

**White Paper on the Report of the Commission
of Inquiry into the Ayawaso West
Wuogon Events**

WHITE PAPER

ON THE REPORT OF

THE COMMISSION OF INQUIRY

INTO THE

AYAWASO WEST WUOGON EVENTS

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1. INTRODUCTION

In the morning of Monday, 31st January, 2019, barely a few hours after voting had commenced in the Ayawaso West Wuogon by-election, following the death of the Honourable Member of Parliament, Mr. Emmanuel Kyeremanten Agyarko, the National Chairman of the opposition National Democratic Congress (NDC), Mr. Samuel Ofofu Ampofo, addressed a press conference where he alleged that the NDC parliamentary candidate and six party agents and accredited observers had been shot at by “Invisible Forces who have been given national security uniforms” resulting in serious injuries. These men, according to the National Chairman of the NDC, Mr. Samuel Ofofu Ampofo, numbering “ten at every polling station”, were “shooting indiscriminately, attacking people, and intimidating people”. Significantly, during the press conference, the National Chairman of the NDC, Mr. Samuel Ofofu Ampofo further alleged that some of the six party agents were in “critical condition”. The Honourable Member of Parliament for Ningo-Prampam, Mr. Samuel Nartey George, sought to “corroborate” these statements and amplified them by indicating that a man had been killed in his own house as a result of violent incidents that had occurred in the by-election. The video footage of each of these statements, which turned out to be false, were made by the National Chairman of the NDC, Mr. Samuel Ofofu Ampofo and the Honourable Member of Parliament, Mr. Samuel Nartey George, and were widely published on mainstream and social media.

These allegations which caused widespread national alarm and outrage led the President of the Republic, Nana Addo Dankwa Akufo-Addo, to appoint a Commission of Inquiry, pursuant to paragraph (a) of clause (1) of article 278 of the Constitution. The Commission of Inquiry was appointed within a week of the occurrence of the unfortunate events to investigate the circumstances of their origins and make recommendations therefor, especially, as by-elections being marred by violence appeared to be an unwelcome tendency in the country’s electoral processes. The Commission of Inquiry submitted its Report to the President on 14th March, 2019. This White Paper on the Report is, thus, issued pursuant to clause (3) of article 280 of the Constitution.

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2. APPOINTMENT OF THE COMMISSION

The President, by the Commission of Inquiry (Ayawaso West Wuogon By-Election Events) Instrument, 2019 (C.I. 111), appointed a Commission of Inquiry, pursuant to article 278 of the Constitution, to inquire into the unfortunate events that occurred during the by-election of 31st January, 2019, to replace the deceased Honourable Member of Parliament for the Ayawaso West Wuogon Constituency, Mr. Emmanuel Kyeremanten Agyarko. The Ayawaso West Wuogon Commission of Inquiry, hereinafter referred to as the “Commission”, was inaugurated on the 8th of February, 2019.

2.1 Composition of the Commission

The Commission was composed of the following persons:

- (a) Mr. Justice Emile Short – Chairman
- (b) Professor Henrietta Mensa-Bonsu – Member
- (c) Mr. Patrick Kwarteng Acheampong – Member

The President, in accordance with subparagraph (1) of paragraph 4 of the Commission of Inquiry (Ayawaso West Wuogon By-Election Events) Instrument, 2019 (C.I. 111) appointed Mr. Ernest Kofi Abotsi as Secretary to the Commission. Pursuant to paragraph 5 of the Commission of Inquiry (Ayawaso West Wuogon By-Election Events) Instrument, 2019 (C.I. 111), the Attorney-General appointed Mr. Eric Osei-Mensah to serve as Counsel to the Commission.

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2.2 Terms of Reference

The terms of reference of the Commission were to:

- (a) make a full, faithful and impartial inquiry into the circumstances of, and establish the facts leading to, the events and associated violence that occurred during the Ayawaso West Wuogon by-election held on the 31st day of January, 2019;
- (b) identify any person responsible for or who has been involved in the events, associated violence and injuries;
- (c) inquire into any matter, which the Commission considers incidental or reasonably related to the cause of the events and the associated violence and injuries; and
- (d) submit within one month of its inauguration, its report to the President giving reasons for its findings and recommendations, including appropriate sanctions, if any.

