

**COMMISSIONS OF INQUIRY ACT**

**RETIREMENT OF THE FORMER COMMISSIONER OF POLICE**

**ISSUE OF COMMISSION**

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SWORN WITNESS STATEMENT  
OF REBECCA FIGUERAS

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I, REBECCA FIGUERAS of [REDACTED] Senior  
Youth Worker, Gibraltar Youth Service, 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”), Ms Claire Pizzarello (“Ms Pizzarello”) and Ms Nadine Collado (“Ms Collado”) and 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 A”), Ms Pizzarello’s at Appendix “CP A” of her Witness Statement (“C.P’s Appendix A”) and Ms Collado’s at Appendix “NC A” (“N.C’s Appendix A”). Cross references are to the documents in J.B’s Appendix B, E.L’s Appendix A, C.P’s Appendix A and N.C’s Appendix A 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. I want to explain that I was approached by Dr Britto at the beginning of the year in 2019 as he was wanting people from all walks of life on the GPA board. It was my understanding that I was to engage in this forum to contribute with my ideas in the sector I was familiar in. This being the connections I have in the capacity as a worker in the youth sector. I felt this was achievable and that I could add value in this capacity. Bearing in mind that I have no experience of being on boards or authorities of this nature .

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. I have conducted an extensive search in accordance with the request made by Solicitors to the Inquiry. I note that I have never received any Whatsapp or other instant messages from Dr Britto and/or other members of the GPA relevant to the subject-matter of the Inquiry. After reviewing the GPA records at the TSN office, J.B's Appendix B, E.L's Appendix A, C.P's Appendix A and N.C'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 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 Dr Britto calling for 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 N.C's Appendix A.

15. I understand that an emergency meeting of the GPA (the "Emergency Meeting") was held. I was not in attendance at the Emergency Meeting.

16. On an occasion after the Emergency Meeting, the date on which I cannot recall, I received a phone call from Dr Britto outlining the current situation with the RGP Commissioner ("Mr McGrail"). I cannot remember all the details of this telephone conversation but I believe it was about the GPA inviting Mr McGrail to retire. Dr Britto wanted to keep me informed about the situation. I didn't engage in any conversation

as I did not know really what to say. What I did do was offer Dr Britto reassurance as it was clearly a stressful and uncomfortable situation and a delicate matter.

17. I have now had an opportunity to review the minutes of the Emergency Meeting which I had not seen until now. These have been produced at document no 4 of J.B's Appendix B. The contents of the minutes reflect the gist of what I can recall Dr Britto told me over the telephone during the conversation referred to in the preceding paragraph save that I do not recall Operation Delhi being mentioned during our telephone conversation.

18. 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 (the First and Second Letter respectively). Dr Britto sent an email to members of the GPA dated 22<sup>nd</sup> May 2020 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. Dr Britto also alluded to the contents of the First Letter which he stated was given to Mr McGrail. This email is document no. 3 page 38 of C.P's Appendix A. Dr Britto sent a further email that same night circulating a copy of the Second Letter which I understand to have been sent to Mr McGrail (see document no. 4, page 45 C.P's Appendix A). I have also been shown my reply to that email where I again reassure Dr Britto (see document no.4, page 48 C.P's Appendix A).

19. On the morning of 29<sup>th</sup> May 2020 all GPA members received an email from Dr Britto 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 Mr McGrail to the Chief Minister (the "Factual Report"). A copy of the email is document no.2 of E.L's Appendix A.

20. On 29<sup>th</sup> May 2020 Dr Britto circulated a copy of a letter received by him from Charles Gomez & Co, acting for Mr McGrail (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 Dr Britto under cover of an email of even date from Nicholas Gomez of Charles Gomez & Co, of which Dr Britto 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. Dr Britto 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.

21. On the 1st June 2020 at 9.30am the majority of GPA members met to discuss the 29<sup>th</sup> May 2020 Letter (the "1<sup>st</sup> June 2020 Meeting"). Due to another professional commitment I was required to leave the meeting at 10.50am. That same evening I received an email from Dr Britto attaching minutes of that meeting which were prepared by Ms Collado. This email is document no.5 of E.L's Appendix A. The minutes of 1<sup>st</sup> June 2020 Meeting are document no. 10 of J.B's Appendix B. I recall having reviewed these contemporaneously but having reviewed these again I can say that the contents reflect the matters which I recall were discussed.



22. On 3rd June an email was received by GPA members from Dr Britto 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 N.C's Appendix A.
23. On 4th June an email was received by GPA members from Dr Britto 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 Dr Britto 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 N.C's Appendix A.
24. 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.
25. 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 .

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

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

MEETINGS

27. 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.

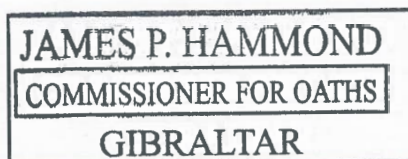
SWORN by the above-named Deponent

at  
Suite 7, Hadfield House, Library St, GX11 1AA  
Gibraltar this 21 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