



The Republic of Seychelles

Report of the Commission of Inquiry into the circumstances associated or surrounding with and leading to the search of the luggage of the Hon. Wavel Ramkalawan, Leader of the Opposition, on Saturday the 8 February 2020, at the Seychelles International Airport by officers of the Anti-Narcotics Bureau of the Police Force of Seychelles.

Commissioner: Fiona Sylvia Robinson, Justice of Appeal in the Court of Appeal of Seychelles.

Established by The President of the Republic of Seychelles His Excellency, Danny Faure, on the 19 February 2020, in the exercise of his powers under the Commissions of Inquiry Act Chapter 39

Chapter 1 <b>Forward by Commissioner</b>	3
Chapter 2 <b>Executive Summary</b>	4-10
Chapter 3 <b>Evidence</b>	11-76
Chapter 4 <b>Discussion, findings and recommendations</b>	77-89
Chapter 5 <b>Summary of Findings and Recommendations</b>	90-91
Chapter 6 <b>Miscellaneous orders of the Commission of Inquiry</b>	92
Chapter 7 <b>Conclusion</b>	93
Chapter 8 <b>List of witnesses</b>	94
Chapter 9 <b>Sittings of the Commission of Inquiry</b>	95
Chapter 10 <b>List of exhibits and unmarked documents</b>	96-98
Chapter 11 <b>Acknowledgments</b>	99
Chapter 11 <b>Expenses of the Commission of Inquiry</b>	100

## **Chapter 1: Forward by the Commissioner**

The President of the Republic of Seychelles His Excellency, Danny Faure, established this Commission of Inquiry to inquire into the circumstances associated or surrounding with and leading to the search of the luggage of the Hon. Wavel Ramkalawan, Leader of the Opposition, on Saturday the 8 February 2020, at the Seychelles International Airport, by officers of the Anti-Narcotics Bureau (hereinafter referred to as the "ANB") of the Police Force of Seychelles. As the Commissioner, I understood the fundamental motivation to be a quest to establish the truth of what happened.

The Commission of Inquiry guided by its terms of reference, the Commissions of Inquiry Act Chapter 39, and other written laws of Seychelles, did its work professionally, inclusively, impartially and transparently. The Commission of Inquiry spared no effort and held nothing back. It gave persons concerned with the inquiry and other witnesses, the opportunity to make their contributions towards its work without fear, favour or prejudice. The Commission of Inquiry also granted access to its work to the public and the media. A particular word of gratitude goes to all the witnesses who came forward.

Fiona Robinson

Commissioner of Inquiry into the 8 February 2020 search of  
the Hon. Ramkalawan

## **Chapter 2: Executive Summary**

On Saturday the 8 February 2020, the Hon. Ramkalawan returning from official duty from South Africa opted to use the public arrival lounge and exited through the "green channel". It is about 9 35 p.m., that Mr Ashley Labiche, an ANB officer, operating at the Seychelles International Airport, searched a piece of luggage belonging to the Hon. Ramkalawan, a holder of a diplomatic passport. In the course of that search, the Hon. Ramkalawan gave his diplomatic passport to ANB officer, Mr Ashley Larue, operating at the airport after the latter had asked him to hand over his diplomatic passport to him. ANB officer Larue scanned pages 2 and 3 of the said passport and, after that, returned it to the Hon. Ramkalawan.

After completing their duties, in the evening of the 8 February 2020, ANB officers Larue and Labiche compiled a report titled, "*REPORT FOR FLIGHT INQUIRY FOR SATURDAY 08TH FEBRUARY 2020*" (hereinafter referred to as the "Flight-Report"). The Flight-Report provides: "*At 2135 hrs routine check was conducted on one Wavel Ramkalawan Seychelles Diplomatic Passport D0000709 Leader of the Opposition in the National Assembly. He stated that he came from 03 days conference in South Africa. Luggage search was conducted otherwise nothing illegal was found*".

The Hon. Ramkalawan exited the airport after the search and met with Mr Anille Bristol, his official driver, who was waiting for him outside of the airport. Upon the Hon. Ramkalawan informing him of what had transpired in the arrival lounge, Mr Bristol informed the Hon. Ramkalawan that he had earlier received a tip-off.

Following the incident, in the evening of the 8 February 2020, the Hon. Ramkalawan phoned the Deputy Commissioners of Police Messrs Ted Barbe and Romano Songor, who did not respond to his phone call. He did not phone the Commissioner of Police, Mr Kishnan Labonte. At about 10 46 p.m., he texted the President of the Republic of Seychelles, His Excellency, Danny Faure, who returned his text that same evening. That text informed President Faure that ANB officers had searched his luggage, at the airport,

and taken his passport from him. That text also informed President Faure that coincidentally Mr Bristol had earlier received a tip-off.

In the early morning of Sunday the 9 February 2020, Deputy Commissioner of Police Songor spoke to the Hon. Ramkalawan by phone, who informed the former of the search of his luggage. In the early morning of Sunday the 9 February 2020, at a meeting convened by the Commissioner of Police Labonte at the Police Headquarters, concerning the search of the luggage of the Hon. Ramkalawan, the Commissioner of Police Labonte agreed to the request of Deputy Commissioner of Police Songor to investigate the search of the luggage of the Hon. Ramkalawan. In the early morning of Monday the 10 February 2020, Deputy Commissioner of Police Songor instructed ANB officer Sabury to investigate the search of the luggage of the Hon. Ramkalawan for the Police Force.

In the morning of Monday the 10 February 2020, the Chief Executive Officer of the Seychelles Civil Aviation Authority, Mr Gary Albert gave footage of the search to the Hon. Ramkalawan at the request of the Hon. Ramkalawan.

In the morning of Monday the 10 February 2020, ANB Officer Sabury, in the company of Superintendent of Police Thaver, went to the National Assembly to take the statement of the Hon. Ramkalawan. The Hon. Ramkalawan showed footage of his search to the ANB officers. After that, the ANB formally obtained footage of all passengers clearing the formalities at the airport in the evening of the 8 February 2020, for flight HM060 arriving from Johannesburg at 9 03 p.m., from the Aviation Security (hereinafter referred to as "AVSEC").

On the 9 February 2020, the Hon. Ramkalawan told Mr Mancienne, the Leader of the "*Linyon Demokratik Seselwa*" (hereinafter referred to as the "*LDS*"), of the circumstances of the search. Mr Mancienne was deeply concerned about the implications of the search of the Hon. Ramkalawan, the LDS Presidential candidate.

At a small group meeting of the LDS on the 10 February 2020, Mr Mancienne raised the point that the search of the Hon. Ramkalawan was a serious issue. That meeting reviewed Facebook posts, specifically a "*Kakasat - Nouvel Anba Langar*" Facebook post and examined the ramifications of the search. That meeting opined that the search of the Hon. Ramkalawan was a frame-up, and that he is the target of a smear campaign. In response to this opinion, the LDS issued a press release on Tuesday the 11 February 2020, titled: "***PRESS RELEASE LDS CONDEMNS AIRPORT SEARCH BY ANTI-NARCOTICS BUREAU ON PRESIDENTIAL CANDIDATE WAVEL RAMKALAWAN***".

After the release of the LDS press release, the Seychelles Broadcasting Corporation (hereinafter referred to as the "SBC") interviewed the Hon. Ramkalawan and Mr Mancienne on the 12 February 2020. It also obtained a press release from the ANB concerning the incident. At about 8 p.m., on the 12 February 2020, the SBC aired excerpts of the interview of the Hon. Ramkalawan and Mr Mancienne concerning the search.

### **Commissions of Inquiry Act**

The President of the Republic of Seychelles His Excellency, Danny Faure, appointed a Commission of Inquiry in terms of section 2 of the Commissions of Inquiry Act through Government Notice No. 109 of 2020 published in the Official Gazette (Extraordinary Gazette) No. 18 on Wednesday the 19 February 2020, with specific terms of reference contained therein.

Through this Government Notice, the President of the Republic of Seychelles His Excellency, Danny Faure, in the exercise of the powers conferred by —

*"1. Section 2 (1) (a) and (d) and 2 (2) of the Commissions of Inquiry Act —*

*(a) hereby appoint[s] Madam Justice Fiona ROBINSON,  
Justice of Appeal, as Commissioner to —*

(i) *inquire into the circumstances associated or surrounding with and leading to the search of the luggage of **Hon. Wavel RAMKALAWAN**, Leader of the Opposition, on Saturday 8 February 2020, at the Seychelles International Airport by officers of the Anti-Narcotics Bureau of the Police Force of Seychelles;*

(ii) *render a report of the finding of the Commissioner and the reasons for such findings not later than **fourteen (14) days from the date of publication of this Commission in the Official Gazette, and***

(b) *direct[s] that the inquiry shall be held at the **Court of Appeal, Palais de Justice, Ile du Port, Mahé**".*

2. *Section 7 (1) of the Commissions of Inquiry Act, appoints **Miss Marie-Claire Julie** as Secretary to the Commission to perform the functions set out in that section.*

3. *Section 20 of the Commissions of Inquiry Act, direct the Commissioner of Police to detail police officers to assist the Commissioner, to maintain order during the proceedings of the Commission, to serve summonses to witnesses and to perform such duties as the Commissioner directs." A copy of the Extraordinary Gazette is found at of the Lists of Documents*

*Dated this 17<sup>th</sup> day of February, 2020 [...]."*

The Extraordinary Gazette is listed at Chapter 10 of the of the List of Exhibits and Unmarked documents

Under the Commissions of Inquiry Act, I took the oath of Commissioner before the President of the Republic of Seychelles, His Excellency Danny Faure, on the 24 February 2020, to inquire into the matters specified in the said Commission of Inquiry. The Commission of Inquiry Act Oath of Commissioner is listed at Chapter 10 of the List of exhibits and unmarked documents.

The Commission of Inquiry did not complete its work, within the time frame, due to circumstances beyond its control. It requested two extensions from President Faure. President Faure granted the Commission of Inquiry's request for extensions, with the new date of submission of the final Report being the 6 April 2020. The Extraordinary Gazettes are listed at Chapter 10 of the List of exhibits and unmarked documents.

### **Approach**

The Commission of Inquiry adopted a multifaceted approach for making its inquiries, analysis and findings as well as recommendations concerning the incident. The approach includes obtaining written statements, verbal testimonies at public hearings, doing inspections in loco, reviewing video footage from AVSEC and the SBC and examining other miscellaneous documents including Facebook posts and press releases.

Attorney-at-Law, Miss Manuella M Parmantier of Suite 202B, 2nd Floor, Orion Mall, Mahe, Seychelles - e-mail: [mplaw@email.sc](mailto:mplaw@email.sc) assisted the Commission of Inquiry during the whole of the inquiry. The Hon. Ramkalawan and ANB officers Larue and Labiche, persons concerned in the matter under inquiry, under the Commissions of Inquiry Act, were represented by Counsel during the whole of the inquiry. Attorney-at Law, Mr Anthony Derjacques and Mr Frank Elizabeth represented the Hon. Ramkalawan and ANB officers Larue and Labiche, respectively.

I sat to hear the evidence of twenty-five witnesses summoned before me on the 25 February 2020, and throughout the inquiry, from the 27 February 2020 to the 16 March 2020. Chapter 8 contains a list of witnesses who testified before the Commission of Inquiry.



The Commission of Inquiry conducted inspections in loco concerning the incident, on the 2 March 2020 at 1 15 p.m., and the 13 March 2020, at about 5 30 p.m., at the airport.

### **Findings and recommendations**

The crucial findings of the Commission of Inquiry are —

#### Primary findings

- (A) ANB officer Labiche did not satisfy the test of reasonable grounds for suspicion before he searched the luggage of the Hon. Ramkalawan. Consequently, the search of the Hon Ramkalawan was unlawful.
- (B) Under section 25 (1) (a) of the Misuse of Drugs Act 2016, an officer must not search a person even with his consent or even when a person voluntarily submits to a search, unless in either case, the search is in accordance with section 25 (1) (a) of the said Act

#### Secondary findings

- (A) The evidence shows that the Hon. Ramkalawan instigated the search of his luggage
- (B) There is no evidence to establish that Mr Bristol received a tip-off.

In the light of my findings, I recommend that standard operating procedures should clearly outline the statutory powers of an officer under section 25 (1) (a) of the Misuse of Drugs Act read with sections 22 and 25 of the Police Force Act and all relevant written laws of Seychelles. The standard operating procedures should be readily available in all police stations and other relevant working places for all officers to consult and training should be provided.

### **Miscellaneous orders**

In the light of my finding that ANB officer Labiche did not satisfy the test of reasonable grounds for suspicion before he searched the Hon. Ramkalawan, I make an order that all information including the scanned passport copy of the relevant pages of the diplomatic passport of the Hon. Ramkalawan, being stored on the data base of the Police Force, pertaining to the unlawful search of the luggage of the Hon. Ramkalawan, in the evening of the 8 February 2020, be forthwith permanently expunged from the database of the Police Force.

Further, I order that the Commissioner of Police Labonte shall inform or cause to inform the Hon. Ramkalawan in writing that the order of the Commission of Inquiry has been complied with.

### **Conclusion**

In my view, the appointment of the Commission of Inquiry by President Faure was justified.

There is, at present, a worrisome situation. Powers of stop and search without first making an arrest must be used justly, dutifully, responsibly with respect to the relevant fundamental rights and freedoms of persons being searched. ANB officers of the Police Force discharging their duties and performing their functions must have regard to the law.

I urge the Commissioner of Police Labonte to respond positively to this Report and to open a new chapter in the relevant policies, practice and activities of the Police Force concerning the findings and recommendations of the Commission of Inquiry.

## **Chapter 3: Evidence**

### **Testimony of Miss Marina Confait**

1. Miss Confait is the Principal Secretary of the Department of Foreign Affairs. She testifies lengthily concerning a document titled "*Diplomatic & Official Passport Policy Department of Foreign Affairs Republic of Seychelles November 2018*", (hereinafter referred to as the "*Policy*"). Annex 2 to the Policy mentions the category of persons, who are entitled to a diplomatic passport - the Leader of the Opposition is entitled to a diplomatic passport. A person holding a diplomatic passport under Annex 2 does not enjoy any of the privileges and immunities, which are enjoyed by a diplomatic agent under the written laws of Seychelles. In the words of Miss Confait, a person holding a diplomatic passport under Annex 2, at an airport, enjoys "*fast track, VIP services, assistance by protocol*".

### **Testimony of Mrs Linda Rosalie**

2. Mrs Rosalie, a journalist by profession, has worked for the SBC for twenty-nine years. She tendered to the Commission of Inquiry interview excerpts aired by the SBC on the 12 February 2020, with respect to the Hon. Ramkalawan and Mr Mancienne.
3. She explains how the SBC came to know of the incident in question. LDS issued a press release on the 11 February 2020. Following that press release, she phoned Mr Mancienne for an interview. She interviewed Mr Mancienne and the Hon. Wavel Ramkalawan on the 12 February 2020. After that, the SBC contacted the ANB for its side of the story. It obtained a press release from the ANB by e-mail. On the 12 February 2020, the SBC aired excerpts of the interview of the Hon. Wavel Ramkalawan and Mr Mancienne.

### **Testimony of Mr Georges D'Offay**

**Miss Parmantier:**

4. Mr D'Offay is the Director of sales and customer experience at the Cable & Wireless (Seychelles) Ltd (hereinafter referred to as "Cable"). Cable gave information to the Police Force under warrants from Judges of the Supreme Court of Seychelles.
5. Mr D'Offay, in a letter, dated the 17 February 2020, addressed to the Commissioner of Police Labonte, to the attention of Superintendent of Police Mr Thaver, informed the Commissioner of Police that: *"Telephone number 2545444 is registered in the name of: Yamilla Laurette La Misere NIN: 99801981002"*, and that *"Telephone number 4376604 is registered in the name of: Sindy Toussaint Pointe Larue NIN: 97809581093"*.
6. Subsequently, Mr D'offay, in a letter, dated the 26 February 2020, addressed to the Commissioner of Police Labonte, to the attention of Superintendent of Police Thaver, gave to the Commissioner of Police Labonte the following information: CABLE AND WIRELESS INCOMING/OUTGOING CALLS/SMS – 2545444; CABLE AND WIRELESS INCOMING CALLS – 4376604; and CABLE AND WIRELESS OUTGOING CALLS – 4376604 (all exhibits before the Commission of Inquiry).

**Mr Derjacques:**

7. Counsel is only concerned with voice calls on WhatsApp. He suggests that Mr Bristol was tipped-off by voice call on WhatsApp. Mr D'Offay agreed with Counsel that phone number 2545444 could have made voice calls on WhatsApp at 8 p.m., or between 8 p.m., to 9 30 p.m., on the 8 February 2020.

**Miss Parmantier:**

8. In the light of the evidence of Mr D'Offay, Counsel requests for Cable to provide the Commission of Inquiry with a data log for internet usage between 8 p.m., to 10 p.m., on the 8 February 2020. Mr D'Offay explains that Cable would not be able to tell the Commission of Inquiry if a caller had made a call on WhatsApp. He goes on to state that Cable will only be able to tell the Commission of Inquiry if a person had used the internet.

**Mr Derjacques:**

9. Subsequently, Counsel was concerned with Wi-Fi. Counsel ascertains from Mr D'Offay whether or not a person's phone uses data when connected to Wi-Fi. Mr D'Offay states that a phone does not use data when connected to Wi-Fi.

