INQUIRY INTO THE RETIREMENT
OF THE FORMER COMMISSIONER OF POLICE

CLOSING SUBMISSIONS ON BEHALF OF
THE FORMER OP DELHI DEFENDANTS

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1 According to Jason Beer KC[1], the task of a public inquiry is to answer three questions:

(1) What happened?

(2) Why did it happen and who is to blame?

(3) What can be done to prevent this happening again?

2 The first part of this document focuses on question 1. It addresses the factual issues impacting on the Former Op Delhi Defendants ('FDs').

3 The second part of this document addresses questions 2 and 3. We seek to identify patterns in the facts that the Inquiry has heard, and draw out some themes from those facts. We do not make direct proposals for the improvements in process or procedure the Inquiry might recommend when it addresses question 3, but do highlight some areas where there is plainly room for such improvement.

I. PART ONE – FACTUAL SUBMISSIONS

4 It has necessarily been a central part of the case advanced by a number of core participants that the evidence against the FDs crossed the threshold necessary to justify a search warrant, or the laying of charges. The clarifications that follow endeavour to complete the picture, by identifying some (though not by any means all) of the factors that pointed firmly the other way.

Evidence of Sabotage

5 A number of the Inquiry's witnesses referred to the most serious unproven criminal allegation against Thomas Cornelio and John Perez (namely, the

[1] The author of the well-known text book on public inquiries, available in law libraries and on CTI's bedside table — see Day 01, 08 April 2024, p10.

'sabotage' of NSCIS) as if it was an established fact that had been proven. The Chairman has made plain that it is not the role of the Inquiry to determine whether such allegations are true or not, and that the Inquiry will explicitly adopt the approach that such allegations of sabotage are no more than that — allegations.

6 But: there is evidence before the Inquiry of the basis on which such allegations were made, so the factual picture would be incomplete without an outline of this basis. Moreover, ignoring this factual basis risks a false conclusion that the sabotage is 'alleged' because it has not been investigated.

7 In fact the alleged sabotage has been thoroughly investigated, by an independent expert. This expert was instructed by the prosecution and fully briefed by the RGP. He was afforded full assistance and explanations from Blands. But his conclusions once he reported were then 'put to one side' because they were not what the prosecution and the RGP 'hoped for.[2]'

8 The following timeline contains the details of how and from whom evidence going to the issue of sabotage was obtained:

(1) On 27 September 2018, James Gaggero made allegations of 'potential malicious activity' to the Chief Minister[3]. These statements were essentially speculative: the technical team at Blands did not begin to look into the issue of potential sabotage until October[4]. He also met with Ian McGrail on 27 September 2018 but made no allegations of sabotage on this occasion[5].

(2) On 27 October 2018, James Gaggero made allegations of sabotage to Ian McGrail. This took place at a private meeting in Mr McGrail's office.

(3) On 14 December 2018, PwC produced a report which they titled 'Project Bass'. PwC was paid by Blands for this report and acted on Blands' instructions.[6]

(4) The RGP engaged the assistance of the UK's National Crime Agency. The intention was that they would draft expert witness statements to

[2] Evidence of Christian Rocca, Day 10, 19 April 2024, p19, line 7

[3] Gaggero 1, A1374, paragraph 74. See also Day 16, 06 May 2024, p137

[4] See the timeline in James Gaggero's principal statement in the criminal proceedings at paragraph 54, B5213

[5] Gaggero 1, A1374, paragraph 72. See also Day 05, 15 April 2024, p126.

[6] Statement of James Gaggero in criminal proceedings, B5215

agree with the findings in PwC's 'Project Bass' report and the findings of Jonathan Galliano[7].

(5) The NCA were not able to provide expert evidence, and nor did PwC[8].

(6) In January 2020, the DPP raised concerns regarding the lack of expert evidence[9]

(7) On 09 February 2021, nearly five months after charges had been laid, Mark Wyan had an 'initial conversation' with proposed prosecution expert, Dr Paul Hunton.[10]

(8) On 08 March 2021, Mark Wyan sent an "expert letter of instruction" to Dr Hunton asking him to give computer forensic expert evidence[11].

(9) On 23 March 2021, Mark Wyan received confirmation from Det Chief Supt Adrian Green of Durham Constabulary confirming Dr Hunton's appropriate experience and expertise for this task and that "Dr Hunton has worked for them on a number of cases in relation to forensic information technology and evidential analysis over 10 years."[12]

(10) On 31 March 2021, Mark Wyan received confirmation that Dr Hunton had UK National Security clearance at level SC and also held police vetting clearance NPPV3[13]

(11) Further entries in Mark Wyan's log[14] show him sending relevant materials to Dr Hunton, and meetings being held with Dr Hunton. Mark Wyan offered Jonathan Galliano of Blands to be available for any technical issues Dr Hunton required assistance with. He was then instructed to undertake a "detailed assessment" of the full computer evidence, including the hard drives which he was sent.

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[7] Mark Wyan's log at #176, 12 October 2019, B3092

[8] Day 05, 12 April 2024, p108 — Paul Richardson answering questions from CTI. See also Mark Wyan's log at #261, #263 & #295

[9] Mark Wyan's log #254 at B3106. And see Paul Richardson's daybook at C1764, and Christian Rocca's evidence at Day 10, 19 April 2024 p19.

[10] Mark Wyan's log at #689, B3175.

[11] Mark Wyan's log at #704, B3177

[12] Mark Wyan's log at #710, B3178

[13] Mark Wyan's log at #718, B3180

[14] Mark Wyan's log at #729, #724, #736, #738, #739, #740 — B3182

(12) Dr Hunton "couldn't provide evidence as to what we expected" and was "put to one side"[15].

Caine Sanchez 'corrupt'

9 In evidence on 12 April 2024[16] some time was spent with Paul Richardson discussing a comment he made in the meeting that took place on 07 April 2020 (not 04 May 2020) between him, Ian McGrail, Michael Llamas and Lloyd Devincenzi, to the effect that Caine Sanchez was corrupt "from what we had seen". The transcript of the meeting of 13 May 2020 includes a bald comment from Ian McGrail which translates as "Sanchez is corrupt".[17]

10 It might be assumed from this that "what [the RGP] had seen" included some evidence that Caine Sanchez had received or been promised some form of payment for advocating for 36 North, or that he had some kind of financial stake or interest in its success or any other evidence of corruption.

11 The careful work of Mark Wyan in summarising the facts in his charging advice report (aka 'charging advice') [18] allows it to be said categorically that there was no such evidence.

