

Report of
The Parliamentary Joint Select Committee
Examining the Events of the
December 2nd 2016 Incident at the
House of Assembly, Bermuda



MAY 2019

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*House of Assembly
Bermuda*

25th May 2019

The Hon. Dennis P. Lister JP MP
Speaker of the House of Assembly
21 Parliament Street
Hamilton HM 12

Dear Mr. Speaker:

It is both my pleasure and my solemn duty to submit to you the Report on the findings of the Parliamentary Joint Select Committee ("the Committee") charged with examining the incident at the House of Assembly on 2nd December 2016. The report represents the end product of a Committee which has worked with diligence, focus and commitment on the task with which it was presented.

We trust that the information presented will serve to highlight not only issues directly related to the decision-making prior to and on 2nd December 2016, but also other matters which should be examined as well.

We are most indebted to you, Mr. Speaker, for your support throughout this process which has at times been most challenging. As you are aware, we had to restart our proceedings in February 2018, and we have had to work on, despite at times not having a full complement of members. We acknowledge the support provided by His Excellency the Governor, Mr. John Rankin, who was sworn in just days after the incident. We are grateful for the contributions of all persons who voluntarily provided information, and value the contributions made by other members of the community.

Finally, we thank the Clerk to the Legislature, Mrs. Shernette Wolffe, as well as former Assistant Clerk Ms. Sierra O'Meally, Consultant Clerk Mrs. Alberta Dyer Tucker and Sergeant Major Arnold Allen whose services were most appreciated.

Mr. H.K.E. Swan JP MP, Chairman
Senator The Hon. Joan Dillas Wright JP, President of the Senate
Mrs. Tinee Furbert JP MP
Mr. Scott Simmons JP MP
Mr. Ben Smith JP MP
Mr. Neville Tyrrell JP MP
Senator Marcus Jones

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FOREWORD

“There comes a time when one must take a position that is neither safe nor politic nor popular, but he must take it because his conscience tells him it is right.” Rev. Dr. Martin Luther King Jr.

From its first meeting in December 2017, the Parliamentary Joint Select Committee (“the Committee”) knew that its task would not be an easy one. It was given a timeline of three to six months to delve into and report fairly on the circumstances which had led to an incident which had provoked high levels of tension and polarization in the Bermudian community.

The Committee is aware that even now, some members of the public might feel that this review was unnecessary. The truth is that even two years later there are many in the community, particularly those directly affected by the incapacitant spray and those who witnessed the events, who remain interested in understanding how the country arrived at that point on that day. In the main, most want to know what could be done to avoid a repeat of the incident. Moreover, the Committee’s efforts have uncovered that there are still key stakeholders who have much to answer for as it relates to the decision-making on 2nd December 2016.

The Committee trusts that this final report, although dealing with ‘historical’ events, will be useful and that its recommendations, together with recommendations highlighted in other reports, will be considered and operationalized in order to reduce the potential for another event of this nature.

It is already a matter of public record ¹that operational decisions made by the Bermuda Police Service contributed to the unfortunate manner in which events unfolded that day. That notwithstanding, and given its mandate to investigate the decision-making which had occurred, the Committee took the position that it should examine as much of the existing material as it could, identify any gaps which occurred when trying to piece together the events and seek clarity from those who could fill in some of the gaps.

Committee members committed to apply fairness, objectivity and transparency to all aspects of its investigation. More importantly, although members represented the gamut of political interests- Government, Opposition and Independent- they were determined not to make their investigation a political event. Therefore, they devoted themselves to meeting, researching and interviewing behind the scenes. They maintained confidentiality to avoid having their in-process efforts critiqued in public or in the media.

One particular matter should be mentioned. During the process of requesting information from key stakeholders, the Committee found itself engaged in dialogue with one lawyer who represented not just a member of the Executive, but also (or so was the initial thought!) the former Commissioner of Police. Towards the end of its research, the Committee was advised by the lawyer that he represented the entire Bermuda Police Service. Potential conflicts of interest will be addressed later in this report.

The point in mentioning the lawyer is that the Committee had no substantial allocation at its immediate disposal in order to seek legal advice. That notwithstanding, Members were most appreciative to be given potential access to funds through the Office of the Legislature. However, the absence of a specific budget

¹ The National Police Coordination Centre (NPoCC) Report was made public on 28th March 2017.

dedicated for the purpose of the Committee's mandate is noteworthy and should be a consideration in the future for any Joint Select Committee with a similar mandate. This of course would be a matter for the House of Assembly's Rules and Privileges Committee to determine.

The Committee must acknowledge the assistance provided by the current Speaker of the House of Assembly, The Honourable Dennis P. Lister, and His Excellency the Governor Mr. John Rankin, without whom the task might have been frustrated by on-going legal maneuvering and the obstacles presented by persons, some of whom hold or held constitutional offices.

The Committee wishes to thank for their cooperation former Speaker The Hon. K. H. R. Horton JP and former Parliamentarians Mr. E. T. Richards, Dr. E. G. Gibbons and those persons who were directly involved in the incident and willing to speak with the Committee. Additionally, the Committee is appreciative of responses provided by Opposition Leader Mr. L. C. Cannonier JP MP, current Secretary to the Cabinet Major M. T. Telemaque and by Mrs. C. Whitter, Deputy Head of the Public Service. The Committee also acknowledges that only after issuing summons, information was provided by former Parliamentarian Mr. J. Baron, current Parliamentarians Mr. M. H. Dunkley JP MP and Mr. T. Moniz JP MP, and former Deputy Commissioner Mr. P. Wright. The Committee also acknowledges the most helpful contributions of former Commissioner of Police Mr. M. De Silva, which were received after intervention from Government House.

In addition, thanks must be given to former members of the Committee: The Hon. M. J. Scott JP MP, and former One Bermuda Alliance Senators Andrew Simons JP and Robyn Swan. Their efforts and contributions were most appreciated.

During each instance when it was short of a member, the remaining members of the PJSC continued to deliberate on evidence received to determine the next steps necessary.

EXECUTIVE SUMMARY

The work of the Parliamentary Joint Select Committee ("the Committee") is an important undertaking in Bermuda's history, as it affords a more comprehensive analysis than that found in other documents on one of the most serious social issues to have unraveled in Bermuda for more than 40 years. Sadly, many in Bermuda relate the tragedy of 2nd December 2016 to the disturbances that took place in the 1960s and 1970s.

To assist in understanding some of the deep-rooted feelings, the Committee attempts below to put into context the socio-political climate leading up to and during that period in 2016. It must be said repeatedly that Bermuda is ripe for an academic analysis of this period and the contents of this report can be a valuable resource in that effort.

While a matter best examined by a scholar such as a social scientist, it is reasonable to deduce that the social atmosphere that developed in 2016 did not happen overnight; there were many contributing factors. On 1st December 2017, Parliamentarian Renee Ming noted in the Legislature² that some 26 protests had occurred in the four year period between 2012 and 2016.

The work of the Joint Select Committee has been extended twice with the permission of the Speaker of the House: first because of delays caused by the ignoring and/or reluctance to engage by key witnesses that the Committee wished to interview, which also included legal challenges which were referred to the Speaker of the House. In the later months as the Committee began to uncover more information, due in part now to the willingness of persons to share information, together with the Committee's commitment to uncover the facts, the Committee was encouraged to seek an extension during its summation.

"Truth crushed to earth will rise again" – Rev. Dr. Martin Luther King Jr.

The mandate of the Parliamentary Joint Select Committee was to examine and to obtain a clear understanding of the decision-making that prevailed on 2nd December 2016, both at the House of Assembly and otherwise behind the scenes, which resulted in Officers being deployed in protective gear using a 'Bubble Tactic', and later resulted in Officers discharging CAPTOR spray on protestors.

Testimony from some of the protestors who were engaged in 'civil disobedience' disclosed that the experience was traumatic and some even considered it 'life threatening'. It was stated during testimony that an announcement was made that the "House would not sit at 1:00 p.m.", which was followed soon after by the surprise arrival of the police unit.

Astonishingly, when the Parliamentary Joint Select Committee reviewed the video from the body camera placed on an Officer, it was uncovered that an Order was given to Officers to deploy CAPTOR spray. The revelation 'flew in the face' of what was initially reported by the Bermuda Police Service, and of what previously had formed a major part of the findings and subsequent decision from the Police Complaints Authority.

Furthermore, the statements of former Deputy Speaker Mrs. Suzanne Roberts-Holshouser and former Member of Parliament Mr. Kenneth Bascome, shared with the Committee during its interview with

² House of Assembly Hansard 1st December 2017, p. 781.

members of the People's Campaign, revealed significant information that has illuminated serious discrepancies in the statements provided by the Bermuda Police Service and the testimony and statements provided by other witnesses. It should be noted that the testimony of Mrs. Roberts-Holshouser and Mr. Bascome did not form part of the police file requested to be sent to the Committee. However, their testimony states that discussions and planning took place between them, their political colleagues and the Bermuda Police Service about how to gain entry to the House of Assembly, and therefore reinforces Finding 3.9 of the National Police Coordination Centre Report which made significant reference to the adverse involvement of Platinum Command.

A Disastrous Day in Bermuda's History

From the outset, reports of the event, commonly referred to as the 'pepper spray event', placed the focus on the protestors and the Officers on the frontline, by making them the centre of attention.

However, during the process of gathering evidence and considering testimony, the Committee realized that while the protest itself was one matter, the decisions made by persons in light of the protest were a separate matter. It was the reaction by decision-makers to the protest which resulted in the disastrous events of the day.

Two questions emerged: **WHO** told the public to come out and **WHO** decided what should be done in light of the protest? A third related question was also raised: **WHY** did the events unfold as they did?

The Committee considered **WHO** was responsible for the presence of the protestors. In fact, it is a matter of public knowledge that chief amongst those encouraging the public to come out were:

THE PEOPLE'S CAMPAIGN

The People's Campaign was instrumental in uncovering key details about the airport redevelopment through Freedom of Information requests to the Canadian Government. In addition the group organized public meetings prior to the anticipated debate of the airport redevelopment bill. On the evening of 1st December 2016, the People's Campaign held a highly emotive public meeting at which members of the public were encouraged to be present at the House of Assembly on 2nd December 2016. The number of protestors, although few in the early morning, grew as the day progressed.

It was reported that many came out to show their displeasure about the airport redevelopment bill. It cannot be ruled out that some in the crowd may have come to intentionally block access to the House of Assembly, thereby breaking the law.

THE PROGRESSIVE LABOUR PARTY

Parliamentarians from the Progressive Labour Party (the Opposition at that time) did attend many of the highly emotive meetings/protests that took place, challenging the then One Bermuda Alliance Government. In addition, the then Leader of the Opposition, Mr. David Burt JP MP, addressed the public at a meeting at St. Paul's Centennial Hall on the evening of 1st December 2016 and encouraged them to demonstrate their dissatisfaction with the airport redevelopment proposal.

In video-footage taken on Parliament Street on the day of the incident, members of the Progressive Labour Party were seen in the crowd. Their presence would have been seen as a validation of the protests.

NB: By way of additional information, the Committee considered at length the pros and cons of the involvement of Parliamentarians in emotive causes that lead to civil disobedience; however, it was determined that their involvement was not dissimilar to what has transpired historically in both Bermuda and overseas.

After establishing **WHO** encouraged the protestors, the Committee turned its attention to **WHO** made decisions that day, particularly during the period between 10:00 a.m. and 1:00 p.m. which, based on evidence provided, was a key period:

THE ONE BERMUDA ALLIANCE GOVERNMENT

The OBA Government must accept some responsibility for the decision-making. It appears that Members of the Cabinet, determined to have the already oft-delayed debate on the airport redevelopment bill occur that day, influenced the Speaker to change his mind to have it debated at 1:00 p.m., thereby contributing to the climate of confusion that took place.

THE SPEAKER OF THE HOUSE OF ASSEMBLY

Considering the authority vested in the Speaker of the House in 2016, The Hon. K. H. Randolph Horton JP, it is apparent that he was indecisive on 2nd December 2016, having first stated that the House would not convene if Parliamentarians were not in the House at 10:00 a.m. and later changing his mind. This change of mind seemed to come after a series of telephone calls between the Speaker and the Acting Governor, the former Premier and the Bermuda Police Service. This change of mind also later forced the Gold Commander and/or other Senior Officers, now finding themselves under pressure, to react in haste.

THE ACTING GOVERNOR

The Acting Governor was in frequent contact with the parties including the Speaker, the Commissioner, the Premier et alia. Her presence/participation in the process could have also influenced the decisions made on the day and some responsibility must be ascribed.

THE BERMUDA POLICE SERVICE

The Bermuda Police Service must accept some responsibility for the outcome of the unfolding of events on 2nd December 2016. The National Police Coordination Centre's peer review, which will be referenced in more detail later in this report, details the BPS's deviation from the plan of action it had established for the day, as Officers found themselves reacting to events.

During the process of the 2018/2019 review, the Committee adopted the view that the newly-appointed Police Commissioner interfered with the intent of the Committee to interview member(s) of the Bermuda Police Service.

That notwithstanding, 2nd December 2016 will forever remain a tragic event in Bermuda's history. In fact, 2016 in its entirety can be described as a tumultuous political period characterized by a plethora of protests which culminated in the CAPTOR spray incident in December.

A. THE WORK OF THE COMMITTEE

The work of all Parliamentary Joint Select Committees is important because of the charge to ensure that outcomes are evidenced-based and in the best interests of the country. The investigations of this particular Committee were important because members were tasked to look into a serious national incident. The powers and authority vested in Joint Select Committees can be found in Part IV of the Parliament Act 1957³. Sections 36 through 38 ⁴of The Bermuda House of Assembly Official Standing Orders (revised July 12, 2013) also deal with the operation of legislative committees.

The Motion to appoint a Joint Select Committee to investigate, report and make recommendations on the events of December 2, 2016, was approved as amended in the House of Assembly (HOA) on 1st December 2017. The wording of the Motion follows:

WHEREAS at the gates of this House of Assembly a show of democracy descended into open conflict between concerned citizens of Bermuda, and those charged with protecting the very rights they sought to exercise, on December 2nd 2016

AND WHEREAS the Government having declared its intention to establish a Parliamentary Committee to look into the events generally, including the decision-making and any directives of the Executive and the then Speaker of the House of Assembly to the Police, that led up to and precipitated events that day, including the deployment of police in riot gear and the use of incapacitant spray on the crowd of citizens assembled;

BE IT RESOLVED that this Motion for the appointment of a Joint Select Committee to carry out the said Inquiry into the events of December 2nd, 2016 be approved

AND, Thereafter, pursuant to Part IV of the Parliament Act 1957, that a Parliamentary Joint Select Committee be appointed to (1) to enquire into the aforesaid events as thoroughly as may be; (2) bring closure to this event by the making of all proper and necessary findings, recommendations and where required, sanctions; and to submit its report to the House of Assembly within three to six months.

On 13th December 2017, Mr. H. Matthie, Vice Chairman of M.O.V.E., an organization which had established a committee to educate its members on the 2nd December 2016 protest and pepper spraying incident, especially in light of the then upcoming deadline for appeal/action to be taken by the protestors, sent communication to Mr. H. K. E. Swan JP MP, the Parliamentarian who had laid the Motion in the House of Assembly. That communication was held until after the Committee held its first meeting. Other similar communication to the Chairman was also held.

On 15th December 2017, the Committee held its first meeting, and elected Mr. H. K. E. Swan JP MP as its Chairman. From the start, the members expressed their commitment to doing their best for Bermuda, and to ensuring that any research and investigations related to the investigation were carried out with fairness and objectivity. The Committee's Terms of Reference ⁵were derived directly from the Motion; thereafter, the approach to the task at hand was determined. The Committee then commenced a

³ Part IV of the Parliament Act 1957 is found in Annex 1.

⁴ Sections 36 through 38 of the Bermuda House of Assembly Official Standing Orders are found in Annex 2.

⁵ The Committee's Terms of Reference and operating authority can be found in Annex 3.

comprehensive review of two main documents: the National Police Coordination Centre (NPoCC) Report and the Decision of the Police Complaints Authority, before determining the key persons who should be interviewed.

In order to both demonstrate accountability and to solicit input from any persons with information, the Committee placed newspaper notices laying out its Terms of Reference and sent out letters to key identified stakeholders, asking for statements of account on what happened that day.

The Committee also used this period to advise M.O.V.E. that the Committee's mandate was not related to and could not impact any current or pending charges brought by the Bermuda Police Service. As such, while the Committee understood the urgency of the organization's request to meet, it was not positioned to provide the organization with information or advice which would impact the deadline for appeal, which was a legal matter.

In early February 2018, former Premier Michael Dunkley JP MP, who had been asked to submit a statement of account to the Committee but did not do so, pointed out a procedural error: although ratified by the Lower House, inadvertently the Committee had not been properly ratified by both Houses in accordance with the Parliament Act 1957. While Mr. Dunkley's observation was correct, a sitting Member of Parliament would customarily and as a matter of protocol raise his or her concerns directly with the Speaker and await a response, rather than raising the matter in the media before the response was given⁶. The net effect was that the Committee immediately stopped the work it had done to date until it could be properly constituted.

Speaker Lister acknowledged the anomaly and ensured that the Motion to establish the Committee was sent to the Senate which ratified it later in February 2018. The incident was helpful in that members collectively agreed that the Committee's work would not be played out in public and that all Committee press releases would be channeled via the Chairman.

Once properly ratified, the Committee determined that all work undertaken between December 2017 and February 2018 was null and void; as such, the Committee began afresh with its new end date set for August 2018. All persons previously appointed to the Committee agreed to continue serving, although objections to the participation of Mr. H. K. E. Swan and The Hon. M. J. Scott were raised by lawyer A. Dunch who represented, inter alia, Mr. Dunkley and at least one other potential witness. All persons and organizations previously contacted by the Committee⁷ were advised of the adjusted start date and invited to resubmit any materials which they might have provided already. Members again elected Mr. H. K. E. Swan to serve as Chairman.

Seven persons were appointed to the Committee in December 2017 and the same seven appointed again in February 2018. In accordance with section 38 (4) of the Official Standing Orders of the Bermuda House of Assembly, a minimum of 4 members had to be present at each meeting in order to form a quorum. The Committee also determined that in order to expedite its work, on occasion a sub-committee of less than 4 members could review information and make recommendations for the larger committee to consider.

⁶ Royal Gazette 7th February 2018

⁷ Including Government House, The Police Complaints Authority, Trott and Duncan, M.O.V.E., Mr. C. Looby, Mr. J. Baron, Mr. M. Dunkley JP MP, Commissioner M. De Silva and The Hon. K. H. R. Horton JP.

On 6th March 2018, lawyer Alan Dunch wrote to the Speaker on behalf of Mr. Dunkley and others for whom he (Mr. Dunch) acted, with objections to the participation on the Committee of Mr. H.K.E. Swan JP MP and The Hon. M. J. Scott JP MP. Mr. Dunch suggested that Messrs. Swan and Scott, both of whom had spoken passionately to the Motion in the House of Assembly- as did others- should either voluntarily decline to serve as members, or that the Speaker should rescind their appointments and replace them on the grounds of apparent bias and consequent procedural unfairness. The letter noted that Mr. Dunkley was not prepared at that time to participate in any way in the proceedings of the PJSC and that he reserved all rights that might arise once the Speaker had responded to the concerns raised.

On 15th June 2018 the Speaker announced in the House of Assembly ("HOA") that Mr. S. Simmons JP MP would replace The Hon. M. J. Scott JP MP, who represented at least one client involved in court-proceedings related to the incident on 2nd December 2016. In April 2018, former Opposition Senator Andrew Simons was removed from the Senate, leaving a void in the Committee's membership until a replacement was named. In July 2018, Ms. Robyn Swan was named as a new Opposition Senator and later as a Committee member. However, her tenure was short-lived. Her removal once again left a membership void which was not filled until November 2018 when Mr. Marcus Jones was named as a new Opposition Senator and member of the Committee.

Challenges with membership notwithstanding, the Committee met⁸ regularly to discuss and analyze the information gathered, relying on several sources to gather information for its examination:

- (1) The National Police Coordination Centre (" the NPoCC Report") commissioned by the Governor and authored by Assistant Chief Constable Chris Shead of the United Kingdom;
- (2) the Decision (in respect of the 26 complaints made by members of the public on the use of captor spray at the House of Assembly on 2 December 2016), rendered by the Police Complaints Authority on 10th August 2017;
- (3) statements of account requested by the Committee and given voluntarily by The Hon. K. H. R. Horton JP, Mr. E.T. Richards and Dr. E. G. Gibbons;
- (4) interviews with and/or statements of account provided by Mr. M.H. Dunkley JP MP, Mr. J. Baron and Mr. P. Wright after summons⁹;
- (5) a statement of account, police policy documents and other documents, together with police camera video footage provided by former Commissioner M. De Silva, which were received after a request from the Committee to Government House;
- (6) responses from Superintendent J. Howard ¹⁰of the Bermuda Police Service through the current Commissioner of Police; and
- (7) media reports on the incident.

A list of the correspondence issued and received by the Committee over the course of its review can be found in Annex 5.

The Committee held regular meetings at which members compared and contrasted information from the reports, formulated questions based on the information gathered, identified gaps in understanding and

⁸ A list of meeting dates can be found in Annex 4.

⁹ Part IV of the Parliament Act 1957 affords the Committee power to issue a summons.

¹⁰ The first summons to Superintendent Howard was issued in November 2018; the second was issued in December 2018.

where appropriate, sought out key stakeholders who could possibly shed light on those gaps. As a result of this approach, the Committee recorded a number of matters which are highlighted and discussed in the Findings Section of this document.

After inter-Committee discussions surrounding the sensitive nature of some of the material which might be collected, and at the recommendation of former Senator Andrew Simons, the Committee established an electronic account with box.com which allowed for the safe and secure storage of materials.

As it had done prior to its ratification, in March 2018 the Committee placed two advertisements in the Royal Gazette, outlining its membership, the Authority under which it operated and its Terms of Reference. More importantly perhaps was the invitation for any member of the public to make a submission to the Committee. Regrettably, the advertisements again attracted no responses.

While it is clear that memories may fade after 2 years, the Committee was still shocked at how little focus had been placed by key stakeholders (or for that matter, the public) on the contents of the NPoCC Report. Perhaps this lack of focus occurred because those key stakeholders were not interviewed by Chief Constable Shead, or perhaps it was because they viewed the NPoCC report as focused solely on Police operations.

That may explain why some of the key stakeholders ignored initial requests from the Committee for statements of account. In fact, the Committee found its initial approaches to certain key stakeholders met with indifference or stony silence. Because of the view that the information held by these individuals was critical to understanding the events of 2nd December 2016, the Committee chose to exercise its authority to issue a summons to each of those persons. Even then, perhaps because of the length of time which had passed, some of these stakeholders stated that they no longer had access to files or that they did not recall certain critical events. Ironically, these same persons, once pressed, were able to recall in great detail other events of the day.

While being fully cognizant that some matters of national security cannot be publicly discussed, the Committee found that information provided by former Police Commissioner M. De Silva (after intervention through Government House) and Deputy Commissioner P. Wright (after a summons was issued) was useful in creating some understanding of general police operations. However, achieving a deeper and richer understanding of the details of police decisions on 2nd December 2016 was stymied when the lawyer for the new Commissioner, whom one might assume was not on the Island on 2nd December 2016, wrote that all communication to officers involved should be through the Commissioner (or the lawyer), as the Commissioner alone spoke for the Bermuda Police Service¹¹.

The Committee considered engaging a lawyer. It wrote to a small number of lawyers, received quotes but was later advised that some lawyers approached were conflicted. In the end, the Committee continued to refer all legal matters to the Speaker for consideration and opinion.

The Committee recognized that as its 6-month deadline of August 2018 approached, it was just beginning to uncover more meaningful information. Thus, before the HOA recessed in June 2018 the Committee decided to "Rise and Report Progress" to Speaker Lister, and to seek an extension of time from the Parliament. This was agreed to and a six-month extension was granted.

¹¹ MJM Letter dated 26th September 2018.

The Committee found the latter part of 2018 to be a far more active period than the first part of the year. It was during the months between September and December when it finally secured the cooperation of persons invited to appear before it. As a result of the testimony of witnesses sworn under oath, the Committee was able to further identify other persons of interest involved in the events on 2nd December 2016.

In January 2019, in order to expedite its work, the Committee agreed to the formation of a periodic sub-committee to review drafts of its proposed final report. After meeting and examining particular sections of the document, the sub-committee reported to the larger Committee which would then determine whether sub-committee suggestions would be accepted or not.

In March 2019, a further extension was granted by the Speaker and the Committee has done its best to meet the amended timeline.

B. THE CONTEXT

Before going any further, it is important to establish the context for the events on 2nd December 2016. As part of the preparation for this report, the Committee briefly considered leadership as well as the social and political climate which had been created in 2016. The year was an interesting one for Bermuda for a number of reasons.

Although a British Overseas Territory, Bermuda is a self-governing jurisdiction with a duly elected House of Assembly. The Bermuda Government operates under the Bermuda Constitution Order 1968. There exist three separate governance arms:

- The Legislature, which comprises the Senate and the House of Assembly, is responsible for making laws for the peace, order and good governance of Bermuda;
- The Executive, the authority of which is invested in Her Majesty, and which comprises the Governor and the Cabinet. The Governor has special responsibility for external affairs, defence including armed forces, internal security and the police.
- the Judiciary, which comprises the Court of Appeal, the Supreme Court and the Magistrates Court and which ensures that the law of the land is applied evenly and fairly.

As part of this review, the Committee has had to make representation to members of the Legislature, members of the Bermuda Police Service and civil servants - all of whom have responsibilities and duties outlined in the Bermuda Constitution Order 1968.

The Commander-in-Chief of Bermuda is the Governor, appointed under the Foreign and Commonwealth Office in the United Kingdom. Under relevant sections of the Constitution, the Governor's responsibilities are provided for as follow:

Governor's special responsibilities

62 (1) *The Governor, acting in his discretion, shall be responsible for the conduct (subject to the provisions of this Constitution and of any other law) of any business of the Government, including the administration of any department of government, with respect to the following matters-*

- (a) external affairs;*
- (b) defence, including armed forces;*
- (c) internal security;*
- (d) the police.*

(2) *The Governor, acting in his discretion, may by directions in writing delegate, with the prior approval of the Secretary of State, to the Premier or any other Minister designated by him after consultation with the Premier such responsibility for any of the matters specified in subsection (1) of this section as the Governor may think fit upon such conditions as he may impose.*

Appointment, etc., of Commissioner and Deputy Commissioner of Police

87. *Power to make appointments to the offices of Commissioner of Police and Deputy Commissioner of Police and to remove or exercise disciplinary control over persons holding*

or acting in those offices is vested in the Governor acting after consultation with the Public Service Commission.

In 2016, Bermuda had three Governors within a 9-month period:

- Mr. George Fergusson (commenced tenure 23rd May 2012; finished 2nd August 2016)
- Mrs. Ginny Ferson¹² (commenced tenure 2nd August 2016; finished 5th December 2016); and
- Mr. John Rankin (commenced tenure 5th December 2016; remains in place)

Acting Governor Ms. Ginny Ferson was the Commander-in-Chief of Bermuda on 2nd December 2016.

The timing of the transition of power at Government House came at the most inopportune time. The turnover of appointments to the role of Governor coincided with an acutely challenged Government and a country in crisis.

Although in the fourth year of its tenure, the One Bermuda Alliance (OBA) Government held only a razor-thin majority in the House of Assembly, with the then Speaker of the House, The Hon. K.H.R. Horton JP MP, actually an elected member of the Opposition Progressive Labour Party. In addition, the Government was at serious odds with the people, with Bermuda witnessing an unprecedented number of protests. In fact, the protest on 2nd December 2016 was not the first held at the House of Assembly in Bermuda that year.

In March 2016, the One Bermuda Alliance Government was hastily moving forward with introducing reforms to immigration legislation- which generated great disquiet amongst members of the public. Why was immigration such a thorny socio-economic issue in Bermuda? One must first understand that even in the twenty-first century, Bermuda continues to suffer from a myriad of racial problems- a fact substantiated in reports by social scientists and Royal Commissions ¹³which have demonstrated that immigration has been used to manipulate the electoral composition of the country. It is an established fact that Black and Portuguese Bermudians in Bermuda have been adversely impacted by these past immigration policies.

Political researcher and Parliamentarian Walton Brown Jr JP MP, in his book *Bermuda and the Struggle for Reform: Race, Politics and Ideology 1944-1998*¹⁴, provides at least one historical example of why there was such long-standing angst regarding immigration policy. Mr. Brown details a racially structured immigration policy promoted by the now defunct United Bermuda Party intended to ensure that all British subjects living on the Island for at least 3 years were given the vote-- made possible by a section included in the 1963 franchise legislation. Thereafter, the Government of the day encouraged immigration to the Island by British citizens in particular. Census data from between 1950 and 1970 show that there was a significant increase in persons born outside of but living in Bermuda. Since more than half of these individuals came from the British Commonwealth, after three years residency in Bermuda, they were entitled to vote. It is worth noting that while 15% of these persons were black, 83% were white.

¹² Mrs. Ferson, the Deputy Governor, was Acting Governor in the interim after Mr. Fergusson left and before Mr. Rankin was sworn in.

¹³ For example, The Wooding Report 1969, The Newman Report 1974 et alia

¹⁴ p. 68

At the same time, Government leaders publicly planted the seed in the minds of Bermudians that the Island's birth rate was too high and that the Island was becoming over-crowded. In fact, locals were told that if Bermuda had more people than it could educate and train, there might be a strong possibility that in the future, the Government would have to search for other countries willing to take Bermudians.

Although this is but one example, it serves to underscore the fact that historically many Bermudians felt themselves to be at a disadvantage because of immigration policies. Thus, they were willing to converge en masse on the HOA in March 2016. Even though former Chief Justice, Dr. Ian Kawaley stated at the time¹⁵ that it was "strongly arguable" that the withdrawal of labour in circumstances where it has no connection to a labour dispute was a breach of section 34 of the Labour Relations Act 1975, protestors downed their tools and physically came out in numbers in support of the protests at the House of Assembly. In fact, hundreds of persons locking arms in order to surround the building and engage in what was considered by most as a peaceful protest resulted in the unheard-of outcome of preventing the immigration legislation from being debated.

A peaceful protest is universally accepted as the act of citizens expressing disapproval through a statement or action without the use of violence. This type of protest has been used in countries all over the world to advocate for, inter alia, human rights issues, anti-war campaigns, and for expressing disapproval of various political/governmental policy issues.

An aligned concept is that of civil disobedience, which is a conscious decision on the part of protestors to refuse to obey governmental demands or commands, especially as a nonviolent and usually collective means of forcing concessions from the government. When people engage in acts of civil disobedience, one might expect arrests to ensue.