2.3 Presentation of the Report

The Commission submitted its Report to the President of the Republic on 14th March, 2019. The Government has studied the Report thoroughly and has issued this White Paper to embody its response to the Report as provided for in clause (3) of article 280 of the Constitution.

3. FINDINGS AND RECOMMENDATIONS

The fundamental response of Government to the findings of the Report is that the Report failed to address the first and most critical of the terms of reference of the Commission, which was *“to make a full, faithful and impartial inquiry into the circumstances of, and establish the facts leading to, the events and associated violence that occurred during the Ayawaso West Wuogon bye-election on the 31st day of January, 2019”*. The failure to do so disables Government from accepting in whole the findings of the Commission. Some of the findings are accepted by Government whereas others are rejected. Reasons for the Government’s position have been assigned in this White Paper where necessary.

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4. FACTS OF THE EVENTS OF 31ST JANUARY, 2019

The Government accepts, in part, the following facts as established by the Commission:

“On 31st January, 2019, the Electoral Commission conducted a by-election in the Ayawaso West Wuogon Constituency following the death of the Member of Parliament for the said constituency, Mr. Emmanuel Kyeremanten Agyarko. That, at about 8:10am, a convoy of ten vehicles, some of which were marked “Police” but not bearing “GP” number plates of the Ghana Police Service arrived at the school park. On board the said vehicles were men dressed in uniform consisting of ginger-coloured (described as Khaki) trousers with black t-shirts, on which had been embossed “NSC”. Some of these men wore masks and carried pistols and AK-47 rifles. They were later identified as members of the (SWAT) Unit.”

More generally, issues arose on the effectiveness of security in relation to election management during by-elections, given that violence was becoming a feature of by-elections in the country – those of Atiwa, Chereponi and Talensi constituencies being examples of this trend.

The Government does not accept the following facts as found by the Commission:

“There was wild shooting of live bullets as a result of a confrontation that occurred between a crowd that had massed up at the frontage of the residence of the NDC candidate, and the SWAT team...the home of its candidate for the by-election had been besieged by state sponsored “armed security men” of unknown origin and/or authority.”

The Government comments on the above facts as determined by the Commission as follows:

“Following reports of a number of injured persons and even possible fatalities, arising from the violence that ensued, the NDC announced that it was

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withdrawing from the election, citing, among other reasons, the insecurity of their members”.

The Government states that the reports about possible fatalities were made by the Honourable Member of Parliament, Mr. Samuel Nartey George, who stated categorically that the events had resulted in the death of at least one person.

“Mainstream and social media footages showed scenes of chaos and instances of brutality being meted out to civilians in the area proximate to the election grounds and at the residence of the NDC candidate”.

The Government rejects this finding of fact by the Commission for the following reasons:

- (a) the incident was confined to the frontage of the residence of the NDC parliamentary candidate; and
- (b) the evidence adduced before the Commission per the Chairperson of the Electoral Commission shows that the polling station most proximate to the area was not affected whatsoever as voting continued undisrupted.

The Government notes that the following facts in paragraphs 1.20 to 1.22 on pages 34 and 35 of the Report, which evidence, although assessed thoroughly by the Commission, was omitted from the facts of the events section of the Report. It is the Government’s view that, these facts are pertinent to a proper review of the unfortunate events and ought to have been stated as part of the facts leading to the events of 31st January, 2019.

Paragraphs 1.20 to 1.22 on pages 34 and 35 of the Report provide as follows:

“1.20 Were ‘The Hawks’ present there that day? Every one of the injured persons admitted having heard of the group ‘The Hawks’, though none

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claimed to know anything more than that. In this regard, the presence of Theophilus Sedodi, a man of unusually great physique and impossible to miss even in a crowd, was of some significance. This person, who is described on the internet as the leader of the 'Hawks', a militia group associated with the National Democratic Congress, was formally inaugurated at the Unity Walk of the National Democratic Congress in Kumasi. Sedodi denied before the Commission that he was a member of the militia group, 'The Hawks'. He admitted being the person photographed on the day 'The Hawks' group was reported to have been inaugurated in Kumasi, wearing a black T-shirt embossed with the head of a hawk on the top left-hand side. His explanation of how he came to be wearing that T-Shirt that day was unconvincing."

"1.21 Again, Sedodi who acknowledged being aware of the fact that it is his face that pops up on the internet when 'The Hawks' is searched on Google, stated that he did not understand why this is so, and maintained that he was not linked to 'The Hawks'. Despite his strenuous denial the preponderance of evidence points to the fact that he is a member of the group, even if he is not the leader."

