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Date: January 19, 2015
In your response please note: 57819

To:
Hagit Weiss
Director of the Population and Immigration Bureau
49 Wadi Joz
Jerusalem

**By Fax and
Registered Mail**

Dear Ms. Weiss,

**Re: Severe complaint regarding the conduct of your bureau in the matter of
Mr. _____ Shanayta, ID. No. _____
Summons to a hearing dated November 20, 2014
Hearing dated December 8, 2014
Our letters dated December 8, 2014 and January 12, 2015**

1. The following is a severe complaint regarding the conduct of your bureau in connection with a hearing which was held for my client whose details are specified above. As will be specified below, the complaint concerns the conduct of your bureau on the date of the hearing and thereafter. We shall hereinafter describe things in an orderly fashion.
2. On November 20, 2014, a summons to a hearing was received by our office. My client was summoned to a hearing in your bureau on December 8, 2014. The summons letter stated explicitly that you were considering denying my client's application due to **files awaiting adjudication** which were opened against him, and that he could send you his response in writing, or verbally on the date of the hearing. On December 8, 2014, the hearing took place.



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شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٠٢. ٦٢٨٣٥٥٥
فاكس. ٠٢. ٦٢٧٦٣١٧

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Violation of the dignity and privacy of the summoned person

3. The first issue which I wish to refer to is the failure of the employees of your bureau to protect the privacy and dignity of my client. As is known, the procedures of the Population Authority – Population Authority Procedure No. 5.1.0013 – and the rules of fairness and common sense which dictate meticulous protection of the privacy and dignity of the person who was summoned for a hearing. However, in the matter of my client, in addition to the person who conducted the hearing, two additional clerks, who ostensibly had no connection with the matter, were present in the hearing, Mrs. Rina Bardugo and Mr. Eitan Shabtai.
4. Needless to point out that the holding of a hearing in general, and more forcefully the holding of a hearing of the sort which was conducted to my client, a hearing in which, *inter alia*, criminal charges were raised against him, to which he was required to answer and expose personal information before the person who conducted the hearing, obligates you to meticulously protect the dignity and privacy of the summoned person. However, in the case at hand my client's rights were not protected, a matter which we regard very seriously, and hope will not recur.
5. Moreover. In the hearing, my client was requested to answer questions posed to him by an interrogator who attended the hearing on behalf of the Israel Police. The questions did not pertain to the files awaiting adjudication in connection with which he was summoned for the hearing, and therefore the undersigned objected to the expansion of the scope of the hearing. To my great astonishment, during a discussion which has developed in this regard between myself and the person who conducted the hearing, your above clerk, Mr. Shabtai, started yelling at me: "you will not determine what we can and cannot ask". When I protested before Mr. Shabtai and the woman who conducted the hearing against his brazen intervention in the hearing and demanded that he identified before me, Mr. Shabtai left the room and the woman who conducted the hearing also refused to give me his name.

The protocol of the hearing

6. Another serious matter which I wish to address is the conduct of your bureau in connection with the protocol of the hearing which was held to my client, an inappropriate conduct in several aspects which I will describe in detail one by one.

Failure to transfer the protocol to the summoned person

7. For about a month and a half we have been repeatedly demanding your bureau to transfer the protocol of the hearing to us, to no avail. Yesterday, notice was submitted by the district attorney's office to the court in a proceeding which is pending before the court in my client's case. The protocol of the hearing was attached to the notice which was submitted to the court, and we have thus been initially exposed to it.
8. It should be emphasized that according to the procedure of the population authority which was mentioned above, you are **obligated** to transfer to the person who was summoned to the hearing, a copy of the protocol of the hearing, at his request. It is unacceptable that after the elapse of a month and a half, following repeated requests which were sent to you to receive it, the protocol of the hearing has not yet been sent to the summoned person and his counsel.

Deficiencies in the protocol of the hearing

9. In addition, and contrary to the procedure of the population authority – the protocol of the hearing – which was made available to us through the notice to the court as I mentioned above – did not specify the names of the persons who conducted it.
10. Also contrary to the procedure, the protocol of the hearing was not signed by the person who conducted it and was not drafted on the form designated

for this purpose. In addition, it is not clear whether a summary signed by the persons who conducted the hearing was attached thereto, as required by the procedure. It should be emphasized that a review of the documents which were submitted to the court indicate that only two un-signed pages of protocol were submitted, which do not include the names of the persons who conducted it, and to which no summary was attached.

The protocol of the hearing does not reflect the reality

11. The protocol of the hearing is also deficient in that it does not reflect things as they actually took place in real time, and is therefore incorrect. I shall specify. In the course of the hearing the police interrogator who took part in the hearing expanded the scope of the hearing (which pertained to the files awaiting adjudication which were opened against my client prior to the date on which he was summoned to the hearing), and requested my client to refer to his activities in 2014. Following the above, I argued before the persons who conducted the hearing that we were not attending a police interrogation but rather an administrative hearing. Therefore, in view of the fact that on the date on which my client was summoned to the hearing, the files awaiting adjudication which were opened against him concerned his activities in 2013, there was no room to include in said hearing questions regarding 2014, questions which did not underlie the notice regarding the intention to deny dated November 20, 2014. I also argued before the persons who conducted the hearing that contrary to the recurring arguments raised in the files awaiting adjudication which were opened against my client, and according to which my client allegedly entered Israel unlawfully, my client continued to stay in Israel lawfully, firstly, under stay permits, and on a later stage by virtue of orders given to him by the appellate committee and the Court for Administrative Affairs, respectively. Following the above I demanded that it would be recorded in the protocol that I objected the expansion of the hearing over questions concerning 2014, which did not underlie the summons for the hearing, and that in response, I was told by the persons who conducted the hearing that if that was the case there was no room to continue with the hearing. At this stage

your clerk, Mr. Shabtai, started to yell at the undersigned as specified above.

12. Therefore, the protocol of the hearing which was submitted to the court, presents a distorted picture which does not reflect the occurrences as they actually took place, according to which the undersigned ostensibly objected, with no apparent reason, to the expansion of the hearing over questions concerning 2014.
13. In addition, the protocol includes no reference to the discussion which took place between the undersigned and the persons who conducted the hearing regarding said issue, neither does the protocol include any reference to the inappropriate and unprofessional outburst of your clerk in the hearing – whose presence in the hearing was inappropriate in and of itself – to my demand that he identified himself before me, and to the objection of the clerks of your bureau to my said demand.
14. In view of the above, and to prevent the recurrence of similar incidents in the future, I request as follows:
 - To receive, according to the procedure of the population authority, an amended and signed protocol of the hearing, as soon as possible;
 - Your pertinent response to the arguments raised against the conduct of your bureau in the matters specified in this complaint.

Sincerely,
Benjamin Agsteribbe,
Advocate