

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



THE PRESIDENT'S OFFICE

MALE'

REPUBLIC OF MALDIVES

This is an English translation of the report entitled "Investigative Findings on the Shooting Incident at Maafushi Prison" presented to The President, by the Presidential Commission established by The President on 20 September 2003, to investigate the incident of shooting by the police security guards during a confrontation between a large number of prisoners at the Maafushi Prison and security guards entrusted with the security of the prison, on Saturday 20 September 2003.

Since certain parts of this report cannot be made public for reasons of national security, these parts have been removed from this published translation. Those paragraph 2.8.6, parts are part of paragraph 4.1.1 (b), part of paragraph 4.1.1(c), part of paragraph 4.2 (c), and paragraphs 4.3 (b), 4.3 (f) and 5.2.3, paragraph 5.5.14 and part of paragraph 5.6.2, paragraphs 5.7.1, 5.7.2 and 5.7.3 of the report.

Although these parts have been removed, those parts of the report that examined how the incident of shooting in Maafushi Prison unfolded, the details of various bodily injuries suffered by the inmates due to this incident, the identity of the persons responsible for this incident and the extent of their responsibilities, specifics of the salient points noted by the Presidential Commission in its inquiry into the incident is included in this report.

5 Zul-Hijja 1424
27 January 2004

**INVESTIGATIVE FINDINGS
ON THE INCIDENT OF SHOOTING
AT MAAFUSHI JAIL**

A TRANSLATION

PRESIDENTIAL COMMISSION

29 DECEMBER 2003

Presidential Commission

Male'

Republic of Maldives

INVESTNGATIVE FINDINGS **ON THE INCIDENT OF SHOOTING AT MAAFUSHI JAIL**

The President instructed the Presidential Commission on 23 September 2003 to investigate:

- the circumstances surrounding the shooting incident by certain personnel belonging to Maafushi Jail Security Unit in a confrontation that occurred at Maafushi Jail on 20 September 2003 between a large number of inmates confined at Maafushi Jail and certain Maafushi Jail Security Unit personnel;
- to determine if any law was violated in that incident and if any violation of law existed in that incident, then to identify persons responsible for the shooting and to the extent of their responsibility;
- and to submit a report containing its findings;

By virtue of a Presidential Decree Number 226/2003 the President had instituted and granted the necessary powers to the Presidential Commission;

The Commission had submitted to the President its "Report on the Incident of Shooting at Maafushi Jail";

Beseeching Almighty Allah for strength, the Commission submits “Investigative Findings on the Incident of Shooting at Maafushi Jail”.

29 December 2003

1. Abdul Sattar Moosa Didi *...signed...*
2. Shaaheen Hameed *...signed...*
3. Aishath Mohamed Didi *...signed...*
4. Abdulla Saeed *...signed...*
5. Dr. Mohamed Solih *...signed...*

1. INTRODUCTION

1.1 Investigative Findings

1.1.1 This document entitled “Investigative Findings on the Incident of Shooting at Maafushi Jail” is prepared in addition to the “Report on the Incident of Shooting at Maafushi Jail” pursuant to his addition to the mandate of the Presidential Commission which was instituted on 20 September 2003 with the task of investigating the incident of shooting at Maafushi Jail on 20 September 2003. Both reports have been submitted to President Maumoon Abdul Gayoom. This collection of findings of the investigation conducted by the Presidential Commission is compiled with the realisation that it was important for its findings to be separately collated in a manner convenient for general purpose use.

1.1.2 This compilation contains the detailed findings of the investigation conducted by the Presidential Commission regarding the circumstances surrounding the incident of Shooting at Maafushi Jail on the 20 September 2003, the details of various bodily injury suffered by persons wounded in the incident. It identifies persons responsible for the incident and determines the extent of their responsibility.

In providing this compilation, emphasis has been laid by the Presidential Commission not to distort any facts of the matter or compromise any findings of its investigation.

1.2 Institution of the Presidential Commission

1.2.1. The President initially instituted the Presidential Commission to investigate and submit a report to the President regarding the circumstances surrounding the death of Hassan Evan Naseem of Maafannu Asia; to identify the persons responsible for his death; and the extent of their responsibility. The President also charged that Presidential

Commission with a mandate to submit recommendatory steps that could serve to prevent the occurrence of such an incident in future.

- 1.2.2 The Presidential Commission comprised of five Members: Mr Abdul Sattar Moosa Didi, Mr Shaaheen Hameed, Mr Abdulla Saeed, Ms Aishath Mohamed Didi, and Dr Mohamed Solih. Mr Abdul Sattar Moosa Didi was appointed its Chairperson.

1.3 Assignment of investigating the incident of shooting

- 1.3.1 On 20 September 2003, the day on which the Presidential Commission was instituted, a confrontation occurred at Maafushi Jail between a large number of inmates who broke out of their cells and confinement blocks at Maafushi Jail and certain personnel belonging to the Maafushi Jail Security Unit. Certain personnel belonging to Maafushi Jail Security Unit used fire arms with live ammunition consequently causing certain inmates to be injured.

- 1.3.2 Upon inquiring into the incident where certain Maafushi Jail Security Unit personnel used fire arms on 20 September 2003, the Commission was asked to determine whether any law was violated in that incident, to identify persons responsible for the shooting and to determine the extent of their responsibility, to bring the person or persons responsible to justice so as to carry out the punishment due to them in accordance with Islamic Sharia'ah and the Laws of the Maldives. The President decided to grant to the Presidential Commission, in addition to tasks previously assigned to it, an additional mandate of investigating this incident.

1.4 Interviewing persons injured with gunshots

- 1.4.1 Where it was found important for advancing with the process of investigation, interviews were carried out persons injured as a result of the gunshots, and investigation teams were sent to Navaloka Hospital and Apollo Hospital in Colombo where those who survived their gunshots

were being treated and information required to be obtained from them was duly obtained.

- 1.4.2 Some of those persons later joined at Maafushi (Jail) for the reconstruction of that incident.

1.5 Visit to Maafushi Jail

- 1.5.1 Members of the Commission visited Maafushi Jail on 23 September 2003 and 6 October 2003. The second visit was for the purposes of gathering an impression of the circumstances and places surrounding the incident of shooting on 20 September 2003. Items and places of evidentiary value were photographed and captured on video.

- 1.5.2 In addition to the Members of the Commission, the investigation teams of the Commission visited Maafushi Jail as and when required for their purposes and collected as much information as was available to them.

1.6 Visit to Girifushi

Where it was found that knowledge of members of the investigation teams regarding the fire arms believed to be used in the incident of Shooting at Maafushi Jail, including the noise generated from their use, time taken to use them, and the manner of loading them and other like matters, would facilitate the investigation, a program was conducted on 30 November 2003 at the Training Centre operated by National Security Service on Girifushi to obtain such information.