"1.22 On 31st January, his presence at the frontage of the PC's residence raised strong suspicion of the presence of the militia group, 'The Hawks'. He was positively identified by Akomea, of the SWAT team, as being present in the restive crowd at the frontage of the PC's house that morning, leading to his subsequent chase and arrest by the SWAT team. The Commission finds that by his presence at that location at a time when elections were taking place, a strong suspicion of the presence of the 'Hawks' was raised."

The Government notes further that the finding of fact in paragraph 2.15 on page 40 of the Report, which although assessed extensively by the Commission, was omitted from the "facts of the events" section and the "findings" section of the Report. It is the view of Government that, this finding of fact is very pertinent to a review of the unfortunate events and

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also affects the credibility of the Honourable Member of Parliament, Mr. Samuel Nartey George as a witness before the Commission, and ought to have been stated as part of the established facts of the events of the findings of the Commission.

Paragraph 2.15 on page 40 of the Report provides as follows:

“2.15 We find as a fact that this Unit was set up between 2010 and 2012. It is thus, untrue that this Unit was set up under the current NPP administration that took office in January 2017. Although Honourable Sam George asserted with conviction that the Unit did not exist at the time he served in Government at the Office of the President, he was clearly mistaken, because it did. Perhaps, it may be their special uniforms that are new, but certainly not their existence.” [Emphasis added.]

Further to the finding of the Commission, as stated above, Government takes note of the fact that both the National Chairman of the NDC, Mr. Samuel Ofofu Ampofo, and the Honourable Member of Parliament, Mr. Samuel Nartey George, having served as Minister for Local Government and Rural Development, and Presidential Aide, respectively, ought to know about the existence of the SWAT team. Indeed, this same SWAT team was paraded during the 2012 Independence Day parade reviewed by the then late President John Evans Atta-Mills.

Significantly, the National Chairman of the NDC, Mr. Samuel Ofofu Ampofo, who was responsible for the press conference, and whose unfounded statements and allegations caused such alarm and outrage, was, curiously and unfortunately, not invited by the Commission to testify.

The Government is of the view that the Commission, having made this finding and establishing that the Honourable Member of Parliament, Mr. Samuel Nartey George was mistaken even though he asserted with conviction, that the SWAT team is a creature of the current Government, the Commission should have placed very little weight on his evidence.

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The Government takes note of the analysis of the Commission at paragraph 1.14 on page 32 of the Report, which analysis leads to the conclusion that the mob that assembled at the frontage of the residence of the parliamentary candidate of the NDC, Mr. Delali Kwasi Brempong, was trained to play a more significant role than what an ‘observer’ at an election is traditionally required to do. For the purposes of emphasis, the said paragraph 1.14 is reproduced below:

*“1.14 None of these witnesses, however, could name the Secretary they were there to look for, except ‘Secretary’. These explanations of their coincidental presence do not quite undermine the fact that their presence there was non-accidental. Two of the injured witnesses claimed they went to the premises as ‘observers’ because they had been trained as observers. Asked by the Commission the duty of an observer, both witnesses stated that an observer goes to the polling station to make sure everything is alright and links up with the party’s polling agent to ascertain if everything is going well and then asks of the polling agent if he or she needs anything (“anything at all”) done and then do whatever it was. This explanation of the duties of one who has been trained as an observer is an indication that those observers had been trained to play more than what the traditional role of ‘observer’ at an election is expected to do.”
[Emphasis added.]*

The Government notes further that the foregoing analysis by the Commission, read together with the Commission’s analysis and conclusion that ‘the Hawks’ were present at the frontage of the residence of the parliamentary candidate of the NDC, Mr. Delali Kwasi Brempong, leads to the reasonable conclusion and finding that members of the mob were also members of ‘the Hawks’.

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5. FINDINGS

5.1 Electoral Security

The Government accepts, in part, the findings of the Commission on electoral security as captured at paragraph 1 on page 41 of the Report. The Government makes the following specific comments on the findings on electoral security:

- (a) The Commission's own findings in paragraph 1.6 on page 42 of the Report, which the Government accepts, contradicts the Commission's findings in paragraph 1.8 on page 42 of the Report. The Government rejects the finding that the SWAT team was deployed to the electoral grounds or for the purposes of electoral security. The said paragraph 1.6 provides,

"The Commission further finds that the SWAT team which was deployed to the electoral grounds of the La Bawaleshie School Polling station grounds in complete disregard of the officially laid down electoral security arrangement, were officers of the national security establishment".

