

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

A Ruling upon the request by Mr McGrail in his solicitor's letter to the Inquiry dated 11 July 2025

1. By letter to the Solicitors to the Inquiry dated 11 July 2025, Charles Gomez & Co, acting on behalf of Mr McGrail, drew my attention to the Report of the Principal Auditor, in which he made findings in relation to payments made to 31 former officers of the RGP. On the basis of those findings, Mr McGrail's solicitors asked whether I intended to investigate these payments, which they alleged were '*clearly an affront to the Inquiry process*' and, they claimed, amounted to '*potential offences under s. 27 of the Inquiries Act*'. They further asked: '*Whether the Inquiry intended to require production of evidence relating to payments under s. 21 of the Inquiries Act*'.
2. I sought the views of other Core Participants on these requests. I have considered the responses made on behalf of the Chief Minister by letter from Peter Caruana & Co. dated 31 July and the submission made on behalf of the former Delhi Defendants. I have considered Charles Gomez & Co's brief reply dated 22 August 2025.
3. I had originally intended to respond to Mr McGrail's request by way of a letter from the Solicitors to the Inquiry, Triay Lawyers, containing my decision and reasoning as set out below. However, since receipt of Mr McGrail's original request, there has been public comment on Mr McGrail's request by the Government¹ and by Mr McGrail in response², and I have therefore formed the view that it is in the public interest that I give this public Ruling addressing the matter and providing a brief explanation as to my reasoning.
4. During the course of the Inquiry, I have already considered witness statements by 19 of these former officers, to whom payments, job offers or increased pension payments (or all of these) had been made, which raised precisely the same issues. In one of my Closed Rulings of 1 March 2024 (a summary of which was published on the Inquiry website on the same day³), I recognised that I needed to investigate the reasons for Mr Picardo

¹ https://www.gbc.gi/uploads/news/DAILY_PICTURES/2025/08_AUG_25/584.1.pdf

² <https://www.gbc.gi/news/should-the-mcgrail-inquiry-reconvene-over-findings-in-principal-auditors-report>

³ <https://coircomp.gi/wp-content/uploads/2024/03/2024-03-01-Summary-of-Rulings-PH4-Agenda-items-8-and-9.pdf>

and Mr Pyle claiming to lose confidence in Mr McGrail. However, as it seemed to me, an event, circumstance or state of affairs alleged to be caused or contributed to by some fault or misconduct on the part of Mr McGrail could only have caused or contributed to a loss of confidence in him at the time of his retirement, if they, or either of them, knew of or believed the existence or occurrence of that event or circumstance or state of affairs, at that time and took it into consideration. I ruled, therefore, that neither Mr Pyle nor Mr Picardo could rely on some fault or misconduct alleged against Mr McGrail, of which they did not know, and did not consider, at the time. To put it another way, I had to assess their loss of confidence, based on what they knew or believed at the time, and not on what they learnt thereafter.

5. I applied those principles to the 19 witness statements. I held that all but three of these statements were not relevant to the facts and circumstances of Mr McGrail's retirement. Of those three statements, I considered that only one part of the statement by Mr Morello had any real bearing on the matters in issue (relating to the complaints made by the Gibraltar Police Federation), upon which I have already been able to come to firm conclusions.
6. Precisely the same considerations apply to the other former officers of the RGP to whom payments were made on the same or similar grounds.
7. I did not – and do not - consider that any potential impact on Mr McGrail's credit caused by the allegations made by the other witnesses – even if true –merited the very significant resources and time that would have to be invested in investigating those allegations. I do not think that anyone is now arguing that the allegations should be considered on that basis.
8. Similarly, if the Inquiry had to determine whether the allegations made in these statements were false, and were prompted by unlawful inducements of bogus 'job offers', or whether they were true and were prompted by a justified need to protect 'whistleblowers', that would raise many collateral issues, the resolution of which would require the deployment of a huge amount of time and resources by the Inquiry Team, and separately by the RGP, by Mr McGrail, by the Chief Minister and probably by other Core Participants as well. These allegations would have to be thoroughly investigated; relevant material would have to be identified and disclosed; the 31 former officers would have to file statements; the Chief Minister (and no doubt others) would

have to file statements in response. Furthermore, the determination of these issues, all of which are keenly disputed, would require another – probably lengthy – hearing, with many witnesses to be called and their evidence challenged; all this to be followed by drafting of further detailed findings of fact and probably a further Maxwellisation process, as well.

