

## **The Military Advocate General's Decision to Withdraw the Indictment against the "Force 100" Soldiers from the "Sde Teiman" Base**

In February 2025, an indictment was filed with the military court against five reserve soldiers who served in an intervention force operating in the "Sde Teiman" detention facility ("Force 100"). The defendants were indicted for violent offenses towards a security detainee held at the facility.

Following the filing of the indictment, and concurrently with the proceedings before the Military Court, several significant developments occurred. These developments directly affected both the prosecution's ability to establish the charges in the case at the level required in a criminal trial, and the ability to ensure that a fair trial is conducted. In light of these circumstances, and after thorough deliberation, the Military Advocate General concluded that the indictment should be withdrawn.

### **Factual Background**

The criminal investigation into the incident became overt in July 2024, and was opened following a report from the facility's staff regarding a detainee who was brought for urgent medical treatment. The decision to open the investigation and arrest the suspects led to a series of protests, including a mass breach of the Sde Teiman and Beit Lid military bases.

Several days after the investigation became overt, investigative materials were published in the media. These included a short fragment of the security-camera footage that documented the alleged incident, and the results of polygraph examinations performed on some of the suspects.

The publication of these materials caused widespread public criticism and calls to investigate the source of the unauthorized public release of the investigative materials, including by the suspects themselves. Accordingly, the former MAG, Major General Yifat Tomer-Yerushalmi, ordered a preliminary inquiry, led by the Deputy MAG, to identify those responsible for the release of the investigative materials.

This decision led to a petition filed to the High Court of Justice (HCJ), demanding that a criminal investigation be initiated regarding the materials' release, or at least to remove the preliminary inquiry from the hands of the Military Advocate General's Corps and the Military Police Criminal Investigation Division.

Simultaneously, the criminal proceeding continued. After a comprehensive investigation and a hearing procedure, the former MAG ordered the filing of an indictment against the soldiers, charging them with the offenses described above.

In October 2025, a police investigation was initiated following suspicions that the former MAG and senior officers in the MAG's Corps were involved in the unauthorized release of the investigative materials to the media while the investigation was still ongoing, and that the subsequent preliminary inquiry process was intended to conceal their involvement. Shortly thereafter, the former MAG requested to resign from her position, confirming in her resignation letter that she had ordered the release of the materials to a media outlet.

In her resignation letter, she explained that her actions were all an attempt to counter a false smearing campaign against the IDF law-enforcement agents who were handling the case, and were accused of filing the indictment against the soldiers without an adequate evidentiary basis.

As part of the ongoing police investigation, suspicions are being investigated that the former MAG and other officials knowingly misled executive and legal authorities, including the Chief of the General Staff, the Knesset committee that dealt with the matter, the Attorney General and the Supreme Court. This allegedly occurred through the conduct of the aforementioned preliminary inquiry as to the source for the unauthorized release of the investigative materials, during which the said officials announced that investigative avenues had been exhausted, despite them allegedly knowing the source of the materials' release. In light of these suspicions, which currently remain under investigation, the former MAG, her deputy, and several additional officers in the MAG's Corps were suspended from duty.

At the same time, during October 2025, a ceasefire agreement was reached between Israel and the Hamas terrorist organization in the Gaza Strip. Under the agreement, all hostages held in Gaza were to be returned, and approximately 2,000 detainees held in Israel were released, including the detainee involved in this case.

Following these developments, the defendants' counsel argued before the Military Court that the charges should be dismissed. The matter was referred by the court to the current MAG, Major General Itay Offir, shortly after he assumed office in November 2025.

Several work sessions were held by the MAG, 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. The MAG has also agreed to meet and hear from the defendants' counsel following the counsel's request to present him with their arguments.

## **The Decision to Withdraw the Indictment**

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

The MAG concluded that the accumulation of several considerations justifies the withdrawal of the case: impairment of the evidentiary foundation, considerations under the doctrine of abuse of process, and procedural difficulties in the continued management of the case.

### **Evidentiary Foundation**

The indictment was based on three central evidentiary pillars: a security camera footage from the facility which documented the alleged incident, as well as the detainee before and after the alleged incident; medical documentation and testimony from medical personnel regarding the detainee's condition following the incident; and the detainee's own statements during his interrogation.

The MAG found that the evidence in the case revealed a grave and very troubling picture, that stands in stark contrast to the expected norms and values, regarding the defendants' conduct.