2. CIRCUMSTANCES SURROUNDING THE INCIDENT OF SHOOTING

2.1 News of Hassan Evan Naseem's Death Reaching Inmates

- 2.1.1 It is known that the news of the death of Hassan Evan Naseem of Maafannu Asia, an inmate at Cell 3, Block C of Maafushi Jail, that occurred at Maafushi Jail on the night of 19th September 2003 reached the inmates of Maafushi Jail at a time before 11 am of 20 September 2003.¹
- 2.1.2 It is known from the statement of Department of Corrections Guard Hussain Faizam that on receiving the news of the death of Hassan Evan Naseem, to the inmates of Block C, some inmates from Block C asked a guard of Department of Correction to convey their request to meet a security officer from the Department of Corrections; and that request was conveyed to the officer on duty at the Department of Corrections Operations Room Abdulla Muneer by him; and since no person came there, the request was conveyed again; and yet no officer from the Department of Corrections came to meet the inmates even at the time his duty there ended at 12 noon.
- 2.1.3 It is known from Private Mohamed Jinah of the Maafushi Jail Security Unit who went near Block C after inmates of Block C had received the news of Hassan Evan Naseem that he heard inmates calling that Hassan Evan Naseem was at the cemetery at the time and that everyone shall perform funeral prayers for Hassan Evan Naseem.
- 2.1.4 It is known that the duty post covering Blocks G, H, and D and isolation cells of Block E were monitored by Ismail Ahmed, Adam Zahir and Ali Nadeem Ibrahim, who were three guards from the Department of Corrections and that Block C was monitored by Hussain Faizam another guard from Department of Corrections.
- 2.1.5 It is known that a fall-in of the Department of Corrections guards was formed before their morning shift began and that they were instructed to

¹ The Presidential Commission has submitted a separate report on the circumstances leading to the death of Hassan Evan Naseem.

report any activity that may occur inside the Jail as a result of the death of Hassan Evan Naseem.

- 2.1.6 It is known that when Abdulla Muneer Security Officer of the operations room at the Department of Corrections received information that the inmates had come to know of Hassan Evan Naseem's death, he reported it to Department of Corrections's Deputy Director Jaufar Adam who then informed the matter to Captain Adam Mohamed.
- 2.1.7 It is known that Captain Adam Mohamed called Major Ibrahim Latheef by telephone and informed him that the situation at the Jail was deteriorating; And that Major Ibrahim Latheef, with the advice of the Commissioner of Police Brigadier Adam Zahir, instructed Captain Adam Mohamed to go up to the inmates and to talk to them.

2.2 Funeral Prayers for Hassan Evan Naseem

It is known that inmates from some cells at Block C refused to take lunch that day and that they performed funeral prayers after mid-day prayers.

2.3 Maafushi Jail Security Unit Begins Taking Action

- 2.3.1 It is known from Sergeant Mohamed Shareef that calls to perform funeral prayers by the inmates of the jail were reported by the Maafushi Jail Security Unit personnel on duty at the Block to the Maafushi Jail Security Unit Operations Room; and when asked to narrate that information to Officer in Charge of Maafushi Jail Security Unit, Captain Adam Mohamed, Lance Corporal Mohamed Abdulla notified Captain Adam Mohamed of that development by telephone.
- 2.3.2 It is known that after the mid day prayers, when Sergeant Shahid Ali Manik was informed by Sergeant Mohamed Shareef that Captain Adam Mohamed was looking for him, Sergeant Shahid Ali Manik went to meet Captain Adam Mohamed and at that time Captain Adam Mohamed and Lieutenant Mohamed Aswan were in the varena of the Officers' Block; and that Sergeant Shahid Ali Manik was informed that the situation at the Jail had deteriorated; some of the inmates had refused to take lunch; and that they might break out of their cells.

- 2.3.3 It is known that after a while, all personnel of the Maafushi Jail Security Unit were called to a fall-in; a group of them was sent for an inspection of Block C; and that Corporal Adnan Hussain was among them; and that he returned and narrated that the inmates were performing funeral prayers and that they had refused to take lunch.

2.4 Locking Up Certain Blocks

- 2.4.1 It is known that when Corporal Adnan Hussain narrated that to Sergeant Shahid Ali Manik, the same was conveyed to Captain Adam Mohamed; and that Captain Adam Mohamed instructed that inmates of Blocks G, H and I be put back in their cells and that their cells be locked; and that Sergeant Shahid Ali Manik started to act upon that instruction,
- 2.4.2 It is known that after locking up cells at Block I first, Sergeant Shahid Ali Manik asked his men to proceed to lock cells at Blocks G and H; and that as they reached the duty-post between Blocks D and C, they were spotted by an inmate from C5 through a window and yelled at them; and that an immediate and loud uproar from the entire Block C followed.

2.5 Inmates Coming Out of Some Blocks

- 2.5.1 It is known that at the same time of the uproar the Maafushi Jail Security Unit personnel heard inmates banging on the corrugated iron sheets forming the back of Block C; and that shortly afterwards they saw these corrugated iron sheets being pushed open; and that 2 inmates jump out of C3.
- 2.5.2 It is known that more inmates started coming out thereafter; and that they started throwing stones at the Maafushi Jail Security Unit personnel there; and that when the inmates refused to heed the advice of the Maafushi Jail Security Unit personnel to stop throwing stones the Unit's personnel dispersed themselves to various places.
- 2.5.3 It is known that in no time more and more inmates started coming out; and that those who did not come out were also forced to come out when others started throwing stones at them; and from among those who came out of Block C some of them broke the locks on the cells of D and E Blocks; and

that they opened the doors of G and H Blocks; and that this facilitated more inmates to come out of their cells.

- 2.5.4 It is known that a large number of inmates who came out of C,D,G,H and I Blocks came via the back alley of Block C to the gate of the Block near the toilet in front of C1 and that they tried to come out of that gate. Some Maafushi Jail Security Unit personnel were holding the gate from outside to prevent the inmates who had come out of the cells and had proceeded to the gate, from coming out onto the main road. The inmates were throwing stones at the Security Unit personnel holding the gate, causing them to abandon that area.
- 2.5.5 It is known that Lance Corporal Ibrahim Didi ran to Captain Adam Mohamed and informed him of this development; and that Captain Adam Mohamed instructed him to inform others to cordon off the Jail; and that when Lance Corporal Ibrahim Didi came out to the road to give that message there were already some personnel of the Maafushi Jail Security Unit there cordoning the premises.

2.6 Opening the Armoury and Taking Up Riot Gear

- 2.6.1 It is known that shortly afterwards, some Maafushi Jail Security Unit personnel were issued riot gear (shields, batons and helmets); and that those to whom riot gear was issued formed a single file on the main road across the gate of Block C cordoning that area; and that some went towards the jetty.
- 2.6.2 It is known that vessels anchored near Maafushi jetty were asked to be moved away and that personnel from Maafushi Jail Security Unit and Department of Corrections were involved in this.
- 2.6.3 It is known that after the inmates had broken out of their cells in the Jail, Assistant Warden Mohamed Hussain of Department of Corrections informed this development to Jaufar Adam, Deputy Director of the Department of Corrections, while he was seated on a swing at his premises. Jaufar Adam, requested that he be helped to escape from the Jail premises; and that he was taken to the general residential area of Maafushi through the Gate that leads to Maafushi.

