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B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

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## **FIRING AT VEHICLES BY SECURITY FORCES IN THE OCCUPIED TERRITORIES**

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**Introduction** On July 24, 1992, Na'im Kamel Na'im Isma'il Abu Amuna, age almost 4, was killed in Khan Yunis refugee camp, when the car in which he was traveling with his father and other family members was fired on by IDF soldiers.<sup>1</sup> In his testimony to **B'Tselem** the father stated that he had not understood that the soldiers were signaling him to stop; he thought they were directing him to turn right.<sup>2</sup> As soon as he made the turn, the soldiers opened fire at the car, killing the little boy.

In reference to this incident, **Ha'aretz** quoted what OC Southern Command Matan Vilnai said in a talk with soldiers in the Gaza Strip on March 8, 1993:<sup>3</sup>

Every time we shot at a vehicle like that we killed a child. It's not worth it. It's just not worth it. We had a story like that with reservists in Khan Yunis who opened fire and killed a four-year-old boy. And when you start to check the story, it turns out that the father had bought a new car and was taking his family for a drive for the first time in the car. He didn't notice the roadblock, he was so thrilled at having a new car, he turned, ignored the checkpoint, and then the reservists open fire and kill a child. It just doesn't pay.

The case of Na'im Abu Amuna is not the only one in which the security forces opened fired at a vehicle even though their lives were not endangered. In 1993 alone, twelve people were killed in nine such incidents.

The testimonies cited in this report show that on many occasions when the security forces shot at a vehicle, at a checkpoint or elsewhere, they shot in violation of the Rules of Engagement, and passengers were wounded or killed as a result. In many cases roadblocks are not properly marked, the stages prescribed in the Rules of Engagement for opening fire are not followed, and the security forces fire at a vehicle that does not stop even though they are not endangered by the passengers and they are liable to hit bystanders.

This report deals with firing by the security forces at vehicles, and specifically cases in which this caused fatalities. The report analyzes the open-fire regulations regarding vehicles, and addresses both the failure to implement some of the regulations, and the inherent problems in the regulations themselves. IDF policy is analyzed and examples are cited.

## Facts and Figures

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<sup>1</sup> On this incident, see **B'Tselem**, *The Killing of Palestinian Children and the Open-Fire Regulations*, June 1993, p. 9.

<sup>2</sup> Testimony to **B'Tselem** fieldworkers Yuval Ginbar and Suha 'Arraf, July 27, 1992.

<sup>3</sup> Vilnai was responding to an officer's complaint that soldiers were forbidden to open fire at a vehicle that failed to stop at a checkpoint, even if its passengers included wanted individuals (**Ha'aretz**, March 19, 1993).

On at least twenty-four occasions from the start of the Intifada until the end of 1993, passengers in vehicles were killed by security forces' fire. Thirty-one people died in these incidents.

In nine of the cases, in which thirteen Palestinians were killed, the security forces were in mortal danger. There were four incidents in which drivers tried to run down soldiers at a checkpoint; and two soldiers were gunned down by Palestinians at an IDF roadblock.

In fifteen incidents - in which eighteen people, including two small children, were killed - the lives of the security forces were not endangered. Two people were killed when soldiers directed their fire at another vehicle but hit them instead.<sup>4</sup> In eleven of these cases, involving twelve deaths, the security forces shot at vehicles that failed to stop or that stopped after a checkpoint, although in no case did the passengers attack or try to attack soldiers.

In 1993, twenty-three people were killed in sixteen incidents; in seven of them, which claimed eleven lives, the security forces were in mortal danger. No such danger confronted them in the other nine incidents, in which twelve people died, including a four-year-old girl, and an Israeli policeman.

Between the signing of the Israeli-Palestinian Declaration of Principles on September 13, 1993, and December 31, 1993, seven people were killed when vehicles came under fire, four of them in situations involving no mortal danger to the security forces.

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<sup>4</sup> Khaider Muhammad al-Kareis was wounded on February 25, 1993, and died of his wounds three days later. He was hit while standing on the roof of his house when Border Policemen returned fire at a vehicle from which they had been fired on. 'Ali Muhammad al-Fara was killed on November 23, 1993, when soldiers opened fire at a car that failed to stop and hit the taxi in which al-Fara was traveling. Eye-witness testimony on the circumstances of his death appears later in this report.

## RULES OF ENGAGEMENT<sup>5</sup>

The Rules of Engagement distinguish between the procedure for stopping a suspicious vehicle at a checkpoint and "not at a checkpoint."

### A. Opening Fire at Checkpoints on a Suspicious Vehicle

A "suspicious vehicle" is defined as one that does not stop at an IDF checkpoint or tries to bypass it. The orders emphasize, however, that a vehicle that breaks through a checkpoint is not to be fired at unless

there exists a reasonable suspicion that the reason for breaking through the checkpoint is **connected with a serious felony**. When it is clear, or it may be assumed, that the checkpoint was breached for another reason and not by hostile elements, it is forbidden to open fire.

