



State Comptroller and Ombudsman
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Criminal Detentions in Israel

State Representatives' Conduct in Court Deliberations Concerning Arrest

Summary

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Background

At the investigatory stage, before the prosecutors decide on filing an indictment, hearings are held in the magistrates' courts regarding arrests during the investigatory period - 'day arrests'. At this point, the state is represented by investigators from the police investigative units, called "arrest pleaders".

After an indictment is filed, the court in which the indictment was filed has legal authority to order the arrest of the accused until the end of the legal proceedings or to release him under restrictive conditions. State representatives appearing before the court at this time are prosecutors from the Prosecutorial Unit of the Police or from the state Attorney General's office.

Key figures

41

Number of arrest pleaders regularly appearing in the Magistrates' Courts

42,216

Number of petitions filed with courts in 2018 requesting 'day arrests'

14,831

Number of petitions filed with courts in 2018 requesting an arrest until the end of proceedings

29%

Of those arrested in 2018 were arrested until the end of the proceedings.

120,000 NIS

The annual cost of maintaining an inmate in prison - twice the cost of maintaining electronic supervision and three times the cost of maintaining a suspect in a governmental institution for those released under restrictive conditions

600

Handcuffs systems for electronically supervised detainees; about 25% of these handcuffs are not used






Audit Actions



From March to June 2019, the State Comptroller's Office examined the systemic operation of those in law enforcement involved in the filing of petitions for arrest. This part of the report focuses on the conduct of state representatives in arrest proceedings in the courts, either for extension of a 'day arrest' during the police investigation or within the prosecution's request for arrest until the end of the proceedings after an indictment is filed. As part of the audit, representatives of the State Comptroller's Office visited four different courts¹.

The Situation Reflected in the Audit Findings



-  **Work Practices** - No national procedures have been established for the work of the arrest pleaders with the aim of regulating, among other things, their working conditions, their powers, their professional and command subordination, and the work interfaces between them and the investigating units.
-  **The rate of filings for arrest until the end of proceedings** - From the date of enactment of the Arrest Law until 2018, the relative proportion of arrests until the end of proceedings has increased from 11% to 35% of all arrests. There has been no change in the low rate of petitions for release under restrictive conditions initiated by the prosecutors.
-  **Oversight of Arrest Procedure** - The prosecutors have no ability to produce complete information on arrests until the end of proceedings for conducting systemic control and analysis regarding arrest policies.
-  **Adult Probation Service** - The employment positions For Probation Officers working in the realm of arrests, are not fully staffed; nationally, throughout 2018, approximately 7 positions on average were not staffed. In two Districts, the shortage reached twice the national average. Therefore, the probation service finds it difficult to submit the reports regarding arrest within the time limits set by the court.
-  **Electronically supervised detainees** - Electronic supervision is often successful in fulfilling the purpose of arrest or detention and is less detrimental to person's liberty. However, about 25% of the electronic means of detention are not utilized.



Report of the Public Committee for the Examination of Punishment and Treatment of Criminals - The State Comptroller's Office commends the work of the prosecution team, headed by the Deputy State Prosecutor (Criminal), to implement the public committee report on the matter. The team set out as a primary goal to consider changing the prosecution policy, in order to reduce rates of imprisonment (of both those arrested and those convicted) in favor of rehabilitation procedures that could prevent recidivism. The team assumed responsibility for all law enforcement agencies

¹ The Tel Aviv, Jerusalem, Ashkelon and Be'er Sheva Magistrates' Courts.

and worked to promote the assimilation of the public committee's conclusions among all relevant agencies.

Government framework for release under restrictive conditions - The State Comptroller's Office commends the activity of the Adult Probation Service to establish a government framework to which detainees will be released under restrictive conditions.

'Maoz' Unit - The State Comptroller's Office commends the activities of the IPS Maoz unit, which monitors how many detainees under electronic supervision violated the conditions of supervision. In each of the years 2017 - 2019 the proportion of detainees who did not breach the supervision conditions increased by about 10%; in 2019, 78% of detainees did not breach the terms of supervision.

Main Audit Recommendations



It is proper that the operation of arrest pleaders in court be clarified within detailed guidelines which will serve as an ethical and professional basis for their work.



Prosecutors should review the policy regarding arrests until the end of proceedings and continue to implement the recommendations of the public committee on this matter.



It is proposed that prosecutors analyze the causes of the limited use of the detention alternative by electronic supervision and take steps to make broader use of this alternative.