Maintenance contract

12 The following was said in oral opening on behalf of the FDs[19]:

> I turn now to the specifics of the inaccuracies and firstly I will address the issue of the maintenance agreement. One must recall, this was the alternative fall-back case against the former defendants, having established that the problems in making good the proposition of the complainant of ownership of the proprietary interest.
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> From reading Mr McGrail's opening, one might think that somewhere in a filing cabinet is a document entitled "Maintenance Contract" that had existed, but this was categorically not the case. There was not even an exchange of emails that would constitute a contract. The only contractual relationship for which there is any evidence was the implied contract for work being done, on the mutual understanding that it would be paid for.

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[15] Day 10, 19 April 2024, p20

[16] See Day 05, 12 April 2024 at p5, p9, p10, p68. The note of the meeting is reproduced in Paul Richardson's statement at A1436.

[17] B230.

[18] From B2925; the part that deals with Caine Sanchez is at B2992. There is ample evidence that he wanted 36 North Ltd to succeed, and acted to promote its success. There is no evidence whatsoever that he wanted it to succeed for his own personal benefit, rather than because (as he has always maintained) he thought the interests of Gibraltar were best served by its success.

[19] Day 02, 09 April 2024, p102. The punctuation in the citation has been slightly improved from the original transcript.

> In my submission to the criminal proceedings, I used the example of a barber, obviously where a customer sits in a barber's chair and the barber begins to cut. The customer has entered into an implied contractual obligation to pay him for the haircut. But nothing obliges him the next time the need for a haircut arises to go back to the same barber. He is free, if he wishes, to select some other. The original barber may well feel angry, betrayed to lose a longstanding customer, but he will have no legal recourse.
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> That was the position between the Government and Bland, and it is important that the Inquiry bears this in mind when it hears submissions about the Chief Minister deciding whether to "take the contract from Bland and give it to 36 North". That is premised on a misapprehension. The more accurate way of describing his decision was whether to take the Government's *custom* from Bland and give it to 36 North. This may make little difference in terms of the feelings such a decision might engender — loyalty and contractual obligation are two very different things — but it makes all the difference or should make all the difference when a police force is investigating an alleged conspiracy to defraud, with all of the consequences that follow to those subject to that investigation.

13 Mark Wyan was obviously paying attention during the openings, because in his evidence he said this[20]:

> Mr Cooper described it as an individual going and sitting down in a barber's shop and there was a contractual relationship to the extent that they went and sat down and they had to pay for that contract for services. In our view, in our view, the HM government were going down and sitting in Bland's for their haircut month in, month out, and that 36 North were trying to attract them away to another business but by doing it through unlawful and dishonest means, so it is the means by which they were trying to appropriate that right or interest.

14 This was a considered observation. But it does not demonstrate what Mr Wyan may be assumed to have wanted to show.

15 First, this observation is itself evidence of the extent to which the RGP has been willing to alter its aim to keep the FDs within its sights. The Inquiry will recall that the specific allegation made by James Gaggero to Ian McGrail in their meeting in October 2018, and maintained by the RGP at the time of the FDs' arrest in May 2019, was that the FDs had conspired to deprive Blands of its intellectual property in NSCIS. When it became apparent that the premise of Blands' claim of ownership of the intellectual property was disputed and not accepted by the GoG — and therefore that Bland may not have any intellectual property even capable of being 'stolen' — there was no pause to review the implications of the impasse that had been arrived at based on the scope of the criminal complaint made. There was no attempt to follow lines of inquiry that pointed away from the FDs or vindicated them. Instead, the pursuit of the FDs continued unabated, even if that required the

[20] Day 05, 12 April 2024, p127

allegation to morph at charge into a claim that the FDs had conspired to "undermine the ability of Bland Limited to perform its contractual agreement with HM Government of Gibraltar namely *the maintenance agreement* relating to the NSCIS". This wording was then altered when the indictment was preferred to delete from the word 'namely' onwards.

16 So by the time of arraignment there had already been three attempts to frame a case against the FDs for conspiracy to defraud. Mr Wyan's observation in evidence to this inquiry is a fourth attempt: the idea of an enduring maintenance contract is abandoned, and now the conspiracy to defraud is framed on an altogether new premise of attempting to win business by dishonest means, a case not hitherto advanced by the DPP.

17 This Inquiry will have no appetite for a dissection of the law on conspiracy to defraud. This would in any event be a moot point, since (for the purpose of the bringing of criminal proceedings)[21] the offence did not exist in Gibraltar law between 23 November 2012 and 23 March 202[22]. But the concept that the obtaining of business, even by dishonest means, may be a fraud *on a competitor*[23] is one that is obviously replete with difficulty, even before considering the cases cited in *Norris v Government of the USA* [2008] 1 AC 920 (HL) from paragraph 10 to 16[24].

18 More pertinent to the issues before the Inquiry is the way that Mr Wyan's proposed re-re-re-amendment demonstrates the approach that has been taken towards the FDs through the history of Op Delhi, which has been to work on the assumption that James Gaggero's allegation was deserving of prosecution under any pretext — that the FDs should be prosecuted for something and then to go looking for an appropriate offence. Little attention was paid to the FD's detailed representations served prior to charge, contrary to the obligations of the investigating officers to follow reasonable lines of inquiry.

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[21] The Chairman has described the law as "confused" — Day 02, 09 April 2024, p55. Confusion in criminal law is always to be resolved in favour of the accused.

[22] The DPP complained in evidence that the point was raised by the FDs "very last minute… just prior to the dismissal hearing." Obviously it is not the task of a defendant's representatives to ensure that the indictment his client faces is well-founded. But this point is, in any event, not correct. The point was raised by Andrew Cardona on behalf of Caine Sanchez in a written application dated 27 January 2021. It was adopted on behalf of the other FDs in their written argument dated 25 June 2021. The Chief Justice expressed his doubts and concerns as whether the offence even existed at a case management hearing on 19 October 2021. The application to dismiss had still not been heard when the *nolle prosequi* was entered on 26 January 2022, a year (less one day) after the point was raised in writing.

[23] It might be a fraud on the customer. If the customer ends up paying more than he should have, then he will have suffered damage to a proprietary right or interest — his money. Here the customer did not complain.

[24] These are the authorities that support their Lordships' conclusion that a price fixing agreement or participation in a cartel had never been a criminal offence in England.

