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IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
TRIAL DIVISION

SUPREME COURT
OF THE
REPUBLIC OF PALAU

REPUBLIC OF PALAU)	
)	CRIMINAL CASE NO. 19-066
Plaintiff,)	
)	
-vs-)	PLAINTIFF'S RESPONSE TO
)	MOTION TO DISMISS AS TO
CLIFTON SOALABLAI,)	COUNT THREE
)	(DEFENDANT'S MOTION
)	TO QUASH)
Defendant.)	

The Republic agrees to a dismissal of the charge of Misconduct in Public Office by the Court, though it finds the Defense's stated reasons for dismissal to be mistaken.

Contrary to the arguments of the Defense, the revised statute (33 PNC § 601(o)) does not foreclose a police officer from being a public official, instead it merely states that a police officer is not a de facto public official. A police officer can be a public official when his specific position rises to a certain elevated level of responsibility and accountability. For example, Directors and Chiefs can, at once, be both police officers and public officials. The same could be said of a police officer appointed to the level of Minister.

The statute includes "...any chief of a division of government..." in its list of positions that qualify as a public office. The Defendant is the officer in charge of "Executive Security." Originally, we maintained that the Defendant, by virtue of this title and the substantial responsibilities that come with it, qualifies as the chief of a division of government and thereby a public official for the purposes of the statute. However, after a review of Defendant's official job description, attached below, the Republic believes that the language of his specific position, as written, does not rise to the level of a "Public Office."

EXECUTIVE SECURITY DETAIL

Officers are selected to this detail by the Chief Executive and the Chief of Staff with recommendations from the Division Chiefs and the approval of the Director of the Bureau of Public Safety.

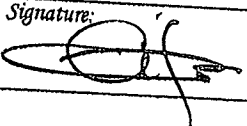
This detail is headed by a Police Lieutenant (preferably) who will act as the Officer in Charge (OIC). Positions within this detail will maintain established position descriptions of the Division of Patrol and include the following additional duties and responsibilities:

OFFICER IN CHARGE

Receives orders from the Chief Executive, the Presidential Chief of Staff, and the Director of the Bureau of Public Safety.

Directly reports to the Director of the Bureau of Public Safety on all issues pertaining to the execution of duties and responsibilities as the OIC of this Detail.

1. Responsible for 24/7 protection of the Chief Executive and his family.
2. Must always have knowledge of the Chief Executive's daily schedule and movement.
3. Must always be alert to any threats, direct or indirect, to the security and safety of the Chief Executive and his family.
4. Reports to the Director of the Bureau of Public Safety and recommends solution to eliminate any and all threats and possible security risks to the Chief Executive and his family.
5. Responsible in ensuring that the number of required shifts are established and adequately manned to ensure full security of the Chief Executive and his family.
6. Responsible for scheduling of shifts, organization of work schedule, including officers' rotation and breaks to ensure alertness and prevent complacency.
7. Ensure that all officers report to work on a timely manner and conduct effective shift changes so as not to disrupt the Chief Executive's schedule.
8. Responsible for all administrative duties related to this detail, inclusive, but not limited to, performance evaluations, disciplinary actions, promotions, equipment readiness, supplies availability, trainings, firearm certifications, and any other related administrative issues regarding this detail and officers.
9. Ensure level of readiness of the Chief Executive's mode of transportation, inclusive of a backup means of transportation taking into account all case scenarios.
10. Must always have secondary plans and routes for swift evacuation in the event when needed.
11. Must always have constant communication with Shift Leaders to ensure plans are executed when the need arises.
12. Ensures security of Chief Executive's residence and any secondary dwellings.
13. Ensures that all Shift Leaders execute their duties so as not to jeopardize the security and safety of the Chief Executive.
14. Fills in shifts when needed.
15. Any and all other duties as assigned by superiors.

Name: Clifton Soalablai	Signature: 	Date: 11.29.18
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Note: Reviewed by Clifton Klouhubak and Director Ismael N. Aguon