Solicitor to the COI.

In answering the questions posed. I wish to accentuate that I commenced my three-year tenure as Commissioner of Police for the Royal British Virgin Islands Police Force (RVIPF) on the 15th April 2021 and I was formally sworn in on the 19th April 2021. In responding to the questions, I will be drawing from my limited experience in the BVI and information gleaned in my handover period with the outgoing commissioner and also conversations with colleagues within the RVIPF. I have 35 years’ experience in Policing, with over 10 years as a senior Officer. My last post in the United Kingdom was the Chief Constable of Dyfed-Powys Police. A post I held for five years.

Matters to be addressed – the operation of the agencies of law enforcement and justice

(1) How are the agencies of law enforcement and justice organised in the BVI?

The police sit directly under the Governor/Deputy Governor.

Her Majesty’s Prison sits jointly under the Governor and the Minister for Health.

Customs, Immigration Courts and Director of Public Prosecutions (DPP) come under the British Virgin Islands Government (BVIg).

However, the Magistrates court fall under the Governor’s office. Customs fall under the Ministry of Finance.

Immigration sits jointly under both the Deputy Governor's and the Premier's office. The Financial Investigations Authority is an executive agency that also sits under the Deputy Governor's office and Premier's office.

Under the constitution the Royal Virgin Island's Police Force (RVIPF), Director of Public Prosecutions, Attorney General and the High Court are all constitutional.

The Attorney General sits under the RVIG. British Virgin Islands Ports Authority and Airport Authority boards are appointed by the Premier but have a dotted line to the Governor's office for matters involving security.

There is a Joint Task Force consisting of officers from Customs, the RVIPF and Immigration. I would question the operational effectiveness and value for money the unit provides and I have commissioned a review

Recommendation - complete review of Governance structures across all departments, as you can appreciate from the aforementioned precise the lines are very blurred as regards accountability and reporting.

(2) What processes and systems are in place to monitor the effectiveness of the overall system law enforcement and justice?

The RVIPF runs a COMPSTAT meeting monthly that monitors the performance of the force, as the Commissioner I regularly update the Governor on a weekly basis and prepare an annual report offering an overview of each department and district at the National Security Council (NSC). The RVIPF has a daily management meeting which reviews the previous 24hrs crimes and incidents, ensuring appropriate action and resources are deployed. There is also a court users group which looks at attrition rates and overall performance across the criminal justice section, of which I attend.

The Police Service Commission appointed by the Governor, has quarterly meetings which I attend as Commissioner. My presence is in order to update them on the performance of the force and address any matters that are brought to my attention

via this group from the community. The aforementioned Commission has a similar role to that of a Police Authority or Police and Crime Commissioner in the UK, as they are the voice of the community.

However, I would suggest that the role of this Commissioning body needs to be reviewed as their remit appears to stretch further than primarily a community-based agenda. Such as, the Commissioning body are responsible for the entire process of signing off all police appointments, all promotions of the rank of Chief Inspector and above – without any police representation on the promotion panel. And have the final decision on the cessation of probationary constables this is an unnecessary burden on both the Human Resources department and the RVIPF.

(3) What particular responsibilities do you have, as the Commissioner of the Royal Virgin Islands Police Force, within the overall system of law enforcement and justice in the BVI?

I command the RVIPF on all aspects of operational deployment and investigations. My role is to set the strategic direction of the RVIPF in line with force priorities and current crime trends.

I have just re-introduced community policing and a key part of their duties will be to liaise and engage with the public in order to encourage a more citizen focused approach going forward.

As the Commissioner of Police, I have the primacy over law enforcement, but where possible I endeavour to work collaboratively with other agencies. I am a member of the National Security Council.

I am able to direct the force to open up investigations – an example of this would be the BVI airways investigation.

I attend Joint Task Force meetings, Criminal Justice Advisory Group and I have regular meetings with the DPP, Deputy Governor's Office and the Governor's Office.