Where NSCIS Data was Sent

19 This part of the submission is drafted in indirect terms in order to comply with the Restriction Order.

20 [redacted].

21 [redacted].

Agreed Transition

22 The impression has been given that NSCIS was sabotaged with a view to demonstrating that Blands could not maintain NSCIS and thereby win the NSCIS business for 36 North.

23 As the evidence of the Chief Minister to this Inquiry helped clarify, this belief was irrational: the records authored by James Gaggero, the chairman of Blands, by means of his own correspondence, establish incontrovertibly that he *agreed* expressly that 36 North should take over the maintenance of NSCIS and that he approved the transition from Blands. When that is properly understood the tenuous allegation of sabotage (or any kind of improper behaviour) to win the business from Blands makes no sense. The Chief Minister confirmed this reality from his own first hand dealings with Mr Gaggero in his evidence:

> I think it is fundamentally important that I reflect that on 21 July 2018 what James Gaggero was saying to me was, "Look, these guys want to go and I have no difficulty with them going. We have got to sort out a few issues." And I had said to him, you know, that we have got to sort out our issues as well. But this was all an agreed process leading to that exchange. And my concern, and I am taking the risk of speaking from memory without relying on any documentation to support what I am saying, but I think that my concern was that we should tie down on the transfer to 36 North the issue of ownership of the platform because, um, I seem to recall that 36 North doing this also had the advantage (a) of being cheaper on an annual basis and (b) resolving the ownership issue because 36 North would accept that ownership of the platform was His Majesty's, then Her Majesty's, Government of Gibraltar exclusively and they were doing management and

maintenance of it and exploitation of it, but that those issues would be resolved. And I think that is hugely important.[25]

24 This was not something which required any decision from the Government — Blands and 36 North had agreed matters between themselves:

> But if I can take you to the genesis of it, what was very clear to me was that there was no need for a decision from the government. In other words, this was not something which was going to require me to make a choice or a decision. What I was being informed about was that Mr Perez and Mr Cornelio had made a decision for themselves, which they were communicating to Bland Limited and to which Bland Limited appeared to be agreeable from the moment that Mr Gaggero was informed, that they would leave and plough their furrow separately and that that was agreed by Bland's. In other words, the government was not going to be called upon to make any decision to migrate a contract from X off from Y.[26]

25 It was only when James Gaggero realised that Blands was not in line for a payout in respect of its claimed intellectual property in NSCIS that matters started to sour:

> I think this is where it starts to get sticky because Bland is starting to say, "If you want to go you have to buy the platform from us because it belongs to Blands." I think that's where the whole issue starts to get very difficult.[27]

26 When the whole issue started to get "very difficult", James Gaggero went to see Fabian Picardo and made allegations of sabotage. But these allegations were made before even any purported evidence had been identified by Blands[28], let alone any independent expert. Yet it was the allegations of sabotage that caused Messrs Cornelio and Perez to be summarily excluded from continuing their development of NSCIS via 36 North and the responsibility for NSCIS being handed back to Bland:

> Q. You say in your witness statement to the police, you say that it was in response to Mr Gaggero's allegations of sabotage against 36 North that you gave instructions to ensure that 36 North and Mr Cornelio in particular were not to have access to the system.
>
> A. Yes
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> [...]
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> Q. Did you explore the veracity of those allegations by Mr Gaggero at the time?
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> A. No, I think I answered that before when I told you that I felt the principle of natural justice, that I should listen to both parties, but I

[25] Day 16, 06 May 2024, p107

[26] Day 16, 06 May 2024, p101

[27] Day 16, 06 May 2024, p130

[28] See the timeline in James Gaggero's principal statement in the criminal proceedings at paragraph 54, B5213

> was very concerned of an allegation, at an allegation of this sort being made. It wasn't something that I felt I had the ability for No. 6 Convent Place to investigate. It was something that was being said about the system we were operating, which we considered to be essential to the security, the immigration security aspect of Gibraltar and therefore my view was very clear: if there's even the slightest and remotest risk that this is the case, then I'm not going anywhere near the transfer of the NSCIS platform to 36 North, despite the potential financial benefits to the taxpayer, whatever my own minor financial interest may be.

27 Mark Wyan told the Inquiry that he would have preferred to obtain evidence from the Chief Minister prior to the consideration of charges[29], but he was effectively over-ruled by the SIO, Paul Richardson. Had he been permitted to proceed as he saw appropriate, then he (and the DPP, had he chosen to read the evidence) would have appreciated that, at the time that James Gaggero obtained his personal meeting with Ian McGrail on 27 September 2018 and then met with Fabian Picardo, the FDs had no motive to cause damage to NSCIS, but Blands and James Gaggero had a powerful financial motive to suggest that they had.

28 In this regard it is also important to appreciate the timing of the alleged instances of sabotage. The Chief Minister's instruction that responsibility for maintenance of NSICS should revert to Blands was communicated by email from his private secretary of 04 October 2018 in the following terms (emphasis added):

> Further to my email below, and following further discussion with the CM, and to avoid any ambiguity, the instructions from the CM are that Bland Ltd is to be provided full control of the management, maintenance and support of the NSCIS platform. Please do all the necessary to ensure that Tommy Cornelio fully cooperates in handing over to Jonathan Galliano of Bland Ltd access and control to all services and systems that make up the NSCIS platform immediately. Once the handover process is completed Tommy Cornelio nor any 3rd party are to have access to the platform.

29 As far as the FDs were concerned[30], this is exactly what occurred, and there are no grounds to suggest (as has been implied) that Thomas Cornelio or the FDs generally sought to undermine Bland by sabotaging NSCIS after handing the system over to them — indeed, Bland boasted that there were no outages after the handover period[31]. It is important in this context to recall that Bland allowed third parties to access the NSCIS without the consent of Mr Sanchez as sole system and data controller.

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[29] Day 05, 12 April 2024, p214

[30] This qualification is necessary because *Blands* allowed other third parties to have access: PwC, Red Maple Technologies, Infosec.

[31] C1925, email from Jonathan Galliano of Blands

II. PATTERNS AND THEMES

Advising and Deciding — the Search Warrants

30 In Gibraltar the right to silence in police interview is unqualified. Not so in England. Many who make no comment in interview tell the jury in evidence that they did so on legal advice. This results in a direction to the jury in something like the following terms:

> "*if you decide that D was, or may have been, so advised this is an important matter for you to consider but it does not automatically prevent you from drawing any conclusion against D from his silence, because a person who is given legal advice can choose whether to follow it or not and was made aware at the time of the interview that his defence might be harmed if he did not mention facts on which he later relied at trial*"[32]

31 The point is not difficult: a person who obtains advice is not bound to accept it; advising and deciding are not the same thing.

