

**Outline for the Coordination of the Treatment of Infiltrators Involved in
Criminal Activities between the Israeli Police and PIBA**

General

The authority of the Head of Border Control to order the release from detention of an illegal resident is set in section 13f of the Law of Entry into Israel, 1952 (Hereinafter – “Law of Entry”). The section lists several causes for release, including that listed in section 13f(a)(4) whereby the Head of Border Control may release an illegal resident “residing in detention for more than 60 consecutive days.” As an exception to this provision it states, among other things, in the Law of Entry, that an illegal resident will not be released from detention if “...his release would endanger the security of the state, public safety or public health.”

The return to custody of an illegal resident who was released from detention in the past is anchored in section 13g(a) of the Law of Entry. In addition, when the release of the infiltrator was by virtue of a decision of the Detention Review Tribunal, the Head may request from the Tribunal to order the return to custody of the illegal resident who was released with a guarantee or additional release conditions, if new facts were discovered or the circumstances had changed (section 13p of the Law of Entry).

This outline is meant to make the coordination between the Israeli Police and the Head of Border Control more efficient in cases wherein the police have cases of infiltrators who are involved in criminal activities or infiltrators who were convicted and are awaiting release, who are under the responsibility of IPS, and this to bring them, in cases where their release would endanger public safety and security, to a hearing before the Head of Border Control, for the purpose of coming to a decision, according to the authority given to him by law.

The aforesaid concerning the cooperation between the Israeli Police and the Immigration Authority shall not derogate from the authority of the Minister of Interior and from his discretion according to law, including concerning the placement in detention for the reasons listed in the Law of Entry in general, and in cases of endangerment to the security of the State or public security in particular.

A. An Infiltrator who was Arrested by the Police On Suspicion of Committing an Offence

Reporting

1. The Police will notify the Population and Immigration Authority of the arrest of an infiltrator involved in a criminal activity. The Population and Immigration Authority will relay information to the Israeli Police concerning the status of the infiltrator in the country. In this regard all information will be brought to the Police concerning the dates of entry and residence of the infiltrator in Israel and the validity of residence permits that were given to him, if any were given.

Transfer of Information Concerning Infiltrators Involved in Criminal Activity

2. An infiltrator in the custody of the Israeli Police after being apprehended and arrested, the police will relay, at the time of the arrest, information as described to the Head of Border Control (hereinafter – “The Head”) in order for him to decide whether to exercise his authority according to law, in the following circumstances:
 - 2.1 There is an intention to exhaust the investigation in order to file a criminal indictment or there is an intention to close the file for lack of evidence alone, yet there is enough administrative evidence that is clear, definitive and convincing for the commission of the offence. This notwithstanding, in exceptional circumstances where no investigation has been opened, yet attempts were made to utilize one, one could consider relaying intelligence information.
 - 2.2 The offence is one that endangers the security of the State or public safety, in accordance with the criterion listed in Appendix A below, or in other exceptional circumstances wherein the repetition of the act, the severity of the act or the severity of the circumstances indicate a danger to public safety and security and with the approval of Investigations and Intelligence Division.

Documents to be Transferred

3. The relevant Head of the Regional Investigations Branch will transfer the following documents to the relevant regional Manager in the Population and Immigration Authority:
 - 3.1 The investigative material in the file including of relevant paraphrase intelligence, insofar as it exists.
 - 3.2 The summary of the investigative file that includes a description of all evidence against the infiltrator.
 - 3.3 A detailed position will be written by the authority that ordered the closing of the file, as to the reasons for the closing of the investigative file for lack of evidence, if the decision was to close the file, or concerning the evidential findings as of the date of the transfer of information, including:
 - 3.3.1 A description of the nature of the attributed offence(s), degree of recurrence;
 - 3.3.2 The scope of the criminal phenomenon and any additional item that may provide the authorized authority with a full evidentiary basis concerning the danger posed by the infiltrator;
 - 3.3.3 Information concerning the intent to file an indictment against the infiltrator and to close his file for lack of evidence alone, yet there is enough clear and convincing administrative evidence for the commission of the offence;
 - 3.3.4 Reference regarding the level of risk to public safety and security in all relevant considerations.

