

**COMMISSION OF INQUIRY INTO THE CAMP STREET PRISON DISTURBANCES
AND
SUBSEQUENT DEATHS (PRISONCOM)
SECRETARIAT
Ministry of the Presidency
Public Service Commission Boardroom
Georgetown
Republic of Guyana**

**SUBMISSIONS OF THE
GUYANA PRISON SERVICE**

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Part I: The Mandate of the Commission

1. On March 02, 03 and 04, 2016, Guyana saw its worst prison riot in the 132 year old history of the Georgetown Prison. Alleged anger over the slowness of the judicial system and allegations of other prison conditions yet to be found, but are the subject of this Inquiry, exacerbated by the takedown of Collis Collison during a search in the Yard of Capital Block "A" spilling into the actual hostility of inmates to prison staff or acts by the inmates that evidenced aggression and hostility towards the Correctional staff and incitement to kill correctional officers, barricaded the Capital Block A Door, lit fires, damage state property. The resulting second fire on March 03, 2016 killed 17 inmates and injured 30 others. This was followed by a massive rebellion at the Georgetown on March 04, 2016 causing an explosion of demands and needs for a joint services (police, prisons, fire, army) intervention.
2. His Excellency Brigadier David Granger President of the Co-operative Republic of Guyana appointed a Commission of Inquiry constituted for the purpose: "to enquire into all the circumstances surrounding the death of seventeen (17) Prisoners namely from the Camp Street Prison, Georgetown on the morning of Thursday 3rd of March, 2016 to report the findings and conclusions to the Minister of Public Security and to make recommendations on any action that should be taken to avoid any recurrence"
3. The Terms of Reference provides as follows:

The Terms of Reference

- (1) The Inquiry will investigate, examine and report on:
 - Examine the causes, circumstances and conditions that led to the disturbances on the morning of the 3rd of March, 2016 that resulted in the death of 17 Prisoners on the morning of the 3rd of March, 2016 and any other subsequent disturbances at the Camp Street Prisons, Georgetown.
 - Inquire into the nature of all injuries sustained by the Prisoners during the disturbances on the morning of the 3rd of March, 2016 and any

other subsequent disturbances.

- Determine whether the conduct of the staff of the Guyana Prisons Service who were on duty on the morning of the 3rd of March, 2016 and thereafter was in compliance with the Standard Operating Procedures of the Guyana Prisons Service.

- Determine whether the deaths of the 17 prisoners was as a result of the negligence, abandonment of duty, disregard of instructions, inaction of the Prison Officers who were on duty on the night of the 2nd of March, 2016 and the morning of the 3rd of March, 2016.

(2) Recommendations

The Commission shall determine comprehensive and plausible recommendations to ensure the safety of the prisons.

- (i) Examine and make findings and recommendations to improve the physical infrastructure of the prison;
- (ii) The existing security arrangements in respect of the custody, management and control of prisoners.
- (iii) The appropriate treatment of prisoners in compliance with legal and other requirements.
- (iv) To prevent a recurrence of any such disturbances.

Part II: Introduction

4. These submissions are made on behalf of the ranks and officers of the Guyana Prison Service to accomplish these objectives:

- i. To put before the Commission of Inquiry relevant facts and arguments to assist it in its task pursuant to the Terms of Reference;
- ii. To point out errors and omissions in the inmate witnesses evidence;
- iii. To persuade the Commission of Inquiry that the evidence, viewed fairly and objectively, illustrates that the staff of the Guyana Prisons Service who were on duty on the morning of the 3rd of March, 2016 and thereafter acted in compliance with the Standard Operating Procedures of the Guyana Prisons Service;
- iv. To persuade the Commission of Inquiry that the evidence, viewed fairly and objectively, does not support any theory that the deaths of the 17 prisoners was as a result of the negligence, abandonment of duty, disregard of instructions, inaction of the Prison Officers who were on duty

on the night of the 2nd of March, 2016 and the morning of the 3rd of March, 2016.

- v. To submit recommendations to the Commission to ensure the safety of the prisons including:
 - (i) Recommendations to improve the physical infrastructure of the prison;
 - (ii) Submissions on the existing security arrangements in respect of the custody, management and control of prisoners.
 - (iii) Submissions on the appropriate treatment of prisoners in compliance with legal and other requirements.

5. In our application for standing I wrote:

7) Section 13 of the *Commissions of Inquiry Act*, Cap 19:03, of the Laws of Guyana provides that:

Any whose conduct is the subject of inquiry under this Act, or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented by counsel or solicitor at the whole of the inquiry, and any other person who may consider it desirable that he should be so represented may, by leave of the commission, be represented in the manner aforesaid.

8) In determining whether a person or entity ought to be granted standing, Courts have looked at: the subject matter of the inquiry, the potential importance of the findings and recommendations to the entity seeking standing, the number of people potentially affected, and whether a person has vital information to give or has made the charges that the commission is inquiring into. (Re Royal Commission on the Northern Environment (1983) 144 D.L.R. (3d) 416 at p. 419 per Linden J.

9) Officers and subordinates of both the GPF and GFS were present prior to, and on Thursday, March 3, 2016 during the fire in the Capital A Block of the 132-year-old Georgetown Prison, also called the Camp Street Prison. Officers and subordinates were also present on the ensuing days that followed by more unrest. They were joined by officers and subordinates of the joint services including the Guyana Fire Service and Guyana Defence Force.

10) The GPF and GPS, its Commissioner, Director, Command Officers and subordinates respectively have a direct and substantial interest in the subject matter of this Inquiry; are directly and substantially affected by the Commission of Inquiry and represent clearly ascertainable interests and perspective which are essential to the Commissioner's mandate throughout.

11) GPF and GPS believe that their participation would further the conduct of the Inquiry and that their participation would contribute to the openness and fairness of the Inquiry.

6. Senior Superintendent Gladwin Samuels vigorously dispute that he stated at the time the fire was lit in the New Capital Block "A" Division "y'all lock de door and let them bun them motherskunt and dead" or any other iteration that inmates claimed he stated in respect to locking the door of New Capital Block "A" Division. The fact is the door was locked before Mr. Samuels arrived at the Georgetown Prison and for reasons unrelated to a fire. Inmates rush the door, were abusive to officers, were armed with improvised weapons and about to riot.
7. There are very important issues at stake in this case and the Guyana Prison Service is strongly committed to fairness and human rights.
8. In this instant case, the testimony as discussed above relates to the state of affairs of the Georgetown Prison during the period March 02 to 04, 2016 before, leading up to and after the death of 17 inmates and injury to 30 others. The uncontroverted evidence before the Commission is that fires were lit by inmates, inmates were engaged in a rebellion against established law and authority at the Prison, inmates block the door to their rescue. That combined with the fire "flash over" caused their deaths. The acts and/or omissions of the prison officials are at issue as well since the Commission's mandate includes making findings as to whether Standard Operation Procedures were followed and whether or not there was neglect of duty by Prison officials.
9. The role of the Commission is a public one, to bring equity and fairness to this matter with a just outcome.
10. The first session of public hearing commenced on March 10, 2016 and concluded on May 06, 2016. In camera proceedings were also held based on the determination of the Commission and/or upon receiving requests and submissions from the parties.

11. The Joint Services received representation from Selwyn Pieters and Eusi Anderson.

Mr. Pieters focused on the Guyana Prison Service. Mr. Anderson focused on the Guyana Police Force and Guyana Fire Service. These submissions will focus on the Guyana Prison Service. Mr. Anderson will provide submissions on behalf of on the Guyana Police Force and Guyana Fire Service.

12. The Commission heard from numerous witnesses including inmates and prison staff.

The witnesses for the Guyana Prison Service included:

- i. Director of Prisons DSM Carl Grahame
- ii. Senior Superintendent of Prisons Gladwin Samuels – Deputy Director of Prison
- iii. Superintendent of Prisons Kevin Pilgrim – Officer in Charge Georgetown Prisons
- iv. Superintendent of Prisons Nicklon Elliott – Second in Charge Georgetown Prisons
- v. Assistant Superintendent of Prisons K.H.
- vi. Cadet Officer Udistair Holligan – Commander of Search Team A
- vii. Chief Officer Oldfield Rumulous – Duty Officer 18:00 hrs – 06:00 hrs
- viii. Chief Officer Patrick Crawford – Task Force Commander (Extraction Team)
- ix. Chief Officer Roddy Denhard
- x. Chief Prison Officer Medex Patricia Anderson
- xi. Prison Trade Instructor Owen Charles – Assist in the escorting of inmates
- xii. Woman Principal Officer 1 June Lewis-Charles – Scribe (Shift Supervisor)
- xiii. Woman Prison Officer Esther Charles
- xiv. Prison Officer L Tucker
- xv. Kitchen Officer Gordon Daniels
- xvi. Prison Officer R.L.

13. The inmates that appeared included:

- i. Samuel Bacchus
- ii. Alwyn Williams
- iii. Michael Lewis
- iv. Owen Belfield
- v. Samuel Alleyne
- vi. Patrick Narine
- vii. Dwayne Lewis

- viii. Anthony Joseph
- ix. Errol Kesney/Williams
- x. Carl Browne
- xi. James

14. Upon request the Guyana Prison Service provided the Commission of Inquiry with numerous reports, witness statements, documents, records, policies, standing orders and videos.

15. These submissions will focus to a large degree on the evidence of inmates and prison staff.

Part III: The Institutional Context

16. The Georgetown Prison, as will be seen below, faced several major challenges that led up to the March 02 – 04, 2016 disturbances and subsequent deaths including:

- a) Its location in the center of the city in close proximity to business and civilian communities.
- b) High number of Special Watch/high Profile inmates.
- c) Incarceration of an increasingly violent population.
- d) Inadequate facilities to segregate and separate various classes of inmates.
- e) Rising gangs and organized crime by inmates within the walls of the Prison;
- f) Inadequate staff and gender imbalance in staffing.
- g) Inadequate staff to inmate ratio.
- h) Buildings constructed of wood within the Prison that were inadequate and hazardous to inmates and prison staff.
- i) Overcrowding of the prison.
- j) Inordinate delays in criminal matters moving forward in the various courts.
- k) High levels of persons being denied bail particularly in the West Coast Magisterial District.

Population of the Georgetown Prison

17. The population at the Georgetown Prison at the material time consisted of four hundred and thirteen (413) convicted inmates, and six hundred and one (601) remanded inmates, one thousand and fourteen (1014) all total. Of this total forty persons (40) are serving sentences for murder, with one hundred and ninety three (193) on remand for the same offence, closely followed by offence against person with two hundred and twenty five (225) incarcerations, one hundred and five (105) convicted and one hundred and twenty (120) remanded. A larger number of the incarcerated persons are serving sentences of one month to three months, a total of ninety nine (99), with forty nine (49) persons serving sentences of over twenty four to thirty months. Based on the data provided we can safely point out that the population at the Georgetown Prison is middle aged with one hundred and sixty (136) of its inmates aged thirty to thirty six years. Only eleven (11) of the one thousand and fourteen person housed at the Georgetown Prison are between the ages of sixty five to

seventy five. A large majority of persons incarcerated at Georgetown Prison are first time offenders, a total of two hundred and eighty eight.

18. The Georgetown Prison's staff strength as of February 29, 2016 was one hundred and sixty one (161) officers, this total included administrative, custodial and scanning room staff.

The Scanning Room

19. The scanning room is the entrance into the prison. This location needs a compliment of two (2) staff one male and one female. It is compulsory that each person who comes through the gate must be searched. The male would conduct searches on the male, while the female officers are responsible for searching the females. However, this location should have a staff compliment of five (5) officers, catering for days off, sick leave, absenteeism and the shift system. It also needs to be manned on a round the clock basis.

Custodial Staff

20. This is the most pivotal part of the Guyana Prison Service. The Division/location where an inmate is lodged while housed at the Georgetown Prison is for the most part are based on the seriousness of the charges they face, security issues, whether the inmate is high profile, whether the inmate is special watch, and requests made by the inmates themselves. The Divisions/locations housing inmates need to be manned by officers who are well trained, not only well trained physically fit and possess high levels of security awareness. This department is more often than not in close contact with inmates of all classification and categories. Based on an inmate's classification he may need more than one officer to escort him when moving to various sections of the prison. At the Georgetown Prisons there are 1014 inmates to 65 officers this poses a serious threat not only to officers but to inmates alike. Of this total of officers another will be posted to the observational post which are mandated to be manned round the clock and it provides a bird's eye view of the not only the outer an inner

perimeter of the prison but the prison yard as well. It must be noted that the 65 officers mentioned above is the full complement of staff at the Georgetown Prison, of this number the staff strength is further depleted when you cater for days off, sick leave, absenteeism and the shift system, whether it be a 12 hour or 8 hour shift. Based on ratio of inmates to officers is blatantly clear that the location is grossly understaffed.

Break Down of Sentences Prison Population as 29th Feb 2016

Ser. #	List of Offences	Convicted	Remand	Total
1	Offence against the Person (Gen)	105	120	225
2	Attempt Murder	0	21	21
3	Manslaughter	31	2	33
4	Murder	41	193	234
5	Rape	5	13	18
6	Buggery	0	2	2
7	Incest	0	0	0
8	Carnal Knowledge	4	21	25
9	Other Sexual Offences	2	0	2
10	Arson	0	3	3
11	Off. Ags. the Property with Violence	58	61	119
12	Off. Ags. the Property w/out Violence	54	65	119
13	Treason	0	0	0
14	Breach of National Security Act	0	0	0
15	Firearm and Ammunition Offences	14	22	36
16	Trafficking in Cocaine	11	0	11
17	Trafficking in Cannabis	9	0	9
18	Trafficking in other Narcotics	1	15	16
19	Possession of Cocaine	13	0	13
20	Possession of Cannabis	10	0	10
21	Possession of other Narcotics	1	13	14
22	Possession of Smoking Utensil	0	0	0
23	Cultivation of Narcotics	0	1	1
24	Breach of Motor Vehicle /Traffic Act	13	6	19
25	Breach of Spirit Act	0	0	0
26	Breach of Immigration Act	0	1	1
27	Predial Larceny	0	0	0
28	Maintenance of Affiliation Arrears	5	3	8
29	In Default of Debt	0	0	0
30	Breach of Piracy Act	0	0	0
31	Incite Racial Disunity	0	0	0
32	Miscellaneous	36	39	75
	Total	413	601	1014

Sentence Range of Admission

Ser. #	Sentence ranges	As at February 29th , 2016
1	Under One 1 Month	18
2	One 1 to 3 Months	99
3	Over 3 to 6 Months	19
4	Over 6 to 12 Months	25
5	Over 12 to 18 Months	8
6	Over 18 to 24 Months	40
7	Over 24 to 30 Months	49
8	Over 30 to 36 Months	6
9	Over 36 to 42 Months	3
10	Over 42 to 48 Months	39
11	Over 48 to 60 Months	1
12	Over 60 to 84 Months	2
13	Over 84 to 120 Months	2
14	Over 120 to 180 Months	32
15	Over 180 to 240 Months	11
16	Over 240	25
17	Presidents Pleasure	1
18	Condemn to Death	24
19	Life	9
	Total	413

21. A total of 191 male inmates were awaiting trial at the Supreme Criminal Court (SCC)

Distribution of Offences

22. The above tabulation represents a total of one hundred and ninety one (191) inmates who were awaiting trial at the Supreme Courts, inclusive of Georgetown and Essequibo, of this total one hundred and forty (147) are charged with the offence of murder, while eighteen (18) inmates were charged for Carnal Knowledge these two offences reflects the highest number of incarcerated persons out of ten (10) categories of offences at the Georgetown Prisons and awaiting trial.

Offences	Amount
Armed Robbery	1
Attempt Murder	5
Buggery	1
Carnal Knowledge	18
Incest	1
Manslaughter	3
Murder	147
Rape	7
Robbery/Murder	7
Unl. & Mal. Wounding	1
Grand Total	191

Distribution of Offences against Time Spent in Prison

23. The table below shows a tabulation of ten categories of offences of which offence of murder reflects the highest total of persons committed. Each category was analyzed on a yearly basis with murder showing the highest figure with 48 person awaiting trial over four years. It also represents the second, third and fourth highest number of persons awaiting trial over the time span tabulated. Thirty five persons are awaiting trial for 2-3 years followed by 32 persons who has been awaiting trial for 1-2 years, of the one hundred and forty six persons waiting trial at the High Court only eight has been waiting under one year.

Distribution of Offences against Time Spent in Prison

Offence	Under 1 Year	1 - 2 Years	2 - 3 Years	3 - 4 Years	over 4 years	Total
Armed Robbery	0	0	0	0	1	1
Attempt Murder	0	2	2	0	1	5
Buggery	0	0	1	0	0	1
Carnal Knowledge	1	3	2	2	10	18
Incest	0	0	0	0	1	1
Manslaughter	0	1	1	0	1	3
Murder	8	32	35	24	48	147
Rape	1	4	1	1	0	7
Robbery/Murder	0	0	7	0	0	7
Unl. & Mal. Wounding	0	1	0	0	0	1
Total	10	43	49	27	62	191

Distribution of offences against Committal Time

24. The tabulation below shows the distribution of offences against committal time, the length of time since inmates would have been committed to stand trial at the High Court. The charge of murder accounts for the highest number of inmates committed, with a grand total of one hundred and forty seven (147) inmates awaiting trial in the High Court, with fifty five (55) of these persons committed less than a year, while thirty one (31) would have been committed for 1-2 years, only twelve (12) inmates has been committed 3-4 years and 29 has been committed for more than four years. A total of 73 inmates has been waiting trial for less than one year over category of ten offences. A total of one hundred and ninety one (191) inmates of the Georgetown Prison were currently awaiting trial the High Court as February 29th 2016.

