

Disturbance at Lyster Detention Centre

Tuesday 25th February 2014

Final Report of Inquiry

**Conducted by the Ministry for Home Affairs and National
Security**

**Involving: Mr. Joseph St John, Chairperson; Mr. John Agius, Member; Mr. Kevin Borg,
Member; Dr Nadia Mifsud, Secretary**

The Ministry for Home Affairs and National Security established a Board of Inquiry pursuant to the disturbance at Lyster Detention Centre of Tuesday, 25th February 2014.

Terms of reference:

- establishing the facts of the case;
- determining the type of intervention made by the disciplined forces;
- confirming whether the migrants and the members of the disciplined forces have suffered any injuries and the nature of such injuries, if any;
- establishing what, in the Board's view, has triggered these incidents; and
- giving suggestions and recommendations as to how to avoid similar incidents in the future.

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1. Facts of the Case

- On 25th February 2014, a Parliamentary delegation made up of Hon. Dr. Deborah Schembri, Hon. Dr. Jason Azzopardi, Hon. Claudette Buttigieg, Hon. Marlene Farrugia and Ms Elaine Cunningham conducted a visit at Lyster Detention Centre, Hal Far.
- On the previous day some of the detainees were informed by the authorities that their application for international protection had been rejected at appeals stage by the Refugee Appeals Board.
- Mr. Mario Schembri, Head Operations, Detention Service, escorted the Parliamentary Delegation during their visit to the Centre. The Parliamentary Delegation arrived at Lyster at 10.40 hrs and upon arrival the Delegation proceeded to visit the Ground Floor (Zone A) of Hermes Block, which was unoccupied.
- The detainees who were in the recreation yard adjacent to Hermes Block requested to go inside, in order to speak to the Delegation. In the circumstances, Mr. Schembri advised the members of the delegation to interrupt the visit in order to prevent further disturbance.
- When the delegation was about to return to the main entrance of Hermes Block, with a view to visiting the detainees themselves, some of the detainees started causing disturbance by shouting and breaking property of the Detention Centre. These disturbances made it difficult for the Head of the Detention Service to communicate with the Delegates.
- The delegation moved outside Hermes Block, where they waited for some minutes and discussed the situation with Mr. Schembri. Hon. Dr. Deborah Schembri, who also formed part of the delegation, reached Lyster Detention Centre at this point. The delegation left Lyster Detention Centre at about 11.30 hrs. The disturbance subsided. Eighteen (18) detainees who were in the recreation yard refused instructions to return to Zone B (First Floor, Hermes Block).
- Mr. Schembri left Lyster Detention Centre a few minutes after the delegation. While at Marsa, at around 12.15 hrs, Mr. Schembri received a phone call from Colonel Ian Ruggier informing him that the disturbance had resumed. The chainlink (security) fence at the recreation area had been forced open and Detention Service officers were preventing the detainees from escaping, while another officer was repairing the fence. In addition, Colonel Ian Ruggier informed Mr. Schembri that several of the detainees were throwing bottles of water, stones, milk cartons and hand cream in the direction of the Detention Centre personnel. Colonel Ruggier further added that he tried to calm down the detainees with no success. Threats were directed towards the Detention Centre staff and one of the detainees claiming Ghanaian nationality was observed brandishing a pointed stick. Moreover, this detainee was also reported to have spat at Col Ruggier's face. The situation was getting out of control. Colonel Ruggier recommended to Mr. Schembri that in the circumstances it

would be best to request for Police assistance as the Detention Officers would be unable to control an escalation of the situation.

- While on the way back to Lyster Detention Centre, Mr. Schembri communicated with the Commissioner of Police and the Commander of the Armed Forces about the situation at Lyster Detention Centre and requested Police assistance. Upon arriving at Lyster Detention Centre, approximately 10 minutes later, Mr. Schembri noted that the fence had been forced open by the detainees, as indicated above.
- In the meantime, the water and electricity supply of the premises had been interrupted by the Detention Centre Staff with a view to minimize the possible adverse effects that could worsen the situation.
- The RIU arrived on site at approximately 13.00hrs. Following briefing about the state of affairs, Mr. Schembri handed the situation over to the RIU. The agreed objective of the Police intervention was that of restoring order. At this time, some detainees were observed gathering stones, sticks and bottles filled with black fluid, whilst gesturing and posturing in a hostile manner.
- A Unit from the Administrative Law Enforcement was on its usual routine patrol and upon seeing journalists outside the Detention Centre the Police Officers enquired whether there was the need for assistance. However, since there were already other Police officers from the Rapid Intervention Unit (RIU) on site they did not intervene.
- The first RIU Police Officers arriving on site comprised three (3) Units made up of six (6) Police officers. These units were later (within few minutes) joined by all the other units on duty during the first and second watches (30 officers). Twenty-two (22) other officers from the 'As required shift' arrived on site within minutes. These officers were equipped with batons, shields and helmets.
- Police intervention commenced at 13.35hrs. Initially the intervention was planned to move the women from Zone C (Women's area, Hermes Block) to the common area. However, since there was considerable disturbance in Zone B (Men's Area, First Floor, Hermes Block), the Police decided to move into Zone B to gain control of the detainees thereat and to control the threat of objects being thrown from the First Floor.
- Thirty (30) police officers from the first and second watches equipped with four shields and four stun guns (electroshock weapons) gained control of Zone B and moved the detainees to the common area in the same floor and away from the windows overlooking the recreation area. The detainees were handcuffed using tie clips. As a result of resistance by some of the detainees it was argued that the stun guns had to be used. The police confirmed that each of the four stun guns had been used once.
- At this time eighteen (18) of the detainees mentioned earlier on were causing disturbances in the recreation area. The 'As required shift' of the Rapid Intervention Unit, equipped with