32 For reasons which are not readily apparent, this dichotomy was either never understood or has been long forgotten by some of the core participants in this Inquiry.

33 The RGP and its officers have been most susceptible to this misunderstanding. In their case it has led to the absurd position of the DPP's advice being sought on an arbitrary sub-set of the criteria that must be satisfied if a search warrant is to be granted.

34 The reason put forward is operational independence. It is right that a police force should be operationally independent. But this does not prevent the seeking of advice, on anything. All it means is that it is the police that make the final decision — and are accountable for that decision if it is wrongly made.

35 Had the DPP taken charge of providing the police with his advice and guidance on the charging process or been asked to advise on the position as a whole, the accelerating train of events that led to this Inquiry would never have left the station. To anyone familiar with the English case law on search warrants — whether by way of private law claims in damages or public law challenges to lawfulness — it is obvious that the execution of a search warrant against any business of substance is a major undertaking that will require extensive resources and will frequently lead to the shut-down of that business for weeks if not

[32] Adapted from the Crown Court Compendium, June 2023, Part 1, Para 29, pages 17-18

months[33]. When that substantial business is a law firm with an international clientele the task grows harder by an order of magnitude.

36 Had he been so asked, the DPP could have told Paul Richardson and Mark Wyan about the legal travails that larger, better resourced law enforcement agencies[34] had suffered in conducting far less challenging search operations. He could have scrutinised the rather sparse grounds for asserting that the potential destruction of evidence meant that a production order would not suffice. The DPP was well placed to review the legality of the search warrant application and explain how the seizure of terabytes of material would lead to a disclosure undertaking so large as to render any prosecution practically unachievable within the RGP's own resources. And he could have given a reasoned opinion on the merits of an application for a search warrant, rather than an off-the cuff comment at the end of the short video meeting on 08 April 2020.

37 In all the circumstances, had the DPP or a member of his team given the issue proper scrutiny and produced a written advice on the question of an application for a search warrant, it is hard to believe that he would not (to adopt a phrase from the evidence) have advised strongly against the obtaining of a search warrant.

38 But he did not so advise, because he was not asked, and he was not asked because the RGP felt that it would somehow compromise their operational independence to do so. No proper explanation has been advanced as to why it might do so. Nor has any explanation been advanced as to why it was nonetheless acceptable to obtain advice on whether James Levy could be treated as a suspect.

39 The Inquiry may conclude that the responsibility for this lacuna is not the RGP's alone — that the DPP should not have needed to be asked. Whilst it is acknowledged that the relationship between the RGP and OCPL is different to that between UK police forces and the CPS, a lawyer who accepts instructions to prosecute inevitably assumes duties that go beyond those that fall upon a lawyer for a civil litigant, or a criminal defendant. Decisions taken by investigators inevitably affect the ease with which any future prosecution can be brought, and a wise prosecutor will ensure that investigators are at least aware of the

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33 It must be recalled that the warrant against Hassan's premises (B3822) was not limited to James Levy's personal devices, such as his mobile phone. It extended to all devices used by him, which would encompass Hassan's mail servers. It also extended to digital files relating to 36 North Limited and Astelon Limited, which would have be held on Hassan's file servers. If the power of seizure granted by the warrant had been fully exercised, Hassan's operations would inevitably have been suspended for some time.

34 *R (Tchenguiz) v Director of the Serious Fraud Office* [2013] 1 WLR 1634 (DC) might of itself suffice in demonstrating what can go wrong.

consequences that their actions may have if the activity they are investigating leads to a prosecution. The DPP clearly had concerns about the application for a search warrant. He should have expressed them more fully and robustly, whether the RGP wanted him to or not. He should have lived up to his role, taken charge and provided clear advice, without being asked.

Advising and Deciding — Wider Considerations

40 Most witnesses to this Inquiry have sought to defend their actions. This is normal. Michael Llamas was an abnormal witness. He was willing, perhaps too willing[35], to show humility and accept that he had made mistakes — to an extent that may have impeded his ability to defend himself on issues where he had done nothing questionable at all.

41 One such issue is the content of the meeting of 07 April 2020, at which Mr Llamas told Ian McGrail that he considered that the Op Delhi investigation should "proceed and be conducted prudently and with tremendous care"[36]. Counsel for Ian McGrail took Mr Llamas to task over this meeting, tying him into knots about the capacity in which he was speaking to Mr McGrail at the time[37], knots then tightened by counsel for Paul Richardson[38]. The suggestion was that this was an attempt to close down the Op Delhi investigation, or at least divert it away from James Levy.

42 This suggestion relies on the assumption that Ian McGrail was so weak-willed or supine that he could not be informed of matters relevant to the performance of his function without fear that he might confuse information and instruction. A Commissioner of Police needs to know when actions that his force

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35 The possibility cannot be excluded that Mr Llamas was too willing to accept that he had erroneously reported the content of his phone call with the DPP on 12 May 2020. The Chairman will be familiar with the observations of Leggatt J (as he then was) in *Gestmin SGPS S.A. v Credit Suisse* [2013] EWCA 3560 (Comm), to the effect that (in brutal summary) the contemporaneous documents are usually significantly more reliable than anyone's memory. Mr Llamas said in evidence that he 'got confused' (see Day 11, 25 April 2024 p216) about what was said in the phone call, but the message from him to Fabian Picardo at 15:41 on 12 May 2020 betrays little 'confusion' on its face— see B1417. And it is not hard to conceive that the DPP may have 'bolstered a just cause' by stretching 'not advising' into 'advising against'. (This is not a criticism of the DPP: anyone can overstate their case when flustered, and a call of the kind that the DPP described — Day 10, 19 April 2024, pp84–87 — could be quite flustering.) The circumstances in which Michael Llamas corrected what he now says was a misrepresentation remain unclear (see Day 12, 26 April 2024, p132) but the possibility cannot be excluded that, when it was suggested to him by someone else (perhaps the DPP himself) that he had misrepresented what had been said to him, his commendable readiness to accept error in himself led him to wrongly agree.