Distribution of Offences against Committal Time

Offence	Under 1 Year	1 - 2 Years	2 - 3 Years	3 - 4 Years	over 4 years	Total
Armed Robbery	0	0	0	0	1	1
Attempt Murder	2	2	0	0	1	5
Buggery	0	1	0	0	0	1
Carnal Knowledge	4	1	3	2	8	18
Incest	0	0	0	0	1	1
Manslaughter	1	1	0	1	0	3
Murder	55	31	23	9	29	147
Rape	4	3	0	0	0	7
Robbery/Murder	7	0	0	0	0	7
Unl. & Mal. Wounding	0	1	0	0	0	1
Total	73	40	26	12	40	191

The Distribution of age of Inmates of the Georgetown Prison who are committed to stand trial at the High Court

25. From the tabulation below of incarcerated persons at the Georgetown Prison who were currently awaiting trial at the High Court, one hundred and sixty one (161) are ages 17- 40 years of age of the one hundred and ninety one person (191) incarcerated. An examination of this age range clearly highlights that the population is very young one. At the material time ages 41-65 accounts for only 19 persons who were awaiting trial at the High Court from a total of one hundred and ninety one.

Distribution of Age of persons committed to stand trial at the High Court

Distribution of Age	Amount
17 - 20 Years	30
21 - 25 Years	39
26 - 30 Years	40
31 - 35 Years	30
36 - 40 Years	22
41 - 45 Years	14
46 - 50 Years	5
51 - 55 Years	6
56 - 60 Years	2
61 - 65 Years	2
65 and over	1
Total	191

REMANDED POPULATION OF GEORGETOWN PRISON AS AT 29TH FEBURARY

PRISONERS ON BAIL AT THE GEORGETOWN PRISON

1. Georgetown Magisterial District 31 PERSONS
2. East Coast Magisterial District 12 PERSONS
3. West Coast Magisterial District 51 PERSONS
4. Essequibo Magisterial District 16 PERSONS

TOTAL NUMBER OF PERSONS ON BAIL 110

PRISONERS CHARGED FOR MUDER AT THE GEORGETOWN PRISON

1. GEORGETOWN Magisterial District 33 PERSONS
2. East Coast Magisterial District 18 PERSONS
3. West Coast Magisterial District 26 PERSONS
4. Essequibo Magisterial District 26 PERSONS

TOTAL NUMBER OR PRISONERS CAHRGED FOR MURDER 103

PRISONERS REFUSED BAIL AT THE GEORGETOWN PRISON

1. GEORGETOWN Magisterial District 65 PERSONS
2. East Coast Magisterial District 13 PERSON
3. West Coast Magisterial District 49 PERSON
4. Essequibo Magisterial District 19 PERSONS

TOTAL NUMBER OF PERSONS REFUSED BAIL 148

26. The statistical evidence particularly as it relates to the West Coast Magisterial District raises significant concerns about whether even if bail is granted, whether an accused would not be held in prison because the cash bail is simply out of the reach of the person or his sureties.

BREAKDOWN OF REMANDED POPULATION AT GEORGETOWN PRISON

Persons granted bail at the Georgetown Prison

MAGISTRAL DISTRICT	NUM. OF PERSONS GRANTED BAIL
Georgetown	31
East Coast Demerara	12
West Coast Demerara	51
Essequibo	16
TOTAL	110

Person charged for various crimes and were remanded to Georgetown Prison

MAGISTRAL DISTRICT	NUM. OF PERSON REFUSEF BAIL
Georgetown	65
East Coast Demerara	13
West Coast Demerara	49
Essequibo	19
TOTAL	148

Persons charged for the offence of Murder and are remanded to the Georgetown Prison

MAGISTRAL DISTRICT	NUM. OF PERSON CHARGED FOR MURDER
Georgetown	33
East Coast Demerara	18
West Coast Demerara	26
Essequibo	26
Total	103

**List of Dormitories, there sizes, present capacity and capacity required by Standards
as at 29th Feb, 2016**

DORMITORY	SIZE IN SQUARE FEET	CAPACITY AS AT 29TH FEB, 2016	INTERNATIONAL STANDARD CAPACITY	OVER CROWED
Star Ward 1	930	35	16	19
Star Ward 2	660	55	11	44
Star Ward 3	930	06	16	NIL
Capital A	2541	69	42	27
Capital B	2541	67	42	25
Capital C	2541	69	42	27
Chalet	1232	10	21	NIL
Old Capital	4752	191	79	112
North Dormitory 1	2160	123	36	87
North Dormitory 2	1920	50	32	18
North Dormitory 3	891	61	15	46
New Wing	1302	33	22	11
Tailor Shop	3300	120	55	65
Infirmary	1600	32	27	05
WOODS LANDING # 1				
Cell 11	90	04	02	02
Cell 12	90	01	02	NIL
Cell 13	90	NIL	02	NIL
Cell 14	90	NIL	02	NIL
Cell 15	90	NIL	02	NIL
Cell 16	90	04	02	02
Cell 17	90	01	02	NIL
Cell 18	90	04	02	02
Cell 19	90	03	02	01
Cell 20	90	04	02	02

List of all Dormitories and Cell Blocks and there required amount of prisoners that should be housed in the base on International Standard

DORMITORIES	CAPACITY
Woods # 1 Landing	18
Woods # 2 Landing	18
Woods # 3 Landing	18
Condemn # 1 Landing	09
Condemn # 2 Landing	09
Condemn # 3 Landing	09
Star Ward 1	16
Star Ward 2	11
Star Ward 3	16
Capital A	42
Capital B	42
Capital C	42
Chalet	21
Strong Cell 1	06
Strong Cell 2	10
Old Capital	79
North Dormitory 1	36
North Dormitory 2	32
North Dormitory 3	15
Tailor Shop	55
Infirmery	27
Total	531

Based upon International Construction standards for security areas the Georgetown Prison capacity is as follows: The Brick Prison is under construction also the two landings of the Woods are out of order, should be 531 prisoners at its maximum. At the material time and date in question, the Georgetown Prison housed 1014 inmates which significantly over the maximum housing capacity.

Inmates with life sentences

27. A review of the sentences of convicted prisoners for murder and manslaughter indicates significant disparity in sentencing and with one judge responsible for most of the sentencing handed down in the ranging from 43 years to 106 years in Jail.
28. Tyrone Rowe was admitted on November 29, 2011, with his earliest possible date of release being June 04, 2065. He was sentenced to 78 years in prison for murder (June 3, 2092 his sentence expires). At his earliest date of release Mr. Rowe will be 73 years old: Justice George.
29. Dellon Gordon was sentenced in 2014 to 83 years in penitentiary for murder by Justice Navindra Singh. Mr. Gordon earliest possible date of release is February 17, 2071. On October 06, 2097 his sentence expires. At his earliest date of release Mr. Gordon will be 80 years old.
30. Orwin Hinds, Cleon Hinds, Kevin October and Roy Jacobs were sentenced to 81 years in the penitentiary by Justice Navindra Singh for murder. Their earliest possible date of release is October 06, 2069.
31. Bibi Shareema Gopaul was sentenced to 106 years in the penitentiary and Jarvis Barry Small was sentenced to 96 years in the penitentiary by Justice Navindra Singh for murder. I met Ms. Gopaul when I was taken on a tour of the New Amsterdam Prison and she was teaching other inmates seamstress skills. Mr. Small assists in the gym at the Georgetown Prison.
32. Michael Anthony Persaud was sentenced to 83 years in the penitentiary by Justice Navindra Singh for murder.

33. Ajodha Persaud, called 'Amica', was sentenced to 60 years in the penitentiary by Justice Navindra Singh for murder.
34. Justice Navindra Singh yesterday sentenced Lloyd Rampersaud to 70 years in prison for murder.
35. Clive Knights was sentenced to 57 years in the penitentiary by Justice Navindra Singh for murder.
36. Jermaine Maynard was sentenced to 88 years in the penitentiary by Justice Navindra Singh for murder.
37. Mark Assing, called "Jesse", was sentenced to 66 years in the penitentiary by Justice Navindra Singh for murder.
38. Vinod Balgobin was sentenced to 43 years in the penitentiary by Justice Franklyn Holder for murder.
39. Mr. Justice Singh is single-handed responsible for sentencing 9/10th of the convicted inmates to more than 50 years in the penitentiary.
40. It may seem trite but it is obvious that it is slim to nil that any of these people will be release from the custody of the Guyana Prison Service alive and that the cost (food, health care, beds, trained) will be significant to house them. It is respectfully submitted that long term planning must be engaged in early to control for the aging population of these inmates.
41. Further, obviously a special wing will have to be built to cater for the aging population that these long term sentences will produce.

Rehabilitation, reintegration, Counselling and Training Programs

42. The Guyana Prison Service has demonstrated a firm commitment to the development, implementation and maintenance of a scheme of meaningful rehabilitation, reintegration, counseling and training programs at the Georgetown Prison.
43. The Sentence Planning Unit (SPU) was tasked with the responsibility of managing inmate's sentences, so as to ensure that their time spent in prison is beneficial to them. The Guyana Prison Service (GPS) Strategic Plan (SP) (2010-2015) has rehabilitation and reintegration as some of its main priorities.
44. The Sentence Planning Unit of the Georgetown Prison is responsible for interviewing inmates to place them into training programs, in an effort to aid in their rehabilitation.
45. The members of that committee includes:
- Mr Klalifa Hale, Cadet Officer
 - Mr. Peter Barker - Chief Officer
 - Ms. Nickasie Rampersaud– Nurse
 - Ms. Kesha Singh – Nurse
 - Ms. Tessa Mc Garrell - Welfare Officer/ Secretary (ag)
 - Mr. Abeid De Cunha – Chief Officer
 - Ms. Diane Khan – Officer – in – Charge, Welfare and Corrections (invitee)
 - Ms. Oudietta Daniels – Welfare Officer/Secretary
46. The Georgetown Prison has programs available to inmates including Carpentry, Welding, Culinary Skills, Tailoring, Sanitation, Shoemaking, Landscaping, Literacy 1 and 11, Civic Education, and Anger Management. Additionally, every Saturday, the Young offenders' division meets with Mr. De Cunha, who conducts sessions with them:

Commissioner Erskine: Alright. Second question. Do you consider yourself useless in Prison, after being transferred from one prison as a shoe maker and sent to another Prison to repair shoes?

Inmate Narine: Ahm... Well obviously, I can't consider myself useless because I was transfer fuh do something so it not useless and is part of Prison; transfer is common, right? Because of the fact that, Matron Evelyn Crandon know me as a

Shoe Maker on the jail and she had needed someone to do some shoe for her and I brought in her mind and she... called up the prison and asked Mr. Pilgrim for ahm...to send me and Mr. Paul James knows where to find me and I was transfer to the Lusignan Prison. I didn't have no problem doing the shoes. I didn't had no problem.

Commissioner Erskine: So Prisoners talents are exploited to used in the prison.

Inmate Narine: You and I both know that. Yes.

47. According to United States Department of State, "Guyana," Country Reports on Human Rights Practices for 2015, 13 April 2016: "The prison service offered rehabilitation programs focused on vocational training and education, but such programs did not adequately address the needs of prisoners with substance abuse problems. "

Sentence Management Activities
Assignment to Training Programmes

Ser.#	Types of Training Programmes	Current No		No Referred		Total in Programmes		Remarks
		Participating		Male	Female	Male	Female	
		Male	Female					
1	Literacy and Numeracy I	58	-	8	-	66	-	Classes are ongoing facilitated by PSTs Mickle and Goring & CO DeCunha
2	Literacy and Numeracy II	13	-	5	-	18	-	Classes are ongoing
3	Carpentry and Joinery	17	-	3	-	20	-	Workshop
4	Tailoring	6	-		-	6	-	Classes are ongoing
5	Automobile Mechanics	3	-		-	3	-	16 in Class/ 4 in shop
6	Art & Craft	0	-		-	0	-	Instructor on MatLeave
7	Electrical Installation General	2	-	1	-	3	-	Practical
8	Culinary Skills	31	-		-	31	-	Classes are ongoing
9	Anger Management	30	-	10	-	40	-	O/C Welfare and Corrections
10	Sex Offenders	30	-		-	30	-	O/C Welfare and Corrections.
11	Drugs Recovery Programmes	22	-	7	-	29	-	Ministry of Health Tues and Thurs weekly.
12	Social Integration			8				
13	Guidance & Counselling	18	-		-	18	-	Classes are ongoing
14	Guidance & Counselling(YO)	18	-		-	18	-	Classes are ongoing
15	Welding	3				3		Practical
16	Steel Pan Music	11	-		-	11	-	Classes are ongoing
17	Barbering	2	-		-	2	-	Classes are ongoing
18	Outdoor Work	60	-		-	60	-	Labour Outside of Prison
19	Boxing	25	-	1	-	26	-	Classes are ongoing
20	Sanitation	6	-		-	6	-	Ongoing Exercise
21	Basket Ball	16	-		-	16	-	-
22	iLearn	*887	-		-	*887	-	Facilitated by Several Persons which include officers and Social Workers
	Total	355	-	43	-	390	-	

Social Referrals –Admissions

Ser.#	Intervention/Referrals	Number	Remarks
1	Medical	87	Seen by Medical Officer on Admission.
2	Social Welfare	87	Seen by Welfare Officers
3	Psychiatrist	Nil	-
4	Legal assistance	Nil	-
5	Foreign Nationals	Nil	-
6	Any Other	Nil	-

Security Referrals –Admissions

Ser. #	Interventions/Referrals	Number	Remarks
1	High Profile	1	-
2	Special watch	0	-
3	B. Watch	0	-
4	Ordinary	86	-

Total Prisoners Documented Under Sentence Management

Ser. No	Numbers	Remarks
1	445	Total number of Prisoners registered under Sentence Management represents 100% of the convicted population.

Movement of Prisoners

Ser.#	Movement of Prisoners	Amount	Remarks
1	Discharges	78	-
2	Transfers In Total	17	-
	Timehri	5	
	Lusignan	1	
	Mazaruni	7	
	New Amsterdam	4	
3	Transfers Out Total	20	-
	Timehri	13	
	Lusignan	7	
	Mazaruni	0	
	New Amsterdam	0	

Analysis and conclusion on rehabilitation and reintegration

48. The evidence above, as captured in the February 2016 indicate that there are meaningful vocational and technical programs available for prisoners at the Georgetown Prison.
49. However, there are limitations. The availability of rehabilitative programs to all inmates are affected by the following factors:
- There is still the urgent need for more facilitators to conduct prisoners Training.
 - The absence of adequate furniture is affecting the number of prisoners attending training.
 - The overcrowding of the various divisions has impacted the prisoner's performance in the work room. In addition they are unable to do homework/assignment and study because of the space.
50. In addition, on the evidence of the inmates there appears to be a significant number of inmates who are illiterate, functionally and/or otherwise. A mass influx of literacy program is necessary.

Part IV: The Focus of this Commission of Inquiry

Examine the causes, circumstances and conditions that led to the disturbances on the morning of the 3rd of March, 2016 that resulted in the death of 17 Prisoners on the morning of the 3rd of March, 2016 and any other subsequent disturbances at the Camp Street Prisons, Georgetown.

51. The discussion that follows into the events that occurred at the material date and time is not settled. There was conflicting evidence throughout inmate to inmate, inmate to prison officer. Thus some of the factual findings will have to be resolved in respect having regard to the credibility and reliability of the witnesses.

Credibility and Reliability - Legal Principles

52. Credibility relates to the witness's honesty and sincerity, while reliability encompasses the accuracy and fallibility of the evidence.

53. In *R. v. Taylor*, [2010] O.J. No. 3794, 2010 ONCJ 396, Mr. Justice M. Green made some powerful observations on credibility assessment that is relevant here:

58 "Credibility" is omnibus shorthand for a broad range of factors bearing on an assessment of the testimonial trustworthiness of witnesses. It has two generally distinct aspects or dimensions: honesty (sometimes, if confusingly, itself called "credibility") and reliability. The first, honesty, speaks to a witness' sincerity, candour and truthfulness in the witness box. The second, reliability, refers to a complex admixture of cognitive, psychological, developmental, cultural, temporal and environmental factors that impact on the accuracy of a witness' perception, memory and, ultimately, testimonial recitation. The evidence of even an honest witness may still be of dubious reliability.

59 All of this has been said many times before, including by Doherty J.A. for the Court of Appeal in *R. v. Morrissey* (1995), 97 C.C.C. (3d) 193, at 205:

Testimonial evidence can raise veracity and accuracy concerns. The former relate to the witness's sincerity, that is his or her willingness to speak the truth as the witness believes it to be. The latter concerns relate to the actual accuracy of the witness's testimony. The accuracy of a witness's testimony involves

considerations of the witness's ability to accurately observe, recall and recount the events in issue. When one is concerned with a witness's veracity, one speaks of the witness's credibility. When one is concerned with the accuracy of a witness's testimony, one speaks of the reliability of that testimony. Obviously a witness whose evidence on a point is not credible cannot give reliable evidence on that point. The evidence of a credible, that is honest witness, may, however, still be unreliable.

60 Depending on the circumstances, some portions of a witness' testimony may be more credible or worthy of belief than other portions. Accordingly, I can, with good reason, accept all, some or none of any witness' evidence

54. The following factors assist in the assessment of credibility and reliability of a witness evidence:

- the internal consistency or inconsistency of evidence;
- the witness's ability and/or capacity to apprehend and recollect;
- the witness's opportunity and/or inclination to tailor evidence;
- the witness's opportunity and/or inclination to embellish evidence;
- the existence of corroborative and/or confirmatory evidence;
- the motives of the witnesses and/or their relationship with the parties;
- the failure to call or produce material evidence.

55. The inmates testified before the Prison Officers before the Commission. Counsel for the Prison Service Pieters was careful to follow the rules in **Browne v. Dunn (1893), 6 R. 67 (H.L.)**. The rule in **Browne v. Dunn** requires that counsel put a matter to a witness involving the witness personally if counsel is later going to present contradictory evidence, or is going to impeach the witness' credibility:

"Now, my Lords, I cannot help saying that it seems to me to be absolutely essential to the proper conduct of a cause, where it is intended to suggest that a witness is not speaking the truth on a particular point, to direct his attention to the fact by some questions put in cross-examination showing that that imputation is intended to be made, and not to take his evidence and pass it by as a matter altogether unchallenged, and then, when it is impossible for him to explain, as perhaps he might have been able to do if such questions had been put to him, the circumstances which it is suggested indicate that the story he tells ought not to be believed, to argue that he is a witness unworthy of credit. My Lords, I have always understood that if you intend to impeach a witness you are bound, whilst he is in the box, to give him an opportunity of making any explanation which is open to him; and as it seems to me, that is not only a rule of professional practice

in the conduct of a case, but is essential to fair play and fair dealing with witnesses."