In any event, firing must be a **"last resort,"** to be undertaken only after all other attempts to stop the vehicle have failed and the commander has considered carefully whether, under the circumstances, it is essential to open fire. (Emphasis in the original.)

Even if these conditions apply, firing is permitted only if:

1. The checkpoint "is placed **in a prominent position, lit at night, and before which are situated clear signs,**" so that the driver can see it in time to stop accordingly. (Emphasis in the original.)
2. There is no danger of hitting people or property located nearby.
3. There are no women or children in the vehicle.

The official procedure for the use of firearms stipulates several stages. First, the vehicle must be signaled to stop by means of hand gestures or, if it is dark, with a flashlight. If this is ineffectual, a warning must be shouted in Arabic followed by a warning shot fired in the air; if the vehicle still fails to stop, fire is to be aimed at the wheels only. If the vehicle's passengers flee, they are to be stopped in accordance with the procedure for apprehending suspects.

**Opening fire with the intent to hit the person is permissible only in cases of immediate concrete mortal danger to those manning the checkpoint.**

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<sup>5</sup> For a general critique of the orders for using firearms, see **B'Tselem**, *The Use of Firearms by the Security Forces in the Occupied Territories*, July 1990.

## **B. Opening Fire at a Suspicious Vehicle Not at a Checkpoint**

A "suspicious vehicle" not at a checkpoint is defined as a vehicle regarding which there is a reasonable basis for believing that at least one of the passengers was involved in a serious felony or is on the way to commit such a felony. Firing is permissible only if "there exists a suspicion based on facts, data or other reliable information.... . A mere suspicion, hunch or feeling will not suffice."

Since in this case there is no formal checkpoint erected on the road, **"all possible methods should be used in order to signal in a clear manner to the driver that he must stop."** (Emphasis in the original.) Only if there is a reasonable basis to believe that the driver intentionally ignored the order to stop, may soldiers resort to the procedure for opening fire.

Apart from the above, the procedure for the use of firearms in these cases is the same as for apprehending a suspicious vehicle at a checkpoint.

## **FAILURE TO ADHERE TO THE RULES OF ENGAGEMENT**

Testimonies taken by **B'Tselem** show that in many cases the security forces do not adhere to the regulations for opening fire at a suspicious vehicle. Moreover, the evidence indicates that even when the orders are followed, they often have lethal consequences.

### **A. Checkpoints Improperly Set Up**

The IDF Rules of Engagement stipulate that a roadblock must be placed so that it will be clear to the driver of an approaching vehicle - at a sufficient distance to enable him to slow down and stop - that he has reached a checkpoint of the security forces. Spikes and "stop" signs must be placed on the road before the checkpoint, and at night it must be lit up.

On April 3, 1993, at approximately 10:30 p.m., a policeman named Eitan Masika, from the settlement of Ma'aleh Ephraim, was driving from his house to the coastal area. On the way, he picked up three soldiers. According to the next day's **Ha'aretz**, soldiers at a checkpoint near the village of Osarin, in the Nablus District, ordered the approaching vehicle to stop, using a searchlight. The vehicle did not stop and continued on its way at a high speed. The soldiers on the road block reported this to another unit, which was stationed near Tapuah junction. The latter set up another roadblock, and when they saw the car approaching, signaled it to stop. Again the driver failed to obey. The soldiers fired in the air, and when this too had no effect, they shot at the car, killing the driver.

The investigation showed that the roadblocks had not been marked properly, as stipulated in the regulations, and that the soldiers signaled the car to stop only by means of flashlights and with their hands. The testimonies cited in the present report, as well as other cases, show clearly that IDF checkpoints are frequently not marked as directed in the regulations and in the Rules of Engagement.

The security forces have frequently fired at vehicles that did not stop at a checkpoint because - as is turned out - the driver did not understand that he was required to stop since the checkpoint was not lit up, there were no "stop" signs, and the soldiers were not clearly visible.

It is especially important to properly mark the roadblocks in the territories, since many of them are temporary and not positioned at points where roadblocks are generally located. Drivers approaching such a roadblock, set up at a place they are used to passing freely every day, may not notice an improperly marked roadblock. Certainly, it is insufficient to wave a flashlight or signal by hand in order to make a driver understand that he has reached a checkpoint and must stop.

The proper marking of checkpoints, as described in the Rules of Engagement, is essential in order to prevent the recurrence of incidents such as those described above.