shields, batons and helmets, moved into the recreation area to gain control of the situation thereat. These officers were supported by another officer equipped with a shot gun armed with rubber pellets. Three (3) warning shots were shot into the air and clearly off-target. The first shot was a warning shot to deter the detainees from entering into conflict with the Police who entered the recreation area. Following this warning shot the majority of the detainees gave themselves in. The second shot was fired after one of the detainees brandished broken wooden sticks and as soon as the same detainee was going to start throwing sticks. The third shot was fired after a detainee on the second floor, who had his face covered, threw items out of a window on the second floor, which was directly overlooking the area where the police intervention was taking place.

- Tie clips were also used by the Police to handcuff the detainees in the recreation area. These detainees were escorted to Zone E (situated in the second floor).
- One of the detainees was taken to hospital as he was losing consciousness. This detainee was examined at Mater Dei Hospital and was discharged an hour or so later. Four other injured detainees were also taken to hospital later on during that day. Three of them were released since the injuries claimed were not considered serious and required no further treatment. The fourth was transferred to Mount Carmel Hospital for further psychiatric evaluation. It must be stated that this detainee has a history of such problems. No other injuries requiring hospitalization were reported.
- Seven (7) detainees were identified as the principal agitators during the disturbance. These seven detainees were escorted to Zejtun Police Station for questioning. The detainee who was taken to hospital with the ambulance due to loss of consciousness was amongst the detainees taken for questioning by the police. He was later returned to Zejtun Police Station.
- On the following day, Wednesday, 26th February, United Nations High Commission for Refugees (UNHCR) representatives visited Lyster Detention Centre as part of their routine visit. The UNHCR representatives interviewed by the inquiry board reported the atmosphere at the Centre as being generally calm. UNHCR representatives went on to visit zones B, D and E and spoke to some of the detainees about the previous day's incidents. Whilst stressing that they are not medical practitioners, the UNHCR representatives argued that no detainee they saw exhibited visible marks of injuries, except for some minor scratches. None of the seven (7) detainees who were arrested by the police on the previous day were spoken to by the UNHCR representatives during their visit on the 26th February.
- A JRS representative, visiting the Lyster Detention Centre the day after the incidents i.e. on Wednesday 26th February, reported that there was a detainee who was suffering from a swollen cheek and another one who had a black eye. An evaluation of the medical report issued by the Detention Service doctor reveals no such injuries by any of the detainees. The JRS representative further stated that the detainees claimed that Police Officers shouted abuse and pressed their bodies to the ground with their shoes even after the situation was brought under control. It should however be noted that no one from the Detention Service

personnel, the Police, or the UNHCR representatives interviewed reported such instances of abuse to the Board.

- The Board also interviewed three detainees who reported injuries after the incidents.
- One of the detainees interviewed claimed that he was dragged through the stairs of the building. The same detainee further claimed that a Police officer pressed his shoe against his chest, while he was lying prone on the ground and he (the detainee) turned face up following the shots fired by the police. The same detainee made no reference to any verbal abuse by the Police or Detention Centre personnel. When asked by the board whether any injuries claimed were visible, he replied in the negative. However, he claimed to have suffered from chest pain.
- Another detainee interviewed by the Inquiry Board claimed that he was beaten but also stated that the Police were not violent. The only sign of injury he showed was what appeared to be a slight bruise to the face and minor marks as a result of the tie-clips used to handcuff him following the riots.
- The third detainee interviewed stated that the tie-clips used to handcuff him were too tight. He also claimed that when ordered to lie down he felt chest-pain.
- Medical evidence made available to the Board does not suggest that any of the detainees participating in the disturbances of the 25th February sustained any noteworthy injuries.
- The inquiry board considers that, upon evaluation of the evidence gathered following the investigations, the interviews as well as the reports provided by the medical professionals examining detainees claiming injuries following the disturbances occurring at Lyster Detention Centre on the 25th February 2014, neither Detention Centre officers nor the Police exercised excessive force in confronting the detainees. Thus, any assertion claiming the use of excessive force during the disturbances occurring at Lyster Detention Centre on Tuesday 25th February 2014 is unfounded.