WEDNESDAY, 02 MARCH, 2016

Joint Services Search – Prohibited Items and Weapons

56. On March 02, 2016, a Joint Services search was conducted at the Georgetown Prison.

57. Chief Prison Officer Oldfield Romulus testified that on Wednesday March 02, 2016 he was detailed to work the 2:00 p.m. to 10:00 p.m. He testified that he reported for that detail about 1:45 p.m. and was instructed by Assistant Superintendent of Prisons Dawn Jordon who was the front gate commander at the time, to join a Joint Service Search that was already in progress and he complied with her instructions. On entering the prison yard, he observed two lines of officers including Police and Prison Officers searching the inmates on the tarmac and there was some officer about to go into the building to conduct searches. He was instructed to head the team of officers that went to the Capital (A) division to search by Superintendent of Prisons Kevin Pilgrim.

58. Chief Prison Officer Oldfield Romulus testified that he was the most senior officer on the search of the New Capital Block "A". That he briefed his ranks comprising of police officers and prison officers on how to conduct the search including the safe handling of inmates' property and food.

59. This search resulted in the seizure of numerous prohibited items from the inmates' living units within the New Capital A division.

60. The following items were found:

Capital "A"

Cell Phones	-	19
Cell phone Batteries	-	03

Cell Phone Boards	-	02
Improvised Weapon	-	03
Zip Lock Bags	-	
A quantity of leaves, seeds, stems		
Ear Piece		
Chargers	-	05
Cigarettes	-	04 ½
Lighters	-	03
Zip Lock Bags	-	A small quantity
Ear Piece and make shift Chargers		
Formulated Wine	-	06 gallon
Lighters	-	10
Improvised Weapon	-	05
Scissors	-	01
Razor Blades	-	10
Playing Cards	-	0

Capital "B"

Cell Phones	-	04
Lighters	-	19
Wine Bush	-	02
A quantity of zip lock bags containing leaves, seeds and stems		
A quantity of zip locks bags		
A quantity of make shift chargers		
Metal Spoon	-	01
DVD	-	01
Improvised Weapon	-	07
Cell Phones Batteries	-	02
Bulb	-	01
Remote Control	-	01
Fluorescent Lamp Ballast	-	01
Quantity of razor blades		
Tattoo Machine (make shift)	-	01
Razor	-	01

Capital "C"

Bottle Formulated Wine	-	01
A quantity of make shift chargers		
A quantity of razor blades		
A quantity of bolts and nuts		

Cell Phone Batteries	-	01
A quantity of zip locks bags		
Cell Phone	-	01
A quantity of yeast		
Lighter	-	06
Improvised Weapons	-	10
Flash Light	-	01
A quantity of zip lock bags containing leaves, seeds and stems		
Pack razor blade	-	01
Scissor	-	01
Sim Cards	-	02
Guyana Dollars	-	\$40
Bottles containing leaves, seeds and		
Stems	-	02

Old Capital

A large quantity of leaves, seeds and stems		
Cell Phones	-	07
Cell Phone Batteries	-	03
Improvised Weapons	-	05
Lighters	-	20
Cell Phone Ear Pieces	-	04
Cell Phone Adopter	-	01

61. Inmate Michael Lewis provided evidence to the Commission. He testified that he has not seen any cell phones in Capital Block "A" in the possession of inmates. He denied that inmates in his division possessed knives, ice picks, sharpened tooth brushes, marijuana or cell phones. The only time he testified that he testified that he saw a cell phone in the prison was when it was being used by a Prison Warden. Mr. Lewis later in cross-examination by Prison Counsel admitted that he had a Facebook page that he actively updated.

62. Inmate Collis Collison provided evidence to the Commission. He testified admitted that he has a Facebook page that he actively updated. He admitted that illicit drugs such as marijuana is prevalent in his division. He also admitted to seeing various improvised weapons, cellphones, scissors, lighters, cigarettes were present in the Division and were trafficked between and amongst inmates.

63. Inmate Dwayne Lewis testified that cell phones, marijuana and alcohol smuggled into the Georgetown Prison brought comfort and calm to prisoners.
64. Incredibly Inmates Michael Lewis and Desmond James testified that they have not observed testified that cell phones, lighters, marijuana and other prohibited items in Capital Block "A".
65. Senior Superintendent Gladwin Samuels testified that the trade in prohibited items is a multi-million business and that his actions as a Security Manager, then Superintendent of Prison and recently Deputy Director of Prisons to conduct raids and seizures. arrest. interdict and put before the court corrupt officers, disrupted the finances of many inmates who strived off of contraband business in prison. Samuels testified that some inmates are able to maintain their families and pay their legal fees from their earnings. He testified that he faced retaliation including having his life and that of his family has often been threatened.
66. Superintendent Kevin Pilgrim testified that due to the old wooden structures it was easy for inmates to hide contraband and that posed challenges for officers assigned to the living units: "We would have a situation where there is one officer managing a division with 120 inmates and sometimes 160. Now, the structures are not modern, so that officers would have to go to an open door to deal with those persons there."
67. Due to the nature of the prison environment as it is, inmates do use inappropriate language, display inappropriate behaviours, utter obscenities or shout insults to custodial officers and attempt to verbally and physically intimidate them.
68. Inmate Patrick Narine testified that the availability of improvised weapons, the propensity of inmates for violence and threats to the lives of custodial officers and their families are a way of life in prison:

Mr. Pieters: You were house at Berbice correctional Facility, and you said that Superintendent Pilgrim made an utterance in respect to inmates killing each other?

Inmate Narine: Yes sir.

Mr. Pieters: And you also spoke about Superintendent Pilgrim emphasizing the needs for person in the living unit to get along?

Inmate Narine: Yes sir.

Mr. Pieters: You would agree that any point that Superintendent Pilgrim was making if your allegation is true is that people need to get along in that living unit?

Inmate Narine: Is Jail you're not in a Church they are situation you deal with every day.

Mr. Pieters: Yes, and the situation that you're speaking about is situations involving sometimes very violent people?

Inmate Narine: Of course.

Mr. Pieters: And you're speaking about situation where some inmates have improvise weapons?

Inmate Narine: Of course.

Mr. Pieters: And some of the improvise weapon what you would have seen are?

Inmate Narine: Juker.

Mr. Pieters: And what is a Juker?

Inmate Narine: It may have made out of steel rods made out of any sort of metal.

Mr. Pieters: Yes you would have seen..... that, and you would have seen other weapon you would have you seen razors?

Inmate Narine: A.....yes of course.

Mr. Pieters: And you would have seen scissors?

Inmate Narine: No I haven't.... seen scissors.

Mr. Pieters: You've seen the bed housing ahm... being made into weapons?

Inmate Narine: Yes I have.

Mr. Pieters: Have you seen choppers or cutlasses?

Inmate Narine: I have seen Cutlasses in ahm...May the 23rd ahm....chop in ahm... took place in the Berbice Prison.

Mr. Pieters: And you have seen.....situations where inmates threaten Officers?

Inmate Narine: Yes sir.

.....

Mr. Pieters: Very well, but you would have heard threats to kill Officers?

Inmate Narine: That is common.

Mr. Pieters: That is Common?

Inmate Narine: That is common in Prison.

Mr. Pieters: And you have heard Prisoners threatening to harm Officers Families?

Inmate Narine: It's common it's an everyday basic you heard that.

Mr. Pieters: You would agree that in situations where Officers faces threats of the nature of death threats, and inmates have has you call it jukers Officers safety would be number one when dealing with inmates?

Inmate Narine: Under certain circumstances.

Mr. Pieters: Officers safety would be number one you could agree with that?

Inmate Narine: Ahm... what are you really trying to tell me?

Mr. Pieters: Well I.... put it differently you would agree, let me finish my question. You would agree that in order for, and Officer to save you or to help you that Officer must be able to help him or herself?

Inmate Narine: Yes.

Analysis of - Joint Services Search – Prohibited Items and Weapons

69. In prison facilities, inmates whether or remand or serving sentences crave the availability of contraband such as cellular telephones, charges, cigarettes, lighters, rolling paper, marijuana, cocaine, hash, knives, razors and scissors. In the Georgetown Prison, the availability of such items in jails is notorious. The contraband are introduced into institutions through many methods and sources.

- i. Detainees coming from court or from work parties or hospital visits “bombing it” (hoping it up their anus);
- ii. Kitchen staff;
- iii. Corruptible Prison Officers;
- iv. Service providers;
- v. Visitors;
- vi. Hidden in Self-Support items and food;
- vii. Dropped into the Exercise Yard or over the fence.

70. While much evidence was adduced on the issue of prohibited items in the Georgetown Prison, Prison records for each incident in which a Guyana Prison Service employee was suspected, investigated or convicted of smuggling contraband into the jail was not available to the Commission of Inquiry.

71. Senior Superintendent Samuels testified that officers are disciplined and in more serious case the Guyana Police Force is called in, criminal charges are laid and the officer is placed before the Courts. Investigation files and reports for any staff working at the Georgetown Prison who have been investigated or disciplined or faced

criminal prosecuting for smuggling contraband into the prison was not made available to the Commission. There is no doubt however of the administration's will to deal with rogue officers.

72. Finally, as the evidence from the search illustrates the pervasiveness of drug smuggling at the Georgetown Prison is a serious problem, as drugs and violence goes hand-in-hand. The same is true with lighters and matches.

73. The subsequent events on the evening of March 02, 2016 and the fires on March 03, 2016, supports the testimony of Superintendent Pilgrim and other officers that the configuration of the buildings in the prison provide for easy concealment of contraband, thus while resultant, the searches are ineffective in rooting out contraband at the Georgetown Prison.

74. Standing order 33 provides that:

Standing Order No. 33

CELLPHONES IN PRISON

Prohibited

1. All officers, training facilitators and special guest are prohibited from taking their personal cell phones into the prison compound, especially beyond the inner gate leading into the prison yard.
2. These instruments must be lodged in accordance with the established procedures, prior to entering the prison compound.

Senior Officers

3. Only the following officers will be permitted to take their personal and official cell phones into the prison compound and beyond the inner gate, if necessary:
 - a. Director of Prisons
 - b. Deputy Director of Prisons
 - c. Officer in Charge
 - d. Officer in Charge, Prisoners' Welfare and Corrections
 - e. Staff Welfare Officer

Application

4. Officers, who for some reason find it necessary to keep their personal cell phone on their person on any particular day, must seek permission in writing to the

Director of Prisons, through the Officer in Charge of the location. The application must include the following information:

- a. Regulation Number and Name of Rank
 - b. Telephone Number
 - c. IMEI Number of phone
 - d. Reason(s) for request.
5. Officers are urged to make full use of the internal telephone system to communicate with others during the course of their shift.
 6. Officers who fail to comply with the provisions of this Standing Order will render themselves liable to serious disciplinary action.
 7. This Standing Order supersedes Establishment Order 02/2002, dated 2002-02-26.
75. Cell-phones or "mattic" as it is called in the Georgetown Prison is rampant amongst inmates. The unregulated access to cell phones poses numerous issues to officer safety and public safety. As with other contraband it is difficult to rid the prison of cellphones so that new methods has to be employed to render these devices useless behind the walls of the Georgetown Prison.

Meeting with New Capital Block A Post March 02, 2016 Search

76. Superintendent Kevin Pilgrim visited the New Capital Block A on the early evening of March 02, 2016. He testified that he engaged several inmates individually in respect to individual issues that they raised with him as the Officer in Charge. He also testified that he then addressed the living unit as a group. Inmates began voicing concerns about lengthy pre-trial delays, issues with the Director of Public Prosecution and issues with the manner in which investigations are done and charges instituted. Specific reference was made to various Detectives of the CID Guyana Police Force which inmates related personal grievances. Inmates also made some complaints about the conduct of the Joint Service Search conducted earlier that day. They were upset that their belongings were allegedly mishandled. Superintendent Pilgrim promised to look into the inmates concerns the following morning. Superintendent Pilgrim stated he intended to honor that commitment.

Fire Prevention

77. Section 228 of the *The Prisons Act* provides as follows:

228. (1) All reasonable precautions shall be taken against the outbreak of fire.
- (2) The officer in charge shall cause all firefighting appliances and equipment kept prominently posted in every prison and section of every prison.

78. The evidence indicates that fire drills were conducted the week prior to the fires. Questions were asked of witnesses that touched on several pertinent questions including:

- What are the objectives for conducting fire drills?
- How often were fire drills conducted?
- Were the inmates conscripted to participate?
- What simulation exercise did the fire drills involve?
- Who participated in fire drills?
- How was the fire drills documented?

79. The evidence also indicates that the Guyana Fire Service conducted fire inspections and pointed out deficiencies: See, Fire Protection Reports 2005, 2008, 2009, 2010 2011, 2012.

80. There were no reports of recent fire inspections produced by the Guyana Fire Service.

81. Further, the evidence indicates that there was an absence of a functioning fire pump as noted in the 2011 report.

82. There was a complete absence of fire-retardant clothing, air supply tanks and breathing apparatuses for the ranks.

83. The Director of Prisons in his examination by Commission Counsel responded to questions on this subject matter.

Fire and Disturbance Late Evening of March 02, 2016

84. Chief Prison Officer Oldfield Romulus testified that on Wednesday March 02, 2016 after the prison was locked down for the evening there were only four custodial staff on duty inclusive of him as Duty Supervisor. One was posted to the observation post, two others were posted to patrol the living units and the last being himself was the duty manager.
85. There were one thousand and fourteen prisoners in the prison that evening. The Prisoners to staff ratio that evening was five hundred and seven inmates to one prison officer.
86. Chief Prison Officer Oldfield Romulus testified that around 9: 25 p.m. he received a radio message from Prison Officer Tucker who was at that time manning the observation Post 1 which is situated at the back gate area at the corner of Durban and John Street, that there is a fire at the back of the New Capital building. Chief Prison Officer Romulus immediately hurried out the office and ran to the back of the New Capital building, where he observed a fire on the top of the cat walk behind the division. Chief Prison Officer Romulus testified that it appears as though a quarter of a mattress was set on fire. Chief Prison Officer Romulus contacted the operation room via radio and the officer told him she received the transmission.
87. Chief Prison Officer Romulus contacted the chain-of-command.
88. Chief Prison Officer Romulus also gave instruction to Prison Officer Tuesday to open the pigeon holes on the fence in preparation for the fire hoses when the fire service will arrive.
89. Chief Prison Officer Romulus enquired from the inmates in the division why was the fire lit and the inmates responded "we want back we weed and we mattic (cellphone)

by this time I could hear persons on the road on John street talking with the inmates and the inmates were shouting “deh treating we bad in hay and we in hay and aint getting justice we de hay long years and can’t get trial and the prison authorities say de can’t do anything for us, “de giving we hog wash for eat in hay” among other things. By this time the fire service tenders, Police Officers and Director of Prisons Carl Graham arrived. The fire was put out by the firefighters with the assistance of the prison officers, but there was fires started at the front of the building on the inside and the one at the back of the building was relighted, both fires were put out by the officers. The inmates were spoken to by the Director of Prisons and the Officer-in-Charge to remain calm and to desist from lighting any more fires, which they did.

90. Woman Prison Officer Dekanna Benjamin’s evidence was on Wednesday 02nd March, 2016, I was detailed to work from 21:00 hrs. – 06:00hrs to perform duty in the Operation Room. At about 21:25 hrs. Prison Officer Tucker who was working the Observation Post (01) reported via radio set, to the Chief Office, there was fire seen emanating from the New Capital (A) Division. It was visual on camera fourteen (14) on monitor two (02). Immediately the siren was sounded, and contact was made to Guyana Fire Service and 104 firewoman Charles received same, Officer-in-Charge Kevin Pilgrim phone rang out, Second-in-Command Nicklon Elliot, Deputy Director of Prisons Gladwin Samuels, Director of Prisons Carl Graham, Alpha Delta and the Guyana Defense Force. It was further reported to the various Officer-in-Charges of the various locations. Deputy Director of Prisons Samuels informed me that he would make inform Superintendent of Prisons Pilgrim.
91. Director Carl Grahame was advised and briefed. He attended the scene and subsequently returned to the Headquarters where he testified that he slept in his office.
92. Superintendent of Prisons Kevin Pilgrim was advised by Deputy Director of Prisons Gladwin Samuels of the situation. He attended the scene and after things returned to normalcy slept in his office. Kevin Pilgrim testified that he attended the scene. The

New Capital Block A division was restored to some sense of normalcy on or about 1:00 a.m. on March 03, 2016. He was instructed by the Director of Prisons to have ranks monitor and assess the situation and report to him as required.

93. The Commission heard evidence that at least three Prison Officers were injured that evening ASP K.H, Chief Prison Officer Peter Barker and Prison Officer R.L.

94. It is unknown whether any inmates were injured during this occurrence.

Determine whether the conduct of the staff of the Guyana Prisons Service who were on duty on the morning of the 3rd of March, 2016 and thereafter was in compliance with the Standard Operating Procedures of the Guyana Prisons Service.

95. It is respectfully submitted that the Guyana Prison Service has promulgated policies and procedures which are designed to ensure the safety of inmates: remand and convicted in its facilities. This Commission is asked to look at institutional and individual shortcomings related to policy and procedure in the Standard Operation Procedures

Relevant Procedures, Regulations and Standing Orders

96. The relevant provisions of the Prison Act, Chapter 11:01 are as follows:

Powers of prison officers. [11 of 1959] c. 16:01	12. Every prison officer while acting as such shall have by virtue of his office all the powers, authorities, immunities and privileges of a constable appointed under the <i>Police Act</i> for purposes of his duty as such prison officer.
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Use of weapons. [37 of 2009]	13. (1) Every prison officer may use weapons against any prisoner escaping or attempting to escape:
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Provided that resort shall not be had to the use of any such weapons unless such officer has reasonable grounds for believing that he cannot otherwise prevent the escape.

(2) Every prison officer may use weapons against any prisoner engaged in an individual or combined outbreak, or in any attempt to force or break open any wall of any prison, or authorised areas of confinement or scaling or attempting to scale any perimeter wall or breaking or attempting to break open any perimeter gate and may continue to use the weapons so long as the individual or combined outbreak or attempt is being prosecuted.

