

**COMMISSIONS OF INQUIRY ACT**

**RETIREMENT OF THE FORMER COMMISSIONER OF POLICE**

**ISSUE OF COMMISSION**

---

SWORN WITNESS STATEMENT  
OF FRANCIS CARRERAS

---

I, FRANCIS CARRERAS OBE of [REDACTED] former Commissioner of Income Tax, member of the Gibraltar Police Authority **MAKE OATH AND SAY AS FOLLOWS: -**

1. I make this statement in my capacity as a member of the Gibraltar Police Authority (the "GPA"). The contents of this statement are true to the best of my information, knowledge and belief and 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. I have also relied on a review of documents in my possession or control as more specifically stated at paragraphs 2 and 6 hereof.
2. I have reviewed those documents referred to herein in the course of preparing this witness statement but do not produce them as I have been advised by the Solicitors to the GPA, TSN, that these have already been produced by Dr Joey Britto ("Dr Britto"), Ms Claire Pizzarello ("Ms Pizarello"), Ms Nadine Collado ("Ms Collado") and Mr Edgar Lavarello ("Mr Lavarello") and that the Inquiry wishes to avoid the duplication of documents bundles. The documents exhibited by Dr Britto have been extracted

from the GPA files and are held currently by TSN for ease of use. I have been shown the documents exhibited by Dr Britto at Appendix B of his Witness Statement dated 13<sup>th</sup> May 2022 ("J.B's Appendix B"), Ms Pizzarello at Appendix "CP A" ("C.P's Appendix A"), Ms Collado at Appendix "NC A" ("N.C's Appendix A") and Mr Lavarello at Appendix "EL A" ("E.L's Appendix A") . Cross references are to the documents in the appendices set out herein, as referred to by me.

3. The GPA was established in accordance with section 3(1) of the Police Act 2006. Section 4(1)(a) of the Police Act 2006 provides that its members shall be appointed by the Governor acting on the advice of the Public Service Commission. Pursuant to section 4(2), every member of the GPA, shall hold office for a term of three years and at the expiration of any such period or periods shall be eligible for reappointment. I was appointed with effect from 22<sup>nd</sup> October 2018 for the term of 3 years and then for a further term of 3 years from 22<sup>nd</sup> October 2021. I continue to be a serving member of the GPA.
  
4. I have been advised by TSN that pursuant to Legal Notice LN.2022/034 (the "Legal Notice"), the Governor of Gibraltar, Vice Admiral Sir David Steel KBE, DL, on behalf of the Government of Gibraltar, at the request of the Chief Minister, has formally issued a notice of a commission appointing Sir Charles Peter Lawford Openshaw, DL, (formerly, a judge of the High Court of England and Wales, Queen's Bench Division), as Commissioner (the "Commissioner") to inquire, as he shall in his absolute discretion consider appropriate, into the reasons and circumstances leading to Mr Ian McGrail ceasing to be Commissioner of Police ("Mr McGrail") in June 2020 by taking

early retirement (the "Terms of Reference"). I have been further advised by TSN of my duty to assist the Commissioner as may be required.

5. I am aware that pursuant to the provisions of the Commissions of Inquiry Act 1888 (references to sections immediately below being to the foregoing act), that if summoned to appear in person before the Inquiry I must answer questions put to me by the Commissioner and produce all books, papers and writings required by the summons with the following provisos:

- 5.1. no statement by me in answer to any question put to me in the Inquiry shall be admissible in evidence in any proceedings whether civil or criminal except in cases of indictment for perjury committed in such answers (section 8(2)); *and*

- 5.2. such evidence which I may give in the Inquiry shall not directly and/or indirectly render me liable to any civil proceedings or criminal prosecution although subject to the qualification that I shall not be excused from answering any question put to me in the Inquiry on the ground of any privilege, or in accordance with the privilege against self-incrimination. (Section 10).

6. Since the publication of the Legal Notice, I, and other former members and current members of the GPA have been asked by Solicitors to the Inquiry, Attias & Levy (the "Solicitors to the Inquiry"), by letter dated 23<sup>rd</sup> September 2022 (the "23<sup>rd</sup> September 2022 Letter"), to provide a statement under oath addressing the subject matter of the Inquiry which fall within the Terms of Reference and various specific matters which are listed at numbered paragraphs 1 to 3 of that letter. Additionally, Solicitors to the

Inquiry, by that letter, have requested that I produce 'any documents (including but not limited to electronic documents such as emails, word documents, PDFs and SMS, Whatsapp or other instant messages) in [my] possession or control relevant to the subject-matter of the Inquiry'. It is also noted that any electronic documents are to be provided in their native format with the original metadata preserved. After reviewing the GPA records at the TSN office, J.G's Appendix A and J.B's Appendix B I have identified and referred to those documents which fall within the scope of the request but for the reasons stated at paragraph 2 hereof I do not produce them, I am of course willing to do so if requested by the Commissioner. I did not keep any records relating to my activities as GPA member.