Thus, the protestors in March 2016 could have been arrested, but they were not. Instead, former Premier Sir John Swan brokered a settlement between the Government and representatives of the People's Campaign. At the time, the Bermuda Police Service (BPS) earned plaudits from then Governor George Fergusson for its management of the situation. As the former Governor pointed out in his comments on 20th March 2016,

"But I am clear, the police have a duty to maintain public peace as well as to enforce the law. These can be two different things, though it is not good if they diverge too far or for too long. The law should not be broken. However, it is not always sensible for the police to apply zero tolerance at the time, especially when emotions are running high. There was a risk of violence last week, despite the good efforts of the protest leaders to prevent this, and violence would have had serious consequences for the whole community. Although the police will no doubt be learning lessons too, in my view the police got this right¹⁶."

The Governor's comments notwithstanding, the actions of the Police in March 2016 were roundly condemned by some, including former Attorney General Trevor Moniz JP MP who accused the police of, inter alia, being "missing in action.....standing back and twiddling their thumbs and doing nothing".¹⁷

¹⁵ The Royal Gazette 16th March 2016

¹⁶ Bernews 20th March 2016

¹⁷ House of Assembly Hansard: Motion to Adjourn 21st March 2016

Just as the Government's immigration policy had proven unpopular in March 2016, the Government's airport redevelopment initiative was proving to be equally unpopular in the lead up to December 2016. Objections were voiced, not to the building of a new airport to replace the existing L.F. Wade International Airport, but rather to the terms agreed to by the then Government since the initiative offered outsourcing of the Bermuda airport to a Canadian Corporation for a period in excess of 30 years. (Ironically, a similar deal by the same company was rejected in the Cayman Islands which, like Bermuda, is a British Overseas Territory.) Although the terms of the airport contract had not all been released at the time, the public was aware that arrangements for the deal had not followed expected tendering and procurement processes.

After receiving responses to a series of Freedom of Information requests to the Canadian Government, the People's Campaign published a special report entitled 'A Bad Deal for Bermuda' criticizing the redevelopment plan and claiming that the country would face unlimited debt as a result of the arrangements made. Perhaps not surprisingly, the process as carried out locally drew much negative attention and criticism. On the evening prior to the anticipated debate, the People's Campaign hosted a public meeting about the airport redevelopment.

Added to this was the fact that most of the public were aware that the OBA Government was investigating reports that certain contracts awarded under the previous PLP Government were not properly tendered. The irony of this, vis a vis the airport project, was not lost on the public.

Early in the morning on Friday, 2nd December 2016, a small group of members of the public assembled at the gates of the House of Assembly in order to protest. At 10:00 a.m., the Bermuda Police Service warned protestors via Dispersal Order that blocking the gates was an offence¹⁸, but took no other direct action against them.

The period between 10:00 a.m. and 1:00 p.m. was a most critical one in the events of the day, as it was during this period that decisions were made that altered the whole trajectory of the day. Members of Parliament intending to engage in debate on the legislation were blocked from accessing the House. Former Speaker Horton had already determined that if Parliamentarians were not in their seats by 10:00 a.m., the session would be cancelled¹⁹. Because there was no quorum by 10:15 a.m., the Speaker cancelled the session, although that decision was later amended. His position was communicated to the former Acting Governor, the former Premier, the then Leader of the Opposition and the former Commissioner of Police.

However, as the morning progressed, uncertainty still prevailed amongst Parliamentarians and the public regarding whether the House would sit, and it appeared that some behind-the-scenes maneuvering took place. During this period, two additional significant events occurred: (1) the numbers of protestors increased, and (2) a decision was made for the House to convene at 1:00 p.m.

The increased numbers of protestors blocking access to the House through its gates now presented a major challenge. In contrast to the way the Bermuda Police Service dealt with protestors in March 2016, Officers now marched in formation towards the crowd. Protestors who had been warned to disperse now found themselves sandwiched between the HOA walls and the on-coming Officers. In the confusion which followed, an order was given and incapacitant spray was used on protestors, sending some to seek

¹⁸ The Parliament Act 1957, sec. 12.

¹⁹ Mr. K. H. R. Horton Statement 23rd April 2018, paragraph 7.

medical treatment. Members of the Bermuda Police Service were also injured as a result of their actions which seemed to have provoked the crowd.

Governor John Rankin, who had been sworn in just days after the event, ordered an independent review of the actions taken by the police on 2nd December 2016. Assistant Chief Constable Chris Shead of the UK National Police Coordination Centre conducted the review, published as the National Police Coordination Centre ("NPoCC") Report.

Twenty-six protestors filed complaints with the Police Complaints Authority, which in August 2017 returned a Decision unanimously concluding that no misconduct could be attributed to the Officers and thus the complaints could not be upheld²⁰. (However, one of the main findings of the Police Complaints Authority is disputed by this Committee).

In December 2017, the House of Assembly passed a Motion establishing the Parliamentary Joint Select Committee to examine the incident at the House of Assembly on 2nd December 2016. Thereafter the Speaker of the House of Assembly, The Hon. Dennis Lister JP MP, appointed a Parliamentary Joint Select Committee to investigate the matter, giving the Committee a timeline of between three and six months to present its final report.

²⁰ In February 2019, it was reported that a settlement had been reached between the Ministry of National Security and those filing complaints against the Bermuda Police Service.

C. FINDINGS

Former President Barack Obama once said, *“If you're walking down the right path and you're willing to keep walking, eventually you'll make progress.”*

The former President was right.

The task facing the Committee at first seemed laborious, especially in light of the marked disinterest of the persons it initially tried to contact. Nonetheless, armed with its Terms of Reference, the Committee patiently went about its work, as members pored over the two primary reports written about the day's events. This close examination and the subsequent discussions proved fruitful in that they raised a number of questions which, it seemed, had not been previously articulated. The Committee identified those persons best placed to answer the questions and then set about inviting them to respond. In some cases, there was no initial response. In other cases, the initial contact led to immediate responses. In other cases, initial contact led to responses from a lawyer. However, the more the Committee probed, the more it felt that progress was being made.

The Committee identified specific periods of time relevant to the decision-making on or just before 2nd December 2016. For ease of reference, the findings are listed according to those time periods and are as follows:

- Prior to 8:00 a.m. on 2nd December 2016 (including any time on or before 1st December 2016);
- 2nd December 2016 before 10:00 a.m.;
- 2nd December 2016 between 10:00 a.m. and 1:00 p.m.; and
- 2nd December 2016 after 1:00 p.m.

The Committee also made other discoveries not directly linked to the timeframe above and has included those items in the final section of the Findings.

SECTION 1: PRIOR TO 8:00 A.M. on 2nd DECEMBER 2016 (INCLUDING ANY TIME ON OR BEFORE 1ST DECEMBER 2016)

NB: Please note that in the main, the Committee depended on witnesses for the accuracy of the times at which specific events occurred; therefore, there may be some overlap in the recounting, depending on the witness who provided the testimony.

SUMMARY

The Bermuda Police Service (BPS) had experienced a steep learning curve in March 2016 during the multi-day protest against the Government's proposed immigration policy. Although then Governor George Ferguson was extremely complimentary of the Police handling of the protest in March 2016, it was noteworthy that within the ranks of the then One Bermuda Alliance Government, there was both criticism of and openly expressed opposition to the way the BPS handled the March 2016 protests.

Because an Operation Order was developed, it is a matter of record that the BPS was aware that the M.O.V.E. organization planned public protests about the controversial Airport Redevelopment Concession Bill 2016 at the House of Assembly on Monday, 21st November 2016.²¹ However, the actual debate was due to take place on 23rd November 2016.

In fact, there were a few false starts before the date of the debate was finally settled. The date was moved from 23rd November to 25th November to 30th November until finally, it was determined that the debate would take place on 2nd December 2016.

Because protests were anticipated, the BPS crafted a plan for managing the situation. According to the statement received from former Commissioner M. De Silva²², sometime around 21st November 2016, he appointed Superintendent J. Howard, who was Acting Assistant Commissioner at the time, as Gold Commander. For those who may be unfamiliar, police organizations will on occasion establish a specific command structure to deal with certain issues, e. g. those involving public order. There is a single Gold Commander who sets the strategic plan for management; he or she establishes strategic intentions and the outcomes to be achieved and places them in one of three categories: preferred, acceptable and unacceptable. The Silver Commander is responsible for establishing tactical plans to achieve the desired outcomes; the Gold Commander signs off on these plans. Bronze Commanders, and there may be more than one, set operations. According to the former Commissioner, Bronze Commanders are responsible for the management of the groups of resources and the executions of actions to carry out the tactical plan. By way of specific example, Bronze Commanders may be responsible for areas such as intelligence gathering.

Mr. J. Baron reported in his testimony²³ that sometime during the week of 21st November -25th November 2016, he met with the former Commissioner, the former Deputy Commissioner and the former Minister of Finance in the Commissioner's office regarding the upcoming debate. He was made aware that an Operational Order had been developed to deal with the protests but he was not aware of its contents. He

²¹ NPoCC Report, paragraph 2.1

²² Mr. M. De Silva Statement 12th June 2016

²³ Mr. J. Baron Interview 12th September 2018.

reported that although he was aware of the command structure, but was not aware of the identity of the Gold or any other Commander.

To reiterate, the initial debate was due to have occurred on 23rd November 2016. However, the first documented operation plan, outlining the potential for protests about the anticipated debate, was developed for 25th November 2016. According to Mr. Shead, the Operational Order for this event appears to have been commenced on 30th November and then was updated on 2nd December once the events of the day started to become problematic.

A public meeting organized by the People's Campaign took place on the evening of 1st December 2016 and although the BPS was aware of the highly emotive nature of the meeting, no change in the operational plan was made in response to newly acquired intelligence.

Also on the evening of 1st December 2016, the former Leader of the Opposition made an appeal for members of the public to attend the grounds of the House of Assembly on the next day in order to show their objections to the airport matter.

Per the testimony of former Parliamentarians Messrs. E.T Richards and Mr. J. Baron, together with testimony of current Parliamentarian Mr. M. H. Dunkley who was Premier at the time, a meeting took place between the Gold Commander and the then Ministers of Finance and National Security sometime prior to 2nd December 2016²⁴. The Committee understood the date of the meeting to be 1st December 2016, based on testimony from Mr. Dunkley²⁵. According to Mr. E.T. Richards, arrangements were also made at a meeting with then Inspector Glasford of the BPS Special Branch for him to be escorted from his office to the HOA at 8:00 a.m. on 2nd December 2016²⁶.

Mr. E.T. Richards arrived at his office in the Government Administration Building (GAB) just after 7:30 a.m. to await his escort. From his office window, he saw his fellow Parliamentarian Mr. S. Richards inside the HOA grounds. Somewhere between 7:45 a.m. and 7:55 a.m. he also viewed an orderly queue of about 8 to 10 men filing down Parliament Street from the Church Street corner to the HOA gate. The anticipated police escort still had not arrived.

Former Speaker the Hon. K. H. R. Horton also arrived early, entering the HOA at 7:45 a.m. By 8:00 a.m., Mr. Horton, Mr. Sylvan Richards, two HOA custodians and the HOA Sergeant-at-Arms were present inside the building.

The Committee's review of the period prior to 2nd December 2016 not only showed that some level of inaction on the part of the BPS set the stage for what followed, but the Committee also uncovered discrepancies in the testimonies of key stakeholders. The Committee deems these discrepancies as grave enough to give cause to declare that the truth remains unanswered to this day. There remains much that can be gleaned about this period.

²⁴ The confirmation by three former Cabinet Ministers that a meeting took place is in direct contrast to the response from the BPS which denied outright that such a meeting took place, thereby calling the accounts of the former Parliamentarians into question.

²⁵ Mr. M. Dunkley JP MP Interview 4th December 2018.

²⁶ Mr. E. T. Richards Letter 19th September 2018 and Correspondence 14th November 2018.

Key People: Prior to 8:00 a.m. on 2nd December 2016 (including any time on or before 1st December 2016)

- Former Speaker the Hon. K.H.R. Horton JP MP
- Former Minister of National Security J. Baron JP MP
- Former Premier M. Dunkley JP MP
- Former Attorney General T. Moniz JP MP
- Former Minister of Finance E.T. Richards JP MP
- Former Minister of the Environment S. Richards JP MP
- Former Commissioner M. De Silva
- BPS Gold Commander Superintendent J. Howard
- BPS Inspector A. Glasford

FINDING 1.1: Identifying the Chain Of Command

Both former Commissioner De Silva and Assistant Chief Constable Shead (in the NPoCC Report) give an account of the normal command structure used by police organizations for certain public events- such as the protests on 2nd December 2016. It would be expected that there be a single Gold Commander, at least one Silver Commander and one or more Bronze Commanders.

However, in section 3.9 of the NPoCC Report, Mr. Shead made the following statement:

*“The role of **Platinum**[emphasis added] was referenced numerous times during the review. During the event, there was liaison between the Commissioner and other senior stakeholders and where appropriate, the Commissioner passed on the intentions of the Speaker of the HOA regarding session commencement times to the Gold and Silver commander to enable them to plan accordingly. The Platinum role however is not one that is recognized in public order command with the most strategic recognized role being that of Gold. However, it is reasonable to assume that where the Gold Commander is not the Commissioner or Chief Constable of a police force, that person may wish to provide advice and support to the Gold Commander before or during the event. Care does however need to be taken to ensure that role responsibility within the command structure is not confused. Platinum does not become the de facto Gold Commander should he or she provide advice and support and the Gold and Silver Commander need to remain cognizant that [they] have the most senior command roles for the operation and should not perceive any support provided as being an instruction. For this event the Gold Commander amended his strategy to just three strategic intentions from the original seven based on his perception and it highlights that amongst the existing command structure, there was clear misunderstanding of roles and responsibilities, reinforcing the need for appropriate training.”*

Noting that this was the only reference to Platinum and after being informed by a number of witnesses that they were unfamiliar with the term, much less knowing to whom it referred, the Committee heard evidence from former Deputy Commissioner P. Wright who explained during his interview with the Committee²⁷ that during joint exercises between the BPS and other organizations such as the Emergency Measures Organization, the term Platinum Command was used. As far as he knew, the term was coined to refer to a group of people who were not Gold Command, and who did not instruct the Gold

²⁷ Mr. P. Wright Interview 7th November 2018.

Commander, but who needed to be kept informed of significant local events because they might be called upon to comment on them, especially if there was a matter of international importance. He also noted that while there was nothing written in any manual about Platinum Command, on occasion Government House might call meetings of certain heads and refer to those meetings as Platinum meetings.

By way of letter dated 26th September 2018, Government House indicated that the Acting Governor at the time, Mrs. G. Ferson, confirmed that she had no interactions with the Gold Commander on 2nd December 2016. Thus, several questions remain unanswered:

- Who was/were the person(s) considered as Platinum Command?
- Why was it that no-one other than the former Deputy Commissioner was willing to expound on the role?
- Was pressure or influence from the Platinum role the reason the Gold Commander amended his seven strategic intentions to three?
- Did this person or group influence the former Speaker to hold the session at 1:00 p.m.?

FINDING 1.2: Meeting between Gold Commander and Politicians

Two members of the then Cabinet (Finance Minister Mr. E.T. Richards and National Security Minister Mr. J. Baron) stated that they met with the Gold Commander of the Bermuda Police Service prior to 2nd December 2016. Former Premier M. Dunkley JP MP confirmed that he was aware that a meeting between the two former Ministers and the Gold Commander had taken place.

The testimony of the three former Cabinet Ministers indicated that a meeting took place; however, this is in direct contrast to a response from the Bermuda Police Service through the new Commissioner of Police (Mr. Corbishley) who, in answering questions directed by the Committee to the Gold Commander, advised by letter dated 14th January 2019 that no such meeting occurred.

Unfortunately, the Gold Commander has not appeared before the Committee to clarify this matter, even though he has been issued two summonses²⁸. From the standpoint of the Committee, he is in breach of the summons (invoking immunity), and has a case to answer with regards to this breach.

Testimony from Mr. Dunkley identified [now Chief] Inspector A. Glasford of the Bermuda Police Service Special Branch as being present at the temporary Cabinet Office on the morning in question. Further, Mr. E.T. Richards stated that he had received instructions via the Inspector who was to arrange for an escort for Mr. Richards to the House on the morning of 2nd December 2016. That notwithstanding, Commissioner Corbishley indicated that Inspector Glasford was not involved in events on 2nd December 2016.

It is noteworthy that Mr. Corbishley was not the Commissioner of Police on 2nd December 2016, having assumed the position following the June 2018 retirement of Commissioner Michael De Silva.

²⁸ 19th November 2018 and 12th December 2018.

FINDING 1.3: Existing Security Concerns about the House of Assembly

In response to a 2015 request from Former Speaker The Hon. K. H. R. Horton, a security review of the House of Assembly and its grounds was carried out by a BPS Special Branch Officer. The letter of review was addressed to Detective Inspector Glasford, Officer-in charge of the Special Branch. In the aftermath of the March protests, the review was updated in April 2016.

The Committee noted that many of the recommendations for enhanced security have been addressed, and noted that some which have not yet been carried out, such as the installation of additional fencing and CCTV coverage of the external grounds, might have been useful to have had in place in December 2016.

SECTION 2: 2nd DECEMBER 2016 BETWEEN 8:00 A.M. and 10:00 A.M.

SUMMARY:

According to reports and testimony, at around 8:00 a.m. small groups of people had begun to gather both at the Parliament Street entrance to the HOA as well as at the three ancillary gates (the corner of Parliament and Church Streets, the corner of Church and Court Streets and at Reid Street, opposite the Cabinet Office proper²⁹). The former Premier, who had parked his vehicle at the Cabinet Office grounds that morning, made his way to the temporary Cabinet Office on Reid Street. He reported that he did not see any significant numbers of people as he made his way past the HOA grounds.

Since his escort had not arrived at 8:00 a.m. as arranged, Mr. E.T. Richards decided at about 8:15 a.m. to enter the HOA grounds alone; however, he was unable to access the grounds either because of being turned away by a police officer in uniform and/or by protestors³⁰. He called the former Premier to advise him of this.

BPS Officers on site at the HOA³¹ informed the protestors that they could not block access to the HOA but the Officers were ignored.

Former Commissioner De Silva and Superintendent Howard were travelling into Hamilton together³². Shortly after 8:15 a.m. both started receiving telephone calls to report that crowds had gathered at the HOA. The former Premier called the Commissioner at 8:29 a.m. to advise that one of his colleagues (Mr. E.T Richards) had been physically prevented from entering the HOA grounds. The former Minister of National Security, Mr. Baron, made a similar call at 8:32 a.m. In both cases, the Commissioner advised that Officers were at the HOA and attempting to deal with the issue.

At 8:30 a.m. BPS Inspector C. Clark called the Speaker to ask if Parliamentarians could meet in another location.

Reports to the Commissioner, who by now was in his office, continued to come in. An undefined number of Government Ministers and members had assembled in the GAB Office of Mr. E. T. Richards, not for a meeting, but rather waiting for instructions from the BPS as to when they could enter the HOA. Mr. Baron was called to Mr. E. T. Richards' office where he was advised that Mr. Richards was prevented from entering the HOA by members of the public and by a uniformed police officer.

At approximately 9:00 a.m., the Commissioner was informed that the Gold Commander's Team had contacted the Speaker to discuss contingency options for the HOA to continue including it seems, the tactics to achieve the goal of facilitating access to the HOA. The tactics were to include arresting persons who were committing the arrestable offence of blocking access to the HOA. The contingencies included changing the dates and/or times and/or venues for convening. While the Speaker was reportedly open to changing the date and/or time, he considered that the venue must remain as was. It was at this point that

²⁹ On 2nd December 2016, the Cabinet Office Building was undergoing renovations; staff operated out of Innovations House, 46 Reid Street, Hamilton, which is located between Parliament and Burnaby Streets.

³⁰ Mr. J. Baron Statement 12th September 2018.

³¹ It is unclear whether these Officers are from the prior evening's night watch or whether they were deployed to the HOA in the morning.

³² Mr. M. De Silva Statement 12th June 2018, paragraph 21.

the Commissioner was informed that the Speaker would cancel the session if Parliamentarians were not in the Chamber by 10:00 a.m.

Just before 10:00 a.m. the Commissioner was advised that the Speaker had called the Gold Commander to say that he was cancelling the session³³. The Commissioner contacted the Speaker directly. The Speaker confirmed that the session would be cancelled. As a result, the BPS suspended the planned enforcement tactic while commanders regrouped to assess the new information.

During this period, as might be expected, a number of other events took place. The former Minister of National Security reported that he tried more than once to contact the Speaker to ascertain what was going on. At about 9:15 a.m. the former Minister of National Security was also called by a senior civil servant and asked to speak at a funeral on behalf of the Premier. Thus, for a period of time, he was removed from most of the core actions and activities which occurred after this time period.

Key People: 2nd December 2016 Before 10:00 a.m.

- Former Speaker Mr. K. H. R. Horton JP MP
- Former Minister of National Security Mr. J. Baron JP MP
- Former Minister of Finance Mr. E. T. Richards JP MP
- Former Commissioner M. De Silva
- BPS Gold Commander Superintendent J. Howard
- BPS Inspector C. Clark

FINDING 2.1: Police Stood Down

Officers from the Bermuda Police Service were on duty at the HOA. They were prepared to execute the planned enforcement tactic but just before they would have done so, the Gold Commander's Team was informed that the HOA sitting was cancelled- a fact confirmed by the former Commissioner. The extent to which this stand down was communicated to Officers down the line of command and to others is unclear.

³³ Mr. M. De Silva Statement 12th June 2018, paragraph 25.

SECTION 3: 2ND DECEMBER 2016 BETWEEN 10:00 A.M. AND 1:00 P.M.

SUMMARY:

As might be expected, this time period is punctuated by a large number of telephone calls between key stakeholders to ascertain the status of events.

According to testimony provided by former Speaker The Hon. K.H. R. Horton, just prior to 10:00 a.m. he realized that only 2 of the 5 persons present in the HOA were Parliamentarians (Mr. Horton and Mr. S. Richards), and was minded to postpone the session until 9th December 2016.

As indicated earlier, in his statement former Commissioner M. De Silva reported that with just minutes to spare, he was informed that the Speaker had contacted the Gold Commander's Team to say that the session was cancelled. At 10:11 a.m., Acting Governor Mrs. G. Ferson called the former Commissioner to enquire about the status of events at the HOA grounds. The Commissioner was able to advise that as a result of the decision of the Speaker to cancel the session, the BPS had actually suspended its enforcement plan to arrest offenders blocking the HOA gates. The Acting Governor indicated that she would be in contact with the Speaker; throughout the rest of the morning, she periodically requested updates from the Commissioner.

At 10:15 a.m. former Premier Dunkley called the former Commissioner to enquire about the status of events. According to the Commissioner, the former Premier indicated that he would contact the Speaker to see if he would change the decision³⁴. At 10:30 a.m., former Minister Baron called the Commissioner with a query on the status and received a similar reply.

The former Speaker gave testimony³⁵ to confirm that around this same time, he spoke by telephone with the Premier and the Attorney General, expressing his view that he would like to adjourn the HOA. According to Mr. Horton, the Premier and the Attorney General were interested in sitting and getting on with business. In hind-sight, the Committee found this to be a bit curious since according to the former Premier when interviewed, there were no critically important or time-sensitive deadlines to be met that would have necessitated that the HOA debate the amendments on that day. Nevertheless, the former Speaker stated that he ended his conversation with the Premier and the Attorney General still with the mindset that he would adjourn proceedings.

After speaking with the Premier, the Attorney General and the Commissioner, the Speaker had a lengthy discussion with the Acting Governor. According to Mr. Horton, they discussed the possible adjournment of the HOA, juxtaposed against the importance of carrying on the business of the country. They had some further discussion around the Parliament Act 1957 and the Standing Orders of the HOA. The Acting Governor relayed the assurances she had been given by the Commissioner about the Speaker's safety and that of his staff. Correspondence³⁶ received by the Committee stated that the Acting Governor was always clear that it was for the Speaker to decide whether or not to proceed with a sitting of the HOA.

³⁴ Mr. M. De Silva Statement 12th June 2018, paragraph 27.

³⁵ Mr. K. H. R. Horton Statement 23rd April 2018, paragraph 7; Mr. K. H. R. Horton Interview 28th September 2018.

³⁶ Government House Letter 4th April 2018.

Just around 11:00 a.m., the former Minister of Finance and others left his Ministry office in the Government Administration Building on Parliament Street and headed to the Premier's office at the temporary Cabinet Office on Reid Street. A Committee query about the identity of those persons who assembled at the office of the former Premier during the morning in question revealed that several Parliamentarians were there for extended periods as they awaited word on the status of the opening of the HOA. Amongst those that met separately or in a small group with the Premier were the Attorney General and the Minister of Finance. During the morning, the Premier also had separate meetings with the Minister of National Security, Minister Fahy and Minister Gibbons. The Parliamentarians maintained a healthy separation between themselves and technical officers. No technical officers were engaged in meetings, nor did they provide advice with respect to the handling of the matters of the day.

The former Premier called the Commissioner again at 11:06 a.m. to say that he was in discussions with the Speaker and that he was hopeful that the HOA would be able to resume in the afternoon. Mr. Dunkley called the Commissioner again at 11:45 a.m. to advise that he understood that the Speaker was now planning to open the HOA and resume the session at 1:00 p.m.³⁷. Mr. Dunkley asked about the police plan to get Parliamentarians past the crowds and into the HOA. The Commissioner explained that different tactics were being considered, with an aim of encouraging protestors who were breaking the law to stop, so that Parliamentarians could walk in unobstructed.

The former Speaker confirmed that it was after his conversation with the Acting Governor that he decided to hold the HOA session at 1:00 p.m. Most interestingly, and perhaps most curiously, the former Speaker candidly admitted in his own words to the Committee that he advised the Acting Governor that he would **not** take his seat as Speaker if the House convened at 1:00 p.m.; the Deputy Speaker would have had to have taken the chair.

The Speaker thereafter telephoned the Premier and the Leader of the Opposition to inform them that the HOA would meet at 1:00 p.m.

At 12:06 p.m. the Speaker called the Commissioner to say that it was his intention to resume the session at 1:00 p.m. He also inquired about the police plan to get Parliamentarians past the crowds. The Commissioner advised the Speaker that the BPS continued to engage with protestors to encourage them to stop breaking the law, but that, if left no other alternatives, arrests would be made. The Speaker stated that he did not ask the Commissioner what the plans were, nor was he told what they were. In a subsequent call to the Commissioner at 12:21 p.m., the Speaker confirmed his intention to resume the session in the HOA.

At 12:38 p.m. the Commissioner spoke by telephone with the Gold Commander who advised that despite trying all morning long, BPS attempts to encourage the protestors to stop blocking the HOA gates had not achieved success. As a result, the Team now planned to arrest protestors who were committing offences and, as a safety precaution, the arrest team would be equipped with helmets and other protective gear. Both the Commissioner and the Gold Commander were cognizant of the limited time in which action could be taken, as the 1:00 p.m. deadline was fast approaching. Shortly thereafter, at 12:47 p.m., the Commissioner contacted the Acting Governor to provide her with an update.

³⁷ Mr. M. De Silva Statement 12th June 2018, paragraphs 28 and 29.

Just prior to 1:00 p.m., the Speaker looked outside the HOA and “noticed that no Parliamentarian appeared to approach the House”.³⁸

At 1:00 p.m. the BPS read a proclamation to the crowd stating that protestors could not assemble unlawfully and that they were committing offences³⁹.

Key People: 2nd December 2016 Between 10:00 a.m. and 1:00 p.m.

- Former Acting Governor Mrs. G. Ferson
- Former Speaker Mr. K. H. R. Horton JP MP
- Former Premier Mr. M. Dunkley JP MP
- Former Attorney General Mr. T. Moniz JP MP
- Former Minister of Finance Mr. E. T. Richards JP MP
- Former Commissioner M. De Silva
- BPS Gold Commander Superintendent J. Howard
- HOA staff

FINDING 3.1: Reversal of Cancellation of the HOA

Former Commissioner M. De Silva provided the following account⁴⁰:

“I was made to understand the Speaker informed the Gold Commander’s team that he was cancelling the session. I placed a call to the Speaker at 9:54 a.m. and he confirmed that fact. The police suspended the planned enforcement tactic while commanders regrouped to assess the new information.

At 10:11 am I received a telephone call from Acting Governor Ginny Ferson who enquired about the status of events at the HOA grounds. I explained that we had suspended an enforcement team to arrest the offenders who were blocking the gate as a result of the decision from the Speaker to cancel the session. She indicated that she would call the Speaker and she asked me to keep her updated. I received a few text messages from the Acting Governor throughout the rest of the morning. I do not hold those records any longer, but I recall that the messages were requests for periodic updates.

At 10:15 am I received a call from Premier Dunkley, who had a similar enquiry. I gave a similar reply. Mr. Dunkley indicated he would contact the Speaker to see if he would change the decision. I received a call from Mr. Baron at 10:30 am. We had a similar conversation.

I received a brief call from Mr. Dunkley at 11:06 am. He informed me that he was in discussions with the Speaker and that he was hopeful that the House would be able to resume in the afternoon.

I received another call from Mr. Dunkley at 11:45 a.m. He informed me that he understood the Speaker was planning to open the House and resume the session at 1:00 pm. He asked me about the police plan to get MPs past the crowds and into the HOA. I explained that different tactics were

³⁸Mr. K.H.R. Horton Statement 23rd April 2018, paragraph 11.

³⁹ Mr. P. Wright Statement 7th November 2018, p. 3.

⁴⁰ Mr. De Silva Statement 12th June 2018, paragraphs 25-30

being considered, including driving MPs in a police vehicle. I explained that our desire was to encourage those protestors who were breaking the law to stop blocking access, and to allow MPs to walk in unobstructed. I explained that Mr. Dunkley's police Special Branch liaison officer would inform him shortly of the final plans to escort the MPs into the HOA.

I received a call from Mr. Horton at 12:06 pm. He informed me that it was his intention to resume the session at 1:00 pm. He asked me about the police plan to get MPs past the crowds. I explained that we were continuing to engage with protestors and organizers to encourage them to stop breaking the law by blocking access to the HOA. It was our hope that we would gain compliance in that regard, but that we would consider making arrests if there were no alternatives. I received another call from Mr. Horton at 12:21 pm and he confirmed his intention to resume the session in the HOA."

This period of time proves to be pivotal as it represents the period when a tremendous amount of pressure was placed on Speaker Horton to reverse his decision to cancel the session of Parliament.

That view notwithstanding, Mr. Horton reported to the media that he was under no pressure to change his decision about the cancellation.⁴¹

The testimony of former Minister Baron was also of interest. While he was honoured to deliver the tribute at the funeral, he was displeased to have been sent on a ceremonial duty away from the unfolding events which were directly connected with his Ministry of National Security. Further, Mr. Baron noted that with regard to the strategy and tactics used by the BPS, he could not see the logic of trying to "gain entry" into the HOA where the occupants were not in harm's way.

The Speaker received numerous calls from police and politicians but it appeared that it was the call between the Speaker and the Acting Governor's which seemed to place heightened emphasis on the Speaker reversing his decision.