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### *Other Cases*

On April 13, 1993, Border Policemen opened fire at a car carrying a family from Beit Hanina after the driver failed to stop as ordered. Four of the passengers were hit and the fifth, an infant a year and a half old, was wounded by splinters. The father, who was driving, claimed he had not seen either a roadblock or policemen signaling him to stop. The District Police spokesperson stated that a Border Police patrol signaled a vehicle to stop, and when it did not, the force fired in the air and then at the wheels.<sup>6</sup>

On April 25, 1993, soldiers opened fire at a vehicle, wounding two brothers from Kochav Hashachar who were on their way to the settlement of Ofra. The driver claimed that there had been no checkpoint, only a soldier by the side of the road waving a flashlight up and down. He said he thought the soldier was waving to him in greeting. The IDF Spokesperson stated that all the soldiers had acted according to the orders.<sup>7</sup>

On May 4, 1993, two Israeli civilians and a resident of Qalqilyah, who were smuggling vegetables from Tulkarm into Israel, were driving on a dirt road, when an undercover unit of the Border Police, wearing civilian clothing, called to them in Arabic to stop. The vehicle's occupants, not realizing that these were soldiers, panicked and did not stop. The force fired at the vehicle, wounding the two Israelis. Official sources stated that the unit had followed the official procedure, opening fire after identifying a suspicious vehicle that ignored calls to stop.<sup>8</sup>

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### **B. Opening Fire on a Vehicle that Fails to Stop at a Checkpoint**

The Rules of Engagement forbid opening fire at a vehicle only because it fails to obey an order to stop. There must be a reasonable suspicion that the driver did not stop because he is involved in a serious felony. However, testimonies taken by **B'Tselem** show that the security forces frequently open fire solely because a vehicle fails to stop.

Communiques of the IDF Spokesperson seem to suggest that the fact that a vehicle did not stop is sufficient reason to open fire. For example, on March 13, 1993, four-year-old Safa (Huda) Ishaq Siyaj was shot and wounded by IDF soldiers in Hebron. She died of her wounds the next day. The IDF Spokesperson stated:

A vehicle driven by a resident of Hebron approached the roadblock at the Ha-Uz checkpoint in the city at about 6:00 this evening. When the car was close to the roadblock it turned around and started to speed away. When the driver did not respond to the soldiers' calls and gestures to stop,

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<sup>6</sup> **Kol Ha'ir**, April 16, 1993.

<sup>7</sup> **Ha'aretz**, April 27, 1993.

<sup>8</sup> **Ma'ariv**, May 6, 1993.



they shot at the car but it escaped. It was later reported from 'Aliah Hospital in the city that a car had arrived with a girl about three years old who had suffered moderate bullet wounds in the stomach... .

The IDF Spokesperson's announcement on the death of Iyad Mahmud 'Awad 'Amali, who was killed on November 13, 1993, stated:

[...] The incident occurred when soldiers at an IDF checkpoint called to the passengers in the local vehicle to stop, and when they did not respond to their calls and began to flee, the soldiers shot at them. As a result, 'Amali was killed.

As explained, in some cases drivers do not stop because they do not notice either the checkpoint or the soldiers signaling to them. In other cases drivers fail to stop because they are driving a stolen vehicle, or have no driver's license, or do not want to be delayed at the checkpoint. None of these possibilities can be described as a "dangerous felony."

Clearly, the mere fact that a vehicle fails to stop does not necessarily mean that its passengers are involved in a "dangerous felony." On many occasions, the security forces, by opening fire at a vehicle that failed to stop, wounded or killed individuals who did not endanger their lives.

The order forbidding fire to be opened at a vehicle only because it fails to stop, either at a checkpoint or elsewhere, should be made clear to the security forces and adhered to stringently.

### **C. Firing at the Wheels of a Vehicle**

The procedure for apprehending a suspicious vehicle is not supposed to have lethal consequences. Its final stage permits firing only at the wheels. Under no circumstances may fire be aimed at the body of a vehicle, if the security forces are not in mortal danger.

On January 31, 1993, Nasser Wahid Abu 'Ayish Ghalyun and Muhammad Amin Ibrahim 'Omar Dabus were killed while traveling in a stolen Israeli car, when they failed to stop at a checkpoint near the village of 'Arabbeh, in the Jenin District. They were not armed. In a testimony to **B'Tselem**, Abu Ghalyun's brother stated that he was notified the following morning by the Civil Administration that his brother and Muhammad Dabus had been shot to death after failing to stop at an IDF roadblock. He added:<sup>9</sup>

[...] I saw the bodies after the autopsy. Nasser was hit by one bullet in the forehead and [another] in the hip. He had another head wound as well, apparently from a blow he received. Muhammad was hit by bullets on the bottom of his left foot, on the right side of the chest, in the ear, and in the back. He also had a mark as though he had been hit on the head... .

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<sup>9</sup> Testimony to Suha 'Arraf on February 4, 1993, in the village of Beit Iba, Nablus District.