(3) Every prison officer may use weapons against any prisoner using violence to any person if such officer has reasonable grounds for believing that such person is in danger of life or limb, or that other grievous hurt is likely to be caused to him.

(4) Before using firearms against a prisoner under the authority contained in subsection (1), the prison officer shall, if possible, give a warning to the prisoner that he is about to fire on him.

(5) No member of the subordinate staff shall, in the presence of his superior officer, use firearms of any sort against a prisoner in the case of an attempt to escape or of an outbreak except under the orders of such superior officer.

(6) The use of firearms under this section shall be as far as possible to disable and not to kill.

(7) Every member of the Police Force who is for the time being serving in the capacity of an escort, or of a guard in or around any prison or lock-up, for the purpose of ensuring the safe custody of any prisoners or persons detained in a prison or lock-up, shall be deemed to have all the powers and privileges granted to prison officers under this section for the purpose of his duties in relation to such prisoners or persons.

97. Standing Order 25 provides that:

Standing Order No. 25

ARMS AND AMMUNITION

Issuing of Firearms – Duty

1. Firearms may be issued to ranks detailed to perform the following duties:

- a. *Guarding prisoners at hospital*
 - b. *Escort duties*
 - c. *Patrol Duties {Supervisors only}*
 - d. *Guarding of vulnerable points.*
2. Ranks may be issued firearms to conduct special assignments approved by the Director of Prisons or Deputy Director of Prisons, on the recommendation of the Officer-in-Charge.
 3. In the event that there is an emergency, Officers-in-charge may approve the use of such weapons, which must be immediately reported to the Director of Prisons or Deputy Director of Prisons.
 4. Ranks entrusted with firearms will handle them with care and will not use them indiscriminately. The following are guiding principles for their use.
 - a. *The use of firearms must be resorted to only when other means are found ineffective to deal with situation.*
 - b. *The degree of fire used shall not be more than necessary to deal effectively with the situation.*
 - c. *Whenever possible warnings must be given before using a firearm*
 - d. *When it has been decided to open fire it must be borne in mind that this course of action must be preventative and not punitive.*
 - e. *If it becomes necessary to open fire, such fire will be directed at the target – not over the target's head. Care must be taken to ensure, as far as possible, that innocent persons are not hit.*
 - f. *Fire must cease immediately after the desired effect has been accomplished.*
 - g. *Firearms will not be discharged at a fugitive offender.*

Use of Firearms

5. The following are guiding principles when an Officer who is issued with a Service weapon may fire. These principles must be recorded in Officers' Official Pocket Books, and read to them when they are issued with firearms and sent on duty. Officers with less than two years' service will copy these principles in the Official Pocket Books and will be questioned at Muster Parades as to their knowledge of them.

You may fire when:

- a. *You are attacked and you apprehend serious danger to your person and unable to defend yourself by any other means.*
- b. *Property you are ordered to defend comes under attack and you are unable to safeguard it by any other means.*
- c. *An attack is made to rescue persons in lawful custody.*
- d. *Any prisoner attempts to break out or anyone attempting to break in and do not desist after warning and cannot be deterred or arrested by any other means.*
- e. *To prevent a prison location from being overrun.*

f. So ordered by a superior rank.

98. The following procedures have been identified as having the most relevance to this Commission of Inquiry:

- i. "Fire Threat & Evacuation Procedures, Georgetown Prisons A Joint Response";
- ii. "Exercise Safe Guard Phase 1 for a Fire or Arson at the Georgetown Prisons";
- iii. "Drafts - Contingency Plan, Jailbreaks and Hostage Taking.".
- iv. "Use of Force Guidelines;
- v. "Contingency Plan for Mutiny/Riot and Mass Destruction of Buildings. Detailed Task"
- vi. Standing Orders #2 pp 25-25 Books and records;
- vii. Standing Orders #4 page 35 Respect, page 37 Obedience;
- viii. Standing Orders Training pages 98-99;
- ix. Standing Orders Use of Firearms 137 - 138; #33
- x. Standing Orders cellphones in Prison page 177.

99. In reviewing the actions taken by the Guyana Prison Service from the Director's Briefing to the rescue and recovery operation the Commission is tasked with identifying deficiencies in regards to this incident and the adherence to the procedures identified above. It is our submissions that following from below any deficiencies appear to be training and equipment issues. (i.e., proper fire retardant uniform and personal protective equipment, designation of specific roles to more seasoned and experience ranks, lack of a proper recording device). Further, the issue of the timing of the call to the Guyana Fire Service is a very serious matter involving life and death and thus warrants a thorough analysis to determine whether there was a breach of the SOP's.

100. In any event, the main issue is clear: was the conduct of the staff of the Guyana Prisons Service who was on duty on the morning of the 3rd of March, 2016 and thereafter was in compliance with the Standard Operating Procedures of the Guyana Prisons Service? The answer, it is respectfully submitted, is a clear: YES.

101. It is respectfully submitted that the determinations of the Commission of Inquiry should be resolved on the basis of facts, not speculation or innuendo. The Guyana Prison Service intends to deal with the facts. On the basis of the facts, the Guyana Prison Service submits that it was compliant with policies and procedures and all that was humanly necessary was done to ensure the safety of the inmates at the New Capitol Block "A" Division.

Directors' Briefing

102. Director of Prison Carl Grahame, age 54, has been in the employ of the Guyana Prison Service for over 34 years. He is a trained crisis negotiator within the Service. He testified, for example, that he single-handedly defused a riot in 2006.

103. Director Grahame was briefed by Superintendent Pilgrim throughout. He admitted that he was not engaged in the call and didn't start heading to the scene until after being advised of the major fire. He arrived on the scene at 12:02 pm. Director Grahame did not explain why he was not engaged early on in the call given his experience as a trained negotiator.

104. Director Grahame wrote in his witness statement that he did the following:

On the above mentioned day and date at about 8:20 hours I visited the Georgetown Prison, and subsequently went over to the Prison Officers' Sports club, where I met with Mr. Kevin Pilgrim, Superintendent of Prisons, Officer-in-Charge, Georgetown Prison, Mr. Nicklon Elliot, Superintendent of Prisons, Second-in-Command of the Georgetown Prison and other ranks and was briefed by Mr. Pilgrim as to the prevailing conditions.

After being briefed as to the situation which occurred on the night before (March 02, 2016), I determined that a full investigation must be conducted into the events that led to the fire in Capital 'A' Division in order to determine the perpetrator(s), motive(s) and any damage to the infrastructure of the living unit. I instructed Superintendent Pilgrim, to have a team of ranks assemble to evacuate the prisoners from the Capital 'A' Division, in order to determine what damages, may have happen as a result of the fires lit the night before (March 2, 2016) and to conduct an investigation as to who would have lit the fires and what were their concerns. He was also instructed to keep me update via telephone on the exercise, as I had informed him that I was returning to my office.

105. Kevin Pilgrim, Superintendent of Prison wrote in his witness statement that:

On March 03, 2016 on or about 8:30 hours I met with the Director of Prisons at the Prison Officers' Sports club. Also in attendance were Mr. Nicklon Elliot, Superintendent of Prisons, Second-in-Command of the Georgetown Prison and other ranks. I briefed the Director on the situation.

The Director instructed that a full investigation must be conducted into the events that led to the fire in New Capital 'A' Division in order to determine the perpetrator(s), motive(s) and any damage to the infrastructure of the Division. I was instructed to have a search party to complete the search and an extraction team to remove the ring leaders then have the inmates meals issued to them. Assistant Superintendent of Prisons Kelvin Hutson was the Operations Officer for the search. Cadet Officer Hooligan – Commander of Search Team A. Chief Officer Patrick Crawford – Task Force Commander (Extraction Team) and Prison Officer Ron Lyken – was the recorder.

A briefing was conducted with the officers involved in the operation and it was clear that the modus operandi of the search was to evacuate the prisoners from the New Capital 'A' Division, in order to determined what damages, may have happen as a result of the fires lit the night before (March 2, 2016) and to conduct an investigation as to who would have lit the fires and what were their concerns.

106. Chief Prison Officer Oldfield Romulus testified that he did not sleep the entire evening as he worked all evening, then assisted with the feed-up process, the assumed responsibility for the perimeter rank during the day shift.
107. In *viva voce* evidence all of the senior officers testified that they lacked adequate rest for the aforementioned period.
108. Senior Superintendent Gladwin Samuels, Deputy Director of Prisons and the most senior operational manager in the service was not present at the briefing as he was en-route from Bartica to Georgetown to support the operation.
109. A question was asked by Commissioner Merle Mendonca in respect to the timing of the search given that the feed-up of the inmates was suspended until the completion of the search, particularly having regards to the fires the previous evening

and the violence that Prison officers and Fire Officers reported. "A hungry man is a angry man..." she mused loudly.

Analysis of the Director's briefing

110. The *Prison Act* Cap. 11:01 of the Laws of Guyana establishes the structure of penal services in the Cooperative Republic of Guyana. The Guyana Prison Service is also governed by our Standard Operations Procedures directives from the Director of Prisons. The Director of Prisons is responsible for the administration and day-to-day operation of the GPS.
111. As set out in subsection 4(a) of the *Prison Act* the responsibilities of the Director of Prisons include the "general charge" and administering the prison service and its staff, overseeing its operation in accordance with the objectives, priorities and policies established by the Minister.
112. In terms of compliance with directions of Mr. Grahame, Standing Orders #4 page 35 Respect, page 37 Obedience apply.
113. Mr. Justice Lofchik of the Ontario Superior Court in *R. v. Aziga*, [2008] O.J. No. 3052 undertook a substantial review of the law concerning an application challenging the conditions of prison as cruel treatment and punishment. In paragraphs 30 – 36 Justice Lofchik analyses the case law in relation to remand conditions and summarizes as follows:
 - 33 The Supreme Court of Canada has recognized that the detention context of a correctional facility is crucial in considering the nature and extent of an inmates Charter interests, and has held that these interests are necessarily informed by the inmate's institutional setting.
 - 34 **It is recognized that the courts ought to be extremely careful not to unnecessarily interfere with the administration of detention facilities** such as the Hamilton-Wentworth Detention Centre where the Applicant is currently held. **Unless there has been a manifest violation of a constitutionally guaranteed right**, prevailing jurisprudence indicates

that it is not generally open to the courts to question or second guess the judgment of institutional officials. Prison administrators should be accorded a wide range of deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and maintain institutional security.

35 The weight of authority reveals that courts have been very reluctant to intervene in the administration of correctional and detention facilities when conditions of detention are challenged under the Charter. Although conditions of detention may have caused an individual hardship, they have not been found to meet the stringent threshold required for a violation of Section 12 of the Charter in the following cases:

R. v. Olson (1987), 62 O.R. (2d) 321 (C.A.) at 333-336, aff'd [1989] 1 S.C.R. 296, when it was held that long-term segregation does not constitute cruel and unusual punishment.

"I think it fair to say that the same tests applicable with respect to punishment are applicable with respect to treatment.

The question then comes down to whether or not the continued confinement of an appellant of the appellant in administrative or protective segregation at Kingston Penitentiary is treatment that is so excessive as to outrage standards of decency.

I think most right thinking people would agree that segregation from the general population in a prison is in the circumstances specified in the regulations necessary and acceptable."

Soenen v. Edmonton Remand Centre, [1983] A.J. No. 709 (Q.B.) paras. 27, 29-41 - prison policies and conditions do not constitute cruel and unusual punishment.

Everingham v. Ontario (1993), 100 D.L.R. (4th) 199 (Gen. Div.) - opening of mail by correctional officials not a violation of the inmates Charter rights.

Olson v. Canada, (1990), 39 F.T.R. 77 (T.D.) - restriction on phone calls not a violation of inmates Charter rights.

McArthur v. Regina Correction Centre (1990), 56 C.C.C. (3d) 151 (Q.B.) at 154-157 - involuntary segregation not a Section 12 Charter violation.

R. v. Chan, [2005] A.J. No. 1118 (Q.B.) at para. 205 - time in remand not violating Section 12 of the Charter.

R. v. Sanchez, [1996] O.J. No. 7 (C.A.) - conditions of detention not violating Section 12 of the Charter.

114. Having regard to the evidence, the Commission may wish to consider having regard to the Guyana Prison Service Standard Operational Procedures at issue in relation to Prison Riots and Disturbances including “Fire Threat & Evacuation Procedures, Georgetown Prisons A Joint Response”; “Exercise Safe Guard Phase 1 for a Fire or Arson at the Georgetown Prisons”; “Drafts - Contingency Plan, Jailbreaks and Hostage Taking.”, “Use of Force Guidelines; “Contingency Plan for Mutiny/Riot and Mass Destruction of Buildings. Detailed Task”, whether the Director's decision was in response to the events that occurred late in the evening of March 02, 2016 and the exigent circumstances presented by those fires. Further, the Commission may wish to consider the explanation provided for why the Director did not instruct his officers to alert the Guyana Fire Service to be on standby, at the start of the evacuation and extraction operation, in the event that the inmate lit further fires in response to the planned operation.

115. In light of the exigent circumstances it is our respectful submissions that the Director's orders to officers on March 03, 2016 were compliant with the Standard Operational Procedures and practice of the Guyana Prison Service.

Evacuation of Inmates from the New Capital A and B Divisions

116. The Search Team for the New Capital Block "A" that comprised of Prison ranks tasked to search division after extracting the inmates were commanded by ASP K. H. and Cadet Officer Holligan. The team included Chief Officer Peter Barker, PTI Owen Charles, Officer Das and Prison Officer R.L.

117. Superintendent Kevin Pilgrim age 32 is the Officer in Charge of the Georgetown Prison. His evidence is as follows:

On or about 10:30 hours the operation began. At the time of the operation there were 68 inmates in the New Capital 'A' Division and 64 inmates in the New Capital 'A' Division. See attached chart.

The evacuation and search of the inmates commenced quite routinely as per Standard Operating Procedures. Prisoners from the New Capital 'A' Division exited the building in groups of five (5) inmates and reported to the Yard where they were searched by officers. Identified ringleaders were extracted by the Extraction Team.

The first inmate Steve Allicock was snatched by the Extraction Team without incident. The second inmate to be snatched was Collis Collison. His extraction was done as per Standard Operations Procedure. He was actively resistant and the officers struggled with Mr. Collison before he was subdued and grounded.

The Divisions including Prisoners from the New Capital 'A' Division erupted. Information received was that Inmates Shaka McKenzie and Jermaine Otto aka Fungus were inciting the other inmates by swearing at the Prison Officers who were gathered at the division, and actively rushing the door. A decision was made by the most senior officer at the entrance of the division to lock the door as they were outnumbered and the demeanour and threats of bodily harm uttered by the inmates posed a clear and present danger to the officers of serious injury and/or death....

I then attended to the New Capital 'C' Division that is directly below the New Capital 'A' Division. I was assured by the orderly Griffith and the other prisoners who were at the window and door vents that everything was okay in his Division. I left an officer to monitor that Division and I proceeded to the New Capital 'B' Division and issued my first caution to those inmates, informing them to not get involved in the issue at hand and evacuate the building when the door is open. I then went back downstairs and instructed the ranks to position themselves in a cordon to accommodation the evacuation of the Division.

After so doing I met Deputy Director Samuels in the prison he was given a quick brief of the situation on the ground. I then return with Mr. Samuels to the Capital B and issued my second caution and instructed the officers to open the door which was done.

Upon so doing the inmates from the Division began throwing stones through the door I then instructed the rank to close the outer catwalk door and we went back door stairs.

An inmate of the said Division then close back the door.

I then contacted the Director of Prisons via phone and informed him of the situation on the ground.

Mr. Samuels then took command of the situation and instructed, that given the level of resistance on the ground the emergency response team should be armed which was done including myself.

I then return to the Capital B in the presence of Mr. Samuels and the final caution was issued and with some amount of tactical will we manage to gain control of that Division.

The evacuation commence given fact that the situation was under some degree of control I left Mr. Samuels and the team at that area and proceeded into the prison to ensure the inmates be place in the cage and report our progress of the situation to the Director of Prison of the progress which was done.

ASP K. H.

118. Assistant Superintendent of Prisons, K. H., a 26 year old male, was the most senior officer at the door of the New Capital A division. Mr. H joined the Guyana Prison Service on May 21, 2010 and was posted to the Georgetown Prison in his ASP Position on February 15, 2015. He led the search team with Cadet Officer Udistair Holligan, Chief Officer Peter Baker, P.O. R.L.

Prison Officer R. L.

119. Prison Officer R. L., is a 23 year old male. He joined the prison service on September 01, 2014. Mr. L. was detailed to carefully record the events as it unfolds so that this exercise can be one of transparency and professionalism.

Cadet Officer Udistair Holligan

120. Cadet Officer Holligan was the most experienced officer on the “catwalk” of the landing outside of the New Capital A division. Holligan was the most senior gazette officer in terms of service on the landing having joined the service on June 23, 2008. ASP H. was however senior in terms of rank.
121. Cadet Officer Holligan testimony touched on the conduct of search, the failed initial attempt to evacuate the Prisoners due to a prisoner initiated jamming of the door, the aggression of the inmates following the take-down of Collis Collison, the evacuation of Capital B Division the First sight of fire; the Fire in the Capital A Division and the resources and efforts directed to rescuing the inmates.

Chief Officer Peter Barker

122. Chief Officer Peter Barker testified that “It’s not the first time they did it...we asking them to open the door, release whatever it is that you put behind the door so that it could be opened.”

Inmate Patrick Narine

123. Inmate Patrick Narine was cross-examined in respect to his observations and provided the following testimony:

Mr. Pieters: Ahm..., I’m going to put this to you as well, you never hear Senior Superintendent Samuels, Deputy Director of Prisons, issued any order to Prisoners, no to Officers to lock the door and lef’ dem in deh?

Inmate Narine: Yes, I did.

Mr. Pieters: You would have heard, you said that you had a visual of Capital Block A or you could have seen Capital Block A. You said you could see the door, right?

Inmate Narine: Yes, Sir.

Mr. Pieters: You coulda see the stairways leading up to Capital Block A?

Inmate Narine: Yes, Sir.

Mr. Pieters: I'm going to suggest to you or put it to you directly you would have seen Senior Superintendent Samuels and Superintendent of Prisons, Pilgrim, shouted to the top of their lungs for Prisoners to come out voluntary, you heard that?