2. Possible causes of the Disturbance

- It is difficult to determine with any certainty what caused the disturbances of the 25th February. However, it is possible that the communication of final rejections by the Refugee Appeals Board and the visit by the Parliamentary delegation only the next day may have contributed to escalating tensions.
- Two of the detainees interviewed claimed that they knew in advance (two to four days prior to the visit by the Parliamentary delegation) that a delegation was expected to visit the centre; this may have raised expectations for the detainees to communicate their concerns to the delegation.
- The fact that 18 detainees were in the recreation area when the delegation arrived may have played a part in causing the disturbance, given that the detainees in question thought that they would have missed the opportunity to speak to the delegation.
- The layout and structure of Hermes Block, along with the lack of barriers at the windows of the upper storeys, made it simpler for the detainees to act the way they did, while making it more difficult for the authorities to safely intervene and control the situation with the least possible use of force. One of the principal difficulties encountered by the Police was objects being thrown at them from the second floor once they commenced their intervention in the recreation area. Thus, it is evident that the layout and structure of the Block itself makes it more likely for disturbances to escalate.
- In more general terms, over the years stakeholders in the sector, particularly NGOs, have argued against detention, which may cause frustration among irregular migrants. It is however to be recalled that those in need of international protection are granted such protection, along with attendant rights, whereas those not entitled to protection are provided with voluntary return opportunities, with financial incentives.
- In view of the above points, as well as the need to retain a detention policy on the basis of security considerations, the Board is recommending a series of actions addressing the different aspects of detention and related policies impacting irregular migrants.

3. Recommendations

Security and Safety at Hermes Block

- Measures should be taken to improve security and safety at Hermes Block, in particular:
 - a) through the installation of appropriate structures on the windows overlooking the yard, so as to ensure that detainees would not be able to throw solid objects at anyone in the yard. This would not only serve to protect Detention Service and other personnel working at the Centre, but also the detainees themselves;
 - b) through the installation of chainlink structures at the staircase so as to prevent the throwing of solid objects by detainees; and,
 - c) through the introduction of a procedure whereby whenever a high-profile delegation visits the centre, detainees would be informed accordingly, so that any wishing to remain in their respective zone (as opposed to the recreation area) pending the arrival of the delegation, would do so. Detainees should also be informed that this would not necessarily mean that delegates would speak to each individual detainee.

Services at Detention Centres

- The services of a Social Welfare Unit should be available to the Detention Service:
 - a) in order to make a profile of each detainee, so as to better identify vulnerabilities, skills training required and other issues of concern. Where necessary, detainees would be referred to the professionals concerned; and
 - b) to organise training sessions and other activities for detainees, so that time of detainees will be occupied in worthy issues.

Detention Conditions

- In the long term, the construction of new Detention facilities, including a Reception section dedicated exclusively to newly-arrived migrants, should be considered. Such facilities would be constructed specifically with detention in mind, so as to ensure that:
 - a) reception conditions are improved, including in particular through the availability of more space; and to ensure that,
 - b) if disturbances recur, they are more easily contained and controlled, to the benefit of all concerned.
- Whenever possible, the authorities would have to make arrangements for asylum seekers to be detained in separate blocks from persons detained for the purpose of return. At the same time, NGOs and other entities working with detainees should encourage those whose

asylum applications are clearly unfounded or who have had their application rejected, to take up voluntary return opportunities.

Other Measures

Further to the above recommendations, the following points should also be addressed by the competent authorities:

- Officials at the Detention Service should be provided with training and professional support in order to be better able to address difficult situations and to defuse potential disturbances at the outset;
- Police officers should be provided with ongoing training so as to ensure that, at any point in time, they would be capable of controlling riots, dispersing or controlling crowds as well as maintaining public order and protecting people and property; and,
- The authorities should consider offering more advantageous incentives to those who take up voluntary return opportunities earlier.

Final Comments

It is to be noted that during the course of the Inquiry the JRS representative made reference to injuries sustained by two detainees. The Board requested the JRS representative to identify the said detainees, after acquiring their consent; however no reply was forthcoming.

Moreover, during the course of the Inquiry the Board requested an interview with a journalist who covered the events described in this report. This request was not entertained.

The Board also made a request to the members of the Parliamentary delegation as to whether they wish to make any statement. No such statement was received.

Joseph St John

John Agius

Kevin Borg

Chairperson

Member

Member

Dr Nadia Mifsud

Secretary

Signed on 13th March 2014