**Commissioner:**

10. Cable did not provide the Commission of Inquiry with any useful information with respect to data usage.

**Testimony of Superintendent of Police Mr Neville Thaver**

**Miss Parmantier:**

11. Superintendent of Police Thaver is seconded to the ANB. On the 10 February 2020, he was present when Deputy Commissioner of Police Songor, tasked ANB officer Sabury to conduct an investigation. Superintendent of Police Thaver accompanied ANB officer Sabury to the National Assembly, where the said officer, in his presence, took statements from the Hon. Ramkalawan and Mr Bristol. In the course of the interview, the Hon. Ramkalawan showed them footage of the search conducted on him. After that, on the same day, ANB Principal Officer Mr Derek Samson liaised with the Seychelles Civil Aviation Authority to obtain footage of the search.
12. Superintendent of Police Thaver took ANB officer Sabury to the Seychelles Civil Aviation Authority at the airport, where they viewed footage of the search in the CCTV room. After that, ANB officer Sabury investigated on her own.
13. In the course of the investigation, ANB officer Sabury approached Superintendent of Police Thaver to apply for warrants with Airtel (Seychelles) Ltd (hereinafter referred to as "Airtel") and Cable, which he subsequently did. There were no disputes by Counsel about the admissibility of any of the Information and Warrant made under section 95 of the Criminal Procedure Code and the evidence given to Superintendent of Police Thaver under warrants. They are all before the Commission of Inquiry as exhibits.

14. In the course of the investigation, at the request of ANB officer Sabury, Superintendent of Police Thaver phoned Assistant Superintendent of Police ("ASP") Mr Jean Toussaint, the public relations officer of the Police Force, for the latter to obtain excerpts of interviews aired by the SBC concerning the search. On the following day, ASP Toussaint contacted him and told him that the SBC had given him a CD, which ASP Toussaint gave to him. He gave that CD to ANB officer Sabury.

**Mr Elizabeth:**

15. Superintendent of Police Thaver states that ANB officer Sabury wanted to obtain under warrant the call log for the phone number of Mr Bristol because Mr Bristol explicitly alleged that he received a tip-off by phone.

**Commissioner:**

16. From a question from me about whether or not Mr Bristol wanted to divulge the identity of the person from whom he received the tip-off, Superintendent of Police Thaver states: "*[h]e did not want to disclose from whom he had received except to say and his words were "it was from somebody high up".* He clarifies that the said words were spoken in his presence, that of ANB Officer Miss Sabury and the Hon. Ramkalawan.

**Mr Elizabeth:**

17. When asks by Counsel whether or not he asked Mr Bristol, "*who is that somebody high up?*", his response is: "*My specific question to him, after Officer Sabury actually took the statement, I said to him, can you tell us if it was somebody from the Police Force who tipped you off? And his response to that was, "I am not going to tell you who contacted me, except to say that it was somebody from high up but not in the Police. His words were not in the Police".* He is unaware of whether or not the Police Force has ascertained the identity of the person, who allegedly tipped-off Mr Bristol.

**Commissioner:**

18. I ask him to apply to Airtel and Cable under warrants for the following evidence. Data usage and usage log for phone numbers 2816056 and 2822850 registered with Airtel and

data usage and usage log for phone numbers 2545444, 2814445, 2780098, 27340062816056 and 2822850 registered with Cable, for the 8 February 2020.

### **Testimony of Mrs Sandra Michel**

19. Mrs Michel confirms the testimony of Miss Confait. She adds that the Privileges and Immunities (Diplomatic, Consular and International Organisations) Act Chapter 181 does not apply to a person holding a diplomatic passport under Annex 2 of the Policy.

### **Testimony of Deputy Commissioner of Police Mr Romano Songor**

20. Deputy Commissioner of Police Songor is in charge of the ANB and specialised anti-narcotics operations.
21. The National Drugs Enforcement Agency (hereinafter referred to as the "*NDEA*") was repealed on the 1 November 2017, (National Drugs Enforcement Agency (Repeal) Act, 2017). The Police Force Act (Special Constables) (Amendment) Regulations, 2019, establish the ANB, a unit of special constables. Sections 48 and 62 of the Police Force Act Chapter 172 enable the said Regulations. ANB officers Larue and Labiche are special constables duly appointed under section 48 of the Police Force Act. A special constable, when on duty, has the same powers, privileges and protection and performs the same functions and is amenable to the same penalties and subordinate to the same authorities as a police officer (section 49 of the Police Force Act).

#### **Miss Parmantier:**

22. Deputy Commissioner of Police Songor testifies that the ANB informs its ANB Principal Officer Nichol Fanchette of any drug-related duty to be discharged at the airport. The ANB may also send instructions by an e-mail message. The Commission of Inquiry notes that it is unclear to whom such an e-mail is sent to at the airport. Where ANB Principal Officer Fanchette is not available, the ANB instructs a designated ANB officer, who is on duty, of

any drug-related duty to be discharged at the airport. ANB Principal Officer Fanchette or an ANB designated officer instructs his or her junior officers.

23. He testifies in detail about standard operating procedures, which are a set of ANB procedures to assist its officers in the discharge of their duties.
24. He testifies that, under the standard operating procedures, the ANB may instruct an ANB officer to search. Under the standard operating procedures, an ANB officer may also exercise discretion to search without being instructed by the ANB Principal Officer Fanchette or his or her designated officer. He adds that there must be a basis for the suspicion based on facts, the behaviour of the passenger and information and/or intelligence. Further, an ANB officer may search the luggage of a passenger, who voluntarily submits to a search. However, the ANB officer's discretion to search has to be exercised with care as the passenger may have been used as a decoy.
25. Before an ANB officer searches, he or she takes the passenger's passport and makes a scanned copy of the relevant pages of it. After a search, the officers, who search, compile a report. He adds that an ANB officer may search the luggage of a holder of a diplomatic passport.
26. On the 9 February 2020, at about 6 a.m., he texted the Hon. Ramkalawan apologising to the Hon. Ramkalawan for missing his call on the 8 February 2020. Subsequently, the Commissioner of Police phoned him, asking him to attend a meeting at the Police Headquarters. The Commissioner of Police did not inform him of the reasons for the meeting. At about 6 30 a.m., he phoned the Hon. Ramkalawan, who told him that ANB officers had searched his luggage. He was surprised to know of the search because he was not informed of it.
27. Deputy Commissioner of Police Songor testifies that his office did not instruct its ANB Principal Officer Fanchette, designated officers or junior officers by e-mail or otherwise, to search or cause to be searched the luggage of the Hon. Ramkalawan. He explains that the ANB Principal Officer Fanchette or a designated officer should inform him of any



search on a high-profile person. He adds that it is not proper for him to have been kept in the dark.

28. On Sunday the 9 February 2020, he initiated an investigation. He instructed ANB officer, Miss Kathleen Belle (an ANB designated officer), to inform ANB officers Larue and Labiche that they need to provide incident statements.
29. On Monday the 10 February 2020, after having read the incident statements of ANB officers Larue and Labiche, Deputy Commissioner of Police Songor appointed Superintendent of Police Thaver and ANB officer Sabury to investigate the incident. Deputy Commissioner of Police Songor informed the Hon Ramkalawan of the same and indicated that his statement would be taken.

**Commissioner:**

30. Deputy Commissioner of Police Songor testifies that ANB officers Larue and Labiche compiled a Flight-Report of all searches made by them after the searches on the 8 February 2020, which his office received at about 8 a.m., on Sunday the 9 February 2020. He gave to the Commission of Inquiry a printed copy of the Flight-Report, which contains agreed deletions.

**Miss Parmantier:**

31. The Flight-Report provides that ANB officer Labiche conducted a routine check at 9 35 p.m., and that *"nothing illegal was found"*.
32. Counsel ascertains from Deputy Commissioner of Police Songor what is meant by a *"routine check"*. Deputy Commissioner of Police Songor explains —

*"A: Yes routine check is normally the normal check that you do, and we normally will do on the first time arrival passengers or most of the time it would be the first time Seychellois is travelling, or if we have normally had people travelling in groups, like in groups of*

*family. Like I said it all depends on the country of interest that they had been and also in the system we also have the accommodation. There are certain overseas accommodation that is linked to drugs cartel at international. So this is why it is done".*

...

*Q: How wide are the discretion of the Officers?*

*A: Like I have said, it all depends on the day itself. You know what kind of passengers you are having because these officers we stand not only to search for the drugs because we are Police Officers. We need to establish whether the person is a criminal, a fugitive, whatever, all the circumstances because you are also part of the border control security because we are the last persons before the person exit. If Immigration has failed in regards to their profiling, they allowed that person in; Custom has failed to do the check because at the airport we all lack resources. So we at least we are able to prevent a crime or deter a crime from occurring.*

**Commissioner:**

33. Deputy Commissioner of Police Songor clarifies that where an ANB officer receives no instruction to search a high-profile person, the officer may use his discretion. That ANB officer may exercise his discretion after profiling and questioning. He emphasises that an ANB officer may exercise his discretion to search a passenger after profiling and questioning only.
34. Further, the Deputy Commissioner of Police Songor states the following concerning the question of a routine check when questioned by the Commissioner —

*"Q: So if there is absolutely no reasonable suspicion, no credible information ... will a search take place just because an officer routinely search?"*

*A: Yes I understand what you are saying. The routine search is not just for statistics to see if a flight has come in, because I am on duty I have to search 5 people. It is like you have given a target of people that you need to search. No, we do not operate like this so the officer has to question and has reasonable grounds to ... "*

35. Deputy Commissioner of Police Songor testifies that ANB officer Labiche rightly searched the luggage of the Hon. Ramkalawan, if the latter had requested to be searched and had told the officer that the reason for the search was, *"yes, I am importing drugs so I want you to search my luggage to make sure that my reputation on this flight is cleared"*.

**Mr Derjacques:**

36. He testifies that the Flight-Report is stored in the ANB database system.
37. Deputy Commissioner of Police Songor states that he saw the incident statements of ANB officers Larue and Labiche on Sunday the 9 February 2020. He reiterates that neither the Core Management team, nor the ANB instructed any ANB officer to search the luggage of the Hon. Ramkalawan. He adds that the Hon. Ramkalawan is not an ANB target, and that he broke into a fit of laughter when the Hon. Ramkalawan told him of his search.

**Commissioner:**

38. Deputy Commissioner of Police Songor states that he is privy to all the information regarding illegal drug-related operations. He reiterates that on the 8 February 2020, the ANB officers operating at the airport discharged regular duties.

**Mr Elizabeth:**

39. Deputy Commissioner of Police Songor testifies that the Flight-Report was e-mailed to the ANB Principal Officer Fanchette and then to all other officers privy to this information. ANB Principal Officer Fanchette was not at the airport on the 8 February 2020.
40. He is aware of the tip-off allegation made by Mr Bristol. He informs the Commissioner of Police Labonte of the allegation, and Superintendent of Police Thaver and ANB officer Sabury investigated the allegation. He does not know the outcome of the investigation because he has not had sight of the file.

**Commissioner:**

41. Deputy Commissioner of Police Songor states that he did not ask the Hon. Ramkalawan who had tipped-off Mr Bristol, because the ANB was going to investigate the allegation.

**Assistant Superintendent of Police ("ASP") Mr Jean Toussaint (unsworn)**

42. ASP Jean Toussaint is among other things, the public relations officer in the Police Force.
43. On the 14 February 2020, he made a formal request to the SBC for footage of a press conference given by the Hon. Ramkalawan and an interview given by Mr Mancienne, at the request of Superintendent of Police Thaver. On the 14 February 2020, he received two video footage on a CD from the SBC, which he gave to Superintendent of Police Thaver.

**Testimony of Mr Mancienne**

**Miss Parmantier:**

44. Mr Mancienne is a businessman and the Leader of LDS.
45. On Sunday the 9 February 2020, he received a text message from the Hon. Ramkalawan informing him of the search incident and on the same day, he phoned the Hon. Ramkalawan, who informed him about the circumstances of the search.

46. Mr Mancienne was unduly concerned about the implications of the search of the Hon. Ramkalawan, who is the LDS Presidential candidate for the forthcoming 2020 election. He spoke to the Hon. Ramkalawan about what he perceived to be the implications of the search, but the Hon. Ramkalawan was not concerned about them. The Hon. Ramkalawan told him of the tip-off, but he neither inquired about the tip-off from the Hon. Ramkalawan nor from Mr Bristol. He believes there was a tip-off.
47. On Monday the 10 February 2020, at a small LDS group meeting, Mr Mancienne raised the point that the search was a serious issue. In that regard, the meeting examined the ramifications of the search and reviewed Facebook posts, specifically a "*Kaka Sat – Nouvel Anba Langar*" Facebook post.
48. The members attending the meeting were deeply concerned that the search of the Hon. Ramkalawan was a frame-up. The members held this view because the "*Kaka Sat – Nouvel Anba Langar*" Facebook post states that the Hon. Ramkalawan is involved in illegal drug activities and should be searched at the airport, and that ANB officers searched the luggage of the Ramkalawan.
49. Mr Mancienne elaborates that, since the search took place before passengers and other people at the airport, they would say that the ANB had searched the Hon. Ramkalawan for illegal drugs. Such a statement would give rise to the "*suggestion*" that the Authorities suspect the Hon. Ramkalawan of being involved in the importation of illegal drugs. He goes on to testify: "*we were concerned that this would be a manipulation which could be repeated*". In the words of Mr Mancienne: "*we also wanted to cut short any premeditated plan of that sort with just a public awareness that these things could happen*".
50. Overall, Mr Mancienne states that the Hon. Ramkalawan could be the target of a smear campaign. However, the LDS cannot substantiate this allegation. Consequently, the LDS issued a press release aimed at quickly dispelling all possible allegations against the Hon. Ramkalawan. He adds that he is not alleging that the Government of Seychelles is responsible for the smear campaign.

**Commissioner:**

51. Mr Mancienne thinks that it is essential that the Commission of Inquiry establishes the identity of the person who tipped-off Mr Bristol to prove that the search of the Hon. Ramkalawan was not a *"random"* one.

**Mr Derjacques:**

52. Next, he states that the identity of the person who tipped-off Mr Bristol must be preserved.

**Mr Elizabeth:**

53. Counsel asks Mr Mancienne if the LDS was accusing the ruling party of targeting the Hon. Ramkalawan, the LDS Presidential candidate. Mr Mancienne's response is: *"... I believe that this could have been part of a manipulation and since it is done, it was done by somebody. Now what you are saying is that I have been insinuating that it is only the ruling party that has the motive to do that. ... I would say yes, they are the ones with the motive"*. However, he adds: *"I do not mean that it was the President or a Minister or anything of that sort but it was somebody with that motive in mind"*. He informs the Commission of Inquiry that he has absolutely no idea of the identity of the person who might have targeted the Hon. Ramkalawan. Mr Mancienne reiterates that, as the Leader of the LDS, and, because he is responsible for its reputation, he considers the search of the Hon. Ramkalawan to be a serious matter.
54. Mr Mancienne states that he is unaware of the allegation that the Hon. Ramkalawan voluntarily submitted to the search. He accepts that the ANB officer did not seize the diplomatic passport of the Hon. Ramkalawan, but it was taken away and returned to him. He did not try to ascertain the identity of the person who tipped-off Mr Bristol because he *"accepted it as part of the circumstances"*.
55. Mr Mancienne denies the suggestion of Counsel that the response of the LDS to the search incident was an over-reaction. He also denies the suggestion of Counsel that the response of the LDS to the incident was a calculated and well-orchestrated political manoeuvre to

get the sympathy of the public for the LDS and the Hon. Ramkalawan. Mr Mancienne clarifies that he managed the incident to "*protect the best interest*" of the LDS.

### **Testimony of ANB officer Miss Kathleen Belle**

#### **Miss Parmantier:**

56. Miss Belle is a senior ANB officer (a designated officer), who is responsible for the daily duties discharged by ANB officers at the airport. She takes instructions from ANB Principal Officer Fanchette, her superior. Deputy Commissioner of Police Songor instructs ANB Principal Officer Fanchette. ANB officers Larue and Labiche are her junior officers.
57. Deputy Commissioner of Police Songor told her by phone of the search incident on Sunday the 9 February 2020, at about 6 53 a.m. ANB officer Belle told Deputy Commissioner of Police Songor that she was not on duty on the 8 February 2020, but she will phone the officers who were on duty. She phoned ANB officer Larue, who told her that ANB officer Labiche was the one who searched the luggage of the Hon. Ramkalawan at the request of the Hon. Ramkalawan.
58. ANB officer Belle explains that the ANB does not habitually search the luggage of a holder of a diplomatic passport. An ANB officer searches the luggage of a holder of a diplomatic passport where he or she has "*probable cause, about 99 % doubt that it search somebody with a diplomatic passport*".
59. An ANB officer who searches makes a scanned copy of the relevant pages of the passport of the person searched after the search. If there is another ANB officer available, that officer makes a copy of the relevant pages of the passport in the course of the search.

#### **Mr Derjacques:**

60. ANB officer Belle did not instruct ANB officers Larue and Labiche to search the luggage of the Hon. Ramkalawan. She is unaware of whether or not any other person instructed ANB officer Labiche to search the luggage of the Hon. Ramkalawan. According to her evidence, before a junior ANB officer searches a high profile person, that officer should

inform his or her superior officer. Nonetheless, she clarifies that an ANB officer may exercise discretion to search.

**Mr Elizabeth:**

61. ANB officer Belle reiterates that ANB officer Labiche should have phoned his superior officer before searching the luggage of the Hon. Ramkalawan, even though the Hon. Ramkalawan, the holder of a diplomatic passport, voluntarily submitted to the search.
62. She states that there is no difference between a routine search and a random check. She states that a *"targeted search"* refers to *"a person who comes frequently and [they] will frequently search on him"*. A line search is where *"the Immigration brings in a passenger, and the passenger is searched by customs officer assisted by the Immigration officer and the ANB Officer"*. She confirms that where the search of the Hon. Ramkalawan is concerned; it was a routine check and not a *"targeted search"*.
63. She clarifies that an ANB officer cannot exercise his discretion to search a holder of a diplomatic passport under any circumstance. The Hon. Ramkalawan is a diplomat because he holds a diplomatic passport. She was adamant that ANB officer Labiche should have sought the permission of his superior officer before searching the luggage of the Hon. Ramkalawan.