The said paragraph 1.8 provides, inter alia

"The Commission further finds that these 'men' were deployed to follow-up on intelligence to the effect that certain arms and ammunition stored in a warehouse within the constituency and to intercept and retrieve same."

From the foregoing paragraphs, the Commission finds in one paragraph that the SWAT team was deployed to the electoral grounds for electoral security and in another paragraph, the Commission finds that the SWAT team was deployed to follow up on intelligence. The evidence of the Chairperson of the Electoral Commission, Mrs. Jean Mensa, given before the Commission, which evidence was not assessed in the Commission's report, confirms that there were no armed masked men at any of the

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polling stations in the Ayawaso West Wuogon constituency and the SWAT team was not at any polling station. Furthermore, a statement signed by Mr. Seth Clifford Dadoo-Amponsah, the Presiding Officer at the La Bawaleshie Presbyterian Primary School 1A Polling Station, the polling station close to where the unfortunate events occurred, confirmed that the SWAT team was not at the polling station nor in the vicinity for the purpose of electoral security. This very critical evidence of an independent witness was not assessed by the Commission in its Report. Accordingly, the Government rejects paragraph 1.6 on page 42 of the Report.

- (b) The Government does not accept the findings in paragraphs 1.9 and 1.10 on pages 42 and 43 of the Report. There is no basis upon which the Commission reached the conclusion that the intelligence upon which the team from national security acted was *“at best of unreliable quality”*. The evidence before the Commission, which the Commission accepted, was that there were arms in a warehouse around the La Bawaleshie Presbyterian Primary School. The evidence before the Commission was that there were gunshots before the SWAT team arrived at the scene of the incident, which evidence gives credence to the intelligence, to wit, that there were arms in that area. The Commission, in its assessment of the evidence, placed less weight on this aspect of the evidence by stating at paragraph 2.10 on page 38 of the Report, that, *“Akomea’s account was unsupported either, because no one else heard a shot from that area before the force got there and began firing warning shots.”* However, Akomea’s account was corroborated by DSP Azugu, who told the Commission that *“... there was a gunshot which attracted our attention from the main road. Whilst we were on the main road, we heard a gunshot so we moved there and to ascertain what was going on. That was when we saw more gunshots were being fired from that*

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compound house.” Again, this corroborated evidence from DSP Azugu was omitted from the Commission’s assessment of the evidence and its conclusion that the intelligence was “at best of unreliable quality”. Furthermore, the evidence of the Presiding Officer at the La Bawaleshie Presbyterian Primary School 1A Polling Station, Mr. Seth Clifford Dodoo-Amponsah, which evidence was also not assessed by the Commission, corroborates DSP Azugu and Akomea’s evidence that there were gunshots. In the statement he submitted to the Commission, he states, “Suddenly, we heard some of the men (NSC) shouting amidst running towards the far end of the school building, they arrested some men who they (NSC) alleged were thugs coming to cause destruction at the polling station so they came to stop them. All this while, the election processes were still going on smoothly until we heard gun shots from some houses close to the other end of the goal post.”

The Government is of the view that a proper assessment, of the intelligence upon which the SWAT team acted, by the Commission would have led to a different conclusion. The Government does not accept the finding that an omission to share intelligence with lead state agencies like the police and defence intelligence is a major failure that undermined coordination. Furthermore, the Government does not accept the suggestion of the Commission that at the time the intelligence was received and determined to be actionable, and the operation planned, there was sufficient time to secure a search warrant. Accordingly, the Government rejects the findings in paragraphs 1.9 and 1.10 on pages 42 and 43 of the Report.

- (c) The Government does not accept the Commission’s finding in paragraph 1.11 on page 43 of the Report. The appointment of the Commission was not based on the allegation of reckless use of guns and weapons by masked SWAT team

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from the national security establishment. According to the Commission of Inquiry (Ayawaso West Wuogon By-Election Events) Instrument, 2019 (C.I. 111), the President was satisfied that it was in the public interest to appoint a Commission of Inquiry into the events and associated violence that occurred during the Ayawaso West Wuogon by-election on 31st January, 2019 and the terms of reference included establishing the facts that led to, the events and associated violence that occurred during the said elections. A finding, as contained in the said paragraph 1.11, suggests that the Commission's approach to the first term of reference was prejudicial.