When posed a question by the Committee, Governor John Rankin responded on behalf of former Acting Governor Ferson:

" Ms. Ferson confirmed that she had no interaction with Gold Command on December 2nd 2016. As previously noted in my letter to you on April 4, she did speak with the former Speaker around 1030hr to RELAY to him reassurances she had been given by the Commissioner of Police about the safety of him and his staff. They also had a discussion about the right of people to protest and the right of Parliamentarians to access Parliament unhindered..."

The pressure placed on former Speaker Horton was immense and eventually he reversed his earlier decision to cancel the session and open the House of Assembly at 1:00 p.m.

This was a decision which former Speaker Horton said during his testimony that he "regretted". He also revealed,

⁴¹ Royal Gazette 1st April 2017.

"I shall stress that at this point I informed the Acting Governor that if the sitting indeed did take place at 1pm I would not take my seat as Speaker for that time. The Deputy Speaker would have to act as Speaker and assume the chair."⁴²

FINDING 3.2: Timing

The Speaker guides the sitting of the House of Assembly. According to the statement provided by the former Commissioner of Police, at just prior to 10:00 a.m. the Speaker informed the Gold Commander's team that the proceedings at the HOA would not be held; as a result, the enforcement plan to arrest offenders who were blocking the gate was suspended. For all intents and purposes, the HOA sitting was cancelled.

If that is the case, a question can be raised: why at 11:45 a.m. (per the Commissioner) was the BPS still actively involved in consideration of how to get Parliamentarians pass the crowd?

The Speaker reportedly did not contact the Commissioner until 12:06 p.m. to indicate the possibility that proceedings might resume at 1:00- something that he did not confirm until the telephone call at 12:21 p.m.

FINDING 3.3: Communication

Communication is always key.

- (a) Although the decision to hold the session at 1:00 p.m. had by now been confirmed, the former Minister of National Security, who had been sent to attend a funeral on behalf of the Premier, encountered a senior civil servant outside the Cathedral at approximately 12:50 p.m.⁴³. The civil servant, in good faith one presumes, informed the Minister that the session had been cancelled and that Parliament would not sit.

If at ten minutes before the proposed sitting, people in general were still unaware that there would be a sitting, this suggests the lack of a proper communication strategy on the day. It might also be a factor in why the crowds were later stunned to see police in helmets advancing towards them.

- (b) In a letter dated 17th October 2018, the Committee was advised that former Acting Governor Mrs. Ferson recalled that she had received a telephone call from former Attorney General Mr. Moniz in the morning in question. The purpose of the call was to alert her to the difficulties in accessing the House of Assembly.⁴⁴

This is in direct contrast to Mr. Moniz's testimony in response to a specific question he was asked about contact during his interview.

⁴² Mr. K. H. R. Horton Statement 23rd April 2018 paragraph 9.

⁴³ Mr. J. Baron Statement 12th September 2018, p. 2

⁴⁴ Letter from Government House 17th October 2018

FINDING 3.4: HOUSE OF ASSEMBLY (HOA) STAFF

The majority of the House of Assembly staff were not located on the grounds of the HOA on Friday, 2nd December 2016. At that point, in anticipation of renovations at the HOA, the Office of the Legislature had been moved to a temporary location on Victoria Street in the City of Hamilton.

Following the request from the Committee for an account of their experience on the day, the Clerk to the Legislature convened a meeting of the staff and their collective testimony, in the form of minutes from the meeting, are included as Annex 6.

Most noteworthy is that, contrary to all prior accounts from the BPS, it was revealed that the Gold Commander (Superintendent J. Howard) had been in contact with the HOA on two occasions trying to persuade them to be escorted and later transported past protestors to gain entry into the HOA.

It must be stated that HOA refused these offers and, as a result, it was not possible to convene Parliament on that day.

SECTION 4: 2nd DECEMBER 2016 AFTER 1:00 P.M..

SUMMARY:

Earlier on 2nd December 2016, a number of BPS Officers were stationed inside the gates and on the grounds of the HOA.

The small crowd from early in the morning had now grown in numbers. The majority of the crowd assembled at the Parliament Street entrances to the HOA. A smaller group was standing outside the southern entrance gate on Reid Street (opposite the Cabinet Office), where Officers were standing behind the walls observing them. The size of the crowd at Parliament Street notwithstanding, persons (civilians) who were present from early in the morning commented on the peaceful atmosphere which prevailed. They commented on the diversity of persons assembled (men, women, young and seniors) and that persons engaged many of the Officers on the streets in conversation, adding that no animosity between the protestors and the Officers was apparent.

Armed with the news that the HOA was now to sit, the Gold and Silver Commanders requested tactical advice and were given three options: (1) do nothing; (2) use a bubble tactic to gain entry; or (3) use the Police Support Unit (PSU) with full protective equipment and shields⁴⁵. The Commissioner was aware that the tactic chosen by the Commanders was the “bubble tactic”, which involved Officers making a tight circle by standing close together and moving simultaneously.

Just around 1:00 p.m. a critical order was given for the arrest team of BPS Officers to prepare themselves for the task of moving the crowds of protestors who were blocking access to the House of Assembly and thus once preventing Parliamentarians from entering the grounds.

Although not outfitted in full riot gear (they carried no shields), the Officers were kitted in protective gear: with bright green/yellow reflective jackets, batons, face visors and Captor spray. They moved in formation from the station on Victoria Street to those areas where HOA gates were blocked. The order appeared to be to arrest those persons who were breaking the law by keeping elected officials from entering the House of Assembly to do the peoples’ business.

According to the former Commissioner, the protestors became aggressive and actively resisted the Officers. The Committee viewed body camera video which showed a group of Officers marching in formation, pushing through persons assembled, to the front of the Parliament Street vehicle entrance. In doing so, several persons, including seniors, were jostled. It appeared that the Officers “bulldozed” their way through the crowd. The crowd became agitated- perhaps at the unusual and unexpected sight of seeing Officers marching in formation towards them, or perhaps because of the way in which they felt the seniors were being treated- or both. Whatever the cause, the atmosphere immediately changed. Witnesses confirmed that the mood changed to one of disbelief. Protestors standing in front of the gate locked arms to prevent the gates from being opened.

It is not really clear what the bubble tactic was intended to achieve. According to the NPoCC Report, the intent of the bubble is normally to protect the people within it for movement through a crowd, but in this

⁴⁵ NPoCC Report, paragraph 4.11

case, there was no-one within the bubble. The Parliamentarians for whom access to the HOA was to being cleared were not present.

The NPoCC Report also made further points about the use of the bubble tactic:

- (a) even if the BPS/PSU had been able to gain ground through the use of the bubble tactic, they did not have sufficient numbers to maintain that ground, given the large number of protestors⁴⁶;
- (b) the command team was undoubtedly under pressure to take some form of action- given the decision for the HOA to sit, coupled with the lack of experience and training for dealing with this type of event.

At about 1:15 p.m., the former Speaker looked out of the window at the HOA ⁴⁷and saw Officers with helmets marching towards the crowd at the HOA main gate. It appeared to him that there was pushing and shoving going on between the Officers and the crowd. Appalled at what he was witnessing, the Speaker made the final decision to adjourn the sitting until 9th December 2016. Somewhere around 1:30 p.m., he called the Premier, the Leader of the Opposition and the Commissioner to inform them of his decision not to hold the session. He later called the Government Department of Communication and Information so that they could inform the public of the adjournment.

Unable to secure the opening of the Parliament Street gate, after about 10 minutes the Officers regrouped and marched from Parliament Street to Reid Street. Many of the persons originally at the Reid Street entrance had heard the commotion on Parliament Street and had moved closer to the corner of Reid and Parliament Streets. Realizing that the Officers were turning on to Reid Street, those persons rushed back to the southern gate, joined by others.

The PSU Officers marched to the gate and again found protestors with locked arms. Reports from members of the crowd characterize the behavior of the Police as very aggressive- pushing and pulling persons who considered themselves as participating in a peaceful protest.

Video footage showed that although orders were given for the people to get out of the way, it was actually physically impossible for them to do so. The south wall and Officers were at their back; the PSU Officers in helmets were in front of them. In the ensuing pandemonium, protestors were warned by the BPS that they would be tasered or sprayed. Finally, an order was given by one Officer for Officers to take out CAPTOR and spray⁴⁸.

More chaos, recorded on police body cameras, ensued. The matter ended when the PSU Officers retreated towards the corner and then up Court Street to the Police Station on Victoria Street. The BPS reported afterwards that fourteen Officers were assaulted during the incident: six suffered serious injury and eight were commonly assaulted⁴⁹.

⁴⁶ NPoCC Report, paragraph 4.14

⁴⁷ Mr. K. H. R. Horton Statement 23rd April 2018, paragraph 12

⁴⁸ BPS body camera video

⁴⁹ Commissioner Corbishley Letter 15th March 2019

Although aware of what was happening at the HOA gates, the Commissioner and the Deputy Commissioner remained in their offices at the time of the incident, believing that their presence at the incident might cause confusion over who was in charge of the Officers.

The Committee had the opportunity to view videos from the body cameras of seven Officers. One video demonstrated that the situation was a no-win one from the start.

In the aftermath of the events in Hamilton, the Police returned to the Hamilton Police Station. In reviewing the video footage from the police body cameras, the Committee heard the following comment from Officers involved, “That was a waste of time”.

Evidence provided to the Committee confirmed that a meeting, either called by the Acting Governor or by the Premier, was held at Government House at 3:00 p.m. In attendance were the former Premier, the former Deputy Premier, the former Attorney General, the former Minister of National Security, the former Commissioner of Police and the former Deputy Commissioner.

Key People: 2nd December 2016 after 1:00 p.m.

- Former Acting Government Mrs. G. Ferson
- Former Minister of National Security Mr. J. Baron JP MP
- Former Premier Mr. M. Dunkley JP MP
- Former Speaker Mr. K. H. R. Horton JP MP
- Former Attorney General Mr. T. Moniz JP MP
- Former Minister of Finance Mr. E. T. Richards JP MP
- Former Commissioner M. De Silva
- Former Deputy Commissioner Mr. P. Wright
- BPS Gold Commander Superintendent J. Howard

FINDING 4.1: Tactical Advice

The BPS had a particular strategic intent on 2nd December 2016:

The House of Assembly will sit by the Police gaining and maintaining access to one of the gates, allowing the legislators to attend the House of Assembly⁵⁰.

The NPoCC Report indicates that the BPS tactical commanders sought advice on how they should manage the situation and were given three options: do nothing, use the bubble tactic or send in an arrest unit.⁵¹

The Report mentioned in paragraph 4.11 that advice was sought from a tactical advisor whose identity still remains unknown to the Committee.

The BPS found itself in the unenviable position of being given a relatively short span of time to figure out how to navigate through a large crowd in order to provide access to the HOA for Parliamentarians. However, there is no witness testimony to suggest that the Government Parliamentarians, who were to lead the debate on the airport redevelopment legislation, were anywhere closer to the HOA grounds than

⁵⁰ BPS Operational Order 30th November 2016, amended 2nd December 2016, Appendix C

⁵¹ NPoCC Report, paragraph 4.11

the temporary Cabinet Office at Innovation House on Reid Street. Thus, even if the tactic had worked and the gate had been opened, the Parliamentarians for whom it had been opened were not there to enter.

FINDING 4:2 Body Cameras and Instructions to Use CAPTOR Spray ⁵²

The former Commissioner provided the Committee with much useful information, including video footage from body cameras worn by Officers directly involved in the 2nd December 2016 incident.

Astonishingly, when the Committee reviewed one particular video from a body camera worn by an Officer, it uncovered that an Order was given to Officers to deploy CAPTOR spray. That revelation ‘flew in the face’ of what was initially reported by the Bermuda Police Service, and of what previously had formed a major part of the findings and subsequent decision from the Police Complaints Authority.

The BPS policy on the use of Captor Spray indicates that CAPTOR *“is primarily designed for dealing with violent subjects who cannot otherwise be restrained.”*

Moreover, the policy also states that the use of CAPTOR may be appropriate against:

*(i) Those offering a **level of violence which cannot be appropriately dealt with by lower levels of force;***

(ii) violent offenders, where failure to induce immediate incapacitation would increase the risks to all present.

.....The decision to use CAPTOR will be dependent on an officer’s assessment of the situation. This will include their own ability to deal with the situation and the threat posed by the subject(s).

Finally, the policy notes,

The ultimate responsibility for using CAPTOR rests with the individual officer, who is answerable ultimately to the law in the courts. Individual officers are accountable and responsible for all their usage of CAPTOR and must be in a position to justify such use in the light of their legal responsibilities and powers.

According to its progressive list of use of force methods, the BPS ranks the use of CAPTOR as an acceptable method, but only if other methods have not worked. In the already referenced Operational Order ⁵³, the BPS notes:

3.3.3 Police Officers, in carrying out their duties shall as far as possible apply non-violent methods before resorting to any use of force.

⁵² See also Finding 5.6

⁵³ BPS Operational Order 30th November 2016, amended 2nd December 2016.

- 3.3.4 Police Officers should use force only when strictly necessary and where other means remain ineffective to having no realistic chance of achieving the lawful objective.

In the video referenced above, one can clearly hear an Officer who appears to be in charge at the south gate give a **command** for CAPTOR to be brought out and then for the Officers to spray the crowd. This runs in direct contrast to the BPS Usage policy which indicates that the individual officer assesses the risk before making a choice to use CAPTOR.

The command is then given by another Officer, "No more CAPTOR spray."

Any person, knowing that an order to use CAPTOR spray was given on 2nd December 2016, and who has been prepared to sit back and say nothing to the contrary, is a party to absolving the leadership of any responsibility for the actions taken.

FINDING 4.3: The South Gate

As indicated, the Committee reviewed footage from police body cameras; it also reviewed footage available from local media outlets such as Bernews and the Royal Gazette. Thus, the Committee was able to observe what transpired at the north-west gate to the HOA, at the Parliament Street vehicle gate and at the south gate on Reid Street.

The Committee found particularly interesting one video which clearly shows the situation which arose at the southern gate to the HOA (Reid Street opposite the Cabinet Office). The Officer who appears to be in command at the south gate is clearly heard directing the crowd to "Get out of the way or you will be sprayed" and "Get out of the way of the gate". The identity of the Officer who might have given the order to move from Parliament is unknown to the Committee. However, he and other Officers are standing behind the wall and in the way of the unlocked gate, which prevents the crowd from moving in that direction. More significantly, Officers in helmets on Reid Street are clearly visible in the video. They appear to be moving in such a way that the crowd is pressed against the HOA wall. The overall result was that the crowd, even if trying to comply with the order to move, had nowhere to go.

Having viewed video footage and heard the testimony of witnesses, the Committee noted that several of the persons at the southern gate were women; some were seniors.

Given that the PSU Officers had no success in gaining access to the HOA through the Parliament Street gate, it is unclear whether it was thought that the smaller gate on Reid Street would be easier to access.

It is clear from witness accounts that it was at the southern gate where most of the CAPTOR was discharged. However, it remains unclear whether the thought at the south gate was to utilize the bubble tactic again to gain access to the HOA grounds, or whether it was to arrest protestors who were blocking access to the HOA.

FINDING 4.4 Gold Commander Not in Attendance at Meeting at Government House

The Committee fully understands the BPS chain of command as explained during his interview by former Deputy P. Wright⁵⁴ (i.e. It is the Commissioner alone in the Bermuda Police Service who answers to the Governor).

Former Premier Dunkley, in response to a question as to why he thought that the Gold Commander was not present at Government House, stated that the Commissioner was free to bring along whomever he wanted to the meeting. However, given the extreme circumstances of 2nd December 2016, it would seem that the Gold Commander, who was in charge of police operations that day, and perhaps even the Silver Commander, should have been required to attend the meeting called at Government House to give an account of what transpired.

FINDING 4.5: Acting Governor Takes a Position Against the Protestors

Section 10 of the Bermuda Constitution guarantees the right of freedom of assembly and association.

In the aftermath of the protests on 2nd December 2016, the Centre for Justice provided information via the media as part of its remit to raise public awareness around civil liberties. The Centre noted that freedom of assembly could only be lawful if it was peaceful. Freedom of peaceful assembly means the intentional and temporary presence of a number of individuals in a public place for a common purpose. An assembly is deemed peaceful if its organizers have professed peaceful intentions and the conduct of the assembly is non-violent.

That notwithstanding, the Centre noted that so long as the assembly, march or protest was lawful and peaceful, the right to engage in such an assembly, march or protest could not be interfered. However, it also provided several legal references which identified the offences committed when access to carry out Government business was prevented. The article noted that anyone seeking to engage in civil disobedience should be aware of the risks associated with doing so, which might result in criminal sanction.

According to a Royal Gazette article⁵⁵ published on 2nd December 2016, Acting Governor Mrs. G. Ferson deplored the “inciteful” protest, urging protestors to act within the law. In her statement, Mrs. Ferson noted that

“The right to peaceful protest is also a right that we hold dear, but there are people who seek to go beyond peaceful protest⁵⁶ and incite criminal activity.”

Although the Committee did not have the benefit of directly interviewing the former Acting Governor, the Committee was of the view that the Acting Governor’s comments reflected the Government House position. As such, there is a possibility that the comments could have influenced incoming Governor John Rankin’s decision to call only for a [police] peer review which was limited in scope, rather than a comprehensive review or a Commission of Inquiry into the events.

⁵⁴ Mr. P. Wright Interview 7th November 2018

⁵⁵ The Royal Gazette 2nd December 2016

⁵⁶ Bernews 3rd December 2016

FINDING 4.6: Role of the People's Campaign and Others in the Protest

The Committee appreciated the voluntary meeting with the People's Campaign during which the group provided submissions⁵⁷ which proved most enlightening.

In anticipation of the 2nd December 2016 debate at the HOA, the People's Campaign engaged in a concerted effort to encourage members of the public to attend the protest⁵⁸. They were not in favour of the Government's plan to move ahead with the airport development under the existing terms and conditions, having conducted significant research on the then-proposed airport project and uncovered significant findings through a PATI request to the Canadian Government. Thus, members of the group exercised their democratic right to encourage a peaceful protest.

On the evening of 1st December 2016, the People's Campaign hosted what was reported as a very emotive public meeting which featured the then Opposition Leader Mr. David Burt and the late Mr. Larry Burchall as speakers.⁵⁹ At the meeting, members of the public were encouraged to attend the HOA the next day to show their opposition to the proposed redevelopment.

During the course of the morning on 2nd December 2016, the BPS had been advising protestors to clear the entrances or risk being arrested.⁶⁰ As word reached the Officers that the HOA would be re-opening at 1:00 pm, an attempt was made to gain access through the main gate by using a poorly executed 'bubble tactic' which resulted in physical confrontations between the BPS and protestors. Some members of the public, in anticipation of a potential arrest for civil disobedience, did block the HOA entrances on the Parliament and Reid Street sides. As the confusion escalated, protestors could be seen reacting to the CAPTOR spray.

PLP Parliamentarians are seen in video footage standing at the entrance to the HOA; they are also seen approaching the BPS officers.

FINDING 4.7 Traumatic Experience for Frontline Protestors and Officers

The Committee was approached by persons who had been involved in the protest. Subsequently, the Committee offered those protestors who had filed a complaint with the Police Complaints Authority the opportunity to offer a testimony. The same opportunity was afforded through the Commissioner to Officers who might have been involved in the events of the day.

By listening to those who chose to be interviewed, the Committee came to recognize that the experience on 2nd December 2016 was not only traumatic but left a lasting impression in minds of those involved, even more than two years on. One person described the interview process as cathartic. Other comments made by those interviewed are listed in part in Annex 7.

Notwithstanding the fact that some interviews took place, the Committee noted that some protestors

⁵⁷ The submissions from the People's Campaign are included as Annex 6

⁵⁸ Bernews 30th November 2016

⁵⁹ The Royal Gazette 2nd December 2016

⁶⁰ Mr. M. De Silva Statement 12th June 2018, paragraph 22.

who had filed complaints with the Police Complaints Authority were reluctant to appear due to a stipulation contained in a legal settlement.⁶¹

⁶¹ The Royal Gazette 12th February 2019

SECTION 5: FINDINGS FALLING OUTSIDE THE TIMELINE ON 2nd DECEMBER 2016

SUMMARY

During its investigation of decision-making on 2nd December 2016, the Committee encountered a number of additional findings- many of which do not fit into the neat package of the timeline for the day. These findings are nonetheless important and underscore discrepancies. The most significant of these discrepancies are cause for concern; those which are of somewhat lesser significance are, at the very least, cause for eye-brows to be raised.

The Committee noted that it was faced with a multitude of attempts to thwart its efforts, e.g. the deliberate ignoring of its requests for information, which appeared as an attempt to prevent it from obtaining a proper understanding of the decision- making that led to the 2nd December 2016 incident. Given the level of reluctance and resistance encountered by the Committee, one might consider certain actions as deliberate attempts on the part of some to avoid true accountability.

These concerns were later confirmed following the revelations contained in the witness statements of the former Deputy Speaker, Mrs. S. Roberts-Holshouser, former Junior Minister Mr. K. Bascome, together with the submission from the HOA staff.

FINDING 5.1 : Section 3.9 of the NPoCC Report

The NPoCC Report was a peer review of the Bermuda Police Service conducted by Assistant Chief Constable Chris Shead under direction of His Excellency the Governor. As it relates to this investigation, Deputy Governor Ms. Ginny Ferson was Acting Governor and Commander-in-Chief on 2nd December 2016.

When interviewed by the Committee about the findings contained in the NPoCC Report, key government stakeholders seemed unaware of the findings, particularly those findings listed in section 3.9 which called into question their role.

Significant excerpts from section 3.9 follow:

“ The role of Platinum was referenced numerous times during the review.”

“The Platinum role however is not one that is recognised in public order command with the most strategic recognized role being that of Gold.”

“... for this event the Gold Commander amended his strategy to just three strategic intentions from the original seven based on his perception and it highlights that amongst the existing command structure, there was a clear misunderstanding of roles and responsibilities...”

“Care does need to be taken to ensure that the responsibility within the command structure is not confused. Platinum does not become the de facto Gold Commander. ...”

It was revealed that unknown key stakeholders outside of the BPS were not included in the interviews conducted by Mr. Shead; however, it is clear from the Report that the involvement of these stakeholders

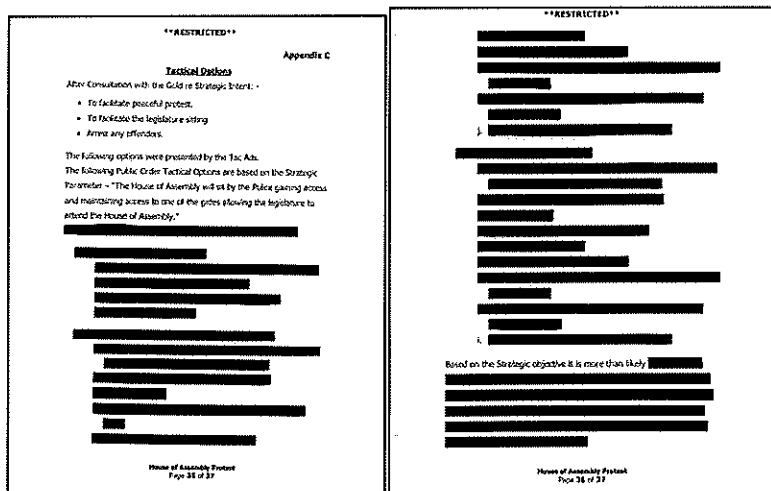
was of a significant magnitude, especially considering references outlined in the Report. The failure to interview these persons left a huge void in accountability.

To Mr. Shead's credit, this deficiency in his remit was not lost on him. However, save and except for the Committee's review, this aspect of Mr. Shead's report would have passed into history totally unnoticed. If a Parliamentary Joint Select Committee had been struck to work in tandem with Mr. Shead, those key persons, some of whom are now known to have been a part of the Legislature, would have been compelled much earlier (before the two year period during which some of their memories failed them) to offer testimony so that a more comprehensive picture of events could have been produced earlier.

As it stands, the delay caused by the failure to comprehensively investigate the event at the time, by limiting it as a peer review of only the BPS, taken together with the retirement of the former Police Commissioner and of the former Deputy Commissioner, could have rendered the Committee's work a 'cold case'. Certainly, other questions are raised.

FINDING 5.2: Heavily Redacted Documents- Preventing The Committee from Acquiring and Understanding Information

It proved extremely frustrating for the Committee to consider evidence from the BPS when key elements were redacted. For example, two key pages of the Tactical Options given to Silver Command follow:



It was difficult for the Committee to try to piece together a coherent picture of how decisions were made and of who made them- when faced with such heavily redacted documents.

As an arm of the Legislature charged with conducting business on behalf of the people of Bermuda, the Committee would have expected to be entrusted with the clear information necessary to assist with fulfilling its mandate.

FINDING 5.3: Non-response of Key Stakeholders

As the Committee set about its work, it noted those persons identified in various reports, statements and other documents. Once it had settled not only on the list of names, but also on the questions which might

be posed to these persons, the Committee sent letters which explained the authority under which it operated, and invited those persons to provide a statement of account by a particular deadline.

These letters appeared in the first instance to have been ignored by the recipients, save for letters sent to the former Premier and the former Commissioner of Police. In those instances, the Committee received communication from lawyer A. Dunch. The lawyer laid out his clients' concerns about the composition of the Committee and stated that there would be no co-operation until the matters were addressed. At the same time, the former Premier, a seasoned politician, took the step of going to the print⁶² and television media to voice his concerns about Committee membership. It is generally the norm for a sitting member of the Parliament to address any concerns which he or she might have in such instances with the Honourable Speaker and then to wait for a response.

Informed by the lawyer that there would be no response at that time from the former Commissioner, the Committee wrote to His Excellency the Governor who has control over the operations of the Bermuda Police Service. Thereafter, the Committee was pleased to receive a comprehensive binder of documentation from former Commissioner De Silva. It was through this documentation (some of which, nonetheless, was heavily redacted) that the identity of several key players, including the Gold Commander, was verified.

FINDING 5.4: Police Willfully Disobey Summons

Part IV of the Parliament Act 1957 outlines the authority of Joint Select Committees, including the power to issue summonses. To ignore a summons is an offence.

By way of information, the Committee issued summonses to specific Officers who played key roles on 2nd December 2016. The purpose of each summons was to allow the Committee to interview the Officer in question. Unfortunately, the Gold Commander who provided the strategic leadership on 2nd December 2016, did not appear before the Committee, even though he was issued two summonses.

By letter dated 14th December 2018, current Commissioner Corbishley indicated that he alone spoke for the Bermuda Police Service (unless he duly authorized someone else to do so), and as such, he would accompany the Gold Commander into the Committee interview room on 19th December 2018 so that he (the Commissioner) could respond to Committee's queries. The Committee was not prepared to accept the Commissioner's position and so advised him. Nonetheless, the Commissioner accompanied the summonsed Officer to the interview and was once again presented with the Committee's position.

The Chairman again informed the Commissioner that the summons was for the Gold Commander alone and that, in such circumstances, the Committee would refuse to set a precedent for future Committees by allowing the Commissioner to sit in the interview. The Commissioner did not accept the Committee's position and as a result, both Officers left. Thus, the scheduled interview with the Gold Commander did not take place.

The Committee expressed concern that the Commissioner showed a lack of respect for the procedures it had established and was encouraging Officer(s) to do the same.

⁶² The Royal Gazette 7th February 2018; Bernews 10th February 2018

From the standpoint of the Committee, the Gold Commander remains in breach of the summons (invoking immunity), and still has a case to answer with regards to this breach.

FINDING 5.5: Collective Legal Representation

By way of reminder, the Parliamentary Joint Select Committee is composed of persons elected and appointed to serve the people of Bermuda. As such, the Committee does not take direction from a private person.

After it had been reconstituted, the Committee discovered from letters (dated 26th March 2018 and 28th March 2018) that lawyer Alan Dunch of MJM Barristers and Attorneys was the instructed attorney for former Premier Mr. M. Dunkley and former Commissioner De Silva and "others for whom we act". Mr. Dunch indicated that any communication from the Committee to those he represented should be directed through him.

On behalf of his clients, Mr. Dunch raised with the Speaker and with the Chairman the propriety of having 2 particular members (Messrs. Swan and Scott) sit as part of the Committee. The Speaker removed Mr. Scott from the Committee; Mr. Swan continued as the Chairman, duly elected by the other members of the Committee. Mr. Dunch considered that the Speaker had only addressed the membership issue in part and thus appeared to call into question the constitution of the Committee.

In a letter dated 26th September 2018 Mr. Dunch revealed that, in addition to those already named, "...as you already well know", he was the instructed attorney of the entire Bermuda Police Service. The Committee had been aware that Mr. Dunch represented the former Commissioner, but up to the September letter, the Committee was not aware that he purported to represent the entire Bermuda Police Service. The Committee did query whether the BPS had received the necessary approvals to hire a private-firm lawyer as its representative, but to date has not received a response.

Given the clear delineation of powers as outlined in the Constitution, the Committee was hard-pressed to understand how a single lawyer could at the same time represent a member of the Legislature (Mr. Dunkley) as well as the entire BSP, which falls under the Executive - under the control of His Excellency the Governor.

It is the Committee's view that having Mr. Dunch represent both parties created an extreme conflict of interest.

FINDING 5.6: Police Complaints Authority Decision Must be Called into Question

During its review, the Committee discovered that evidence it received was at variance with the Decision issued in August 2017 by the Police Complaints Authority (PCA). There were several reasons for the position taken by the Committee:

(a) The PCA did not interview those with complaints

Twenty-six persons filed complaints with the PCA. However, based on testimony from persons involved, it does not appear that the PCA held individual or even group interviews with those persons.

(b) Police Camera Footage

The Committee collectively reviewed the body camera video provided by former Commissioner De Silva. The review revealed unequivocally that a command was given by an Officer at the southern access gate to the HOA to use CAPTOR spray on the crowds gathered.

This discovery refutes the key finding of the Police Complaints Authority (PCA) and underscores that what the PCA lists as a fact is actually erroneous.

The PCA asserts as fact that,

“there was no order given by any person in command [emphasis added] that Captor should be used. In every instance on the 2nd December when Captor was used, it was a decision made by the individual officer. This is in accordance with the Use of Force Policy.”

Finding – The PCA heard from Officers during the course of sworn examination and we also reviewed media and police footage. Officers reported fearing for their own safety as well as for that of fellow Officers. The appearance of the Officers coming to execute the “Bubble” from Church Street on to Parliament Street galvanized those who were protesting and a dangerous and chaotic period followed. The PCA is satisfied that there was no general command to use Captor. Officers who used it did so in the belief that they were protecting themselves or a colleague and, to use the words of the Policy governing the use of Captor at paragraph 6.5:- “The use of CAPTOR may be appropriate against: “

In fact, this finding proved to be untrue. In Police video axon body 2 X81005093 (at 12:09 minutes into taping) an Officer orders,

“Get out of the way or you will be sprayed, move/go forward”

In these instances, persons could not move as they were blocked in tightly.

