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[Emblem]  
IDF Spokesperson

Israel Defence Forces  
IDF Spokesperson Division  
Public Relations Branch  
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December 23 2014

To  
Advocate Daniel Shenhar

Dear Sir,

Re: **Your letter to the IDF Spokesperson for receipt of information concerning detention of Gaza Strip residents during Operation Protective Edge, according to the Freedom of Information Act**

1. Your letter regarding detention of Gaza Strip residents during fighting over the course of Operation Protective Edge, dated August 28, 2014, was received by our department and was transferred to the competent authorities, for their comments.
2. The following is the response of the Public Liaison Department at the IDF Spokesperson's Division, according to your request:
  - a. During Operation "Protective Edge", it was decided to detain 159 detainees by the IDF forces and to transfer them into the territory of the State of Israel after it was decided that such transfer was required. The precise period of time which passed until detainees, a decision for whose transfer into Israel was made, were actually transferred into Israel, was affected by the fighting on scene, the discretion of the commanders and operational constraints.
  - b. The transfer of detainees from the battle field to a detention facility is a basic operational activity during fighting, which is regulated by the laws of war of international law. However, it should be noted that only in certain cases the need arises to detain a person in an enemy territory and bring him to a special purpose detention facility.
  - c. In the absence of specific information which may substantiate a suspicion concerning the involvement of a detainee in the fighting or in terror activity or the existence of any other reason which may justify his continued interrogation, he was sent back to the Gaza Strip as soon as possible.

- d. The detainees who remained within the territory of Israel were held pursuant to the Incarceration of Unlawful Combatants Law, 5762-2002 (hereinafter: the **Unlawful Combatants Law**) and pursuant to the Israeli detention laws and criminal law. Currently, one detainee is held according to an incarceration order which was issued pursuant to the Unlawful Combatants Law, in an Israel Prison Service (ISA)

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facility. With respect to detainees who are held by virtue of the criminal law, the relevant agencies should be contacted.

- e. As to your request for receipt of a copy of the incarceration order which was issued pursuant to the Unlawful Combatants Law, it should be noted that said order is a legal document which was filed within the framework of a proceeding which takes place *in camera* and therefore, may not be attached to this response. With respect to detainees who are held by virtue of the criminal law, the relevant agencies should be contacted, as aforesaid.
- f. The three facilities which were mentioned in the article which was published in "*Bamahane*" magazine, were built within the territory of the State of Israel. Two facilities were built in the Eshkol area and in the Erez area, and the command detention facility was built in "Sde Teiman" military camp. Other than these facilities, no additional facilities were built. Detainees were held in those three facilities during the operation.
- g. It should be noted, that according to the Unlawful Combatants Law, when an incarceration order is issued against a person, he should be held in an "incarceration place" according to any one of the alternatives defined in the Law (while not all alternatives require any declaration). The "Sde Teiman" incarceration facility was declared by the Minister of Defence as an "incarceration place" pursuant to the Unlawful Combatants Law. The declaration may be found in the official gazette as required by law. In this context, it should be noted that eventually, in fact, also in the "Sde Teiman" facility, detainees were not held for a period which exceeded 14 days, but rather for much shorter periods, and therefore the declaration of said facility as an "incarceration place" was not necessary for the purpose of complying with the requirements of the Unlawful Combatants Law.
- h. As to the temporary detention facilities, it should be noted that they were designated in advance as transitional stations and were actually used for a short stay before the detainee were transferred to the detention facility "Sde Teiman" or to the Israel Prison Service, and there was no legal obligation to have them declared in the same manner.
- i. In order to avoid injury to state security, no details can be given with respect to issues related to the interrogation of the detainees.
- j. The incarceration standard which was set for the "Sde Teiman" incarceration facility is 300 detainees. No standard was set for the temporary incarceration facilities in view of the fact that the detainees stay there for a short time and it is used as a transitional station on the way to the incarceration facility "Sde Teiman" or to the Israel Prison Service. In fact 37 detainees were held in the Erez facility,

102 detainees were held in the Eshkol facility and 82 detainees were held in the Sde Teiman facility.

- k. The maximum period during which detainees may be held in facilities is determined according to the relevant law pursuant to which the detainees were arrested.
  - l. The IDF is in charge of the management of the three facilities which were mentioned above.
  - m. The Erez facility closed down on July 29, 2014 and the Eshkol facility closed down on July 30, 2014. The "Sde Teiman" facility, in fact, closed down on August 5, 2014, but no detainees were transferred thereto as of the beginning of the month. Therefore, it should be noted that no detainees are held in the detention facilities.
  - n. Currently, the IDF does not hold any detainees who were detained during the Operation. The relevant incarceration officials in the Israel Prison Services should be contacted for the purpose of obtaining data concerning detainees under its custody.
  - o. During the Operation three detainees were held in hospitals and were discharged. Currently, the IDF does not hold detainees who were arrested during the Operation in hospitals in Israel. The Israel Prison Service should be contacted to obtain the data concerning the detainees under its custody.
  - p. It should be noted that the Freedom of Information Act does not apply to information which was gathered by the intelligence agencies.
3. We will be happy to be at your service in the future.

Sincerely,

Public liaison department  
Public Relations Branch  
IDF Spokesperson Division

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