

21 November 2012

Commander Yossi Pariente

Jerusalem District Police Chief

Re: Illegal Dispersal of Demonstrations and the Use of Prohibited Measures in Dispersing Arab Demonstrations in Jerusalem

Dear Sir,

1. Further to ACRI's letter dated 20 November 2012, regarding the methods used in dispersing demonstrations in central Jerusalem, we would like to raise the issue of the dispersal of protests and riots in East Jerusalem. Whereas our initial letter raised allegations of troubling police misconduct, it appears that when directed against Arab protestors and rioters (whether in East Jerusalem or West Jerusalem,) police conduct is all the more problematic. **We wish to emphasize that precisely during these times of heightened tensions and sensitivities, the police must scrupulously abide by the rules limiting the use of force, in order to ensure the full exercise of free speech and freedom of protest, and to reduce the risk of harm to human life.**
2. Over recent days, in light of the events in the Gaza Strip, there have been intensified voices of protest among East Jerusalem Palestinians which have led to demonstrations and riots in various East Jerusalem neighborhoods, including neighborhoods that have not generally known intense incidents of violence.
3. During this time we have noticed two prohibited practices utilized by the Jerusalem District Police in response to protests by East Jerusalem Arab residents: the first being the dispersal of entirely legal demonstrations without cause, and the second being the dispersal of riots through the use of disproportionate force.
4. **It should be noted that not every demonstration or assembly in East Jerusalem is an illegal one. The dispersal by police of a protest vigil or of a demonstration that meets the requirements of law is an act that exceeds police authority and constitutes a flagrant violation of the basic right to freedom of protest and free speech.**
5. According to eyewitness testimony received by ACRI, on Monday 19 November 2012 the police illegally dispersed a protest vigil at the foot of the steps of the Damascus Gate. Some 100 protestors there were holding up signs and chanting slogans while remaining stationary. The demonstration did not include speeches or a march, and it did not represent any disturbance of the peace or of public order. Nevertheless, after a short time, mounted

policemen on horseback joined the police forces already at the scene and charged into the crowd of protestors, dispersing them. The demonstrators left the scene in fear.

6. On Tuesday, 20 November 2012, around 1:00PM, approximately 150 Arab students from the Hebrew University campus on Mount Scopus demonstrated against the military operation in Gaza. The protesters stood on the sidewalk outside the gates of the university, holding Palestinian flags and placards, and chanting slogans. The demonstration was devoid of speeches or of any march. Opposite the protesters, a small counter-demonstration was held, with activists from the Im Tirzu organization waving Israeli flags. Shortly after 2:00PM, air-raid sirens sounded in Jerusalem. The Jewish students immediately ran for cover, while the Arab students remained in place. Immediately after the sirens ceased, police on the scene, including some mounted policemen, began to forcefully disperse the demonstration. One officer announced in Arabic that this was an illegal demonstration. The police behaved violently, resulting in a number of demonstrators falling to the ground and one who was physically beaten. At the end of the incident, five protesters were taken to the police station.
7. In both these instances, the demonstrators were not given any reason why they should disperse, nor were they given any opportunity to cease those activities which, in the opinion of the police, had made their demonstration illegal, and if stopped would have allowed them to continue demonstrating. We still do not know why the police considered these demonstrations to be unlawful or what cause they had for their violent dispersal.
8. Moreover, in dispersing recent riots and demonstrations, the police have chosen to use **injurious measures such as firing rubber bullets or sponge bullets, and tear gas canisters**. Such measures have been utilized in recent days at the Qalandiya checkpoint, and in the neighborhoods of Ras al-Amud, Jabel Mukaber, A-Tur, Issawiya, Silwan and in the Shu'afat refugee camp. According to information we have received from residents and reports in the Arab press, a number of Palestinian residents have been injured over the past few days by rubber bullet fire.
9. The frequent use of sponge bullets or rubber bullets and tear gas appears to signal a change in police procedure as explicitly presented by the previous Jerusalem District Police Chief, Commander Niso Shaham, in his meeting with ACRI officials on 19 June 2011. According to Shaham, the police would refrain from use of such means except in exceptional situations because, as he explained, of the inherent danger to life in their use, both toward rioters and innocent bystanders. From information we have received, contrary to this policy, the police have been quick to make use of such injurious measures – including the use of stun grenades, tear gas, and rubber or sponge bullets – and have not utilized them as a later resort after less injurious alternatives have been exhausted.
10. **We wish to caution that the use of such injurious measures must be kept to the absolute necessary minimum, seeing as they have the potential to cause loss of life and severe bodily harm, as has been seen**