9. Not only would these steps be hugely costly, but they would take many months – perhaps a year – or even longer. The preparation of the Report is at a very advanced stage and on track for delivery in the Autumn. The Inquiry has already cost a great deal of public money and has already been subject to various delays. In my opinion, neither the increased cost, nor any further delay, which would result from investigating these matters is justified, since it would not begin to bring any – certainly not any proportionate – benefit to help me to determine the facts and circumstances of Mr McGrail’s retirement, which I can properly find upon the material put before me at the hearings which have already taken place.
10. Although the Principal Auditor costed the amounts of money paid to the 31 officers, which I had not attempted to do, I did already know that they received some form of payment, and this was taken into account in my original Closed Ruling of 1 March 2024. I do not consider that his report reveals any fresh allegation which could affect my findings about the facts and circumstances of Mr McGrail’s retirement. Furthermore, as is helpfully pointed out in the submission made on behalf of the former Delhi Defendants, the real issue in any reconvened hearing would be whether the payments were made to procure false or distorted evidence against Mr McGrail (as he would contend) or to allow true evidence to be given free from fear of reprisal (as the Government Parties would contend); I am not bound by any finding by the Principal Auditor, and it is not at all clear to me that I would be assisted by the conclusions which he reached on the material put before him.
11. In my opinion, the investigations made by the Inquiry Team have maintained the integrity of the Inquiry process. Whereas, as it seems to me, further unwarranted delays and further unnecessary cost would greatly damage confidence.
12. Furthermore, the RGP has conducted a criminal investigation into these matters and has previously concluded that there was then no sufficient evidence to justify a criminal prosecution. That decision has been confirmed by the National Crime Agency, who

received advice from Leading Counsel in the UK. The newly appointed Commissioner of the RGP can review that decision in the light of changed circumstances, including the report of the Principal Auditor, if he thinks it right to do so, but that is a matter for him, on which I consider it inappropriate to comment.

13. If these payments bore directly on the issues that I had to decide, and if they might affect my conclusions, I would not hesitate to pursue the matter despite the possibility a criminal investigation might be re-activated. Since they do not, I consider that possibility to be irrelevant to the decision which I must now make. If the Commissioner does decide to pursue the matter, then that would be another reason for the Inquiry to decline to do so.
14. I should add that having regard to what I consider to be their lack of relevance to issues relating to the facts and circumstance of Mr McGrail's retirement, I am unpersuaded that the alleged witness inducements amount to a '*matter in question at the inquiry*' within the meaning of section 21(1)(b) of the Inquiries Act.
15. Therefore, for all these reasons, which have a cumulative force, I decline to embark upon a further investigation of these matters or to order the production of evidence relating to the payments made. I direct that the correspondence and submissions referred to in paragraph 2 above (along with Charles Gomez & Co's letter dated 11 July 2025) be published on the Inquiry website in conjunction with the publication of this Ruling.

Sir Peter Openshaw DL

29 August 2025.

Your Ref.

Our Ref.

11th July 2025

CAG/DB/NG/hb/MM11338

Triay Lawyers

28 Irish Town

Gibraltar

F.A.O. Charles Simpson, Esq. & Sebastian Triay, Esq.

By Email Only

Dear Charles,

Re: Witness inducement and “golden handshakes”

We write to alert the Inquiry to relevant findings in the Principal Auditor’s Report which was published this week.¹

As you know, our client has been extremely concerned for a long while now about what appears to be a secret scheme, personally administered by the Chief Minister, which offered (and may still be offering) jobs in the wider public service to as many as or more than 31 RGP officers, all of whom subsequently provided evidence which was critical of Mr McGrail to the Inquiry.²

We consider the scheme to be an improper attempt to influence and distort the Inquiry evidence to the detriment of Mr McGrail.

It was already known that jobs were offered to serving and former RGP officers, seemingly in exchange for giving evidence. There was also evidence that one witness, Mr Morello, was offered a “puffed up” pension payment which may have amounted to tens of thousands of pounds.³

¹ <https://gao.gov.gi/wp-content/uploads/2025/07/Principal-Auditors-Report-Public-Accounts-2018-19-Updated.pdf>

² See from paragraph 153 of Mr McGrail’s closing submissions at the Main Inquiry Hearing <https://coircomp.gi/wp-content/uploads/2024/06/McGrail-Recommendations-Submissions07-06-2024.pdf>

³ [Inquiry transcript](#), day 14, page 7, line 1

It now appears from the Principal Auditor's report that ex-gratia payments to former RCP officers may have amounted to over £1m in what he refers to as "golden handshakes".⁴

We have summarised the relevant findings of the report below. Given the clear evidence of large financial payments (we accept further investigation would be needed to understand the reason for each amount), which appear to have been paid to officers in exchange for them giving evidence to this Inquiry, we request that you please confirm:

- 1. Whether the Inquiry will investigate the payments, made by a Core Participant which are clearly an affront to the Inquiry process and potential offences under s.27 of the Inquiries Act?**
- 2. Whether the Inquiry intends to require production of evidence relating to the payments under s.21 of the Inquiries Act?**

We submit that (2) is within the power of the Chairman given that (a) the alleged witness inducement has been a "*matter in question*" at the Inquiry (s.21(1)(b)), and (b) s.21 must in any event be read together with s.27(2)(a) which makes it an offence to do anything which is intended to have the effect of distorting or otherwise altering any evidence, document or thing that is given, produced or provided to the inquiry panel –in order to make that provision effective the Inquiry must have the power to investigate whether such an offence has been committed, including using its powers to require the production of evidence.

If the answer to either or both of the questions above is in the negative, please provide reasons.

We would be happy to discuss any of the above further.

Yours sincerely,



Charles Gomez & Co.

⁴ Based on the following calculation of the sum of the bolded figures on page 2: £149,428 + £41,818 + £27,644 + £265,717 + £263,948 + £158,996 + £111,053 = £1,018,604. It is difficult to precisely calculate which figures relate to relevant former police officers, but it appears that all of these figures relate to officer in respect of whom the Principal Auditor did not receive any adequate explanation in relation to the payments

ANNEX

SUMMARY OF RELEVANT FINDINGS IN THE PRINCIPAL AUDITOR'S REPORT

In summary, the Principal Auditor concluded:

- The reasons he was given for the transfer of 31 police officers to other public agencies were “*meaningless and inadequate*” (paragraph 3.6.30).
- He was told by representatives of the Gibraltar Development Corporation, where 20 officers were transferred between 30 September 2022 and 1 February 2025 (Figure 71) that “*these transfers were administered by No. 6 Convent Place*” (the Chief Minister’s office) (3.6.31).
- The GDC was unable to provide any information as to the reasons for granting the “*remaining and significant ex-gratia payments*” (3.6.40).
- A payment of **£149,428** was paid to a retired police constable in the 2022-23 financial year, which was approved by the Chief Minister (5.5.20).
- Similar payments were of **£265,717**, **£263,948**, **£158,996** and **£111,053** were made to 4 other retired police officers in the following financial year 2023-24 (5.5.23).
- Despite numerous email requests, the Principal auditor did not receive copies of the related settlement/severance agreements and was not able to learn the underlying reasons for these payouts (5.5.20).
- £105,655 (**£41,818** in 2022-25) of recurring ex-gratia monthly payments were made which “*appear to be in connection with confidential payments made to 12 former police officers before they were either transferred to the wider public service or retired*”. Despite numerous emails to No. 6 Convent Place requesting to learn the reasons for these payments the Principal Auditor received no reply or any agreements in support of the payments (5.5.20 and Figure 103).
- In the 2022-23 financial year, payments totalling **£27,644** related to the payment of annual leave and/or Time-off in Lieu were paid to 4 former police officers before they were transferred to the wider public service or retired. These payments were erroneously classified as ex-gratia payments rather than payroll and therefore appear to have allowed the officers to avoid paying income tax on the payments (5.5.20).
- In the 2023-24 financial year, payments were made for the early retirement of 4 RGP officers - all of the officers were given gratuity-top ups which would take them beyond compulsory retirement age (5.5.23)
- The Principal Auditor believes that a significant number of police officers could have been granted protection under the provisions of Part IV A (Public Interest Disclosure) of the Employment Act as a result of the 2024 McGrail Inquiry (3.6.35)
- Without a written government-wide policy on these types of payments, and on ex-gratia payments as a whole, the Government’s decision to award these payments was “*unrestricted and uncontrolled*” (5.5.28)
- They bring into question the “*fairness and consistency of terms between public servants*” (5.5.28)
- He has faced “*enormous difficulties, obstacles and delays*” (original emphasis) in reviewing and obtaining evidence from members of public officers relating to the payments which he concluded have acted “*unconstitutionally and against the law*” (5.5.29).



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Triay Lawyers
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For the attention of Charles Simpson & Sebastian Triay

31 July 2025

Dear Sirs,

Re: The Inquiry into the Retirement of the Former Commissioner of Police – Letter received from Charles Gomez & Company dated 11 July 2025 (“the Gomez letter”)

We refer to your letter dated 17 July 2025 and thank the Chairman for the opportunity offered to our clients to make any representations and/or comments on the Gomez letter. We are instructed to do so on behalf of the Chief Minister, the Hon. Fabian Picardo KC (“Mr Picardo”), as follows.

