

Decision of the Military Advocate General to Order the Withdrawal of an Indictment

In light of significant developments that have occurred since the filing of the indictment concerning an alleged conduct that took place in the "Sde Teiman" detention facility, and exceptional circumstances that negatively affected the ability to continue prosecuting the case while also preserving the right for a fair trial to the defendants in the case, the Military Advocate General found it necessary to order last Thursday the withdrawal of the indictment against the five defendants.

Background:

On July 29, 2024, an overt investigation was launched regarding several reserve soldiers who were part of "Force 100" and served at the "Sde Teiman" detention facility. The reserve soldiers were arrested and investigated on suspicion of committing severe offenses against a security detainee. The arrest and the launching of the overt investigation triggered a series of protests, some violent, including breaching into two military bases.

A few days after the overt investigation was launched, materials from the investigation file were published in the media, even though the investigation was still ongoing at this point. They included a segment from the security video that documented the alleged incident, as well as the results of polygraph tests of some of the suspects.

The publication of the materials from the investigation file caused a public uproar and severe criticism. Following this, the previous Military Advocate General (MAG) ordered a preliminary examination led by the Deputy MAG and an assisting team, whose purpose was to locate those responsible for the public release of the evidentiary material. On August 11, 2024, the MAG appeared before the Knesset's Foreign Affairs and Defense Committee and addressed the investigation as well as, among other things, the publication of the materials.

On October 17, 2024, petitions were filed to the High Court of Justice (HCJ) against the MAG's aforementioned decision to suffice with a preliminary examination. In the petition, the petitioners requested to open a criminal investigation regarding the public release of the evidentiary material, and at the very least to remove the conducting of the preliminary examination from the hands of the Military Advocate General's Corps and the Military Police Criminal Investigation Division (MPCID).

Simultaneously, the criminal proceeding against the defendants in the alleged abuse case continued. During the months of December 2024 and January 2025, five of the reserve soldiers were summoned for hearings before the MAG and the prosecution team, prior to the filing of an indictment.

In the meantime, on January 29, 2025, the Deputy MAG appeared before the Knesset's Constitution, Law and Justice Committee and addressed the actions taken within the framework of the examination in order to locate the source for the releasing of the materials.

On February 19, 2025, the MAG decided to file an indictment for violence offenses against the five defendants.

In September 2025, the findings of the examination team were presented to the HCJ, and it was argued in them that there are very low prospects of tracing the source responsible for the public release of the evidentiary material through investigative tools.

On October 29, 2025, in light of new information received on the matter, an Israel Police investigation was launched regarding the aforementioned release of evidentiary material and the information that was submitted about it in various forums, including to the Knesset and the Supreme Court. Within the framework of the ongoing investigation – Officers in the Military Advocate General's Corps, and in particular the former MAG herself, are suspected of committing offenses related to the public release of the evidentiary material itself, the obstruction of the examination that followed with regard to the release of material, and the delivery of information within the framework of the various proceedings relating to it.

About two days later, the MAG asked to resign from her position, detailing in her resignation letter that she was the one who ordered the releasing of the of the evidentiary materials to a media outlet, during an ongoing investigation. She explained her actions with an attempt to counter false propaganda against officers in the unit, who were alleged to file the indictment against the soldiers without an adequate evidentiary basis. Following her admittance in releasing the evidentiary material notwithstanding the ongoing investigation, the MAG, was suspended from her position, together with her deputy and several other officers in the Military Advocate General's Corps, that were alleged to be involved either in releasing the evidentiary material or in taking part of the examination that followed the release.

At the same time, during October 2025, as part of the hostage release agreement, the security detainee was released and returned to the Gaza Strip, together with nearly 2000 other Palestinian detainees.

On November 13, 2025, the defendants' counsels argued during a status hearing in the military court that the dismissal of the indictment and withdrawal from the charges should be ordered. The military court addressed this in its decision, and noted that - "During the session, the defense attorneys raised weighty arguments, which should preferably be weighed by the newly appointed Military Advocate General."