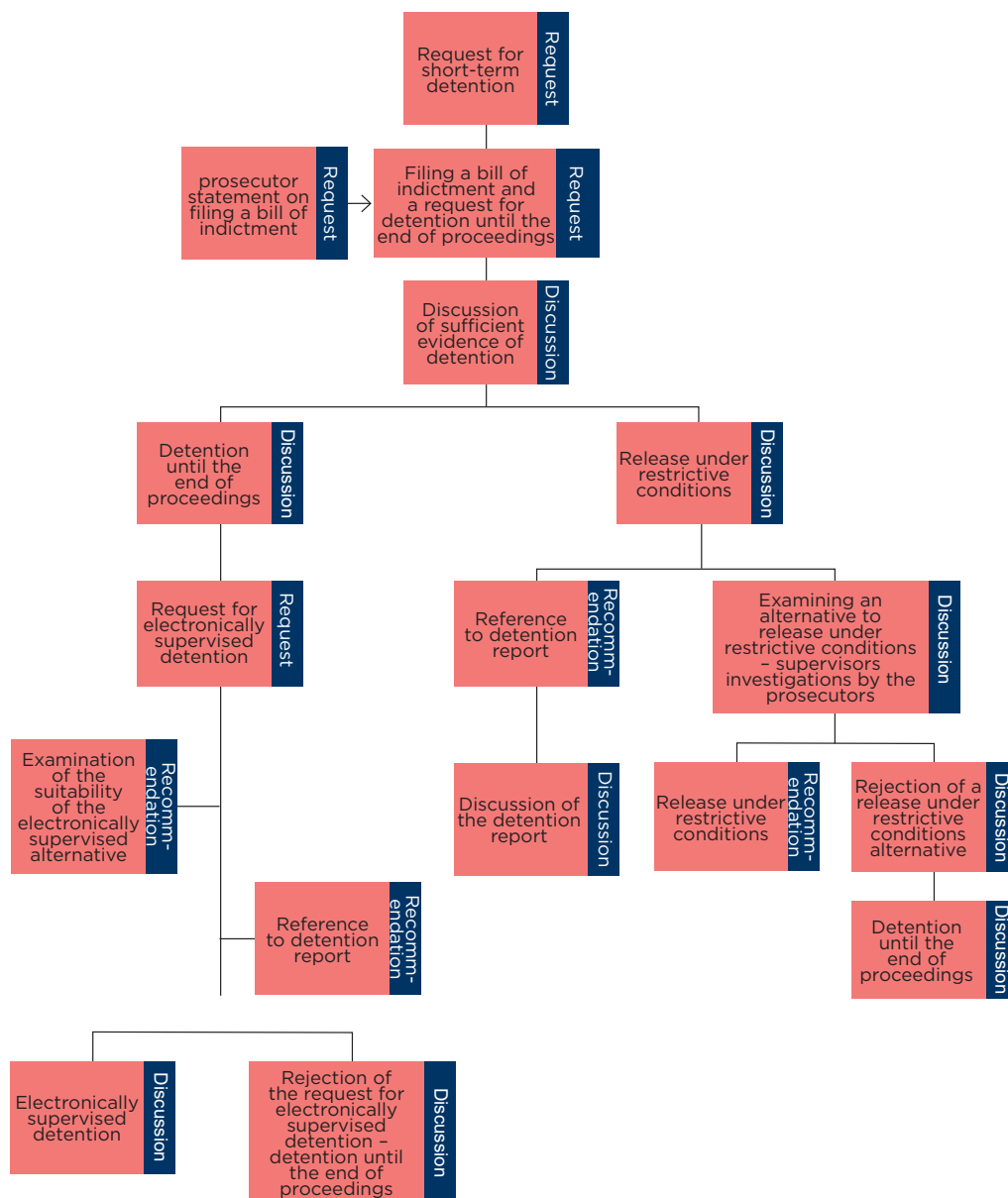


Solutions to the manpower recruitment problem should be found, including the possibility of placing the terms of employment of all probation officers in the domain of arrests, on equal footing. It is proposed that the Ministry of Finance's Department of Wages and the Probation Service work together to find agreed solutions.

Summary

Much of the work of state representatives in criminal proceedings is taken up with petitions for 'day arrests' and arrests until the end of the proceedings. The Israeli police must act to regulate the role of the arrest pleader and to define the powers of the regular pleaders, which are found at the intersection between the investigating unit and the court. In terms of punishment and treatment, prosecution officials must assimilate the recommendations of the public committee on this matter: reduce incarceration behind bars and increase the use of remand alternatives that will allow rehabilitation and prevent recidivism.

The legal proceedings at the request for detention until the end



In accordance with the Arrest Law, in the processing of the State Comptroller's Office.

