

**COMMISSIONS OF INQUIRY ACT**

**RETIREMENT OF THE FORMER COMMISSIONER OF POLICE**

**ISSUE OF COMMISSION**

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SWORN WITNESS STATEMENT  
OF NADINE COLLADO

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I, NADINE COLLADO of [REDACTED] former member  
of the Gibraltar Police Authority **MAKE OATH AND SAY AS FOLLOWS: -**

1. I make this statement in my capacity as a former 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"), Mr Edgar Lavarello ("Mr Lavarello") and Ms Claire Pizzarello ("Ms Pizzarello") that the Inquiry wishes to avoid the duplication of documents bundles. These

documents are 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"), Mr Lavarello's at Appendix "EL A" of his Witness Statement ("E.L's Appendix") and Ms Pizzarello's at Appendix "CP A" of her Witness Statement ("C.P's Appendix"). Cross references are to the documents in J.B's Appendix B 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 1<sup>st</sup> April 2019 for the term of 3 years. My membership of the GPA came to an end on 31<sup>st</sup> March 2022.
  
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 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 23rd 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.B's Appendix B, E.L's Appendix A and C.P's Appendix A. 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 have kept some electronic records relating to any activities as a member of the GPA and exhibit at Appendix "NC A" copies of those documents which are material to the Inquiry. I would state that I have not found any material document other than those referred to herein.

7. I can only depose to those matters which I have direct knowledge of during my 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 and I have no knowledge of this other than what I may have learned from the local media.

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 18<sup>th</sup> May 2020 all GPA members received an email from the Chair of the GPA, Dr Joey Britto (the "Chair") an emergency meeting of the GPA on Thursday 20<sup>th</sup> May 2020 to discuss a sensitive matter. The email referred to herein is document no.1 of Appendix "NC A".

15. An Emergency Meeting of the GPA (the "Emergency Meeting") was held to consider the matters raised by the Chief Minister and the Interim Governor at a meeting which they had held with Dr Britto on 18<sup>th</sup> May 2020. There were five members of the GPA in attendance, I being one of them. Due to the nature of the meeting the Chair stated that he intended to call the remaining members of the GPA after the meeting had taken place. The Chair was quite concerned and stated that he had not asked for the secretary of the GPA to attend to take minutes as the matter was very sensitive and he did not want to risk any information being mentioned out of the GPA premises, particularly as the RGP Commissioner's secretary had previously worked at the GPA and was a friend of the current GPA secretary. The Chair read from an informal note and explained that he had been called in on 18<sup>th</sup> May 2020 to meet the Interim Governor, Nick Pyle as well as the Chief Minister, Mr Fabian Picardo, who had explained to him that they had lost confidence in the RGP Commissioner, Mr Ian McGrail (the "RGP Commissioner"). Of particular discussion the Chair provided the members with more information surrounding the circumstances of the collision at sea that had been previously made available to the GPA members (specifically points 15.2(b) to (e) below) and as a result, the members were duly concerned. The reason for the loss in confidence was, as I recall, mainly due to:

15.1. The HMICFRS report concerning the inspection in 2020 and lack of progress since the inspection in 2016.

15.2. The collision at sea of 8th March 2020 – in particular:

- a) the two fatalities;
- b) the potential consequences at an international level;
- c) the fact the RGP vessel was a significant way from Gibraltar waters;
- d) the radar and GPS systems were turned off;
- e) navigational lights were turned off.

The members discussed point 15.2 above in particular.

16. At the Emergency Meeting the following was discussed and agreed by those present, in that, the Chair was going to call the remaining members to explain the issues discussed and subject to their comments he (as Chair) was to make arrangements to meet personally with the RGP Commissioner in order to:

- i) explain the situation in that the Chief Minister and Acting Governor had lost confidence in him and had requested the GPA to set in motion the Section 34 process with a view to inviting the RGP Commissioner to retire; and
- ii) invite him to make representations to the issues raised.

17. Subject to the absent members' views, the members in the meeting agreed that a letter be written to this effect and for that to be given personally to the RGP Commissioner by the Chair.

18. The deliberations and agreed course of conduct of the GPA are evidenced by the minutes of the Emergency Meeting which have been produced at document no 4 of

J.B's Appendix B. I do not recall Operation Delhi being mentioned during the Emergency Meeting.

19. I am aware that two letters were sent on 22<sup>nd</sup> May 2020. Copies of these were received electronically after they had been sent. I have now seen an email sent by me in reply to an email from the Chair dated 22<sup>nd</sup> May 2020 to members of the GPA wherein he repeated the loss of confidence in Mr McGrail expressed to him by both the Chief Minister and the Interim Governor on 18th May 2020 and set out the events relating to his meeting with Mr McGrail on that day. The Chair also alluded to the contents of the First Letter which he stated was given to Mr McGrail. My reply to that email is document no. 3 page 44 of C.P's Appendix A where I ask "are we able to see the letter given to CoP". To the best of my recollection I received the First Letter from the Chair on Whatsapp. As I do not back up my Whatsapp messages and, since then have replaced my mobile device, I do not possess and cannot therefore retrieve that Whatsapp message but do have a recollection of it being sent to me.