- (d) The Government accepts the Commission's finding that the shots that were fired on the day were warning shots. The Government rejects the finding that the warning shots were fired in reckless disregard for the safety of persons in the vicinity. Accordingly, the Government does not accept paragraphs 1.13, 1.15, 1.16, 1.17 and 1.18 on pages 44 and 45 of the Report.
- (e) The Government rejects, in part, the Commission's finding in paragraph 1.19 on page 45 of the Report. The Government accepts the Commission's finding in paragraph 1.20 on page 45 of the Report, that there was no firing of guns at the polling station itself, as this finding is consistent with the evidence before the Commission.
- (f) The Government takes note of the Commission's finding in paragraph 1.21 on page 46 of the Report and will refer the finding to the Criminal Investigation Department of the Ghana Police Service for further consideration.
- (g) The Government rejects the Commission's finding in paragraph 1.22 on page 46 of the Report on the basis that it is inconsistent with the evidence as adduced before the

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Commission. For the sake of clarity, it is important to set out the evidence as adduced in the proceedings before the Commission, the facts of which were omitted from the Report. The following ensued when the Chairperson of the Electoral Commission, Mrs. Jean Mensa, appeared before the Commission on 15th February, 2019:

“Q: There is also a report of a police officer who was attacked (sic) precisely at the prisons JHS by men alleged to be operatives of the National Security. Has that come to your attention?”

A: Very much so.

Q: And have you investigated that?

A: We have.

Q: And what is your finding?

A: Indeed we’ve done some extensive investigation. When we received the report from CODEO, we went ahead to interview our presiding officer, in the polling stations located in the prisons in Roman Ridge and they all confirmed and we had it in writing that there was no abuse of a policeman in that polling station. Indeed, they indicated that there was some argument between the policeman and some staff from National Security but there was no physical abuse. We also went ahead to identify or locate all the policemen that were deployed to that polling station and we have their names here. They were five of them, we have their staff numbers, their duty stations, and their contact telephone numbers and we tender them in evidence and we went on to speak to each and every

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one of them and they all indicated that there was some disagreement and argument but there was not physical abuse. Beyond that we approached the Regional Commander assured us that he was going to investigate and he has also provided us with the report showing us that there was no abuse, physically and no assault on any of the police officers deployed at the prisons school polling station. We have all that here. The letter from the Regional Commander and the names also of the policemen who were deployed, their contact telephone number, we also have ...

Q: Can you furnish the Commission with copies of that?

A: Yes please.

Q: You can go ahead and finish

A: We also have the reports of the presiding police officers who were there and they have all indicated that there was a verbal disagreement but there was not assault as was being alleged in the CODEO Report.”

The Chairperson of the Electoral Commission, Mrs. Jean Mensa provided to the Commission, a letter dated 6th February, 2019, from the Regional Director (Greater Accra) to the Chairperson of the Electoral Commission, indicating the details of the police officers deployed to Prison 1 & 2 JHS, Roman Ridge during the Ayawaso West Wuogon by-election. The Chairperson of the Electoral Commission, Mrs. Jean Mensa also provided a letter dated 14th February, 2019, from the Deputy Regional Commander, DCOP Kwaku Boadu-Pepira, to the Regional Director (Greater Accra) of the Electoral Commission, informing the latter that “*all personnel deployed to Prisons 1 & 2 JHS, Roman Ridge polling station*

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(CO61303 A, B & C) were contacted in respect of the alleged assault but responses from them indicated that nothing untoward occurred at the aforementioned polling stations during the by-elections.” Both letters were marked as Exhibit B. The foregoing evidence before the Commission, which evidence was not contradicted, does not support the Commission’s finding in paragraph 1.22 on page 46 of the Report.

- (h) The Government rejects the Commission’s finding in paragraph 1.23 on page 46 of the Report as same is inconsistent with other findings of the Commission on the purpose for which the SWAT team was deployed. The said paragraph 1.23 provides,

“The Commission finds that the use of masked men in electoral security policing represents a deviation from standard practice in Ghana.”

The Government restates paragraph 5.1 (a) of this White Paper.