3.4 The Head of the Regional Investigations Branch will sign his approval that the documents concerning the infiltrator were duly transferred in accordance with the outline of cooperation.

Hearing Before the Head of Border Control

4. If the Head finds that, in light of all the information transferred to him from the Israeli Police, there is a need to use his authority by law, the infiltrator will be accompanied by the Israeli Police to the relevant enforcement area of the Population and Immigration Authority for a hearing.
5. The Head will conduct a hearing for the infiltrator, during which the Head will take into account, among other things, the following considerations:
 - 5.1 The type of offence and whether the offence is one of those listed in Appendix A below;
 - 5.2 Whether evidence exists according to the Administrative Evidence Test;
 - 5.3 The degree of recurrence of the offence;
 - 5.4 The scope of the criminal phenomenon in which the infiltrator is involved, in light of the position of the Head of the Regional Investigations Branch;
 - 5.5 The criminal history and other circumstances that illustrate the existence of a threat to public safety and security;
 - 5.6 Alternative to detention – whether there is an alternative to detention that could be used to ensure public safety and security;
 - 5.7 This is not a trivial issue.
6. Note that a decision concerning the placement in detention due to a threat to public safety and security is not limited to the consideration described above and is by law at the discretion of the Head. For purposes of reaching a decision the Head may seek consult with the police authority that gave the position and with other authorities that he sees necessary.
7. Prior to reaching a decision concerning the placement in custody of an infiltration who holds a valid temporary residence permit given to him under section 2(a)(5) of the Law of Entry (hereinafter – temporary permit), the Head will consider reaching a decision concerning the canceling of the temporary permit after conducting a hearing concerning the cancelation of the permit.
8. If the authorized authority decides to cancel the temporary permit and issue a detention order against the infiltrator, the infiltrator will be transferred to detention by inspectors of the Population and Immigration Authority.

B. An Infiltrator who was Convicted of Committing a Criminal Offence

1. An infiltrator who was tried for a criminal offence, convicted and is about to finish serving his sentence, the IPS will transfer the following material to the authorized authority at the

head office of the Enforcement Unit 7 days prior to his expected release date from detention:

- 1.1 Identity documents (if they exist);
 - 1.2 Indictment for the crime of which the infiltrator was convicted;
 - 1.3 Final judgment (verdict and sentence);
 - 1.4 The prison file will be transferred until the hearing date.
2. The Head of Border Control will conduct a hearing for the infiltrator in which the Head will take into account the following considerations:
 - 2.1 The position of the Court concerning the dangerousness of the infiltrator, including the type of offence and whether the offence is one of those listed in Appendix A below;
 - 2.2 The length of detention served by the infiltrator;
 - 2.3 The degree of recurrence of the offence;
 - 2.4 The scope of the criminal phenomenon in which the infiltrator was involved;
 - 2.5 Other circumstances that illustrate harm to public safety and security;
 - 2.6 Alternative to detention – whether there is an alternative to detention that could be used to ensure public safety and security;
 - 2.7 The length of stay in custody;
 - 2.8 The amount of time that passed since committing the offence;
3. Note that a decision concerning the placement in detention due to a threat to public safety and security is not limited to the consideration described above and is by law at the discretion of the Head. For purposes of reaching a decision the Head may seek consult with the authority that gave the opinion and with other authorities that he sees necessary.
 4. Prior to reaching a decision concerning the placement in custody of an infiltration who holds a valid temporary residence permit given to him under section 2(a)(5) of the Law of Entry (hereinafter – temporary permit), the Head will consider reaching a decision concerning the canceling of the temporary permit after conducting a hearing concerning the cancelation of the permit.
 5. If the authorized authority decides to cancel the temporary permit and issue a detention order against the infiltrator, the infiltrator will be transferred to detention by inspectors of the Population and Immigration Authority.

Appendix A

1. Security Offences
2. Burglary Offences
3. Violent Offences
4. Holding a Knife for an Improper Purpose
5. Sexual Offences
6. Disorderly Conduct
7. Falsification of Permits in Aggravating Circumstances (Falsifying Identity Cards and Drivers Licenses)
8. Drunk Driving and Driving Without a License
9. Drug Offences, Excluding Holding a Drug for Private Use