7. I can only depose to those matters which I have direct knowledge of during my continuing tenure as member of the GPA.
  
8. At the time of making this statement I do not know what other deponents may have said about the matters about which I have been asked in the 23<sup>rd</sup> September 2022 Letter as TSN have not shown me the statements of any other deponent pending clearance to do so.

MY KNOWLEDGE OF THE REASONS AND CIRCUMSTANCES LEADING TO IAN MCGRAIL CEASING TO BE COMMISSIONER OF POLICE IN JUNE 2020

9. I address this question below under the heading of "The Section 34 Process".

### THE AIRPORT INCIDENT

10. This incident preceded my appointment as a member of the GPA. I am aware that the GPA was asked by the Chief Minister to look into the conduct of the RGP in this matter and that the decision was that the RGP had acted properly but not the Ministry of Defence ("MOD"). I would add that I am the current chairman of the Police Complaints Board having been appointed on 22<sup>nd</sup> October 2018 for a term of three years, renewed on 22<sup>nd</sup> October 2021 for a further term of three years. On 19 August 2019, and in my capacity as Chairman of the Police Complaints Board (the "PCB"), I received complaints from two individuals, who I believed to be MOD employees, alleging that Mr McGrail acted outside the remit of a search warrant served on the Joint Provost and Security Unit (the "JPSU") in relation to the Airport Incident. Our investigation revealed that Mr McGrail had not been involved in the execution of the warrant nor had he been involved in the search of the premises. His only involvement had been to apply to the Gibraltar Court on behalf of the Royal Gibraltar Police for a warrant to enter and search the JPSU. The PCB did not find that Mr McGrail had abused his authority.

### THE RGP'S INVESTIGATION INTO AN ASSAULT ON HELICOPTER PILOT AND CREW MEMBER IN MARCH 2017

11. I have no knowledge whatsoever of this matter. The first I heard of this was when I read about it in the 23<sup>rd</sup> September 2022 Letter.

MR MCGRAIL'S APPOINTMENT AS COMMISSIONER OF POLICE

12. This preceded my appointment as a member of the GPA and I have no knowledge of this whatsoever.

FORMAL COMPLAINTS FOLLOWING MR MCGRAIL'S APPOINTMENT

13. I have not received or heard 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.

THE SECTION 34 PROCESS

14. On the 21 May 2020, Dr Joey Britto, ("Dr Britto") Chairman of the GPA, called a meeting of the GPA (the "21<sup>st</sup> May 2020 Meeting") in order to consider matters raised by the Interim Governor and the Chief Minister regarding Mr McGrail at a meeting to which he had been called by them on 18<sup>th</sup> May 2020 (the "18<sup>th</sup> May 2020 Meeting"). Only 5 members attended and this was below the required quorum of six members. The Chairman explained that the Interim Governor and the Chief Minister told him that they had lost all confidence in Mr McGrail regarding his ability to effectively run the Royal Gibraltar Police. I have now read an Informal Note of the meeting held on 18<sup>th</sup> May 2020 (the "Informal Note") between the Interim Governor, the Chief Minister and Dr Britto (document no. 3 of J.B's Appendix B). I had not seen this document before but having now read it I can say that the gist of what Dr Britto told us at the 21<sup>st</sup> May 2020 Meeting was in keeping with the Contents of the Informal Note. I have now also read the minutes of the 21<sup>st</sup> May 2020 Meeting (document no. 4 of J.B's Appendix B). The Interim Governor and the Chief Minister had asked him to initiate the powers

under Section 34 of the Police Act with a view to inviting Mr McGrail to retire. Dr Britto made reference to the Incident at Sea and this was considered by the GPA members to be far more serious and it was felt that this was the major factor to be considered. Dr Britto made an incidental reference to a conversation which he had with Mr McGrail prior to the 18<sup>th</sup> May 2020 Meeting during which Mr McGrail alleged that they were trying to interfere in an investigation being carried out by the RGP which involved a senior partner in a law firm.

15. Following a discussion on what had been expressed by the Interim Governor and the Chief Minister, it was unanimously agreed that the GPA should consider inviting Mr McGrail to retire but that he should first be allowed to make representations to the GPA.

16. It was also agreed that the Chairman should consult those members who had not attended the meeting. My understanding is that this was done on the same day and that they all agreed with the decision.

