

COMMISSIONS OF INQUIRY ACT

RETIREMENT OF THE FORMER COMMISSIONER OF POLICE

ISSUE OF COMMISSION

SWORN WITNESS STATEMENT
OF CLAIRE PIZZARELLO

I, **CLAIRE PIZZARELLO** of [REDACTED] Solicitor, 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" and /or "the Chair"), Mr Edgar Lavarello ("Mr Lavarello") 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 13th May 2022 ("J.B's Appendix B"), Mr Lavarello's at Appendix "EL A" of his Witness Statement ("E.L's Appendix") and Ms Collado's at Appendix "NC A" ("N.C's Appendix). Cross references are to the documents in J.B's Appendix B, E.L's Appendix and N.C's Appendix 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 6th March 2018 for the term of 3 years and reappointed for a further term of three years. I continue to be a 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 23rd September 2022 (the "23rd 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 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 have kept some electronic records relating to any activities as a member of the GPA and exhibit at Appendix "CP 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 have said in response to the 23rd 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 of the incident from what I may have learned from the local media and as a result of reviewing and discussing with Dr Britto and Mr Frank Carreras, in my capacity as member of the GPA, a complaint made by two MoD members of staff in respect of the carrying out of search warrants. I am not aware of this having any connection with Mr McGrail taking early retirement.

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 23rd 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 do not recall having 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 POWERS

14. My recollection of this matter is extremely vague. I live with my elderly parents and kept myself in insolation at home as I did not want to risk becoming infected with COVID-19 and passing it on to my father, something which could have proved fatal. I was therefore not involved physically in any of the activities of the GPA in this matter and felt somewhat detached. I did not attend the meetings of the GPA on 21st May 2020. I have refreshed my memory by reading J.B's Appendix B, E.L's Appendix A and N.C's Appendix A but even after doing so, my memory remains vague. I have also consulted those documents produced in my Appendix (Appendix "CP A") for the purposes of refreshing my memory but even after doing so, my memory remains vague.

15. On 18th May 2020 Dr Britto circulated an email to GPA members calling for an urgent face to face meeting to be held on 21st May 2020 at 09:30am. In reply that same day I asked Dr Britto if I could possibly join by telephone but Dr Britto advised that it would be best if he called me after the meeting to explain what was discussed. The reason I did not wish to attend in person are because of my personal circumstances as set out in the paragraph above. I was exercising extreme caution and avoiding gatherings if at all possible. I explained this to Dr Britto in an email of that same day. The emails referred to herein are document no. 1 of Appendix "CP A".

16. On a date which I cannot remember but must have been the 18th May 2020 I had a phone call with Dr Britto. I surmise that it was the 18th May 2020 because upon reviewing my emails in preparing this statement I found that Dr Brito and I had been

in email correspondence that day arranging to speak. These emails are document no.1 of Appendix "CP A". My recollection is it was a very brief call in respect of my non-attendance at the meeting being arranged for 21st May 2020 and that I would be kept updated.

17. On a date which I cannot remember but which must have been the 21st May 2020 I received a phone call from Dr Britto. I surmise that it was the 21st May 2020 because upon reviewing my emails in preparing this statement I found that Dr Brito and I had been in email correspondence that day arranging to speak. These emails are document no.2 of Appendix "CP A". To the best of my recollection Dr Britto informed me that he had been called to a meeting with the Interim Governor and the Chief Minister who had told him that they had lost confidence in the Commissioner of Police ("Mr McGrail") and had asked the GPA to initiate the powers under the Police Act with a view to asking Mr McGrail to retire, and that at the emergency meeting of the GPA earlier that day it had been agreed that he should write to Mr McGrail inviting him to retire and to make representations. I agreed with that course of action because of the incident at sea and the loss of confidence by the Interim Governor and Chief Minister in Mr McGrail.

18. I have seen in the course of preparing this statement a copy of the Informal Note of the meeting of 18th May 2020 (Document no. 3 of J.B Appendix B). I do not recall seeing this document before. Having now read it I can say that the gist of what I recall Dr Britto told me in the course of our telephone conversation is consistent with the contents of the Informal Note, as set out above at paragraph 17, save that our conversation was short, and the detail set out in the Informal Note was not given. I have also now read the minutes of the GPA meeting of 21st May 2020 (Document no .

4 of J.B's Appendix B), which I believe I had seen previously and which is also consistent with the gist of what Dr Britto told me, as set out above at paragraph 17, save that I do not recall mention of an investigation in which allegedly a senior partner in a law firm was involved, which did not figure at all in my thinking.

19. I have now read two letters to Mr McGrail by Dr Britto dated 22nd May 2020 which I understand to be Document nos 5 and 6 of J.B's Appendix B ("the First Letter" and "the Second Letter" respectively). I had first seen these letters on a date which I cannot recall after they had been delivered. I have now reviewed my records of email correspondence relating to these matters and depose to the contents of those emails in paragraphs 20 to 25. I have a vague recollection of the contents and subject matters of these emails even after reviewing them.

20. Dr Britto on 22nd May 2020 sent an email to members of the GPA repeating 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 states was given to him and which I have now read as stated in the preceding paragraph. Some members of the GPA replied. The emails referred to herein are document no 3 of Appendix "CP A". I do not recall replying to Dr Britto's email and a thorough search of my emails confirms this.

21. On 22 May 2020 Dr Britto circulated an email to GPA members containing the Second Letter. Some members of the GPA replied to acknowledge receipt. These emails are

document no. 4 of Appendix "CP A". I do not recall replying to Dr Britto's email and a thorough search of my emails confirms this.

22. On 27th May 2020 all GPA members received an email from the Chair postponing the Friday 29th May 2020 meeting and instead suggested to meet, once the representations made by the RGP Commissioner (Mr McGrail) had been received. A copy of this email is document no. 2 of N.C's Appendix A.

23. On the morning of 29th 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 this email is document no.2 of E.L's Appendix A.

24. On 29th May 2020 the Chair circulated a copy of a letter received by him from Charles Gomez & Co, acting for Mr McGrail (the "29th May 2020 Letter"). The email circulating the 29th May 2020 Letter is document no 3 of E.L's Appendix A. I do not reproduce the 29th May 2020 Letter which is document no. 8 of J.B's Appendix B. I recall having seen the 29th May 2020 Letter at the time.

25. I do not recall having further involvement in this matter until on 9th June 2020 an email from the Chair to GPA members was received calling an extraordinary meeting that Friday 12th June 2020. A copy of this email is document no.7 of N.C's Appendix A. Subsequently that day Mr McGrail's retirement was announced.

26. As to the remaining documents, exhibited at J.B's Appendix B I only recall having seen documents 20, 22 and 23. I do not recall seeing any of the other documents forming part of that Appendix.

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

27. I do not recall any allegations or complaints made in respect of bullying and/or intimidation by Mr McGrail.

MEETINGS

28. Save for formal GPA meetings at which other GPA members listed below have been present, I have not attended any meeting arising with or in connection with any of the matters raised in the 23rd September 2022 Letter or touching the subject of the Inquiry with any of the persons listed at numbered paragraph 2 of the 23rd 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

- (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
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- (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 20 day of October 2022

Before me

Personal Data

Commissioner for Oaths

PAULA AZOPARDI
COMMISSIONER FOR OATHS
GIBRALTAR

**Personal
Data**

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