The Officer gave command to other Officers,

“CAPTOR now, all of them, all of them” and the command is followed.

Prior to this, he could be heard telling Officers, *“If you’re going to use CAPTOR, CAPTOR one at a time.”*

Later, a different Officer gave the order, *“No more CAPTOR spray”*.

This Finding of the Police Complaints Authority must be nullified as it is based on a totally erroneous premise. The Committee’s discovery is conclusive that the use of CAPTOR was the result of a clear directive to Officers at the southern gate to the House of Assembly.

(c) Timing of the PCA Decision

According to the PCA Overview: *We have determined the background as set out above from the review of the media and interviews and also from our reading of the NPoCC Report of ACC Shead .*

It is noteworthy that the PCA delivered its position after both the presentation of NPoCC Report and the conclusion of the court case against the complainants that they were reviewing; reference to both were included in their deliberations.

Considering that it has been established that one of their key finding is based on a false premise, the Committee must call the PCA Decision into question.

FINDING 5.7: The Commissioner of Police Alone Speaks for the Bermuda Police Service

Mr. Stephen Corbishley took up his role as Commissioner of Police in August 2018, succeeding former Commissioner Michael De Silva some 20 months after the incident on 2nd December 2016 Mr. Corbishley was not Commissioner at the time of the incident.

In a letter to the Chairman dated 21st September 2018, Commissioner Corbishley indicated that he fully understood the issues the Chairman raised [in a letter to the Governor who has control of the BPS], and that he was fully supportive to assist with the remit of the Joint Select Parliamentary Committee (JSPC) in examining the matters of 2nd December 2016. He sympathized “ with the JSPC’s role to make thorough enquiries into this event through access to all information.”

On 26th September 2018, the Committee received a letter from lawyer A. Dunch indicating that he represented the entire Bermuda Police Service. He further wrote that the Commissioner alone, or through the lawyer, would speak on behalf of the Bermuda Police Service in relation to such issues as were raised by a properly constituted Parliamentary Joint Select Committee.

Thereafter, and certainly contrary to the tone of his first letter to the Committee, the Commissioner asserted verbally as well as in writing to the Chairman, that he alone speaks for the Bermuda Police Service, unless he duly authorizes someone else to do so. Thus, Committee questions for Officers who were directly involved in the incident on 2nd December 2016 must be channeled through him.

The Committee has a full understanding of lines of command but questions the accuracy of information which is now filtered from a direct source through the Commissioner. By way of example, the Committee was informed by one Parliamentarian that arrangements were made through a member of the Police Special Branch for him to be escorted to the House of Assembly. The same Officer was identified by another Parliamentarian as being present in the former Premier’s office on the morning of 2nd December 2016. However, a query made through the Commissioner about any involvement of the particular Officer in events related to the day yielded a response that he was not involved.

FINDING 5.8: Possible Willful Misleading

The submission by the HOA staff and the witness statements from former Deputy Speaker Mrs. S. Roberts-Holshouser and former Junior Minister Mr. K. Bascome (the latter two obtained from the People’s Campaign) not only raise serious questions about the BPS Command but also call into question the involvement of members of the then-Executive, as outlined in Section 3.9 of the NPoCC Report by Mr. C. Shead.

D. COMMITTEE RECOMMENDATIONS

The Committee has identified a number of recommendations which it lists below in Part 1.

The Committee noted additional recommendations made by Assistant Chief Constable C. Shead regarding the BPS and its actions on 2nd December 2016. Former Commissioner De Silva supported the recommendations. The Committee also considers them to be relevant still and thus has included them in Part 2.

PART 1

1.0 FURTHERANCE OF EXAMINATION

Recommendation 1.1:

In order for these findings to be taken to the proper conclusion, a forensic audit by persons trained in reviewing and analyzing information must be carried out by an entity such as the Ombudsman or another relevant agency. This recommendation is not centred solely on the events of 2nd December 2016. It is abundantly clear to the Committee that a suitably trained and equipped professional body should examine the information gathered about any tumultuous event. Further, it should be mandated that such an entity be reinforced with strong law enforcement backing and the legal authority to have access to all relevant source documents.

Recommendation 1.2

Further to Recommendation 1.1, the Committee recommends that all persons or entities required to provide information to a Parliamentary Joint Select Committee provide the information in its entirety at the time of asking. Very late in its investigation, the Committee was provided with information which, had it been provided at the initial time of asking, would have certainly changed the line of questioning taken with certain witnesses.

Recommendation 1.3

The absence of a specific budget dedicated for the purpose of the Committee's mandate is noteworthy and should be a consideration in the future for any Committee with a similar mandate. This would be a matter to be addressed to the Speaker.

Every assignment given to such a Committee should be budgeted according to its unique merit. Making allowance for the acquisition of professional expertise, administrative and legal costs and the like must be considered an integral part so that the work is completed at a high and competent level.

2.0 BERMUDA POLICE SERVICE

Recommendation 2.1

The legislation under which the Police Complaints Authority operates should be updated to allow for an appeal process. The jurisprudence in the western world demands that this higher level of justice be afforded the complainant. The Committee recommends additionally that the membership of the PCA be reconsidered/restructured so that technical information on police operations be provided by an officer who will serve as an ex officio member of the PCA.

Recommendation 2.2

Similar to an Emergency Measures Organization Meeting, a meeting of ALL key stakeholders (e.g. BPS, members of the Legislature, HOA staff and others) should be held prior to events where it is known that a contentious Bill or other highly emotive matter is to be debated in the HOA.

Recommendation 2.3

In any circumstances, but particularly those similar to the events encountered on 2nd December 2016, the Bermuda Police Service must ensure that threat/risk levels are properly assessed, and communicated to the relevant persons, before taking action. Such assessment would avoid reactionary actions.

3.0 THE PUBLIC

Recommendation 3.1

The BPS and security firms should be trained in de-escalation versus escalation techniques and strategies for working with large crowds to maintain order.

Although this recommendation is highlighted in the NPOCC report, an added feature to this suggestion is the need for enhanced public awareness of rights. Just as the rules of engagement are a critical part of each law enforcement officer's repertoire, equally as important is the expected behavior when the public participates in a peaceful protest. As much as the right for peaceful protest is one of many freedoms available to a democratic society, equally as important is the right for its citizenry to enjoy safety. Although freedom of movement by protestors is a democratic right and must be allowed, the boundaries of that freedom need to be clearly defined and communicated in the interest of public safety.

Public announcements through the media, communicating street closures, restricted areas and entrances, etc. should be the norm leading up to the day of pre-planned protest events.

Recommendation 3.2

The Committee interviewed several members of the public who were involved in the events on 2nd December 2016. Even two years after the event, most of these persons expressed relief at finally “being able to tell their story”. Several described the feeling associated with the re-telling as cathartic.

This underscores the fact that persons filing complaints with the Police Complaints Authority were not interviewed after the filing. When asked specifically whether they had been interviewed individually or collectively, the response was no.

The Committee also understood from correspondence from the current Commissioner of Police that beyond the physical assaults suffered by Officers, all were greatly affected emotionally by the events of 2nd December 2016, with some referring to the period as their most fearful period in policing.

The recommendation which follows is born out of the 2nd December 2016 events but is meant to apply to other events which might have a broad impact on a relatively small community such as Bermuda. In those circumstances where persons (whether civilians, Police Officers or others) suffer extreme trauma, for example through a hurricane, a horrific accident or events such as those under investigation, counselling services should be made available as a matter of course to those involved and to those impacted. While it is beyond the remit of this Committee to say whether or not such counselling should be with or without cost, the Committee recognizes that there is a need for persons to be able to unburden themselves in an organized, healthy and judgement-free manner so that they can move forward with their lives for the benefit of the community as a whole.

4.0 HOUSE OF ASSEMBLY

Recommendation 4.1

In addition to the Ministerial Code of Conduct, a code of conduct should be developed for all Parliamentarians (i.e. ALL members of the Legislature) which includes how they are expected to conduct themselves during protests.

The Committee noted shortcomings on the part of both the Government and the Opposition parties during the events of 2nd December 2016. The proper response of Parliamentarians during protests is important. There is an expectation that as legislators, they are obligated to uphold the law both in application and in appearance. Since their conduct can be open to subjective interpretation, a comprehensive code of conduct needs to be established removing all doubt in the minds and perception of the public.

Recommendation 4.2

The following recommendations from the July 2016 HOA security review which was conducted by the BPS should be undertaken if they have not already been started:

- permanent relocation of the Supreme Court off of the premises of the HOA;
- installation of alarm systems;
- installation of panic buttons;

- installation of plexiglass separating the public gallery from the Sessions Chamber;
- installation of CCTV for 360 degree exterior property coverage, including all gates and entrances, together with parking areas.

5.0 LEGAL AND POLICY

Recommendation 5.1

Consider the inclusion and interpretation of national interest and public interest in Bermuda's Constitution.

The laws of other western jurisdictions should be examined for precedents that can be amalgamated to the Bermuda Constitution in order to promote clarity of understanding regarding the two constructs.

Recommendation 5.2

After consultation with the BPS and others, consider having the Human Rights Commission develop a document entitled The Right to Protest Guidelines.

Recommendation 5.3

Update and amend the Public Order Act 1963 to include protests, marches and demonstrations, counter - demonstrations, press conferences, public and private meetings.

Recommendation 5.4

Develop and utilize when needed protocols related to a comprehensive communication strategy and policy for public order demonstrations.

Recommendation 5.5

Develop and implement a formal chain of command and organization chart for Ministers and the BPS to utilize during public demonstrations.

Recommendation 5.6

Committees such as Parliamentary Joint Select Committees should have full access to non-redacted materials. During the course of the Committee's attempt to gather information that would enhance the accuracy of the report, full access to source documents such as law enforcement cogent notes and Government briefing notes were not readily available. These documents, which are considered official government property, need to be released without a Committee having to resort to summonses, subpoenas or any other law enforcement mechanisms. Any amendments to existing legislation to enforce this or risk 'obstruction of justice' charges must be one of the tools in a Parliamentary Joint Select Committee's toolbox.

Recommendation 5.7

Section 40 of the Parliament Act 1957 provides for offences against the Act. The Gold Commander at the time of the 2nd December 2016 incident still remains in breach of the summons issued by the Committee; thus, the Committee recommends that the appropriate course of action be pursued against him in this matter.

PART 2

(1) NPOCC Report: THE BERMUDA POLICE SERVICE

Assistant Chief Inspector Chris Shead of the National Police Coordination Centre published the recommendations, which the Committee endorses for their validity, in his report on police operations on 2nd December 2016. The information in parentheses refers to particular sections of the NPoCC Report.

1. It is recommended that an appropriate planning process is established for all public order events well in advance of the event commencement date. The process should incorporate the establishment of a strategy, an appropriate and effective command structure and the development of suitable contingency plans. (2.1, 2.5, 3.4 & 3.5)
2. It is recommended that an overarching strategy be established and appropriately briefed to commanders for all long running disputes. (2.2)
3. It is recommended that clear guidance regarding record keeping and what policy logs should be maintained throughout the planning and implementation of public order events and introduce an audit process to ensure the direction is adhered to. (2.13)
4. To facilitate an effective response to future events, public order command training should be delivered to those who are likely to be placed in command positions. It is also recommended that the Force establishes the required numbers of trained commanders and the succession arrangements going forward, to help maintain resilience. (3.6)
5. It is recommended that consideration be given to reviewing how the BPS allocates command roles for public order events to ensure the most appropriate and experienced commanders are utilised in the most demanding roles (3.7).
6. It is recommended that consideration be given to the lobbying for additional appropriate legislation to assist in the management of protest and fill existing legislative gaps (4.5).
7. It is recommended that BPS review its approach to the use of threat and risk assessments to ensure greater specificity and enable them to inform the planning for public order and public safety events (4.8).
8. It is recommended that the BPS invest in protest liaison training and ensure a 'no surprises' communication strategy is adopted for future public order events (4.9).
9. It is recommended that consideration be given to the delivery of appropriate tactical training to the PSU and other appropriate personnel (4.15).
10. It is recommended that the application of public order tactics by the PSUs is reviewed and any lessons learnt incorporated into future training (4.15).

Former Commissioner De Silva supported these recommendations and categorized them as follows:

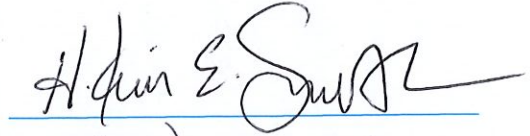
- a) Planning: barriers around HOA environs, establish the number of commanders needed and provide training; invest in Police Liaison Teams; review length and breadth of tactical training
- b) Training: for Officers; develop strategies, command structures and contingency plans; establish corporate record-keeping standards for public order incidents; develop threat and risk assessments for public order incidents; develop protocols for politicians for incidents at HOA;
- c) Communication: improvements within BPS; what structure exists between BPS and politicians during crisis:
- d) Legislation: to assist with management during a crisis; Parliament Act and Employment Act re: members/serving community

Recommendation

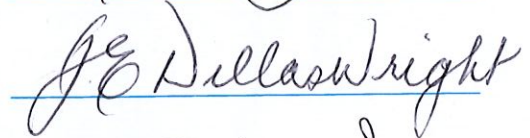
This Committee recommends that the Minister of National Security report to the HOA with an update on the status of action taken on these recommendations.

SIGNED

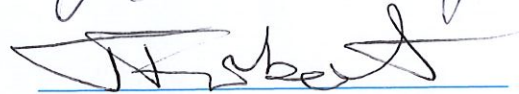
Mr. H. Kim E. Swan JP MP, Chairman

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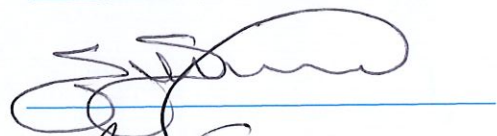
Senator The Hon. Joan Dillas Wright, President of the Senate

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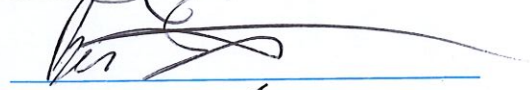
Mrs. Tinee Furbert JP MP

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Mr. Scott Simmons JP MP

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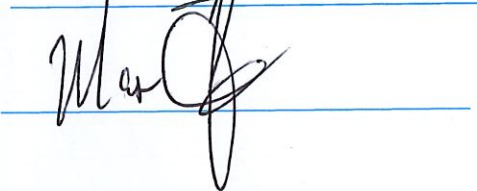
Mr. Ben Smith JP MP

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Mr. Neville Tyrrell JP MP

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Senator Marcus Jones

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SIGNED

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Mr. H. Kim E. Swan Jr. MP, Chairman

Senator The Hon. Joan Dillis Wright, President of the Senate

Mr. Tim Furedi Jr. MP

Mr. Scott Simpson Jr. MP

Mr. Ben Smith Jr. MP

Mr. Neville Tynell Jr. MP

Senator Marcus Jones

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ANNEXES

PART IV

EVIDENCE BEFORE LEGISLATIVE COMMITTEES

Resolution required to apply Part IV

29. (1) This Part shall apply in relation to the proceedings of a legislative committee in any case where a resolution that this Part shall apply in relation to that legislative committee—

(a) has, as respects a committee of the whole House, been passed by the House of the Legislature which is resolved into a committee of the whole House; or

(b) has, as respects a select committee, been passed by the House of the Legislature from which the select committee has been appointed; or

(c) has, as respects a joint select committee, been passed by each House of the Legislature,

but unless a resolution has been passed as aforesaid such provisions shall not apply in relation to the proceedings of a legislative committee.

(2) Any such resolution as aforesaid which relates to the proceedings of a joint select committee shall, when passed by one House of the Legislature, be duly communicated to the other House of the Legislature.

(3) Where either House of the Legislature (or, as respect a joint select committee, then each House of the Legislature) has passed a resolution as aforesaid in respect of the proceedings of a legislative committee, a certificate to that effect signed by the President or, as the case may be, the Speaker (or, as respects a joint select committee, then both by the President and the Speaker), shall be delivered to the chairman of the legislative committee; and any such certificate shall, until the contrary is shown, be accepted in any proceedings of the legislative committee, and in all courts in Bermuda, and for all purposes whatsoever, as proof that the resolution was duly passed by the appropriate House or Houses of the Legislature.

Summoning of witnesses

30. (1) The chairman of a legislative committee may issue a summons under his hand to any person requiring that person to attend as a witness before the legislative committee at a time and place specified in the summons; and hereinafter in this Part “summons” is used to denote a summons duly issued under the authority of this section, and cognate expressions shall be construed accordingly.

(2) Without prejudice to anything in sections 32, 33 or 34, a summons to attend before a legislative committee may require the person summoned to produce to the legislative committee on so attending any document, specified or referred to in the summons, which is in his possession or under his control or is otherwise available to him.

(3) A summons to attend before a legislative committee shall be deemed to include requirements—

(a) that the person summoned shall remain in attendance as a witness before the legislative committee until his further attendance is excused by or on behalf of the chairman of the legislative committee; and

(b) that if while the person summoned is in attendance the legislative committee adjourns, then he shall, if so directed by the chairman of, or the secretary to, the legislative committee, attend again as a witness before the committee at a time and place specified by the chairman or secretary, and shall then remain in attendance until his further attendance is excused by or on behalf of the chairman of the legislative committee:

Provided that nothing in this subsection precludes the issue of a fresh summons to a person who has already been summoned, whether his attendance under the previous summons has been excused or not, or whether or not he has been directed (on an adjournment) again to attend before the legislative committee as aforesaid.

(4) A summons may be served on a person by delivery of the summons to him personally or by sending it by post under registered prepaid cover addressed to him at his last known place of residence; and if a summons is sent by post the person to whom it is addressed shall be deemed, until the contrary is shown, to have received it in the ordinary course of transmission by post.

(5) A summons may be in the form set out in the First Schedule.

Evidence on oath

31. (1) A person who, having been duly summoned, is in attendance before a legislative committee may, without prejudice to anything in sections 32, 33 or 34 be required by the chairman of the committee to give evidence on oath or, in circumstances where an affirmation is permitted under the Evidence Act 1905 [title 8 item 10], then on affirmation, as to the subject matter of the terms of reference of the committee.

(2) An oath or affirmation made by a person in attendance as a witness before a legislative committee shall, with necessary modifications, be in the form ordinarily used in proceedings before a court.

(3) The chairman of, or secretary to, a legislative committee may administer an oath or affirmation to any person in pursuance of the foregoing provisions of this section.

Privilege of witness

32. No person who, having been duly summoned, is in attendance before a legislative committee shall be required to answer any question, or to produce any document, which he would not be required, respectively, to answer or produce in proceedings before a court; and any such person shall, in respect of any evidence, or the disclosure of any communication, or the production of any document, be entitled to the same right and privilege as before a court.

Restriction on disclosure of official matters

33. No public officer, being duly appointed to be the holder of any office or post connected with the discharge of the functions of any Government Department or Government Board shall, except with the consent of the Governor—

(a) produce to any legislative committee any document which relates to the correspondence of any Government Department or Government Board or to any other matter affecting the public service; or

(b) give before any legislative committee evidence regarding any such matter;

nor shall secondary evidence be received by or produced to any legislative committee of the contents of any such document as aforesaid.

Refusal to answer where reply or document of an irrelevant private nature

34. Where any person who, having been duly summoned and being in attendance before a legislative committee, refuses—

- (a) to answer any question that may be put to him; or
- (b) to produce any document referred to in his summons,

on the ground that the reply to the question or, as the case may be, the contents of the document, are of a private nature and do not affect the subject of enquiry under the terms of reference of the committee, it shall be the duty of the chairman of the committee to determine whether such refusal should be upheld on those grounds; and if he determines that such refusal should be upheld he shall excuse such person, or if he determines that it should not be upheld he may, subject as hereinafter provided, require him to answer or to produce the document accordingly:

Provided that—

- (i) where the chairman of the committee determines that such refusal should not be upheld he shall, if so required by the person in attendance as aforesaid, report the matter to the appropriate parliamentary authority; and the appropriate parliamentary authority may make such order as appears to him to be just and equitable; and the chairman and the person in attendance as aforesaid shall govern themselves accordingly; and
- (ii) in any such case as aforesaid the chairman of the committee shall inform the person in attendance of his right to require that the matter be reported to the appropriate parliamentary authority.

Evidence excluded from other proceedings

35. Except in connection with a charge of an offence of perjury, or an offence under section 40(b), arising therefrom—

(a) no evidence shall be received in any other proceedings whatsoever that any particular facts were given in evidence by any person before a legislative committee; and

(b) no secondary evidence of the contents of any document produced by any person before a legislative committee shall, except as mentioned in the foregoing provisions of this section, be received in any such other proceedings,

unless the consent of the person who gave such evidence, or produced the document in question, before the legislative committee has been first obtained.

Leave to disclose evidence

36. Without prejudice to anything in sections 26, 27, and 35, no member or officer of either House of the Legislature, and no shorthand writer or parliamentary printer, shall give evidence in any other proceedings in respect of any minutes of evidence taken before a legislative committee or of the contents of any document laid before the

committee, or in respect of any proceedings of the committee, unless the leave of the appropriate parliamentary authority has been first obtained.

Payment of witnesses

37. (1) Any person who, having been summoned, attends before a legislative committee and, if so required, duly gives evidence or duly produces any document before the committee shall be entitled to be paid at the rate specified in section 9 of the Evidence Act 1905 [title 8 item 10], as respects a witness in a criminal cause.

(2) Where professional evidence is given by any other specially qualified person summoned and in attendance before a legislative committee, or any examination or analysis in respect of any person or thing is carried out in connection with any such evidence or is made in compliance with any order or request of the committee, then the specially qualified person shall be entitled to receive fees at the rates specified in the First Schedule to the Evidence Act 1905 [title 8 item 10]; and the chairman of the committee shall have the like powers as a judge in determining the amount of such fees.

(3) Any payment to witnesses made under this section shall be made out of the Consolidated Fund from monies provided by the Legislature for that purpose.

Interpreters

38. (1) The chairman of the legislative committee shall have the like powers as a court with respect to obtaining the services of an interpreter.

(2) An interpreter whose services are obtained as aforesaid shall be entitled to be paid at the rate specified as respects an interpreter appearing before a court.

(3) Sections 12 and 13 of the Evidence Act 1905 [title 8 item 10] (interpreters) shall apply and have effect, with necessary modifications, in relation to a legislative committee as they have effect in relation to a court.

(4) Any payments to interpreters made under this section shall be made out of the Consolidated Fund out of monies provided by the Legislature for that purpose.

Retention of documents

39. Where in accordance with any of the foregoing provisions of this Part any document has been produced to a legislative committee, the committee may retain the document for so long as is reasonably necessary to make a copy thereof or to take extracts therefrom, as may be required for the proper and convenient discharge of their functions.

Offences under Part IV

40. Without prejudice to anything in the foregoing provisions of this Act, any person—

(a) who, on being duly summoned to attend as a witness before a legislative committee, fails without reasonable excuse—

(i) to attend in accordance with the terms of the summons; or

(ii) to remain in attendance until he is excused from further attendance; or

(iii) to attend again in accordance with any direction duly given to him, as mentioned in section 30(3); or

(b) who, while in attendance as a witness before a legislative committee, after having been duly summoned—

(i) refuses to make an oath or (as the case may be) an affirmation when required to do so by the chairman of the committee; or

(ii) refuses properly and fully to answer any question put to him by a member of the committee, being a question which, having regard to the foregoing provisions of this Part, he is bound fully to answer; or

(iii) refuses to produce to the committee any document in his possession or under his control or otherwise available to him which he is required under the terms of the summons to produce, and which having regard to the foregoing provisions of this Part, he is bound to produce; or

(iv) uses any insulting or threatening language towards or in the hearing of the committee or any member thereof, or causes any disturbance or interruption in the proceedings of the committee,

commits an offence against this Act:

Punishment on summary conviction: a fine of \$840.

**BERMUDA HOUSE OF ASSEMBLY
Official Standing Orders**

Revised: July 12, 2013

36. OTHER SELECT COMMITTEES

36. (1) A Select Committee, other than a Standing Select Committee, shall be appointed by order of the House, which shall specify the terms of reference of the Committee.
- (2) It shall consist of as many Members as the House may nominate.
- (3) The quorum of a Select Committee shall be such as specified in the order of the House.
- (4) Every Select Committee shall be so constituted as to ensure, as far as is possible, that the balance of parties in the House is reflected in the Committee.
- (5) Where a Member of a Select Committee dies, or for any other reason his or her seat becomes vacant, then subject to the preceding subparagraph, the House shall nominate another Member in replacement. Subject to the wishes of the House, the proceedings of a Committee shall not be invalidated on the ground of a vacancy in the membership of the Committee so occurring.
- (6) Except as otherwise provided in these Orders, or by special direction of the House, a Select Committee may elect a Chair from among its Members.

37. JOINT SELECT COMMITTEES

37. (1) The Speaker may for the purposes of any Joint Select Committee (other than the Public Accounts Committee) appoint not more than seven Members to sit with Members of the Senate as a Joint Select Committee.
- (2) The quorum of a Joint Select Committee shall be such as the Committee may decide.
- (3) A Joint Select Committee shall elect its own Chair.
- (4) A Joint Select Committee may be appointed at the request of either House with the approval of the other House.

38. PROCEDURE OF COMMITTEES

38. (1) Except as otherwise provided in these Orders, this order shall apply to all Select Committees.
- (2) If the Chair of any Select Committee shall be absent from any meeting, the Committee shall elect another member to serve as Chair for that meeting only.

- (3) Unless the House otherwise directs, except for the Standing Orders Committee and the House and Grounds Committee, all other Select Committees shall have the power to send for persons, papers and records.
- (4) Unless the House otherwise orders, a simple majority of the Members of the Committee shall be a quorum.
- (5) The first meeting of a Select Committee shall be held at such time and place as the Chair [in the case of a Standing Select Committee], or the Speaker [in the case of a Special Select Committee], shall appoint. Subsequent meetings shall be held at such time and place as the Committee may determine: provided that if the Committee fails to do so, the Chair shall, in consultation with the Clerk of the Committee, appoint such time and place.
- (6) The deliberations of a Select Committee shall be confined to the matter referred to it by the House and any extension or limitation thereof made by the House.
- (7) A Select Committee shall not have the power to delegate any of its functions to the Chair.
- (8) Subject to any order of the House or resolution of the Committee, the sittings of a Select Committee shall be private.
- (9) A Select Committee may:-
 - (a) sit at any time when the House is adjourned;
 - (b) except by leave of the Speaker not sit while the House is sitting.
- (10) Every Select Committee shall, before the end of a Session, make a report to the House upon matters referred to it; but where a Committee finds itself unable to conclude its investigations before the end of the Session it may so report to the House.
- (11) A Report of a Select Committee may contain the opinions and the observations of the Committee and may be accompanied by any Minutes of evidence taken before the Committee.
- (12) A Select Committee may make a special report relating to its powers, functions and proceedings on any matters that it thinks fit to bring to the notice of the House.
- (13) (a) The Chair of a Select Committee shall prepare a draft report and submit it for the consideration of the Committee; but alternative drafts may be submitted for consideration by any other Member of the Committee;
 - (b) The report finally to be adopted shall be such as is agreed to with amendments, if any, by all the Members of the Committee or, failing unanimous agreement by a majority of the Members;
 - (c) Any Member dissenting from the report of a majority of the Committee may by leave of the Committee put in a concise written statement of his reasons for such dissent, and such statement shall be appended to the report.
- (14) The proceedings of and the evidence taken before any Select Committee and any documents presented to and decisions of such a Committee shall not be published by any Member thereof, or by any other person, before the Committee has presented its Report to the House.
- (15) A report or special report together with a copy of the Minutes of proceedings of a Select Committee and a copy of the Minutes of any evidence given before that Committee shall:

- (a) be presented to the House by the Chair or other Member deputised by the Committee; and
- (b) shall without question put be ordered to lie upon the table and the report shall be ordered to be printed.

(16) The minutes of proceedings of a Committee shall record:

- (a) the names of the Members present each day of the sitting of the Committee;
- (b) the names of the witnesses examined;
- (c) in the event of a division taking place, the question proposed, the name of the proposer and the respective votes thereon of the members present;
- (d) a copy of the draft report and any alternative draft, and any amendments thereto.

(17) The report of a Select Committee may be taken into consideration by the House on a motion "That the Report of the Select Committee on _____ be adopted" and such a motion may be moved by any Member.

(18) In any Select Committee, the Standing Orders of the House shall be observed so far as may be applicable, except the Order limiting the number of times of speaking. Unless provided by unanimous consent, no Member shall speak for more than 20 minutes at any one time.

TERMS OF REFERENCE

The **Terms of Reference** require the Parliamentary Joint Select Committee to look into the events of 2nd December 2016 generally, including the decision -making and any directives of the Executive and then Speaker of the House of Assembly given to the Bermuda Police Service that led up to and precipitated the events on that day. These events include the deployment of Police in riot gear and the use by some Police of incapacitant pepper spray on the crowd of citizens assembled in protest.

AUTHORITY

The Parliamentary Joint Select Committee was established by the House of Assembly at its Session on 1st December 2017 under the Parliament Act 1957 ("The Act") and the Standing Orders of the House of Assembly (SO 38: 1-3).

Pursuant to Part IV of the Parliament Act 1957, the Parliamentary Joint Select Committee was appointed to:

- (1) inquire into the events as aforesaid as thoroughly as may be:
- (2) to bring closure to these events by making all necessary findings, recommendations and, where required, to recommend any proper sanctions; and
- (3) to submit its report to the House of Assembly within three to six months.

In relation to every issue relevant to the events of 2nd December 2016, the Parliamentary Joint Select Committee shall-

- (1) identify the key or relevant decision-makers of the precipitating actions which led to the main events under inquiry;
- (2) send for all persons, papers and records that are relevant to the Committee's mandate to thoroughly inquire into the events;
- (3) examine all persons who are or were accountable for decisions, deployments, and acts or omissions on 2nd December 2016 whether as Premier, Ministers, Public Officers, Civil Servants or Constitutional Office Holders.