17. On 1 June 2020, a meeting was called by Dr Britto to discuss a letter received from Charles Gomez of Charles Gomez & Co, acting for Mr McGrail (the "29<sup>th</sup> May 2020 Letter"). A copy of the 29<sup>th</sup> May 2020 Letter was circulated by email to members of the GPA (see document no.3 of E.L's Appendix A). This 29<sup>th</sup> May 2020 Letter was in response to two letters previously sent to Mr McGrail by the GPA on 22<sup>nd</sup> May 2020. I have now read the two letters and can say that I had not seen them contemporaneously. I saw them when they circulated by Dr Britto by email after they had been sent. Dr Britto sent us an email on 22<sup>nd</sup> May 2020 informing us of the letter-

presumably the First Letter, which he had given Mr McGrail. This is document no. 3 of C.P's Appendix A.

18. The 29<sup>th</sup> May 2020 Letter was discussed at length and it was unanimously decided that prior to responding to the letter, the GPA should seek legal advice. A copy of the 29<sup>th</sup> May 2020 Letter is document no. 8 of J.B's Appendix B. The GPA instructed TSN and Mr James Neish K.C. as Counsel (See document no. 3 of N.C's Appendix A).

19. On 5<sup>th</sup> June 2020, Dr Britto, Mr Ernest Gomez and I attended a meeting with Mr James Neish K.C. who shortly after advised that the GPA's application of section 34 of the Act was flawed because the GPA had invited Mr McGrail to retire, without following the process set out in section 34(2) of the Act. The invitation to retire could only have been made after giving Mr McGrail reasonable opportunity to make representations to the GPA and those representations having been given due consideration. Mr Neish advised that the GPA should withdraw its invitation to Mr McGrail to retire and abandon the process. This was agreed.

20. It was also agreed that TSN should write to Charles Gomez & Co advising that the GPA was withdrawing its invitation to Mr McGrail to retire and that the process was being abandoned. I am aware that TSN wrote accordingly but I did not see that letter contemporaneously but have since done so. Dr Britto also wrote to the Interim Governor and to the Chief Minister (these letters are documents numbers 15, 17 and 18 of J.B's Appendix B). Again, I did not see these letters contemporaneously but have seen them since.



ALLEGATIONS OR COMPLAINTS OF BULLYING/INTIMIDATION DURING MR  
MCGRAIL'S TENURE AS COMMISSIONER OF POLICE

21. I am not aware of any allegations or complaints made in respect of bullying and/or intimidation by Mr McGrail.

MEETINGS

22. Save as stated at subparagraphs (v), (viii) below and Dr Britto in his capacity stated at (xii) below I have not attended any meeting arising with or in connection with any of the matters raised in the 23<sup>rd</sup> September 2022 Letter or touching the subject of the Inquiry with any of the persons listed at numbered paragraph 2 of the 23<sup>rd</sup> September 2022 Letter namely:

- (i) The Hon Fabian Picardo KC MP, the Chief Minister
- (ii) Mr Albert Mena, Financial Secretary
- (iii) The Hon Neil Costa, former Minister for Justice
- (iv) Dr Joseph Garcia, Deputy Chief Minister
- (v) Mr Darren Grech, Chief Secretary, other than in his capacity as member of the GPA
- (vi) Mr Michael Llamas KC, Attorney General
- (vii) Mr Christian Rocca KC, Director of Public Prosecutions
- (viii) Mr Nicholas Pyle, Deputy Governor, other than in his capacity as member of the GPA

- (ix) Lt. General Ed Davis, former Governor of Gibraltar
  - (x) The Magistrates' Court (either the Clerk or Deputy Clerk to the Magistrates' Court, the Stipendiary Magistrate or the Justices of the Peace)
  - (xi) Mr Lloyd DeVincenzi, Solicitor General
  - (xii) Dr Joseph Britto, incumbent Chairman of the Gibraltar Police Authority
  - (xiii) Mr Edward Yome, former Commissioner of Police
  - (xiv) Deputy Commissioner Richard Mifsud
  - (xv) Mr Richard Ullger, incumbent Commissioner of Police
  - (xvi) Mr Maurice Morello, Chairman of the Gibraltar Police Federation, or any other member of the Gibraltar Police Federation
- 
- (xvii) Mr Paul Richardson, former Superintendent
  - (xviii) Superintendent Mark Wyan (formerly Detective Inspector)
  - (xix) Mr Ian McGrail.

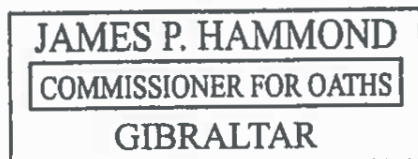
SWORN by the above-named Deponent  
at  
Suite 7, Hadfield House, Library St, GX11 1AA  
Gibraltar this 18 day of October 2022

**Personal Data**

Before me

**Personal Data**

Commissioner for Oaths



This Sworn witness statement is filed by TSN on behalf of the Deponent