First, we make clear that nothing in this letter derogates from Mr Picardo’s position, as stated in evidence to the Inquiry, in relation to the whistleblowers/alleged inducement issue (to which we refer for convenience in this letter as “the whistleblowers issue”). That position is as stated in paragraph 17.4 of his Second Witness Statement dated 20 July 2023, namely, that he acted on advice to ensure that that witnesses were able to provide their evidence to the Inquiry, that he has always sought to act in the public interest and in keeping with best practice in such cases and in cases of bullying and that he rejects the characterisation that Mr McGrail puts of the facts.

Second, the Chairman should not accede to the request in the Gomez letter to investigate the payments to which that letter allude, nor require production of evidence relating to the payments (“**Mr McGrail’s request**”), for the following reasons:

1. The Inquiry has concluded its evidence gathering and hearing stage. Final closing submissions have been made. The Chairman has reached his conclusions. Maxwellisation letters have been issued and responded to. Accordingly, no purpose relevant to the finding of facts by the Chairman in relation to the issue under Inquiry would now be served by the Inquiry conducting the exercise required by Mr McGrail’s request. As CTI said in para 30 of his Written Closing Submissions dated 19 June 2024, of the three whistleblower statements ruled by the Chairman that contained relevant evidence, following the hearing, it appears to CTI that only one

of those statements – that of Mr Morello – is likely to meaningfully contribute to the Chairman’s conclusions in the Report and, having heard Mr Morello in oral evidence, the Chairman can do so (and presumably now has done so) without reaching concluded views on the job offers themselves.

2. In his closed Ruling dated 1 March 2024 (at para 61), the Chairman (having previously noted the very limited relevance of the Whistleblowers’ evidence) made clear that the investigation into the “job offer” would only be apt in order to protect the integrity of the Inquiry process and to maintain public confidence. The Chairman has already taken steps (in the form of requiring further evidence at the time) to protect the Inquiry process, and that process is, in any event, now practically at an end in so far as concerns its public dimension. Furthermore, public confidence will have been accommodated not just by the steps already taken by the Chairman, but also by the thorough, lengthy, external and thus independent criminal conducted into this matter by and on behalf of the RGP (“the Police Investigation”).
3. Furthermore, according to our instructions, of the four relevant payments identified by the Principal Auditor, three related to officers who gave statements and retired. These were disclosed to the RGP and included in the Police Investigation. The fourth related to the settlement of a claim by a police officer in relation to an injury and is irrelevant.
4. Furthermore still, the Gomez letter adds nothing new that is relevant in the context of the Inquiry. The Chairman’s consideration of this matter in the past has already had regard to the fact that the alleged inducements may have involved payments to the whistleblowers. Please see in this respect, for example, paragraph 55 of the Closed Ruling dated 1 March 2024 (‘or even in the form of cash payments’). Payments were made to whistleblowers who retired.
5. Given all the above, the fact that Mr McGrail is specifically alleging that a criminal offence has been committed and that the Inquiry should investigate for that reason, it is respectfully observed that this may actually be a good reason for the Inquiry not to do so. An Inquiry may wish to tread into the territory of the investigation of matters that may constitute criminal offences where to do so is reasonably necessary for the purposes of determining the facts and issues with which it is tasked by its terms of reference. By the same token, it should be commensurately disinclined to do so when the issue is tangential or peripheral to those matters.
6. Acceding to Mr McGrail’s request will inevitably cause very significant delay to the publication of the report (that he has persistently lamented) and cost to the public purse. It may also spawn satellite litigation which will further exacerbate that delay.
7. Additionally, and for the record, we do not agree that “the alleged witness inducement has been a “matter in question at the inquiry” within the meaning of section 21(1)(b) of the Inquiries Act. Nor that reading this section with section

27(2)(a) leads to the conclusion advocated for in McGrail's request. Section 27(2)(a) relates to "distorting or otherwise altering any evidence, document or other thing that is given, produced or provided to the Inquiry". That would only bite if the Whistleblower statements were false and would thus require the Chairman to reconvene the Inquiry, allow the examination and cross-examination of all the persons who made whistleblowers statements and decide as a matter of act that the statements were false. Without falsity there can have been no "distorting or otherwise altering any evidence".

8. Finally, it seems unnecessary to the Inquiry to accede to Mr McGrail's request by virtue of the publication of the Principal Auditor's Report. To the extent that anything in that report may be relevant to possible criminal conduct by anyone, it would be open to the RGP to re-open its investigation into that. In all the circumstances described above, the Inquiry is not, in any event, the apposite body to do that.

