

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

SWORN SECOND WITNESS STATEMENT
OF JOHN GONÇALVES MBE

I, JOHN GONÇALVES, of [REDACTED] Personal Data Gibraltar, former Chairman of the Gibraltar Police Authority ("GPA") **MAKE OATH AND SAY AS FOLLOWS: -**

1. This Witness Statement is supplemental to that sworn by me on 31st August 2022. The contents of this Witness Statement are true to the best of my knowledge, information and belief. The facts stated herein are known to me personally unless otherwise stated. Where the facts stated are not known to me personally I have stated the source of my information and verily believe them to be true. I use the same expressions and abbreviations as in my previous witness statement.

2. Solicitors to the Inquiry emailed TSN, solicitors for the GPA, on 14th June 2023, requesting that I confirm in my supplemental witness statement that no complaints were made about Mr McGrail during my chairmanship of the GPA. I do so confirm.

3. I would affirm the statements made by me in my Witness Statement at paragraphs 39 and 40, which I reproduce hereunder for ease of reference

“FORMAL COMPLAINTS FOLLOWING MR MCGRAIL’S APPOINTMENT

39. Neither I, in my capacity as Chairman of the GPA nor the GPA under my Chairmanship made or received any complaints in respect of the efficiency, effectiveness, probity, integrity or independence of Mr McGrail in the undertaking of his duties as Commissioner of Police.

ALLEGATIONS OR COMPLAINTS OF BULLYING/INTIMIDATION

40. During my tenure as Chairman of the GPA for the period following Mr McGrail’s appointment as Commissioner of Police I was not aware of any allegations of complaints made in respect of bullying and / or intimidation by him.”

4. I would also like to address the following matters referred to below which have come to my attention.

5. At paragraph 67 of the Chief Minister’s Witness Statement he reproduced an email to him from Mr Pyle dated 14th July, 2020, which stated as follows:

“Agree. As we thought at the time, wrong appointment. Remind me to tell you about the recruitment process which was abject. Should we meet tomorrow after or before platinum”

6. I am surprised at, and cannot let go unchallenged, Mr Pyle's description of the selection process as "abject" given that the process was approved by all members of the GPA, including him. Until I read the above email I was not aware that Mr Pyle was critical of the selection process as he had approved it and had not raised with the GPA any criticism of it. Mr Pyle did not support Mr McGrail's appointment and wanted to open the vacancy of Commissioner of Police to officers in the United Kingdom and Commonwealth. However, that does not make the selection process – which he had approved – flawed, much less "abject"

7. I have set out the selection process approved by the GPA at paragraphs 25 to 38 of my Witness Statement and will respectfully leave it to the Inquiry, should it feel the need to do so, to judge whether it was "abject"

8. At paragraph 21.7 of his Witness Statement Mr Pyle states in relation to the "Airfield Incident" that he raised his concerns at the RGP's behaviour on numerous occasions with the GPA, the Governor, the Chief Minister and with the Foreign and Commonwealth Office. He states that some of the actions and behaviours were described to him by senior MOD people as a cross between the Sweeney and Life on Mars and says that he pushed hard for a review (not an Inquiry) into the incident to expose the RGP behaviours. He complains that the GPA conducted a review and exonerated the RGP following a methodology which in his view was seriously flawed not least as the GPA did not conduct any interviews with the MOD nor seek information from them.

9. I am surprised by Mr Pyle's statements, and again, cannot let them go unchallenged, for the following reasons:

- (i) Mr Pyle was present at the meetings of the GPA held on 11th and 15th May 2017 (minutes exhibited in my Witness Statements as Documents Nos 2 and 3 of Appendix A) when the GPA decided that the Chief Minister should be informed that the GPA had no jurisdiction to involve the MOD in its inquiries but that it should propose that it should proceed under the provisions of Section 19 of the Police Act. The Chief Minister

was so informed and agreed that the GPA should proceed on that basis. Mr Pyle did not dissent from the course of action decided by the GPA.

- (ii) At the GPA meeting of 15th May 2017, Mr Pyle reported on a conversation held with the Governor when the Governor said that he envisaged that the GPA would recommend that an independent inquiry be held. In communicating to the Chief Minister the GPA's decision that it had no jurisdiction to involve the MOD in an inquiry (Document 4 of Appendix A to my Witness Statement), I stated "Once this is done you may wish to consider the possibility of a full inquiry commissioned by the authority" (Document 4 of Appendix A to my Witness Statement). Further, after the GPA meeting of 31st August 2017, I wrote to the Chief Minister on 5th September 2017, informing him of the decision reached and suggesting that he should consider whether a full inquiry ought to be undertaken by a body independent of the RGP and MOD so that lessons might be learnt from the incident (paragraphs 22 and 23 of my Witness Statement). I am not privy as to the reasons why an inquiry was not held.

- (iii) The intemperate criticisms of the RGP by "senior MOD people", which seem to be adopted by Mr Pyle in his Witness Statement, are not substantiated in the light of;
 - (a) the joint opinion of Lord Pannick and Emily Blackstone (Document No.8 of Appendix A of my Witness Statement) that the Armed Forces Act 2006 did not extend to Gibraltar; that the United Kingdom Armed Forces do not have power of arrest and seizure under the Law of Gibraltar; that in purporting to exercise those powers in Gibraltar they were acting in a manner which was unlawful under the Law of Gibraltar; and the RGP have powers of arrest and seizure under the Law of Gibraltar and members of the

armed forces in Gibraltar are subject to that Law and must comply with the lawful exercise by the RGP of those powers; and

- (b) the letter from Rear Admiral Radakin to the Commissioner of Police, Mr E. Yome, dated 8th March 2017 (Document No. 9 in Appendix A of my Witness Statement)
- (iv) the Chief Minister and the Governor would not appear to have shared Mr Pyle's concerns given;
 - (a) the Governor's email to the Commissioner of Police dated 10th May 2017 thanking him for the "efficiency and manner in which the RGP has conducted this investigation" (Exhibit IM 37 Doc 4); and
 - (b) the Chief Minister's email dated 8th February 2017, to the Commissioner of Police Mr E. Yome, Supt. McGrail and other senior police officers stating among other things how proud he was of their work. (Exhibited unnumbered annexed to the Witness Statement of The Hon Fabian Picardo)

10. I have read the Witness Statement of Michael Walliker and do not propose to respond to his statements in relation to the airfield Incident other than to say that I assume that he is not aware of the documents referred to at paragraph 9 (iii) (a) and (b) or (iv) (a) above.

11. I have been shown by TSN paragraph 22 of Mr Henry Bautista's Witness Statement which I understand was disclosed to TSN on 29th June 2023. I note that he states the following:

"We had several meetings with the Gibraltar Police Authority, to whom we also reported and complained about Mr McGrail's demeanour and failure to engage with the federation with his continued cavalier attitude and about his sometimes- aggressive comporment."

12. I would state that I have no recollection of having met Mr Henry Bautista or any member of the Gibraltar Police Federation ("GPF") about Mr McGrail let alone having received a report or complaint from the GPF and/or Mr Bautista relating to Mr McGrail during my Chairmanship of the GPA and whilst Mr McGrail was Commissioner of Police.

SWORN by the above named Deponent

Personal Data

at

Suite 7, Hadfield House, Library St, GX11 1AA
Gibraltar this 06 day of July 2023

Before me

Personal Data

Commissioner for Oaths

**PAULA AZOPARDI
COMMISSIONER FOR OATHS
GIBRALTAR**

This Sworn Witness Statement is filed by TSN, of 19 town Range Gibraltar, Solicitors for the Gibraltar Police Authority on behalf of the Deponent