- (i) The Government does not accept the Commission’s finding in paragraphs 1.24, 1.25, 1.26 and 1.27 on pages 46 to 48 of the Report on the basis that it is inconsistent with the Commission’s recommendation in paragraph 8.2.4 on page 57 of the Report, on the enforcement of standard rules and procedures for weapons and ammunition. Furthermore, the Government considers the Commission’s finding in the said paragraphs of the Report to be general, vague and sweeping.

5.2 General Architecture of State Security

The Government rejects the Commission’s findings on the general architecture of state security, captured at paragraphs 2.1 and 2.2 on pages 48 and 49 of the Report. The general architecture of state security is governed by articles 83 to 85 of the Constitution and the Security and Intelligence Agencies Act, 1996 (Act 526), which outline the roles and

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responsibilities of the various security agencies. The Government is of the view that there is sufficient clarity on this matter.

5.3 Command and Control

The Government rejects the Commission's findings on command and control, captured at paragraph 3 on page 49 of the Report. The Government makes the following specific comments on the findings on command and control:

- (a) The evidence before the Commission points to the fact that DSP Azugu had command responsibility on the field. The statement that there was confusion in command responsibility is inconsistent with the evidence before the Commission. Furthermore, the evidence before the Commission and the Commission's own findings show clearly that the unfortunate events did not take place at the La Bawaleshie School Polling Station. Accordingly, the Government rejects the findings in paragraphs 3.1, 3.2, 3.3 and 3.4 on pages 49 and 50 of the Report.
- (b) The finding on the recruitment process of personnel into the national security is not supported by any evidence before the Commission. No evidence was adduced before the Commission on the recruitment process into the national security and therefore, the Government does not accept this finding. Accordingly, the Government rejects the findings in paragraphs 3.5 and 3.6 on pages 50 and 51 of the Report.
- (c) The Government takes note of the observation of the Commission in paragraph 3.7 on page 51 of the Report and states that a standing operations command centre exists for the purposes of coordinating security operations.

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5.4 Party Associated Militia (“Vigilantes”)

The Government rejects the word “militia” adopted by the Commission in its Report. The Government disagrees with its use in the Report as the word was not defined and discussed thoroughly as being applicable in this context. According to the Oxford Dictionary, the definition of “militia” is “(1) A military force that is raised from the civil population to supplement a regular army in an emergency; (2) A military force that engages in rebel or terrorist activities in opposition to a regular army; (3) (in the US) all able-bodied civilians eligible by law for military service.” Quite clearly from the above definition, no such force as militia was present at the Ayawaso West Wuogon by-election. Therefore, the Government does not accept the use of the word “militia” in the Report.

Notwithstanding the Government’s rejection of the use of the word “militia” in the Report, the Government accepts the findings of the Commission at paragraphs 4.1 and 4.4 on pages 51 and 53, respectively, of the Report. Parliament has passed the Vigilantism and Related Offences Act, 2019 (Act 999), which Act was initiated by the President of the Republic, to disband and prohibit vigilante groups and their activities.

5.5 Policing Issues

The Government takes note of the Commission’s findings on policing issues captured at paragraph 5 on pages 53 and 54 of the Report. The Government will forward these findings to the Inspector-General of Police for his consideration.

5.6 Assault on the Honourable Member of Parliament for Ningo-Prampram, Mr. Samuel Nartey George

The Government accepts, in part, the finding of the Commission under paragraph 6 on pages 54 and 55 of the Report. However, the Government rejects the finding that members of the SWAT team committed criminal

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assault against certain members of the crowd gathered in front of the residence of the parliamentary candidate of the NDC, Mr. Delali Kwasi Brempong, on the basis that same is too vague.

5.7 Other Incidental Issues

The Government takes note of the other incidental issues and observations captured by the Commission in paragraph 7 on pages 55 and 56 of the Report, and will refer them to the appropriate institutions, where necessary.

6. RECOMMENDATIONS

6.1 Structural

The Government accepts, in part, the structural recommendations of the Commission as captured at paragraph 8.1 on page 56 of the Report. The Government makes the following comments on the structural recommendations by the Commission:

- (a) The Government accepts, in part, the recommendation in paragraph 8.1.1 on page 56 of the Report and shall refer same to the National Security Council for consideration. The Government does not accept, however, that there is lack of clarity of responsibilities and roles as well as lines of reporting. The Constitution and the Security and Intelligence Agencies Act, 1996 (Act 526) spell out clearly, the responsibilities and roles of the various offices within the national security establishment. Consistent with the dictates of the Constitution and other relevant laws, the structure of the national security apparatus as it exists today, has existed throughout the Fourth Republic, in the same manner and form.

