

INVESTIGATION REPORT INTO THE ALLEGED INHUMAN TREATMENT OF PRISONER STEVEN TABOGANI AND OTHER PRISONERS BY OFFICERS OF THE CORRECTIONAL SERVICES OF PAPUA NEW GUINEA AT GILE GILE CORRECTIONAL INSTITUTION, MILNE BAY PROVINCE

SUMMARY

Introduction

This is a Final Report of an investigation conducted by the Ombudsman Commission into the alleged abuse and inhuman treatment of prisoner Steven Tabogani and other prisoners at Gile Gile Correctional Institution in Alotau, Milne Bay Province; against Correctional Officers at Gile Gile Correctional Institution in Alotau, Milne Bay Province.

This Report focuses on establishing and determining whether in the conduct of their duties the Correctional Officers had used unreasonable force and whether they failed to ensure that letters from the Ombudsman Commission addressed to prisoners were safely delivered to them.

Principal Findings

1. In the opinion of the Ombudsman Commission, the conduct of Corporal Uliowa Sulo in shooting the prison escapee Tabogani during the first discharge of a firearm during his recapture appears to be reasonable.
2. In the opinion of the Ombudsman Commission, the conduct of CS Officers in shooting the prison escapee Tabogani during the second discharge of a firearm during his recapture appears to be unreasonable and wrong in the circumstances.
3. In the opinion of the Ombudsman Commission, there appears to be failure by officers at Gile Gile CI to ensure the correct processing of mail as required by law between a detainee and the Ombudsman Commission, was not interfered with.
4. In the opinion of the Ombudsman Commission, it appears the conduct of Corporal Tidman Jigama in the continuous use of unreasonable force to maintain order and discipline of detainees in the Correctional Institution is wrong and inhuman.

Irregularities

In the opinion of the Ombudsman Commission based on our final investigations, there were irregularities by the Correctional Officers at Gile Gile Correctional Institution in Alotau, Milne Bay Province. In particular;

- The discharge of the second firearm by Correctional Officers during the recapture of escapee Tabogani, appears to be inconsistent with the Correctional Service Act 1995 Section 112 (1) and (3) and Section 52 of the Correctional Service Regulation 1995.
- The failure of the Mail Clerk Cpl. Samson Giatete to ensure the correct processing of mail as required by law between a detainee and the Ombudsman Commission, constituting a breach of the Organic Law on the Ombudsman Commission Section 16 (2) and Section 41 of the Correctional Service Regulation 1995.

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- The use of force by Sgt Tidman Jigama, appeared to be inconsistent with the legislative requirement for Reasonable Force, to maintain order and discipline with firmness within a Correctional Institution, constituting a breach of Sections 111 and 112 of the Correctional Service 1995.

Findings of Wrong Conduct

The conduct of the following CS officers was wrong because of the above mentioned irregularities:

1. Sargent Tidman Jigama
2. Corporal Samson Giatete

Recommendations

1. The Ombudsman Commission recommends that the Minister, Commissioner and officers of the Correctional Services to adopt a “zero tolerance policy” to indicate that they will not tolerate “torture, or treatment or punishment that is cruel or otherwise inhuman, or inconsistent with respect for the inherent dignity of the human person” and;
 - a) Ensure compliance with Sections 111 and 112 of the Correctional Service Act 1995 in the proper use of Reasonable Force to „maintain order and discipline with firmness,

but with no more restriction or force than is required for safe custody and well-ordered life within the Correctional Institution“.

- b) Ensure compliance with Section 52 of the Correctional Service Regulation 1995 in the proper Discharge of Firearms; only on „reasonable grounds where necessary“.
 - c) Ensure compliance with Section 16(2) of the Organic Law on the Ombudsman Commission and Section 41 of the Correctional Service Regulation 1995 in the proper processing of Mails as required by law between a detainee and the Ombudsman Commission.
2. The Ombudsman Commission recommends that the Correctional Service officers“ implicated in the report are appropriately dealt with by the Commissioner of Correctional Services under the Correctional Service Act 1995.
 3. The Ombudsman Commission recommends that the Commissioner of the Correctional Services;
 - a) Creates an Internal Affairs Unit (IAU) to investigate serious breaches of Human Rights abuse in Correctional Institutions; and to
 - b) Sign a Memorandum of Agreement (MOA) with the Ombudsman Commission to provide an „Oversight“ of that IAU.
 4. The Ombudsman Commission recommends that the Commissioner of the Correctional Services update and include Induction programs for new incoming detainees in the Correctional Services Local Orders, to provide awareness on their „Basic Rights and Responsibilities as detainees“.
 5. The Ombudsman Commission recommends that the Commissioner of the Correctional Services update and include Human Rights Courses in the Correctional Services Course Modules and that all members of the Service undertake refresher courses on Operational duties and on human rights once in every (2) years.

Conclusion

The Ombudsman Commission observed that there has been a tendency to overlook the requirements of the relevant provisions of the Correctional Service Act 1995 in particular, Sections 35, 39, 111, 112 and 160 and Sections 41 and 52 of the Correctional Service Regulation 1995 by the Ministers“, Commissioners“ and officers of the Correctional Services and that there is a need for strict compliance with the legislation.

It is recommended that the Correctional Services members throughout the country undergo intensive training or refresher courses from time to time on their duties and responsibilities with regards to human rights as Correctional Services officers and for an Internal Affairs Unit be set up with an oversight MOA with the Ombudsman Commission.