- 2.6.4 It is known that when Lieutenant Mohamed Aswan came to know that inmates had come out of their cells he took his pregnant wife to Gate Number 1 and sent her into the general residential area of Maafushi through a large hole on the partitioning fence to the west of that Gate; and that he returned to his block and wore his uniform; and that he went up to the personnel from his Unit who were cordoning the gate of Block C; and that he asked them to hold the cordon and not to let it break.
- 2.6.5 It is known that, after a short while, the inmates who came out of their cells opened the Main Gate of Block C and came out onto the main road; and that the personnel cordoning the area began to retreat; and that after a while the cordon was broken; and that on seeing the cordon break away, Lieutenant Mohamed Aswan ran out of the Jail premises by crossing over the fence that partitions the residential area of Maafushi from the Jail premises.
- 2.6.6 It is known that the inmates who came out of the Jail threw stones, pieces of ceramic and other objects at Maafushi Jail Security Unit personnel and their property; and that as a result of which four Maafushi Jail Security Unit personnel suffered varying degrees of injuries.
- 2.6.7 It is known that according to Lieutenant Mohamed Aswan when he was approaching towards the Gate of Block C after sending his wife to Maafushi general residential area he saw Captain Adam Mohamed walking towards the Gate of the Officers' Block wearing civilian cloths.
- 2.6.8 It is understood that when Lieutenant Mohamed Aswan saw Captain Adam Mohamed he was walking towards his room to put on his uniform, and it is known that when Captain Adam Mohamed came out of his room inmates had already come out onto the main road after opening the main gate of Block C; and that the cordon of the Maafushi Jail Security Unit personnel had broken; and Lieutenant Mohamed Aswan had already gone to Maafushi general residential area.
- 2.6.9 It is known that when Captain Adam Mohamed approached the Gate of the Officers' Block after taking a baton and shield from the Officers' Block part of the crowd of inmates who broke out from their cells and blocks of confinement had passed the Officers' Block towards the direction of Maafushi residential area; and that when Captain Adam Mohamed came to

the Gate of the Officers' Block, some turned towards him and gathered in front of him.

- 2.6.10 It is known that when the inmates turned to Captain Adam Mohamed he tried to talk to them; and that inmates were using foul language; and that Captain Adam Mohamed asked them to calm down.
- 2.6.11 It is known that Mohamed Faseeh, an inmate from G block was one the persons at the front line of the crowd of inmates; and that Captain Adam Mohamed was within Mohamed Faseeh's arm's reach; and that he asked questions on the death of Hassan Evan Naseem, and that Mohamed Faseeh turned to the crowd and asked them to remain calm; and that Captain Adam Mohamed did not offer any reasonable response to those questions.

2.7 Taking up Arms

- 2.7.1 It is known that during this confrontation, Captain Adam Mohamed turned towards the Maafushi Jail Security Unit personnel standing behind him, raised the hand in which he held his baton and ordered them to take arms. This gesture of Captain Adam Mohamed was witnessed by some inmates gathered at the scene as well.
- 2.7.2 It is known that when Captain Adam Mohamed ordered the Maafushi Jail Security Unit personnel to take up arms during this confrontation, personnel of that Unit who were immediately behind Captain Adam Mohamed relayed the order to others behind them and that within no time, several types of AK-47 rifles were issued from the armory. Captain Adam Mohamed was then in front of the inmates near the National Security Service garage inside the Officer's Block and Private Ibrahim Moosa was standing to the left of Captain Adam Mohamed while Sergeant Mohamed Shareef was standing to his right. Behind Sergeant Mohamed Shareef were Corporal Mohamed Nazim, Private Mohamed Shaffaah and Lance Corporal Moosa Ijulal. Further back near the armoury were Sergeant Shahid Ali Manik, Private Hassan Rifaau, Corporal Mohamed Rafeeu, Private Mohamed Jinaah and Private Ahmed Mujuthaba Hussain. Private Ibrahim Shareef and Corporal Siddeeq Abdul Hameed were standing near the Swing Shed.

2.8 Maafushi Jail Security Unit Starts Shooting

- 2.8.1 It is known that as soon as Sergeant Shahid Ali Manik came out of the armoury into the open premises of the Block with his rifle he fired some shots into the air; and that it would be half past twelve in the afternoon by then; and that immediately after firing shots into the air he moved onto the armoury's veranda; and that according to his own admission, aimed directly and shot at Mohamed Faseeh without any further warning.
- 2.8.2 It is known that Private Hassan Rifaau, was near the Stock Room on the northern side of the armoury; and that he, according to his own admission fired two shots into the air and fired four shots aimed at an inmate who had thrown stones at him.
- 2.8.3 It is known that when Sergeant Shahid Ali Manik fired his first shots Sergeant Mohamed Shareef moved north in the direction of the Stock Room; and that Captain Adam Mohamed also followed; and that Sergeant Mohamed Shareef moved back and crossed over to the armoury; and that Captain Adam Mohamed retreated from the Block by first moving back to the swing shed at the end of the Officers' Block and then moving past it.
- 2.8.4 It is known that Private Ahmed Mujuthaba Hussain fired 3 shots into the air while standing in front of the armoury and on seeing Sergeant Shahid Ali Manik shoot at the inmates he, according to his own admission, started shooting at the inmates without any warning.
- 2.8.5 It is known according to his own admission that Private Mohamed Jinaah, fired 2 shots into the air while standing on the left side of Private Ahmed Mujuthaba Hussain.
- 2.8.6 (removed).
- 2.8.7 It is known that having obtained a rifle from the armoury, Private Mohamed Alim followed the crowd of inmates retreating the Officer's Block; and that at that time Private Hassan Rifaau and Private Ahmed Mujuthaba Hussain, who were both carrying rifles, were ahead of him; and that Private Hassan Rifaau and Private Ahmed Mujuthaba Hussain shot at the inmates from behind whilst they were retreating from the Officers' Block.

2.8.8 It is known that when Sergeant Mohamed Shareef arrived at the veranda of the armoury Lance Corporal Ibrahim Didi handed him a rifle and Mohamed Shareef took the rifle with him and attempted to pass through the main gate of the Officer's Block.

2.9 Fatalities and Injuries

2.9.1 It is known that a total of 20 people suffered injuries from gunshots during the incident of shooting on 20 September 2003; and that 6 of them were injured from shots fired from inside the Officers' Block; and that one of them was Private Ibrahim Moosa who was a member of the Maafushi Jail Security Unit; and that the remaining five were, Mohamed Faseeh, Ali Aslam, Ahmed Shiyaz, Mohamed Rameez and Abdulla Ameen; and that the remaining suffered gunshots whilst they were outside the Officers' Block; and that according to medical records, 15 out of the 20 persons were shot above their knees; and that 9 of them were shot directly from behind; 6 were shot from the front; bullet entry points were not determinable in 5 persons; and a total of 3 died due to gunshot wounds.

2.9.2 It is known that left elbow and left thigh of Mohamed Faseeh of Seenu Feydhoo Florida who was speaking to Captain Adam Mohamed were hit by bullets immediately after the first shots were fired; and that a moment before he was hit, he was right in front of Captain Adam Mohamed within his arm's reach; and that both of them were aligned to the first tree inside the Officers' Block.

2.9.3 It is known that Abdulla Ameen of Maafannu Binunimaage was shot in the head while he was on the main road facing the gate of the Officers' Block; and that he was hit with the first round of shots fired from the Officers Block.

2.9.4 It is known that Ahmed Shiyaz of Gaafu Alifu Vilin'gilee Janavaree Maage was shot in the chest while he was standing outside the Officers' Block facing the Gate.