36 The topic is introduced by CTI on Day 11, 25 April 2024, p184

37 Day 12, 26 April 2024, pp117-123

38 Day 12, 26 April 2024, p169

are contemplating taking risk diplomatic consequences. And any senior official who is aware of such a risk must be able to inform the Commissioner of Police of that risk without fear that his actions should be taken as an attempt at improper influence. It is then for the Commissioner of Police, in exercise of his operational independence, to decide whether the risks that have brought to his attention justify any change of tack.

43 This is another facet of the misconception around the nature of advice. Where serious police action is in contemplation, those making the decisions about that action need to have all the relevant information before them. Those who have information to give — including senior government officials — should be able to give the information with the confidence that it will be used by the decision makers to make their own decision. Whilst the status of the giver of the advice is a relevant consideration, ultimately it is up to the person advised to decide whether to accept it or not. This applies to a Commissioner of Police receiving advice from an Attorney General just as much as it applies to a criminal suspect in the cells receiving advice from a duty solicitor.

Advising and Deciding — the Charges

44 Had the RGP executed the search warrant as it intended to, Op Delhi would have been a huge case. Terabytes of data would have been seized from Hassans, which would have had to be searched for evidence and disclosure, all the while correctly identifying and avoiding the privileged material.

45 In the event, the warrant was not executed. The reason appears to be that James Levy KC did what one can expect from any person against whom police action is threatened, in that he tried to persuade the police not to go through with it — and Paul Richardson did what is *not* expected of senior police officers, in that he was swayed by these words of persuasion.

46 Though he plainly did not consider the factor at the time, by allowing himself to be swayed Paul Richardson managed to avoid Op Delhi becoming a huge case. But even if it was not huge, it was large and complex such that it would, if prosecuted, require the commitment of substantial resources. It was also serious, because it concerned a software system that contributed to the security of

Gibraltar, as well as senior figures in Government. And it was important, not least to the defendants, who were all of positive good character[39].

47 These circumstances demanded that the charging decision should be taken carefully and properly, by an experienced lawyer. This does not appear to have occurred; or, if it did occur, no documentary trace was left of it. It is not in dispute that the DPP was afforded plenty of opportunity to discharge his duty to advise; it may be thought that he evaded that duty, never taking control as he should have, but allowing police officers to try to work out legal issues for themselves.

48 In suggesting that the charging decision was not taken carefully and properly the FDs do not say that no effort was put into the process. There plainly was. Mark Wyan, then an Inspector, must have spent many hours compiling the document at B2925. This has been described by numerous witnesses to the Inquiry as "the charging advice", but on its face it is a request for advice, albeit a request that proposes 76 charges.

49 Mr Wyan is a member of the Bar of England & Wales and also holds a professional certificate of competence in Gibraltar Law. However, as he acknowledged in his evidence, he has never practised as a lawyer[40]. Whilst he is plainly a man of industry, his legal experience falls equally plainly short of what one would expect in counsel instructed to advise on a case of the nature of Op Delhi. It was incumbent on the DPP and his team to perform their own review, and to advise on charge in a format commensurate with the complexity and seriousness of the case.

50 Had it been completed carefully and properly, this written advice would have included at least the following:

(1) A factual summary, of the kind that might eventually form the basis of an opening note — though none was produced in this case by the time that it was discontinued[41].

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39 The complexity of Op Delhi has been acknowledged in evidence. See Mr Wyan's evidence, Day 05, 12 April 2024, p135.

40 Day 05, 12 April 2024, p135

41 The Chairman will not need to be reminded that it is almost impossible to conduct the hearing of an application to dismiss, or any similar application, without a comprehensive and comprehensible factual summary by the prosecution that identifies where the evidence is to be found that makes out its case. It is extraordinary that in a case of this nature no such summary was produced by the DPP or any Crown Counsel. Even by the point of the entry of the *nolle prosequi* in January 2022, no opening note had been produced, notwithstanding the Chief Justice's directions, and the sole factual summary prepared on behalf of the Crown was Mark Wyan's extensive but indigestible document. In the end the FDs were effectively obliged to produce their own summary of the facts.

(2) A review of the evidence that had been obtained, and an assessment of its strength and weaknesses.

(3) An analysis of relevant offences, setting out the ingredients of each.

(4) An application of the law to the facts, selecting the most appropriate offences to be charged and assessing the prospects of proving each ingredient of those offences using the evidence available.

(5) Advice on any further evidence that should be obtained or further investigative work that should be undertaken.

(6) A schedule of proposed charges, with particulars

51 That did not happen. What was produced was a four-page email, dated 02 September 2020[42], which expressly disavowed any analysis of the evidence itself (save for a 'cursory' review) and instead effectively adopted Mr Wyan's document. It contained no analysis of: (a) the availability of the offence of conspiracy to defraud; (b) the acts of dishonesty on which the prosecution would rely; (c) the evidential basis for the assertion of an enduring maintenance contract; or (d) the grounds for the claim that the acts of computer (mis)use were unauthorised.

52 It appears, therefore, that the flaws in the process whereby the decision to seek search warrants was taken are not aberrations but part of a pattern of a failure to address the issues / the provision of inadequate advice. The FDs do not suggest that this inadequacy is a result of insufficient underlying aptitude: there will be few police officers in the UK with Mr Wyan's legal knowledge, and Christian Rocca KC is plainly a wily criminal lawyer with experience on both sides of the court. The problem (the Inquiry may conclude) is systemic, and lies in a failure to define the relationship between police and prosecutors so as to promote reliable decision-making.

53 The need for this independent oversight was all the more important where one of the most powerful businessmen in Gibraltar was driving the criminal complaint, wielding arguments developed by none other than Sir Peter Caruana KC. If the RGP were to assess these arguments on their merits, rather than on the eminence of their author, then they needed assistance from an impartial senior lawyer who was not being paid by the complainant.

54 Exactly how the relationship between the police and prosecutors should be defined is unlikely to be a matter on which the Inquiry will want to express a view,

[42] D7379

and it would certainly be inaccurate to suggest that the arrangements pertaining in the UK are a perfect solution. But it is plainly not right that a prosecution of this nature should be initiated on the basis of the legal analysis of a police officer, however talented. The Gibraltar taxpayer deserved better, as did the Former Defendants.

The Top Job

55 It is an inevitable consequence of Gibraltar's small size and substantial independence that a relatively high proportion of its population will perform a senior or 'top job'. The qualities necessary to perform successfully a role as the leader of an organisation are not the same as those needed to work well within its ranks, even its senior ranks. The following are only a selection of those qualities.