As the new Military Advocate General entered his position, several discussions were held chaired by him, in which the prosecution team led by the Chief Military Prosecutor presented him with the case, including the various developments that occurred in the proceeding since the filing of the indictment. Subsequently, the defendants' counsels requested to meet with the MAG and present to him their arguments for the dismissal of the indictment, among other things, against the background of the aforementioned developments. The MAG met with the counsels during the months of January and February 2026.

After the aforementioned meetings, several discussions were held, in which the MAG and the prosecution team addressed all the evidence and circumstances,

inter alia: the evidentiary basis at the current point in time and the possibility to base the conviction of the defendants on this basis; various legal arguments that also relate to the justification of continuing to follow through with the proceeding; as well as the difficulties in prosecuting the case, that may arise down the road.

The Decision to Withdraw the Indictment:

After weighing all the considerations pertaining to the matter, including the arguments raised before him, the existing evidentiary material at the present time, the procedural aspects and the chances of conviction, the MAG decided to order the dismissal of the indictment filed regarding the five defendants.

Due to the importance of the matter, and the public interest in full transparency regarding decision-making on this matter, the reasons underlying the decision will be briefly presented below.

A. Evidentiary Basis:

The decision to file an indictment relied on several evidentiary anchors – the testimony of the security detainee, the security video continuously documenting the incarceration area at the time of the act and afterwards, and medical documents regarding the condition of the detainee after the incident.

On the one hand, the evidence in the case presented a severe and disturbing picture regarding the defendants' actions. On the other hand, from professional viewpoint regarding the evidence, the factual picture was not unequivocal from the outset.

The security video does not present an unequivocal picture of the charges attributed to the defendants. The vast majority of the defendants' actions are hidden by shields. The video alone, certainly in combination with the defense's arguments, does not present clearly and irrefutably severe acts of violence at the threshold required for a criminal conviction, distinct from the use of force to deal with resistance during a search.

Admittedly, the alleged charges might have received reinforcement from the detainee's testimony, combined with the medical documents. The detainee's

testimony was also not devoid of difficulties, as he provided differing versions regarding the circumstances of his injury, to different parties.

However, in October 2025, the security detainee was released to the Gaza Strip as a part of an agreement for the release of the hostages. This new circumstance materially changes the evidentiary basis and makes it difficult to prove significant parts of the indictment.

Given the complex evidentiary circumstances of the case, and in the absence of certainty regarding the ability to have the security detainee testify and cross-examine him, the defendants' possibility of a fair trial has been impeded. This is because the defense's arguments regarding his testimony, which were raised by the defendants' counsels, might not be properly clarified in trial.

Under these circumstances, the MAG and the prosecution team reasoned that there is a significant challenge in establishing the charges in the case at the required criminal threshold, based on the existing evidentiary materials. In addition to this, the combination of several circumstances that will be detailed below, justify the withdrawal of the indictment.

B. Claims regarding Abuse of Process:

In addition to the above-mentioned challenges regarding the evidentiary basis, it was found that in this specific case there is an exceptional and unique accumulation of circumstances, which distinctly establishes defense claims relating to the "Abuse of Process. The purpose of this defense claim in criminal proceedings is to prevent a situation where the filing of an indictment or the management of the criminal proceedings substantially contradict principles of justice and legal fairness, and under the law, in certain situations it may justify the dismissal of an indictment .

The Supreme Court's long-standing ruling is that conduct on the part of the authority that causes a violation of the sense of justice or legal fairness may justify the dismissal of an indictment. This is whether it was done intentionally, whether

through negligence, whether from malicious motives, and even if done from innocent motives.

In May 2025, a report dealing with the affair was broadcasted on the TV news show "Zman Emet". During the program, a senior investigator belonging to the investigation team was interviewed, and directly addressed in a detailed and explicit manner, the evidence collected during the investigation. The publication of the evidence in a public and explicit manner, when the proceeding regarding the defendants is still pending, materially harms the defendants' right to a fair trial.