in the past. The frequent use of these measures under circumstances that do not justify their employ is illegal, owing to the unnecessary risk to human life and to the bodily integrity of both demonstrators and bystanders. Such use stands in contradiction of police procedure.

11. As you know, East Jerusalem neighborhoods are typified by narrow streets surrounded by crowded residential housing. The use of rubber or sponge bullets or tear gas in these areas increases the risk of harm to innocent bystanders, whether passersby on the street or residents living nearby.
12. For good reason, Police Procedure 90.221.012, "Police Handling of Disturbances in Demonstrations" stresses the obligation to exercise extreme caution regarding the use of rubber bullets. It expressly states that the use of rubber bullets is prohibited (thus it specifies in the procedure) and as such may be only used as a last resort, and only then with the authorization of the Chief of the Israel Police. Such use is prohibited because of the distinct possibility of causing death as a result of improper use of rubber bullets, whether due to misjudging the distance between the shooter and the target resulting in a shorter range than permissible, whether other people may enter the range of fire, or whether because of faulty aim at the targeted person. Regarding this, see the conclusions of the Orr Commission, which investigated the October 2000 clashes between security forces and Israeli civilians, Section 4, Chapter 1, Paragraphs 8-11.
13. Regarding the use of tear gas, we would like to stress that the frequent use of tear gas in crowded neighborhoods, where the gas dissipates into the atmosphere more slowly, constitutes a form of collective punishment that is liable (as it has in the past) to cause death due to asphyxiation. At the very least, it causes unnecessary suffering to residents, including those at a high-risk of resulting injury including the elderly, the sick, and young children living in proximity of the demonstration site.
14. Therefore, the police must minimize as much as possible their use of tear gas to disperse demonstrations and riots, and at the very least they should restrict the allowable dosage of tear gas, taking into consideration the terrain of the area and the dissipation rate of the gas into the air.
15. To the best of our knowledge, over the last year and a half the police have been successful in dispersing the vast majority of demonstrations and riots in Jerusalem without the use of rubber bullets or tear gas. From this we can conclude that the police are well able to carry out their duties and to handle demonstrations and the disturbances that may arise from them without recourse to injurious and dangerous measures, and that the police have at their disposal effective alternative means to disperse riots that are less harmful to participants.
16. **As such, we ask that you acquaint your district police commanders with the law and the rules and regulations governing when a legal demonstration turns into an illegal gathering that may be dispersed, after a dispersal order has been legally given and after the demonstrators have been given sufficient opportunity to disperse of their own volition. Furthermore, we ask that you review with your**

commanders the severe restrictions that apply to the use of injurious measures in the dispersal of demonstrations and riots. The police must stop its firing of sponge or rubber bullets at demonstrators and rioters, and it must minimize its use of tear gas within residential areas. And perhaps it is not superfluous to remind district police officers that the rules governing the dispersal of demonstrations apply equally to Jew and Arab alike. Additionally, we request that you order an examination of those recent incidents in which the police used the above-mentioned measures in dispersing demonstrations, and that you examine the circumstances leading to the dispersal of the two demonstrations mentioned above.

17. We'd appreciate if you kept us updated regarding your actions in these matters.
18. We'd also like to reiterate our request for a meeting with you, originally raised in our letter dated 15 October 2012.

Sincerely,

Adv. Keren Tzafrir

Cc:

Commissioner Yohanan Danino, Chief of the Israel Police
Superintendent Shaul Gordon, Legal Counsel of the Israel Police
Adv. Michael Frankenberg, Legal Advisor of the Jerusalem Police