56 First, the leader of an organisation must accept accountability, meaning (in this context) that they must acknowledge that they may find themselves in a situation where they have to resign despite having personally done nothing wrong. An example in the context of this Inquiry is the incident at sea. Two men were killed as the consequence of a chase of their vessel by an RGP boat operating in waters where the officers on board had no law-enforcement powers at all. The equipment on the boat that would have provided the best evidence of the location of that chase had been switched off. Any Commissioner of Police who understood the nature of leadership accountability would require strong persuasion not to resign in those circumstances. The events of May 2020 meant that Ian McGrail did not get the opportunity to resign in this way or even accept any responsibility. Whether he would have taken that opportunity, had he remained in post, is doubtful[43].

57 Secondly, the leader of an organisation must be able to protect that organisation's independence. This is not done by shutting out criticism or refusing to seek advice. It is done by listening to criticism and advice, assessing it, and making an independent decision. This includes criticism and advice from powerful people: The circumstances in which a Chief Minister or other senior government figure could properly raise issues of conduct with a constable or a sergeant are very limited; when they have concerns, it is the job of the leader of the organisation to listen to them, assess them, and act on them — if, and only if, it is right to do so.

[43] See Mr McGrail's evidence on Day 06, 15 April 2024 at p69–70. Question from CTI: *And, more generally, do you accept ultimate responsibility as head of the organisation for the collision at sea?* Answer: *Regrettably, again, no. I don't accept responsibility for that.*

Ian McGrail cannot have expected congratulations from Fabian Picardo when he told him that officers were about to arrest his mentor. He appears to have been singularly unprepared for what followed.

58 Thirdly, the leader of an organisation must be able to defuse tension and prevent problems from multiplying. Ian McGrail has consistently demonstrated a talent in the opposite direction. The paradigm example is the conflict with British armed forces personnel in 2017. The Inquiry may be prepared to assume that the RGP's blocking of the runway was at least arguably justified — there has not been the time, or perhaps the need, to analyse in detail in this Inquiry what led to this. But the subsequent arrest of the British forces personnel is indefensible. Even if there were grounds to believe that the military police officers had acted knowingly in excess of jurisdiction, the powers of arrest of RGP officers are subject to a test of necessity that is just as stringent as that which applies in the UK[44]. It remains a mystery as to why any RGP officer considered that this test was satisfied. None has apologised — and Ian McGrail doesn't seem to see why they should[45].

Standard is the Same, Application is Different

59 No-one is contending that public office-holders in Gibraltar should not be held to the same high standards in public life as office-holders in the UK. But it would be unfair not to observe that the application of these standards can be much more challenging in a small community. One reason for this is that an 'abundance of caution' approach may have adverse consequences in a small jurisdiction that it would not in the UK.

60 To take an example unconnected with the Inquiry's terms of reference: jurors in Gibraltar cannot sensibly be disqualified on the basis of a mere acquaintance with a person whose name has been read out by the prosecution, as they might in an English court. This would result in many trials having no or insufficient jurors. Instead, judges must carefully assess the real risk that a juror's connection with a 'name' in the case will stand in the way of the discharge of their duty.

61 Similarly, suppliers of goods and (especially) services cannot be excluded from consideration for government contracts merely because they have a connection with a minister or a government official. To do so might exclude every

[44] Compare s42 of the (Gibraltar) Criminal Procedure and Evidence Act 2011 and s34 of the (UK) Police and Criminal Evidence Act 1984.
[45] Day 07, 16 April 2024, p61

player in what would inevitably be a small field to begin with. It would also result in unfairness towards those suppliers who happen to be connected to ministers and officials: avoidance of preference to connected suppliers is not the sole reason why conflicts of interest should be avoided; another is to avoid the position where connected suppliers experience prejudice, because the decision-maker wishes to avoid an appearance of preference.

62 (It is notable that on the short list of regrets expressed by Fabian Picardo in his evidence was his feeling that he may have treated 36 North unfairly when he decided, without hearing their response to James Gaggero's self-serving allegations, and with no inappropriate conduct by 36 North established, that Blands should continue to maintain NSCIS[46].)

63 A second challenge in the application of high standards in public life to Gibraltar reality is that the government and its departments are small. A UK law officer has the force of the Government Legal Department behind him or her. The Attorney General of Gibraltar has only a handful of lawyers to assist him. The Chief Minister's 'switchboard' is in fact a single secretary[47]. A conclusion that any core participant in this Inquiry should have passed on responsibility for making a decision will not be a fair conclusion unless it can be shown that there was someone to whom that responsibility could have been passed.

64 A third challenge comes from the proportionally greater level of interaction in Gibraltar between public officer-holders and members of the public. Much has and will be made of the close connection between Fabian Picardo and James Levy. They saw each other regularly, spoke often. But it was not James Levy but James Gaggero who obtained three meetings with the Chief Minister about NSCIS in the summer of 2018. It was not James Levy but James Gaggero who was informed about the arrests of Thomas Cornelio, John Perez and Eddie Asquez before these arrests had taken place. It was not James Levy but James Gaggero who was received by then Commissioner Ian McGrail in his office, alone, to make allegations against his business rivals.

Inquiry Not Review

65 It is likely that the Inquiry will receive invitations from more than one core participant to put neat limits on the scope of its work where it suits their interests.

[46] Day 16, 06 May 2024, p113
[47] Day 17, 07 May 2024, p174

The Government Parties are likely to stress that the proximate cause of Ian McGrail's departure from office was his own decision to retire, and that it may be unnecessary to look much further than this. Submissions for Ian McGrail may suggest that his shameful conduct in covertly recording meetings can somehow be excluded from consideration.

66 The Inquiry may need no encouragement to decline these invitations. This is a public inquiry with a remit to look into 'circumstances', not a judicial review. To adopt CTI's words in opening[48], "the Inquiry's remit is broader than merely looking for direct causes of Mr McGrail's decision to take early retirement, and extends to looking at facts connected with or relevant to that event." That a fact was not known to a relevant decision-maker at the time is not a ground to exclude that fact from consideration, if it is a fact connected with Ian McGrail's retirement. Connected and relevant facts can, in principle, include those that occurred after 09 June 2020, particularly where these demonstrate a pattern of behaviour, or provide grounds for objective justification of a necessarily subjective assessment — such as a loss of confidence.

Mixed Motives

67 A number of core participants to this Inquiry have justified their actions by saying (in short) that what they did was not affected by personal considerations but was done purely in the interests of Gibraltar. Other core participants will undoubtedly invite the Inquiry to reject these claims and find that what was done was improper.