20. On 27<sup>th</sup> May 2020 all GPA members received an email from the Chair postponing the Friday 29<sup>th</sup> May 2020 meeting, which was the monthly meeting, and instead suggested to meet, once the representations made by the RGP Commissioner had been received. A copy of this email is document no. 2 of Appendix "NC A". This email provided a brief summary of what had transpired and also informed the GPA members that he (the Chair) had *"reiterated that this was an 'invitation to retire' and nothing else and reminded that he could be removed from office without having recourse to representations – this way, at least, he has an opportunity to explain matters from his perspective and we would be in a position to either support his position or not, as the*



*case may be, and would, of course, communicate our position to the Governor and CM”.*

21. On the morning of 29<sup>th</sup> May 2020 all GPA members received an email from the Chair titled “OFFICIAL – Factual Report” which was Private and Confidential and Legally Privileged (for GPA members eyes only) which contained the report on the Maritime Incident sent by the RGP Commissioner to the Chief Minister (the “Factual Report”). A copy of the email is document no.2 of E.L’s Appendix A. The report was provided to allow the GPA to properly contextualise any representations that could be received by the Commissioner by Tuesday 2nd June (the expiration of the 7 working days).

22. On 29<sup>th</sup> May 2020 the Chair circulated a copy of a letter received by him from Charles Gomez & Co, acting for the RGP Commissioner (the “29<sup>th</sup> May 2020 Letter”). The email circulating the 29<sup>th</sup> May 2020 Letter is document no 3 of E.L’s Appendix A. I do not reproduce the 29<sup>th</sup> May 2020 Letter which is document no. 8 of J.B’s Appendix B. I am also informed by TSN that the 29<sup>th</sup> May 2020 Letter was sent to the Chair under cover of an email of even date from Nicholas Gomez of Charles Gomez & Co, of which the Chair acknowledged receipt. A copy of the email accompanying the 29<sup>th</sup> May 2020 Letter is document no. 9 of J.B’s Appendix B. The Chair that same evening called for a meeting of the GPA for Monday 1<sup>st</sup> June 2020 at 09:30am. A copy of this email is document no. 4 of E.L’s Appendix A.

23. On the 1st June 2020 the majority of GPA members met to discuss the 29<sup>th</sup> May 2020 Letter. In the letter, there was a mention of a live investigation (“Operation Delhi”) and this was the first time that I had been made privy to this. When I asked the Chair at the meeting what this was about, he stated that the RGP had gone into the offices of

Hassans Law firm on a targeted operation. The Chair then explained that he had not brought up the matter of an investigation with the RGP Commissioner but rather the reverse, it was the RGP Commissioner who had done so and the Chair categorically refuted the allegations made by Charles Gomez & Co to this effect. Amongst the discussions, the following was agreed:

- a) to obtain independent legal representation;
- b) consider the GPA powers to invite the Commissioner to retire;
- c) was it correct to use the power considering all of the Parts;
- d) advice on the response to be drafted;
- e) consider if there were other conflicts;
- f) to refute the allegations made in the letter as to the Chairs discussion of the live investigation.

There was no secretary present and I took the minutes and sent these to the Chair for his comments and onward transmission to my fellow GPA members.

24. On 2nd June an email was received by GPA members from the Chair stating that legal representation was to be provided by Mr James Neish KC and asked who would wish to attend the meeting, suggesting that two persons would be acceptable in his view. A copy of this email is document no. 3 of Appendix NC A.

25. On 3rd June an email was received by GPA members from the Chair which attached a letter from the Interim Governor, Nick Pyle, in relation to the Section 34 Invitation to retire and comments on the 29<sup>th</sup> May 2020 Letter. A copy of this letter is document no. 8 of J.B's Appendix B. A copy of the email containing that letter is document no. 4 of Appendix "NC A" .

26. On 4th June an email was received by GPA members from the Chair stating that Mr Ernest Gomez and he had met with Mr James Neish KC to explain the situation and that a GPA meeting would be called once the legal opinion was received. Later that afternoon, a further email was received from the Chair requesting a meeting for Friday 5th June to update the members. During this meeting, no decisions were taken and as such no minutes were produced. The emails referred to herein are documents nos 5 and 6 of Appendix "NC A".

27. The legal advice received from James Neish KC on or about the 4th June was to withdraw the letters of invitation to retire as the meeting was inquorate and the Section 34 process fundamentally flawed.

28. On 5<sup>th</sup> June, TSN, representing the GPA, sent a letter to Charles Gomez & Co withdrawing the invitation to retire. A copy of that letter is document no. 15 of J.B's Appendix B.

29. On 9th June the GPA members received an email from Mr Edgar Lavarello, a member of the GPA, referring to the press release broadcasted on GBC at 13:30 announcing that the RGP Commissioner had retired. A copy of that email is document no. 7 of Appendix "NC A". It was then that I first found out that the RGP Commissioner had announced his retirement.

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

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

MEETINGS

31. Save as stated at subparagraphs (viii) 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
- (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.

**Personal Data**

SWORN by the above-named Deponent

at

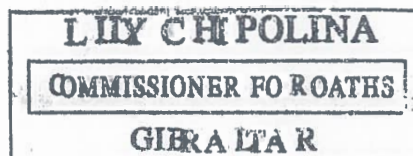
Suite 7, Hadfield House, Library St, GX11 1AA

Gibraltar this 20 day of October 2022

Before me

**Personal Data**

Commissioner for Oaths



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