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- (b) The Government takes note of the recommendation regarding the command and control centre in paragraph 8.1.2 on page 56 of the Report and repeats that a command and control centre exists for coordinating the operations of the various security agencies.
- (c) The Government rejects the recommendation in paragraph 8.1.3 on page 56 of the Report on the basis of factual inaccuracy. The Government states that the said Minister is a Minister of State at the Office of the President who has been directed to work at the Ministry of National Security and assist the Minister for National Security in the performance of his duties.

6.2 Operational

The Government accepts, in part, the operational recommendations of the Commission as captured at paragraph 8.2 on page 56 of the Report. The Government makes the following comments on the operational recommendations by the Commission:

- (a) The Government accepts the Commission's recommendation in paragraph 8.2.1 on pages 56 and 57 of the Report and believes that the implementation of this recommendation will boost the efficiency of national security.
- (b) The Government rejects the Commission's recommendation in paragraph 8.2.2 on page 57 of the Report on the basis that no masked or hooded men were used in electoral policing. The Government also considers the said paragraph 8.2.2 to be sweeping and general and has the tendency to undermine national security operations in appropriate situations in future.

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- (c) The Government accepts, in part, the Commission's recommendation in paragraph 8.2.3 on page 57 of the Report. The Government reiterates that based on the Commission's own findings, the SWAT team was not deployed for election security.
- (d) The Government accepts the Commission's recommendations in paragraphs 8.2.4, 8.2.5 and 8.2.6 on page 57 of the Report.
- (e) The Government rejects the Commission's recommendations in paragraphs 8.2.7 and 8.2.8 on page 58 of the Report.
- (f) The Government accepts the Commission's recommendations in paragraphs 8.2.9 and 8.2.10 on page 58 of the Report.

6.3 Individual Liabilities

The Government accepts, in part, the recommendations of the Commission in respect of individual liabilities as captured at paragraph 8.3 on page 58 of the Report. The Government makes the following comments on the recommendations regarding individual liabilities by the Commission:

- (a) The Government takes note of the Commission's recommendation that Mr. Ernest Akomea alias Double must be prosecuted for the unauthorised possession of firearms under subsection (1) of section 192 of the Criminal Offences Act, 1960 (Act 29) and refers that recommendation to the Criminal Investigation Department of the Ghana Police Service for further investigation.
- (b) The Government does not accept the Commission's recommendation that Mohammed Sulemana must be prosecuted for the offence of assault, to wit, the slapping of the Honourable Member of Parliament, Mr. Samuel Nartey George, on the basis that the Commission, at paragraphs

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6.1 and 6.2 on page 55 of the Report, accepted the facts which led to the said assault on the Honourable Member of Parliament, Mr. Samuel Nartey George, which facts support a valid defence of provocation for the said assault.

- (c) The Government takes note of the Commission's recommendation in paragraph 8.3.3 on page 58 of the Report and refers the recommendation to the Inspector-General of Police for his consideration.
- (d) The Government rejects the Commission's recommendation in paragraph 8.3.4 on pages 58 and 59 of the Report on the basis that the Commission failed to establish the factual basis for the said recommendation.
- (e) The Government takes note of the Commission's recommendation in paragraph 8.3.5 on page 59 of the Report and refers the recommendation to the Criminal Investigation Department of the Ghana Police Service for further investigation.
- (f) The Government rejects the Commission's recommendation in paragraph 8.3.6 on page 59 of the Report on the basis that the Commission failed to establish the factual basis for the said recommendation.

6.4 Compensation

The Government accepts, in part, the recommendations on compensation as captured in the Commission's Report at paragraph 9 on page 59. The Government makes the following comments on the recommendations on compensation by the Commission:

- (a) The Government, in principle, accepts the Commission's recommendation in paragraph 9.1 on page 59 of the Report on the basis that the injured persons were unfortunately caught up in a legitimate National Security operation. However, the Commission failed to provide an assessment of

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the injuries sustained or make recommendations on the quantum of compensation to be paid to the injured persons.