68 On behalf of the FDs it is submitted that it may not be as simple as that. In the context of private prosecutions, the High Court has held that the presence of an indirect or improper motive in launching a prosecution did not necessarily vitiate it[49], and the fact a public office-holder may in part be motivated by personal concerns in doing something does not mean that what he does is necessarily the wrong thing to do.

69 To apply this principle to the evidence that the Inquiry has heard, it may well be the case that the Chief Minister would have been more measured in his meeting with Ian McGrail on 12 May 2020 if the person against whom police action was being taken had not been a close friend and mentor. But this does not mean that

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48 Day 01, 08 April 2024, p18

49 See *R (Dacre) v City of Westminster Magistrates' Court* [2009] 1 WLR 2241 (DC) at paragraph 27, citing *R v Bow Street Metropolitan Stipendiary Magistrate ex p South Coast Shipping Co* [1993] QB 645 (DC)

the RGP's decision to take this action was right, nor does it mean that the Chief Minister was wrong to want to speak to Mr McGrail about it. He was going to have to handle the consequences of an action that would, if it had been executed as planned, brought to a halt the largest player in the Gibraltar's most important industry. Was he to be expected to do this without speaking to the head of the organisation responsible, the RGP?

Attempts to Influence

70 It will be submitted on behalf of Ian McGrail that Fabian Picardo acted to protect James Levy and his own financial interests, and that Michael Llamas helped him to do so.

71 This is an issue that affects the FDs because, speaking purely in terms of self-interest, they would have welcomed such action: had the Chief Minister promoted 36 North over Blands, they would have succeeded in their objective of winning the Government's business; had the Chief Minister brought an end to the Op Delhi investigation, this may have had negative consequences for the rule of law in Gibraltar, but positive consequences for the FDs personally, because they were the individuals under investigation.

72 But this did not happen. In respect of 36 North, Fabian Picardo acted *against* his and the FDs' interests in that, acting solely on the say-so of James Gaggero, and without (to use his words) '*audi alterem partem*', he determined 'perhaps unfairly' that Blands should continue to maintain NSCIS[50]. In respect of Op Delhi, the investigation was *not* stopped, and the FDs were charged and prosecuted, throwing their and their families' lives into disarray, running down their savings and hobbling their careers. Even now they face prejudice from those who are very publicly inclined to treat allegation as proof — a state of affairs that could, for them, have been avoided had the Chief Minister brought the Op Delhi investigation to a halt.

73 Even at its highest, the evidence that Fabian Picardo made any *attempt* to influence the progress of the Op Delhi investigation has not steered a clear course. Ian McGrail has to accept that the Chief Minister was not present at the meetings on 13, 15 and 20 May 2020, driving him into the unsubstantiated assertion that the Attorney General was acting as the Chief Minister's 'wingman'[51]. When he met

[50] Day 16, 06 May 2024, p113
[51] Day 06, 15 April 2024, p207

with Joey Britto on 16 May 2020, he alleged that, in the meeting of 12 May 2020, the Chief Minister had threatened him in a way that was 'interference with the operational running', but he gave no further details[52]. In his written evidence regarding the earlier meeting, on 12 May 2020, he claimed that Mr Picardo had issued a 'sort of threat', but seemingly of consequences that would follow if his *past* actions were found to have been improper, not of consequences that would follow unless he did what Mr Picardo wanted him to *in the future*[53]. In oral evidence to the Inquiry, Mr McGrail agreed with CTI's suggestion that the Chief Minister was attempting to influence his handling of the investigation[54], and he also suggested (for the first time) that the berating he had received from the Chief Minister had caused him to call up Paul Richardson and tell him to call off the search and seizure operation[55]. But nowhere has Ian McGrail even alleged that Fabian Picardo (or anyone else) threatened adverse consequence *unless* he stopped or diverted the Op Delhi investigation.

74 The fact that Fabian Picardo did not influence the progress of the Op Delhi investigation is of more significance when one considers what he *did* do. He did give assistance to Hassans in its consideration of whether to take legal action against the RGP — a heady step[56]. He also did everything he could to bring Mr McGrail's tenure as Commissioner of Police to an end. But these were not acts calculated to interfere with the future Op Delhi investigation. They were calculated to hold Ian McGrail to account for his past mis-steps, in that investigation and elsewhere. They were the product, not of a desire to protect himself or anyone else from further investigation, but of a belief that Ian McGrail was not, or was no longer, suitable to hold the office of Commissioner of Police.

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52 B361 at the bottom of the page. As with all meetings recorded covertly by Ian McGrail, it must always be kept in mind that he was likely tailoring what he was saying for the recording, a privilege not afforded to those he recorded.

53 McGrail 1 para 34 at A10-11.

54 Day 06, 15 April 2024 p213-214. Mr McGrail's answer to the question at p214, line 05 is odd — does he mean that he feels *now* that the Chief Minister was trying to influence him but did not at the time of the meeting on 12 May 202?

55 Day 07, 16 April 2024 at p162.

56 It is difficult to avoid the conclusion that Fabian Picardo was at least unwise to discuss this issue with Lewis Baglietto: there were better ways of promoting the entirely proper goal of ensuring that the RGP should be accountable for its overreach. But it should be not equated with a UK Prime Minister assisting a potential claimant against a UK police force: the RGP does not report to the Chief Minister in the way that UK police forces report, through the Home Office, to the Prime Minister.

Suitability for Office

75 The Inquiry may have to devote some time to the question of whether the information available to Fabian Picardo in May 2020 justified the belief that he was not suitable to retain the office of Commissioner of Police. The FDs will leave it to others to make submissions on that issue. But they cannot refrain from observing that Mr McGrail's conduct as revealed by and during this Inquiry puts beyond doubt that this belief was ultimately right.

76 The FDs must accept in this that the aspects of Mr McGrail's questionable conduct that are most important for them may not be at the top of the Inquiry's list of priorities. Nonetheless, it is at the very least puzzling that Ian McGrail buried, for months, a 'very serious' allegation of a threat to Gibraltar's security[57], conveyed to him orally in a private meeting at which no documents were produced[58]. It is concerning that he, and his senior team, did not appreciate the risk that they, and the RGP were being used to subdue a business rival arising from a classic commercial dispute— though the possibility that this was 'simply a commercial dispute' was later identified (by Mark Wyan, of course[59]) by this stage the investigation was well under way, and any chance of applying proper scrutiny to Blands' conduct had long been lost. It is surprising that a senior officer in the force that he headed needed to be informed by the DPP that independent expert evidence would be necessary in a computer misuse prosecution. And it is alarming that he allowed his officers to sleepwalk into a course of action that was bound to fail: whilst it is accepted that the impetus towards obtaining a search warrant for Hassan's premises did not come from Mr McGrail, as the senior officer he should have taken responsibility and recognised that the enterprise was doomed to fail, on grounds of practicability if nothing else.