Meetings of the Parliamentary Joint Select Committee

Date	Location	Present
27 th February 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, M. J. Scott, A. Simons
13 th March 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, M.J. Scott, N. Tyrrell, A. Simons
27 th March 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, B. Smith, M.J. Scott, N. Tyrrell, A. Simons
6 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell, A. Simons
10 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, B. Smith, M.J. Scott, N. Tyrrell, A. Simons
13 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, B. Smith, M.J. Scott, A. Simons
20 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, B. Smith, M.J. Scott, A. Simons
25 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, B. Smith, M.J. Scott, N. Tyrrell
30 th April 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, B. Smith, M.J. Scott, N. Tyrrell, A. Simons
16 th May 2018	House of Assembly	H.K.E. Swan, T. Furbert, B. Smith, M.J. Scott, N. Tyrrell
28 th May 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell
6 th June 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, M.J. Scott, N. Tyrrell, A. Simons
8 th August 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, M.J. Scott, R. Swan
15 th August 2018	House of Assembly	H.K.E. Swan, J. Dillas Wright, T. Furbert, S. Simmons, N. Tyrrell
22 nd August 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell Invited: S. Wolffe, Clerk to the Legislature
29 th August 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, S. Simmons, N. Tyrrell
6 th September 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell
12 th September 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell Summonsed: J. Baron
20 th September 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, S. Simmons, N. Tyrrell, R. Swan
28 th September 2018	House of Assembly	H. K. E. Swan, T. Furbert, S. Simmons, B. Smith, N. Tyrrell Invited: K. H. R. Horton
10 th October 2018	Human Rights Boardroom	H. K. E. Swan, J. Dillas Wright, B. Smith, N. Tyrrell
12 th October 2018	Human Rights Boardroom	H. K. E. Swan, J. Dillas Wright, S. Simmons, B. Smith, N. Tyrrell
14 th November 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, B. Smith, N. Tyrrell
28 th November 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell Summonsed: P. Wright
4 th December 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell Summonsed: M. H. Dunkley
19 th December 2018	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell
4 th January 2019	House of Assembly	H. K. E. Swan, T. Furbert, M. Jones, B. Smith, N. Tyrrell
11 th January 2019	House of Assembly	H. K. E. Swan, T. Furbert, M. Jones, B. Smith, N. Tyrrell
18 th January 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, N. Tyrrell
22 nd January 2019	House of Assembly	<i>H.K.E. Swan, J. Dillas Wright, N. Tyrrell (sub-Committee meeting)</i>
25 th January 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, S. Simmons, B. Smith, N. Tyrrell

28 th January 2019	House of Assembly	<i>H.K.E. Swan, T. Furbert, N. Tyrrell (sub-Committee meeting)</i>
29 th January 2019	House of Assembly	<i>H.K.E. Swan, J. Dillas Wright, N. Tyrrell (sub-Committee meeting)</i>
1 st February 2019	House of Assembly	<i>H.K.E. Swan, J. Dillas Wright, N. Tyrrell (sub-Committee meeting)</i>
1 st February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, S. Simmons N. Tyrrell
4 th February 2019	House of Assembly	<i>H.K.E. Swan, J. Dillas Wright, N. Tyrrell (sub-Committee meeting)</i>
8 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, S. Simmons, B. Smith, N. Tyrrell
12 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, M. Jones, B. Smith, N. Tyrrell
14 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell
19 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell
20 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones, B. Smith, N. Tyrrell
21 st February 2019	House of Assembly	<i>H.K.E. Swan, J. Dillas Wright, N. Tyrrell (sub-Committee meeting)</i>
28 th February 2019	House of Assembly	H. K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones
5 th March 2019	House of Assembly	K. E. Swan, J. Dillas Wright, T. Furbert, M. Jones
12 th March 2019	House of Assembly	K. E. Swan, J. Dillas Wright, M. Jones, N. Tyrrell
3 rd April 2019	House of Assembly	K. E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell
8 th April 2019	House of Assembly	K.E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell, S. Simmons, B Smith, M. Jones
7 th May 2019	House of Assembly	K.E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell, B Smith, M. Jones
14 th May 2019	Boardroom, PRGC	K.E. Swan, J. Dillas Wright, T. Furbert, N. Tyrrell, M. Jones

Communication issued/received by the Parliamentary Joint Select Committee

	Dates of Communication from PCA	Dates of Communication to PCA
Mr. J. Baron	13 th March 2018, 3 rd April 2018, 26 th April 2018, 30 th August 2018	21 st March 2018
Dr. D. Binns	27 th February 2019	27 th February 2019
Mr. L. C. Cannonier	21 st December 2018	25 th January 2019
Clerk to the Legislature	2 nd July 2018, 23 rd July 2018, 23 rd July 2018, 20 th August 2018	5 th July 2018, 24 th July 2018, 16 th May 2019
Commissioner Corbishley	7 th January 2019, 14 th January 2019, 27 th January 2019, 13 th March 2019	24 th September 2018, 14 th December 2018, 20 th December 2018, 8 th January 2019 (x2), 11 th January 2019, 14 th January 2019, 5 th February 2019, 7 th February 2019, 15 th March 2019
Commissioner De Silva	13 th March 2018	12 th June 2018
Mr. M. Dunch		3 rd March 2018, 26 th March 2018, 28 th March 2018, 22 nd June 2018, 26 th September 2018, 26 th September 2018, 5 th December 2018
Mr. M. H Dunkley	13 th March 2018, 12 th October 2018, 23 rd October 2018, 5 th December 2018, 5 th December 2018	16 th October 2018, 23 rd October 2018, 26 th October 2018
Mr. W. Furbert JP MP	4 th April 2019	
Dr. E. G. Gibbons	4 th October 2018	15 th October 2018
The Hon. K. H. R. Horton	13 th March 2018, 5 th April 2018, 26 th April 2018, 4 th May 2018, 5 th October 2018	5 th April 2018, 23 rd April 2018, 1 st May 2018
Government House	13 th March 2018, 8 th April 2018, 3 rd May 2018, 14 th June 2018, 11 th July 2018, 16 th August 2018, 18 th September 2018, 5 th October 2018, 12 th October 2018, 29 th October 2018, 30 th November 2018, 6 th December 2018, 7 th January 2019, 14 th January 2019, 27 th January 2019	4 th April 2018, 15 th May 2018, 10 th July 2018, 26 th September 2018, 17 th October 2018, 18 th December 2018
Superintendent J. Howard	16 th August 2018, 17 th August 2018, 24 th September 2018, 19 th November 2018, 12 th December 2018, 7 th January 2019 14 th January 2019, 27 th January 2019	
Mr. E. Johnstone	12 th October 2018	
Sen. The Hon. Mrs. K. Lightbourne-Simmons	12 th April 2019, 1 st May 2019	1 st May 2019
Mr. C. Looby	13 th March 2018	
Mr. J. Lynch	12 th October 2018	3 rd October 2018
Mr. H Mattie	13 th March 2018	
Mr. T. G. Moniz	11 th May 2018, 30 th May 2018, 22 nd August 2018, 12 th October 2018, 20 th November 2018	14 th May 2018, 18 th May 2018, 4 th September 2018
Mr. P. Perinchief	10 th August 2018, 18 th August 2018	
People's Campaign	8 th March 2019	7 th May 2019
Police Complaints Authority	13 th March 2018, 29 th August 2018	
Mr. E. T. Richards	18 th September 2018	19 th September 2018 (x3), 14 th January 2019
The Hon. W. H. Roban JP MP	4 th April 2019	
Royal Gazette	14 th May 2018	
The Hon. Speaker	13 th March 2018, 26 th April 2018, 22 nd May 2018, 7 th June 2018, 22 nd June 2018, 7 th September 2018, 17 th December 2018, 7 th	

	January 2019, 14 th January 2019, 27 th January 2019, 5 th April 2019	
Major M. Telemaque	5 th December 2018, 7 th January 2019, 22 nd February 2019	11 th December 2018, 9 th January 2019, 22 nd February 2019
Trott and Duncan	13 th March 2018, 29 th August 2018	
Mr. P. Wright	18 th September 2018, 29 th October 2018	30 th October 2018
Mrs. C. Whitter	27 th February 2019	4 th March 2019

Submission regarding the House of Assembly Staff



*House of Assembly
Legislature Office*

STAFF MEETING MINUTES

May 16, 2019 - 3:00 p.m.

The meeting was called to order by the Clerk to the Legislature, Mrs. Shernette Wolffe May 16, 2019.

Facilitator: Mrs. Shernette Wolffe **Minutes taken:** Ms. Jessica Bowers
Clerk to the Legislature Administrative Assistant to the
Clerk to the Legislature

Attendees: Mrs. Shernette Wolffe – Clerk to the Legislature
Mr. Clark Somner – Deputy Clerk to the Legislature
Sgt. Major Allen – Sgt.-At- Arms
Mr. Derek Lamb – Parliament Information Officer
Mrs. Nadine Place – Administrative Officer
Ms. Jessica Bowers – Administrative Assistant to the Clerk

Agenda:

1. Events of December 2nd, 2016

1. Events of December 2nd, 2016.

At 7:15 am, the morning of December 2nd 2016, the Sergeant-At-Arms arrived at the Legislature Office located in the Swan Building, 26 Victoria Street. At 8:15 am the Sergeant-At-Arms then left the Legislature Office to unlock the gates of the House of Assembly. At this time no crowds had formed. While unlocking the gates of the House of Assembly the Sergeant-At-Arms was approached by Bermuda Industrial Union (BIU) President, Mr. Chris Furbert, who questioned the Sergeant-At-Arms asking why he was locking the gates. The Sergeant-At-Arms responded stating that he was not locking the gates, but unlocking them which he proceeded to do before returning to the Legislature Office.

The Sergeant-At-Arms then escorted the Speaker of the House, Speaker Horton from the Legislature Office to the House of Assembly. The Speaker of the House remained in the Speaker's Chamber of the House of Assembly and the Sergeant-At-Arms returned to the Legislature Office.

The Sergeant-At-Arms made a final trip to the House of Assembly. Upon return from the Legislature Office to the House of Assembly, the Sergeant-At-Arms found the gates had been closed by a crowd of individuals. A canvas material had been used to cover the gate blocking access to and from the House of Assembly Grounds. The Sergeant-At-Arms asked to pass through the gates which was granted.

The Clerk to the Legislature arrived at the House of Assembly before 9:00 am and found the crowd formed at the gates. The Clerk to the Legislature proceeded to find parking elsewhere and went directly to the Legislature Office. The staff of the Legislature ascertained that the House of Assembly would not be meeting due to the crowding and remained in the Legislature Office.

The Clerk to the Legislature received a call from Inspector Howard asking if the staff of the Legislature would be willing to come to the House of Assembly for a 1:00 pm start. Inspector Howard also inquired if the Office wished to be escorted while walking to the House of Assembly Grounds. The Staff did not agree to leave the Legislature Office.

The Clerk to the Legislature received a second call from Inspector Howard asking if the staff would be willing to be escorted by vehicle to the House of Assembly. The staff of the Legislature did not agree to that arrangement.

The Speaker of the House of Assembly, Speaker Horton then called the Clerk to the Legislature to discuss arrangements for the Legislature staff to come to the House of Assembly as the daily proceedings could not take place without them.

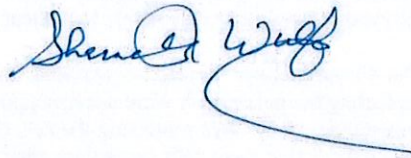
The Clerk to the Legislature informed the Speaker of the House that if both parties, the One Bermuda Alliance and the Progressive Labour Party, agree to come to the House of Assembly, then the staff of the Legislature will come.

The Sergeant-At-Arms noted that there was no threat made to the House of Assembly itself.

Protective gear arrived before 1:00 pm when the Members were due to arrive.

CONFIRMED THIS th 16 DAY OF May, 2019

Clerk to the Legislature



Submissions from the People's Campaign

Meeting with Police Commissioner Michael Desilva
Thursday, November 10th 2016

Meeting with the Commissioner of Police, Mr. Michael Desilva and some of his team members with Bro. Chris and Sis. Ronnie. The Commissioner wanted to have a conversation recognizing that Parliament was to re-open, he said he had spoken to the government about some things, also based on Rev. Tweed's situation, a few other things and the airport. He was trying to give the government a heads up about some things, the Commissioner talked about the March event and how they were asked to do certain things.

Bro. Chris said to him we tried to make sure that event was about people being law abiding citizens, we were not breaking the law, he had told the people leave the police alone they are not the enemy, the Commissioner thanked him for saying that. Bro. Chris told the Commissioner he understands the dilemma they find themselves in but those elected members of Parliament are elected to do the peoples' business and if they are not going in the House to do the peoples' business the people will probably lock them out again.

The Commissioner wanted to reaffirm their commitment to work with the BIU, they were protecting the peace, they were not in support of the movement and they were not an agent of the government, they were protecting the rule of law. They were not asking us to reveal our tactics, they expect that there will be protest, they had advised the government to gear up for protest, make space for it rather than shut it down, do not impose on their Constitutional rights.

The Commissioner said he took a considerable amount of heat from the way they handled the protest in March; they did not want to impose on anybody's Constitutional rights. There was talk of locking the people out of the House of Parliament grounds because they were confused on what was parkland and open space, he told them they were only there to uphold the law.

Bro. Chris also talked to him about the relationship the BIU has had with the police in the past, when we have had demonstrations. The police would come around and have conversations with Sis. Molly or the BIU to see if we needed any assistance; we have always had a good working relationship with the police. They talked about the event we had this year where Mr. Calvin Smith and Ms. Nehemiah Astwood reached out to us and a few of them had been talking to us about the situation we were dealing with.

We kept saying to the people on the hill we are not here to break any laws. It was a pretty good meeting he did not expect the letter, which talks about the content of the meeting, the Commissioner said that it was important that we meet every quarter to have dialogue.

Bro. Chris said he had never been inside the Police Station; they gave us a tour after they finished.

BERMUDA

IN THE MAGISTRATES COURT- CRIMINAL JURISDICTION

**FORM A
INFORMATION FOR AN INDICTABLE OFFENCE**

BERMUDA ISLANDS)

To wit:

The information of **Fiona M. Miller, a Police Sergeant**
of **Hamilton Parish in the said Islands**
taken this **27th day of March 2017**

before me the undersigned, one of her Majesty's Justices of the Peace for Bermuda, who saith that:-

Sherman HILL dob 02-Jun-58
Of: #3 Winton Hill Lane, Hamilton Parish

Antoine MINORS dob 11-Mar-83
Of: #10 Boundary Crescent, Devonshire Parish

Ernest TROTT dob 15-Sep-65
Of: #11 Cable Hill, Devonshire Parish

Dorelle FARRER dob 08-Jan-90
Of: #11 Raynor's Drive, Southampton Parish

OFFENCE

1. On the 2nd day of December 2016, in Pembroke Parish, wilfully obstructed police officers while such officers were acting in execution of their duty.
Contrary to Section 2(n) of the Summary Offences Act 1926

INFORMANT

Sworn before me that day and year first above mentioned.

MAGISTRATE, JP

ADJUDICATION



SUMMARY OF EVIDENCE

The defendants in this matter are Ernest Trott, Sherman Hill, Antione Minors, and Dornielle Farrell

Offence:

- Obstruction

The facts are as follows:

At 10am on Friday 2nd December 2016, the House of Assembly was scheduled to convene and debate the pending Airport Authority Act 2016 and the Bermuda Airport Concessions Act. The Member of Parliament to chair the bills was the Honorable Minister Everard "Bob" Richards. As a result, members of Parliament were required to attend the House of Assembly to conduct the business of the day.

Sometime before 8am that day, Kenneth Bascome JP MP attended Parliament Street and attempted to walk through the south western gate leading to the House of Assembly. At that time he was confronted by a woman not presently before the court, who became belligerent and began shouting **"You're selling out Bermuda!"** Mr. Bascome walked across Parliament Street to avoid any further confrontation. Soon after he walked back across the street and attempted a second time to walk through the same gate. At that time four males emerged and stood directly in front of the gate shoulder to shoulder, creating a human wall, thus blocking Bascome from gaining access to the House of Assembly grounds. Bascome turned and walked away from the area to avoid any potential confrontation with the individuals.

Shortly thereafter, Deputy Speaker of the House, Suzann Holshouser JP MP arrived on Parliament Street with the intent of attending the House of Assembly for the scheduled meeting to debate the above mentioned Bills.

As she approached the North West pedestrian gate to walk through, approximately four (4) males stood directly in front of her and linked their arms together, denying her access. One of the men said to her, **"WE ARE NOT LETTING YOU IN."**

She informed them she had to attend work, which was inside the HOA and again one of them responded, **'NOT TODAY.'**

While she remained there in the company of a uniformed Police Officer she heard a males voice ring out directly behind her saying, **"THEY MAY COME WITH A THOUSAND POLICE, BUT WE'LL BRING THOUSANDS MORE."**

Mrs. Holshouser proceeded to walk south along Parliament Street, with the intent of entering through the south western electronic gate. At that time she observed the **Honorable E.T Richards attempting to enter said gate. Mr. Richards was accompanied by a uniformed Police Officer.** There were two (2) males not before the courts at this time, verbally and physically preventing and denying the Honorable Minister access to the grounds by:

- When asked by the officer to step aside they said "NO."
- The Police Sergeant explained to the men it was unlawful to prevent any person from entering the grounds as such.

The two males, one being a large male and the second a smaller thinner male, did not heed to the request of stepping aside. The Honorable Minister remained there for a few moments, before leaving the area and attended his office. This encounter was captured on video by a member of public and later disseminated on social media outlet "Bernews".

The Honorable Minister of Education Wayne Scott JP MP arrived on Parliament Street later that morning. As he drove up to the vehicular entrance gate on Parliament St, he was unable to drive through due to the large group of protesters blocking the entrance and refusing to move aside. He was told, **"NO ONE IS PARKING HERE TODAY."**

Minister Scott subsequently parked his vehicle outside the Cabinet Office on Reid Street and walked to Parliament Street. On his arrival he attempted to gain entry to the HOA grounds via the south western gate, and was again blocked and denied by a group of approximately ten (10) to fifteen (15) persons, mostly males who he could see had their arms locked preventing access.

Two (2) of the males stood directly in front of him at the pedestrian gate. Having been denied entry Minister Scott left the area. This encounter was captured on video by a member of public and later disseminated on social media outlet Bernews.

A few moments later, Nandi Outerbridge MP arrived on Parliament Street with the intent of entering the House of Assembly; however she was denied access by a group of approximately ten (10) – fifteen (15) males. One of these persons physically grabbed her by the left arm, telling her, **“YOU ARE NOT GOING IN TODAY.”**

MP Outerbridge left the area and went to the office of the Honorable E.T Richards Office. This encounter was captured on video by a member of public and later disseminated on social media outlet ‘Bernews’.

The defendant Farrell was seen by a Police Officer to be amongst the crowd that was blocking the access gate of the House of Assembly.

Around 11 am that same day various Members of Parliament left the Government Administration Building to attend the Cabinet Office on Reid St. As a result of the behavior and actions by the members of the public towards the Members of Parliament, they elected to take a route which would minimize any further confrontation with the ‘protestors.’

Throughout it all, The Members of Parliament had every intention of attending the House of Assembly to debate the proposed Airport Bills this day.

Throughout the morning the persons blocking the various points of entry to the House of Assembly had grown considerably in number.

About 1:15pm, acting upon information received, Insp 282 Mark Clarke and a unit of officers were deployed from Hamilton Police Station to Parliament Street, to ensure Members of Parliament could access the House to debate the bill: as is their legislative duty. Police videographers were also dispatched and tasked with recording the interaction between Police and the protesters as the events unfolded.

As Inspector Clarke made his way onto Parliament Street, he was met by the large group of protesters standing directly in front of the HOA gate. The defendant Ernest Trott, Sherman Hill and Antione Minors were seen standing amongst that crowd; either interlocking his arms or standing shoulder to shoulder with other protesters, creating a human barrier.

Insp. Clarke addressed the crowd, and began to give a declaration; informing the protesters that constitutionally they had a lawful right to assemble. The crowd however began singing loudly **“WE SHALL NOT, WE SHALL NOT BE**

MOVED," drowning out Insp. Clarke's voice as he continued to state the declaration informing protesters that they could not assemble unlawfully, and to do so would be committing an offence by blocking the entrance. This encounter was recorded by Police videographers.

The boisterous chanting continued, at which time a second contingent of officers wearing protective arm pads, shin pads and helmets began approaching the crowd on foot, from the direction of the Church and Parliament Street junction. It was their intent to create a safe walking path for the Ministers and Members of Parliament to gain access to the House of Assembly property in order to perform their Legislative Duties for the day, which was to debate the Airport Bills.

At that moment the defendants Trott, Minors and Hill along with other persons in the large crowd swarmed towards the Police Support Unit headed by Insp 2000 Burgess, refusing to cede ground, and denied them access by physically pushing back that police unit whose duty it was to create a safe walkway for Members of the Cabinet or Legislature to enter the grounds of the HOA to perform their legislative duties of debating the Airport Bills.

The defendant, Trott was seen at one point to grab hold of Sergeant 2345 Trott and had to be physically separated by other officers. The other two defendants, Hill and Minors remained in the crowd and acting with others of blocking the gate to prevent the police officers from making a clear passage way.

The Police videographers continued to record the incident as the officers struggled to create this walking path.

After much pushing and shoving by the defendants Trott, Minors, Hill and others not before the courts, Insp Burgess and her Support Unit left that gate area and proceeded on foot to the southern pedestrian access gate of the House of Assembly; Reid St.

Video footage via Police Videographers and social media was later reviewed by Police Officers, and the defendants were positively identified.

During that time the officers attempted to gain entry into the southern gate on Reid St and again were prevented from doing so by the defendants Minor, Hill and Farrell who with other persons not before the court offered resistance to the officers by pushing back.



STATEMENT OF WITNESS

Statement of: R. Wayne Scott

Date of Birth: February 4th 1967

Address: 4, Ord Road, Warwick WK 08

Phone: (H) (W) 531-3401

Occupation/Employer: Minister of Education

Phone: 324-3401

This statement consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 18th day of January, 2017

Signed: R. Wayne Scott

Signature witnessed by: D. Berry 2072

0915hrs Email: rwscott@gov.bm or wscott@gmail.com

I am the person named above and I currently hold the position of Minister of Education within the Government of Bermuda. I was elected as a Member of Parliament in December 2012 and I have been a cabinet minister since then. I was appointed to my current position approximately two years ago.

On the 2nd of December, 2016 there was a sitting of the house which I am required to attend. The sittings are held at the House of Assembly located on Parliament Street. Sessions start at 10:00am but I always try to get there early.

I was looking to get in to the House for about 9:00am. I drove along Front Street, turned on to Parliament; I drove up to the main gate of the House of Assembly. However, as I approached I noticed a group of people in front of the gate, there was approximately twenty to thirty in that immediate area. I stopped in front of the gate entrance as people were blocking my way. I had my window down and I heard someone say, "NO ONE IS PARKING HERE TODAY".

I had seen the night before messages suggesting people should be up to the House of Assembly to protest the airport legislation. I presumed that these people were present due to that.

Signed: R. Wayne Scott

Signature witnessed by: D. Berry 2072

Continuation of Statement of R. Wayne Scott

result I drove around the block and parked my car at the cabinet building with a plan to walk to the House of Assembly which at that point I thought I could do.

As I walked up the block, I spoke to a number of people; as I got up to the main gate the House of Assembly I could see there was a group of men positioned side by side with the arms locked. They were positioned right across the gate and were two to three lines deep. I walked up to them and one of them said,

"SCOTTY YOU ARE NOT COMING IN HERE TODAY."

I realized that there was absolutely no way I could have got through that gate. I stayed there and talked for a minute or two. Throughout the whole time the persons remained, blocking the entrance. I eventually walked off across the street to the Minister of Finances' office. There I met other colleagues. I would say I arrived at the office by about 9:15am. I stayed there until later in the morning when we all met in the Premier's office at the current Cabinet Office.

It was probably a couple of hours later when I saw the 'live stream' of what was taking place with the police and protesters at the House of Assembly. On seeing this I left the building, walked to my car, through the assembled crowd and drove home.

R. Wayne Scott

On completion of this statement I read over this document and can confirm that it is a true record of what was said.

R. Wayne Scott

This statement was recorded by me between 0915hrs and 1010hrs on Wednesday 18th January 2017 at the Cabinet Office, Innovation House, Reid Street, City of Hamilton. On completion the statement was read over by the maker who signed it as a true record of what was said.

D. Berry 2072

Signed: R. Wayne Scott

Signature witnessed by: D. Berry 2072

BERMUDA



POLICE

FILE COPY

STATEMENT OF WITNESS

Statement of: Deborah Brown

Date of Birth: 26/11/1958

Address: #3 Limehouse Lane, Hamilton Parish

Phone: (H) 7052460

(W)

Occupation/Employer: Self Employed

Phone:

This statement consisting of _____ pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 24th day, of January, 2017

Signed:

Signature witnessed by:

I am Deborah Brown, mother of Nandi Outerbridge JP MP of Constituency #2 St. George's.

About 7:30am on Friday 2nd of December 2016 I drove my work van, a silver grey 15 seater Toyota Hiace #MB029, to Nandi's residence. She had asked me to take her into town to the House of Assembly for the Airport Bill debate that was scheduled for that day. We left her residence and headed out, with me driving.

We arrived in Hamilton about 8:30am, I drove along Reid Street and turned right onto Parliament Street. At that time I noticed a large crowd of protesters gathered near the electronic gate leading to House of Assembly. I pulled up to the loading zone area right outside of the gate; it didn't appear as though the crowd recognized Nandi in the van, things were still calm.

I watched, as Nandi exited the van, and walked across the front towards the gate. At that time I recognized the demeanour of the crowd had changed. As she was walking across the van I heard people shouting "Surrogate, go across the other side!" That was when I got out of the van. I saw Jason Hayward, President of one of the unions, and he walked up towards us. He said to me "Aunty, you know she's wrong." before then saying "She needs to go on the other side." We knew each other well and Jason is a family member of mine.

It was at that time I heard Nandi's voice saying "Take your hands off of me!" That took my attention from Jason and towards her. I saw the protesters standing in the front lines shoving Nandi in the chest with their hands and arms. I didn't recognize anyone, it was just so many of them, but I can say that they were all black men. They were shoving her and preventing her from walking through the crowd and towards the gate.

Without even giving it a second thought, I rushed in and stood between my daughter and this hostile crowd to protect her. I shouted out to them "Take your hands off my daughter and don't touch her again or else!" I wasn't trying to threaten anyone; I just didn't want them to harm her.

Signed:

Signature witnessed by:

Continuation of Statement of Deborah Brown

1 further. A few of the men shouted back "Well tell her take her surrogate ass back over the other
2 side!"

3
4 At that point a Police Officer in uniform stepped in and he dressed the crowd back a bit. He
5 then walked Nandi and I over to the other side of the road and asked if we were ok. Once I was sure
6 Nandi was alright, I walked back across the street to get in my van. Unfortunately, I had to walk
7 across the same hostile crowd to get in the driver's door. As I did, a couple of the guys were
8 shouting that I should be ashamed to let my daughter run with those crackers. I got in my van, and
9 told them "Oh Please" before driving off. That was it.

10
11 I went home and felt hyped by what had happened. I never thought I would witness my
12 daughter being assaulted, just for her trying to do her job and go to the House of Assembly. I stayed
13 in contact with Nandi through the day with text messages, just to make sure that she was alright.

14
15 The only people who I saw there and I know by name were Jason Hayward and Wayne
16 Furbert the PLP MP, who was standing right next to Jason. I don't know the other guys, but I
17 should be able to identify some of them if I saw them again.

 2012

Signed: _____

Signature witnessed by: _____

FILE COPY

BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: Kenten Trott

Date of Birth: Over 21

Address: C/O Bermuda Police Service

Phone: (H) (W) 295-0011

Occupation/Employer: Detective Sergeant 2345 Phone: 717-2345

This statement consisting of 1 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 29th day, of December, 2016

Signed:

Signature witnessed by:

I am Kenten Trott, Detective Sergeant 2345, of the Bermuda Police Service currently attached to the Serious Crime Unit.

On Friday 2nd December 2016, I was on duty and dressed in the uniform of The Bermuda Police Service. I was tasked to assist with policing the Protest occurring at the House of Assembly / Parliament in regard to the proposed airport development.

At 12:30pm on the stated date at the Hamilton Police Station, I was asked by Detective Chief Inspector (DCI) 926 Na'imah Astwood to perform the role of scribe for her. She informed me that she was the liaison between the Police and the various Unions. She asked that I record contemporaneous notes of all of her interactions as liaison.

At 12:41pm at the Court Street junction with Church Street, I was present when DCI 926 Astwood met with Chris Furbert of the BIU and Glen Simmons of the BIU. DCI Astwood identified herself as the liaison between the Police and the Unions. DCI Astwood then asked Mr. Furbert if we could have some sort of peaceful solution or resolution to this current impasse. Mr. Furbert responded "No solution right now. We maintain our position". Mr. Furbert went on to state "We are not letting them in the house". DCI Astwood informed Mr. Furbert that if that is their position, "The Police will be assisting to get the ministers into the house" and that "Police will do what is necessary to facilitate that". At 12:44pm the meeting ended.

At 12:48pm, DCI Astwood and I attended Parliament Street near the entrance to the House of Assembly / Parliament. I assessed the crowd present and saw that Mr. Furbert / Mr. Simmons along with about 75 people were in front of the gates leading to the House of
Signed: Kenten Trott 2345 Signature witnessed by: [Signature]

Continuation of Statement of Kentien Trott

Assembly / Parliament. There were about 150 people in front of the gates closer to the junction of Parliament Street / Church Street. A few members of the Opposition Party - The Progressive Labour Party (PLP), were gathered near the gates closest to Parliament Street / Church Street.

At 1:11 pm, I was present when Detective Inspector (DI) 282 Marc Clarke addressed the crowd by giving them formal instructions (declaration) in front of the main gates to the House of Assembly / Parliament. I was standing immediately beside DI Clarke's (on his right hand side) and I was recording contemporaneous notes. Present at the time were Chris Furbert, Glen Simmons, Reverend Nicholas Tweed, Jason Hayward, members of Parliament, and the earlier mentioned crowd of about 75 people. DI Clarke was unable to give instruction as the crowd started shouting "We shall not be moved".

At this point Police officers in riot gear (PSU Team) lead by Police Inspector 2000 Tracy Burgess commenced walking down Parliament Street towards the main gates of the House of Assembly / Parliament. Upon seeing the officers in riot gear (PSU Team) I put my notepad in my pocket and stood on the side to allow the other Police officers to make a pathway to the House of Assembly / Parliament. The crowd continued to block the main gates, and as the PSU Team approached the gates some individuals in the crowd began to shout and act in an aggressive manner towards Police. Once the officers engaged the crowd, the crowd started to push back and not allow the Police to make a pathway. I could see that the PSU Team were outnumbered and were being overcome by the crowd, so I rendered assistance to the officers. I stood beside the PSU Team, along with other Police officers dressed in the normal attire of the BPS. Whilst I was assisting the other officers to make a pathway, someone from the crowd grabbed my police jacket and began to pull me. Another individual grabbed me around my neck with their hands and began to squeeze my throat. I immediately used my hands to free myself from the person that was choking me and from the person grabbing my police jacket in order to create a safe space between myself and them. Other officers also intervened to separate the individuals and myself. I am unable to identify the two individuals who were grabbing me but I do recall that the person who choked me was male wearing a dark colored jacket, and the person that grabbed my jacket was a male wearing a light colored hat.