- 2.9.5 It is known that Ali Aslam of Lhaviyani Naifaru Sinamaage was shot while he was running for cover and advancing towards the stock room inside the Officers' Block compound and fell near the Stock Room.
- 2.9.6 It is known that Mohmed Rameez of Thaa Kandoodhoo Asareege was shot in his right leg while he was inside the Officers' Block compound; and that once hit by the bullet he tried to walk away from the Block and in the process fell near the wall of the Block.
- 2.9.7 It is known that Private Ibrahim Moosa who was on the left side of Captain Adam Mohamed, was shot while he was running towards the stock room.

2.10 Running for Cover

It is known that once the inmates started running for cover, a group of Maafushi Jail Security Unit personnel inside the Officers Block came out of that Block with their rifles and pursued the inmates; and some of these personnel from Maafushi Jail Security Unit went towards the Jetty, Maafushi general residential area, Blocks C, G, and Female Inmates Block while others remained at the round about on the main road.

2.11 Maafushi Jail Security Unit Personnel Who Carried Weapons

- 2.11.1 It is known that on 20 September 2003, a total of 12 rifles were issued from Maafushi Jail armoury and 15 persons had possession of them at different times.
- 2.11.2 It is known that those who carried rifles were: Sergeant Shahid Ali Manik, Private Ahmed Mujuthaba Hussain, Private Mohamed Jinaah, Private Hassan Rifaau, Staff Sergeant Ali Hassan, Private Ibrahim Shareef, Private Mohamed Iqbal, Lance Corporal Mohamed Abdulla, Sergeant Mohamed Shareef, Private Mohamed Moosa, Private Ali Rasheed, Private Hussain Rasheed, Corporal Mohamed Rafeeu, Corporal Abdul Raof Hassan and Private Mohamed Alim.
- 2.11.3 It is known that in changing the possession of rifles carried individually by 15 personnel of the Maafushi Jail Security Unit that day, Staff Sergeant Ali Hassan took the rifle that was held by Private Ibrahim Shareef, Private Mohamed Iqbal took the rifle that was with Private Mohamed Jinaah and Private Mohamed Moosa took the rifle from Private Ali Rasheed.

- 2.11.4 It is known that Private Mohamed Alim and Private Ahmed Mujuthaba Hussain according to their own admissions went inside the confinement Blocks with their rifles and Private Mohamed Alim shot a single shot into the air while inside G Block and that Private Ahmed Mujuthaba Hussain shot into the air while at C5; and Private Hassan Rifaau threatened an Indian inmate of Tamil Nadu State by the name of Quiket Fernando with his rifle while the latter was standing on the main road near the Medical Centre and in the process he negligently discharged a bullet that grazed Quiket Fernando's left sole.

2.12 Return of Weapons to the Armoury

- 2.12.1 It is known that when Captain Adam Mohamed heard shots fired from blocks G and C and he ordered Sergeant Mohamed Shareef to return the rifles to the armoury; and that Captain Adam Mohamed also asked to ascertain the number of bullets fired.
- 2.12.2 It is known that once this instruction was issued rifles were returned to the armoury; and that it is likely that a period of at least 20 to 30 minutes would have elapsed between issuance and return of those rifles.
- 2.12.3 It is known that there was shooting in the Officer's Block for one minute; and that 15 minutes later shots were heard from Blocks C and G.

2.13 Information of Shooting Conveyed to Male'

- 2.13.1 It is known that Captain Adam Mohamed telephoned Major Ibrahim Latheef at about 12.53 pm and informed him that "some have fired guns" at Maafushi Jail and that "some were injured". At that time, Major Ibrahim Latheef was in a meeting with Commissioner of Police Brigadier Adam Zahir at his office. Captain Hussain Shakir and Lieutenant Abdulla Riyaz were present in this meeting. Major Ibrahim Latheef immediately reported the incident to Brigadier Adam Zahir while holding Captain Adam Mohamed on the line.
- 2.13.2 It is known according to his narration that when Major Ibrahim Latheef asked Captain Adam Mohamed how the incident had occurred, Captain Adam Mohamed replied by saying that they had to shoot because the

inmates were going towards the armoury. However Captain Adam Mohamed denies having replied as such and goes on to say that such a question was not asked by Major Ibrahim Latheef.

- 2.13.3 It is known that Commissioner of Police Brigadier Adam Zahir telephoned Deputy Commander-in-Chief Anbaree Abdul Sattar at 12.57 pm and informed him of the shooting incident.
 - 2.13.4 It is known that when Brigadier Adam Zahir informed the Deputy Commander-in-Chief Anbaree Abdul Sattar of the incident; the latter asked Brigadier Adam Zahir to inform the President and Commander in Chief of the Armed Forces about the incident.
 - 2.13.5 It is known that both Brigadier Adam Zahir and Deputy Commander-in-Chief Anbaree Abdul Sattar called the Commander-in-Chief and conveyed the news of the incident to him.
 - 2.13.6 It is known that when a person resident in Male' informed Department of Corrections's Director Mohamed Muizzu Adnan about the shooting incident, he verified it from Maafushi Jail and called and informed the Minister of State for Presidential Affairs Mr Mohamed Hussain at about 12.45 pm. Mr Mohamed Hussain in turn informed the President and Commander-in-Chief of the Armed Forces about the incident.
 - 2.13.7 It is known that on receiving the news, the Commander-in-Chief of the Armed Forces established a Command Centre at the entire National Security Service level under the supervision of Deputy Commander-in-Chief and with the advice of Chief of Staff and the Deputy Chief of Staff. Major Farhath Shaheer was made the commander of the Command Centre and that developments at Maafushi were monitored and logistical assistance at Maafushi was coordinated thereafter through the Command Centre.
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3. PERSONS WHO RECEIVED GUNSHOT WOUNDS

3.1 Abdulla Ameen of M. Binunimaage

Abdulla Ameen was declared to be dead when brought to Indira Gandhi Memorial Hospital due to a gunshot wound suffered to his head in the incident of 20 September 2003. He had suffered the gunshot wound to the left side of his scalp. The exit wound of the bullet was to be found in the right parietal region. He died on 20 September 2003. At the time of death he was 23 years of age.

3.2 Ahmed Shiyaz of Janavareemaage, Gaafu Alifu Vilin'gili

Ahmed Shiyaz died on 22 September 2003 while undergoing treatment in Colombo due to a gunshot wound suffered to his chest in the incident of 20 September 2003. He suffered the gunshot wound to his left lung resulting in accumulation of blood in that lung. He died on 22 September 2003 in Colombo. At the time of death he was 18 years of age.

3.3 Ali Aslam of Sinamaage, Lhaviyani Naifaru

Ali Aslam died on 24 September 2003 while undergoing treatment in Colombo due to a gunshot wound suffered to his abdomen in the incident of 20 September 2003. He had suffered one gunshot wound in the right forearm fracturing a bone there; and a gunshot wound in the intestine caused it to perforate in several places. At the time of death he was 18 years of age.

3.4 Abdulla Hassan of Edhuruge, Gaafu Dhaalu Thinadhoo

Abdulla Hassan suffered a gunshot wound in the medial side of his right thigh, a little above his knee, due to which his right thigh and knee cap had been damaged. Medical Records show the exit wound to be from the back, on the medial side of his right thigh.

3.5 Abdulla Mohamed Didi of Queenge, Seenu Hithadhoo

Medical Records show that Abdulla Mohamed suffered a grazed wound about 2 centimetres below the left side of the sternum from a bullet jacket or a splinter.