**Testimony of Mr Flore**

**Miss Parmantier:**

64. Mr Flore is the Deputy Manager of AVSEC at the Seychelles Civil Aviation Authority and responsible for the *"Video Surveillance room"*. On Monday the 10 February 2020, ANB Principal Officer Samson phoned him for video surveillance footage concerning an ANB internal investigation. He is unaware of the investigation being conducted by the ANB. He approved ANB Principal Officer Samson's request immediately so as not to delay the ANB's investigation. ANB Principal Officer Samson also sent to him by e-mail a request



form, *"REQUEST FORM FOR VIDEO SURVEILLANCE FOOTAGE"*, for video surveillance footage, which he approved.

65. Superintendent of Police Thaver, ANB officer Sabury and ANB Principal Officer Samson viewed the footage in the "Video Surveillance room". Mr Desire Leon, the AVSEC *"Video Surveillance"* operator, retrieved footage of all passengers clearing the formalities at the airport, which he gave to the ANB.
66. Mr Flore is unaware of who posted the footage online. The footage posted online is the same footage, which Mr Desire Leon gave to ANB Principal Officer Samson. He viewed the footage three days after the incident to confirm that the footage posted online is the same footage given to ANB Principal Officer Samson.

#### **Testimony of ANB Principal Officer Mr Derek Samson**

67. ANB Principal Officer Samson is responsible for, among other things, corporate affairs and training development. On the 10 February 2020, Deputy Commissioner of Police Songor told him to assist Superintendent of Police Thaver to obtain footage of the search of the Hon. Ramkalawan. He followed AVSEC formalities to obtain the footage.
68. ANB Principal Officer Samson, in the company of Superintendent of Police Thaver and ANB officer Sabury, proceeded to the CCTV room at the airport. Mr Desire Leon extracted the footage and copied it on ANB Principal Officer Samson's pen drive, which the latter gave to ANB Officer Sabury, in the CCTV room.

#### **Testimony of ANB Officer Miss Farida Sabury**

69. ANB officer Sabury has been in the employment of the NDEA, now the ANB of the Police Force for four and a half years.
70. On Monday the 10 February 2020, Deputy Commissioner of Police Songor called her to his office and told her of the incident that took place at the airport. He instructed her to

investigate the incident. He gave her a diary in which she made entries concerning the investigation. Superintendent of Police Thaver assisted her with the investigation as he is the person responsible for her unit.

71. On the 10 February 2020, in the company of Superintendent of Police Thaver, she went to the National Assembly to take the statement of the Hon. Ramkalawan. In the light of what the Hon. Ramkalawan told her, she took the statement of Mr Bristol, at the National Assembly in the office of the Hon. Ramkalawan.
72. After that, the Hon. Ramkalawan showed her footage of his search. She informed ANB Principal Officer Samson, the airport liaison officer, of the footage, and told him to get the footage for the investigation.
73. After that, ANB Officer Sabury and Superintendent of Police Thaver, in the company of ANB Principal Officer Samson proceeded straight to the CCTV room at the airport, where Mr Desire Leon extracted footage for flight HM060 from Johannesburg at 9 25 p.m., on the 8 February 2020, and handed it to ANB Principal Officer Samson on a pen drive. ANB Principal Officer Samson gave the pen drive to her, which she kept in her possession until she gave it to the Commission of Inquiry. After that, she took statements from other witnesses concerning the incident.
74. On the 14 February 2020, she received footage on a CD from Superintendent of Police Thaver, who got the CD containing the footage from ASP Toussaint. The CD contained news extracts relating to the press conferences given by the Hon. Ramkalawan and Mr Mancienne.
75. In the course of the testimony of ANB officer Sabury, the Commission of Inquiry exhibited video evidence from the airport CCTV system contained on a pen drive upon the consent of all Counsel. The Hon. Ramkalawan informed the Commission that he obtained footage of the search from the Chief Executive Officer of the Seychelles Civil Aviation Authority

Mr Albert on Monday the 10 February 2020, after having made a formal request for it on Sunday the 9 February 2020.

76. ANB officer Sabury also gave evidence about a Facebook post by one Donald Antoine Hoareau, a witness. She mentions that Donald Antoine Hoareau is not available for the inquiry. She retrieved the post online. That post reads —

*"Hey boss, post this for me. As an ANB Agent being an Opposition supporter and what Wavel did upon his arrival at the Airport on Saturday and as an LDS supporter who was present there this guy really has a problem, because he is just accusing us for nothing and insulting us when he is the one who came to us and told us that now that there is a lot of people there 'here is my passport, take a look, I think it is there, it is an accusation that I am transporting drugs in Seychelles. Take a look at it, take a look at it, people will say you are working.' These are the words which he said and we just took his passport, we only made a copy of it and after that he made the drama of throwing his bag for opening. But one thing he is not aware of this, that when he is in Seychelles even if he has a diplomatic passport we can do a search on him if we suspect anything, and we can even ask him for his passport. In another country this is not possible, but this is possible when he is in Seychelles."*

### **Testimony of Mr Maxime Morel**

#### **Miss Parmantier:**

77. Mr Morel is the support and litigation manager and the court representative for Airtel.
78. Airtel, under a warrant from a Judge of the Supreme Court informed the Commissioner of Police, by a letter, dated the 13 February 2020, that phone number 2816056 is registered

in the name of Anille Jean-Philippe Bristol, and that phone number 2887767 is registered in the name of Ashley Darly Labiche.

79. Regarding the phone records for phone number 2887767, Mr Morel informs the Commission of Inquiry that the said phone records recorded no phone activity between 8 p.m., to 10 p.m., on the 8 February 2020. The phone records show that phone number 2816056 interacted with phone numbers 2822850, 2816058, 2814453, 2780098 and 2734006 at about 8 10 p.m., to 9 46 p.m., on the 8 February 2020.
80. Airtel, under the second warrant from a Judge of the Supreme Court, by a letter, dated the 17 February 2017, provided details about phone numbers 2822850, 2816058, 2814453, 2780098 to the Commissioner of Police.
81. Airtel, under the third warrant from a Judge of the Supreme Court, by a letter, dated the 4 March 2020, provided details about phone numbers 2816056, 2822850, 2816058, 2814453, 2780098 and 2734006 including data usage and usage log for the 8 February 2020, to the Commissioner of Police Labonte. Airtel found data usage on two of the numbers requested.
82. I interject to state that, after having considered the evidence of Mr Morel, it is unclear whether or not Mr Bristol received any voice call on WhatsApp at 8 31 p.m., on the 8 February 2020.

### **Testimony of Mr Mervyn Hariba**

#### **Miss Parmantier:**

83. Mr Hariba is a junior customs officer, who works in arrival at the airport. His duties involve, among other things, passenger profiling, checking documentation, collecting taxes and checking and searching the luggage of passengers.
84. On the 8 February 2020, at about 9 30 p.m., he was stationed in arrival at the green channel at customs clearance.

85. Mr Hariba recalls when the Hon. Ramkalawan made his way to customs clearance, where he [Mr Hariba] was stationed. He asked the Hon. Ramkalawan for his disembarkation card. After he had collected the disembarkation card of the Hon. Ramkalawan, he told the latter to place his cabin luggage on the x-ray. The Hon Ramkalawan was in the company of the Hon. Egbert Aglae and Miss Genevieve Morel.
86. Mr Hariba left his spot and proceeded to where the Hon. Ramkalawan, Hon. Aglae and Miss Morel were at, to see what was happening. He saw the Hon. Ramkalawan put his bag on the search desk. After that, he walked away to where his supervisor was standing because there were no more passengers coming to the green channel.
87. Mr Hariba did not hear what the Hon. Ramkalawan and the ANB officers were saying. He saw the Hon. Ramkalawan was standing in front of the search desk, and an ANB officer was standing behind that desk.

**Mr Derjacques:**

88. Mr Hariba was adamant that he did not hear the Hon. Ramkalawan raises his voice. He was adamant that he did not hear the Hon. Ramkalawan says anything to the ANB officers. He did not hear any conversation between the Hon. Ramkalawan and ANB officer Labiche.
89. Mr Hariba goes on to state that when an ANB officer stands in front of a passenger at the luggage screening equipment, it indicates that the officer is going to talk to the passenger and may proceed to search that passenger.
90. Mr Hariba recalled talking about the incident to other officers on duty at the material time, but he could not recall anything he said.

**Testimony of ANB Principal Officer Mr Nichol Fanchette**

**Miss Parmantier:**

91. ANB Principal Officer Fanchette has been in the employment of the Police Force for almost twelve years. He is responsible for anti-narcotics community operations. In the course of his duties, he visits the districts, airports, ports, the post office and also the inner islands. He is also responsible for officers stationed at the airport. Deputy Commissioner of Police Songor or he [ANB Principal Officer Fanchette] instructs the designated officers stationed at the airport.
92. ANB officer Belle oversees the daily running of the ANB operations at the airport. ANB officers send a daily report of their duties. Junior ANB officers work without supervision because they know what their duties are.
93. ANB Principal Officer Fanchette is not part of the Core Management Team and is not aware of what it does. He knows that some people are holders of diplomatic passports, but he is not well versed about them. However, he is aware of the procedures to follow when dealing with a holder of a diplomatic passport. In that regard, he exercises discretion whether or not to search a holder of a diplomatic passport.

**Commissioner:**

94. He states that junior ANB officers may also exercise discretion whether or not to search the luggage of a person holding a diplomatic passport. ANB Principal Officer Fanchette mentions that ANB officer Belle is not correct to suggest that the holder of a diplomatic passport should not be searched.

**Miss Parmantier:**

95. ANB Principal Officer Fanchette reviews the reports compiled by ANB officers on duty. He states that an ANB officer on duty can position himself or herself anywhere in the airport.
96. ANB Principal Officer Fanchette comments on the footage of the search, by stating that he believes the location at which ANB officer Labiche stood at, while the Hon. Ramkalawan was retrieving his cabin luggage is a regular location for ANB officers to stand.

**Mr Derjacques:**

97. ANB Principal Officer Fanchette is not aware of standard operating procedures dealing with searches of holders of diplomatic passports. Whether or not there are procedures, as an ANB officer, he exercises discretion to search the holder of a diplomatic passport. ANB Principal Officer Fanchette points out that an ANB officer may search the luggage of a passenger without having formed any reasonable suspicion.

**Mr Elizabeth:**

98. ANB Principal Officer Fanchette explains that there is no difference between a routine check and a random check. A random check *"is when you pick somebody and search him"*.
99. There is no ANB procedure which states that an ANB officer cannot search the luggage of a holder of a diplomatic passport. In that regard, an ANB officer is free to exercise discretion to search. Junior ANB officer Labiche did not require the permission of his or her superior officer to search the luggage of the Hon. Ramkalawan. The Hon. Ramkalawan is not an ANB target. He did not order ANB officers Larue and Labiche to search the luggage of the Hon. Ramkalawan. Nobody instructed ANB officers Larue and Labiche to search the luggage of the Hon. Ramkalawan, to his knowledge. The ANB does not take into account Facebook posts in its decision-making process.

**Testimony of the Honourable Egbert Aglae**

**Miss Parmantier:**

100. Hon. Aglae is an elected member of the National Assembly. Together with the Hon. Ramkalawan and Miss Morel, they returned to Seychelles from *"Official Mission"*. They completed customs formalities and were directed by an officer of customs to put their cabin luggage on the x-ray.
101. The Hon. Ramkalawan retrieved his luggage first because he was in front of them. When they proceeded to the exit, an ANB officer, who was there, stood in front of the Hon. Ramkalawan. The Hon. Ramkalawan gave his luggage to the officer to search. Counsel

asks Hon. Aglae whether or not anybody asked to search the luggage of the Hon. Ramkalawan. His response is —

*"No, I do not think that there was – if I do recall maybe but I do not think that there was an attempt from the ANB officer to come and say I am going to search your luggage, but since the ANB was just right after the counter and Mr Ramkalawan's luggage was on that counter also so then I saw that his luggage was being searched".*

102. Hon. Aglae testifies that the Hon. Ramkalawan instigated the search. I record the following interactions between Counsel Parmantier and the Hon. Ramkalawan —

*"MS. PARMANTIER CONTINUES*

*Q: According to your statement Mr. Aglae, you stated that Honourable Ramkalawan said "you can search my bag"?*

*A: Yes.*

*Q: So what prompted him to do that? In your opinion having seen their interaction to say something like that?*

*A: What I may say is that when Mr. Ramkalawan say "you can search my bag" and then the ANB Officer did the search and Mr. Ramkalawan I remember saying that "because I have been in the past been accused of drug trafficking you can search my bag" [...] –*

103. Hon. Aglae states that he did not hear ANB officer Labiche request for a search of the luggage of the Hon. Ramkalawan. After the Hon. Ramkalawan stated to ANB officer Labiche that he had been accused of importing illegal drugs in the country, ANB officer



Labiche immediately stated: *"I will do my job because I may be accused as searching certain kind of people."*

104. The ANB officer proceeded to search the luggage of the Hon. Ramkalawan. After that, the Hon. Ramkalawan gave a second bag to the ANB officer to search. There was a small bag with aquarium pebbles in Hon. Ramkalawan's luggage, which the ANB officer lifted. Hon. Ramkalawan stated: *"that is my drug and we laugh"*. Hon. Aglae stood behind the Hon. Ramkalawan where he watched what was happening. The other ANB officer took the passport of the Hon. Ramkalawan.
105. The Hon. Aglae was suspicious of the search. After they had exited the airport, he and the Hon. Ramkalawan spoke of the incident for about two minutes. Hon. Aglae raised the point that the search of the luggage of the Hon. Ramkalawan was a serious issue. The tension was getting to the Hon. Ramkalawan, who told him that he will speak to *"higher authorities"*.
106. Counsel Parmantier ascertains from the Hon. Aglae why the Hon. Ramkalawan would report the incident to higher authorities since he voluntarily submitted to the search. The explanations given by the Hon. Aglae are as follows —

***"Q: You mentioned not too long ago that Honourable Ramkalawan is the one that initiated it. So why would he want to report to the higher Authorities if that had been the case?"***

***A: Because I think it is the first time that he has been searched.***

*[...]*

**MS. PARMANTIER CONTINUES**

***Q: You mentioned previously that if Honourable Ramkalawan had not offered for his bags to be searched,***

*you do not think he probably would have been searched. So now you are saying that Honourable Ramkalawan had tension after he had left. So why would he have tension after he had left if he was the one that had proposed the search in your opinion?*

*A: From my opinion is that being searched by an ANB Officer, anyone, even me after being searched you do some thinking of what just happened or why have this happened.*

*Q: But according to you this could have been avoided if he had just perhaps not offered to be searched.*

*A: But then if he does not offer to be searched, maybe there will be – I do not know – maybe it will raise some concern if he resist the search.*

*Q: But the search was not initiated or prompted by the ANB Officers according to your statement. So how would he resist something that has not been prompted?*

*A: If I recall from my statement, the 2<sup>nd</sup> bag was handed over freely by Mr. Ramkalawan.*

**COMMISSIONER TO MR. AGLAE**

*Q: It was handed over freely by him?*

*A: Yes, the 2<sup>nd</sup> bag that was searched.*

*Q: So he volunteered?*

*A: The 2<sup>nd</sup> bag yes upon the 1<sup>st</sup> bag was searched''.*

**Mr Derjaques:**

107. Hon. Aglae states that he is a member of the United Seychelles party. Mr Hariba told him to put his cabin luggage on the x-ray. ANB officers at the airport have never searched him.
108. While the Hon. Ramkalawan was removing his luggage from the luggage screening equipment, the ANB officer was already there, and they were interacting. However, he could not recall if it was at that instant that the Hon. Ramkalawan said to the ANB officer *"you can search me"*.
109. I record the interactions between Counsel and the Hon. Aglae concerning the search incident. The Hon. Aglae is now stating that the Hon. Ramkalawan **agreed** to be searched after the ANB officer Labiche requested to search the Hon. Ramkalawan. However, astoundingly the Hon. Aglae could not recall the request, but he was sure that there must have been an *"approach"*.

*"Q: Okay, so it is at frame – 51 seconds that you believe you heard Mr. Ramkalawan saying "you can search me" and you would agree that from 31 seconds to 51 seconds it is 20 seconds of interaction already gone?*

*A: Yes.*

*Q: Sometimes in life someone asks you something and then you agree, like since you are a child, your mother asks "do you want food?" "yes I want food". Someone says "can I do this?" you say "Yes you can" or sometimes in life someone out of the blue says "vin fousy lo mwan" like Officer Finesse in her statement to the Police says "Mr. Ramkalawan insisted that you must search him". This is what Officer Finesse says in her statement to the Police. When you heard Mr. Ramkalawan at 51 seconds say "you can search me" was he reacting to something asked of him or was he saying "mon oule ou fousy lo mwan, mwan ensiste ou fousy lo mwan"?*

**A:** *He has been approached by the ANB Officer and as the video shows, they were around the 20 seconds which there was some interaction which I myself I do not recall or overheard. It was after hearing that Mr. Ramkalawan said "you can search me" that the Officer took the bag for search".*

**Q:** *Okay, I will ask the question again maybe in another way. Was Mr. Ramkalawan agreeing to the search upon request of Officer Labiche or was Mr. Ramkalawan telling Mr. Labiche "you must search me"?*

**A:** *Mr. Ramkalawan agreed to be searched.*

**Q:** *Agreed to be searched?*

**A:** *Yes from the request which I do not recall what was saying because there must have been an approach from the ANB Officer then because we are Member of Parliament, we do not create sceneries, we comply, we make law so I must agree that Mr. Ramkalawan in his sound mind agreed to be searched."*

Emphasis is mine

110. Hon. Aglae states that the Hon. Ramkalawan spoke to him outside of the airport before talking to his driver.

**Mr Elizabeth:**

111. With reference to exhibit CI2(A), the press conference given by the Hon. Ramkalawan, which was aired by the SBC, on the 12 February 2020, Hon Aglae testifies that he raised the point that the search of the Hon Ramkalawan was serious, but he did not tell the Hon Ramkalawan that: "[...] they could have put something in [his] luggage".