The crowd of people was unrelenting, and they were pushing, grabbing and shouting at officers. I continued to assist my colleagues as we were being overpowered. I attempted to persuade members of the crowd to allow the MP's passage to the House of Assembly / Parliament, but they would not clear a passage. I then noticed out of my peripheral vision that someone in the crowd swung an umbrella that hit a police officer in the head. I ran over to try and identify the suspect, but the person ran into the crowd and disappeared. As I looked up towards the House of Assembly / Parliament, I noticed that Chief Inspector 551

Signed:

158 2345

Signature witnessed by:

SA 4124

Continuation of Statement of Kenten Trott

Steven Donnelly was trying to get the attention of the PSU Team. I could see that CI Donnelly was signalling for the officers to tactically retreat to the right. It appeared he was trying to pass the message over the Police radio, but due to the noise and commotion he could not be heard by officers. I tapped the shoulders of some of the officers on the PSU Team and pointed their attention towards CI Donnelly. I also told them to move to the right as tactically instructed by CI Donnelly.

As the PSU Team attempted to move to the right, they were prevented from doing so as the crowd of protesters had effectively created a bubble around them. I saw MP Wayne Furbert (PLP), MP Derrick Burgess (PLP) and Glen Simmons (BIU) were amongst the crowd of protesters. I went up to these gentlemen and explained to them that the PSU Team was trying to exit to the right. I asked for their assistance to make a pathway through the crowd to which they complied. The PSU Team was able to move to the right and tactically retreated from in front of the main gates to the House of Assembly / Parliament.

I remained in the vicinity of the House of Assembly / Parliament to monitor the crowd. After the PSU Team left the area in front of the main gates to the House of Assembly / Parliament (Parliament Street side), the crowd somewhat quelled in comparison to moments earlier.

At 1:33pm at the junction of Parliament Street and Reid Street, Pem; I was present when DCI 926 Astwood and DCI 854 Nicholas Pedro met with Opposition Leader, David Burt of the PLP. DCI Astwood informed MP Burt that she is the liaison officer between the BPS and the Unions. DCI Astwood further went to say that she will meet with the rank structure of the BPS and get back to him. MP Burt indicated that he will remain at that location until she returns. He went on to say that it was wrong that the Police used pepper spray.

At 1:43pm at the Hamilton Police Station, DCI Astwood and I met with Superintendent 437 James Howard. During the meeting, Superintendent Howard informed us that the Speaker of the house ruled that the House will not sit today. DCI Astwood informed Superintendent Howard that she will inform the Opposition Leader and the Union Leaders of this information.

At 1:56pm on Parliament Street near Reid Street, I was present when DCI Astwood met with Opposition Leader David Burt (PLP), MP Lovita Foggo (PLP), and MP Wayne Furbert (PLP). DCI Astwood informed them that the Police will remain in a capacity to keep the peace and that "We will not advance". MP Burt said that this was fine and that he understood. MP Burt went on to state that he was "unhappy that people were tasered and pepper sprayed". The meeting concluded at 2:02pm.

Signed: Kenten TrottSignature witnessed by: Sgt. [Signature] 8124

Continuation of Statement of Kenten Trott

At 2:14pm on Parliament Street near the Department of Workforce Development, I was present when DCI Astwood met with Chris Furbert (BIU), Jason Hayward (BPSU), Glen Simmons (BIU) and Reverend Nicholas Tweed. This was a brief meeting about the events of the day. DCI Astwood informed them that she wants to keep the lines of communication open. Mr. Furbert indicated that he is appreciative of the gesture. At 2:17pm the meeting concluded.

DCI Astwood and I subsequently left the area and returned to the Hamilton Police Station.

The block contains two handwritten signatures in blue ink. The top signature is a stylized, cursive signature that appears to read 'K. Trott'. The bottom signature is also in blue ink and appears to be a witness's signature, possibly reading 'P. Smith'.

Signed: _____ Signature witnessed by: _____

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POLICE
SERVICE

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Statement of Witness

Statement of Christopher Randall Clarke
Address Hamilton Police Station, #52 Victoria Street, City of Hamilton, Pembroke.
Phone (H) 295-0011 (W) 247-1084 (Cell) 717-0526
DOB 13th October, 1962 Email cclarke@bps.bm

Occupation / Employer Police Inspector, Bermuda Police Service

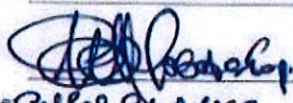
Vacation Dates February, 2017

(in the next 12 months)

This statement consisting of two (2) pages, signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated anything which I know to be false or do not believe to be true.

Date: Wednesday 7th December, 2016

Signed:



Signature witnessed by:



Print name:

CHRISTOPHER RANDALL CLARKE

Print name:

Michael Robert Basser

I am Christopher Randall Clarke, Acting Chief Inspector Number 526 of the Bermuda Police Service (BPS).

I am presently attached to the Patrol Department of the Community Policing Division.

On Friday 2nd December, 2016, I was performing the role of Silver Commander for the Operation in relation to the protest at The House of Assembly (HOA). In this capacity, I collected information and passed on directions from the Gold Commander, who was Acting Assistant Commissioner of Police (ACOP) 437 James Howard. Additionally, I briefed several individuals and units with various aspects of the operation.

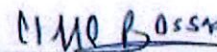
About 0920 hours that day, I met with several Uniformed Police Officers on Parliament Street, outside the main gate leading to the HOA compound. I had a brief conversation with the officers and directed them to activate their body cameras to record my conversation with the crowd. Some of the officers who accompanied me included, Police Sergeant (PS) 412 Lawrence Dean, Police Constables (PC's) 2212 Chris Thompson, 2342 Sandip Roy, 2203 Ascensus Baptiste, 966 Denise Downey, 2449 Jerome Overby, 2480 Thomas Greenslade, 2383 Carol Skerritt and others.

I identified myself as a police officer to the crowd and told that words to the effect that; they had a Constitutional right to protest peacefully and lawfully; however they could not block access to the HOA or prevent anyone from lawfully accessing the compound. I further told them that they had fifteen (15) minutes to clear the gateway. The crowd started to shout back stating that they will not move and they would not allow any Members of Parliament to enter the House. I walked away and left the area.

Signed:



Signature witnessed by



Page 1 of 2

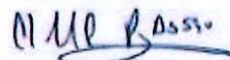
About 1250 hours the same day, while at the Hamilton Police Station, I spoke to Detective Inspector (DI) 282 Mark Clarke and briefed him concerning his duties as part of the Operation. In that briefing, I directed him to go the main gate at the HOA and speak with the crowd. I further directed him to explain to them that they had a Constitutional right to protest peacefully and lawfully; however they could not block access to the HOA or prevent anyone from lawfully accessing the compound. Furthermore, if they block access to the HOA, their actions would constitute criminal offences, for which they could be arrested. Additionally, I directed him to activate his body camera and have all officers who were with him and equipped with cameras to activate them during the proceedings.


DI 282 Mark Clarke

Signed:



Signature witnessed by





STATEMENT OF WITNESS

Statement of: Mark Stuart Clarke

Date of Birth: over 21

Address: c/o The Bermuda Police Service

Phone: (H) (W) 247-1086

Occupation/Employer: Police Officer

Phone:

This statement consisting of 4 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 5th day, of December, 2016

Signed:

Signature witnessed by:

I am Detective Inspector 282 Mark Stuart Clarke of the Serious Crime Unit c/o the Bermuda Police Service.

On Friday 2nd December 2016, I, along with other members of The Serious Crime Unit, reported for duty at the Hamilton Police Station where we remained on standby in regards to the events unfolding in the surrounding environs of the House of Parliament.

About 1300 hours, this same date, I was detailed by Acting Chief Inspector 526 Christopher Clarke to attend The House of Assembly to give a declaration to the protectors obstructing the main entrance.

Prior to departing Hamilton Police Station I was fitted with a Police Body Camera (Body Cam) #8248, which was attached to my right shirt pocket.

I, along with, DS 2351 Derrick GOLDING, PC 952 Terry-Lynn PAYNTER and others attended this location. PC 952 Terry-Lynn PAYNTER was the designated videographer.

Prior to crossing Church Street, junction with Parliament Street, I along with DS 2351 Golding activated our 'Body Cams' and with others we walked down the middle of Parliament Street, stopping at the main entrance to The Sessions House.

At 1311 hours, this same date, I stood in front of persons assembled in a manner which effectively obstructed anyone or anything from entering the main entrance of the House of Assembly c/o The Sessions House #21 Church Street, City of Hamilton.

These persons, not including those assembled on the sidewalks, appeared to exceed 80 persons.

Signed:

Signature witnessed by:

Continuation of Statement of

DI 282 Mark Clarke

In the front row were people whom I immediately identified as being Rev. Nicholas **TWEED**, BIU Leader Mr Chris **FURBERT**, MP JP Derrick **BURGESS**, MP JP Wayne **FURBERT**, MP JP Walter **ROBAN**, Former MP Glenn **BLAKENEY**, former BPSA Leader **BALL**, a man I only know as 'DINGBAT' **SIMMONS**, and others who should have been captured by my Police BodyCam and Videographer.

All persons, if not most, in the front row had their arms interlocked with the persons standing beside them.

As this crowd was noisy I waited until their leaders requested that they remain quiet until I was heard. Once they were silent I stated, "**LISTEN UP. CONSTITUTIONALLY YOU HAVE A LAWFUL RIGHT TO ASSEMBLE. HOWEVER YOU...**" My voice was drowned out with the chanting "**WE SHALL NOT, WE SHALL NOT MOVED.**" in an ever increasing volume.

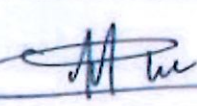
Whilst I could not be heard I finished my declaration, "**...CANNOT ASSEMBLE UNLAWFULLY. TO DO SO YOU WOULD BE COMMITTING OFFENCES.**"

Having denied the completion of my declaration it was clear to me that this group were determined to continue obstructing this entrance.

I remained standing in place until my attention was drawn to officers approaching in three columns led by Inspector 2000 Tracey **BURGESS**.

Having made this observation I stepped back to allow the team led by Police Inspector 2000 **BURGESS** to approach. Shortly after stepping back, I was approached by MP JP Wayne **FURBERT** and MP JP Derrick **BURGESS**. They requested that I not allow this to escalate. Owing to the events unfolding I did not answer any questions.

From my position I observed that these officers were being prevented from gaining access to the entrance gates and events soon escalated into a disturbance consisting of strengthen push back by this mob, thereby obstructing the intent of the Police gaining entry to the grounds of the Sessions House.

Signed: Signature witnessed by:  

Continuation of Statement of

DI 282 Mark Clarke

During these events I completed at least two full circles to allow my 'bodycam' to record the events. Whilst I was facing westwards, towards the Government Administration Building, I heard a noise that sounded like something had struck a helmet. On turning to face the area of the former Magistrates Court building I glimpsed a retreating blue umbrella. At the same time the crowd surged and I was not able to see the holder of the umbrella but further observed accelerated hostility.

During this time I was approached by various MP's including MP JP Walter **ROBAN**, Leader of the Opposition MP JP David **BURT**, MP JP Lovita **FOGGO**, MP JP Michael **SCOTT**.

Between them I was asked a variety of questions.

- MP JP Walter **ROBAN** was repeatedly demanding the grounds for the Police response.
- MP JP Lovita **FOGGO** was stating that her grandchild's father was pepper sprayed
- MP JP David **BURT** was questioning the decision to deploy
- MP JP Michael **SCOTT** was questioning who was responsible for deploying the Police

Owing to the increasingly escalating unfolding events; beyond directing them to Hamilton Police Station, I declined to answer any questions asked.

Events shifted from the main entrance on Parliament Street and I observed officers under the remit of Inspector Tracy Burgess depart this area and head east down Reid Street.

Having made this observation I, along with my team, made our way to the area of the southern entrance of The Sessions House (Old Magistrates Car Park). There was full scale confrontations occurring between members of the public and police. All which should have been recorded by various devices, including those possessed by members of the public.

Signed:



Signature witnessed by:



Continuation of Statement of DI 282 Mark Clarke

During my presence on Reld Street there were several people being bolsterous in their threats and conduct. Andre 'Blacka' Simmons and 'Plukey' Brangman were two whom I can name.

There were two other males who directly threatened me with the comments, **"WE KNOW WHERE YOU STAY. YOU'RE DAY IS COMING!"** These threats were personal and I consider them to be threats levelled against myself and family members outside of the remit of my office. Both males would have been recorded by Police Videographers and I will be able to recognize them again.

I have viewed several videos on YouTube, In the House of Assembly protest compilation video, a black male wearing a light blue t shirt with grey goatee beard at 16:36 is clearly heard to threaten me, stating, **"WE KNOW WHERE YOU STAY, YOU'RE DAY IS COMING!"**

A second male was also making similar threats. He was also a black male wearing dark coloured MOVE T-Shirt with a goatee type beard.

Of all the negative based utterances made during this period, including the commentary of Andre Simmons and 'Plukey' Brangman, it was the comments of the two unknown males that I personalized. These were personalized as I have a young family, including grandchild who reside with me. It is their safety for which I have paramount concerns.

Signed: _____ Signature witnessed by: _____

BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: Marina Jn Pierre

Date of Birth: Adult

Address: 10 Headquarters Hill, Devonshire DV02

Phone: (H) (W) 295-0011

Occupation/Employer: Bermuda Police Service

Phone: 2950011

This statement consisting of pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day, of August,

2016

Signed:

Signature witnessed by:

I am Marina Jn Pierre, Police constable Number 2381. I am a member of the Bermuda Police Service attached to Comops (Police dispatch) at Prospect, Devonshire.

On Friday the 2nd of December 2016, I was on duty about 1200 hrs. Whilst on duty, I attended briefing at the Public Support unit (PSU) office along with other police officers. The briefing was held by 2000 Burgess. There I was informed of an ongoing protest at the grounds of House of Assembly where protestors had the gates blocked, denying the ministers access to the building. At the briefing we were told that a sterile area needs to be created to allow the ministers into the building and that would be achieved by forming a "bubble" at the entrance. I was instructed to suit-up in my public order kit.

Thereafter, I reported to Hamilton Police Station along with my other colleagues where I was further briefed by A/COP Howard. Shortly afterwards, I was deployed to House of Assembly along with my other colleagues to the entrance gate on parliament Street. The team was being led by Inspector Burgess.

On approaching the gate, I noticed a large crowd about 200 or more persons, shouting and ranting. I proceeded to the said gate along with the rest of the team and tried to create a bubble. The crowd at once became aggressive, interlocked their arms and was forcefully pushing us back. I kept shouting "stay back" "Stop pushing" and kept repeating the same thing. I noticed that some persons from the crowd were pushing with the fist and elbows. I further saw an umbrella in someone's hand pounding at the officer's head. At this point I felt that I was in harm's way. We were outnumbered by far and our goal was unachievable.

All officers were pulled out of that gate and attended to secure the gate on the Reid Street side. There was in the front line faced with an angry crowd. I kept shouting, "stay back, and stand back" but the crowd became more aggressive. I was pushed against the chest by a dark skinned, stocky male with a blue hooded sweater with his elbow. I then used my right palm to keep him back but was proven futile. He kept pushing me back. At this point, I grabbed hold of him and pulled him out of the crowd. The protestors kept pushing and shoving and refused to clear the gate. Soon after, I was instructed to stand down along with the other officers and return to Hamilton Station.

In the effort of trying to create that sterile area I was in fear of my life, especially when I was faced with the angry crowd and not being fully protected. Despite the situation, I advised some of the protestors who had

Signed:

Signature witnessed by:

Continuation of Statement of Marina In Pierre PC 2381

been captured, as to how to treat their eye. I was not equipped with a capor, Taser or a baton during the protest.

Whilst at the station, I felt my right hand hurting, but thought the pain would have stop or lessened soon after, but it got worst over the weekend. I later sought medical treatment from the police doctor at Prospect, where I was treated and given a prescription for medication. I have no broken bones, but my daily activities were hindered by this injury as I am right handed. I have a follow-up visit on Friday the 9th of December 2016.

Signed: 

Signature witnessed by: 

BERMUDA



POLICE

COPY

STATEMENT OF WITNESS

Statement of: Darren Glasford

Date of Birth: 02 Aug 1970

Address: c/o Police Headquarters, Prospect, Devonshire

Phone: (H)

(W) -2950011

Occupation/Employer: Police Officer/Bermuda Government

Phone: 7170716

This statement consisting of 1 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 7th day, of December, 2016

Signed: Sgt. 716 Glasford

Signature witnessed by: [Signature]

I am Sergeant 716 Darren Glasford, presently attached to the Gang Targeting Unit in the Intelligence and Information Division of the Bermuda Police Service.

On Friday the 2nd of December 2016, I was on duty in uniform at the Police Support Unit officer in Prospect, Devonshire. As a result of an ongoing protest at the House of Assembly I was detailed as a PSU Section Commander. I along with other officers that formed up the PSU all got dressed in Public Order gear which consisted of helmets, vest and protective pads on forearms and legs. After being briefed by Insp. 2000 Burgess I along with the PSU attended Hamilton Police Station. We were briefed again by ACOP Howard and C/I Donnelly. We were informed that the protestors that were blocking access to the House of Assembly were protesting illegally. We were instructed to attend the House of assembly and form a Bubble, which is a PSU tactic, around the main gate and allow free access to the House of Assembly. We were also told to assist other officers with the arrest of any offenders as deemed necessary. Prior to leaving Hamilton Police Station we received information that the protestors at the House of Assembly exceeded one hundred (100). Shortly after 1:00pm we left Hamilton Police Station and I turned on my Axon Body Camera and walked to the main gate of the House of Assembly on Parliament Street with the PSU. As we walked down Parliament Street and started to approach the gate.

Signed: Sgt. 716 Glasford Signature witnessed by: [Signature]

BERMUDA POLICE

COPY

Continuation of Statement of 716 GLASTON

I could see that the crowd massively outnumbered us. The noise of the crowd increased as we approached. As we tried to make our way to the gate there was a huge uproar from the crowd and the crowd surged towards the officers. They prevented us from getting to the gate. I could see that the crowd consisted of young and old and many adult males. I could see many males pushing officers back from the gate. I could see officers attempting to detain certain males who started to resist violently pushing and pulling away from the officers. At this time I was behind a row of officers when I saw a blue umbrella come over the top of the crowd and strike an officer in his helmet. I immediately drew my Captor incapacitant spray and pointed it at the male who was holding the umbrella. He was being pulled back by the crowd at this time so I did not deploy my Captor. This male was brown skinned, around 5'10 and was wearing a navy blue jacket. Due to the size of the crowd this male was not arrested. The crowd continued to push and pull against the officers many officers were involved in scuffles with males. I was fearful for my safety and particularly the safety of the officers on the front line. I instructed officers to move to the right and pull back from the crowd. The PSU was later instructed to attend the south gate on Reid Street. As we made our way to the south gate I could see a number of males running to the south gate from the main gate. As we arrived at the south gate I could see a crowd blocking the gate. As we approached the gate the crowd became louder and persons physically pushed back against the officers. I could see officers getting into scuffles with males. I knew that Captor had been deployed as I felt a burning sensation on the lower part of my face. Even though I was not sprayed directly this effect would be expected as Captor can be carried by the wind. I noticed two officers attempting to detain a male who was resisting violently. I drew my Captor and sprayed the male directly in his face in hope that he would stop resisting and be able to be detained. He continued to resist and was pulled free from the officers by the crowd. I could see other officers getting pushed in their chest and those officers attempting to detain the offenders but they also resisted, violently pushing and pulling away from the officers and also being pulled from the officers grasp by the crowd.

Signed: Sgt. 716 Glaston Signature witnessed by: [Signature]

BERMUDA POLICE

COPY

Continuation of Statement of 716 GLASFORD

We were soon after given the order to stand down and return to the station. I did not receive any injuries but continued to have a burning sensation on my face until I was able to treat it with water. I had no further dealings in the matter.

Sgt. 716 Glasford

[Signature]
R 24/10

Signed: _____ Signature witnessed by: _____

BERMUDA



POLICE

FILE COPY

STATEMENT OF WITNESS

Statement of: Pc 2431 Daniel Cole

Date of Birth: Over 21

Address: C/O Police Headquarters, Prospect, Devonshire

Phone: (H) 7172431

(W)

Occupation/Employer: Police Officer/Bermuda Police Service Phone: 295-0011

This statement consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 12th day, of December, 2016

Signed:

Signature witnessed by:

I am Daniel Cole Police Constable 2431. I am currently attached to the Armed Response Unit of the Community Policing Division of the Bermuda Police Service.

On Friday 2nd December 2016 at approx 12pm I was on duty conducting Firearms Training when requested to report to the Public Order Store Room at Prospect as there was a protest taking place at the Cabinet grounds and a Public Order response was to be put on Standby. I was required to collect my Public Order equipment and await a briefing at Police Training School, Prospect.

At Approx 1240pm I was briefed along with around 20 other officers by PSU Insp Burgess about the ongoing developments at the Cabinet Grounds and informed that I would be part of a Public Order deployment. We were tasked with creating a 'Bubble' Tactic around the Western Parliament gate entrance to cabinet so that the Politician's of the day could attend to debate on any matters scheduled for that day.

At around 1pm I went from Prospect in a marked Police Land Cruiser and attend Hamilton Police Station Briefing Room for a formal briefing about the incident. I was briefed by Supt Howard and C/Insp Donnelly in relation the incident and Public Order Tactic that was to be conducted.

Approx 1:30pm I formed up alongside other Public Order Officers outside Hamilton Police Station. I activated my Personal Issue Axon Body Camera #4855, we then made our way from Hamilton Police Station, right onto Court St, Right onto Church St and then Left onto Parliament St towards the Cabinet Grounds. As we turned the corner there was a loud cheer it was very intimidating. As we approached the Cabinet Gate on Parliament St I could see that there was a large crowd gathered. The road was obstructed and the gate into the Cabinet grounds was blocked. The crowd must have been about 6-7 people deep and in excess of around 150 members of public. As we approached the crowd we attempted to make our way through and gain access to the Cabinet gate. Whilst trying to make a way through the crowd to the gate myself and fellow officers came up against great resistance from the protest members.

I attempted to talk to crowd members explaining that they were breaking the law and that we needed to gain access to the cabinet gate. Persons I encountered were very hostile and had no intention of moving from the roadside or blocking the gate. I was trying my best to move persons away but the crowd became aggressive and starting to push back against the Police officers in the area. There was a loud shout from people say 'lock arms', 'push back', 'don't let them through'. I

Signed:

Signature witnessed by:

noted that the protest crowd was attended by many different members of the community including a number of Politicians and Unions Heads.

I found myself at the front line of the Police unit attempting to stop the crowd from pushing back at Police Officers and also pushing forward against other members of the Public. The crowd starting to become more hostile with persons shouting abuse at the Police and clearly obstructing me and my colleagues in our duty. At one point a member of the crowd who was about 2 or 3 persons deep swung an umbrella over the top of the crowd with intention of hitting Police Officers in the line. The umbrella just missed my head due to my height but did strike and officer who was stood behind on my right shoulder. I was unable to get to the suspect as he was too far deep into the crowd.

A few moments later PSU Insp Burgess told us to withdraw from the area. And re-form at the junction of Parliament and Reid St. We were then told to move left towards the Reid St Entrance into Cabinet as the crowd was smaller so we may be able to control that gate. As we moved to Reid St so did the large crowd from Parliament St. Again I was met by hostile members of the public who were determined to obstruct myself and other officers from gain access to the gate. I was confronted by many protesters who would violently attempt to push past me in order to get between Police and the Cabinet Gate. When I attempted to stop people they would become aggressive and resilient. I was worried as the Police were totally outnumbered and attempting to achieve an unachievable task based on the numbers of protesters. When talking to members of the crowd to try and gain some compliance they would get up in my face and shout and swear at me for trying to stop them.

I could see behind me that officers near the gate or in the cabinet grounds were attempting to stop protest members pushing them against the wall and also climbing onto the Cabinet Wall or gate. I could hear officers shouting 'Get Back' I then noticed that members of the crowd were complaining that they had been 'Pepper Sprayed'. I ushered anyone that was affected by 'Capitor' spray away from the area so that they weren't injured and could seek help.

I remember one or two protesters in particular continually coming in and out of the crowd and was very insightful and jeering on other protesters. Shouting aggressive words to Police and accusing them of hitting and spraying 'pepper spray'.

At Approx 3pm the crowd had not moved and still blocking the highway and gate despite the Police's best efforts to clear them. A decision was made by PSU Insp Burgess for the Public Order officers to form up and stand down. As a result we return to Hamilton Police Station for a De-Brief.

After the incident I downloaded my Axon Body Cam #4855 and requested that the footage be downloaded.

I had no further part in this incident. .

Signed:



Signature witnessed by:



BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: Litanya J. Smith

Date of Birth: over 21

Address: 10 Headquarters Hill, Prospect, Devonshire

Phone: (H) 2471704

(W) 2471438

Occupation/Employer: Bermuda Police Service/Constable

Phone: 2950011

This statement consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day, of December, 2016

Signed:

Signature witnessed by:

I am Litanya Smith, Police Constable 2126 and presently attached to Community Policing Division, Response Unit.

On Friday, 2nd December 2016 at 0645hrs I was on duty in uniform at Hamilton Police Station when I was detailed to patrol and maintain order at the House of Assembly.

About 0730hrs I was present in House of Assembly grounds close to the North West gate. At this time the North West and the South West gates were not obstructed by any persons, but they were locked. Shortly after 0800hrs Mr. Arnold Allen, the Property Manager arrived to unlock the gate. By this time there was a small gathering of people, inclusive of BIU President Chris Furbert. I heard the raising of voices and observed Mr. Furbert yelling at Mr. Allen about the locked gates. I heard Mr. Furbert say, "THEY ARE NOT LOCKED ANY OTHER TIME!"

By 0900hrs the gathering of people got larger in numbers and they joined up to restrict access to both gates. About 1055hrs I was approached by Sergeant 412 Dean who stated that he needed 3 Officers to return to Hamilton Police Station with him. Myself and PCs 952 Paynter and 2498 Basden went with him. When I returned to the Station I was handed a black Sony Handy Cam Digital Camcorder and was instructed to video protestors.

I returned to my previous post on the grounds of House of Assembly and as I arrived I observed Officers wearing protective helmets, arm and knee pads walking in a southerly direction on Parliament Street towards to majority of the crowd. I saw the Officers in the middle of the crowd near the South West gate and there I saw pushing and shoving by the crowd and the Officers. I saw a person in a blue jacket and white baseball cap raise a blue umbrella and brought it down in a striking motion towards the Officers. I could not see if any of them were hit but I heard a loud whacking sound. The Officers started to advance towards the person but were prevented in doing so by other members of the crowd and I saw Minister Wayne Furbert intervene.

I saw the Officers who were trying to gain entry onto the grounds walk towards Reid Street. I continued videotaping as the events unfolded, I saw a man known to me as Toriano Henry leave his position at the South West gate and start to walk on the grounds. An Officer approached him to tell him that he could not come in. Toriano said, "I JUST WANT TO CHECK MY BREDREN." He was stopped by Officer 2208 Mill and I saw him put his hands up in a stopping motion. I observed Toriano getting upset and he yelled, "PUSH ME AGAIN! DON'T FUCK WITH MY FAMILY." I yelled at

Signed:

Signature witnessed by:

Continuation of Statement of Ulanys J. Smith

1 him numerous times to stop arguing with Officer Mill and to go back out of the gate. There were
2 other members of the community and police also trying to de-escalate the situation. I then heard
3 him say, "YEAH I KNOW IM ON VIDEO. SHE CAUGHT IT." Once Toriano had calmed down and
4 returned to his previous position at the gate, I was approached by Officer Mill who asked me if I
5 captured the exchange between him and Toriano and to also capture on video another person
6 known to me as Ernest Trett who at the time was wearing an orange safety vest over a white shirt.

7 I continued videotaping and I could hear persons yelling, "HOLD THE GATE!" And singing,
8 "WE SHALL NOT BE MOVED."

9 I returned to Hamilton Station and handed the video camera and the recordings to Sergeant
10 996 Rock signed as LJS1 and resumed normal duties.

Signed: Ulanys J. Smith

PC2126

Signature witnessed by: [Signature]

PC2126 DA 2472

BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: Tracy Burgess

Date of Birth: Over 21

Address: c/o Bermuda Police Service, 10 Headquarters Hill, Prospect, Devonshire, DV02

Phone: (H)

(W) 295-0011

Occupation/Employer: Bermuda Police Service

Phone: 295-0011

This statement consisting of 1 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day, of December, 2016

Signed:

Signature witnessed by:

I am Police Inspector 2000 of the Bermuda Police Service, currently assigned to Police Support Unit, of the Bermuda Police Service.

Around 9:00am on Friday the 2nd of December I was requested to attend a briefing regarding the protest that was taking place outside the House of Assembly. After the briefing I attended the Police Support Unit (PSU) office at Prospect, Devonshire. At this location PSU officers and other officers were briefed regarding the incident the ongoing protest at the House of Assembly, City of Hamilton. Once this briefing was completed I attended at Hamilton Police Station where we received further briefings from Acting Assistant Commissioner of Police Howard and Chief Inspector Donnelly.

Following these briefings I was deployed alongside other officers to the House of Assembly. On arrival at this location I observed a large crowd of people stood in the road at the Parliament Street entrance. I was unable to see the gateway as the large crowd of people were stood in front of it obstructing both the view and access to it. The crowd were shouting and making a lot of noise, shouting and gesturing towards us as we approached. As we approached the crowd in front of the gate, officers began to ask the crowd to move away from the gate to allow access to it. Immediately the crowd began to lock arms and push towards us causing me to take a firm stance and brace against them, pushing back with both open hands and instructing the crowd to get back. Despite the repeated appeals the crowd continued to push towards us and I could feel numerous hands on me, about my arms, chest and abdomen. Afraid I would be assaulted I continued to push away and with a loud voice instructed them to get back. All of my instructions were ignored as the crowd began to shout louder and push and pull at the officers that were beside me. I recognised several persons who were stood in front of me and the other officers, including several politicians and union representatives. There were other members of the crowd who were being particularly aggressive, swearing and shouting at me and the other officers, spitting and cursing at us. Two of these I can describe as 1. Black male, heavy build about 250 pounds, about 5'10" tall in his late forties or early fifties with a bald head and light grey goatee beard, wearing a bright blue Works and Engineering t-shirt. This man was particularly aggressive and striking the officers with his hands and swearing and shouting. The other I describe as black male, chubby build, about 5'6" tall, balding head of a similar age to the other man and was wearing a bright blue shirt. This man was also being very aggressive, I saw both men on several occasions being very aggressive and striking out at officers at several locations including the Reid Street gate where both were subjected to Caplor incapacitant spray by other officers. I saw both displaying signs and symptoms of being sprayed, rubbing at their eyes and eyes watering. Despite this, both continued to be aggressive, pushing and shouting and swearing at those around them.