(4) What particular responsibilities do you have, as the Commissioner of the Royal Virgin Islands Police Force, in respect of detecting and investigating corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

All complaints made by a member of the public are received by the Commissioner of Police office, I assign a senior officer to investigate such a complaint. All complaints which reference criminal behavior (including corruption) are referred to the Deputy Commissioner who I have delegated to be the appropriate authority. They have the authorisation to refer the matter to the DPP or direct an internal disciplinary case. I provide the strategic direction in these matters, but I am also the avenue for appeals. I can order the opening of an investigation – I am able to accentuate with examples if required. In serious matters such as operation [REDACTED] I am in the position to call in the assistance of other overseas territories i.e. the shooting of [REDACTED] when officers from the Turks and Caicos came to investigate.

In relation to serious allegations of corruption, I believe that it would be both pertinent and necessary to engage UK assistance, via the Foreign Commonwealth and Development Office/National Crime Agency.

I have commenced a conversation with the FCDO about a review of professional standards within the RVIPF seeking the assistance of the UK. The RVIPF Professional Standards department at present has an Inspector and a Sergeant managing a large number of outstanding investigations. RVIPF currently has nine officers suspended for various offences; including indecent assault, handling stolen goods, possession with intent to supply, possession of an unlicensed firearm and making obscene publications. All matters are before the court, and further details can be provided by myself if required. However, a concern is the time line on these cases as some date back to 2014.

(5) What processes and systems are in place to detect and investigate matters relating to corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

The Office of the Complaints Commission is a grievance handling body with independent status. It is the machinery for the resolution of maladministration in the public service. The RVIPF Professional Standards department are able to manage some of these matters but as I mentioned previously the capacity and capability required for fulfilling this role exceeds the departments current remit.

The Auditor General's office deals with all issues with regards to revenue and expenditure. They are mandated under the constitution and can refer matters to the RVIPF for investigation. The RVIPF proactive team have the capability to investigate as well. Clearly the mechanisms in place at present are not fit for purpose.

I am exploring the plausibility of reintroducing Crime-stoppers. Following an appeal within our communities the result identified a total deficit in trust and confidence as regards, the RVIPF professionalism, integrity, ability to act on information offered instead of divulging amongst colleagues and friends. Therefore, during my first press conference, I launched a hot line number accessing direct contact with myself. This line is in place for any member of the public to provide information on any criminal investigation, historical or current, or a concern about any serving police officer.

I am also considering introducing and promoting an internal reporting mechanism such as "make the right call". In order to encourage serving officers to opportunity to report confidentially any misconduct matters, this initiative will be discussed as part of the PSD review. There have been a number of high-profile alleged corruption cases involving officers from the RVIPF and also other officials. [REDACTED] 2.353 tons of cocaine recovered – where serving police officers are allegedly involved.

(6) What, if any, challenges have there been/are there in relation to detecting and investigating matters relating to corruption, abuse of office or other serious dishonesty that may have taken place in public office (including within the police force) in recent years?

Undoubtedly there is a deficit with trust and confidence in the RVIPF, other law enforcement agencies and the justice system – court process.

The current system of recruiting does not delve deep or far enough into the background checks of potential candidates for the RVIPF. At present, there are no social media or financial checks made and limited checks are made in relation to previous employer and criminal records. It is my view that I would need to recruit a vetting/recruitment officer to deal with this matter.

The RVIPF has an operating budget of \$18.5 - \$19m annually. There is a shortage of equipment and human resources. The RVIPF currently has 67 vacancies, and these are from an agreed force establishment. Every vacancy and expected vacancy require the approval of the Ministry of Finance before a selection can take place. Very often requests are refused due to a lack of available funds hence the vacancy factor.