Inmate Narine: No.

Mr. Pieters: You say you didn't heard Superintendent. um, Pilgrim shouted to Prisoners to come out voluntary?

Inmate Narine: Not on the 'A' Division; on the 'B' Division.

Mr. Pieters: I'm gonna suggest to you that it was 'A' Division, 'B' Division evacuated itself voluntary.

Inmate Narine: Mr. Pilgrim went up with his gun and crank his gun and give an Inmate an order; this is the last warning. I'm giving you.

Mr. Pieters: Who you said did that?

Inmate Narine: Mr. Pilgrim when he went up to the Capital B Division on the... There is two steps, one to the A and one to the B. The steps, they are straight across. Mr. Samuels had a gun in his waist and Mr. Pilgrim when he was walk up to the step of the Capital B Division, and give the Inmates, this is the last warning and crank his gun.

Mr. Pilgrim: And you're the first Inmate that testified before this tribunal that Mr. Pilgrim had a gun in his hands. No other person has given that evidence.

Inmate Narine: Yeah, Mr. Pilgrim did had a gun in his hand and Mr. Samuels had a gun in his waist.

Mr. Pieters: So you saw, you did not see Samuels with a gun in his hands at all?

Inmate Narine: In his waist, not his hand.

Mr. Pieters: Very Well. And if somebody say that Samuels had a gun in his hands waving it around, up and down, you will say that person was mistaken or lying.

Inmate Narine: Well I... I can't say what they see, I'm telling you what I see.

Mr. Pieters: No, I appreciate that.

Inmate Narine: The gun were in his waist. I have never seen Mr. Samuels with a gun in his hand waving it anywhere in the yard, or anyway, to any Prisoner but I saw it in his waist. Mr. Samuels was wearing a white hat, a white shirt and a blue jeans. This whole entire ah...massacre was taped by Officers Lyken. The whole entire thing was video by Officer Lyken and the video could show that. But of course not, you would not see every step that took place because somewhere down the line the Prison Officials is

going to cut their part out.

Analysis

124. Patrick Narine's testimony provides interesting launch pad to analyze the situation and the absence of a trained negotiator on the scene:

Commissioner Mendonca: Oh. Ok. Now within Camp Street, ahm... would you say there is a terrible overcrowding situation. Is it overcrowded?

Inmate Narine: Ahm...The capacity of the Camp Street Prison supposed to be six hundred.

Commissioner Mendonca: Six hundred and what's the capacity normally?

Inmate Narine: At the time, I don't know now, I came out of jail 19 days ago. At the time of the incident, I'm Sorry. At the time of the massacre, I would say, would have been Nine hundred and eighty four.

Commissioner Mendonca: Whoa, Nine hundred and eighty four?

Inmate Narine: So we're three hundred and eighty four extra.

Commissioner Mendonca: Mmhmm.

Inmate Narine: But they overcrowded, yes, it is overcrowded but this let's not exaggerate the overcrowded didn't really cause this massacre.

Commissioner Mendonca: It didn't?

Inmate Narine: No. For years... the Camp Street been like that and it didn't occur any situation like this before. What really caused this...problem here that could, if Mr. Carl Graham had went in this prison yard five minutes earlier on the March of 3rd, 2016, this would have not happen.

Commissioner Mendonca: Oh.

125. In crisis negotiations, delay tactics are commonly used to diffuse and settle volatile persons, and to allow for the proper deployment of resources. The longer that negotiations can continue, the more likely a favourable outcome will result. However, in this case this does not apply to delaying a request for proper resources and the call-out of a joint services response, or the attendance of the Guyana Fire Service and the Tactical Service Unit initially to this type of operation given the risk of disturbances, fires and/or deaths.

126. Given the tension that arose the previous evening, the resulting fire, threats to ASP K. H. and P.O. R. L., PTI Charles the Commission may wish to consider whether or not it was appropriate to assign them to that very living unit on March 03,

2016, hours after PTI Owen Charles was temporarily blinded by a substance thrown at him which he described as a mixture of “Jeyes fluid, pepper and another unknown matter”; R.L. was temporary blinded by “pepper water” and K.H. had injuries to his arms in two places as a result of being speared.

127. Chief Officer Oldfield Romulus was in the service since August 09, 1996. He is the Duty Manager in Charge of the Prison. Chief Officer Peter Barker has been in the service since April 23, 2002. Chief Officer Sean Charles has been in the service since April 1, 2004. Chief Officer Patrick Crawford is 32 years old. He was employed within the Guyana Prison Service since February 19, 2002. These experienced middle-management officers all testified that they provided support to the search team at the New Capital “A” and “B “ Division.
128. PTI Owen Charles testified to the danger to officer safety, public safety and the National Security had the door to Capital Block A not been locked at the time it was “I had to comply with that order (to lock the door) because of the aggressiveness in inmates at that time... had they overrun us on the landing and make it into the yard, what woulda be the end result... if they make it over the fence, society woulda be in chaos.”
129. ASP K. H., PTI Owen Charles and P.O. R. L. as stated earlier was injured on duty the previous evening, had little to no sleep, and were placed in a critical position where the lives of 68 persons in the custody of the state were in their hands.
130. These officers were not provided with personal protective equipment (body armour, helmets, DMS boots) or air supply tanks. Breathing apparatus was not available.
131. The panel may wish to consider whether the operational directive provided to the officers that morning at the briefing by the Director of Prisons was adequate and whether it was compliant with Standard Operating Procedures of the Guyana Prisons

Service. In making this determination, the Commission may wish to consider the exigent circumstances that existed given the events of March 02, 2016.

The Extraction Process

132. The Extraction Team was commanded by Chief Officer Patrick Crawford. This team was responsible for extracting known ringleaders and problematic prisoners during the searching process. Chief Crawford submitted a witness statement and testified on the process employed to extract Inmates Steve Allicock and Collis Collison. He testified that the extraction was consistent with the Guyana Prison Service practices and Standard Operating Procedure.

133. There was testimony provided by inmates claiming that Allicock and Collison were beaten:

Mr. Pieters: Very well ahm...alright so let talk about the search you observe the two inmates being taken down by the Task Force?

Inmate Narine: Yes sir.

Mr. Pieters: And in respect to the first inmate you said that you observe an Officer Name Savory ahm... kick the inmate?

Inmate Narine: Yes sir.

Mr. Pieters: Ahm...did you.....observe when the Task Force circle the inmate?

Inmate Narine: Yes I have.

Mr. Pieters: And ahm did them box the inmate in?

Inmate Narine: They throw the inmate on the ground and kick him and handcuff him and they pick him up and run with him toward the front.

Mr. Pieters: Them or him I'm speaking about one person now the first inmate that was taken down.

Inmate Narine: Yea.

Mr. Pieters: You say that they kick the inmate throw him on the ground.....

Inmate Narine: Yea.

Mr. Pieters: And then handcuff him and then took off with him?

Inmate Narine: Yea and took him to the front.

Mr. Pieters: And how....would they move him from the yard to the font?

Inmate Narine: A few.....of the Task Force pick him up a few of them I think about six I would say.

Mr. Pieters: And if I was to put to you that you could not have seen

Savory kick the inmate what would be your response?

Inmate Narine: Well I have seen that so.

Mr. Pieters: That's what you say you saw?

Inmate Narine: That's what I am telling you what I have seen.

Mr. Pieters: Well I'm putting to you that no such.....action took place on the part of Officer Savory respect to inmate number one.

Inmate Narine: Okay.

Mr. Pieters: Ahm...inmate number two now. You saw the second take down has well?

Inmate Narine: Yes.

Mr. Pieters: And what is it.....that you said took place in respect to that take down? What is it that you saw?

Inmate Narine: The same thing that I saw with first inmate, run in throw him on the ground well with the second inmate they didn't hit the second inmate they just throw him on the ground handcuff him pick him and run with him.

Mr. Pieters: And that is your eyewitness Narine testimony?

Inmate Narine: Yes sir.

Mr. Pieters: Well I'm goanna put it to you in respect to second inmate they was a.....confrontation between the Officers and the inmate the inmate did not go down kindly he fought back the Officers, and that was the inmate that force had to be used to take down.

Inmate Narine: At no time I see any inmate fought back with Officer.

Mr. Pieters: Right but you also said that..... you did not see any force use on the second inmate being taken down?

Inmate Narine: No.

Mr. Pieters: Can I suggest to you that your eyewitness Narine testimony is totally discredited by the fact that you didn't properly observe or you didn't properly give evidence has to what took place in respect to the take down.

Inmate Narine: That you opinion sir.

Mr. Pieters: I'm goanna put it to you that, that inmates the second inmate actually fought the Officers, and force had to be use.

Inmate Narine: I didn't see that.....the Officer and inmate had any conversation or any conversation with the Officers.

Mr. Pieters: Did you.....saw what happen after they put him on the ground?

Inmate Narine: They handcuff him.

Mr. Peiters: They handcuff him did they put on any guards on his feet?

Inmate Narine: They put on handcuff on his hand and handcuff on his feet.

Mr. Pieters: And what happen next?

Inmate Narine: They pick him up and run with him toward the front.

Mr. Pieters: And what was Officer Savory wearing?

Inmate Narine: Office Savory was wearing his cream uniform.

134. Inmate Collison provided evidence to the Commission. He alleged that one officer punched him in the face. Objective evidence shows inmate Collison being actively resistant, punching at officers and struggling with officers. However, in cross-examination Mr. Collison denied being actively resistant or hearing other inmates cursing, swearing or otherwise being abusive to officers, even though his hearing is "clean":

Mr. Pieters: But you would agree with me that you said just now you didn't hear the inmate cursing the Officers. Did you say that just now?

Witness: Yes I say that.

Mr. Pieters: I'm gonna suggest to you they were.

Witness: Well I'm telling you I never heard that.

Mr. Pieters: And you didn't heard that, because there is an issue with your ears?

Witness: My ears?

Mr. Pieters: Your hearing.

Witness: No, I hear very clean Sir.

Mr. Pieters: You hear very clearly?

Witness: Yes Sir.

Mr. Pieters: You just choose...I'm gonna suggest to you then that you not being candid when you say that you didn't heard inmates abusive to Officers swearing, cursing and carrying on.

Witness: Please rephrase the question.

Mr. Pieters: I'm gonna suggest to you that you're not being completely forthcoming to the panel when you...when you say if your ears is as clear as you say it is. That you are not being forthcoming when you tell, testify a minute ago that you din observe or heard inmate cursing at Officers carrying on in a very abusive manner while you're been move from the tarmac to the reception.

Witness: I never heard that Sir.

Mr. Pieters: And I'm gonna suggest as well you're not being quite candid when you told the panel that you didn't fought the Officers.

Witness: I never fight the Officers. I'm talking the truth Sir.

Mr. Pieters: And that you're not being completely candid when you said that, you weren't being hurling explicit threats at the Officers.

Witness: Sir everything that I speaking here today and the day before I went here is the truth, and the whole truth I speaking Sir, me ain lying pun no Officer Sir

135. The take-down of Collison lit the Georgetown Prison up March 03, 2016. Inmates particularly Shaka McKenzie were angry and set of a destructive chain of events that led to the loss of lives.

Analysis regarding the Extraction Process

136. The Task Force responded to Mr. Collison's active resistance to being "snatched" in a responsible manner and in a manner which is sensitive to the risk posed by the inmate at that material time. Mr. Collison's evidence was not credible and/or reliable.
137. It is respectfully submitted that there is no evidence to support a conclusion or inference that officers from the Task Force used excessive force against inmates Allicock or Collision or otherwise assaulted any inmates on March 03, 2016.
138. A take-down is a use of force and the force used in the circumstances in our submissions was proportionate to the situation at hand including whether the inmate was compliant or on the other hand actively resistant.

Senior Superintendent Gladwin Samuels

139. Gladwin Samuels is a Substantive Senior Superintendent of Prisons. He has been a member of the Guyana Prison Service for just over fifteen (15) years having joined the Service December 12, 2000. With effect from October 23, 2015, Senior Superintendent Samuels has been tasked to act in the capacity of Deputy Director of Prisons. In this capacity Senior Superintendent Samuels acts as "Principal Assistant to the Director in the performance of his duties and shall have power, during the absence or incapacity of the Director or when so authorized by him to do or suffer any act or thing which by law be done or suffered by the Director" see Chapter 11:01 *Prison Act* Laws of Guyana Part 111 Appointment, Administration and Powers of Prison Staff 5A, page 7.
140. In this part of the response, the evidence will be presented to demonstrate:
- That Senior Superintendent Gladwin Samuels arrived at the Georgetown Prison after the operation commenced;

- That he was NOT part of the planning and execution of the operation at the Georgetown Prison on March 03, 2016;
- That his order for inmates to leave or evacuate Capitol Block "B", then "A" was clear and unambiguous;
- That he ordered the door to Capitol Block "A" to be opened;
- That he ordered the door to Capital Block "B" to be re-opened when he was advised that the door to "A" was jammed by inmates;
- That the inmates reaction to prison staff including Samuels was inappropriate, riotous, criminal including threats to kill and rape correctional staff, and actually throwing substances and bricks at officers, and spearing officers with improvised weapons.

141. Senior Superintendent Gladwin Samuels, Deputy Director of Prisons (ag), was present at the Georgetown Prison from 10:55 a.m. He arrived on the Tarmac at approximately 11:00 a.m. Senior Superintendent Gladwin Samuels appeared wearing a white t-shirt and blue jeans and he had no use of force equipment or body armour, when he arrived at the Prison he testified. Prior to arriving at the Georgetown Prison he was travelling from Bartica to Georgetown where he was on an official visit to the Mazaruni Prison. After a quick briefing from Superintendent Kevin Pilgrim, Samuels testified that he had taken control of the scene as the incident commander.

142. Senior Superintendent Samuels wrote the following in his witness statement:

Travelled to Georgetown

On the morning of Thursday, March 3, 2016 I departed Bartica with either the third or fourth boat. I arrived in Georgetown sometime on or about 10:30hrs.

On Duty at Georgetown Prison

On arrival at the Georgetown Prison, I spoke to the Director of Prisons via telephone and was informed that ranks had been brought from New Amsterdam, Lusignan and Timehri Prisons to assist ranks of Georgetown Prison and Prisons Headquarters with

the exercise. I received information that the ranks were briefed and the exercise was on its way. I made my way into the Georgetown Prison where I met several female ranks at the front gate. Having entered the second gate there was a lot of noise coming from the prison yard. I heard loud cursing, death threats being made, and loud banging of objects. As I continued into the prison yard, while in the vicinity of the Recreation Cage, I saw about 4-6 Prison Officers dressed in green Task Force outfits carrying prisoner Collis Collison. Prisoner Collison was aggressive, belligerent and hostile. I was informed by one of the ranks that they were taking him to Reception. Going further in the prison yard, I recognized that much of the noise was coming from the New Capital Division. There was also some vocal support in the form of threats coming from prisoners in the Wood Prison. From my understanding of the prison environment I realized that prisoners seemed to be banging against the separation walls between Capital A and B. The loud, consistent banging as well as the noise from steel hitting steel was terrifying.

143. The lighting of fire and jamming of the very door of the living unit from which inmates could be rescued created an unacceptable situation that led to fears that the inmates in the "A" Division posed a safety threat to themselves and/or other inmates and staff. The approach taken below is consistent with the Guyana Prison Service's approach in other situations, of which there have been several:

Initial assessment of situation

The infrastructure of the prison was being compromised, and the safety of the occupants threatened. I feared for my own safety and the safety of the staff from Georgetown and other prison locations. I knew that two of my primary responsibilities were the protection of lives and property, and preventing escapes. Recognizing that the threat to the security of the prison and public was grave, as the senior rank I made the call: Several ranks were sent to uplift arms and ammunitions; at the same time I sent for my own firearm. The ability to resort to the use of force if necessary was evident for all to see. My actions were guided by the Use of Force Guidelines: Contingency Plan for Mutiny/Riot and Mass Destruction of Buildings. Detailed Task Guyana Prison Service.

Briefing by Superintendent Pilgrim

I was then told by Superintendent Pilgrim that prisoners were attempting to break the wall to allow the prisoners from Capital A and Capital B to join forces. His report confirmed my suspicions. That situation has always led to problems, not only because of the large number of prisoners involved, but because of ongoing conflicts between some of the prisoners of Capital A and Capital B. Superintendent Pilgrim indicated he would therefore move to have Capital B evacuated. He also indicated about half of the prisoners from Capital A were already out. The prisoners from Capital A that came out voluntarily were searched and placed in the Dining Hall, except for two (2) who were identified and taken to Reception for transfer.

Superintendent Pilgrim Instructed prisoners of Capital B to come out

Superintendent Pilgrim and other ranks went up and spoke with the prisoners in Capital B, instructing them to come out voluntarily, but they refused. At that point they began to get more hostile. The prisoners in Capital A were also behaving in a hostile manner. Superintendent Pilgrim reported that the Prisoners in Capital B claimed that they were being bullied by prisoners from Capital A to remain in their cell/dormitory or they would injure them. He also indicated that some prisoners from Capital A had come across to Capital B through the hole they had broken in the wall, and were inciting prisoners of Capital B. From where I was in the prison yard, prisoners from both Capital A and B could be heard making death threats to officers and talking about the various forms of sex acts they would perform with them.

My Role in Assisting Superintendent Pilgrim and ranks to get Prisoners out of Capital B

I went up to Capital B with Superintendent Pilgrim and other ranks hoping to convince the prisoners to come out, but that did not work. The prisoners were instructed repeatedly to come out of the dormitory but they refused. Prisoner Jermaine Otto who is from capital A was recognized by his voice and partially exposed face as one of the lead protesters in Capital B. The door of Capital B was then left open for the prisoners to come out and we went down stairs into the yard. Large chunks of concrete were thrown through the door hitting the expanding mesh which runs the length of the catwalk. The prisoners in Capital B then pulled in the door. When the door was closed, there were no prison officers on the catwalk. I and my officers recognized the need to open the Capital B door by any means necessary. I was informed by Superintendent

Pilgrim that ranks from the Operations Room reported a fire in the back catwalk of Capital A. I instructed Superintendent Pilgrim to activate the Joint Services response. Some ranks responded with fire extinguishers in the direction of the fire at Capital A. At that critical juncture, we risked our lives by directly entering the area of hostility, crying and pleading with the prisoners to come out voluntarily, while ensuring them of their safety. Superintendent Pilgrim and I again ordered them to come out as a final warning, and again we were met with verbal refusal and threats to our lives. The door to Capital B was opened by ranks and I stood in the line of fire of the prisoners. Objects were thrown towards me and abuse/threats continued. Here again, I recognized prisoner Jermaine Otto from Capital A standing just in front of the door of Capital B; he was a ring leader. After again giving several orders for the prisoners to come out and go to the cage, there was compliance by all in Capital B.