112. Hon. Aglae did not hear any conversation between Hon. Ramkalawan and ANB officer Labiche before he heard the Hon. Ramkalawan say to ANB officer Labiche he can search his bag as he had been told and seen on the social media that he imports illegal drugs in the country.
113. He agrees that the Hon. Ramkalawan stated the following about the aquarium pebble: "*la la mon drog*".
114. Hon. Aglae states that when he and Hon. Ramkalawan were both outside of the airport; they spoke for about two minutes concerning the incident. He raised the point that the search was a serious matter, and that the Hon. Ramkalawan stated: "*is this a political motivation?*". The Hon. Ramkalawan stated that he will take the matter to the higher authorities.
115. After that, Counsel Elizabeth questions the Hon. Aglae about the account of the incident, contained in his statement, which Counsel suggests did not tally with the account given by the Hon. Ramkalawan in his statement. I find it appropriate to record the following interactions between Counsel and the Hon. Aglae —

*Q: [...] Now I just want to contrast what you heard from Honourable Ramkalawan and what Honourable Ramkalawan said in his statement. There is a contrast and I want to put that to you, you said in your statement that you heard Honourable Ramkalawan said "you can search in my bag/ ou kapab fouy dan mon sak" this is what you said you heard? That Honourable Ramkalawan said that "basically he was blocking my exit therefore I asked him whether he wanted to search my bag" you see the difference? You said Mr. Ramkalawan said "you can search my bag" like he offered for his bag to be searched but Honourable*

*Ramkalawan said, he asked a question whether Labiche wanted to search his bag and in answer to that question Labiche answered according to Honourable Ramkalawan “positively yes” now which is the most accurate version given between yours and Honourable Ramkalawan on that day? Is it your version that was an offer to search or his version “I asked him whether he wanted to search”?*

*A: From the video that has been played earlier, there is a time frame around 10 or 20 seconds I think, that while I was getting my luggage screened they were already interacting, the ANB with Mr. Ramkalawan. I may not have heard the initial conversation, but when I did get closer to Mr Ramkalawan the ANB Officer was taking the baggage and he said "you can search my bag" and the following up that "since I have been on social media, being said that I am into drug importation you can proceed" that was what I heard.*

*Q: Now, the second part is also interesting. The timing of the second part where Honourable Ramkalawan says “since there is a post on social media that I am importing drugs then and search my luggage” when did he make that statement? Is it before he was searched or after he was searched?*

*A: It was an ongoing process, the conversation was ongoing so while the ANB Officer was taking the baggage the conversation was rolling I may say. It was during that period of time.*

*Q: According to Honourable Ramkalawan he made that statement about Social media, allegation of drug importation before leaving. That means he made that*

*statement after the search because in his statement he said and I will quote again to refresh your memory “before leaving I asked the ANB Officer if everything is okay because the previous week there has been a post on Facebook claiming that one of my friends Mr. Gervais Chetty was bringing cocaine in the country and that the Authority had to search my bag when I come in” so according to that statement he made that comment before leaving, after the search, not before according to him. Do you recall that?*

*A: If we were to put that in sequence maybe there is a little bit of – not maybe a little bit but sequentially this happened, the conversation did happen, what as mentioned but I will not recall if it was after the exit but it was between the sequence of time that the searching was being done, not while we were exiting at the door.*

*Q: After the search, not exiting. When the search was completed, Honourable Ramkalawan said before leaving, before leaving the search desk he asked that question “if everything was okay” because this is what he has seen on Facebook.*

*A: Maybe he was repeating that.*

*Q: The reason I am asking you that, because in your statement you said Honourable Ramkalawan said that before the search, not after the search before leaving and I will quote your statement, you said “what I heard Honourable Ramkalawan said “you can search my bag as I have been told and see on social media that I am in drugs important” you see the timing of the 2 statements, your statement you said he said that before the search and that is the reason why*

*he wanted to be searched, because of the post on Facebook. But Honourable Ramkalawan says "no, I said that after the search before leaving" see, that is why I am seeking clarification. Did it happened before? Was it a reason for the search or it happened after the search?*

*A: If I recall, it was between doing the search and the luggage was already taken. It was not before the ANB took the luggage that he said that, this one I will categorically deny but it was after the luggage was taken that the conversation came."*

**Commissioner:**

116. I ask the Hon. Aglae if ANB officer Labiche request for a search of the luggage of the Hon. Ramkalawan. Hon. Aglae states: *"My Lady at first there was some conversation that was being done which I not heard because I was doing my screen. From the point I reached I overheard Mr. Ramkalawan agreed "you can search me" and then the Officer said "I will do the search because people might think that I do searches on certain people/ kind of people"*".

**Testimony of Miss Maria Finesse**

**Miss Parmantier:**

117. Miss Finesse is a customs officer level 2, who works in arrival at the airport. She conducts among other things, screening of passengers and luggage. In the evening of the 8 February 2020, she was on duty. She was stationed at the *"baggage targeting point"*. Mr Hariba was the *"point officer"*.
118. Miss Finesse heard Mr Hariba directing the Hon. Ramkalawan to the screening equipment. She greeted the Hon. Ramkalawan. The Hon. Ramkalawan asked which luggage he should put on the x-ray. As the Hon. Ramkalawan is the holder of a diplomatic passport; she told him to put his cabin luggage on the x-ray. She clarifies that she indicated to the Hon.



Ramkalawan which luggage to put on the x-ray or screening equipment as she is the baggage targeting officer.

119. An ANB officer was standing *"on the other side of the table, next to her, after the luggage of the Hon. Ramkalawan had come out of the screening equipment"*. The ANB officer greeted the Hon. Ramkalawan and asked him if he had been on holiday, to which the Hon. Ramkalawan answered that he came from a *"conference"*.
120. Miss Finesse states what transpired after that: *"[h]e took his luggage, then, he did not shout, but he spoke loudly, he said, 'la la, foye akoz mon tande lo face book pou dir mon anmenn cocaine (there is it, search it because I hear on facebook that I bring in cocaine)'"*. She did not hear ANB officer Labiche request for a search of the luggage of the Hon. Ramkalawan. After the Hon. Ramkalawan had made that comment, ANB officer Labiche directed the Hon. Ramkalawan to the search desk. After that, she went back to the *baggage, targeting point*. She returned when the rest of the passengers were going to the green channel. She saw the luggage of the Hon. Ramkalawan on the search desk and he was putting things back in the bag.
121. Later in the proceedings, she clarifies that the Hon. Ramkalawan took his luggage from the screening equipment; he asked ANB officer Labiche to search his luggage as he has heard on Facebook that he brings cocaine in the country. The Hon. Ramkalawan spoke loudly. She was adamant that the Hon. Ramkalawan insisted on being searched.
122. When she saw the passengers making their exit, she returned and stood near the screening equipment. She saw the Hon. Ramkalawan was putting a packet of food in his luggage. She heard the Hon. Ramkalawan stated that the animal food in his bag was for his fish. She also heard the Hon. Ramkalawan stated out loud, while he was closing his bag: *"[...] now I have got my approval stamp"*. Then the Hon. Ramkalawan left the airport. She was surprised that the Hon. Ramkalawan brought his luggage to be searched and at the comment made: *"[...] now I have got my approval stamp"*.

**Commissioner:**

123. Miss Finesse states that the baggage screening equipment is not far from the search desk. From where she was standing at the screening equipment, she could see what was happening at the search desk. The Hon. Ramkalawan was standing at the search desk when he said to ANB officer Labiche: "[...] *la la, fouye*". *"(He said, there it is, search it.)"*

**Mr Derjacques:**

124. I record the following material interactions between Counsel and Miss Finesse concerning the incident —

*"(Questions by Mr. Derjacques to Ms. Finesse, Continue)*

*Q: You said that you heard Mr. Ramkalawan say: 'You can search me' – O.K, tell the phrase again?*

*A: '– search my luggage'. 'Ou kapab', konmsi, 'fouye'. ('You can search).*

*Q: O.K. Now, was Ramkalawan sort of, asking officer Labiche 'vini, vin fouy mon baggage', (come and search my baggage) or, was Mr. Ramkalawan addressing it to officer Labiche who was standing right in front of him, with authority, like this, (Mr. Derjacques indicates on the video) in front of his trolley? Which one?*

*A: The way you are saying in there.*

*Q: Standing in front of his trolley?*

*A: Yes, he is standing in front of his trolley, with his hand –*

*Q: And you used the word, 'stopped him', before the Commissioner Lady stopped me.*

A: *Yes, because, when Honourable Ramkalawan came, he stopped in front of the trolley, he did not stop him, he stopped, in front of the trolley.*

[...]

Q: *From what you heard and you saw, there are two scenarios. One, probably painted by Mr. Elizabeth over there. One, by me and then it would be decided by the Honourable Commissioner. You know when a person is making a request [...], like, 'fer en ketsoz pou mwan' (do something for me), or, when a person is asking a question, do you want to search me? So, it is either Ramkalawan asking, can you search me? Asking Labiche for a favour, search me, as a favour, or, Mr. Ramkalawan reacting to Mr. Labiche, because he is a police officer, standing in front of him: Do you want to search me? You understand the two, the difference between the two?*

A: *I am trying to, from what you are saying.*

[...]

Q: *O.K. When you say Honourable Ramkalawan asked officer Labiche to search his luggage, and then face book, which one of the two was it? Was he seeking a favour, or was he reacting to being stopped by a person in authority?*

A: *I will say, in a way he was joking, the way he was saying it. So, in-between which one do you –*

Q: *So, you have got the third scenario, that they were in a situation where Mr. Ramkalawan jokingly asked officer Labiche to search him?*

A: Yes.

Q: Neither one or the other, but the third?

A: Yes."

Q: And, as you said, you found it strange, because this is the first time ever you saw the search of a holder of a diplomatic passport?

A: Yes.

Q: And, before that was said, you do not know what else could have been said before that?

A: No."

Emphasis is mine

**Mr Elizabeth:**

125. Miss Finesse did not hear the Hon. Ramkalawan states: "*this is my drugs*", when they saw the fish pellets. She heard the Hon. Ramkalawan states: "[n]ow I have got my stamp of approval".
126. Miss Finesse states that the Hon. Ramkalawan insisted for his luggage to be searched because, after the ANB officer guided him to the search desk, the Hon. Ramkalawan brought his trolley and put his luggage on the search desk.

**Testimony of Miss Genevieve Morel**

**Miss Parmantier:**

127. Miss Morel is the Director in the office of the Hon. Speaker of the National Assembly.
128. In the evening of the 8 February 2020, she returned to Seychelles from South Africa.

129. Miss Morel gives this account of the incident to the Commission of Inquiry —

*"A: I was in line, I was 3<sup>rd</sup> in line and I could see that there was a conversation going on. I could not, at first, hear what the conversation was about. There were motioning of hands and at one point I saw officer Larue, he was standing there in front of Honourable Ramkalawan and then I noticed that when Honourable Ramkalawan approached the x-ray machine, that when his luggage was coming out of the x-ray machine, officer Labiche moved closer to the x-ray machine and he stood in front of the Hon. Ramkalawan. There were motions there. I could understand, through body language, that there was a conversation taking place. I could not hear what was being said, though. **But at one point I heard the Honourable Ramkalawan say, I would quote in Creole, "ou kapab fousy lor mwan si ou oule", (you can search on me if you want), like, it was not like he was inviting, I do not feel like he was inviting someone to do the search, but I believe, from the motions, from conversations, from the way he responded, that there could have been a conversation that prompted him to say that. Because he said, 'ou kapab fousy lor mwa si ou anvi', you know like in a very calm manner. But, I do not know if that conversation took place, if there was something that Officer Labiche said, because I did not hear that"**.*

130. Miss Morel states that she could not at first hear what the conversation was about because she was at a distance. She states that the Hon. Ramkalawan speaks "very loudly"- he is usually loud, whereas ANB officer Labiche was speaking a bit softly.

131. She relates what happened at the search desk as follows —

*"A: Just like I said in the first instance, a very jovial atmosphere and when the Honourable Ramkalawan put his first piece of luggage on*

*the search to be searched, the officer just opened the first compartment, which was not locked. They took out something white, which I later understood were pebbles [...] and Honourable Ramkalawan just jokingly said, oh, since I did not remember what the Honourable Ramkalawan 'I anmenn dan pei', like it was oh, everybody was joking about it and even I, made a joke about it [...]. It was calm, everything went very calmly and then they asked Honourable Ramkalawan to open, to unlock his main compartment of the luggage and Honourable Ramkalawan unlocked it. There were three packets of fish and then because they were searching the first piece of luggage, he just asked them if, do I need to open this as well to be searched? And, they did not answer to that, they did not search that piece of luggage, and after that everything was, you know, jokingly, it was, jokes and, very jovial manner".*

132. She adds that the Hon. Ramkalawan did not say to ANB officer Labiche "*you can search me if you like*". The Hon. Ramkalawan did not initiate the search. She states that the ANB officer wanted to search the Hon. Ramkalawan because "*they were there. Because, that officer stood in front of him and then when he went to the x-ray machine, that officer moved in, closer to the x-ray machine, sort of, just in front of him and yes I believe it was for that purpose*".

**Commissioner:**

133. Miss Morel explains to the Commission of Inquiry that what she had stated in her statement to the effect that: "*[...] the Honourable LOTO [...] asked him if he wanted to search his luggage*", is not the correct version. The version which she gives to the Commission is the correct version as she repeats precisely what the Hon. Ramkalawan stated.

**Miss Parmantier:**

134. Miss Morel could not believe that the incident turned into a serious matter since she joked about it.

**Mr Elizabeth:**

135. Miss Morel states that the Hon. Ramkalawan did not insist for his luggage to be searched by ANB officer Labiche. She adds that she did not hear anything being said about the "social media".

**Testimony of Miss Monette Ahmed**

**Miss Parmantier:**

136. Miss Ahmed is an AVSEC officer. She was on duty in the evening of the 8 February 2020. She was posted at "T2", an access point. She was stationed at the screening equipment. She relates the following concerning the incident —

*"When they were passing by I was on the screening machine, next to the x-ray machine. I was sitting, my monitor inside, in front of me. When they were passing next to the x-ray machine, to collect their cabin luggage, I heard Honourable Ramkalawan said on facebook they had put that he brings cocaine. As he stood right opposite from where I was seated, I heard someone behind my back ask him where he comes from. He said he came from a Conference. Then he said to Mr Labiche, you can search if you want. That is all I heard."*

137. The Hon. Ramkalawan commented about "cocaine" when he was on his way to collect his screened luggage from the screening equipment. She heard the Hon. Ramkalawan tells the ANB officer to search his luggage. She could not hear anything said by the ANB officer after the Hon. Ramkalawan said to him to search his luggage.
138. Miss Ahmed stated that she did not put in her statement words to the effect: "*Mon pann Konpran ki sa zofisyé in dir li*" (I did not understand what did the officer tell him), "*Imsye Ramkalawan in ensiste*" (Mr Ramkalawan insisted), "*e la I ti met son sak anler lor latab.*" (and then he put his luggage on the table)". She made a mistake. The Hon. Ramkalawan

did not insist on his luggage being searched. He only said informally to ANB officer Labiche "*you can search if you want*".

139. Miss Ahmed could not remember what transpired after the Hon. Ramkalawan told the officer to search his baggage. She did not see the search.

**Commissioner:**

140. Miss Ahmed states that she did not hear ANB officer Labiche request a search of the Hon. Ramkalawan. It was the Hon. Ramkalawan who said to ANB officer Labiche: "*ou kapab search si ou anvi*" (*you can search if you want*). The first conversation she heard was about "*Facebook*" and "*cocaine*".

**Testimony of Miss Maria Finesse**

**Miss Parmantier:**

141. Miss Finesse is a customs officer Level 2, who works in arrival at the airport. She conducts, among other things, screening of passengers and luggage. In the evening of the 8 February 2020, she was on duty. She was stationed at the baggage targeting point. Mr Hariba, a customs officer, is the *point officer*.
142. Miss Finesse heard Mr Hariba directing the Hon. Ramkalawan to the screening equipment. She greeted the Hon. Ramkalawan. The Hon. Ramkalawan asked her which luggage he should put on the x-ray. As the Hon. Ramkalawan is the holder of a diplomatic passport; she told him to put his cabin luggage on the x-ray. She clarifies that she indicated to the Hon. Ramkalawan, which luggage to put on the x-ray or screening equipment as she is the baggage targeting officer.
143. After the luggage of the Hon. Ramkalawan had come out the other side of the scanning equipment; an ANB officer was standing on the other side of the scanning equipment. The ANB officer was next to her. The ANB officer greeted the Hon. Ramkalawan and asked him if he had been on holiday. The Hon. Ramkalawan told him he was away on conference.