Yours faithfully,

A handwritten signature in dark ink, reading "Peter Caruana & Co." in a cursive script.

Peter Caruana & Co.

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

FORMER OP DELHI DEFENDANTS' OBSERVATIONS ON QUESTIONS POSED ON BEHALF OF IAN McGRAIL RE GIBRALTAR PUBLIC AUDIT REPORT FOR 2018-19

Background

1 On 01 March 2024, the Chairman delivered two rulings on matters which had originally been items 8 and 9 on the agenda for the Fourth Preliminary Hearing of 19 July 2023. These concerned 19 witness statements filed with the Inquiry by current or former members of the Gibraltar Police Federation. Item 8 concerned the contents of these 'whistleblower' statements, and item 9 concerned the circumstances in which they had been made.

2 The Chairman's ruling was to the effect that three of the statements were relevant to the Inquiry (but the remainder were not) and that the Inquiry should seek evidence and disclosure of the circumstances in which they were obtained.

3 These agenda items had not been dealt with at the Fourth Preliminary Hearing because, at that stage, an RGP investigation was underway into allegations that these whistleblowers had been given incentives to provide evidence to the Inquiry. This was led by SIO John McVea, formerly a Chief Superintendent of the Police Service of Northern Ireland but later appointed by the RGP to bring a measure of independence to certain investigations of its own officers. According to the GBC, the investigation was validated by the UK's National Crime Agency and advised by London-based King's Counsel¹.

4 On 26 September 2024, the RGP announced that SIO McVea's investigation had been closed without any charges being laid.

5 In a letter of 11 July 2025, Ian McGrail's representatives have asked the Inquiry to confirm whether it will investigate payments made by 'a Core Participant' to these whistleblowers, and/or use its power in s21 of the Inquiries Act 2024 to

¹ See the GBC report at <https://www.gbc.gi/news/rgp-closes-investigation-claims-whistleblowers-incentivised-give-evidence-mcgrail-inquiry>

obtain further evidence. The letter falls short of applying to (once again) reconvene the Inquiry, but this may be the eventual goal. The springboard for the letter is the 31 May 2025 report of the Principal Auditor (an officer of the Gibraltar Parliament) into the public accounts of Gibraltar for the financial year ending 31 March 2019 ('the 2018-19 Public Audit Report').

6 This document responds on behalf of the Former Operation Delhi Defendants (Thomas Cornelio, John Perez MBE and Caine Sanchez — the 'FDs') to the invitation from STI to comment on this letter. In so doing, it is recognised that the Inquiry will (quite properly) have more information on this issue than has been disclosed to the FDs. and apology is made in advance for any incorrect assumption implicit in the observations that follow.

Observations

7 Unless the Chairman's ruling of 01 March 2024 has not been put into effect, the Inquiry has already investigated the issues raised by the whistleblower statements. If the payments were indeed (as Mr McGrail asserts, *en passant*) an 'affront to the Inquiry process', then the Inquiry is already apprised of this.

8 Furthermore, whatever conclusions the Inquiry has reached based on its own inquiries may be bolstered by the conclusion, some six months after the Chairman's ruling, of SIO McVea's investigation. The stance taken by this investigation does not support Mr McGrail's thesis of an 'affront'.

9 It is also questionable what, if anything, new is revealed by the 2018-19 Public Audit Report. It does not appear to have ever been denied by HMGoG or the Chief Minister that payments and other benefits were given to at least some of the whistleblowers. The issue is whether these payments were made to procure false or distorted evidence against Mr McGrail (as he would contend) or to allow true evidence to be given free from fear of reprisal. An auditor's report cannot determine this question, and it may not assist at all.

10 The Inquiry will inevitably reflect on the consequences of accepting Mr McGrail's invitation to reopen the issue of the whistleblower statements. As matters stand, only three of these statements have been admitted into the corpus of evidence to be considered by the Inquiry, and of these three many parts have been excluded (and redacted) because they were irrelevant. Mr McGrail cannot have his cake and eat it: should the circumstances of the making of these statements become the subject of further investigation, as he desires, then more of their substantive content will inevitably become relevant, and will have to be

ventilated. This will risk leading the Inquiry further away from the core issues concerning Mr McGrail's retirement that it has been brought into being to consider, as well as substantial further public expense.

Conclusion

11 From the perspective of the FDs, the invitation in Mr McGrail's letter of 11 July 2025 is one that should be declined.

BEN COOPER KC
Doughty Street Chambers

31 July 2025

ELLIS SAREEN
Foundry Chambers