77 The Inquiry has obviously received clear evidence bearing on Mr McGrail's unsuitability for high office that has nothing to do with Op Delhi. The conflict with military police in 2017, and the incident at sea in May 2020 have already been

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57 See CTI's questioning of Mr McGrail on Day 06, 15 April 2024, from p124, and in particular p127. Mr McGrail's explanation for doing almost nothing between receiving James Gaggero's allegations in October 2018 and late December 2018 is not credible, given the seriousness of the allegation. The claim to have spoken to the then Governor is not corroborated by Lt Gen Davis's statement (A1406), though it should be noted that the questions he was asked were directed primarily to the airport incident and arrests of British forces personnel in 2017.

58 See Day 06, 15 April 2020: "but the second visit by Mr Gaggero confirmed that he had uncovered potential criminality, albeit in an oral format he did. A very complex and difficult to understand in terms of reading papers and so forth, and no hard core evidence in front of me other than what Mr Gaggero suggested."

59 Mark Wyan's log entry #141, point 5, at B3087, from 04 September 2019

mentioned. The HMICFRS report speaks for itself. The acrimony in the relationship with the 'rank and file', or at least their representatives, is dispiriting. Whilst the Inquiry has rightly not attempted to resolve every detail of these issues, in all of them there are aspects of Mr McGrail's conduct that is questionable, at least.

78 His later conduct is not questionable: it is reprehensible for any officer and more so a Commissioner of Police. The covert recording[60] of meetings, including an apparent attempt to entrap the Attorney General[61]. Incomplete transcription of audio recordings[62]. The unauthorised removal of confidential documents (both electronic and paper) from RGP offices, including documents relating to Op Delhi[63]. The destruction of documents[64].

79 To the extent that Fabian Picardo and Nick Pyles' reasons for losing confidence in Ian McGrail were intuitive or instinctive, his conduct between 12 May 2020 and this Inquiry has shown that their intuition and instincts were unerring.

80 Regrettably, further questions remain. The following extract is from the evidence to the Inquiry of now Commissioner of Police Richard Ullger, answering questions from Sir Peter Caruana KC for the Government Parties:[65]

> Q. Okay. We have heard in evidence how Mr McGrail retained and then destroyed information when he left - he took when he left and subsequently destroyed information relating to Operation Delhi, is that correct?
>
> A. I believe so, yes, sir.

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60 Though the Inquiry will not be determining criminal liability, this was probably criminally unlawful as well as reprehensible. Whilst Gibraltar does not have a RIPA equivalent, it has comprehensive data protection legislation, under which the Commissioner Police is a 'competent authority' separately to the RGP — s175(1) of the Data Protection Act 2004 is the obvious candidate offence.

61 This is the only sensible explanation for the passage in the meeting of 13 May 2020 transcribed on B188 where Mr McGrail reminds Michael Llamas that he has the 'magic wand' — i.e. the power to enter a *nolle prosequi*. The DPP, Christian Rocca, is clearly alive to the point. On Day 10, 19 April 2024 at p225-226, whilst being questioned on behalf of Mr McGrail he said: "what follows on from that which is almost *an invitation*, 'look, if you want to pull this case, I don't mind,' and I found that very strange to be perfectly frank. I have been full and frank with this Inquiry and I found that a very strange comment to make. I think Mr McGrail said words to the effect of, 'I'm not going to pull it but you can if you want to and I wouldn't complain,' and the Attorney General said, 'Well, no, we're nowhere near that yet,' and I think later on I say, "We are nowhere near that stage. Public interest lies in proceeding." That struck me as very strange [...] It makes you wonder who *knew the tapes were running*." [The words in italics have been wrongly transcribed in the Epiq transcript and are corrected from counsel's note.]

62 The 'car transcripts'. Ian McGrail admitted that this was his fault, not his lawyers' — see Day 06, 15 April 2024, p234-235

63 Day 07, 16 April 2024, p30

64 Day 07, 16 April 2024, p31

65 Day 13, 30 April 2024, p13

Q. Yes. You said in answer to my learned friend that you had not been able to ascertain what that information was. Is it permitted for police officers to take official information away with them when they retire from the force?

A. No, sir.

Q. What can an officer that does that expect to happen to him or her?

A. In respect of taking the data?

Q. Yes, and/or destroying it for that matter.

A. There are issues that are currently - I don't think I can maybe speak about certain issues, sir.

Q. All right, I do not want to put you in any difficulty.

81 In later questions, Commissioner Ullger confirmed that the RGP had not located Mr McGrail's laptop computer or desktop computer.

82 The very suggestion that the head of the police force might deliberately destroy or manufacture evidence is shocking. But Ian McGrail has already, in this Inquiry, admitted to some shocking conduct.

83 So it is impossible not to ask: where are the day books now? what was in them? And: what information was destroyed? was it disclosable unused material in Op Delhi? And: what was on the missing computers? We know for sure that the evidence destroyed concerned Op Delhi, because Commissioner Ullger confirmed this to the Inquiry.

84 It is possible that the Inquiry will, at some point, be given the answers to these questions. But it seems unlikely. Adverse inferences can be drawn from the absence of any (satisfactory) explanation and from IM's admissions and reprehensible conduct.

III. Conclusion

85 A public inquiry is rarely a comfortable process for the core participants. Most of them will face an allegation of misconduct from at least one direction.

86 For the FDs this Inquiry has come in the wake of other allegations, made in criminal proceedings that were discontinued just before their application to dismiss was to be heard, depriving them of an adjudication.

87 They understand that this Inquiry cannot and will not fill this gap. But they have drawn comfort from what the Inquiry has already said about how the allegations against them will be addressed in the report, and are confident that no reminder is necessary.

88 They offer the submissions above with the aim of assisting the Inquiry in determining what happened, why it happened, who is to blame, and what can be done to prevent it happening again.

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24 June 2024

This document dated 24 June 2024 is materially identical to the document dated 07 June 2024. Only typing, formatting, grammatical and referencing errors have been corrected.