144. Miss Finesse states what transpired after that: "*[h]e took his luggage, then, he did not shout, but he speaks loudly, he said, 'la la, fouye akoz mon tande lo face book pou dir mon anmenn cocaine (there is it, search it because I hear on facebook that I bring in cocaine)'*". She did not hear ANB officer Labiche request for a search of the luggage of the Hon. Ramkalawan. After that, ANB officer Labiche directed the Hon. Ramkalawan to the search desk and she went back to the baggage targeting point. She returned when the rest of the passengers were going to the green channel. She saw the luggage of the Hon. Ramkalawan on the search desk and he was putting things back in the bag.
145. Later in the proceedings, she clarifies that the Hon. Ramkalawan took his luggage off the screening equipment; he asked ANB officer Labiche to search his luggage as he has heard on Facebook that he brings cocaine in the country. The Hon. Ramkalawan spoke loudly. She was adamant that the Hon. Ramkalawan insisted on being searched.
146. When she saw the passengers making their exit, she returned and stood next to screening equipment. She saw the Hon. Ramkalawan was putting a packet of food in his luggage. The Hon. Ramkalawan stated that the animal food in his bag is for his fish. She also heard the Hon. Ramkalawan stated out loud, while he was closing his bag: "*[...] now I have got my approval stamp*". Then the Hon. Ramkalawan left the airport. She was surprised that the Hon. Ramkalawan brought his luggage to be searched and at the comment made: "*[...] now I have got my approval stamp*".

**Commissioner:**

147. Miss Finesse states that the baggage screening equipment is not far from the search desk. From where she was standing at the screening equipment, she could see what was happening at the search desk. The Hon. Ramkalawan was standing at the search desk when he said to ANB officer Labiche: "*[...] la la, fouye*". (*He said, there it is, search it.*)"

**Mr Derjacques:**

148. Miss Finesse states that the Hon. Ramkalawan requested the search in a joking manner. In that regard, I record the following interactions between Counsel and Miss Finesse concerning the request of the Hon. Ramkalawan —

*"(Questions by Mr. Derjacques to Ms. Finesse, Continue)*

*Q: You said that you heard Mr. Ramkalawan say: 'You can search me' – O.K, tell the phrase again?*

*A: '– search my luggage'. 'Ou kapab', konmsi, 'fouye'. ('You can search).*

*Q: O.K. Now, was Ramkalawan sort of, asking officer Labiche 'vini, vin fouy mon baggage', (come and search my baggage) or, was Mr. Ramkalawan addressing it to officer Labiche who was standing right in front of him, with authority, like this, (Mr. Derjacques indicates on the video) in front of his trolley? Which one?*

*A: The way you are saying in there.*

*Q: Standing in front of his trolley?*

*A: Yes, he is standing in front of his trolley, with his hand –*

*Q: And you used the word, 'stopped him', before the Commissioner Lady stopped me.*

*A: Yes, because, when Honourable Ramkalawan came, he stopped in front of the trolley, he did not stop him, he stopped, in front of the trolley.*

*[...]*

*Q: From what you heard and you saw, there are two scenarios. One, probably painted by Mr. Elizabeth over there. One, by me and then it would be decided by the Honourable Commissioner. You know when a person is making a request*

[...], like, 'fer en ketsoz pou mwan' (do something for me), or, when a person is asking a question, do you want to search me? So, it is either Ramkalawan asking, can you search me? Asking Labiche for a favour, search me, as a favour, or, Mr. Ramkalawan reacting to Mr. Labiche, because he is a police officer, standing in front of him: Do you want to search me? You understand the two, the difference between the two?

A: I am trying to, from what you are saying.

[...]

Q: O.K. When you say Honourable Ramkalawan asked officer Labiche to search his luggage, and then face book, which one of the two was it? Was he seeking a favour, or was he reacting to being stopped by a person in authority?

A: I will say, in a way he was joking, the way he was saying it. So, in-between which one do you –

Q: So, you have got the third scenario, that they were in a situation where Mr. Ramkalawan jokingly asked officer Labiche to search him?

A: Yes.

Q: Neither one or the other, but the third?

A: Yes."

Q: And, as you said, you found it strange, because this is the first time ever you saw the search of a holder of a diplomatic passport?

A: Yes.

*Q: And, before that was said, you do not know what else could have been said before that?*

*A: No."*

**Mr Elizabeth:**

149. Miss Finesse states that the Hon. Ramkalawan insisted for his luggage to be searched because, after the ANB officer guided him to the search desk, the Hon. Ramkalawan brought his trolley and put his luggage on the search desk.

**Testimony of Miss Genevieve Morel**

**Miss Parmantier:**

150. Miss Morel is the Director in the office of the Hon. Speaker of the National Assembly.
151. In the evening of the 8 February 2020, she returned to Seychelles from South Africa. She was in the company of the Hon. Ramkalawan and the Hon. Aglae.
152. Miss Morel gives this account of the incident to the Commission of Inquiry —

*"A: I was in line, I was 3<sup>rd</sup> in line and I could see that there was a conversation going on. I could not, at first, hear what the conversation was about. There were motioning of hands and at one point I saw officer Larue, he was standing there in front of Honourable Ramkalawan and then I noticed that when Honourable Ramkalawan approached the x-ray machine, that when his luggage was coming out of the x-ray machine, officer Labiche moved closer to the x-ray machine and he stood in front of the Hon. Ramkalawan. There were motions there. I could understand, through body language, that there was a conversation taking place. I could not hear what was being said, though. **But at one point I heard the Honourable Ramkalawan say, I would quote in Creole, "ou kapab fouy lor mwan si ou oule', (you can search on me if you want),***

*like, it was not like he was inviting, I do not feel like he was inviting someone to do the search, but I believe, from the motions, from conversations, from the way he responded, that there could have been a conversation that prompted him to say that. Because he said, 'ou kapab foy lor mwa si ou anvi', you know like in a very calm manner. But, I do not know if that conversation took place, if there was something that Officer Labiche said, because I did not hear that".*

153. Miss Morel states that she could not at first hear what the conversation was about because she was at a distance. She states that the Hon. Ramkalawan speaks "very loudly"- he is usually loud, whereas ANB officer Labiche was speaking a bit softly.
154. She relates what happened at the search desk as follows —

*"A: Just like I said in the first instance, a very jovial atmosphere and when the Honourable Ramkalawan put his first piece of luggage on the search desk to be searched, the officer just opened the first compartment, which was not locked. They took out something white, which I later understood were pebbles [...] and Honourable Ramkalawan just jokingly said, oh, since I did not remember what the Honourable Ramkalawan 'I anmenn dan pei', like it was oh, everybody was joking about it and even I, made a joke about it [...]. It was calm, everything went very calmly and then they asked Honourable Ramkalawan to open, to unlock his main compartment of the luggage and Honourable Ramkalawan unlocked it. There were three packets of fish and then because they were searching the first piece of luggage, he just asked them if, do I need to open this as well to be searched? And, they did not answer to that, they did not search that piece of luggage, and after that everything was, you know, jokingly, it was, jokes and, very jovial manner".*

155. She adds that the Hon. Ramkalawan did not say to ANB officer Labiche *"you can search me if you like"*. The Hon. Ramkalawan did not initiate the search. She states that the ANB officer wanted to search the Hon. Ramkalawan because *"they were there. Because, that officer stood in front of him and then when he went to the x-ray machine, that officer moved in, closer to the x-ray machine, sort of, just in front of him and yes I believe it was for that purpose"*.

**Commissioner:**

156. Miss Morel explains to me that what she had stated in her statement to the effect that: *"[...] the Honourable LOTO [...] asked him if he wanted to search his luggage"*, is not the correct version. The version which she gives to the Commission is the correct version.

**Miss Parmantier:**

157. Miss Morel could not believe that the incident turned into a serious matter since she joked about it.

**Mr Elizabeth:**

158. Miss Morel states that the Hon. Ramkalawan did not insist for his luggage to be searched by ANB officer Labiche. She adds that she did not hear anything being said about the *"social media"*.

**Testimony of Miss Monette Ahmed**

**Miss Parmantier:**

159. Miss Ahmed is an aviation security officer. She was on duty in the evening of the 8 February 2020. She was posted at *"T2"*, an access point. She was stationed at the screening equipment. She relates the following concerning the incident —

*"When they were passing by I was on the screening machine, next to the x-ray machine. I was sitting, my monitor inside, in front of me. When they were passing next to the x-ray machine, to collect their*

*cabin luggage, I heard Honourable Ramkalawan said on facebook they had put that he brings cocaine. As he stood right opposite from where I was seated, I heard someone behind my back ask him where he comes from. He said he came from a Conference. Then he said to Mr Labiche, you can search if you want. That is all I heard."*

160. The Hon. Ramkalawan commented about "cocaine" when he was on his way to collect his screened luggage from the screening equipment. She heard the Hon. Ramkalawan tell the ANB officer to search his luggage. She could not hear anything being said by the ANB officer after the Hon. Ramkalawan told him to search his luggage.
161. Miss Ahmed stated that she did not put in her statement words to the effect: "*Mon pann Konpran ki sa zofisyé in dir li*" (I did not understand what did the officer tell him), "*Imsye Ramkalawan in ensiste*" (Mr Ramkalawan insisted), "*e la I ti met son sak anler lor latab.*" (and then he put his luggage on the table)". She made a mistake. The Hon. Ramkalawan did not insist on his luggage being searched. He only said informally to ANB officer Labiche "you can search if you want".
162. Miss Ahmed could not remember what transpired after the Hon. Ramkalawan told the officer to search his luggage. She did not see the search.

**Commissioner:**

163. Miss Ahmed states that she did not hear ANB officer Labiche request for a search of the luggage of Hon. Ramkalawan. It was the Hon. Ramkalawan who said to ANB officer Labiche: "*ou kapab search si ou anvé*" (you can search if you want)". The first conversation she heard was about "Facebook" and "cocaine".

**Testimony of ANB officer Ashley Larue**

**Miss Parmantier:**

164. ANB Officer Larue has been an ANB officer for over two years. He is based at the airport. He and ANB officer Labiche were on the same shift in the evening of the 8 February 2020.

ANB Officer Larue states that he knew the Hon. Ramkalawan was on flight HM060 because the ANB receives flight schedules for all flights.

165. ANB Officer Larue did not hear anything when the Hon. Ramkalawan was at the screening equipment. He states that he made a mistake when he stated that ANB officer Labiche handed the diplomatic passport of the Hon. Ramkalawan to him. When he approached the search desk, he asked ANB officer Labiche for the passport, but the passport was still with the Hon. Ramkalawan. He states that the passport should have been with ANB officer Labiche. He did not receive any information on that particular evening regarding the Hon. Ramkalawan.
166. As he came back from scanning the passport of the Hon. Ramkalawan, he heard the Hon. Ramkalawan say to ANB officer Labiche to check his luggage as he is being accused on social media for bringing cocaine. After the search had been done, the Hon. Ramkalawan stated: *"he would receive a stamp for the step he had taken"*.

**Mr Derjacques:**

167. ANB Officer Larue states in his evidence that when he came back from scanning the passport, ANB officer Labiche had almost completed the search. He waited for the Hon. Ramkalawan to finish talking before handing him the passport. The Hon. Ramkalawan was talking about Facebook and cocaine.
168. ANB officer Labiche states that he has discretion on whether or not to search. As an ANB officer, he can do a random check without having formed the necessary reasonable suspicion.
169. Further, ANB Officer Larue states that he does not know why ANB officer Labiche searched the luggage of the Hon. Ramkalawan. ANB officer Labiche compiled the Flight-Report of the search of the Hon. Ramkalawan.
170. He is the not the ANB officer who sent the post to Donald Antoine Hoareau.



171. ANB Officer Larue states that ANB officer Labiche told him the reason for the search after the search – the Hon. Ramkalawan told him to search.

**Mr Elizabeth:**

172. ANB Officer Larue did not seize the passport of the Hon. Ramkalawan. It is part of ANB procedures to scan the relevant pages of the passports of passengers, who had been searched by the ANB.

**Testimony of ANB Officer Mr Ashley Labiche**

**Miss Parmantier:**

173. Mr Labiche is an ANB officer. He has been an ANB officer for over two and a half years. He has worked with ANB officer Larue for over a year.

174. ANB officer Labiche was aware that the Hon. Ramkalawan was on flight HM060.

175. With reference to exhibit CI20, footage of passengers clearing the formalities at the airport, he states that, upon the Hon. Ramkalawan passing by the scanning equipment, he [ANB officer Labiche] was standing next to the end of the scanning equipment. He states that it is a regular location for him to stand. He adds that he may position himself anywhere in the airport.

176. He approached the Hon. Ramkalawan: "*[l]ike everyone that comes to collect their luggage from the x-ray machine, I usually come and greet them [...], that is my intention, was to greet him and thereafter questioned him, I asked him whether he came from vacation or the National Assembly official business and he told me that he came from 3 days Conference, at the time. [...].*"

177. ANB officer Labiche states that while the Hon. Ramkalawan was recuperating his luggage from the scanning table, the Hon. Ramkalawan told him that persons have stated on Facebook that he brings cocaine in the country every time he travels. Therefore, the Hon. Ramkalawan told him to check his luggage. He refused to accede to the request of the Hon.

Ramkalawan to check his luggage, but the Hon. Ramkalawan asked him again to search his luggage. He said: *"O.K then, I will search so that people will not say that I search only on certain people. After that, he directed the Hon. Ramkalawan to the search desk"*. He did everything in good faith. He clarifies that if he were the one who had decided to search, he would have adopted different procedures. For instance, first, he would have asked the Hon. Ramkalawan for his diplomatic passport.

178. While ANB officer Labiche was searching, he states that the Hon. Ramkalawan and he [ANB Officer Labiche] were having a normal conversation. Again the Hon. Ramkalawan told him to search his luggage as persons have stated on Facebook that he brings cocaine when he returns to Seychelles. ANB officer Labiche conceded to the request to search the luggage of the Hon. Ramkalawan. He did not see any cocaine in his luggage. He adds that they made jokes about the packet of aquarium pebbles, which was in the luggage of the Hon. Ramkalawan. The Hon. Ramkalawan stated: *"la la, la la mon drog ki monn anmennen, la mon cocaine la (there, there, there is my drug that I have brought, there is my cocaine there)"*. ANB officer Labiche also made jokes and stated: *"oh, that is it, there it is, that is the cocaine"*. He did not act on reasonable suspicion.

**Mr Derjacques:**

179. ANB officer Labiche clarifies that he did not satisfy the test of reasonable grounds for suspicion under section 26 of the Misuse of Drugs Act when he searched the luggage of the Hon. Ramkalawan. Further, at no point in time did he search the luggage of the Hon. Ramkalawan because he believed that the Hon. Ramkalawan was involved in any criminal activity.
180. I interject to state that Counsel suggests that section 26 of the Misuse of Drugs Act applies in this matter.
181. There were no instructions to search the luggage of the Hon. Ramkalawan.

182. ANB officer Labiche denies the suggestions of Counsel that, because he had approached the Hon Ramkalawan and stood in front of his trolley and asked him where he had been and for how long he had been away, the Hon. Ramkalawan asked him to search his luggage.
183. He also denies the suggestion of Counsel that, because he had approached the Hon. Ramkalawan and asked him questions, the Hon. Ramkalawan stated: "*oule fouy lo mwan (you want to search on me)*".
184. He explains that the Hon. Ramkalawan asked for his "*luggage to be cleared, as per the post that he stated it was on Facebook*", and that he searched his luggage in good faith. He is adamant that the Hon. Ramkalawan insisted for him to search his luggage because he asked him twice to search. He and the Hon. Ramkalawan were calm at all material times.
185. Regarding exhibit CI20, video footage of all passengers clearing the formalities at the airport, Counsel suggests to ANB officer Labiche that he appeared stressed and anxious and was not calm. Counsel adds that ANB officer Labiche behaved in that manner because he was going to search the luggage of the Hon. Ramkalawan. ANB officer Labiche denies all the suggestions made by Counsel.

**Mr Elizabeth:**

186. ANB officer Labiche reiterates that he did not suspect the Hon. Ramkalawan of having committed an offence under the Misuse of Drugs Act when he searched. He searched at the request of the Hon. Ramkalawan.
187. ANB officer Larue retrieved a copy of the relevant pages of the Hon. Ramkalawan's diplomatic passport.
188. The Commission of Inquiry, upon the request of Counsel for the Hon. Ramkalawan, ascertains where ANB officer Larue obtained a scanned copy of the relevant pages of the diplomatic passport of the Hon. Ramkalawan. Nonetheless, a scanned copy of the relevant

pages of the diplomatic passport of the Hon. Ramkalawan was tendered to the Commission of Inquiry by all Counsel.

### **Testimony of ANB officer Larue on the issue of passport**

#### **Commissioner:**

189. ANB officer Larue states that he retrieved a copy of the relevant pages of the diplomatic passport of the Hon. Ramkalawan from the ANB database at the airport. A scanned copy of the relevant pages of the passport of a passenger searched, is kept in a folder on the ANB database.

#### **Mr Derjacques:**

190. Counsel requests the Commission of Inquiry for access to the ANB database and folder containing the scanned copy of the relevant pages of the passport of the Hon. Ramkalawan, and to any information, including e-mail, about the Hon. Ramkalawan on the ANB database. The Commission of Inquiry summoned the Commissioner of Police Labonte regarding these issues.

### **Testimony of the Commissioner of Police Mr Kishnan Labonte**

#### **Miss Parmantier:**

191. The Commissioner of Police Labonte states that he did not instruct anybody to search Hon. Ramkalawan. He did not send any e-mail regarding the Hon. Ramkalawan.

#### **Mr Derjacques:**

192. The Commissioner of Police Labonte states that he had no issue with the Commission of Inquiry having access to the folder containing the scanned copy of the relevant pages of the diplomatic passport of the Hon. Ramkalawan and to any other information regarding the Hon. Ramkalawan on the ANB database.

193. Further the Commissioner of Police Labonte states that, after having read the report compiled by ANB officer Sabury concerning the incident, he believes the version of ANB officer Larue and Labiche.