Fire in Capital B

While the prisoners were coming out of Capital B, I noticed fire at a hole in the separation wall between Capital A and Capital B, in Capital B. I raised an alarm by shouting "fire" several times and called for ranks with Dry Chemical Fire Extinguishers. Ranks who responded to fight the fire put themselves at grave risk as they had to compete with prisoners going down the Capital B stairs, while they rushed up the same stairs. All the time, items were being thrown into the fire by prisoners in Capital A. Officers remained committed to the task at hand, and we continued evacuating the prisoners from Capital B. We brought this fire under control.

Fire Observed in Capital A

Having brought the fire in Capital B under control, and with Capital B having been evacuated, I then turned my attention to Capital A where a fire had been started. Ranks had been there trying to open the door, but the door just would not unlock. I then instructed that prisoners use the hole to exit to Capital B which was a safe area. An officer shouted that they could not come out since the door of Capital B was locked. I then told a party of officers who had advanced to Capital A, and some who were advancing from the direction of Capital B towards Capital A to hold on. I then instructed that the door to Capital B be opened to allow prisoners who would have crossed from A to B to exit but I saw none exit. Ranks were reminded to protect themselves.

Deployment of Civilian Micheal Cozier to cut open Capital A door

After the key failed to open Capital A, I called on civilian worker Micheal Cozier to cut open the door. He responded but efforts made to cut the lock failed. He informed me that the heat was too much to operate in. By then, there was much black smoke emanating from the cell/dormitory and fire started to come through the grill. Efforts to get water up to the fire failed since we were unable to get the hose from a small prison pump fitted to the required length. Efforts were still being made to get the door unlocked, with the key and to cut open the door despite the adverse conditions.

Fire Fighters Arrived.

During this time, the fire service arrived and being aided by Prison officers firefighting operations went into full gear. Efforts were made to get the fire out. All this time efforts continued to be made to unlock the door of Capital A. After much hitting, kicking and cutting it was eventually opened by a prison rank and Civilian Micheal Cozier. By that time, senior officers of the Joint services were on the ground including the Director of Prisons Mr. Carl Grahame DSM, Fire Chief Mr. Marlon Gentle DSM and Assistant Commissioner of Police Mr. Clifton Hicken. I heard prisoners who were not in the area where the fire was set make complaints against me to Assistant Commissioner Hicken. As a result I was advised by Assistant Commissioner Hicken to leave the ground, which I did. During the process, I was spat upon, had water and other liquid thrown on me, along with pieces of wood pelted at me.

144. The allegations against Senior Superintendent Samuels from inmates included that he led the Task Force that entered the Tarmac, that he was dressed in Task Force Uniform, that he was waving his gun around the yard, that he told Superintendent Pilgrim to "shut up" and pointed his firearm at Pilgrim and finally that he ordered the officers to lock the door and let them die, in various iterations.
145. Inmate Carl Brown in his testimony stated that after Collison was taken down and inmates began protesting "At that stage I heard inmates say they light a mattress and then I heard Mr. Gladwin Samuels say 'y'all lock de door and let them bun them motherskunt and dead" Carl Brown was cross-examined by Prison Counsel Pieters on his written statement "I am gonna suggest to you that you don't have in your

statement "left dem mudda skunt to burn". Brown's response was "whether I leave out you skunt, me skunt, samuels skunt or they skunt is the same order was made." Brown later in cross-examination refused to answer questions posed by Prison Counsel Pieters "aye aye stop with me, stop with me ...you mess with alot of people you ain't gonna mess with me" was one of his responses to questions posed in cross-examination.

146. Inmate Kenneth Griffith testified that he was housed at Capital C of the Georgetown Prisons; an area located beneath where the fire consumed 17 inmates. Griffith testified that "The officer that went up there, he (Samuels) asked if they (officers) light the fire and he (the warden) said no then he said well wait, lock the door and leh deh skunt bun." He also stated that Mr. Samuels said "well y'all aint light no fire? Come down and lock the door."

147. Inmate Patrick Narine testimony was as follows:

Commission Counsel: And what happen next? What did you observe?

Narine: I observe Mr. Samuels came closer to my window, and I told Mr. Samuels and I say told Mr. Samuels you already kill a man in Prison in the sanitary confinement, and you leave those men in there to die. Mr. Samuels then look at me in my face, and he immediately exit the yard. **A few minute late I saw the ahm.....the director Mr. Carl Graham, and I told Mr. Graham what had took place but I was so upset and while I was talking to him Mr. Graham say okay cool down and tell me what happen, and I told him exactly what happen Mr. Samuel stand up, and give the order to lock the door for those men to burn.....**

Commission Counsel: This is what you told Mr. Graham?

Narine: Yes Mr. Graham.

148. Inmate Trevor Williams testified that he was an inmate in the B Division that "While I was standing, he said he want to see the man who pelt him."

149. Inmate Trevor Williams also testified that S/Supt Samuels told Supt. Pilgrim to shut up because he was doing this exercise, and he told us to use Capital 'B' step."

150. Inmate Roy Jacobs provided testimony to the Commission and was subjected to cross-examination on his evidence:

Mr. Pieters: Alright let's look at March/03rd, on March/03rd when Senior Superintendent Samuels went up to that living unit you, at what point he would have order or ask that Jermaine Otto leave the living unit, and come to him?

Inmate Jacobs: On March/03rd Mr. Samuels.

Mr. Pieters: You have an answer for the question?

Inmate Jacobs: Rephrase back the question?

Mr. Pieters: At what point you would have heard or observe senior Superintendent Samuel ordering or directing Jermaine Otto to leave the living unit, and come to him?

Inmate Jacobs: I can't really understand the question.

Mr. Pieters: Well A...put it differently you already testify that were two(2) groups of Prisoners who left the living unit, and in the second wave of Prisoners Collis Collision exit it. You remember that?

Inmate Jacobs: I did not say that they are two (2) set of prisoners you trying to tie me up but you can't tie me you the is Capital B

Mr. Pieters: Sir I am not.

Inmate Jacobs: Listen.....I am not here for a debate.....

Chairman: Listen.....

Inmate Jacobs: I am not here for a debate I come fah testify for seventeen (17) lives that was taking in Guyana Prison Service where by it cause by Mr. Samuels.

Chairman: Mr. Jacobs.

Inmate Jacobs: Yes please.

Chairman: This is like a Court of Law restrain yourself, and show some dignity, and respect to Counsel.

Mr. Pieters: When did you.....saw or observe Samuel Senior Superintendent of Prison ordering Jermaine Otto to leave the living unit? That is the question I ask you five (5) times, and this is the last time I'm going to ask you before I move.

Inmate Jacobs: Which part of the living unit?

Mr. Pieters: I'm gonna move on you have no answer to my question.

....

Inmate Jacobs: Where they go over, and was shying stones.

Mr. Pieters: And you saw Jermaine Otto throwing stones at Senior Superintendent Samuels?

Inmate Jacobs: No he was not throwing stones at Mr. Samuels.

Mr. Pieters: Who was throwing stones at senior Superintendent Samuels?

Inmate Jacobs: No body can't say who throw it cause in come from inside the building no one outside can't know.

Mr. Pieters: Did you.....See whether or not the stone hit Samuels?

Inmate Jacobs: No.

Mr. Pieters: But you say that.....Jermaine Otto refuse, and order to leave?

Inmate Jacobs: Yes.

Mr. Pieters: And you would have heard.....ahm...the metal, you would have heard the clanging of the metals, and the breaking up of beds didn't you?

Inmate Jacobs: I, and heard nothing so.

Mr. Pieters: You heard any of that? You would have heard the wall being broken wouldn't you?

Inmate Jacobs: I, and heard cause it was a lot of noise in.....de yard

Mr. Pieters: There was a lot of noise in the yard?

Inmate Jacobs: Yea from different locations.

Mr. Pieters: They was a lot of noise in the yard, and you can't hear metal clanging, you can't hear falls breaking yet you can hear Samuels voice is that what you telling the panel?

Inmate Jacobs: Yea cause he was a the top of his voice Even the Officers them in the yard could say so if they want to say they could say cause he was a the top of his voice he order Mr. Pilgrim Mr. Barker Mr. Hooligan to let he control everything, he responsible he use his power over de..... Officer that in charge of the Prison he overuse his power.

Mr. Pieters: He is the Deputy Director that's what happen you may not understand the world of precedence.

Inmate Jacobs: He power.....wah he use he overuse his power fight ignorant with ignorant and the, is the result.

Mr. Pieters: Excuse no that.....is your opinion, do you know Deputy Director, you know Samuels a..... is the Deputy Director?

Inmate Jacobs: Yes but if.....

Mr. Pieters: And he takes Precedence over everyone else when he's on the ground

Inmate Jacobs: If.....I in charge a de Prison at that time I would have use my Rank because you can't leave and tell me what to do when I know is a situation wah I could control.

Mr. Pieters: Anyway you said you heard a shot being fired ahm...in the Prison?

Inmate Jacobs: Yes please.

Mr. Pieters: I'm goanna suggest you heard no such, no shots fired on March/03rd 2016?

Inmate Jacobs: Shots was fire into de Prison.

Mr. Pieters: No shots.....

Inmate Jacobs: Mr. Pilgrim was on the Television hear shots fire, and he said so on the Television on the national Television.

Mr. Pieters: I'm goanna suggest to you has well that no teargas was used in that Prison on March/03/2016

Inmate Jacobs: Teargas also was throw in de prison at the front part a de Prison where the square mesh is Teargas, Mr. Samuels take a teargas, and through it into the cell into the Capital A division, and when around a

de.....next door, The teargas is wah bring the fire more up the smokes.

151. Inmate Jacobs was evasive in answering direct questions posed by me. His fixation was on making allegations against Senior Superintendent Samuels, including the following:

.....

Mr. Pieters: Well you sign it somebody author it on your behalf but you sign it so your Inmate Jacobs statement written for you by you.

Inmate Jacobs: It was not written.....

Mr. Pieters: I'm gonna argue with you I am putting my question to you. Officers they made their way to the building, and one of threw a can of teargas into the building. That what you wrote in that statement, you wrote nothing that senior Superintendent Samuels through Teargas in the building. I'm gonna suggest to you that you're trying to mislead the panel when you say Samuels.

Inmate Jacobs: I cannot Mr. Samuels is not first time is not second time in 2013 riot Mr. Samuel draw his firearm, and point it at an inmate by the name of Nervous, and say he goanna shot off his kneecap is nah the first time me, and Mr. had several (7) times with that in the same occasion in the Prison every time Mr. Samuels come in the Prison he, and some Prisoner always having confrontation is not the first nah the second nah the third time, and nah the fourth 2010 the same thing.

Mr. Pieters: Sir Excuse I'm asking the question, and you are not answering the question.

Inmate Jacobs: I giving you the answer because you asking me a question.

Mr. Pieters: Be relax, and focus on the question that I'm asking you. Your Inmate Jacobs statement has no mention of Samuels it has one of them throw a Can of teargas into the building. You would have written Samuels have you seen Samuels did that, this is not in your Inmate Jacobs statement you'd agree?

Inmate Jacobs: I don't know what's there.

Mr. Pieters: Ahm....someone show the Inmate Jacobs his Inmate Jacobs statement please. Officer its let me show you were it is so you can a.....

Inmate Jacobs: I see pencil writing there too.

Mr. Pieters: You saw Capital A with the pencil written there? But this statement you see no mention of Samuels throwing teargas into no living unit, you'd agree?

Inmate Jacobs: I didn't heard that the is wah I see that is wah I saw and the is wah a come here for testify

Mr. Pieters: You say that Samuel lock the door or order that the door must be lock.

Inmate Jacobs: be lock.

Mr. Pieters: Which door is it that you say Samuels order to be lock?

Inmate Jacobs: Capita A.

Mr. Pieters: I'm goanna suggest to you that Samuels made no such order.

Inmate Jacobs: He made such order, and when he made the order the other officers them who were in charge of the Prison yard leave the door, and when downstairs.

Mr. Pieters: I'm goanna put this directly to you when that door of Capital A was lock Samuels was not in the Prison when that door was lock.

Inmate Jacobs: Samuels was in de Prison when Mr. Samuels being in the Prison yard is when seventeen (17) Prisoner die. When he know he was under pressure then he leave the Prison yard when several (7) Prisoner go out through the front gate.

Mr. Pieters: Samuels was at the Georgetown Prison at the time in which Capital Block, A door was lock.

Inmate Jacobs: I said Mr. Samuels was there, and I'm not go wah ever I saying Mr. Samuels was there, and nobody can't change the from me.

152. Inmate Griffith testified that the Task Force was led by Deputy Director of Prisons Gladwin Samuels. That Samuels had on green prison task force uniform. That it was Samuels that ordered the officers to extract Collis Collison.
153. Inmate Desmond James testified that Samuels directed his officers to "Lock the door and leff dem inside." He said that at the time he was awaiting his turn to exit the living unit to be searched. He then rested his bag near the door and went back to his bed space.
154. If these allegations were true, Senior Superintendent Samuels' alleged conduct would have raised serious questions with respect to his suitability and acceptability as the second highest ranking officer in the Guyana Prison Service. The Guyana Prison Service, however, in order to allow the investigation to unfold in an orderly fashion has placed Senior Superintendent Samuels on administrative leave.
155. It is our respectful submissions having had the opportunity to test the veracity of the inmates' claims through the process of cross-examination that the claims of the inmates are not credible, not reliable and not trustworthy and not in accord with the objective evidence available of the actual event.

156. Superintendent Pilgrim was asked in examination in chief whether or not this event occurred and he said it never happened.
157. Chief Prison Officer Roddy Denhart testified that the Guyana Prison Service is losing control of the Georgetown Prison "in totality":
- In your presence, regardless of who, they will be on their cellphones, marijuana in their mouth smoking. They have long, improvised weapons, walking around...and doing whatever they choose to do. Recently, a prison officer was choked and robbed in the prison yard; another one was pat on his chest with a long knife that an inmate had; just 'hailing he up', blatantly hailing the officer up with a long knife on his chest."
158. Chief Prison Officer Roddy Denhart put forth a motive why the prisoners would blatantly lie on Senior Superintendent Samuels and seek to have him removed from the prison environment "From my personal view, Mr. Samuels is a very stern individual, he is a disciplinarian, and doesn't stick nonsense."
159. Chief Prison Officer Roddy Denhart went on to state "Most of the biggest drug busts in the prison was done by Mr. Samuels and because of that fact he is not liked by most of the inmates."
160. Chief Prison Officer Roddy Denhart also stated that the impact of the temporary loss of Samuel has affected the security of the prison and the morale of officers "His absence has...bore a hole in the security system to some extent and like I said his network is his network, I don't know how he does it." The decision to send Mr. Samuels on leave has "affected them a great lot." Much the same evidence in respect to the morale has been provided by Cadet Officer Udistair Holligan and Chief Prisons Officer Patrick Crawford.
161. Senior Superintendent Samuels was cross-examined by Attorneys Duke, Mars, Todd and Ram.

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162. Objective evidence was also laid over with the panel and form part of its consideration that at no time did Samuels utter the words that were attributed to him to lock the door to Capital Block A and let the inmates die.

Identification Evidence regarding Samuels

163. At this stage we submit that it is critical to examine the veracity of the evidence of witness Carl Brown, Desmond James and Kenneth Griffith were in order for the Commission of Inquiry to decide what weight it attaches to their evidence on Gladwin Samuels. The legal genes of this evidence centres around the phenomenon of an identifying witness. Therefore **all** the relevant principles of identification evidence apply with full force in this scenario. The Commission therefore would have to examine the following:

- The circumstances of the identification
(This was an extra-ordinary day in the life of prisoners and prison officers alike.)
 - Whether there was strange circumstances
(This was day two (2) of disturbances and fires)
 - The length of the observation
(The evidence in this respect is unclear)
 - Was there anything obstructing his view
(Again, the evidence in this respect is unclear in respect to Carl Brown and Kenneth Griffith)
 - Whether he knew the person before
(This was not a case of recognition)
 - The time lapse between the first citing and the Identification Parade.
(Not applicable)
 - Whether there was other corroborating evidence
(In this case there was none)
- See **R v Turnbull [1976] 3 All ER 549**, whose principles on Identification have been adopted and followed throughout the Commonwealth Caribbean.

164. The testimony of Carl Brown, Desmond James, Roy Jacobs, Trevor Williams and Kenneth Griffith were wholly incredible and unreliable.

165. There is objective evidence that supports the contention that Gladwin Samuels was not at the Georgetown Prison at the time the door to the New Capital Block "A" was locked.
166. How can these inmates identity Gladwin Samuels as being in a place at a time when objective evidence is there to show he was elsewhere? This can only occur where they have concocted a plan to frame him as a scapegoat, to conceal the true perpetrators who in a bizarre way tampered with, and made inoperable, the very door that would have guaranteed their escape in a matter of seconds from the fire, that was obviously lit by the prisoners themselves, perhaps without being fully cognizant of the real danger of being trapped in that dormitory if a raging inferno ensued that could affect the lock on the door that was their own major means of escape to safety. Further, it is respectfully submitted, having regard to the evidence of the Guyana Fire Service officers, that question that is available to the panel: What is the coefficient of the linear expansion of steel?
167. In any event, the door to the New Capital A division was locked by R.L. on the orders of K. H., well before Mr. Samuels got to the Georgetown Prison and remained locked due to the inmates jamming the housing mechanism of the door until R. L. and Cozier were able to "titivate" with the lock by hitting the door and turning the lock gradually until it opened. That was well after the fire claimed the lives of 17 inmates and injured 30 others.
168. It is respectfully submitted that Senior Superintendent Samuels was the most senior man on the ground as of 11:00 a.m. It is further submitted that it was his evidence that he followed the SOP's. When he shouted "fire, fire" as he saw the fire in the hole at the wall separating the New Capital A and B divisions, it was a signal to officers to bring up extinguishers, call the fire department and activate the emergency system including response. We submit this explanation is plausible.