3.6 Adam Ahmed Fulhu of Dhiggaamaage , Raa Maduvvaree

Medical Records show that Adam Ahmed Fulhu suffered two grazed wounds to the left side of his scalp and his right forearm from a bullet jacket or a splinter.

3.7 Ahmed Easa of Birdline, Noonu Maalhendhoo

Medical Records show that Ahmed Easa suffered a gunshot wound in the right side of his left calf muscle, and that the exit wound of the bullet was to be found in the lateral side of his shin.

3.8 Ali Nadeem Ibrahim of Finifenmaage, Laamu Mundoo

Medical Records show that 20 year old Ali Nadeem Ibrahim suffered a grazed wound in the top part of his right buttock from a bullet jacket or a splinter.

3.9 Ali Shafeeu of New Veli , Gnaviyani Fuah Mulah

Medical Records show that Ali Shafeeu suffered a gunshot wound from the back, on the lateral side of the left thigh, and that the bullet had travelled to the left buttock and was embedded there, resulting in the fracture of his left thigh bone.

3.10 Daud Jimreez of Gaafu Beauty Villa, Male'

Medical Records show that Daud Jimreez suffered a gunshot wound from the back, on the lateral side of the left hind arm, where the bullet was embedded resulting in the fracture of the forearm bone.

3.11 Hassan Nabeel of Lileege , Gaafu Alifu Kandu Hulhudhoo

Medical Records show that Hassan Nabeel suffered one gunshot wound from behind the left armpit or axilla; and the exit wound of the bullet was to be found above the left shoulder.

He had suffered the second gunshot wound from the front to the top edge of his left loin. Medical Records show the exit wound of the bullet to be from the back, near the 21st vertebra of his spine.

3.12 Hussain Riyaz of Hudhuvilaage, Laamu Mundoo

Medical Records show that Hussain Riyaz suffered a grazed wound from the right side of his back, near the 9th vertebra of his spine from a bullet jacket or a splinter.

3.13 Ibrahim Saeed of Randhoadhige, Seenu Feydhoo

Medical Records show that Ibrahim Saeed suffered a gunshot wound in the right loin and that the bullet had been embedded there.

3.14 Private Ibrahim Moosa, National Security Service, Bilimagumaage, Haa Dhaalu Hanimaadhoo

Medical Records show that there were signs of gunshot wounds both in the front and back of Private Ibrahim Moosa's left thigh. However, they were not able to determine the entry or exit wounds.

3.15 Mohamed Faseeh of Florida, Seenu Feydhoo

Medical Records show that Mohamed Faseeh suffered a gunshot wound from the back of his left thigh and the exit wound was to be found in the front, on the medial side of his left thigh resulting in the thigh bone fracture; and that he had suffered a gunshot wound about 0.5 centimetres above the lateral side of the left elbow from a bullet jacket or a splinter. The exit wound of the bullet was found to be about 1 centimetre below the medial side of the elbow.

3.16 Mohamed Rameez of Asareege, Thaa Kandoodhoo

Mohamed Rameez suffered a gunshot wound from behind, below his right knee. Medical Records show the exit wound of the bullet to be from the front, below the right knee.

3.17 Sujaj Abdulla Rasheed of Dhoores, Gaafu Dhaalu Thinadhoo

Sujaj Abdulla Rasheed suffered a gunshot wound from behind, about 5 centimetres above the right ankle of his right leg. Medical Records show the exit wound of the bullet to be from about 7.5 centimetres above the medial side of the left ankle of the same leg.

3.18 Zuhair Abdulla of Gadhage, Baa Kendhoo

Zuhair Abdulla suffered a gunshot wound to the inside of his left ankle, about 12 centimetres above the medial side of the ankle and that the bullet had been embedded there. He also suffered a grazed wound from a bullet jacket or a splinter in the right earlobe.

3.19 Mohamed Ijlaal of Henveiru Haajaraage

Mohamed Ijlaal suffered a gunshot wound in the right forearm, about 12 centimetres above the medial side of the wrist. Medical Records show the exit wound of the bullet to be from the outside of his right forearm, about 9 centimetres above the lateral side of the wrist.

3.20 Quiket Fernando, Tamil Nadu, India

Medical Records show that Quiket Fernando suffered a grazed wound from a bullet on the sole of his right foot.

4. LIABILITY

SPECIAL NOTE: PERSONS IDENTIFIED HERE BY THE PRESIDENTIAL COMMISSION TO BE RESPONSIBLE FOR CERTAIN ACTS OR OMISSIONS ARE FINDINGS OF FACT ONLY. THEIR LIABILITY IN LAW AND THE EXTENT OF GUILT, IF ANY, ARISING FROM ANY SUCH LIABILITY MAY ONLY BE DETERMINED BY JUDICIAL PRONOUNCEMENT.

4.1 TAKING UP OF WEAPONS

4.1.1 Order to Take Up Weapons in Violation of Regulations

Based on the following reasons the Presidential Commission finds that the order issued on 20 September 2003 by Captain Adam Mohamed, Officer-in-Charge of the Maafushi Jail Security Unit to take up weapons is in violation of relevant rules and regulations in force and established procedures and conventions:

- (a) Order is in conflict with purpose for which weapons were kept in the armoury

Based on the information provided to the Presidential Commission by the Deputy Commander-in-Chief Anbaree Abdul Sattar, it is understood that the weapons were kept in armoury for a particular purpose.

Therefore, the order to take up weapons against unarmed Maldivian citizens in a confrontation between a crowd of inmates who broke out their cells and blocks of confinements and Maafushi Jail Security Unit personnel on 20 September 2003 breaches the purposes for which weapons have been kept in the armoury at Maafushi Jail.

(b) Not an Emergency Situation

According to the National Security Service “Rules on the Use of Weapons in an Emergency” brought into force on the instructions of the Deputy Commander in Chief (part removed).

The confrontation that occurred on 20 September 2003 between a large number of inmates who broke out of their cells and blocks of confinement and the Maafushi Jail Security Unit personnel was due to the anger felt by the inmates on the death of a prisoner by the name of Hassan Evan Naseem the previous night as a result of unlawful actions carried out by certain persons of the Maafushi Jail Security Unit. Although words denoting foul and angry language were used by the inmates, the main demand on their part was for an explanation of the death of Hassan Evan Naseem. Such a confrontation cannot be termed as “an act against the State” and the throwing of stones and pieces of ceramic and other like objects at the Maafushi Jail Security Unit personnel cannot be considered as an emergency situation or an act against the State.

Therefore, the Presidential Commission does not consider the situation justifiable to take up weapons.

(c) Officers Block is Not a Place Guarded With Weapons

According to National Security Service “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” (part removed)

The Officers’ Block at the Maafushi Jail not being “a place guarded with weapons” and the Presidential Commission does not see occasion to take up weapons under those “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons”.