**Testimony of ANB officer Labiche (continued)**

**Mr Elizabeth:**

194. ANB officer Labiche agrees that he illegally searched the Hon. Ramkalawan. However, he clarifies that he officially searched the luggage of the Hon. Ramkalawan upon the request of the Hon. Ramkalawan. He adds that the Hon. Ramkalawan consented to the search. He compiled the Flight-Report at about 10 p.m.. ANB officer Labiche states that it came as a shock to him that the Hon. Ramkalawan complained of the search because the latter requested the search, and *"everything was calm, everything was okay for me and him"*. Further, he states that he has never searched the Hon. Ramkalawan.
195. ANB officer Labiche claims that he had not seen the Facebook post "Kakasat – Nouvel Anba Langar" before the 8 February 2020, because he is not a member of "Nouvel Anba Langar".
196. ANB officer Labiche confirms his previous testimony that the Hon. Ramkalawan told him to search his luggage because of a Facebook post, when they were both at the screening equipment. At first, he refused, but the Hon. Ramkalawan asked him again to search his luggage. After that, he directed the Hon. Ramkalawan to the search desk. They were still talking to each other as they made their way to the search desk and at the search desk: *"[t]he jokes came in and he stated that when I removed the packets, he stated that this is the drug that [he] brought, and I say, "la i la ou cocaine"—* the Hon. Ramkalawan laughed at his joke. ANB officer Labiche adds: *"[...] The conversation was going very well"*.
197. After ANB officer Labiche had completed his testimony, Mr Derjacques moves the Commission of Inquiry for ANB officer Labiche to be recalled, which application the Commission of Inquiry granted.

198. It transpires that ANB officer Labiche is a member of "Nouvel Anba Langar". ANB officer Labiche explains that he could not recall being a member of "Nouvel Anba Langar" since the 18 November 2018, because he is no longer an active member of that group.

### **Testimony of Mr Christian Thomas**

#### **Miss Parmantier:**

199. Mr Thomas is a bio-security officer. He has been doing this job for the past twenty-five years. In the evening of the 8 February 2020, he was on duty at the airport and was positioned at the screening equipment. He recalled when the Hon. Ramkalawan approached the screening equipment. He even recalled seeing the Hon. Ramkalawan hand over his disembarkation card to Mr Hariba. He saw the Hon. Ramkalawan put his luggage on the x-ray. He also saw the Hon. Ramkalawan pass by the screening equipment. He saw ANB officer Labiche approaching the Hon. Ramkalawan and speaking to the Hon. Ramkalawan upon reaching at the end of the screening equipment.
200. ANB officer Labiche asked the Hon. Ramkalawan for his passport and where he had been and for how long he had been away. He also heard them talking about a search, but he could not recall who raised the question of the search. He also heard somebody mentioning the word "*cocaine*". After that, Mr Thomas could not recall what happened.

### **Testimony of the Honourable Wavel Ramkalawan**

#### **Miss Parmantier:**

201. The Hon. Ramkalawan is the leader of the opposition and an Anglican priest. In the evening of the 8 February 2020, he returned to Seychelles aboard Air Seychelles Flight HM060, together with, Hon Aglae and Miss Morel from official mission.
202. Hon. Ramkalawan collected the luggage of the Hon. Aglae and Miss Morel from the carousel while they were in the duty free. After that, they joined him at the carousel and they proceeded to the exit.

203. Hon. Ramkalawan states that he came across Mr Hariba, a custom officer, to whom he gave part of the immigration slip. Mr Hariba checked his duty free and directed him to put his hand luggage on the x-ray. He did not interact with any other officer including Miss Finesse, an officer of customs.
204. While retrieving his bag, he saw "*this gentleman in front of him*", who greeted him. Hon. Ramkalawan "*turned and he was right in front of his trolley*". He states —

*"A sa moman letan mon pran mon sac, mon met lo trolley, mon war en imsyé ki mon pa konn li, e zanmen in deza koz ek mwan dan mon lavi, me selman ki definitivman monn idantifye li koman en ANB officer devan mon trolley dan en zar komsî I pe blok mon trolley. Mon regard li e mon dir avek li, 'komsî ou anvi fouy lo mon?. 'I dir avek mwan, 'ou konnen nou bezwen fer nou travay byen pangar dimoun I a kwar nou fer preferans. E, I endike ki poudir, wi I anvi fouy lo mwan. E deswit zis koman I fini dir sa I fer en sinny lanmen pou mwan vin kot latab. Li I al devan mwan mon swiv li par deryer. A sa moman, mon dir, 'anr zot anvi fouy lo mwan akòz lo facebook in mete ki mon rantré avek cocaine, alors fouy lo mwan.' Amenmtan mon azoute, mon dir avek li, 'mon napa problem pou ou fouy lo mwan'".*

205. Hon. Ramkalawan states that this was the first time he has been searched by an ANB officer at the airport. He believes ANB officer Labiche was observing him and that he was a target. He states that only ANB officer Labiche targeted him. Moreover, having viewed footage of passengers clearing the formalities at the airport, exhibit CI20, he is convinced that ANB officer Larue and Miss Finesse knew that he was being targeted by ANB officer Labiche.
206. According to Hon. Ramkalawan, ANB officer Labiche pointed to the black bag he wanted to search. Arriving at the search desk, he pointed again to the black bag. After ANB officer

Labiche had searched the black bag, he asked the ANB officer if he wanted to search his suitcase.

207. Hon. Ramkalawan states that, in the course of the search, ANB officer Labiche commented: *"la I la"*. Then he [the Hon. Ramkalawan] responded: *"la I la cocaine ki Ramkalawan in anmenn dan pei"*. Nobody commented about the cocaine joke made by ANB officer Labiche. Everybody was calm. He states that while his bag was being searched, he said: *"wi I byen zot pe fouye dan mon sak, pou ki la prezan tou dimoun ya konnen ki pou dir monn ganny sa stamp ki tou kekesoz I ok."*

208. Regarding his references to the Facebook post, he explains —

*"A; The first reference to the facebook was when officer Labiche told me that, yes, he was going to search my bag. The second time was when I remembered details and this was at the search desk and again, I like the statement of officer Larue. At that point when the bags were closed and Larue was there, I said, 'anr la aprezan monn konpran pli byen, parski lo facebook, I annan en serten kaka Sat kin ekri ki mon zanmi Gervais Chetty I anmenn cocaine pou mwan dan pei. E an plis ki sa, kaka Sat in osi dir fodre zot fouy dan mon sak letan mon retournen"*.

209. After ANB officer Labiche had searched the first bag, Hon. Ramkalawan voluntarily offered a second bag to be searched. The ANB officer refused to search that bag. After the search, ANB officer Labiche told him that he could go. He put his bags on the trolley and as he was leaving, ANB officer Labiche asked him if he had been on holiday or otherwise, and for how long. He turned and told ANB Officer Labiche that he had been on *"Official Mission"* for three days. Hon. Ramkalawan claims that at no point before that had ANB officer Labiche ask him where he had been.



210. Hon. Ramkalawan states that once outside of the airport, Hon. Aglae told him that what had just happened was a serious matter. He was concerned that he was now on the ANB list of persons who traffic in drugs.
211. Hon. Ramkalawan told President Faure of the incident through text message.
212. Hon. Ramkalawan states that he was totally disappointed with the testimony of the Commissioner of Police Labonte, who testified that he believed the versions of the ANB officers. He could not accept that the Commissioner of Police Labonte implied that he is a liar. In that regard, the findings and recommendations of the Commission of Inquiry would be tainted. He adds that, when he spoke to the Commissioner of Police Labonte on the 9 February 2020, about the fact that ANB officer Labiche took his passport, the Commissioner of Police Labonte said: "*[...] they took your passport? Your diplomatic passport? And I said yes, and he laughed and he said, these people are crazy. From that I understood that he was saying that this should never have happened. This was the inference I could draw.*"
213. Concerning the tip-off, Hon. Ramkalawan states that he believes it. He clarifies that his driver did not tell him that he had received a tip-off. His driver told him: "*monn ganny en call e sa dimoun in dir mwan, tanto letan ou vini pou annan de lizye ki pou vey ou boss. E mwan monn dir ek sa dimoun, I kapab annan de, kat oubyen sis lizye, napa nanryen. (I received a call and that person told me, tonight when you arrived, there will be two eyes on your boss. I answered to that person, there can be two, four or six eyes but it doesn't matter)*". Mr Bristol has been working for him since 2016, and is very loyal. He did not consider it important to ask his driver "*for his source or whatever because that was his business*".

**Commissioner:**

214. Hon. Ramkalawan states that his driver told him that he received the tip-off at 8 31 p.m.. His driver did not call him to inform him that he had received a tip-off because his driver knows that he does not come into the country with anything illegal.

215. When asked why he did not object to the search and was not at all concerned about his search at the airport, the Hon. Ramkalawan states —

*"My lady Commissioner, this is why I thank God for me not knowing and for me not having been angry, because now I believe and this is why I said to Mr Thaver about the harassment. I believe that this whole incident and Mr. Labiche was an instrument in the process to make me angry. Isn't part of the plan? Ramkalawan I en boug ki ankoler, ki bat dimoun, ki agresiv, eski ou anvi sa kalite dimoun koman Prezidan? Tandi ki Imsye Faure I en boug cool, I pa reponn, I calm. At the end of the day, this is what I believe was the plan. Not to find drugs on me, because if he had wanted – if I was being suspected of being a drug trafficker, he would have searched in my other suitcase. Why search in only one bag".*

216. Hon. Ramkalawan does not know about the Facebook post posted by Antoine Donald Hoareau.

**Mr Derjacques:**

217. Hon. Ramkalawan is the Presidential candidate for the LDS. He agrees with the views expressed in the press release. ANB officer Labiche is also a member of the "*Seychelles Daily*". He mentions that the father of ANB officer Labiche is his plumber. He does not know ANB officer Labiche. He would have gone through the red channel, if he wanted to be searched. He denies that Miss Finesse told him to put his cabin luggage on the x-ray. He interacted only with Mr Hariba. With reference to the footage, CI20, he states that Miss Finesse went straight to the scanning equipment and stood there. There at the scanning equipment, Miss Finesse spoke to ANB officer Labiche.
218. Further, Hon. Ramkalawan states that he did not ask President Faure to set up a Commission of Inquiry. He did not ask the Commissioner to do an inquiry. He does not know why President Faure set up the Commission of Inquiry. He does not think that President Faure ordered the search.

**Commissioner:**

219. He states that "*certain activists*" may provoke issues.

**Mr. Derjacques:**

220. Hon. Ramkalawan states that ANB officer Labiche approached the scanning equipment and as he [the Hon. Ramkalawan] turned after retrieving his luggage from the scanning equipment, ANB officer Labiche stood right in front of his trolley. He could not move his trolley. He went on to say that he turned when ANB officer Labiche greeted him and he [the Hon. Ramkalawan] stated to the officer: "*I resanble ki ou anvi fouy lo mwan*". ANB officer Labiche chose the bag he wanted to search. After the search, he said to ANB officer Labiche "*[m]on annan en valiz tou, ou le fouy ladan tou?*".
221. It was ANB officer Larue who asked for his passport. He did not tell the two ANB officers what to do.
222. Hon. Ramkalawan phoned the Hon. Aglae on his way home because he realized the seriousness of the matter. He would not have gone to higher authorities had he asked to be searched.
223. He asked ANB officer Labiche if he wanted to search his main suitcase because if ANB officer Labiche wanted to do a "*real search*", he should search everything. ANB officer Labiche chose not to search his suitcase.
224. He trusts Mr Bristol "*hundred per cent*". Mr Bristol stated to Superintendent of Police Thaver, in his presence, that he will not reveal the identity of the person from whom he received the tip-off. Mr Bristol is concerned that the person from whom he received the tip-off might lose his job.
225. The Hon. Ramkalawan states that he was under arrest because he was under the control of the ANB officers.

**Mr. Elizabeth:**

226. Hon. Ramkalawan states that his first encounter with ANB Officer Labiche was when he was removing his hand luggage from the scanner. ANB officer Labiche approached the scanning equipment and as he [the Hon. Ramkalawan] turned, he saw the officer, who said good evening. After they had greeted each other, he said to ANB officer Labiche: "*I resamble ou anvi fousy lor mwan* (it seems you want to search on me)". He said these things to ANB officer Labiche because the officer was standing close to his trolley.
227. He could not tell the officer to move because as soon as he had spoken to the officer, the latter told him: "*ah, ou konnen, nou fer nou travay byen pangar nou avar ganny akize* (ah, you know, we, we do our work well so that we are not accused) ". After that, ANB officer Labiche indicated that he wanted to search his luggage. It was probably when he said to the officer: "*anr, be fousy lo mwan akoz in annan sa komanter lo facebook*' (anrh, I am being searched because there is this comment on facebook". According to his evidence, this is when the first conversation about cocaine took place. Immediately ANB officer Labiche told him to come to the search desk. He explains that he only made a comment, and that he did not ask ANB officer Labiche to search him.
228. Hon. Ramkalawan went along with the search because he knew that he had nothing to hide in his luggage. ANB officer Labiche initiated the search.
229. Further Hon. Ramkalawan claims that he knows that, as a holder of a diplomatic passport, he may be searched at the airport. He accepts that his passport was not seized. He clarifies that he was arrested at the airport because he was under the control of ANB officer Labiche, who told him he wanted to search him.
230. Hon. Ramkalawan is not aware that his driver made an application to the ANB to become an ANB officer. He is aware that his driver was arrested by the ANB for driving a car with tinted windows. He took the matter up with the Commissioner of Police Labonte. Overall, after a hearing, the Police Force concluded that what its officers had done was wrong. He does not believe that his driver has an axe to grind against the ANB.

231. Hon. Ramkalawan does not recall that his driver had told the Police Force that the person from whom he received the tip-off is not from the Police, but is somebody "high up". He mentions that the allegation is not part of his driver's statement, so he does not know. He accepts that his driver has put in his statement that he received a phone call at 8 31 p.m.. He could not explain why there was no record of a phone call at 8 31 p.m.. He suggests that his driver may have received a voice call on WhatsApp. His driver did not tell him that ANB officers will search him. His driver told him that: "*there will be two eyes watching [him] when [he] come*". He does not find it strange that his driver did not relay that information to him.
232. After having received footage of his search from Mr Albert, he showed it to Superintendent of Police Thaver and ANB officer Sabury and gave it to Miss Flory Larue, a member of the National Assembly. He thinks that it is Miss Larue who posted the footage online.
233. Hon. Ramkalawan denies the suggestion of Counsel that his response to the search incident is an over-reaction. He denies that the way he reported the incident to President Faure may have caused the latter to over-react.
234. Hon. Ramkalawan states that ANB officer Labiche cannot say that he is not a member of "Nouvel Anba Langar". ANB officer Labiche may suggest that he is not an active member.
235. Hon. Ramkalawan states that Mr Mancienne targeted the ruling party in the LDS press release because the ruling party is the LDS's main opponent in the forthcoming election. He adds: "*One Seychelles is not a big opponent, Laliance neither. So, as far as [they] are concerned, it is a two-horse race [...]. So he was targeting the horse that mattered*". However, he clarifies that the President Faure is not involved in this smear campaign. He thinks that activists are behind the smear campaign, which allegation he could not substantiate.

## **Testimony of Mr Anille Bristol**

**Miss Parmantier:**

236. Mr Bristol is the official driver of the Hon. Ramkalawan. In the evening of the 8 February 2020, he was at the airport waiting for the Hon. Ramkalawan. The Hon. Ramkalawan was calm when he exited the airport. The Hon. Ramkalawan told him in the car that ANB officers had searched him. The Hon. Ramkalawan was not concern until Mr Bristol told him: "*Mon ti dir li poudir mon tin ganny enformen ki pou annan 2 lizye ki pou vey lo li. (I told him that I was informed that there were 2 eyes watching him)*". The Hon. Ramkalawan was shocked. He made some calls in the car. He states that he received a call on whatsApp at about 8 31 p.m., while he was in town driving to the airport.

He explains why he could not divulge the identity of the person from whom he received the tip-off —

*"For two reasons. Firstly, I cannot say who that person is. For the security of the Hon. Ramkalawan, his wife and his three children. And the second reason being victimization, the person said not to mention his name in case he will be victimized."*

237. I record the following interactions between Counsel and Mr Bristol regarding the call Mr Bristol claims to have received on WhatsApp concerning the alleged the tip-off —

*(Questions by Ms. Parmantier Continues)*

*Q: I will just refer to two particular numbers. Do you know Emilia Laurette?*

*A: Yes.*

*Q: Who is she to you?*

*A: My girlfriend.*

*Q: And, Cindy Toussaint?*

*A: My aunty.*

Q: O.K. And, according to the logs we had, you sent messages via SMS and you called your girlfriend via phone call quite a lot.

A: Yes.

Q: And, it appears that you did all of this, from 8.10, we started looking at the records. From 8.10 until 9.46, O.K, there were constant communications by SMS and calls, between you and your girlfriend. Is it normal that you would message your girlfriend via SMS and not WhatsApp?

A: Yes.

Q: O.K. So, your mode of communications, primarily, SMS, or WhatsApp?

A: Both.

Ms. Parmantier: I was referring to C I 26. Now I have C I 15.

(Ms. Parmantier continues)

Q: Mr. Bristol, we did do, also, a warrant was requested for the data log from your phone.

A: Yes.

Q: And, around 20.21, which is the closest time to what you have mentioned in your statement, **your data usage only shows 14 kb.**

A: Yes.

Q: Can you tell us what you were doing at that particular time, perhaps?