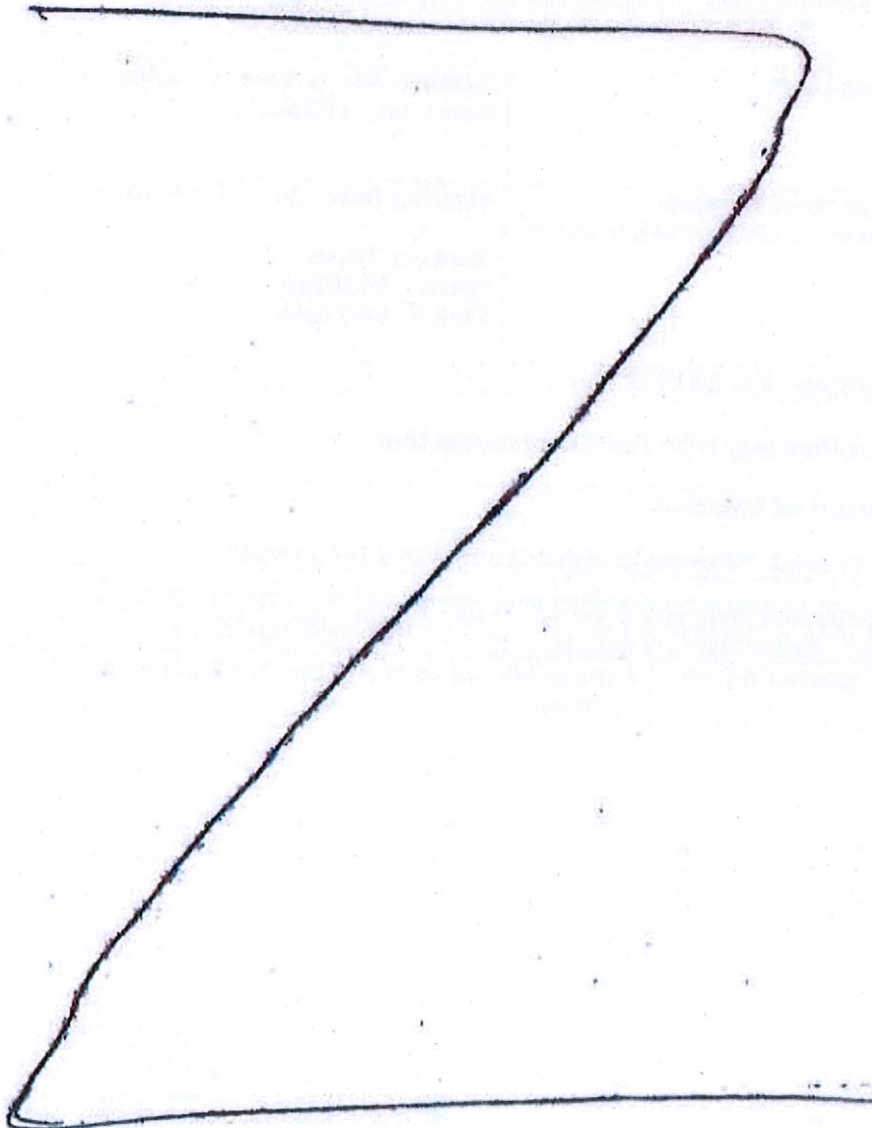
Signed:

Signature witnessed by:

01/10/2016

Continuation of Statement of Tracy Burgess

After several unsuccessful attempts to gain access to the grounds of the House of Assembly, officers were asked to withdraw and return back to the Hamilton Police Station. Upon examining myself for physical injuries I could feel pain and discomfort to my shoulder area and neck. This was caused by being repeatedly struck by the crowd outside the House of Assembly. I was experiencing particular discomfort to my left shoulder, which was sore to the touch but did not require medical attention. Despite being spat at repeatedly I received no further more serious injuries. I can state that nobody has any right or authority to assault me.



Signed:

A handwritten signature in dark ink, appearing to read "Tracy Burgess".

Signature witnessed by:

A handwritten signature in dark ink, appearing to read "P. Ross".



Run No.

Record of CCTV Viewing

HOA PROTEST INVESTIGATION

EVIDENTIAL / NON EVIDENTIAL

**ON COMPLETION VIEWING SHEET/TRAWL SHEET AND SKETCH
PLAN/MAPS TO BE STORED TOGETHER**

Exhibit Number: MI2	Address Where Found: Parliament Street, City of Hamilton	
Description from Exhibit: WD My Passport Ultra (Black in color)	Viewing Date: 20 th March 2017, Viewing Times - Start: 1550hrs. Finish: 16:10pm	
Viewing Officer: Pc. 2219 M Iris		
Reason for Viewing: HOA Protest Investigation		
Total Number of Cameras:		
Cameras Viewed: "Facebook video#10154736130019402"		
Entry	Camera/Timer Numbers	Viewing Notes
1.	Minute 01:49	Antoine Minors seen singing "We shall not be moved" in crowd.

[Signature]
MI2



STATEMENT OF WITNESS

Statement of: Dornielle A FARREL

Date of Birth: 8th January 1990

Address: 11 Raynora Drive, Southampton, SN04

Phone: (H) 238-8408 (W)

Occupation/Employer: W&E Quarry Depot

Phone: 505-3470

This statement consisting of _____ pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 13th day, of December, 2016

Signed: *D. Farrel*Signature witnessed by: *Arnell*
JMS 02215

I am the above named person and I live at the above stated address.

On Friday 2nd December 2016, I was present during a peaceful protest outside the House of Assembly to do with the proposed airport redevelopment project. I went to support fellow islanders and colleagues, especially because of the fact that I did not agree with the way government had not consulted and communicated with the general public. I am not in favour of the way the bill came about. I have no problem with a new airport but I am definitely not happy about the whole situation and the way it came about.

I got to the house of Assembly around 0815 to 0830 am as I went to St David's to report to work first. When I first arrived in town I went to the main vehicle gate on Parliament Street. There were a lot of people already there. There were colleagues, members of the public, male and female. It was calm; people were just standing around joking, talking and meeting new people. People were just generally mingling and chatting. There were some police officers at various points around the building, a few of whom I knew, and had conversations with. There was no tension between the protestors that were there at that point and the police that were standing around. I probably stood there for about ten minutes, and then I wandered round to the Reid Street gate, and saw more colleagues and members of the public, so I joined them and stayed there for the remainder of the day. Again the mood was calm, and there was no apparent tension. At about 1.00 pm or just after, I was standing talking at the gate, and some people from the bus depot came by and we chatted with them, all of a sudden someone said "OH LOOK WHO'S COMING". At this time I was standing by the small pedestrian gate to the House of Assembly on Reid Street. The majority of people standing around me were elderly women and women generally. I looked up and saw the riot police about 10 feet away from me facing towards the House of Assembly, I can't say how many but there were a lot of yellow vests and helmets! I heard no warnings or verbal commands. It was like they were doing some kind of formation; they just came in at us and were pushing and pulling people away from the gate. The gate behind us was closed and had police officers behind it. One of the police officers must have kicked the gate open and then I saw a female bus driver backing up against the steps and the police officers tried to pull her out and the way and she fell back and landed on the ground with a resounding "whack". She just laid there. I was going to go and assist her, but another lady was squashed up against the wall, and she grabbed hold of me and asked me to get her out. At this point my hoodie fell forward and suddenly I saw two banisters and I was

Signed: *D. Farrel*Signature witnessed by: *Arnell*
JMS 02215

Continuation of Statement of Dornelle A FARREL

1 sprayed straight in the face. I saw the officer who sprayed me and would describe him as short,
2 blue shirt, blue jacket, and white complexion. I immediately started to throw up, but nothing was
3 coming out, just air and saliva, my face was burning and I couldn't breathe properly. My throat was
4 burning. I bent my head even lower and my hoodie came down even further and then I saw the
5 canisters come right into my hoodie and spray me again all over my face and eyes. A police officer
6 who I know through working security, I think he is a DC Simmons or DC Simons, grabbed hold of
7 me and was trying to get me out of the crowd, he eventually got me out of harm's way and took me
8 further down to the parking lot inside the grounds and he was just trying to get me to breathe and
9 to get me as comfortable as possible. After a short time he took me back to the steps, and two rugby
10 friends took me over to an ambulance which was parked up in Reid Street. Another colleague also
11 came over and tried to wash my eyes out with water, my rugby friends, Jahmal and Ragool then
12 took me to Rock Island coffee shop where I washed my face with milk and took some almond milk
13 for my throat which eased the burning a little. I then went home, showered and washed my
14 clothes, which I have since had to throw in the trash because the pepper spray didn't come out. I
15 then returned to town to check on other people who had been pepper sprayed and the bus driver
16 lady who had fallen over. By the time I arrived back, the riot police were gone, and there were just
17 the routine police officers still there. I spoke to a few of them about what had happened and asked
18 why it had happened, but everyone had a different opinion.

19 I do not feel the actions of the riot police were justified as we were not protesting violently at
20 any point. It was a peaceful protest and no violence was used. I would like to make a formal
21 complaint about the way police handled this protest and I would also like compensation for the
22 clothes that were destroyed as a result of being pepper sprayed.

23 THIS STATEMENT WAS TAKEN BY ME, THE UNDERSIGNED BETWEEN THE HOURS OF
24 1400 AND 1450 ON TUESDAY 13TH DECEMBER 2016 AT 81 COURT STREET. IT WAS READ
25 OVER TO THE MAKER WHO WAS INVITED TO ADD, ALTER OR AMEND ANYTHING. IT WAS
26 THEN SIGNED AS A TRUE AND ACCURATE RECORD.

Signed



Signature witnessed by:


JMS 13 Dec 2016

"SDV_0044"

Time: 00:27hrs.

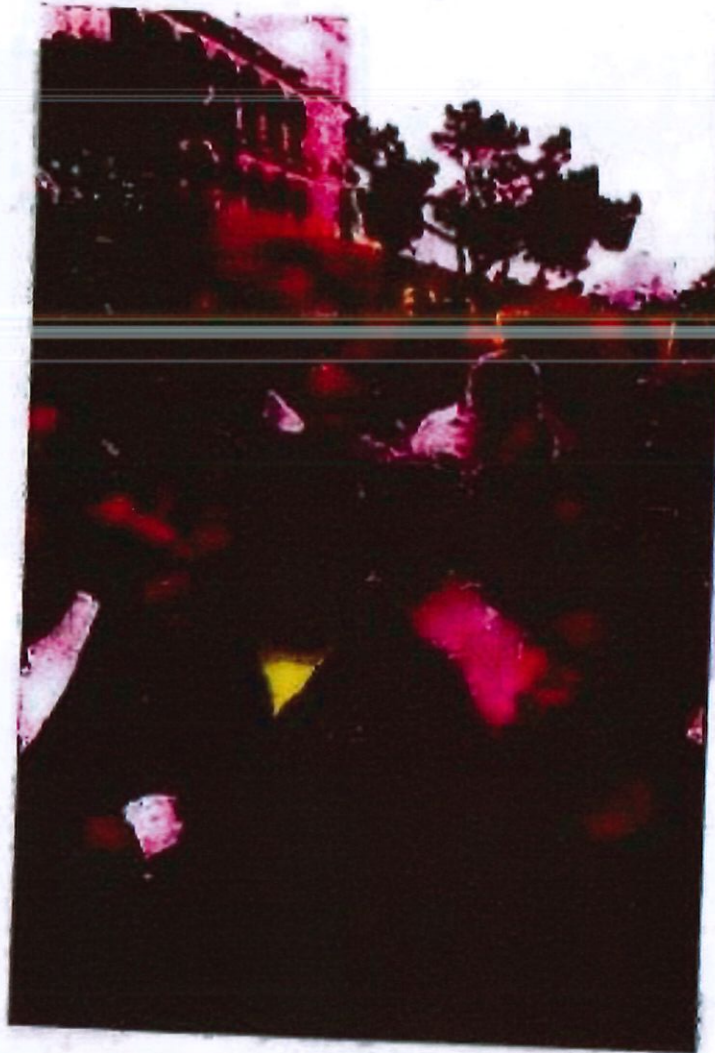


Time: 00:31hrs.



"Facebook video #10154736130919402"

Time: 01:49hrs.



BERMUDA



POLICE

COPY

STATEMENT OF WITNESS

Statement of: Dominique Simons

Date of Birth: Over 21

Address: C/o Bermuda Police Service

Phone: (H) 2471704

(W) 2950011

Occupation/Employer: Police Officer / Bermuda Police Service Phone:

This statement consisting of 3 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 7 day, of December, 2016

Signed: [Signature] 2469Signature witnessed by: [Signature] 779

I am Dominique SIMONS, Police Constable 2469 of the Bermuda Police Service currently attached to the Response Division, at Hamilton Police Station.

Around 6:30 a.m. on Friday the 2nd of December, 2016, I was on duty at the Hamilton Police Station, dressed in the uniform of the Bermuda Police Service and wearing my high visibility fluorescent vest. I was briefed by Acting Chief Inspector 536 Chris Clark. I was assigned to the grounds of the House of Assembly.

Around 7:00 a.m. later that same day, I was stationed at the South Gate which is located on the Reid Street near its junction with Parliament Street. I was in company of PC 2462 Simon Fraser, PC 2315 Marcano, PC 754 Watson.

Around 8:30 a.m. later that same day there was a small crowd of people at the South Gate, I would guess no more than ten (10). I informed them that they could come on the property but they could not block the entrance to the House of Assembly. Several Government employees attempted to gain access to the South Gate to get their government vehicles. A man I now know as Antony Burgess told the crowd to that no one was allowed to get into the House of Assembly. The crowd refused to allow the government employees access. One of the people in this crowd was a man I know as Dornielle Farrel. I know Farrel because he has been my complainant for two (2) different cases. I had a conversation with Farrel and I told him it was against the law to block access to the House of Assembly. Farrel did not respond to me.

Around 10:00 a.m. later that same day I saw people in the crowd shout and point. I looked over the wall and saw at the junction of Reid and Parliament Street a man I now know as Edmond Smith striking Police Inspector Scott Divine in the leg with a large stick. Divine was trying to hold of SMITH while reaching for his radio. I jumped over the wall and ran towards Divine. PC Ming and Acting Inspector Ming ran to Divine as well. Smith was taken to the ground and arrested for assault on police. Smith was conveyed in the police van to the Hamilton Police Station. I walked back to my post and saw a large crowd of protestors had completely blocked the east entrance to the House of Assembly which is located on Parliament Street near its junction with Reid Street. Several of the protestors pointed at me and called me skinny, nerd and made comments about how they couldn't believe I was a police officer because of my size. I ignored them.

Signed: [Signature] 2469 Signature witnessed by:[Signature] 779

Continuation of Statement of Dominique Simons

1 Around 1:00 p.m. later that same day Police Sergeant (PS) 2056 Ronald Taylor approached
2 myself, PC Fraser, PC Marcesano, and PC Watson. PS Taylor had a conversation with us about the
3 Police Support Unit attempting to create space so that MP's could attend the House of Assembly.

4 Around 1:15 p.m. later that same day I heard lots of shouting. Someone from the crowd
5 shouted at the South gate shouted riot police and a number of them run towards the east gate.
6 Antony Burgess said "Don't all of you go some of you need to stay to block the entrance." I looked
7 up on the hill of the House of Assembly and saw that PS 930 Waihe Maxwell signal for me to come
8 join him. I left my post and walked to the east gate and saw a small number of police officers
9 dressed only in protective gear and helmets being pushed away from the east gate. I saw that the
10 large crowd was becoming more and more aggressive pushing police officers around but I knew
11 there was nothing I could do as the police officers were nowhere close to the east gate. I returned to
12 my post. At this time PC 2214 Brian MacNab and Inspector 862 Robert Cardwell were also at the
13 South Gate.

14 Shortly afterwards I saw several police officer exit Parliament Street and walk onto Reid
15 Street. The crowd that was in front of the south gate assembled and blocked the entrance by
16 standing next to each other and linking arms. I heard someone shout don't let them in. Farrel was
17 on the left side of the south gate and had linked arms with the other people. Other members of the
18 public joined in adding to the number of people blocking the gate.

19 The people that were blocking the gate with their bodies then grabbed onto the south gate
20 and closed it. One man even pulled his right arm in between the bars to hold them closed. People
21 continued to shout block the gate block the gate. PC MacNab shouted to the people you cannot
22 block access to the House of assembly let go of the gate but no one complied. PC MacNab and I had
23 to use force to open up the gate. An elderly lady continued to hold onto the gate even after it was
24 open and used her body to block access.

25 Police officers walked to the South Gate and attempted to gain access to the House of
26 Assembly. A crowd from Parliament Street followed the police officers onto Reid Street surged
27 behind them towards the south gate. I walked to the left and looked over the wall. I watched as
28 police officers were being assaulted and obstructed by members of the crowd. The crowd was
29 pushing police officers and in some cases taking hold of them. When officers managed to remove
30 someone from the crowd other members of the crowd would push the officer or use force to break
31 the officer's grip on the person they had taken hold off. I could see that the police officers that were
32 attempting to gain access to the House of Assembly were outnumbered by the crowd and their
33 current methods to gain access to the House of Assembly were not working. The crowds' behaviour
34 was escalating and becoming more aggressive. I wanted to jump over the wall and help but I knew I
35 had to stay at my post. My police training told me that capture was now necessary in this situation. I
36 mentally went through my service decision making model and I came to the conclusion that capture
37 was the best course of action in this situation.

38 I returned to my post. PC MacNab said we need to do something. He walked up to the
39 holding the gate and said you are blocking access to the house of assembly you need to move. The
40 lady did not move. PC MacNab said lady you need to move. The lady did not move. PC MacNab to
41 said lady if you do not move you will be moved. The lady did not move. PC MacNab took hold of the
42 ladies left arm, pulled her off the gate and let her go. The lady stepped back and tripped over a
43 small ledge that runs north to south along the footpath to the gate, landing on her back. PC Fraser
44 and Marcesano immediately rushed to see if she was okay.

Signed: Dominique Simons 2469Signature witnessed by: HM 179

Continuation of Statement of Dominique Simons

1 PC MacNab then shouted folks you cannot block access to the house of assembly move or
2 you will be captured. No body blocking the gate moved. The crowd continued to push police officers
3 away and block the gate. PC MacNab informed the crowd two (2) more times that if they continued
4 to block the gate they will be captured however no one followed his instruction and the crowd was
5 continuing to become more aggressive with the police officers that were attempting to gain access to
6 the house of assembly. PC MacNab deployed his captor. Farrel was the first person to get hit and
7 began complaining about his eyes. I told Farrel to just leave the crowd but he stayed where he was.

8 I continued to assess the situation and still felt that captor was the best course of action.
9 Despite my feelings I still hesitated to deploy captor. I asked Pc MacNab who trained me in the use
10 of captor if I was authorized in this situation to use captor and he said yes. Despite everything I still
11 hesitated. Then I saw to my left about twelve (12) feet away a male use their right hand, place it
12 inside PC 2460 Arron Dyer's high visibility florescent vest and take hold of him. I feared for PC Dyer
13 safety but he was too far for me to get to because of the crowd and I knew the only way I could help
14 was to captor. I deployed my captor in a short quick burst and hit the male on the right side of his
15 face. The male immediately released PC Dyer. I reassessed the situation and saw to my right about
16 twelve (12) feet away that a male had placed both his hands inside of PC 2429 Julian Brassington's
17 high visibility florescent vest and took hold of him. I feared for Brassington's safety and deployed my
18 captor in a short quick burst and hit the male on the left side of his face. The male immediately
19 released PC Brassington. I saw that there were angry males moving towards the back of PC
20 Brassington. In order to protect PC Brassington I deployed short bursts of captor in the direction of
21 the males. The crowd then began to surge towards me and PC MacNab in an aggressive manner.
22 One male raised his hand and reached towards me so I deployed captor. I then reassessed the
23 situation and put my captor away. PC Brassington made it closer than any other police officer and
24 shouted push pull. PC MacNab and I began trying to push people that were blocking the entrance
25 but they refused to move. Farrel who was still complaining about the effects of the captor finally
26 started to walk out of the crowd. I helped him up the stairs. He threw his helmet to the ground and
27 it broke. I then helped him to a walk to a wall where he sat down. I returned to my post and the
28 gate was closed. I saw that members of the crowd were receiving treatment for captor. I helped
29 Farrel up and led him outside of the gate so that he could receive treatment. Police stopped
30 attempting to gain access to the House of Assembly.

31 Several members of the crowd identified me as one of the officers that deployed captor and
32 began pointing and shouting at me threatening to kill me in various ways. They shouted that I was
33 going to get shot, I was going to get beat up, I was going to be sprayed with baygon and set on fire. I
34 did not respond. A man I know as Richard Brangman who works for Augustus Funeral Home said
35 he was going to throw acid on me and have his sons beat me up. People walked up to me and took
36 photos or asked for my badge numbers which I provided. I was later relieved of duty and returned
37 to the Hamilton Police Station. I immediately filled out my use of force form for deploying my captor.
38 Ps Taylor weighed my captor and found it weighed 5g. I played my captor in a police evidence bag,
39 signed it, sealed it, and gave it to PS Taylor.

40 The whole situation was unreal. I was fearful not only for my own safety but the safety of the
41 other police officers. This was not only the first time I have used captor but the first time ever in my
42 police carrier were a situation demanded the deployment of captor. Since this incident I am
43 constantly looking over my back in case people try to attack or kill me.

Signed: [Signature] 2469 Signature witnessed by

[Signature]

FRIDAY 2 DECEMBER 2016

1230 Informed by DCI Astwood
that decision has been made
to block us to the
Strike for Nov.

1241 Court Street Junction
with Church Street.

- DCI Astwood met with
Chris Innes and
PJB - Alan Summers
(BIU)

- DCI Astwood indicated
revert to vision.

- Asked if we could
have some sort of
physical solution. Rejected

Innes No solution right
now. no military position
- Innes stated

"We are not letting them
in house"

Astwood said if that is their
position "The house

- will be assisting to get
the ministers into house.
- Police will do what is
necessary to facilitate
that.

1244 Meeting held

- 1248 Parliament Street near
entrance to House of
Parliament. Assessed
crowd. Inlet / Simmons
and about 75 people
remain in front of
gates leading to House
of Assembly. About
150 people in front
of gates closer to
Parliament and Church.
- PIP gathered near
gate closest to Parliament/
Church.

1311

Mark Clark addresses
crowd, gives them
domest. instructions
at gates of House
of Assembly. Chris
Sibert, Simmons
Theed all. Members
of parliament, Jason
Hayward.

- Mark Clark unable to
give instruction as
shouted "We shall
not be raised".

- Inland States...
Police vs protesters.

1333

Det Ashwood and Det
Leano met with operator
leader 'Burt'

- indicated she is the
highest officer.

- Det Ashwood said
she will meet with

Dink Straine
and get back.

- But Straine he will
be there until she
returns.

Said it was wrong that
police used spray.

- Meeting at junction
of Leid / Polished Street.

1339 Meeting and

1343 Meeting at HPS with
Supt Howard and DCI
Astwood

- HPS is not going to
GIT (sealer has, need)

1350 Meeting and

1356 Met DCI Astwood and
I met with P/B Louder
Burt and Santa Rosa
and Inset.

Informed them that
the Police will return

is a capacity to keep
the place!" we will
not advise

- But said that was
fine and he understood.
Was warning that people
were teased and
peppers sprayed.

1407 Meeting End.

- 1414 DLT Ashwood met with
Lynn Sargent, Jean Howard
Simmons (PTB), Lew Tread
- ~~tried to~~ indicated
she wants to keep
the lines of communication
open.

- Shurt said he appreciates
it.

1417 Meeting Girl. Meeting set
at Walnut Street near
left of Workforce Development.

1430 HPS. Meeting with big

1 Term at Project Lead
by Supt Howard

1450 HKS - 4th floor Boardroom.
Met with Gold, Silver, Bronze.
Supt Howard, RFA DCI Astwood,
Insp 526 (Rank), Insp Burgess,
Insp Devine, Insp Greenidge
~~CH Insp~~ A/OI Astwood,
PS Raymond.

- CH Insp Banelly, CH
Insp Buros, CH Insp Pedro.

1505 Review lead by Supt
Howard.

- what we did?

- what we could have done
differently?

- what can we do next time?

Banelly Banelly said it was a
bad tactical move.

Banelly Good relationship we had
with public is gone.

if we had - Due to come from COP

~~to~~ + force entry as to allow

Politicians to go to House
of Assembly

- Discussion and focus
is now on Police
Police phase put in middle
and public now have
issues with the Police.
- Discussion around identification
and ~~possibilities~~ of people
who committed offences -
DJ Greenidge in charge
- Mr. Bryant appreciates the
effort of all those
around the table.
- Public Order is one of
the widest things to deal
with and plan - Donnelly.

1602 Healy Ltd

BERMUDA



POLICE

FILE COPY

STATEMENT OF WITNESS

Statement of: Terry Paynter

Date of Birth: Over 21

Address: C/O Bermuda Police Service

Phone: (H) (W) 247-1337

Occupation/Employer: Police Constable

Phone:

This statement consisting of 2 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 6th day, of December, 2016

Signed: Terry Paynter

Signature witnessed by:

I am Police Constable PC) 952 Terry Paynter, presently attached to Community Policing Division. On Friday 2nd December I was called to duty at Hamilton Police Station (H/D) at 0645 I was assigned duties of foot patrol on the grounds of Parliament with Pc 2498 Basden. Sometime around 1050hrs Police Sergeant (PS) 412 Dean requested PC's 2126 Smith, 2498 Basden and I accompany him to the H/D. Upon arrival at H/D Acting Inspector 711 Astwood addressed us and asked if we would take so handheld camcorder and video the people in and around the Parliament Grounds. I was issued with a Samsung H/D 52X Video camera serial numbers HMX-F90WN/J and S/NASHQCN1FBO06YWE.

About 1310hrs I along with my partner PC 2498 Basden was instructed to accompany Inspector (Insp) 282 Clarke and his section of about fourteen officers. We walked from the State the front gate main entrance of the Parliament grounds. Upon arrival I saw a large group of men gathered at the front gate interlocking their arms as police arrived. I recognised Mr Chris Furbert (BIU president), Jason Hayward (BPSU president), Mr Walter Roban, Mr Wayne Furber, Rev Tweed, Mr Dennis Lister and Mr Glenn Simmons (dingbat). I heard Insp Clarke say to the crowd "Listen UP, it is your constitutional and lawful right to assemble, however it is not legal for you then the crowd began singing "WE SHALL NOT BE MOVED" I could no longer hear Insp Clarke

A few minutes later I observed the members of the Public Service Unit (PSU) arriving from south on Parliament street. The unit approached the main gate in an attempt to gain excess to grounds through the gate. The crowd resisted the PSU unit and prevented them from gaining entry. Mr. Derrick Burgess, Dennis Lister, Walton Roban and David Burt, approached Insp Clarke asking him on what authority and law was the instruction carried out. Insp Clarke made no to any of them.

As the PSU proceeded to attempt to clear the way on parliament, the crowd was pushing and shoving attempting to resist the PSU. I continued videoing during all the mayhem, I observed in a Blue jacket, white cap and dark shades swing an umbrella and hit a PSU officer on the head. I also observed a heavy set dark-skinned male in the crowd telling them to stand their ground, and saying "Where they go we go".

Signed: Terry Paynter

Signature witnessed by:

Continuation of Statement of Terry Paynter

PSU made their way around the corner to the southern gate of the grounds I remained on Parliament Street with Insp Clarke who was the subject of much abuse from Mr. Derrick Burgess Dennis Lister and Walton Robart; Insp Clarke made no reply to any of them.

The PSU unit made their way to the southern entrance of Parliament on Reid Street, Insp Clarke eventually followed. Upon arrival I observed a number of the persons present were very irate and saying they had been sprayed. The same heavy gentleman with the white bread was shouting and another tall brown skinned man in a brown coat was asking for paper stating he had match

I continued filming the crowd until I was instructed to stop filming.

Signed: Terry Paynter



Signature witnessed by:

 85590



STATEMENT OF WITNESS

Statement of: Melesia Iris

Date of Birth: January 22nd 1984

Address: c/o Bermuda Police Service, 10 Headquarters Hill, Devonshire

Phone: (H) (W) 2950011

Occupation/Employer: Police Constable/Bermuda Police Service Phone:

This statement consisting of pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the Wednesday, of 14th December,

2016

Signed:

Signature witnessed by:

I am Police Constable 2219 Melesia IRIS and I am currently attached to Records Management Support Unit.

On Tuesday, 6th December I was tasked to assist the Central Criminal Investigation Department (CCID) with the investigation of the Protest that took place on 2nd of December 2016 outside the House of Assembly.

Whilst attached to CCID I was assigned to locate any articles as well as any social media videos that I could find relating to the Protest, previously mentioned.

On Tuesday, 6th December 2016, I extracted the following videos from the various sites;

- "Lady Speaks Outside House" (Bernews).
- Police in Riot Gear Move In On People At the house" (Bernews).
- "Outside The House of Assembly, 11:55am December 2016" (Bernews).
- "House of Assembly Grounds At 8:30 am, December 2 2016" (Bernews).
- "Police At House of Assembly, December 2 2016"
- "Police Arrive At House of Assembly, Dec 2 2016" (Bernews).
- "Tempers Flare At Protest At House, December 2 2016"
- "Police Pepper Spray Protesters At House, December 2 2016"
- "House of Assembly Protest Compilation"
- Caption "They wouldn't let Bob the snub in"
- Caption "Facebook video#10154736130019402"

I then placed the following videos in the Police G:\CCID\CID 2016\File Management\Memex 2016\HOA PROTEST\Video footage of HOA\Social Media Recordings folder.

Whilst watching the video labelled (Police Arrive At House of Assembly, Dec 2 2016 from Bernews), I saw that around 6:18 minutes into the video, people shouting at Police "Go Round!", 7:18 you can see about four men in the center of the screen looking at and shouting at Police, (description of person, Male in blue shirt, grey long beard and bald head). 7:30 you observe male in blue shirt, grey beard shouting, "Let dem go re

Signed:

Signature witnessed by:

Continuation of Statement of Melesla Irls

then he then went in the Officer's face (Officer's description - wear a navy blue short sleeved shirt), no space between Officer and male and then he shouted "What you gon do nah" x2. The male was in the Officer's face for about 5 seconds and the Officer used two hands to try and push male away to create space. Other officers had to pull Officer out of area.

On Wednesday, 7th December 2016, I watched some of the recordings captured by the Police Officer's body cameras that they were wearing that day. Whilst watching Pc. 545 SWAINSON's video (Camera Serial number# 780335115) I observed that around 1:14 minutes in (13:19 was the time commenced) a male described as dark skinned, wearing a 'I ♥ HATERS' hat, wearing a dark blue and red long sleeve jacket, make a punch motion with both hands in the waist area of Pc. MARRIOT. He then pointed with his right hand in the face of Pc. MARRIOT and shouted.