4.2 USE OF WEAPONS

Where as Sergeant Shahid Ali Maniku, Private Ahmed Mujuthaba Hussain, Private Hassan Rifaau, Private Ibrahim Shareef, Private Mohamed Alim, and Private Mohamed Jinaah have by their own admissions confessed to using weapons, they shall, based on the following reasons, take responsibility for use of weapons in violation of relevant regulations:

(a) Not a Reasonable Act of Defence

1. Although section 25 Chapter 1 of the Maldives Penal Code does not consider any act done in self defence except the death of another person to be an offence; and although the use of weapons by Maafushi Jail Security Unit personnel on 20 September 2003 may be considered to be an act of self defence or as a means to control the inmates who had broken out of their cells and blocks of confinement; the Presidential Commission does not consider, in view of acts committed and threats posed by those inmates, that the action used against them was either a proportionate response or a reasonable means of control.
2. The Presidential Commissions finds that there was at least 100 feet between the Gate of the Officers Block and the location of the armoury; and that a large number of inmates who had broken out of their cells and blocks of confinement gathered at that Gate only when they caught sight of Captain Adam Mohamed; and that a group of persons form among the inmates advanced into the Block by about 10 feet because Captain Adam Mohamed had retreated into the Block by that distance; and that Captain Adam Mohamed was within arm's reach of Mohamed Faseeh; and that with the first shots fired at the inmates Mohamed Faseeh was the first to receive gunshots; and that he fell in between the National Security Service Garage and the first tree in that Block; and that the first shots were fired by a person standing in front of the armoury; and that there was a distance of at least 80 feet between who fired the shots and who fell.
3. Where the use of weapons against inmates who had broken out of their cells and blocks of confinement with live ammunition was claimed to be an act of defence; where those inmates were throwing stones, pieces of ceramics and the like; the Presidential Commission does not consider that act to be a "proportionate response"; and if the use of weapons was to control the crowd of inmates and to preserve the peace of the Jail; the Presidential Commission considers that act to be a "use of excessive force".

(b) An Unauthorised Action

Where weapons can only be used as a general rule on the order of the Commander-in-Chief, Presidential Commission finds that the use of weapons on 20 September 2003 at Maafushi Jail was without any such order.

(c) Use of Weapons Was in Violation of Regulations

According to National Security Service “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” (part removed) The Presidential Commission does not find that the procedures mentioned in those Regulations were followed in the use of weapons on 20 September 2003.

(d) Not an Emergency Situation

The Presidential Commission does not find based upon reasons provided in paragraph 4.1.1. (b) that the confrontation which occurred on 20 September 2003 at Maafushi falls within an exceptional circumstance where use of weapons without orders from the Commander-in-Chief or the actions can be justified in view of National Security Service regulations entitled “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency”.

4.3 MANNER OF USE OF WEAPONS

Where as Sergeant Shahid Ali Maniku, Private Ahmed Mujuthaba Hussain, Private Hassan Rifaau, Private Ibrahim Shareef, have by their own admissions confessed to shooting into the crowd of inmates, they shall, based on the following reasons and in addition to those mentioned in paragraph 4.2 of this Chapter, take direct responsibility for use of weapons:

(a) While the Officers Block may not be a place guarded with weapons; and while senior officers of National Security Service have in their statements to the Presidential Commission stated that two Regulations namely “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency” provide the general procedures to follow in the use of weapons even in other circumstances; and while taking up of weapons on 20 September 2003 by certain personnel of Maafushi Jail Security Unit was an act in violation of relevant regulations; and while weapons may be used only in accordance with the relevant procedures as provided in those regulations in force; those procedures were not seen to have been complied with;

(b) (removed)

- (c) Even though it is claimed by certain personnel of National Security Service that shots were fired into the air, very little elapsed between the firing of first shots and the shooting of 3 persons;
- (d) Where in the event of shooting at a person it is only permitted at a position below the person's knee, and where those wounded with gun shots on 20 September 2003 had received shots in the head, chest, thighs and stomach as well; it establishes that shots were not aimed at positions below their knee;
- (e) Out of the 19 inmates who received gun shots, 3 persons died; and according to medical records 9 out of the total injured received shots fired at them from behind; and
- (f) (removed)

4.4 CAPTAIN ADAM MOHAMED'S NEGLIGENCE

In addition to being responsible for acts, based on reasons provided in part 4.1 of this Chapter, Captain Adam Mohamed shall, being the Officer in Charge of the Maafushi Jail Security Unit when the incident of shooting occurred at Maafushi on 20 September 2003, bear responsibility for his negligence in the following:

- (a) Even though it is established in the investigation that Captain Adam Mohamed did issue the order to take up weapons, and even though the order to take up weapons may not be considered as an order to use them; what facilitated the firing of weapons on 20 September 2003 was the failure on the part of Captain Adam Mohamed to protect and appropriately safeguard the keys to the armoury and the premises where weapons and bullets were kept.
- (b) Captain Adam Mohamed while being present at the location where Sergeant Shahid Ali Maniku, the first person to use weapons, fired around 10 shots into the air and then proceeded to shoot at Mohamed Faseeh, failed to prevent the incident from worsening and stopping other Maafushi Jail Security Unit personnel from taking weapons or using their weapons, so as to prevent other persons from getting shot, thereby reducing human loss and/or suffering; and

- (c) Captain Adam Mohamed did not maintain effective command and control in relation to the incidents that occurred at Maafushi Jail on 20 September 2003.

4.5 THREATENING USE OF WEAPONS

4.5.1 Private Mohamed Alim

Based on the following reasons the Presidential Commission finds that Private Mohamed Alim has used weapons in violation of relevant rules:

- (a) It is understood from his own admission that his use of a weapon was in breach of National Security Service “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency”; and
- (b) While senior officers of National Security Service have in their statements to the Presidential Commission stated that two Regulations namely “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency” provide the general procedures to follow in the use of weapons even in other circumstances, he took a weapon to Block G and threatened the inmates with its use and eventually fired a shot into the air from that Block.

4.5.2 Private Ahmed Mujuthaba Hussain

Based on the following reasons, the Presidential Commission finds that Private Ahmed Mujuthaba Hussain has used weapons in violation of relevant rules:

- (a) It is understood from his own admission that his use of a weapon was in breach of National Security Service “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency”; and
- (b) While senior officers of National Security Service have in their statements to the Presidential Commission stated that two Regulations namely “Rules

governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency” provide the general procedures to follow in the use of weapons even in other circumstances, he took a weapon to Block C and threatened the inmates with its use and eventually fired a shot into the air from that Block.

4.5.3 Private Hassan Rifau

Based on the following reasons, the Presidential Commission finds that Private Hassan Rifau has used weapons in violation of relevant rules:

- (a) It is understood from his own admission that his use of a weapon was in breach of National Security Service “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency”; and
- (b) While senior officers of National Security Service have in their statements to the Presidential Commission stated that two Regulations namely “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules on the Use of Weapons in an Emergency” provide the general procedures to follow in the use of weapons even in other circumstances, Private Hassan Rifau took a weapon outside the Officers’ Block and when he saw an Indian inmate from the state of Tamil Nadu confined at C2 by the name of Quiket Fernando standing in the main road near the Medical Centre, he threatened Fernando with his rifle and in the process “negligently discharged” a bullet that grazed Quiket Fernando’s sole on the right foot.