Secondly, and as also mentioned above, in October 2025 a criminal investigation was launched by the Israel Police regarding the releasing of the investigation materials to the media, regarding the disruption of both the examination to locate the source of the release, as well as regarding the delivery of information within the framework of the various proceedings relating to it, including the legal proceeding in the High Court of Justice. These acts took place concurrently with conducting the hearings for the defendants and the decision to file the indictment.

These extraordinary circumstances, the exceptionality and unprecedented nature of which the Supreme Court also referred to (see the statement of the Honorable Deputy President Sohlberg in HCJ 74997-08-25, and the statement of the Honorable Judge Willner in HCJ 3545-11-25); constitute a significant deviation from the standards expected of law enforcement authorities in the IDF, and certainly of those heading them.

Without addressing all aspects of the aforementioned acts, and focusing specifically at the conduct of the criminal proceeding regarding the five defendants in the said case – these events noticeably harmed their right to a fair trial and the sense of justice and fairness required to underlie every criminal proceeding, in a manner that goes to the root of this proceeding and justifies giving significant weight to defense claims regarding the "Abuse of Process".

C. Case Prosecution Level:

In addition, the investigation of the evidentiary materials' release and the events relating to it may lead to the prolongation of the proceedings in this proceeding as well, in a manner that will further harm the defendants' right to a fair trial.

Although the investigation into the release of evidentiary material and relating actions is a separate investigation conducted in the civilian criminal system, the findings of this police investigation are expected to constitute relevant investigation materials in the present case, and can establish legal and factual claims also in favor of the defendants.

These matters were also explicitly raised in the decision of the military court from recent days. As part of their request to receive investigation materials, the defendants asked to review the documents of the examination team headed by the previous Deputy MAG. This request was filed before the beginning of the investigation into the former MAG's matter. When the military court deliberated this request, in its decision from February 26, 2026, the President of the District Military Court determined that:

"Indeed, *prima facie*, the findings of the leak investigation touch upon the core of the argument [of Abuse of Process legal defense], and may be relevant in assisting the defense in establishing an abuse of process defense claim. At this stage the investigation has not yet been completed and the military prosecution, naturally, is not privy to it. Accordingly, and for the time being, it is not possible to hold a substantive deliberation on the request".

This decision is certainly also true for the materials of the police investigation regarding the MAG and the involved personnel from the Military Advocate General's Corps.

It has already been determined in case law that an expected prolongation of proceedings, given the evidentiary harm that may arise and the harm to legal arguments derived from this, must also be weighed up when considering the question of filing the indictment, *a fortiori* in a decision on the continued prosecution of a legal proceeding. Therefore, this procedural consideration also adds to the existing complexities in moving forward with this proceeding.

Conclusion:

In light of the evidentiary developments since the filing of the indictment and the extraordinary circumstances as detailed above, it is appropriate that the executive authority re-examine its position as is required of it, considering the public interest in its broad sense and the right to a fair trial of every person facing criminal charges.

After examining all the considerations, evidence, and new circumstances, including – the existing evidentiary basis and the presence of the security detainee in Gaza; the circumstances relating to the conduct of the enforcement authorities throughout the proceeding; the publication of evidence within the framework of a media interview; and the procedural difficulty to move forward with the proceeding under the circumstances of the matter – the MAG found it necessary to order the withdrawal of the indictment.

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A core mission of the Military Advocate General's (MAG) Corps is to enforce the law and holding accountable those who violate it. All officeholders in the law enforcement system in the IDF, in the Military Advocate General's Corps and in the Military Police Criminal Investigation Division, have done and will continue to do everything in their power in order to meet this mission. As in routine times, so too in emergency and in the complex days of the war. They do so out of a sense of duty, dedication, and professionalism.

The resilience of the IDF is based, among other things, on its commitment to act according to the law, and to handle incidents that deviate from the IDF's values including through criminal procedures where there is justification for it.

The Military Advocate General's Corps, led by the Military Advocate General, will continue to carry out its duties faithfully for the benefit of the IDF and the State of Israel — without fear of irrelevant criticism or attacks against public servants, and

out of a sense of responsibility to the mission it was entrusted with, with integrity, professionalism and independence.