On Thursday, 8th December I extracted some articles from social media sites;

- Protesters relive 'fearful' day □ The Royal Gazette□Bermuda News
- Furbert warns of further action □ The Royal Gazette□Bermuda News
- I condemn bullying of PLP leadership □ The Royal Gazette□Bermuda Letters to the Editor
- Quick Pati request response promised □ The Royal Gazette□Bermuda News
- House Sitting Adjourned Until February 2017 - Bernews.com □ Bernews.com
- BTUC Calls On Premier To Withdraw The Bill - Bernews.com □ Bernews.com
- New Governor□ My Hope That Calm Will Prevail - Bernews.com □ Bernews.com
- CURB Dismayed & Shocked By Events On Friday - Bernews.com □ Bernews.com
- MPS PREVENTED FROM ENTERING GROUNDS OF HOUSE OF ASSEMBLY
- PREMIER CONDEMNS VIOLENCE AGAINST PROTESTERS; SAYS FAMILY AND COLLEAGUES HAVE RECEIVED DEATH THREATS
- Police□ Protesters were behaving unlawfully □ The Royal Gazette□Bermuda Politics
- Woolridge□ OBA will not be swayed □ The Royal Gazette□Bermuda Politics
- Acting Governor deprecates 'inciteful' protest □ The Royal Gazette□Bermuda Politics
- PLP□ Answers will have to be given □ The Royal Gazette□Bermuda News
- Dunkley expresses regret for 'difficult day' □ The Royal Gazette□Bermuda Politics
- Social-media death threat to Premier removed □ The Royal Gazette□Bermuda News
- Airport protest gives us a day to forget □ The Royal Gazette□Bermuda News
- Age Concern wants probe into police actions □ The Royal Gazette□Bermuda News
- Nothing peaceful about forcibly denying access □ The Royal Gazette□Bermuda Editorials

Signed: Signature witnessed by:  0241

Continuation of Statement of Molesia Iris

- Where peaceful protest is regarded as unlawful □ The Royal Gazette □ Bermuda Opinion
- Premier calls for report on police crackdown □ The Royal Gazette □ Bermuda Politics
- Group claims police action 'excessive' □ The Royal Gazette □ Bermuda News
- Column □ If We Forget, We Are Doomed To Repeat - Bernews.com □ Bernews.com
- Premier And PLP Leader On Protest & Airport Bill - Bernews.com □ Bernews.com
- Police Investigate Social Media Threat To Premier - Bernews.com □ Bernews.com
- Trevor Lindsay - Trevor Lindsay posted a video to Bermuda News As...
- Comments - Kirk Butterfield's Page
- 7 Hours Of Live Video Replays □ Protest At House - Bernews.com □ Bernews.com

And then I saved all above mentioned articles in the folder located G:\CCID\CID 2016\File Management\Memex 2016\HOA PROTEST\News Clippings taking from Facebook.

On Tuesday, 13th December 2016, I extracted the following video, "Crowd in clas with riot police" and placed that video in the folder G:\CCID\CID 2016\File Management\Memex 2016\HOA PROTEST\Video footage of HOA\Social Media. 

Signed: _____ Signature witnessed by: _____

BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: Melesia Iris

Date of Birth: January 22nd 1984

Address: c/o Bermuda Police Service, 10 Headquarters Hill, Devonshire

Phone: (H) (W) 2950011

Occupation/Employer: Police Constable/Bermuda Police Service Phone:

This statement consisting of pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the Tues day, of 24th January,

2017

Signed:

Signature witnessed by:

I am Police Constable 2219 Melesia IRIS and I am currently attached to Records Management Support Unit.

In addition to the statement I made on Friday, 11th November 2017, I then downloaded the video from periscope labelled;

"24 Jan.2017 2219" (<https://www.periscope.tv/w/1nAJEkaLZNvKL#>). (Periscope)

I then placed the video on the Working and Master Hard Drive in G:\Video footage of HOA\Social Media Recordings

I then compiled a running log outlining the times that I observed the subject seen in the video.

I produced a DVD with of the above mentioned video and labelled it M11.

COPY

Signed:

Signature witnessed by:



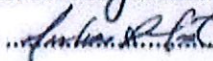
STATEMENT OF WITNESS

Statement of: Courtney Simmons
Date of Birth: Over 21
Address: 52 Victoria Street, City of Hamilton
Phone: (h) 441. Phone: (w) 441.247.1413
Phone: (c) 441.717.2423
Email: csimmons2@bps.bm
Occupation: Police Officer Employer: Bermuda Police Service

This statement consisting of (4) pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything, which I know to be false or do not believe to be true. (Section 29 of Evidence Act 1905)

Date: December 14, 2016

Signed:  DC 2423

Witnessed by:  DC 2346

States,

My current posting within the Bermuda Police Service is in the Criminal Investigation Department at the Hamilton Police Station. Through the Bermuda Police Service I attended a course put on by the Forensic Support Department on retrieving CCTV footage as well 911 calls from the Verba System that holds the recordings of calls placed through Police Operations. I have been authorized to do so by the Commissioner of Police.

Around 2:00pm on Monday the 5th of December 2016, I was on duty in the Criminal Investigation Department at Hamilton Police Station when I was informed that an investigation has commenced into the House of Assembly protest that occurred on Friday the 2nd of December 2016.

Around 9:15am on Tuesday the 6th of December 2016, Detective Sergeant (DS) 590 Roberts handed over to me three handheld cameras (exhibits) to download footage from the cameras in relation to the protest. They were the following cameras;

- Sony Camera (PC Smith) with markings "LJS1"
- Samsung Camera (Pa Dean) with markings "LCD1"
- Samsung Camera (Pc Paynter)

Around 11:00am on that same day I downloaded the said footage from the three cameras as the following:

- Sony Camera (PC Smith) 1 video file from December 2, 2016
- Samsung Camera (Pa Dean) 10 video files from December 2, 2016
- Samsung Camera (Pc Paynter) 8 video files and 1 picture from December 2, 2016

Signed:  DC 2423 Signature witnessed by:  DC 2346

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- 2 -

Continuation of Statement of:

I downloaded all footage on to a WD "My Passport" 2TB external hard drive under file HOA Footage placed the footage in folders for each officer's camera and also made a working copy.

During the investigation I was tasked to view videos from December 2, 2016 and I was able to identify several as knowing them for different reasons. I viewed footage from the hand held cameras and Social Media which included;

- Wayne Fubert, MP
- Derrick Burgess, MP
- Edward David Burt, MP
- William Lawrence Scott, MP
- Michael Scott, MP
- Jamahl Simmons, MP
- Glenn Blakeney
- Jason Hayward
- Chris Furbert
- Rev. Nicolas Tweed
- Walter Roban, MP
- Sherman Hill
- Andre Simmons
- Akil Darrell

The remaining individuals I used pictures to identify them to include in the below mention screen shots as I have previously did not know them. That included the following individuals;

- Alfaia Torino Henry
- Lilymay Bulford
- Chris Furbert, Jr
- Antione Minora
- David Saltus
- Edward Ball
- Antony Burgess
- Desnell Davis
- Ernest Trott
- Glenn Simmons
- Jahmel Samuels
- Neville Goodard
- Sean Burgess
- Arnold Smith

At 10:40am on Friday the 9th of December 2016, I again viewed footage from the handheld cameras and viewed video from Social Media and compiled screenshots of the following with descriptions of who I saw in that particular screen shot;

- PC Paynter Video# SDV_0044: 19 screens shots were captured with my markings CS-4 through CS-22

Signed:  DC 2123 Signature witnessed by:  DC



STATEMENT OF WITNESS

Statement of: Everard T. "Bob" Richards JP MP

Date of Birth: 16 May 1948

Address: 3 Willemsholme Drive, Warwick

Phone: (H) _____ (W) _____

Occupation/Employer: Deputy Premier

Phone:

This statement consisting of pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 18⁹ day, of January,

Signed:

Signature witnessed by:

I am Everard T. "Bob" Richards an active Member of Parliament. I am presently representing Constituency #11; Devonshire East. I am the Deputy Premier of Bermuda and also the Finance Minister of Bermuda. As Deputy Premier and Minister of Finance, offices' that I've held for more than three (3) years, I'm required to attend the House of Assembly (HOA) when we are in sitting. During those house sittings we the members would debate various Bills tabled; one of the recent Bills up for debate for which I was in charge being the Airport Authority Act 2016 and Bermuda Airport Concessions Act 2016.

The house sittings are prepared on a schedule which we the members are made aware of by an email distributed. In relation to the Airport Bill we were to meet at the HOA Friday 2nd December 2016, and as such we were to debate these particular bills.

Between 7:35am and 7:40am Friday the 2nd of December 2016 my wife had dropped me to work at the Government Admin Building (GAB), Parliament St Hamilton. My office overlooks the grounds to the HOA. The view from my office is clear and unobstructed.

As soon as I exited my car I saw police officers posted on the gates to Parliament; two (2) were on the small main gates and another two (2) on the electric gates. There were other police officers roving around the HOA grounds. There were two (2) more officers close to the Church St corner.

At that time police appeared to have total control of the situation. There were no demonstrators at the main gates, and I could have entered the Parliament grounds if I had wished.

For the record the previous day I was advised by the Minister of National Security, Jeffrey Baron that I would be met by the door of the OAB by a Special Branch officer who would escort me to Parliament at 8am.

Even though on that morning I could have easily accessed Parliament grounds at that moment, I didn't want the officer to show up there at 8am and not find me there. Therefore I decided to go to my office on the 2nd floor of the GAB to wait for him.

Between 7:45am and 7:50am that same morning while waiting for the police officer I began chatting with the Finance Secretary. It was then I saw my colleague Sylvan Richards MP inside the Parliament grounds walking up the stairs to enter the building. Clearly the police had allowed him access.

Signed:

Signed: Jenny 19th 2017

Signature witnessed by _____

FLAIR B 05570

Continuation of Statement of Everard T. "Bob" Richards JP MP

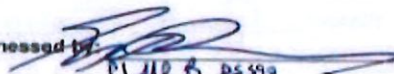
1 At the end of the day we were never able to meet to debate the proposed Airport
2 Redevelopment Bills because of the actions of those who prevented us from entering the premises
3 carry out our Legislative Duties.

4 These are the events as they unfolded.

Signed:

Jan 18, 2017

Signature witnessed by:


PI 110 & 5549a

BERMUDA



POLICE

STATEMENT OF WITNESS

Statement of: K.H. RANDOLPH HORTON

Date of Birth: 22 January 1946

Address: 196 North Shore Road, "Virginia Cottage", Hamilton Parish

Phone: (H)

(W) 292-2800

Occupation/Employer: Govt. of Bermuda

Phone:

This statement consisting of 5 pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 7th day, of December, 2016

Signed: K. H. Randolph Horton

Signature witnessed by: P. Santiago, DS 842

10:20hrs.

I am the above mentioned person. I am presently the Speaker of the House of Assembly in Bermuda. I was elected to this post on February 2013. I am also a Justice of the Peace and I have been a Member of Parliament since 1998. I have also held Cabinet level positions serving as Minister of various Portfolios.

On Friday 2nd December 2016, my intention was to proceed to various places pertinent to my role as Speaker of the House. I arrived at the House of Assembly at around 7:45am. I usually arrive early to prepare for the day's session. I expected that there would be some type of public demonstration based on the fact that there was some contentious legislation to be debated on this day. Because of this I knew there would be public concerns. My role as the Speaker involves ensuring that debate is carried out and that events taking place in the House are in line with our Standing Orders. As per the Parliament Act, the Speaker has authoritative control of the House of Assembly and its grounds. This day was a regularly scheduled Parliamentary Session due to start at 10:00am. I confirm that the House of Assembly is located at 21 Parliament Street, Hamilton.

From inside I could see crowds begin to gather outside the grounds but they were blocking the outside gates. After 10:15am, I saw that only one Member of Parliament was in the House. This was Minister Sylvan Richards. Realising that we did not have a quorum (the minimum amount to proceed with legislative debate - the House must have at least 14 members present) in addition to the Speaker, at that point I was thinking that with no one there, I was minded to adjourn the House sitting. I spoke with various persons including the Attorney General our Premier and the Commissioner of Police by telephone. I should note that even before this time, around 8:30am this same day, an Inspector Chris Clarke had called me asking if it were possible to have the legislative sessions somewhere else. I told him 'no', I was not prepared to have a sitting anywhere else. Also Superintendent Howard gave me a call soon after this. He expressed concern as to how the Police would handle the situation. This call to Superintendent Howard may actually have been sometime after 10:00am. I then had occasion to speak with AG's, our Premier and the COP by telephone. I told them that I would like to adjourn for the day. The Commissioner of Police

Signed: K. H. Randolph Horton

Signature witnessed by: P. Santiago, DS 842

2

Continuation of Statement of K.H. RANDOLPH HORTON

1 assured me that the Police had a strategy in place to ensure safety to the Members of Parliament.
2 should also note that I also spoke with our Acting Governor Mrs. Ginny Ferson and we had a
3 lengthy discussion concerning what was going on and relevant parts of the Parliament Act 1957. I
4 don't exactly recall if the COP's assurance of a Police strategy came to me before or after my
5 conversation with Acting Governor Ferson. I can say that after my conversation with Acting
6 Governor Ferson, I was minded to adjourn until 1:00pm. I should stress at this point that I did tell
7 the Acting Governor that if the sitting took place at 1:00pm I would not sit as Speaker for that time
8 and the Deputy Speaker Mrs. Suzann Holshouser would have to act as Speaker and she would
9 assume the chair. At that point, at about 10:50, I telephoned the Premier, the Leader of the
10 Opposition and the COP that the House of Assembly would meet at 1:00pm that same day.

11
12 As 1:00pm approached, I looked outside and saw that no Member of Parliament appeared to
13 approach the House. I was still in the building. Because of this I saw that there appeared to be
14 more people gathered outside the gates than the morning hours. It looked like there were some
15 conversations going on between the Police and those persons blocking the gate. From where I was
16 could not hear what was going on or being said.

17
18 I can't say exactly what time but it could have been around 1:15pm when I saw Police
19 Officers with helmets on their heads marching in formation. They came from the direction of the
20 Church Street and marched toward the crowd at the main gate where cars drive onto the House
21 grounds. I watched for about 10 minutes as they made their way into the crowd. I saw scuffling
22 between these two groups. It looked like people were pushing and shoving. I was stunned when I
23 saw the Police coming. I was appalled at the scuffling and shoving and I thought that someone was
24 going to get hurt. It was then that I made the unilateral decision to not have a legislative sitting for
25 the remainder of the day and that we would resume on the next Friday. I made this decision
26 sometime around 1:30pm, I can't remember exactly. Throughout the day I was also concerned with
27 my staff whom I would not want to endanger themselves by coming in at this time. At this point I
28 only knew there to be five people in the building; those being Minister Sylvan Richards, Sgt At Arr
29 Allen, two cleaners Mr. & Mrs. Brangman and me.

30
31 When I made the decision to adjourn I contacted the Premier, the leader of the Opposition
32 and the Commissioner of Police to inform them of this.

33
34 As far as the business day was concerned, that was it for me. I had to stay in the House
35 until the crowd had dispersed and it was safe to do so. This was around 4:30pm. Before this I had
36 also sent message to our Dept. of Communication and Information to inform the public that the
37 House would not sit that day. I can't remember when I called DCI but I recall that DCI sent it out
38 around 2:45pm - someone informed me of that.

39
40 After I left the House I went to my office and I saw some people sitting on the wall to the
41 Government Post Office. They shouted one or two things out, it sounded negative but I can't exactly
42 say what it was. I returned home safely later that evening.

Signed: K. H. Randolph Horton

Signature witnessed by: P. Santiago, DS 842

Continuation of Statement of K.H. RANDOLPH HORTON

11:41hrs.

I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true; I've made it of my own free will.

11:42hrs.

I do wish to add something further. Prior to 1:00pm I had telephone conversation with the Commissioner of Police concerning my concerns about my support staff coming onto the premises in support of legislative proceeds. He told me that he could provide Police protection to them to get them into the premises but I did not want to endanger them by expecting them to come in at this time. Once I saw the scuffling and pushing between the Police and the crowd, I said 'no' to this idea. I would not put them in danger by having Police bring them through. I did not expressly tell this to the COP but it factored into my decision to adjourn the House sitting that day.

11:51hrs. K.H.R. Horton

I have read the above statement and addition and I have been told that I can correct, alter or add anything I wish. This statement is true and I have made it of my own free will.

K.H.R. Horton

This statement was recorded by DS 842 Santiago.

Signed: K. H. Randolph Horton

Signature witnessed by: P. Santiago, DS 842

.5



STATEMENT OF WITNESS

Statement of: KENNETH BASCOME, JP, MP

Date of Birth: 31/8/1948

Address: C/o Cabinet Office, Reid Street, Pembroke

Phone: (H) (W)

Occupation/Employer: Member of Parliament

Phone: 295-5151

This statement consisting of pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 19th day, of January, 2017

Signed: K. Bacome

Signature witnessed by: A. Bartley, 2092

I am Kenneth Bascome JP, MP. I have been a Member of Parliament since December 2012. I am MP for Constituency #1 St. George's North.

It is my legislative duty to attend the House of Assembly when House is in session, to discuss and debate various bills for the Island of Bermuda. On the days the House is in session, we convene at 10am, have lunch midday for an hour and a half, we then reconvene and continue the debates sometimes to the early morning hours.

In the week prior to December 2nd session, I was made aware of this particular sitting and that one of the bills to be debated were in reference to the Airport Bill.

On Friday December 2nd 2016, I caught the early morning 6:15am bus from St. George's to make my way to the City of Hamilton. I arrived in Hamilton shortly after, and went to The Spot restaurant for breakfast. After breakfast I left and began to walk towards the House of Assembly for an early arrival for that day's session.

I walked along Church Street, then turned right onto Parliament Street; that was when I saw several Police Officers in the area. I also saw several members of public standing in and around the Parliament Street areas. I didn't see any other Members of Parliament in the area at the time.

I walked down along Parliament Street, towards the entry gate leading to the House of Assembly with the intent of walking through the gate. I wanted to make my way to the House for an early start and prepare for the session of the day.

Just then I was approached by a young black lady. She walked up to me and began shouting at me. I just stood there and listened as she said "You're selling Bermuda out" and

Signed: K. Bacome

Signature witnessed by: A. Bartley, 2092

6

Continuation of Statement of KENNETH BASCOME, JP, MP

other various things of that sort. I never responded because it was my belief that if I had it would have only enraged her even more. This lady her rant for what felt like two minutes or so.

I then left her and walked across the street towards the Government Administration Building. I no longer wanted to be subjected to this woman's verbal abuse. After a cooling period, I walked back across the street and headed straight for the gate. As I approached, I saw four black men emerge and stand directly in front of the gate, shoulder to shoulder, creating a human wall. This prevented me from being able to walk through at which time I turned to walk away.

At that time a Police Officer approached me and asked if I wanted to get through to attend the House. Although it was my intent to walk through the gate and attend the House, as is my civic duty, I told the Officer that it was no need and continued to walk back toward the Government Administration Building. I did not want to cause any confrontation with the four gentlemen who were obviously intending on blocking me access through the gate.

After I walked back I stayed on the other side of the road and continued to observe. That was when I saw the Minister of Finance Mr Bob Richards, walking towards the same gate. The same four guys I had been confronted by were standing at the gate, preventing Mr Richards' access as well. I saw a Police Officer approach these men and it appeared as though words were exchanged before the Officer and Mr Richards turned and walked away. The four men never moved from in front of the gate.

At this point I left the area and made my way to Serpentine Road to Ambrosia's Cycles. During this time I received several calls from my Parliamentary colleagues asking for my whereabouts. I assured them that I was safe as well as updating them about being blocked from getting into Parliament earlier that morning.

I eventually walked back into the City, to the Cabinet Office in Reid Street where I met my colleagues. Throughout the remainder of the morning we were in constant discussions, trying to devise a way to gain entry into the House of Assembly. It was always my intent to attend the House for the debate, as is my job as an elected Official.

My reason for not going back onto Parliament Street to gain access a second time was to avoid any confrontation with the protesters who were present down there. These numbers had continued to swell throughout the morning and I knew from earlier incident, that they were not going to move and open the gate on my behalf. Therefore, I remained at Cabinet Office with my colleagues.

Throughout the discussion, Police attended the office and suggested options to gain entry onto the grounds. I expressed my concerns with the options which were suggested due to the

Signed: K. BacomeSignature witnessed by: A. Bartley, 2092

Continuation of Statement of KENNETH BASCOME, JP, MP

1 hostile tone the protesters had taken. I didn't believe it was in our best interest as a matter of
2 safety to attempt to gain entry onto the grounds,

3
4 After much debate and discussion, it was decided by the Premier and the Members that
5 call it a day cancel the session and reconvene at a later date. I left Hamilton and headed back
6 home.

7
8 I don't know who the four men were that blocked me, just that they appeared organised
9 blocking the gate. There were quite a few people around and I wouldn't be able to recognise an
10 face,

11
12 What I can say is that from the early morning when I was blocked from entering to the p
13 it was decided to reconvene at a later date, it was always my intention to attend House of Asse
14 which is my civic duty. My main reason for not making further attempts way to avoid confront
15 with the protestors,

Signed: K. Bascome

Signature witnessed by: A. Bartley, 2092

**STATEMENT OF WITNESS**

Statement of: SUZANN HOLSHOUSER DEPUTY SPEAKER JP MP

Date of Birth: 11/6/59

Address: c/o Cabinet Office, Reid Street, Pembroke

Phone: (H) 533-1959

(W)

Occupation/Employer: Member of Parliament

Phone: 295-5151

This statement consisting of _____ pages each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 19th day, of January, 2017

Signed: S. HolshouserSignature witnessed by: A. Bartley, 2092

I am Suzann Holshouser. I have been an active Member of Parliament since December 2012
I am MP for Constituency #4 St. George's South.

As Deputy Speaker of the House I have responsibility for the House and Grounds. I also sit and chair in committee for all bills put before the House. These are my civic responsibilities as an elected official and Member of Parliament. I attend the House to represent my constituents as their elected official.

About 7:30am on Friday 2nd of December 2016, I left my residence to make my way to the City of Hamilton. My husband drove our vehicle with me in the front passenger seat. We drove along Reid Street and past Parliament Street, at which time I did observe a number of persons standing in the area. We continued along Reid Street, turned right onto Burnaby Street and then right onto Church Street.

My husband drove along Church Street, stopping the vehicle just after the stop lights by the restaurant near the junction with Parliament Street. I observed several Police Officers standing near the northern entrance on Parliament Street. I exited my vehicle and crossed the road. I approached the gate. There were between four to five men. As these men made eye contact with me they immediately linked arms, creating a human barrier and said "We are not letting you in" to which I responded "Good morning." The men hesitated before replying "Good morning." I informed the men that I needed to get to work to which one of the men responded "Not today."

At that point I noticed more members of public starting to show up in the area. I turned to the Police Officer and he told me to hold on. As the Officer comforted me, I heard a man's voice ring out from right behind me saying "They may come with a thousand Police but we'll bring thousands more."

Signed: S. HolshouserSignature witnessed by: A. Bartley, 2092

Continuation of Statement of SUZANN HOLSHOUSER DEPUTY SPEAKER JP MP

1 From that point I turned and walked down towards the southern gate on Parliament Street
2 saw Minister of Finance Bob Richards standing near the gate. It appeared as though Mr. Richard
3 was talking with a group of people standing between himself and the gate. I wasn't able to focus
4 what was being said but it was clear that these persons were refusing to provide him access to the
5 gate.

6
7 I spoke with Mr. Richards and suggested we cross the street, which we did. The two of us
8 proceeded to Mr. Richards' office on the third or fourth floor of the Government Administration
9 Building. There is a window in Mr. Richards's office which overlooks Parliament Street, down over
10 the southern gate. I decided to watch from the window and even took a photo of the scene down
11 near the gate. The crowd continued to swell throughout the morning. I used my iPad to capture
12 the picture which date and time stamped it.

13
14 Later that morning I continued to watch from the window. During that time I observed Nan
15 Outerbridge's mother's van which I'm quite familiar with, turn from Reid Street up onto Parliamen
16 Street. It appeared as though the vehicle was attempting to drive through the southern gate but
17 there were far too many people standing there blocking the gate.

18
19 The van was parked in the street for a while at which point I saw Nandi exit the vehicle. Sh
20 walked around the front of the van and towards the front of the crowd and out of my vision. Soon
21 after, she re-appeared near the rear of the van before walking across the street towards Governmen
22 Administration Building.

23
24 I remained in the office until about 11am at which point Premier Dunkley called over and
25 asked that we make our way to the Cabinet Office on Reid Street. Several of us decided to take a
26 back door to make our way to avoid any potential confrontation with the crowd. We arrived at the
27 office without incident.

28
29 Other Members of Parliament and I remained in the office discussing what had taken place.
30 Sometime before 1pm, it was discussed whether it was still our intention to attend the House to
31 carry out our civic duty. We decided that we would still sit for the session. A Police Officer
32 attended the offices and discussed possible options available to gain access to the grounds. One of
33 these options was that Police would clear the gate and we would go in by vehicle. We were told the
34 House would reconvene at 1pm.

35
36 It was sometime during that time that I believe the Speaker of the House Randy Horton,
37 called the Premier and advised him that he was closing the session. At that point the Premier
38 informed us to not try to go up to the House but to go home. The House would reconvene at a later
39 date.

40
Signed: S. Holshouser

Electronically signed by S. Holshouser on 11/11/2014 at 10:10 AM

Continuation of Statement of SUZANN HOLSHOUSER DEPUTY SPEAKER JP MP

1 I will say that it was always my intent from the moment I was denied access by members of
2 public, until the Speaker closed the House, to attend the House of Assembly to do my job. I was
3 denied my right to carry out my job by these members of public who blocked the gates. I didn't
4 attempt a second time because I was fearful for my personal safety. I could sense the anger in the
5 air and eyes of the men who told me that they weren't going to let me in. I didn't want to have to
6 confront that a second time. If I could have gotten through, I would have gone in.

7
8 I am unable to name the persons who blocked me, the fear overwhelmed me. This is all I can
9 say on this incident.

Signed: S. HolshouserSignature witnessed by: A. Bartley, 2092

k

Comments from Interviewees Regarding Their Experiences on 2nd December 2016

Person A:

- To this day she cannot walk or drive by Parliament Street without feeling traumatized all over again.
- She felt:
 - humiliation, as she watched the policemen pepper spraying the crowd laughing at those who were injured.
 - betrayal, as she was reminded of her ancestors who were subjected to hostile treatment by law enforcement officers, while engaged in a peaceful protest.
 - offended, as she felt her democratic rights had been taken from her.
 - disappointed that she had no follow-up response from her submission to the Police Complaints Authority.

Person B:

- People were pressing against her, but there was nowhere to go.
- A tall person threw himself in front of her to protect her. Police pulled him away; her glasses were knocked off.
- She felt her face on fire; the pepper spray came over her face and it was burning. She used water to wash her eyes out, but it did not help.
- Her eyes were swollen for 7 days.
- When the Riot Police came rushing toward them, she thought they were coming to escort the MPs to the House. The action was so unnecessary.
- She did go to the Police Complaints Authority and was told to come back to give her report. She had given a hand written one. She was not interviewed at the time. In hindsight, she thought there was something wrong with the fact that she was not allowed to give an official complaint.

Person C:

- At 1:00 p.m. word came again that the House would not sit. More people arrived. Everyone thought the demonstration was a success.
- 15minutes later, the Policemen were marching in the middle of the road; they were in riot gear with shields over their faces. They stopped where she was. A lady came and said "We needed to lock arms". People were pressing up against her and someone said of her "This is a Senior; do not press on her".

- People were pushing from behind; she stumbled and lost an earring and a shoe in the process. Her chest was very sore from the pressure. She thought she would die! She was afraid and began praying. She had never experienced this before.
- The Police came after the announcement that the House would close. Why did the Police (in riot gear) come after the announcement that the House would close?
- Why was the order given to use pepper spray when everything was over?

The interviewee expressed appreciation for having the opportunity to talk about the incident as this was the first time she has talked about that day and she feels better, but will never forget it.

Person D:

- There were about 10 people there and they were quiet. The number of people increased as the morning progressed to about 40 – 50, mostly seniors and mostly women.
- They were interacting with the police and not causing any problem. They did ask why the gate was locked.
- All was quiet until after lunch when the Riot Squad came around the corner from Parliament Street. People also came from Parliament Street.
- The interviewee and others could not get out of the way. The Police Officers started spraying people with the pepper spray. Police were behind him pushing and shoving.
- He had been to demonstrations before but this was the first time he had been pepper sprayed!
- There were women on the on the road, the steps and lawn, mostly seniors. They were being pushed and shoved and were sprayed.
- He did not hear a command given to use the pepper spray and no warning was given. The Officers just started to spray people. They were heard saying- "You push and we will pull" as the people were being pushed.
- He and others asked the Police "Why are you beating us up"?
- A woman was pulled through the gate and was laying on the ground inside the gate.
- He knew the Police would focus on him because he was big. They were pulling at him; he told them "I am a human being, not an animal". But they continued to spray him.
- He was very concerned about the elderly women who were there and tried to protect them with his body.

Person E:

- Contrary to what was generally believed, the BPS locked the gates to the HOA, not the protestors.
- Protestors were not disrespectful to Officers; Officers passed freely through the protestors on their way to and from the HOA grounds.
- He did not understand the purpose of the "bubble tactic" because throughout the day, the Police had had no problem accessing the grounds.
- He did not understand the tactics with the riot squad because it was the Police who were keeping the gates locked, not the protestors.
- No-one had any intention of having a physical confrontation with the BPS; however, the riot squad "bum-rushed" the protestors.

- He felt duty-bound to help people who had been sprayed. He saw people trying to flee. Officers looked visibly confused.
- Police should have assessed the crowd before acting; there were women and seniors present.
- Threat levels have to be assessed; the riot squad came although there was no real risk. Police did not exhaust all of their options before acting.

Person F:

- The relationship between the Bermuda Police Service (BPS) and the protestors had been cordial right up to the time of the incident. The protestors were not disrespectful. During the change of shifts Officers had no problems moving through the protestors to gain access to the House of Assembly (HOA) grounds.
- The BPS, not the protestors, had restricted access to the HOA by locking the gates.
- There was no dialogue from the riot squad which had "bum-rushed" the crowd.
- The point of having the riot squad attend was unclear, since Officers were having no problems accessing the grounds whenever they needed to.
- A female Officer seemed to be in charge.
- Officers appeared to be visibly confused during the pepper spray incident. One Officer stood behind the wall on Reid Street and laughed during the incident.
- The interviewee felt he was specifically targeted by the BPS.
- The interviewee felt that Bermudians were generally a passive people and thus he found it hard to believe that any Officer was attacked. In fact, some Officers had later apologized for their actions.
- He felt that dialogue was important; had it occurred between the Government and the protest leaders on the day, the incident may never have happened.
- The BPS should have assessed the crowd. Although the riot squad was sent, the actual risk level was low since there were a number of seniors and women present. The BPS did not exhaust all of its options.
- He did not accept the explanation that the HOA grounds were not fit for protest on that day, as there had been protests there both prior and subsequent to the 2nd December 2016 incident.
- In defining civil disobedience, he noted that an ambulance is allowed to run through a red light. If one believes in a cause, one has to be willing to be like the ambulance and run through a red light.
- He noted that previous protests had been non-violent and had ended with dialogue. However, the BPS appeared to have different tactics in mind on the day of the incident.

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