4.6 RESPONSIBILITY FOR DEATH

Where as Sergeant Shahid Ali Maniku, Private Ahmed Mujuthaba Hussain, Private Hassan Rifaau, Private Ibrahim Shareef, have by their own admissions, confessed to shooting into the crowd of inmates, they shall, based on the following reasons, take collective and individual responsibility for the lives lost and injuries caused due to their shooting into the crowd of inmates:

- (a) Although section 25 Chapter 1 of the Maldives Penal Code does not consider any act done in self defence except the death of another person to be an offence; and although the use of weapons by Maafushi Jail Security Unit personnel on 20 September 2003 may be considered to be an act of self defence or as a means to control the inmates who had broken out of their cells and blocks of confinement; the action used against them shall be a proportionate response or a reasonable means of control taking into account the acts committed and threats posed by those inmates;
- (b) There was at least 100 feet between the Gate of the Officers Block and the location of the armoury; and that a large number of inmates who had broken out of their cells and blocks of confinement gathered at that Gate only when they caught sight of Captain Adam Mohamed; and that a group of persons from among the inmates advanced into the Block by about 10 feet because Captain Adam Mohamed had retreated into the Block by that distance; and that with the first shots fired at the inmates Mohamed Faseeh was the first to receive gunshots; and that he fell in between the National Security Service Garage, situated on the east side of the veranda, which itself is located on the south of Officers Block, and the first tree, that align with the said veranda and the garage; and that there was a distance of at least 80 feet between the person who fired the shots and the person who was hit;
- (c) Although it was claimed to be an act of defence; where the inmates who had broken out of their cells and blocks of confinement were throwing stones, pieces of ceramics and other like objects against the Maafushi Jail Security Unit personnel; the use of weapons with live ammunition against the inmates is not a “proportionate response”; and that it was used in excess of such a proportionate response; and that it was in excess of force necessary to control the crowd of inmates and to preserve the peace at Maafushi Jail.
- (d) Where weapons can only be used as a general rule on the order of the Commander-in-Chief, the Presidential Commission finds that the use of weapons on 20 September 2003 at Maafushi Jail was without any such order; and
- (e) In addition to the fact that the confrontation which occurred on 20 September 2003 at Maafushi Jail does not fall within an exceptional circumstance where use of weapons without orders from the Commander-in-Chief or the use of weapons can be justified in view of National Security Service regulations entitled “Rules governing the Circumstances for the Use of Weapons in Places Guarded with Weapons” and “Rules

on the Use of Weapons in an Emergency”, the general procedures that are required to be observed in the use of weapons as provided in those Rules were not complied with.

4.7 ON CAPTAIN ADAM MOHAMED’S ORDERS TO TAKE UP WEAPONS

- (a) Captain Adam Mohamed denies that he issued any orders to his men to take up weapons on 20 September 2003. However 5 persons of the Maafushi Jail Security Unit in the Officer’s Block, who were with him at the time, have given their statements to the fact that such orders were issued by him. In that regard testimony of Private Hassan Rifau, Corporal Abdul Rauf Hassan, Sergeant Mohamed Shareef, Private Badru Mohamed and Corporal Mohamed Nazim may be noted. Apart from Maafushi Jail Security Unit personnel, the gesture of Captain Adam Mohamed whereby he turned and raised the hand in which he held his baton while ordering his men to take up arms was witnessed by some inmates gathered at the scene as well.

- (b) Where it is known that some personnel of Maafushi Jail Security Unit standing near Captain Adam Mohamed relayed his message to others behind them by shouting “OC has asked to take up weapons”; and where Maafushi Jail Security Unit personnel standing behind Captain Adam Mohamed have stated in their statements that they went to the armoury after hearing those shouts; Captain Adam Mohamed could have controlled the action of his men if they had acted on an order that he had not issued; and that the Presidential Commission believes that National Security Service officers from the rank of Sergeant and below who were there that day would not proceed to act in the presence of a senior National Security Service officer who has the position of an Officer-in-Charge unless orders were issued to them.

4.8 TWO OTHER POINTS

4.8.1 On Sergeant Mohamed Shareef

Where by his own admission Sergeant Mohamed Shareef has admitted that he took a weapon; and where it may be difficult to establish that he had used his weapon; the Presidential Commission does not find that he is free from taking any liability for not using a weapon in view of the following reasons; and that he may be, at least subjected to some administrative action:

- (a) Corporal Mohamed Nazim of Maafushi Jail Security Unit has testified that he witnessed Sergeant Mohamed Shareef among those shooting from the front of the armoury; and
- (b) Private Mohamed Alim has testified that he saw only Sergeant Shareef standing at the roundabout when he turned back on hearing a gunshot that was fired from that direction.

4.8.2 On Corporal Mohamed Rafeeu

The Presidential Commission finds that Corporal Mohamed Rafeeu may be subjected to appropriate legal action due to the fact that the main reason that facilitated the use of weapons on 20 September 2003 was his taking of an important key related to the armoury without prior permission from Captain Adam Mohamed; and the taking of that key in that manner was in breach of the Administrative Rules of Quick Reaction Force Unit 2 and the rules compiled from the statements of senior National Security Service officers regarding the handling of that key.

5. FINDINGS

5.1 On deterioration of Peace at Maafushi Jail

- 5.1.1 Officer-in-Charge of the Maafushi Jail Security Unit Captain Adam Mohamed informed Major Ibrahim Latheef during the evening of 19 September 2003 that if inmates received news of the death of Hassan Evan Naseem of Maafannu Asia at Maafushi Jail that evening, peace and security at Maafushi Jail could be affected;
- 5.1.2 Despite the fact that Captain Adam Mohamed and Major Ibrahim Latheef discussed that the peace and security at Maafushi Jail could be affected, were the inmates to receive news of Evan's death on the evening of 19 September 2003, there were no adequate precautionary measures taken by Maafushi Jail Security Unit for such an eventuality; and despite the fact that Captain Adam Mohamed had mentioned to Major Ibrahim Latheef that a request would be made if troop reinforcements were needed, no such request was apparently made by Captain Adam Mohamed;
- 5.1.3 Captain Adam Mohamed did not comply with instructions received from Major Ibrahim Latheef with the advice of Commissioner of Police Brigadier Adam Zahir, to meet with the inmates and to engage himself in discussions with them when Captain Adam Mohamed informed Major Ibrahim Latheef of the deteriorating peace and security situation at the Maafushi Jail towards mid-day on 20 September 2003; instead Captain Adam Mohamed and the inmates met for the first time when the inmates had broken out of their cells and come to the Officers Block; and
- 5.1.4 Maafushi Jail Security Unit had taken no action to inform inmates that those Maafushi Jail Security Unit personnel accused of causing grievous hurt to Hassan Evan Naseem had been immediately dismissed

from service and detained for investigation, despite the fact that senior officers of Maafushi Jail Security Unit had known that Hassan Evan Naseem died due to grievous hurt caused to him by some personnel of Maafushi Jail Security Unit and that it would lend more reason for the extreme exasperation the inmates already felt towards Maafushi Jail Security Unit personnel for various brutal acts committed by some of them at various times. Maafushi Jail Security Unit also knew that the Jail would become extremely tense if inmates came to know about the death of Hassan Evan Naseem.