A: *I was presuming I was on my way to pick up the car at the office to go to the Airport.*

Q: *So, then, if you were driving to pick up, on your way to the Airport, when did you have time to make, or receive call from the phone and on WhatsApp?*

A: *When you are driving the phone rings, you only pick it up. It is quite easy.*

Q: *O.K, and how long was the conversation?*

A: *Short.*

Q: *And, what did the conversation state? Or, can you just tell us exactly what was stated?*

A: *He was informing me that there will be 2 eyes watching over Honourable Ramkalawan when he comes tonight.*

Q: *Was this call made to you specifically to warn you of these 2 eyes that would be watching Honourable Ramkalawan?*

A: *Yes.*

Q: *You did not find this almost shocking?*

A: *No.*

Q: *No. So, some person that you do not know the name calls you and tells you your Boss would be looked at, at the Airport and you do not find that shocking at all?*

A: *No.*

Q: *Does this happen a lot?*



A: *No, it is the first time that this happens at the Airport, that there will be 2 eyes watching over him."*

Q: *Is it often that you receive random phone calls that are very short, warning you that your Boss is going to be scrutinized in any way?*

A: *Yes.*

Q: *Can you give us examples?*

A: *Like sometimes when we are going for LDS functions, such as rally.*

238. He did not find it necessary to inform the Hon. Ramkalawan about the tip-off because he knew that the Hon. Ramkalawan will not bring anything illegal into the country. The Hon. Ramkalawan did not ask him from whom he had received the tip-off on the 8 February 2020, but subsequently the Hon. Ramkalawan asked him, and he told him.

**Mr Elizabeth:**

239. Mr Bristol is 22 years old. He completed secondary 5 and did two years at the Maritime Training School. After completing his studies, he worked with his mother, who had a security and cleaning agency. He applied for a job at the NDEA, which he did not get. He explains in detail to the Commission of Inquiry the reason why he thinks he did not get the job.

240. He did not tell the police that the person from whom he received the tip-off is "*high up in Government*".

241. With respect to data usage of fourteen kilobytes from 8 21 p.m., he denies that it relates to the voice call he allegedly received on WhatsApp concerning the tip-off. He is adamant that he received the voice call on WhatsApp at 8 31 p.m.. After that, Counsel suggested

that the records from Cable and Airtel do not show any voice call on WhatsApp to his phone at 8 31 p.m., to which he answers "[t]his I would not know".

242. He states that he told the Hon. Ramkalawan that he received a tip-off and the identity of the person from whom he received the tip-off. He denies that he never received the tip-off. He also denies that he told the Hon. Ramkalawan about the tip-off because he wanted to impress him.

**Commissioner:**

243. I had a lengthy interaction with Mr Bristol concerning his refusal to reveal the identity of the person from whom he allegedly received the tip-off, with particular reference to section 14 of the Commissions of Inquiry Act. That section provides —

*"14. Every person who —*

- (i) refuses or omits, without sufficient cause, to attend at the time and place mentioned in the summons served on him; or*
- (ii) attends but leaves the Commission without the permission of the Commissioners; or*
- (iii) refuses to be sworn or to make an affirmation or declaration, as the case may be; or*
- (iv) refuses without sufficient cause to answer, or to answer fully and satisfactorily, to the best of his knowledge and belief all questions put to him by or with the concurrence of the Commissioners; or*
- (v) refuses or omits without sufficient cause to produce any books, plans or documents in his possession or under*

*his control, and mentioned or referred to in the summons served on him; or*

(vi) *shall, at any sitting of the Commission, wilfully insult any Commissioner, or the secretary, or wilfully and improperly interrupt the proceedings of the Commission, or be guilty of any contempt of any Commissioner,*

*shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand rupees or to imprisonment not exceeding one year or to both such fine and imprisonment:*

*Provided always that no person giving evidence before the Commission shall be compellable to incriminate himself, and every such person shall, in respect of any evidence given by him before the Commission, be entitled to all the privileges and immunities to which a witness giving evidence before the Supreme Court is entitled in respect of evidence given by him before that Court."*

Emphasis is mine

244. I also told Mr Bristol that I could take his evidence concerning the alleged tip-off in camera. Mr Bristol told me that: "[he] *will not reveal*". Therefore, I considered whether or not Mr Bristol had sufficient cause to refuse to answer.
245. I consider the heads of privilege namely, privilege against self-incrimination, legal professional privilege and without prejudice negotiations. In a short ruling, I ruled that, firstly, Mr Bristol does not satisfy the conditions for claiming privilege and that, therefore, there is no question for me to balance the particular weight of the claim to privilege against the value of the evidence at the proceedings, and that, secondly, the heads of privilege are

upheld only for the benefit of clearly identified persons, and that he is not one such identified person.

246. After the ruling, the Commission of Inquiry invited Mr Bristol to reveal the identity of the person from whom he received the tip-off. Again Mr Bristol refuses to reveal the identity of the person.

#### Chapter 4: Discussion, findings and recommendations

247. The fundamental issue for my consideration is whether or not the relevant legal power to search existed when ANB officer Labiche searched the luggage of the Hon. Ramkalawan.
248. Sections 22 and 25 of the Police Force Act and section 25 of the Misuse of Drugs Act apply. Sections 22 and 25 of the Police Force Act provide —

*"Every police officer to have the powers of a constable*

*22. Except as otherwise provided by this Act or the Criminal Procedure Code, every police officer shall have such rights, powers, authorities, privileges and immunities, and be liable to all such duties and responsibilities as any constable duly appointed now has or is subject or liable to, or may hereafter have or be subject or liable to, either by the Common Law of England, or by virtue of any law which is now or may hereafter be in force in Seychelles.*

[...]

*General powers and duties of police officers*

*25. (1) Every police officer shall exercise such powers and perform such duties as are by law conferred or imposed upon a police officer, and shall obey all lawful directions in respect of the execution of his office, which he may from time to time receive from his Seniors in the Force or from any other competent authority.*

*(2) It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice, and to*

*apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient grounds exist."*

249. Section 25 of the Misuse of Drugs Act provides —

*"25 (1) An officer may at any time, without a warrant —*

(a) **stop and search any person whom the officer reasonably suspects of having in his or her possession a controlled drug or an article liable to seizure;**

(b) *enter and search any place or premises in which the officer reasonably suspects that there is to be found a controlled drug or an article liable to seizure;*

(c) *search any person found in the place or premises referred to in paragraph (b).*

(2) *An officer or an officer of customs may at any time, without a warrant —*

(a) *stop, board and search any vessel, aircraft or vehicle if the officer reasonably suspects that there is to be found in the vessel, aircraft or vehicle a controlled drug or an article liable to seizure under this Act;*

(b) *search any person found in a vessel, aircraft or vehicle referred to in paragraph (a); and*

(c) *stop and search any person entering or leaving Seychelles whom the officer reasonably suspects to have committed an offence under this Act.*

*(3) An officer or an officer of customs exercising functions under subsection (1) or subsection (2) —*

*(a) may, without such assistance as the officer deems necessary in the circumstances, use such force as is reasonably necessary in the circumstances;*

*(b) shall ensure that any woman searched is searched by a female officer;*

*(c) shall seize and detain any controlled drug; and*

*(d) may seize and detain any article liable to seizure and any vessel, aircraft or vehicle in which a controlled drug or article liable to seizure had been found."*

250. Section 25 (1) (a) of the Misuse of Drugs Act 2016, provides for the exercise of an officer of powers under the Misuse of Drugs Act 2016, to search a person without first making an arrest. The main purpose of stop and search powers is to allow officers to dispel or confirm doubts about persons without exercising his or her power of arrest.

251. Section 25 (1) (a) of the Misuse of Drugs Act 2016, provides the legal test of reasonable grounds for suspicion. An officer must satisfy this legal test before he or she can stop and search any person to find a controlled drug or an article liable to seizure.

252. The reasonable suspicion test comprises two elements. Firstly, the officer must form a genuine suspicion that he will find a controlled drug or an article liable to seizure for which the search power under section 25 (1) (a) of the Misuse of Drugs Act 2016, allows him or her to conduct a search. Secondly, the suspicion that a controlled drug or an article liable to seizure will be found must be reasonable. As I understand it, the exercise of the power

to stop and search depends on the probability that the person searched is in possession of a controlled drug or an article liable to seizure. It does not depend on the person concerned being suspected of committing an offence in relation to the object of the search.

253. ANB officer Labiche testifies that the Hon. Ramkalawan asked him to search his luggage because persons have stated on Facebook that he brings cocaine in the country every time he travels.
254. The version of the Hon. Ramkalawan is different. He testifies that ANB officer Labiche instigated the search of his luggage. The Hon. Ramkalawan states that, while he was removing his luggage from the scanning equipment, ANB officer Labiche approached him. As he turned, he saw ANB officer Labiche, who greeted him. After they had greeted each other, he said to ANB officer Labiche: "*I resanble ou anvi foy lo mwan (it seems you want to search on me)*". He said these things to ANB officer Labiche because the officer was standing close to his trolley. He adds that he could not tell ANB officer Labiche to move because as soon as he had spoken to ANB officer Labiche, the officer told him: "*[...] ou konnen, nou fer nou travay byen pangar nou avar ganny akize ( [...] you know, we, we do our work well so that we are not accused)*".
255. After that, ANB officer Labiche indicated that he wanted to search him. It was probably at that time he said to the officer: "*[...] be foy lo mwan akoz in annan sa komanter lo facebook ([...] search me because there is this comment on facebook)*". This is when the first conversation about cocaine took place and straight away ANB officer Labiche told him to come to the search desk. He explains that he only made a comment, and that he did not ask ANB officer Labiche to search him.
256. I am concerned with whether or not ANB officer Labiche satisfied the test of reasonable grounds for suspicion before he searched the luggage of the Hon. Ramkalawan.
257. I opine that, under section 25 (1) (a) of the Misuse of Drugs Act 2016, an officer must not search a person even with his or her consent or even where a person voluntarily submits to



a search, unless in either case, the search is in accordance with section 25 (1) (a) of the Misuse of Drugs Act.

258. Having considered the facts with care and the admission of ANB officer Labiche that did not establish reasonable grounds for suspicion before he searched the luggage of the Hon. Ramkalawan, I find that ANB officer Labiche did not satisfy the test of reasonable grounds for suspicion before he searched the luggage of the Hon. Ramkalawan, under section 25 (1) (a) of the Misuse of Drugs Act. In other words, there is no evidence on record to establish that ANB officer Labiche satisfied the reasonable grounds for suspicion test before he searched the luggage of the Hon. Ramkalawan under section 25 (1) (a) of the Misuse of Drugs Act. Consequently, the search of the Hon. Ramkalawan was unlawful. Further, I hold the view that ANB officer Labiche would not have searched the Hon. Ramkalawan had he been conversant with his statutory powers of stop and search without making an arrest.
259. Stop and search can play a vital role in the detection and prevention of a crime, and using the powers fairly makes them more effective. Unfair use of the powers of stop and search without an arrest, under section 25 (1) (a) of the Misuse of Drugs Act 2016, amounts to a deprivation of the relevant Fundamental Human Rights and Freedoms of the person searched under the Constitution of the Republic of Seychelles.
260. The testimonies of all ANB officers establish that standard operating procedures concerning the exercise of statutory powers of stop and search without making an arrest are not well defined.
261. ANB Principal Officer Fanchette and other ANB officers state that an ANB officer may search the luggage of a passenger without first having formed in in his or her mind a genuine suspicion, as in the present case. The ANB officers also emphasized that an ANB officer may casually exercise his or her discretion to search. No ANB officer is fully alive to the fact that the powers under section 25 (1) (a) of the Misuse of Drugs Act entail reasonable grounds for suspicion before they may be exercised. Generally, all ANB

officers who testify are not fully conversant with section 25 (1) (a) of the Misuse of Drugs Act.

262. I also note that the ANB officers are not aware of standard operating procedures dealing with searches of holders of diplomatic passports. I note that the ANB Principal Officer Fanchette suggested that it is not clear whether or not standard operating procedures dealing with searches of holders of diplomatic passport exist.
263. Therefore, in the light of my findings, I recommend that standard operating procedures should clearly outline the statutory powers of an officer under section 25 (1) (a) of the Misuse of Drugs Act read with sections 22 and 25 of the Police Force Act and other relevant written laws of Seychelles. The standard operating procedures should be readily available in all police stations and other relevant work places for all officers to consult and training should be provided.

### *Secondary issues*

#### Whether or not the Hon. Ramkalawan or ANB officer Labiche instigated the search

264. In my quest to establish the truth of what happened, I consider the evidence given on secondary issues. The first secondary issue is whether or not Hon. Ramkalawan or ANB officer Labiche instigated the search.
265. Having considered the evidence on record, I am satisfied that the Hon. Ramkalawan instigated the search. I give reasons.
266. When questioned by Miss Parmantier, the Hon. Aglae states that the Hon. Ramkalawan told ANB officer Labiche: "*you can search my bag because I have in the past been accused of drug trafficking*". The Hon. Aglae was categorical that he did not hear ANB officer Labiche request for a search of the Hon. Ramkalawan. He recalls that, after the Hon. Ramkalawan said to ANB officer Labiche that he had in the past been accused of importing controlled

drugs in the country, ANB officer Labiche immediately stated: "I will do my job because I may be accused of searching certain kind of people".

267. Later in the proceedings, he states the following —

"Q: You mentioned not too long ago that Honourable Ramkalawan is the one that initiated it. So why would he want to report to the higher Authorities if that had been the case?"

A: Because I think it is the first time that he has been searched.

[...]

MS. PARMANTIER CONTINUES

Q: You mentioned previously that if Honourable Ramkalawan had not offered for his bags to be searched, you do not think he probably would have been searched. So now you are saying that Honourable Ramkalawan had tension after he had left. So why would he have tension after he had left if he was the one that had proposed the search in your opinion?"

A: From my opinion is that being searched by an ANB Officer, anyone, even me after being searched you do some thinking of what just happened or why have this happened."

268. I have to mention that the Hon. Aglae, when questioned by Mr Derjacques, testifies that the Hon. Ramkalawan **agreed** to be searched. I record again the following interactions between Mr Derjacques and the Hon. Aglae —

*"Q: Sometimes in life someone asks you something and then you agree, like since you are a child, your mother asks "do you want food?" "yes I want food". Someone says "can I do this?" you say "Yes you can" or sometimes in life someone out of the blue says "vin fouy lo mwan" like Officer Finesse in her statement to the Police says "Mr. Ramkalawan insisted that you must search him". This is what Officer Finesse says in her statement to the Police. When you heard Mr. Ramkalawan at 51 seconds say "you can search me" was he reacting to something asked of him or was he saying "mon oule ou fouy lo mwan, mwan ensiste ou fouy lo mwan"?"*

*A: He has been approached by the ANB Officer and as the video shows, they were around the 20 seconds which there was some interaction which I myself I do not recall or overheard. It was after hearing that Mr. Ramkalawan said "you can search me" that the Officer took the bag for search".*

*Q: Okay, I will ask the question again maybe in another way. Was Mr. Ramkalawan agreeing to the search upon request of Officer Labiche or was Mr. Ramkalawan telling Mr. Labiche "you must search me"?"*

*A: Mr. Ramkalawan agreed to be searched.*

*Q: Agreed to be searched?*

*A: Yes from the request which I do not recall what was saying because there must have been an approach from the ANB Officer then because we are Member of Parliament, we do not create sceneries, we comply, we make law so I must*

*agree that Mr. Ramkalawan in his sound mind agreed to be searched."*

269. Later in the proceedings, I asked the Hon. Aglae if ANB officer Labiche instigated the search. His response was that he did not hear part of the conversation between the Hon. Ramkalawan and ANB officer Labiche because he was concerned with his luggage, which was being screened. However, he heard the Hon. Ramkalawan "*agreed you can search me*".
270. Having considered the evidence of the Hon. Aglae on this issue, I hold the view that the Hon. Aglae did not tell the truth to the Commission of Inquiry when he states that the Hon. Ramkalawan "*agreed*" to be searched "*because there must have been an approach from the ANB*". It is clear that he [the Hon. Aglae] fabricated that evidence. His evidence to the effect that: "*[y]es from the request which I do not recall what was saying because there must have been an approach from the ANB Officer then because we are Member of Parliament, we do not create sceneries, we comply, we make law so I must agree that Mr. Ramkalawan in his sound mind agreed to be searched*", is scant and incredible. Moreover, Miss Parmantier told him on various occasions that the Hon. Ramkalawan instigated the search. He did not deny the suggestion of Miss Parmantier and say that the Hon. Ramkalawan agreed to be searched. He even suggested that the Hon. Ramkalawan voluntarily gave a second bag to be searched.
271. I attach little weight to the testimony of Miss Morel on this issue. After having observed the demeanour of Miss Morel, I find that Miss Morel did not tell the truth to the Commission of Inquiry. She states to the Commission of Inquiry that the Hon. Ramkalawan did not say to ANB officer Labiche "*you can search me if you like*". The Hon. Ramkalawan did not initiate the search. She states that the ANB officer wanted to search the Hon. Ramkalawan because "*they were there. Because, that officer stood in front of him and then when he went to the x-ray machine, that officer moved in, closer to the x-ray machine, sort of, just in front of him and yes I believe it was for that purpose*". Miss Morel in my judgment was at pain to tell the Commission of Inquiry exactly what happened.