- (b) The Government, in principle, accepts the Commission's recommendation in paragraph 9.2 on pages 59 and 60 of the Report on the basis that those properties were damaged during a legitimate National Security operation. Again, however, the Commission failed to provide an assessment of the damage to those properties or make recommendations on the quantum of compensation to be paid to the owners of those properties, which owners are not identified in the Report. The Government, therefore, refers the recommendation on compensation to the Attorney-General for assessment and payment of compensation, if any.
- (c) The Government notes significantly that at paragraphs 1.4, 1.5, 1.7 and 1.8 on pages 29, 30 and 31 of the Report, the evidence before the Commission was that the witnesses who suffered injury all claimed to have arrived at the frontage of the premises of the parliamentary candidate of the NDC, Mr. Delali Kwasi Brempong, in the morning of the unfortunate events, and further that none of them appeared to know Mr. Delali Kwasi Brempong personally and none of them reported to Mr. Delali Kwasi Brempong personally nor gave him any indication that they had come to support him and offer their services to him. Instructively, these persons were found by the Commission to be part of the mob that had assembled in front of Mr. Delali Kwasi Brempong's house.
- (d) The Government notes further that, in paragraph 1.19 on page 34 of the Report, the evidence before the Commission buttressed the fact that the injured men were there on the business of the NDC. Two senior NDC party officials, Mr. Yussif Jajah and Alhaji Collins Dauda, went to see them at the hospital to pay their hospital bills. They also collected their police medical bills because some money had to be paid before the doctor endorsed the forms.

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6.5 General Recommendations

The Government accepts, in part, the general recommendations of the Commission captured in the Commission's Report at paragraph 10 on page 60. The Government makes the following comments on the general recommendations by the Commission:

- (a) The Government rejects the Commission's recommendations in paragraphs 10.1 and 10.2 on page 60 of the Report on the structure of reporting, roles and responsibilities within the national security set up. The Government reiterates that the Constitution and the Security and Intelligence Agencies Act, 1996 (Act 526) spell out clearly, the responsibilities and roles of the various offices within the national security set up.
- (b) The Government rejects the Commission's recommendation in paragraph 10.3 on page 60 of the Report and states that recruitment into the Ghana Police Service is based on merit. Moreover, the Commission did not take any evidence on the recruitment process into the Ghana Police Service.
- (c) The Government accepts the Commission's recommendation in paragraph 10.4 on page 60 of the Report insofar as it relates to vigilantism and hooliganism. As stated above, the Government is unable to accept the use of the word "militia" by the Commission. The Government states further that this recommendation has been overtaken by events in the light of the passage of the Vigilantism and Related Offences Act, 2019 (Act 999), initiated by the President of the Republic, to disband and prohibit vigilante groups and their activities.

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- (d) The Government accepts the Commission's recommendation in paragraph 10.5 on pages 60 and 61 of the Report and refers the recommendation to the Criminal Investigation Department of the Ghana Police Service for further investigation.
- (e) The Government accepts the Commission's recommendation in paragraph 10.6 on page 61 of the Report and refers the recommendation to the Minister for Health for reference to the appropriate institution.
- (f) Given that the Electoral Commission is an independent constitutional body, the Government is unable to direct the Electoral Commission to act on the recommendation of the Commission in paragraph 10.7 on page 61 of the Report. Nonetheless, the Government will refer the recommendation to the Electoral Commission for its consideration.
- (g) The Government will refer the Commission's recommendation in paragraph 10.8 on page 61 of the Report to the Inspector-General of Police for his consideration.
- (h) In respect of the Commission's recommendation in paragraph 10.9 on page 61 of the Report, the Government takes the view that there are sufficient state institutions that deal with grievances outside the police set up including the Judiciary and the Commission on Human Rights and Administrative Justice.
- (i) The Government states that the Commission's recommendation in paragraph 10.10 on page 62 of the Report has been overtaken by events in light of the passage of the Vigilantism and Related Offences Act, 2019 (Act 999), initiated by the President of the Republic, to disband and prohibit vigilante groups and their activities.

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7. CONCLUSION

On behalf of the people of Ghana, the Government expresses its gratitude to the Chairman and other members of the Commission for their work.

By Command of the President of the Republic.

A handwritten signature in black ink, appearing to read 'G. Akuffo', written in a cursive style.

GLORIA AFUA AKUFFO (Miss)
Attorney-General

Date of *Gazette* notification: 13th September, 2019.



REPUBLIC OF GHANA

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