5.2 On Maafushi Jail Security Unit

- 5.2.1 While the Unit had no megaphone to talk to the inmates if they came out of their cells and the situation worsened, or any non lethal weapons such as tear gas or rubber bullets to control them, except for a few riot batons, shields, and helmets, there was no request made, in time, to procure them for the Unit;
- 5.2.2 Based on the manner in which Corporal Mohamed Rafeeu took from Captain Adam Mohamed's room the keys to the safe in which the bullets were kept in the armoury on 20 September 2003, Captain Adam Mohamed had not been able to properly and adequately safeguard such important keys relating to the armoury as was required of him;
- 5.2.3 (removed)
- 5.2.4 Records that are required to be kept when issuing items from the armoury had not been kept when weapons and ammunition were issued from the armoury on 20 September 2003, and there was no record of persons to whom weapons were issued, or persons who returned weapons to the armoury, or the amount of magazines that were used;
- 5.2.5 Although CCTV was available in the Operations Room, one of the most important offices of the Maafushi Jail Security Unit, and it was used to monitor the activities of Block C, and despite the fact that CCTV recordings would, in normal circumstances, remain recorded in the hard disk of the computer for a period of 72 hours, the Commission did not have the benefit of having access to the CCTV recording of the incidents

inside Block C on 20 September 2003, as they had not been preserved for the investigation; and

- 5.2.6 Although the Maafushi Jail Security Unit should have had an Event Log Book with the details of the events of 20 September 2003 as the National Security Service Regulations require the Commission did not have the benefit of making use of such an Event Log Book.

5.3 On Desertion

- 5.3.1 Lieutenant Mohamed Aswan, being the second in Command at Maafushi Jail Security Unit, and being Second in Command to the Officer-in-Charge, left to Maafushi residential area on 20 September 2003 when the peace and security situation at Jail had deteriorated and various inmates had broken out of their cells and moved closed to the Officers Block, without informing the Officer-in-Charge Captain Adam Mohamed, and in a manner unbecoming of a National Security Service Officer of his rank and responsibility; and
- 5.3.2 When the first shots were fired into the air and when Maafushi Jail Security Unit personnel started shooting towards inmates, instead of trying to stop the shooting, he went away from the Block while Captain Adam Mohamed was still engaged in the confrontation with the inmates near the first tree close to the Gate inside the Officer's Block in a manner unbecoming of a National Security Service Officer of his rank and responsibility.

5.4 On taking up weapons

- 5.4.1 Weapons were used by personnel of the Maafushi Jail Security Unit on 20 September 2003 without lawful cause, without proper orders, and on unarmed Maldivian citizens in violation of relevant laws and regulations; and
- 5.4.2 The use of weapons against inmates where they received shots, was not carried out in a situation where such use can be justified, and that it happened without advice, without warning, and without informing them that weapons may have to be used, and without firing first into the air and

giving them an opportunity to comply and in breach of rules and procedures on using weapons.

5.5 On Inmates who came out of their cells

- 5.5.1 Although available records show 252 Maldivians to be resident in Block C, 45 persons to be in Block D, 94 persons to be in Block G, 89 persons to be in Block H and 90 persons to be in Block I, the total being 570, there is no evidence to prove that all of them came out of their cells or that all of those who came out of the cells took part in the confrontation with the Maafushi Jail Security Unit personnel;
- 5.5.2 Of those inmates who came out of their cells, some went to Blocks D, H and G;
- 5.5.3 The total number of personnel at Maafushi Jail Security Unit was 110. Out of that, 74 personnel were at Maafushi Jail on 20 September 2003;
- 5.5.4 When inmates came out from Gate of Block C into the main road there were some personnel of Maafushi Jail Security Unit cordoning the area and a few minutes after the cordon broke, the inmates saw Captain Adam Mohamed in front of the Main Gate of the Officer's Block and the inmates then moved towards Captain Adam;
- 5.5.5 When inmates gathered at the Officer's Block gate area, it is estimated that there were around 20 personnel of the Maafushi Jail Security Unit at the Officer's Block and at close proximity to the Officer's Block.
- 5.5.6 Inmates who came out of their cells threw stones and other objects towards the Maafushi Jail Security Unit personnel and their buildings. They did this out of anger they felt towards Maafushi Jail Security Unit personnel. Some Maafushi Jail Security Unit personnel were injured in the process: namely, Private Abdul Hameed Abdul Kareem, Private Ali Hussain, Private Irubaal Mohamed Naseer and Private Mohamed Lishan;
- 5.5.7 When inmates met Captain Adam Mohamed they mainly asked questions regarding the death of Hassan Evan Naseem, and asked that the matter be investigated while expressing bitter words at the Maafushi Jail Security Unit personnel;

- 5.5.8 In this confrontation Captain Adam Mohamed was only at arms length from Mohamed Faseeh, who was in the frontline, and some 20 Maafushi Jail Security Unit personnel had to confront a large number of inmates who had broken out of the cells and block of confinement;
- 5.5.9 The shots that were first fired into the air followed almost immediately by shooting towards inmates, some of the inmates talking to Captain Adam Mohamed had come about 10 feet inside the Officer's Block, and they did so because Captain Adam Mohamed was retreating;
- 5.5.10 Sergeant Shahid Ali Manik fired the first shot at inmates. His weapon was aimed at Mohamed Faseeh, Sergeant Shahid Ali Manik was in front of the armoury and Mohamed Faseeh was at least 80 feet away from the armoury;
- 5.5.11 Whist the inmates were throwing stones and other objects towards the Maafushi Jail Security Unit personnel, shooting at them with live bullets is not an "proportionate act of defense";
- 5.5.12 If weapons were in fact used that day to preserve the peace at the Jail and to control the inmates who had broken out of their cells, the use of weapons to do so, was "in excess of legitimate force";
- 5.5.13 Some of the inmates who received gunshot wounds were those noted by Maafushi Jail Security Unit personnel as lead characters in disrupting the peace at the Jail;
- 5.5.14 (removed)
- 5.5.15 Maafushi Jail Security Unit personnel used weapons against inmates not because the latter had attacked the armoury or overwhelmed the Maafushi Jail Security Unit personnel.

5.6 On Prosecution

- 5.6.1 Inmates whether serving a sentence or being confined for investigation had committed an offence by breaking out of their place of confinement; and

5.6.2 Although it is an offence to break out of their confinement, it may be considered as a mitigating factor by relevant authorities in any prosecution against them that they came out of their confinement on 20 September 2003 and confronted the Maafushi Jail Security Unit personnel being provoked by the deep grief and acute exasperation they felt on receiving news of the death of Hassan Evan Naseem due to unlawful acts of aggression committed against this person (part removed)

5.7 Observations

5.7.1 (removed)

5.7.2 (removed)

5.7.3 (removed)

7. GRATITUDE

While the Presidential Commission completes the investigation of the incident of shooting at Maafushi Jail on 20 September 2003 and compiles this Report, the Commission recalls with appreciation those persons who had rendered various forms and degrees of assistance to it and expresses its gratitude to them with sincerity.

Relentless thanks are due, while recognizing the immensity of their task, to the members of the Investigation Teams who worked on the investigation of the shooting incident at Maafushi Jail on 20 September 2003 under the guidance and direction of this Commission.

Profound thanks are due to the members of the Secretariat who assisted in the administration and coordination of the affairs of the Presidential Commission.

Generous gratitude is extended to Heads of those Ministries and Departments of the Government which had extended their kind co-operation in our endeavor to find the staff necessary to undertake this demanding task, and released their staff for this work.

At the same time, earnest thanks are expressed to those Government departments for their kindness in providing information, attending to matters requested by the Commission and for the totality of their response.