169. While Senior Superintendent Samuels was a directing mind and the most senior Prison officer on the scene the moment the fire began, the panel may wish to consider whether the dye was already cast prior to his arrival at the Georgetown Prison on March 03, 2016?
170. It cannot be said on any objective basis that Samuels was negligent, he ordered the evacuation of the New Capital B division, then declared it a safe zone and illegal for anyone to be found in there after it was sanitized. After he got wind that the door to the New Capital A division could not open he ordered the door to the New Capital B division to be opened so that inmates in the New Capital A division could escape through the hole in the wall to the safety of the New Capital B division.

Inmate Carl Brown

171. Inmate Carl Brown in our respectful submissions loomed large over the Commission of inquiry posting pictures of the visit to the Prison by the Commission team, even though cell-phones are prohibited. Brown simply wanted to use the Commission of Inquiry as his “soap-box.”
172. Significantly as well, when asked by counsel Todd when Brown knew inmate xxxx., his response was “he is a cochore.” inmate xxxx. initially was brought to the Commission to provide evidence but ultimately and understandably did not. That remark about a potential witness given the culture of the prison is a clear interference or obstruction with the Commission of Inquiry process.
173. Interestingly enough the story was scripted by Carl Brown who prepared the witness statements of James and other inmates. When confronted with that fact by Prison Counsel Pieters, Brown denied preparing the statement of other witnesses at the Commission “we got rid of all of the statements that were written.” He was then asked if someone was to say that he met in the library to prepare inmates witness statements what would be his answer “they would be lying.”

174. Later on when pressed by Prison Counsel Pieters "Well Mr. Brown I am going to suggest to you that you indeed wrote those inmates statements." Brown answered "well then the only way it could happen the only way it could happen is if the very statements that they told us they wouldn't be using is what they submitted."

175. Inmate Roy Jacobs evidence is as follows:

Mr. Todd: And who wrote this statement that you presented to the Commission?

Witness: The statement was wrote by an inmate. The reason why.....

Mr. Todd: Yes.

Witness: The Officer choose to, because they don't want to write the statement they self. fah say well inmates say so or they and say. So an inmate write it and they produce it. They read it

Mr. Todd: And what would have been de ahm... circumstances surrounded the inmates writing the statement? Let me explain, did you speak, and then see the inmate right, what you were saying?

Witness: Yes please.

Mr. Todd: And then you had an opportunity for it to, you had an opportunity to read it? Did you get to read it?

Witness: He read it back for me.

Mr. Todd: He read it back for you?

Witness: Yes please.

Mr. Todd: And then....well I'm seeing that you, and Counsel did ask you..... Didn't sign that but what he read to you, that is what you....told him?

Witness: Yes.

Mr. Todd: And this is an inmate from your same division?

Witness: No Capital division.

Mr. Todd: Which Capital division?

Witness: The old Capital.

Mr. Todd: The old Capital?

Witness: Yea where sentence Prisoners located.

176. Brown scripted and contaminated the evidence of the prisoners and then lied under cross-examination. That is not a trivial matter. His evidence is not credible. His evidence is not reliable.

177. Inmate Carl Brown from the Old Capital Division testified he claimed that he would pay corrupt officers \$7000.00 to bring in a "proper phone" for him. He admitted to owning and actively updating a Facebook profile including posting a picture of the Commission's visit to the Georgetown Prison on March 15, 2016. Brown's direct opposition towards Standing Order #33 cell phones in Prison page 177 is very troubling.

Equipment, Uniform and Use of Force Options

178. Section 30 of the *Prison Act* provides as follows:

30. The officer in charge shall see that the officers and members of the staff present a smart and clean appearance and that they are properly instructed in all matters connected with their duties, including the use of firearms; he shall ensure that all firearms and ammunition are kept in good condition.

179. The use of force options available on March 03, 2016 were batons, handcuffs, protective shield, and firearms.

180. In terms of uniform, the evidence showed the following:

- a. Standard field uniform with badges of rank was worn by some officers (Superintendent Elliot, K.H., C.O. Holligan, Chief Officers Barker, Romulos, Task Force Officers, etc.);
- b. Some senior ranks were not in uniform (Director Grahame, Senior Superintendent Samuels, Superintendent Pilgrim, Chief Officer Crawford);
- c. Some ranks were not in uniform (R. L., Das).

181. In terms of equipment, with the exception of the members of the Task Force, very few ranks were equipped that day with:

- a. DMS Boots;
- b. Riot Helmet;
- c. Riot Shields;
- d. Foot Cuff;
- e. Hand Cuff.

182. There was a complete absence of fire-retardant clothing, air supply tanks and breathing apparatuses for the ranks, to launch a proper fire rescue and evacuation operation, prior to the loss of any inmates' lives. The Guyana Prison Service did not equip its officers with the appropriate personal protective clothing and equipment appropriate to a fire that of Capital Block A. It did not have the clothing and equipment. Even if the prison officers wanted to physically enter the living unit of Capital Block A to mount a rescue operation, it is respectfully submitted that such actions would have been a suicide mission, having regard to the absence of the proper clothing and equipment and reinforcements from the Guyana Police Force.
183. Having regard to the above, the health and safety of the prison officers on duty was also a significant consideration and cannot be left out of the equation.
184. The evidence illustrates that officers of various ranks entered Capital Block B whilst the fire was in progress at the hold in the wall dividing A from B without proper respirators or fire protection clothing.
185. Further, it was revealed that the fire pump at the Georgetown Prison was out of order and for a significant period of time.
186. The issue of Equipment, Uniform and Use of Force Options is submitted to illustrate the limitations under which staff worked on March 03, 2016 and the fact that in light of the limitations the prison officials stayed true to their professional ethos and Standard Operating Procedures.

Deaths

187. Seventeen inmates died in the fire including Sherwin Trotman, Anthony Primo, Andrew Philander, Randolph Marques, Dellon Williams, Jermaine Otto, Kirk Clarke, Latchman Partap, Aaron Eastman, Rohan Teekaram, Hillary Amos, Rayon Paddy,

Clifton Joseph, Shaka McKenzie, Chetram Dwarandat, Asraf Mohamed and Richard Hubbard.

188. Chief Prison Officer Medex Patricia Anderson testified of seeing "Burnt bodies were everywhere." She did not see, she testified a headless torso or a person with his intestines protruding out.
189. Inmate Samuel Bacchus testified "I see a skull on a bed frame." He testified that the torso was away from the head.
190. Chief Fire Officer Marlon Gentle testified that according to reports he received "One body with the head removed from the torso at variant or good distance away...One body hunched on a toilet set with the insides out...the last two I alluded to need some more investigation."
191. Mr. Gentle explained that "I am a trained fire investigator. I was trained at the Ontario Fire College...15 years (were) spent in investigation. The degree of destruction of the bodies and level of injuries...a head detached from body...the degree of damage from what I suspect it to be...even the violence of the mini explosion, the body is not supposed to lose internals."
192. Mr. Gentle concluded "I believe, in my own honest opinion, that both of the bodies would have suffered other types of trauma than the fire; they were subjected to some level of force due to striking or stabbing or something."
193. The post mortem report indicated all the inmates died of smoke inhalation and/or burns.
194. The autopsy report also reported blunt force trauma to the head of Rohan Teekaram and Asraf Alli.

195. The State pathologist Dr Nehaul Singh provided evidence to the Commission on the state of the bodies he examined. It was his evidence that the deaths of the two men was not from blunt force trauma but as a result of fire and smoke inhalation.

Inquire into the nature of all injuries sustained by the Prisoners during the disturbances on the morning of the 3rd of March, 2016 and any other subsequent disturbances.

Injuries

196. A triage system was set up to deal with the injured inmates which are as follows

Persons treated at the Infirmary with first and second degree burns:

Samuel Bacchus	First degree burns to right shoulder, left elbow and left thigh
Alwyn Williams	First degree burns to both ears
Michael Lewis	First degree burns to right forearm and right shoulder
Owen Belfield	First degree burns to left shoulder, elbow and right thigh (upper aspect)
Samuel Alleyne	First degree burns to left ear, left hand
Dharmendra Persaud	First and Second degree burns to back, First degree burns to ear and under chin

Persons referred to Hospital with first, second and third degree burns treated and discharge

Dwayne Lewis	First, second and third degree burns to abdomen
Anthony Joseph	First, second and third degree burns to back, left hand and
	right foot (dorsal)
Errol Kesney/Williams	First and second degree burns to hand

Persons referred to Hospital with first, second and third degree burns and released

Marcellous Verbeke	First, second and third degree burns to left scapula, left arm,
	first and second degree burns to right scapula and upper arm, first degree burn to both ears and face

Persons referred to Hospital with first, second and third degree burns and still hospitalized

Andel Forde	First, second and third degree face, left and right hand and
	lower extremities
Ignatius Francis	First, second and third degree burns to body

197. Various ambulances and medical personnel from the Georgetown Hospital were on scene and on standby at the Emergency Unit of the Hospital to deal with treating the inmates. The inmates with minor injuries were treated at the infirmary.

198. The evidence indicates that the staff actions were in compliance with the Standard Operating Procedures of the Guyana Prisons Service.

Staff Injuries

199. The *Prison Act* provides that:

190. (1) Where any prison officer sustains any injury in the course of his duty the officer in charge at the time of the occurrence shall submit to the Director a report of the circumstances of the injury and of his opinion as to whether such injury was or was not caused or contributed to by any default on the part of such officer.
(2) The Medical Officer also shall submit a report to the Director which shall state the degree of incapacity if any sustained by the officer.

200. It is respectfully submitted that at least 12 staff sustained various injuries from March 02, to March 04, 2016, some of whom required treatment at the Georgetown Hospital.

201. A significant amount of custodial staff also went sick in the aftermath of the March 02, to March 04, 2016 for post-traumatic staff disorder.

202. The Commission heard evidence from some of those officers that no counselling was offered or provided. Other are choosing to "bare my chafe."

Determine whether the deaths of the 17 prisoners was as a result of the negligence, abandonment of duty, disregard of instructions, inaction of the Prison Officers who were on duty on the night of the 2nd of March, 2016 and the morning of the 3rd of March, 2016.

203. It is submitted that the various logbooks, evidence of witnesses and objective evidence available to the Commission can be sewed together to provide a time line outlining the significant events of the incident which in its analysis the panel has to consider to determine whether there was a breakdown of communication, a lack of supervision and leadership and an overall neglect and/or abandonment of duty.
204. Director Grahame, Senior Superintendent Samuels and Superintendent Pilgrim, according to Director Grahame's evidence received training as a crises manager and negotiator.
205. Director Grahame arrived on scene one and a half hours after his operations started and at the time of his arrival the fire had already consumed the Division and 16 inmates were dead and numerous other inmates injured.
206. Senior Superintendent Samuels was on his way to Georgetown from Bartica and immediately assumed command of the Georgetown Prison when he arrived. Senior Superintendent Samuels is an experienced operational manager and is a trained social worker.
207. Superintendent Pilgrim was in command until Senior Superintendent Samuels arrived on the scene.
208. The Executive Command officers were assisted by numerous ranks on duty from Superintendent to Prison Officers to Civilian Cozier.
209. Full fire contingency operation as per the SOP's were activated and put into effect. The alarm was sounded, the Guyana Fire Service was called, the Prison

Officials evacuated Capital Block B, the prison officials partially evacuated Capital Block A, the officers came under sustained hostilities and attacks by the inmates, officers continued to attempt to open the jammed door. In addition, when the Guyana Fire Service arrived on the scene the suppression of the fire was their responsibility.

210. The Commission of Inquiry heard evidence of the limitations including the improperly connected hose and/or the hose that was partially leaking. Neither of these could be attributed to the fault of any of the prison officers on the scene.
211. There is no evidence, in our respectful submissions that the deaths of the 17 prisoners was as a result of the negligence, abandonment of duty, disregard of instructions, inaction of the Prison Officers who were on duty on the night of the 2nd of March, 2016 and the morning of the 3rd of March, 2016.
212. Cadet Officer Udistair Holligan summed up best the challenges that ranks on the ground faced when he stated in response to a question on the impact and/or effect the event of March 03, 2016 has had on his life as follows “When I am sitting in my quiet moments, thinking back to that date I can still hear the screaming, the threats...it was as if you know, you did your job to the best but you didn’t do it good enough to assist on that day,... It’s kind of hard to cope with what on that day...if this thing goes to this level again, how can you assist somebody, how can you preserve a life that is already lost.”
213. Perhaps, paraphrasing Mr. Holligan, it is respectfully submitted that the situation would have unfolded quite differently if the Guyana Prison Service had its full strength of officers, an adequate inmate to staff ratio, fire-retardant clothing, air supply tanks and breathing apparatuses for the ranks, to launch a proper fire rescue and evacuation operation, prior to the loss of any inmates' lives.
214. The issue here fundamentally goes back to starving an organization of the proper equipment and resources to properly do its job.

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215. On or about after 06:00 hours, the inmates from New Capital "B" Division started a full scale riot and that led to the temporary take-over of the Georgetown Prison by inmates. The Georgetown Prison Operations Room initiated the emergency alarm. The Director of Prisons and other law enforcement agencies were notified.
216. The Joint Services officers who were present in the Prison Yard were force to retreat as the inmates who were armed with various improvised weapons forced their way out of their cellblock whilst others were broken out by the rampaging inmates posed a clear and present danger to the officers of serious injury and/or death. The prisoners were engaged in crimes of disorder they were throwing obstacles including bricks and other objects at the ranks and were actively destroying prison buildings and infrastructure.
217. It is respectfully submitted that tear smoke used by ranks of the Tactical Services Unit of the Guyana Police Force had little effect on the inmates and control was gained when the use of the force was escalated to the use of shot gun with pellets. Despite the mayhem and damage to the critical infrastructure of the prison, I ensured that the inmates were safely moved to the exercise yard.
218. Later that morning two government Ministers met with a representative group of inmates who shared their concerns with the Ministers.
219. It is to be noted that in the course of dealing with the disturbances, injured ranks from the joint services and prisoners who were injured were sent to the Georgetown Prison to received medical attention by both Nurses and Doctors from the Georgetown Prison and Georgetown Public Hospital Corporation respectively.

220. Contractors from the Ministry of Public Infrastructure and the Demerara Harbour Bridge would have visited the Prison and assisted in conducting emergency repairs to some of the buildings that were damaged during the riot.
221. In total, the riot caused hundreds of millions in damage to property and prison infrastructure.

Post March 02-03, 2016 Incidents at the Georgetown Prison

222. Since the recent unrest at the Georgetown Prisons March 2nd – 4th 2016 which claimed the lives of 17 inmates and leaving 30 others sustaining minor injuries. The discipline and general location climate have changed as a result of the nature and magnitude of the unrest
223. The situation at the Georgetown Prisons is very tense. There was a fire on March 21, 2016 in Capital Block "C". There were numerous inmate-on inmate assaults, at least two of which required runs to Georgetown Hospital. There were mini riots in some living units. Inmates have become emboldened threatening the lives of Prison Officers and their families. Officers of all ranks have suffered from Post-Traumatic Stress Disorder, some have sought medical intervention and/or psychological help, and others have labored under the strain of their mental and emotional suffering.
224. The administration at the Georgetown Prison and the Prison Service as a whole, have exercised tremendous restraint in working towards normalcy being restored to the location.

Oversight of the Georgetown Prison

225. There are several oversight bodies that operation at the Georgetown Prisons including the Visiting Committee; Sentencing Management Committee; Ombudsperson; Guyana Human Rights Association and Ministry of Home Affairs.
226. Counsel for the Guyana Prison Service has submitted various documents in respect to the Visiting Committee to the Commission of Inquiry including:
- Annual Report- Visiting Committee 2011, 2013, 2014, 2015
 - Annual Report Jan, March, Aug, Sept, Oct, Nov 2014
 - Jan. Feb, March, June, April, July 2015
 - Letter to the Minister- May 2014- No Meeting
 - Visit to Georgetown Prison- Oct 2014
227. Counsel for the Guyana Prison Service has submitted various documents in respect to the Sentence Management Board to the Commission of Inquiry including:
- Sentence Management Board Report- Visit to Lusignan Prison- April 2015
 - Sentence Management Annual Report 2011, 2012 & 2013
 - Sentence Management Board Minutes: Jan, March, 2015, Jan, Feb, March, April May June, Oct,
 - Dec 2014; Feb, March, April, May, June, July, Sept, Oct, Dec 2013; Feb, May, June, Aug, Oct, 2012; Nov, Sept, 2011
228. The various reports of the Sentence Management Board were very detailed and showed that this Board played an integral part to the vocational and technical programs at the Georgetown Prison.
229. There are no reports from September 2015 to January 2016.
230. The Board was recently reconstituted by order of the Cabinet on January 20, 2016 (now revoked) and replace by February 02, 2016 Cabinet decision.

Informed Inaction: Failure to Implement Recommendations from Board of Inquiry, External and Internal Reports in the Georgetown Prison

231. Attached to our submissions are the 33-page “Report of Board of Inquiry into Escape of Five Prisoners from Georgetown Prison on February 23, 2002” which was presented to the then Minister of Home Affairs Ronald Gajraj (an Attorney-At-Law) by the Chairman of the Board of Inquiry Justice Cecil Kennard, former Chancellor of the Judiciary.
232. Unfortunately, most of the recommendations gathered dust under the governments led by Heads of State Dr. Bharat Jagdeo and Mr. Donald Ramotar. Attention must be paid to implementing the recommendations and forthwith.
233. Alastair Papps, Arthur de Frisching and Brian Fellowes, International Consultancy Group of the British Government Cabinet Office Centre for Management and Policy Studies “Prison Reform Report” July 2001.
234. Chief Justice (ag) Ian Chang presented to the Speaker of the National Assembly in May 2004 the “Report of the Disciplined Services Commission”, that dealt with recommendations for the improvement to the Georgetown, Mazaruni and New Amsterdam prisons.
235. 2009, Lloyd Nickram, Management Consultant Report.
236. Guyana Prison Service, Strategic Plan 2010 – 2015
<<http://www.moha.gov.gy/images/strategicplan/gpsstrategicplan2010-2015.pdf>>
237. In a February 25, 2010, in an article republished in the Stabroek News from the Guyana Review entitled “Public Safety...Inside story: The problems of the Prison Service” it concluded that:

The Guyana Prison Service at present does not possess the personnel and resources to deal with the growing horde of desperate and dangerous inmates. Clement Rohee, nevertheless, has the opportunity to break the cycle of neglect by re-reading and implementing the recommendations of the several reports handed to his predecessor over the past decade...