272. Further, it is noteworthy that the Hon. Aglae, who stood behind the Hon. Ramkalawan while watching proceedings, states that there was a small bag with aquarium pebbles in the luggage of the Hon. Ramkalawan, which ANB officer Labiche lifted. The Hon. Ramkalawan stated: *"that is my drug and we laugh"*.
273. Whereas, the Hon. Ramkalawan suggests that in the course of the search, ANB officer Labiche commented: *"la I la"*. Then he [the Hon. Ramkalawan] responded: *"la I la cocaine ki Ramkalawan in anmenn dan pei"*. According to the Hon. Ramkalawan nobody commented about the cocaine joke made by ANB officer Labiche.
274. ANB officer Labiche states in his evidence that they made jokes about the packet of aquarium pebbles that was in the luggage of the Hon. Ramkalawan. The Hon. Ramkalawan stated: *"la la, la la mon drog ki monn anmenen, la mon cocaine la (there, there is my drug that I have brought, there is my cocaine there)"*. ANB officer Labiche also made jokes and stated: *"oh, that is it, there it is, that is the cocaine"*.
275. Having considered the evidence with care, I accept the versions of the Hon. Aglae and ANB officer Labiche as being the truth of what happened.
276. Moreover, the evidence before the Commission of Inquiry is that the Hon. Ramkalawan and ANB officer Labiche were both calm and made jokes about the search and the aquarium pebbles. I hold the view that the Hon. Ramkalawan behaved inconsequentially because he initiated the search.
277. It is fundamental that other witnesses confirmed the evidence of ANB officer Labiche that the Hon. Ramkalawan instigated the search of his luggage. Miss Finesse, an officer of customs states that the Hon. Ramkalawan told ANB officer Labiche to search his luggage because persons are saying on Facebook that he brings cocaine in the country. Mr Ramkalawan suggests that Miss Finesse did not tell the truth to the Commission of Inquiry. However, the Hon. Ramkalawan through his Counsel Mr Derjacques accepts the testimony

of Miss Finesse to the effect that the Hon. Ramkalawan and ANB officer Labiche *"were in a situation where Mr. Ramkalawan jokingly asked officer Labiche to search him"*.

278. Further, having carefully observed the demeanour of Miss Ahmed, an AVSEC officer, I find that she told the truth to the Commission when she stated that the Hon. Ramkalawan instigated the search. Miss Ahmed states —

*"When they were passing by I was on the screening machine, next to the x-ray machine. I was sitting, my monitor inside, in front of me. When they were passing next to the x-ray machine, to collect their cabin luggage, I heard Honourable Ramkalawan said on facebook they had put that he brings cocaine. As he stood right opposite from where I was seated, I heard someone behind my back ask him where he comes from. He said he came from a Conference. Then he said to Mr Labiche, you can search if you want. That is all I heard."*

279. I also hold the view that the Hon. Ramkalawan instigated the search because at the airport the Hon. Ramkalawan was preoccupied by a Facebook post "Kakasat - Nouvel Anba Langar", which alleges that he brings cocaine in the country. ANB officer Labiche states that Hon. Ramkalawan told him to search his luggage because of the Facebook post, which alleges that he brings cocaine in the country. He refused the request of the Hon. Ramkalawan to search his luggage, but the Hon. Ramkalawan asked him again to search his luggage. He said *"O.K then, I will search so that people will not say that I search only on certain people"*. After that, he directed the Hon. Ramkalawan to the search desk.

280. Having observed the demeanour of ANB officer Labiche with care, I accept his testimony that the Hon. Ramkalawan requested to be searched because of the Facebook post. It is pertinent that when ANB officer Labiche lifted the packet of aquarium pebbles, the Hon. Ramkalawan, as testified to by the Hon. Aglae, stated in a joking manner: *"that is my drug and we laugh"*. Other witnesses confirm the testimony of the Hon. Aglae. It is also pertinent

to note that the Hon. Ramkalawan did not dispute that he stated he has now received his "*stamp of approval*". It is unclear why the Hon. Ramkalawan would make such a comment if he were not concerned about the Facebook post. It is clear that he requested the search simply to show that he does not bring drugs in the country. It is not clear whether or not the Hon. Ramkalawan thought about the implications of the search at the time. In fact, Mr Mancienne told the Commission of Inquiry that the Hon. Ramkalawan was not at all concerned about the implications of the search when he [the Hon. Ramkalawan] spoke to Mr Mancienne on the 9 February 2020.

281. Further, having viewed footage of all passengers clearing formalities at the airport with care, I do not accept the testimony of the Hon. Ramkalawan that ANB officer Labiche was standing at that particular spot to block his trolley. Having viewed the footage, it is obvious that the location at which ANB officer Labiche stood at, while the Hon. Ramkalawan was retrieving his cabin luggage, is a regular location for ANB officers to stand, and that they may stand anywhere in the arrival lounge. I am also convinced that had ANB officer Labiche initiated the search, he would have followed procedures.

The issue of tip-off

282. The next secondary issue concerns the tip-off allegedly received by Mr Bristol. Mr Bristol refuses to reveal the identity of the person from whom he received the alleged tip-off.
283. Mr Bristol states that the Hon. Ramkalawan was not concerned about the search until he told him that: "*Mon ti dir li poudir mon tin ganny enformen ki pou annan 2 lizye ki pou vey lo li. (I told him that I was informed that there were 2 eyes watching him)*". The Hon. Ramkalawan was shocked and made some calls in the car.
284. The evidence of Mr D'Offay and Mr Morel is unclear about whether or not Mr Bristol could have received a call on WhatsApp at 8 31 p.m.. However, I note that data usage at 8 21 p.m., was only about 14 kilobytes.



285. Mr Bristol testifies that he did not tell the Hon. Ramkalawan of the identity of the person from whom he received the tip-off in the evening of the 8 February 2020. According to his evidence, he told the Hon. Ramkalawan the next day. The Hon. Ramkalawan told the Commission of Inquiry that Mr Bristol did not tell him the identity of the person from whom he received the tip-off. He did not consider it important to ask his driver "*for his source or whatever because that was his business*".
286. Mr Mancienne, who states that the LDS was deeply concerned about the implications of the search and a "Kakasat – Nouvel Anba Langar" Facebook post, did not consider the tip-off an important issue for the LDS.
287. This evidence is highly suspect. I have no difficulty to hold that Mr Bristol did not receive any call on WhatsApp from somebody "*high up*", but that he fabricated the evidence.
288. Further, it is quite unfortunate that, in the course of the hearing, Counsel for the Hon. Ramkalawan did his utmost to stop the Commission of Inquiry from ascertaining the truth with respect to the tip-off. I had to remind Counsel on various occasions that I was conducting a fact-finding mission to establish the facts and circumstances of the incident, and that I was not conducting a court case.

## Chapter 5: Summary of Findings and Recommendations

289. I considered the evidence from many witnesses, including the Commissioner of Police Labonte; the Hon. Ramkalawan; Mr Mancienne; Deputy Commissioner of Police Songor; ANB officers Larue and Labiche and other witnesses and made several findings and recommendations.
290. The findings and recommendations were made against the background that some witnesses were visibly elusive and not truthful during the hearing. I reminded Counsel and some witnesses that I was conducting a fact-finding mission to establish the facts and circumstances of the incident, and that I was not conducting a court hearing. Moreover, Mr Bristol refused, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him. Nonetheless, I am satisfied that the material evidence I receive during the proceedings is enough for me to make some crucial findings.

### Primary findings

- (A) ANB officer Labiche did not satisfy the test of reasonable grounds for suspicion before he searched the Hon. Ramkalawan. Consequently, the search of the Hon. Ramkalawan was unlawful.

The reasonable suspicion test comprises two elements. Firstly, the officer must form a genuine suspicion that he will find a controlled drug or an article liable to seizure for which the search power under section 25 (1) (a) of the Misuse of Drugs Act 2016, allows him or her to conduct a search. Secondly, the suspicion that a controlled drug or an article liable to seizure will be found must be reasonable. As I understand it, the exercise of the power to stop and search depends on the probability that the person searched is in possession of a controlled drug or an article liable to seizure. It does not depend on the person concerned being suspected of committing an offence in relation to the object of the search.

- (B) Under section 25 (1) (a) of the Misuse of Drugs Act 2016, an officer must not search a person even with his consent or even when a person voluntarily submits to a search, unless in either case, the search is in accordance with section 25 (1) (a) of the said Act

Secondary findings

- (A) The evidence shows that the Hon. Ramkalawan instigated the search of his luggage
- (B) There is no evidence to establish that Mr Bristol received a tip-off.

291. In the light of my findings, I recommend that standard operating procedures should clearly outline the statutory powers of an officer under section 25 (1) (a) of the Misuse of Drugs Act read with sections 22 and 25 of the Police Force Act and all relevant written laws of Seychelles. The standard operating procedures should be readily available in all police stations and other relevant working places for all officers to consult and training should be provided.

## **Chapter 6: Miscellaneous orders of Commission of Inquiry**

292. In the light of my finding that ANB officer Labiche did not satisfy the test of reasonable grounds for suspicion before he searched the Hon. Ramkalawan, I make an order that all information including the scanned passport copy of the relevant pages of the diplomatic passport of the Hon. Ramkalawan, being stored on the data base of the Police Force, pertaining to the unlawful search of the Hon. Ramkalawan, in the evening of the 8 February 2020, be forthwith permanently expunged from the database of the Police Force.
293. Further, I make order that the Commissioner of Police Labonte shall inform or cause to inform the Hon. Ramkalawan in writing that the order of the Commission of Inquiry has been complied with.

## **Chapter 7: Conclusion**

294. It is very clear to me from all testimonies that ANB officer Labiche should not have searched the luggage of the Hon. Ramkalawan and that the search of the luggage of the Hon. Ramkalawan was unlawful.
295. In my view, the appointment of the Commission of Inquiry by President Faure was justified.
296. It is very clear to me that there is at present a worrisome situation. Powers of stop and search without an arrest must be used justly, dutifully, responsibly with respect to the relevant fundamental rights and freedoms of persons being searched. ANB officers of the Police Force discharging their duties and performing their functions must have regard to the relevant written laws of Seychelles. After having considered all the testimonies, it is clear that any abuse of power by an officer is likely to be damaging to policing and lead to suspicion of the Police Force.
297. I urge the Commissioner of Police Labonte to respond positively to this Report and to open a new chapter in the relevant policies, practice and activities of the ANB with respect to the findings and recommendations of the Commission of Inquiry.

## **Chapter 8: List of Witnesses**

1. Miss Marina Confait
2. Mrs Linda Rosalie
3. Mr Georges D'Offay
4. Superintendent of Police Mr Nevile Thaver
5. Mrs Sandra Michel
6. Deputy Commissioner of Police Mr Romano Songor
7. ASP Mr Jean Toussaint
8. Mr Roger Mancienne
9. ANB Officer Miss Kathleen Belle
10. Mr Peter Flore
11. ANB Principal Officer Mr Derek Samson
12. ANB Miss Farida Sabury
13. Mr Maxime Morel
14. Mr Mervin Hariba
15. ANB Principal Officer Mr Nichol Fanchette
16. Hon Egbert Aglae
17. Miss Maria Finesse
18. Miss Genevieve Morel
19. Miss Monette Ahmed
20. ANB Officer Ashley Larue
21. ANB Officer Ashley Labiche
22. The Commissioner of Police Labonte
23. Mr Christian Thomas
24. The Hon. Ramkalawan
25. Mr Anille Bristol

## **Chapter 9: Sittings of the Commission of Inquiry**

Copies of sittings (proceedings) of the Commission of Inquiry is attached to this Report.

## Chapter 10: List of exhibits and unmarked documents

### Exhibits

1. C. I 1 - Diplomatic & Official Passport Policy, November 2018
2. C. I 2 A - Pendrive from SBC, containing 2 Items: 1 video 52 seconds & 1 video 6 mins, 1 second  
B CD from SBC, SBC Footage
3. C.I 3 A - Information  
C. I 3 B Warrant
4. C. I 4 (A) - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Information – Superintendent N Thaver of Seychelles Police Force, dated 26/2/20  
C. I 4 (B) - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Warrant – Superintendent N Thaver a Police Officer, dated 26/2/20
5. C. I 5 - C & W Letter, Ref: DCE/43/05A, from George D’Offay to COMPOL, Attn: Superintendent N Thaver - Request under Section 95 of Cr. Procedure Code, dated 17/2/20
6. C. I 6 - C & W Letter, Ref: DCE/62/05A, from George D’Offay to COMPOL, Attn: Superintendent N Thaver – Request under Section 95 of Cr. Procedure Code, dated 26/2/20
7. C. I 7 D - C & W Incoming/Outgoing calls/SMS – 2545444  
C. I 7 (E) - C & W Incoming calls – 4376604  
C. I 7 (F) - Outgoing calls - 4376604
8. C. I 8 A - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Information – Superintendent N Thaver dated 12/2/20  
C. I 8 (B) - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Warrant – Superintendent N Thaver a Police Officer, dated 12/2/20
9. C. I 9 (A) (2) - In the Supreme Court of Seychelles (Section 95 of the



- Cri. Procedure Code) Information – Superintendent N Thaver a Police Officer, dated 17/2/20
- C. I 9 (B) - In the Supreme Court of Seychelles (Section 95 of the Cri. Procedure Code) – Warrant – Superintendent N Thaver a Police Officer, dated 17/2/20
10. C. I 10 - Vienna Convention on Diplomatic Relations 1961
11. C. I 11 - Report For Flight Inquiry For Saturday 08<sup>th</sup> February 2020
12. C. I 12 - Police Department Letter – Appointment of Special Constable Pursuant to Section 18 (1) (2) of the Police Force Act (CAP 172), from COMPOL to Ashley Labiche, dated 1/11/17
13. C. I 13 - Letter from COMPOL, Police Department, to Ashley Labiche, dated 1/11/17 – Appointment of Special Constable Pursuant to Section 48 (1) (2) of the Police Force Act (CAP 172)
14. C. I 14 (A) - In the Supreme Court of Seychelles (Section 95 of the Criminal Procedure Code) Information – Superintendent N Thaver, dated 4/3/20
- C. I B - In the Supreme Court of Seychelles (Section 95 of the Criminal Procedure Code) – Warrant – Superintendent N Thaver, dated 4/3/20
- C. I C - C & W Letter from George D’Offay to COMPOL dated 4/3/20 (Request under Section 95 of the Cr. Procedure Code)
15. C. I 15 (A) - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Information – Superintendent N. Thaver a Police Officer, dated 4/3/20
- C. I 15 (B) - In the Supreme Court of Seychelles (Section 95 of the Cr. Procedure Code) – Warrant – Superintendent N Thaver a Police Officer, dated 4/3/20
- C. I 15 (C) & (D) - Airtel Letter, from Maxime Morel to COMPOL, Ref: Warrant dated 4<sup>th</sup> March 2020, dated 4/3/20
- C. I 15 (E) & (F) - Phone Number 2822850 Call list
16. C. I 16 - Kaka Sat – Nouvel Anba Langar

17. C. I 18 - SCAA Form 001 (Section A), Ref: SCAA-AVSEC-VSS-01, Request Form for Video Surveillance Footage
18. C. I 19 - The Seychelles Police, Case Register No 4/2020 Pmu, Investigation Diary
19. C. I 20 - AVESEC Footage
20. C. I 21 (A)  
C. I 21 (B) - List of Witnesses for Commission of Inquiry  
Additional List of Witnesses for Commission of Inquiry
21. C. I. 23 - Donald Antoine Hoareau, Breaking News, 36 mins, Hey Boss post this for me ....
22. C. I 24 - Track for the subscriber 2545444 of the day 08-02-2020
23. C. I 25 - Airtel Letter, from Maxime Morel to COMPOL, Ref: Warrant dated 12<sup>th</sup> February 2020, dated 13/2/20
24. C. I 26 - Phone Num 2816056 Call List, stamp dated 12/2/20
25. C. I. 27 - Airtel Letter, from Maxime Morel to COMPOL, Ref: Warrant dated 17<sup>th</sup> February 2020, dated 17/2/20
26. C. I 28 - Phone Num 2887767 Call List, stamp dated 13/2/20
27. C. I 29 - Leader of Opposition passport page 3
28. C. I. 30 - Daryl Akmed Chocoro Labiche, Member of SEYCHELLES DAILY since January 16, 2014
29. C. I. 31 - Daryl Ahmed Chocoro Labiche, Member of United Seychelles Daily since June 14, 2017
30. C. I 32 (A) - Passenger Profile record (ANB)
- C. I 32 (B) - 2 pages Airport Data Base (ANB)

## **Chapter 11: Acknowledgments**

298. The Commission of Inquiry wishes to thank the Hon. Chief Justice of the Supreme Court and Justice of Appeal, Dr Mathilda Twomey; Mrs Juliana Esticot, the Registrar of the Supreme Court; the Secretary to the Commission of Inquiry, Miss. Marie Claire Julie; Counsel who assisted the Commission of Inquiry, Miss M Parmantier; the stenographers, Miss Shena Labrosse, Miss Shaila Barbe and Miss Ireena Rosette; the court interpreter Miss Liza Louange; the usher to the Commission of Inquiry, Miss Chantal Leste, the IT Technicians, Mr Curtis Nourrice and Mr Denis Hermitte; Miss. Vivienne Vadivelo, the Assistant Registrar of the Court of Appeal; Miss Denise Benstrong, the Documentation Assistant, Police Officer Mason Marcelin; the Deputy Registrar of the Supreme Court (Criminal Division), Miss Marie-Angele Barbe and the staff of the Court of Appeal for their support in the work of the Commission of Inquiry.
299. The Commission of Inquiry acknowledges with gratitude the assistance given by ANB officer Superintendent of Police Thaver and ANB officer Sabury and all other persons who assisted the Commission of Inquiry.

## **Chapter 12: Expenses of the Commission of Inquiry**

300. The Commission of Inquiry did not receive a budget for this work. It is making a request that persons (excluding the Commissioner) who assisted the Commission of Inquiry with its work be paid out of general revenues under section 19 of the Commissions of Inquiry Act. That provision states that the President may direct what remuneration (if any) shall be paid to the secretary, and to any other persons employed in or about the Commission.
301. In the light of section 19 of the Commissions of Inquiry Act, the Commission of Inquiry claims the sum of 200,000 rupees, which includes the fees of Counsel and persons who assisted with the Commission of Inquiry.
302. In view of the COVID-19 situation, which greatly hampered the work of the Commission of Inquiry, the Commission of Inquiry has not been able to gather the contracts and supporting documents in time in relation to the sum being claimed. The Commission of Inquiry, will provide a breakdown of that sum together with all supporting documents to the relevant authority in due course.