However, the evidentiary picture was complex, inter alia regarding the defendants' shared intent to commit the acts they were all alleged to have committed as part of a group assault, the fact that part of the alleged incident was blocked from sight in the video footage, as well as different versions provided by the detainee.

Following the filing of the indictment, the evidentiary basis was significantly weakened. The detainee's release and return to the Gaza Strip created substantial uncertainty regarding the possibility of securing his testimony and allowing cross-examination. In these circumstances, key defense arguments concerning the reliability and examination of his testimony could also not be properly addressed.

Accordingly, the MAG and the prosecution team concluded that there was now a significant difficulty in establishing the charges in the case at the required criminal threshold.

### **Abuse of Process**

The doctrine of abuse of process in Israeli criminal law is intended to prevent criminal proceedings that fundamentally conflict with principles of justice and fairness. The Supreme

Court has held that conduct by a prosecutorial authority that undermines procedural fairness may justify dismissal of an indictment, regardless of intent.

In May 2025, a TV documentary dealing with the matter was broadcast on the TV news show. During the program, a senior investigator and member of the investigation team was interviewed, and directly addressed the evidence collected during the investigation. This publication of the evidence, which was done in a detailed and explicit manner, while the proceedings regarding the defendants are still pending, materially prejudices their right to a fair trial.

In addition, and as previously stated, after the indictment was filed, a criminal investigation was opened against the former MAG and additional senior officials. This investigation concerns the unauthorized release of investigative materials to the media, obstruction of efforts to identify the source of the materials' release, and the provision of false information in related judicial proceedings, including before the High Court of Justice.

Although the police investigation has not yet concluded, in several interim decisions related to the case, the Supreme Court has already referred to these events as grave, exceptional, and unprecedented. They represent a significant deviation from the standards expected of law-enforcement authorities in the IDF, particularly those at its highest levels. The MAG determined that these events, which are directly linked to the investigation underlying the indictment, substantially impaired the defendants' right to a fair trial and struck at the core of the criminal process.

It was thus determined that the police investigation into the suspicions relating to the former MAG, including her involvement in the unauthorized release of the investigative materials and suspicions that senior officials provided a misleading picture regarding the inquiry, substantially impaired the defendants' right to a fair trial. These events undermined the sense of justice and fairness that must underpin criminal proceedings. Accordingly, significant consideration was given to arguments based on the doctrine of abuse of process.

### **Case-Management Considerations**

The investigation into the unauthorized release of the investigative materials was expected to prolong the proceedings in this case, further impairing the defendants' right to a fair trial. Although conducted within the civilian law-enforcement system, the investigation's materials were likely to constitute relevant evidence in this case and may have supported arguments favorable to the defense.

This concern was reflected in a decision of the Military Court, which held that the findings of the preliminary investigation into the materials' release are essential and an integral part of the abuse-of-process claim. These considerations apply equally to the police investigation concerning the former MAG and other officials in the MAG's Corps. Case law recognizes that anticipated delays, evidentiary impairment, and their impact on derivative legal arguments must be considered when deciding whether to continue criminal proceedings. These procedural considerations therefore further compounded the difficulties in managing the case.

This infringement was further aggravated by the substantial delay in the proceedings, stemming from the relevance of materials from the ongoing police investigation to the present case.

## **Summary**

In light of the evidentiary developments since the filing of the indictment and the extraordinary circumstances as detailed above, it is appropriate that the prosecutorial 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, the MAG concluded that the indictment should be withdrawn.

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A core mission of the MAG's Corps is to enforce the law in the IDF and to hold accountable those who violate it. All office holders within the IDF's law-enforcement system, including the MAG's Corps and the Military Police Criminal Investigation Division, have acted – and will continue to act – to fulfill this mission, in routine times as well as in emergencies and during the complex circumstances of war. They do so with a sense of duty, dedication, and professionalism.

The strength and resilience of the IDF is based, *inter alia*, on its commitment to act and fulfill its missions in accordance with the law. This includes addressing incidents that deviate from the IDF's rules and values, including, when justified, by criminal proceedings.

The MAG Corps will continue to carry out its duties faithfully for the benefit of the IDF and the State of Israel. It will do so independently, professionally, and with integrity, without fear of irrelevant criticism or attacks against public servants, and out of a deep sense of responsibility for the mission entrusted to it.