

INQUIRY INTO THE RETIREMENT
OF THE FORMER COMMISSIONER OF POLICE

SUBMISSIONS FOR THE FOURTH PRELIMINARY HEARING
ON BEHALF OF MESSRS CORNELIO, PEREZ and SANCHEZ

I. INTRODUCTION

1 This document sets out the submissions to be made at the hearing on 19 July 2023 by those representing Thomas Cornelio, John Perez MBE and Caine Sanchez ('the Op Delhi Defendants').

2 These are open submissions. The Op Delhi Defendants have no submissions to make on the issues canvassed in CTI's closed skeleton argument and therefore no closed submissions document will be filed on their behalf.

II. ISSUES

3 The numbers before the '/' in the issue headings refer to item numbers on the agenda for the fourth preliminary hearing. The letters after the '/' refer to the sections of CTI's open skeleton argument dated 11 July 2023.

2 / A — Data Breach

4 CTI's update is noted. No observations.

3b / B — RGP Disclosure

5 With their sworn statements to the Inquiry, the Op Delhi Defendants served a schedule of documents they believed to be relevant. The schedule had four sections. Copies of the documents in sections A and B were provided to the Inquiry. However, copies of the documents in sections C and D were not. The reason for this was given in the affidavit of John Perez:

Annexed to this affidavit is a schedule entitled 'Schedule of Documents Provided or Identified on behalf of the Op Delhi Defendants'. The documents listed in sections A and B will be provided to the Inquiry, because they were either served as evidence or have come into my possession separately to the criminal proceedings. I cannot provide the documents in sections C and D due to the prohibition in s256 CPEA 2011.

6 Section 256 of the Criminal Evidence and Procedure Act 2011 Act imposes a prohibition, breach of which is a contempt of court, on use of and disclosure of information in documents served by the prosecution as disclosable unused material in criminal proceedings.

7 As John Perez explained, the Op Delhi Defendants expected the documents in sections C and D to reach the Inquiry by an alternate route:

I should add that all of the documents in sections C and D have been created or supplied by the Royal Gibraltar Police. The RGP is now a core participant in the Inquiry, and will no doubt either have provided these relevant materials to the Inquiry, or will do so in due course. If the documents in Sections C and D can be provided to me either by the Inquiry or by the RGP directly, then I can expand on my account in Part IV without breach of s256 CPEA 2011.

8 The Inquiry has now assumed responsibility for the review of RGP disclosure, and may already be in a position to know whether the documents in sections C and D of the schedule are amongst those in its possession.

9 If there are any documents in sections C and D that the Inquiry does not have and does not expect to obtain from the RGP, the Op Delhi Defendants can and will make an application to the Supreme Court for permission to disclose these documents to the Inquiry themselves. Such an application may take time to resolve and as much notice as possible would be appreciated.

3c, 3e / C — Timetable

10 The Op Delhi Defendants agree with the proposed timetable. This is subject to the observation that the RGP disclosure is likely to be of considerable importance to the position of the Op Delhi Defendants and may well lead to the necessity for responsive statements. If the deadline of 28 August 2023 is not to be missed, the RGP disclosure process will need to be completed in the near future.

4 / C — Procedure at Main Inquiry Hearing

11 In respect of witnesses, the Op Delhi Defendant support CTI's approach in principle, but would propose that James Gaggero is moved to Category 1, witnesses who will give oral evidence, and further that consideration is given to denoting him to be an unrestricted witness.

5 / D — Finalisation of the List of Issues and Consideration of Agreed Facts

- 12** The Op Delhi Defendants have no observations on the points made relating to the list of issues.
- 13** If facts are to be agreed, it may be helpful to assign responsibility for the first draft, whether that be to CTI or to one of the CPs.

6 / E — GBC Broadcasting

- 14** The Op Delhi Defendants support the proposal, for the reasons given by CTI.

7 / F — Restriction Orders

- 15** The Op Delhi Defendants support the point of principle made by CTI: any derogation from the ‘golden rule’ of full disclosure should be the minimum necessary.
- 16** Since the particular application canvassed at section F was made before the Op Delhi Defendants were granted CP status, they have not had sight of the application or the response. The Inquiry is requested to consider whether these should be provided to the Op Delhi Defendants. As matters stand, they cannot make submissions on this issue, which (from the limited information available) may well impact them.

8, 9 / G and H — the 19 Witness Statements

- 17** CTI’s update is noted. No observations.

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14 July 2023