<<http://www.stabroeknews.com/2010/guyana-review/02/25/public-safety-inside-story-the-problems-of-the-prison-service/>> (Date accessed: May 01, 2016)

238. The obvious failure to implement the recommendations that flowed from numerous reports from 1997 to 2015 has, in part, contributed to the tragic circumstances that occurred at the Georgetown Prison in March 2016.
239. The deaths of the 17 inmates and the injury of 30 others could have been avoided and in fact prevented had the implementation of the recommendations of past reports referred to above been undertaken in that past decade.

Oversight Undermined

Visiting Committee

240. Clement James Rohee a member of the Central Executive Committee of the People's Progressive Party (PPP), has been the Minister of Home Affairs from September 2006 to May 2015, when the APNU-AFC Coalition won the National Elections and replaced the PPP led government.
241. From 2007 to 2015, Mrs. Charmalee Rohee, wife of the Minister sat on the Georgetown Prison Visiting Committee.
242. On Day 23 of the Commission's sitting, Commissioner Merle Mendonca, who was a member of the very Visiting Committee from 2006 to 2008, raised the issue of the conflict of interest in having a Minister's wife sitting on an oversight committee in the Ministry of which that Minister is responsible. That question was put to Patrick Crawford, a Chief Prison Officer. I objected to him answering that question, as public servants are neutral, serve the government of the day and are not in the business of

making pronouncements on appointments made by a sitting President or his Cabinet.

243. There is no public record and/or private records disclosed to Counsel that indicated that at the time Mrs. Rohee served any objections were made. However, the spouse of a Minister sitting on an oversight Committee that reports to him appears to be improper and should be discouraged.

Fair Trial Rights

244. Article 144 of the **Constitution**, Laws of Guyana, CAP 1:01, an accused person with the right to a fair hearing within a reasonable time of the criminal charges brought against him/her.
245. An accused person who believes his/her **Constitutional** rights has been violated can by way of originating motion seek a declaration that their right to a fair hearing within a reasonable time has been violated, that they have been prejudiced by the delay and the failure of the Director of Public Prosecutions to afford the applicant a fair hearing in a reasonable time of the criminal charges brought against him/her is an abuse of process of the Court, and can seek a remedy under Article 139 of the **Constitution** for a breach of Article 144 of the *Constitution*.
246. An accused person can seek by way of remedy, the extraordinary remedy of, a staying permanently the criminal charges. The accused can also seek the enforcement of Articles 40, 139 and 144 of the *Constitution*. In **Reman v. DPP** (2010), Madam Justice Diana F. Insanally found that a 8-year delay was inordinate, however, the applicants failed to show prejudice that warranted a stay of proceedings:

The fact that the delay took eight years is by itself inordinate delay without more. The DPP claimed that the applicants were on bail and therefore there was no prejudice, but the fact that the original depositions were lost and the prosecution's case will now be based on copies of those depositions may, or may not, have prejudicial consequences for the applicants trial. I cannot go into the evidence and determine the value of the evidence. It would be for the trial judge to determine whether or not the evidence would yield a conviction or not, or whether the evidence is so poor that the case should not be sent to the jury. The issue as to the

sufficiency of the evidence is not before this Court. The applicants also took seven years to assert their rights and only did so when the matter was set for trial in June 2009. 8 However, while the Court can find that there was an unreasonable delay, this by no means mean that the Court should stay the proceedings or quash the indictment. It is not because there is undue delay that the applicants are automatically entitled to have the charges stayed indefinitely. Since the State was ready to proceed in July 2009, I find that the applicants would not be prejudiced in their trial commencing at this time. The issue of the use of copies of the depositions can be dealt with appropriately by the trial judge. As regards the state of the evidence the relevant applications and submissions can be made before the trial judge. The public interest must be taken into account, the system of legal administration, economic and social conditions and security of financial resources, must be considered in coming to a decision as to whether the applicants should have their matters quashed. In the circumstances, I find that there was unreasonable delay in the hearing of the applicants' trial for the offence of manslaughter which is a contravention of their guaranteed right to a fair hearing within a reasonable time, but I do not find that the applicants are entitled to a permanent stay or quashing of the charges against them, and hereby order that the trial of the applicants be 9 commenced at the next sitting of the Criminal Assizes in Demerara failing which the applicants to be at liberty to return to Court for the making of any further orders.

247. This Commission heard evidence from inmates that a significant part of their protest rests with the inordinate delay in having their matters proceeding through the Criminal Justice System and the frustration that creates. However, as above, the lack of due diligence in asserting any rights is quite telling and really goes to the veracity of the claims of the inmates. The cross-examination of Michael Lewis on March 15, 2016 is cited herein to illustrate the point:

Mr. Pieters: Mr. Lewis you just give evidence a few minutes ago that you were charge by the police on the 11 of April, 2014 with Murder?

Prisoner M Lewis: Yes Sir!

Mr. Pieters: And you have a lawyer?

Prisoner M Lewis: Yes Sir!

Mr. Pieters: And who is your attorney?

Prisoner M Lewis: Mr. Nigel Hughes Sir!

Mr. Pieters: And You would agreed that Mr. Hughes is an experience attorney?

Prisoner M Lewis: Yes Sir!

Mr. Peter: Yes! And he is fully retained in your case, correct?

Prisoner M Lewis: Yes Sir!

Mr. Pieters: and

Chairperson Patterson; Does he understand what you mean by fully

retained? You better explain that.

Mr. Pieters: I am certainly prepared to clarified that

Chairperson Patterson: Yea!

Mr. Pieters: You ready or you want to have a drink?

Prisoner M Lewis: I ready sir!

Mr. Pieters: When I say Mr. Hughes was proper retained ah is fees are paid and he has command of you briefs.

Prisoner M Lewis: Yes sir!

Mr, Pieters: You mention that you are dissatisfied with the delay in the courts system?

Prisoner M Lewis: Yes Sir!

Mr. Pieters: At what stage your proceeding at?

Prisoner M Lewis: Sir I was throw up to the high court.

Mr. Pieters: So you had a preliminary inquiry?

Prisoner M Lewis: Yes Sir!

Mr. Lewis: And you committed to stand trial?

Prisoner M Lewis: Yes Sir!

Mr. Pieters: And you have a date for your trial?

Prisoner M Lewis: No Sir!

Mr. Pieters: and you mention delay from April 21, 2014 to present. when did your preliminary inquiry end?

Prisoner M Lewis: Sir I can't remember Sir, but is actually over I will say but a year Sir so you.

Mr. Pieters: Your evidence is that you was committed to stand trial a year ago?

Prisoner M Lewis: yes Sir!

Mr. Pieters: and Ahm...are preliminary application or any other ah....Motions that are on steam in respect to you case?

Prisoner M Lewis: Can you rephrase the question?

Mr. Pieters: Are there any preliminary issues or preliminary steps that your lawyer and the prosecutor has to take that you are aware of ah.... Prior to your trial for a judge and a jury ah...commencing?

Prisoner M Lewis: No not to my knowledge Sir.

Mr. Pieters: Are you aware, have you discuss the issue of delay with your lawyer?

Prisoner M Lewis: No not to my knowledge Sir my family will mostly speak with the lawyer.

Mr. Pieters: Yes or No have you discuss the issue of delay with your lawyer?

Prison M Lewis: No sir!

Mr. Pieters: And why not?

Prisoner M Lewis: Sir I don't really get to speak to the lawyer sir.

Mr. Pieters: So you have, haven't you give your lawyer instructions in respect to bring an application ahm to speed up your trial date?

Prisoner M Lewis: Sir I could remember.

Mr. Pieters: Yes or No!

Prisoner M Lewis: No Sir!

Mr. Pieters: (Pause) so the delay in terms of what you are complain of in your witness statement is a delay on the part of yourself not excise due diligence not to

move your case forward?

Prisoner M Lewis: I would agree with you sir

RECOMMENDATIONS

The Commission shall determine comprehensive and plausible recommendations to ensure the safety of the prisons.

(i) Examine and make findings and recommendations to improve the physical infrastructure of the prison:

248. A safe and humane environment for persons in state custody is not optional. It is imperative under various instruments including the *Constitution*, the *Prison Act* and International Instruments to which Guyana has committed itself.
249. Senior Superintendent Gladwin Samuels testified that “Based on my assessment of those structures – 90% constructed with wood – newly constructed Capital Division – they were not strong enough to offer the level of security to house prisoners – for the various categories of offences.” This is a damning and telling analysis of the infrastructure of the Georgetown Prison.
250. Mr. Samuels was amongst the Senior Officers who wrote various memorandum concerning the breaches in the wall notably between Capital Block A and B and the Tailor shop: See Memorandums dated May 02, 2014; June 09, 2014; June 24, 2014; September 18, 2014 August 27, 2015 and January 16, 2013.

The Commission shall determine comprehensive and plausible recommendations to ensure the safety of the prisons.

(ii) The existing security arrangements in respect of the custody, management and control of prisoners.

251. The existing security arrangements, in our respectful submissions, is less than adequate.

252. Superintendent Kevin Pilgrim, Officer in Charge of the Georgetown Prison is quite apposite in our respectful submissions:

Recommendations

The following are only some of the recommendations that would be needed to bring some residue to this crisis situation.

- ❖ Establish and approved rules of engagement that should be made out to all inmates and officers.
- ❖ An aggressive adjudication of all acts of indiscipline.
- ❖ The institution of charges for all who were involve in the mass destruction of the prison.
- ❖ An official address to the inmate population with regards to the legal issues and other matters by the respective authorities.
- ❖ A complete sanitation of the prison.
- ❖ The expeditious completion of the brick prison.
- ❖ An comprehensive and massive recruitment drive to increase the staffing of the prison with competent male officers.
- ❖ Increase searches by the joint services.
- ❖ More staff rotation and transfers.
- ❖ Need Accommodations for Staff.
- ❖ Upgrade of surveillance systems, ongoing.
- ❖ Introduction of body cameras.
- ❖ Re-Introduction of K-9 units.
- ❖ Installation of upgraded cellphone jammers.
- ❖ Increase collaboration with GT&T and Digicel.
- ❖ Increase collaboration with CID, Intelligence Dept, Special Branch and MCID.

The Commission shall determine comprehensive and plausible recommendations to ensure the safety of the prisons.

(iii) The appropriate treatment of prisoners in compliance with legal and other requirements.

253. Questions were asked of the Director and Deputy Director about the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), and its place in domestic law. This document is available online and any Prison officer is able to download it and read it.
254. It is submitted that Guyana Prison Service ensure that each and every rank is provided with a copy of its Standard Operating Procedures and/or Standing Orders.
255. It is submitted that all Prison Officers at every rank and officer level be trained in first aid, Cardiopulmonary resuscitation, commonly known as CPR and be required to be recertified every five years.
256. It is submitted that all Prison officers receive refresher training every five years in the following areas:
 - Prison Law inclusive of the Constitution of Guyana, the *Prison Act*, *The Police Act*, and any jurisprudence that impacts on their work,
 - Cell Extraction Procedures,
 - Restraint Equipment,
 - Arrest and Control,
 - Use of Force,
 - Emergency Fire-fighting,
 - Hostage Rescue Operations, and
 - Chemical Agents, inclusive of dry chemical extinguishes and tear smoke.
257. It is submitted that all Prison Officers at every rank and officer level be required to be fully dressed in uniform and wear their use of force options during an emergency or critical incident at the prison to which he/she is called out. The uniform is part of their authority and it is even more critical in situations where the chain of command must be evident.
258. It is submitted for evacuation and/or extraction the proper use of force equipment should be made available to the officers and ranks including leg irons, hand cuffs, a chemical agent and a video camera and be made available to the team prior to the commencement of any extraction.

259. There is need for adequate provision of prison clothing for the various categories of prisoners.
260. The beds used in prisons should be constructed of material that cannot easily be used by prisoners to make weapons.
261. The sleeping material used needs to be more fire retardant.
262. Prisoners of unsound mind should not to be sent to prison or if prison is necessary, there should be a forensic ward staff by psychiatrist and psychiatric nurses.
263. There should be improved and increased rehabilitation training for all categories of prisoners. This would require much more space and many more facilitators.
264. There is need for improvement of health care facility so that we can provide holistic health care as stated in our Strategic Development Plan.
265. There is need for improvement of our kitchen facilities so as to move away from the use of fire wood.
266. There needs to be more effective use of prison labour for the development of this nation; at the same time, that will serve to instill in prisoners the habit of working honestly.
267. There is need for better use of technology to monitor prisoners' communication with the outside world.
268. There needs to be installation of jammers to avoid the use of illegal cell phones in prisons.
269. There needs to be massive improvement in staff-to-prisoners ratio.
270. With the very lengthy sentencing being handed down, where the prospect for release for some inmates are slim to nil, immediate attention must be geared towards planning for the aging population that requires special facilities to accommodate their diverse needs.

The Commission shall determine comprehensive and plausible recommendations to ensure the safety of the prisons.

(iv) To prevent a recurrence of any such disturbances.

271. It is submitted that, for the safety of Prison officers and inmates, all Prison officers receive training in the extractions of non-compliant inmates, in various institutional settings including dorms, the tarmac or in a small cell. That further enhance training be provided to control for complex and evolving situations such as a fire with a secondary hostage taking situation and/or a fire with a jammed door.
272. It is submitted that an appropriate recommendation is that there always be a Custodial staff member trained in crisis negotiation in the institution.
273. For now, the improved security on the exterior with constant rotation to avoid contamination should be continued.
274. There is urgent need for computerization of prisoners' records.
275. There is need for revision of the Laws to provide for stronger sanctions of Officers found guilty of trafficking in contraband items.
276. There needs to be provision of more welfare services.
277. There needs to be more extensive use of prison labour to produce for the prison population.

Conclusion

278. in *R. v. Aziga*, [2008] O.J. No. 3052, Justice Lofchik wrote:

61 Detention facilities are not nice places for nice people. They are institutions for confinement of people either charged with or convicted of crimes. The Applicant is not being "punished" but simply suffering from what appear to be the inevitable inconveniences of the operation and administration of a large detention centre. His situation may not be comfortable and it may be considerably aggravated by the length of his stay but I have found in an earlier application that the delay in this case was not caused by an infringement of the Applicant's constitutional rights.

279. See also discussion in *Contesting Expertise in Prison Law*, 60 McGill L.J. 43.

280. In the context of the Georgetown Prison, it is our submissions that the evidence submitted by Superintendent Pilgrim to the Commission of Inquiry indicates that the Georgetown Prison is characterized by overcrowding, local gangs and violence. It was his evidence that there is now the general trend of inmates trying to instill fear and intimidation in ranks which would have contributed significantly to the number of officers reporting sick and just absenting themselves from duties. Chief Officer Baker also testified that the Prisoners have become more disrespectful to lawful authority and brazen "As prisoners, walking around with two juckers in their waist and rolling up marijuana, smoking a big joint; and they walking in front of you and blowing smoke in your face; temptations (rise) sir." This has exacerbated the chronic shortage of custodial staff. Further, Prisoner to Prisoner violence has taken on a more violent posture with several inmates hospitalized with serious injuries at the hands of other inmates.

281. According to United States Department of State, "Guyana," Country Reports on Human Rights Practices for 2015, 13 April 2016:

Prison and Detention Center Conditions

Prison and jail conditions, particularly in police holding cells, were harsh and potentially life threatening due to gross overcrowding, physical abuse, and inadequate sanitary conditions and medical care.

Physical Conditions: The Guyana Prison Service reported that, as of October, there were 1,944 prisoners in five facilities with a combined design capacity of 1,640. A total of 963 prisoners were in Georgetown's Camp Street Prison, designed to hold 550 inmates. Overcrowding was in large part due to a backlog of pretrial detainees, who constituted approximately 11.3 percent of the total prison population.

Online:

<<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=253019#wrapper>> (Date accessed: May 05, 2016).

282. On the basis of the facts and the applicable law, it is our submissions that there can be no findings of failure to comply with standard operating procedures, the *Prison Act*, or *Standing Order*, on the part of any Director, Officers and/or ranks of the Guyana Prison Service that was present at the Georgetown Prison on March 03, 2016.
283. Clearly, having regard to the preceding section and testimonial evidence, a significant degree of responsibility rest with the political directorate at the Minister of Home Affairs level that was responsible for the funding and policy direction to implement the recommendations of past reports into the Guyana Prison Services from 2000 to 2010. Informed inaction was the order of the day.
284. The Marriott Hotel was more important than building a brick prison that was began constructions way before the Mariott and is still under construction as these submissions are being compiled.
285. It is respectfully submitted that the lack of personal protection clothing and equipment, breathing apparatus and proper firefighting equipment including smoke detectors, sprinkler systems, water pumps, water hoses, must be addressed and addressed immediately.

286. The wooden Prisons that are a fire hazard and a death trap. it is respectfully submitted, has to be demolished (or taken out of operational use) and new brick prisons constructed to specification governing the construction of prisons.
287. Prisons costs money.
288. As the Courts continue to share out very harsh sentencing for offenders including for non-violent offences and possession of marijuana, safe and humane places must be constructed to house these offenders in state custody.
289. On behalf of the Guyana Prison Service, we wish to thank the staff and Commissioners in advance for the complete review we hope will be undertaken in this matter and for the attention in order to properly assess the lengthy and detailed submissions contained in our written representations.
290. If there are any questions which arise from the review and assessment of the documentary evidence, viva voce evidence, demonstrative evidence and our written submissions, or if there is any further way we can assist the Commissioners in their task, we hope that you will not hesitate to contact us.

All of which is respectfully submitted,

Dated at Georgetown, in the Cooperative Republic of Guyana this **08** Day of **May 2016**

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Guyana Prison Service