There is tremendous pressure on the organisation in all departments. We have had 8 murders since last September and a number of high-profile drugs, robbery and burglary offences. It is my view that there is not a policing department in the UK with the capacity of the RVIPF that would have been able to operate effectively and efficiently with the current available resources, combined with an ongoing deficit of a fifth of the work force remaining vacant.

The RVIPF have recovered over 3.6 tons of cocaine since November last year. Policing the waters around the BVI is also a challenge. We know that due to our close proximity to the USVI there are regular drug runs and criminal activity that goes unchallenged despite our best efforts.

There is a lack of legislation to deal with unexplained wealth. Also there isn't an independent authority to investigate such as the Independent Office for Police Conduct (IOPC) there is also fear of retribution and nepotism that runs throughout the RVIPF.

(7) What do you, as the Commissioner of the Royal Virgin Islands Police Force, consider to be the strengths and weaknesses of the overall system of law enforcement and justice in the BVI?

There is a lack of joined up working and trust across all law enforcement agencies. The jury system in the BVI necessitates that unless you are a believer you cannot be a juror. This creates a big issue when all parties are known to each other, and historically justice will not be bestowed on a fellow believer, instilling a feeling of omnipotence for the few.

There is an overall lack of information sharing across all agencies and departments impeded by the fact that computers systems are not linked. There are outdated working practices; we are still working on paper files, with many agencies still only accepting paper files and reports, with the exception of the FIA.

I also believe that culturally there is a huge resistance to change we have always done it like that appears to be the attitude within the BVI. There is a complete lack of training within the RVIPF and other agencies. I am constantly being asked about opportunities for local officers within the organization. A number of officers appear to have the capacity and capability to develop but just do not have the training and experience. Again, this all needs to be funded and that funding is not forthcoming. Our investigations seem to be DPP led and not police led due to a lack of knowledge.

(8) What steps do you, the Commissioner of the Royal Virgin Islands Police Force, consider should be taken to ensure that the strengths and weaknesses you have identified can be maintained or remedied respectively?

I intend to carry out a complete review of the force. Implement a performance management regime of holding people to account.

I am in the process of reviewing policies and procedures. Which include sickness management, retention and promotion.

I am extremely concerned that officers are allowed to have secondary jobs that in my view are not compatible to working as a police officer. Mainly this is centered around working as a security officer or operating your own security business.

I intend to introduce a business interest register as part of the Professional Standards review to address this.

I consider our newly launched community policing team as a big step forward. The previous team was dissolved after hurricane Irma and had not been re-established. However, I do believe it will take some time to start to regain the support of the Community and instill any trust and confidence.

I have seen that swift action in dealing with high profile cases such as the [REDACTED] [REDACTED] murder does give a level of reassurance and confidence within the community. I welcome the review of the Police Act. We are currently operating under a 1991 act, and this has serious effects on our ability to operate effectively. Only being able to hold someone in custody for a maximum of 24 hours is untenable and does not afford officers the time to do not even the basics. An example of this is the recent murder of [REDACTED] - there were seven people arrested in connection with that offence and it was impossible to deal with them all within the current time frame. Effectively it means we are releasing people back out into the community that have committed the most serious of offences, as in this case suspected murder and we are

affording them the opportunity to kill again because the Police Act is 30 years out of date.

Currently DNA is only used for intelligence purposes, and a person who has been arrested does not need to provide a sample on arrest and this is the same approach for taking fingerprints. This approach results in evidence being lost or diluted at the scene; we have a number of people responsible for very serious offences that cannot be charged due to the current legislation.

The apportionment of the equivalent to the Proceeds of Crime Act in the BVI is between 2-5%, again this needs to be reviewed to bring us in line with the United Kingdom.

Due to the increase in financial crime within the BVI, the RVIPF necessitates an increase in both resources and training in this area of policing. Most serious crime requires some financial crime or digital forensic work to assist in building and proving a case. Improvements in capacity and effectiveness of financial crime resilience is extremely important especially as there is a planned inspection of the Territory in 2022.