In reply to a query by **B'Tselem**, the Military Advocate General's Office stated that the investigation in this case had been closed and no legal measures taken against any of the soldiers involved. Moreover: "No support was found for the suspicion that the soldiers fired other than in accordance with the stages of the procedure for apprehending a suspect, i.e., [only] at the wheels of the car."<sup>10</sup>

On November 25, 1993, Ahmad Zaharnah, a Saudi tourist, was killed in Rimal neighborhood of Gaza City. The IDF Spokesperson's announcement stated:

This evening the IDF identified a suspicious vehicle that did not respond to soldiers' calls to stop. The force carried out the procedure for apprehending a suspect and as a result of the firing three of the car's passengers were wounded. One of them was taken in serious condition to a hospital in the center of the country, and later died of his wounds... .

**Ha'aretz** reported on November 28 that the IDF's investigation disclosed that the soldiers had not carried out the procedure for apprehending a suspect and had acted contrary to regulations by firing into the car. An apology was conveyed to the family of the deceased.

Other testimonies cited in this report show clearly that firing is frequently aimed not only at the wheels of a vehicle but at its body as well.

The fact that in some cases soldiers intended to shoot only at the wheels but hit the body underscores the inherent nature of the regulations and the difficulty of implementing them properly. Indeed, eighteen people have been killed when the security forces opened fire "at the wheels" of vehicles, even though the soldiers were not in mortal danger.

Although opening fire at a vehicle is not supposed to have fatal consequences, it often results in the death of passengers.

#### **D. Injury to Women and Children in Vehicles**

The Rules of Engagement state: "Do not open fire if it is evident that there are women and/or children in the suspicious vehicle."

As already mentioned, on March 14, 1993, Safa Siyaj, aged 4, died of her wounds. In testimony to **B'Tselem**, her family related that she had been in the car with her brother, who was driving without a license. He panicked when he saw a roadblock and soldiers, turned around, and tried to flee. The soldiers opened fire, killing Safa Siyaj, who was sitting in the back seat.<sup>11</sup>

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<sup>10</sup> Letter of Col. Dani Be'eri, Chief Military Prosecutor, August 12, 1993.

<sup>11</sup> On this incident, see **B'tselem**, *The Killing of Palestinian Children and the Open-Fire Regulations*, June 1993, p. 8.

In reply to a query by **B'Tselem**, the Military Advocate General's Office stated, among other points: "It was clarified that the soldiers had not noticed the girl who was sitting in the back seat of the vehicle."<sup>12</sup>

Any vehicle that does not stop at a roadblock - even one which in the estimation of those manning it is connected with a "serious felony" - may be carrying children who are too small to be seen by the security forces. It is not feasible to expect soldiers at a checkpoint to try to determine whether there are children in a fleeing vehicle. The same applies when the security forces order a vehicle to stop not at a formal checkpoint.

The fact that it is very difficult to see small children sitting in a vehicle should have been taken into account by the formulators of the regulations for the use of firearms. Their omission cannot justify lethal fire.

The result is that a directive which was meant to prevent children from being shot, does not, and cannot, achieve its purpose.

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<sup>12</sup> Letter of Lt. Nadav Weissman, Assistant Chief Military Prosecutor, December 5, 1993.

## EXERCISING DISCRETION AT CHECKPOINTS

The Rules of Engagement endeavor to reduce the number of situations in which it is permissible to fire at a vehicle. The fact that the vehicle's occupants must be suspected of having committed a serious felony, the ban on shooting at a vehicle containing women or children, the need for the commander to consider carefully whether to open fire - all these and other strictures show this tendency.

Yet the orders also allow the security forces to exercise broad discretion which is not easily reconciled with the restrictive approach. If a vehicle fails to stop, the soldiers must decide whether this is because the occupants have committed a serious felony, and if only they conclude that this is the case may they open fire. As a result of this directive, soldiers have opened fire at vehicles resembling ones they were warned about, or at vehicles that did not stop, because they suspected that the passengers were wanted individuals.

The point is illustrated in the reply of the Military Advocate General's Office to **B'Tselem's** query regarding the outcome of the investigation into the deaths of Nasser Abu Ghalyun and 'Omar Dabus on January 31, 1993:<sup>13</sup>

The investigation showed that the car in which the two deceased were traveling stopped upon being called to do so by the soldiers, but when the driver realized that this was an IDF roadblock he made a sharp turn and started to flee from the soldiers.

In light of the clear fact that the car **deliberately fled** from the force, and the nature of the soldiers' activity and the prior information in their possession, which focused among other points on a car of the type in which the deceased were traveling, and the site of the incident, it was found that the soldiers' suspicion that those fleeing had committed a serious felony was not unreasonable in the circumstances. [Emphasis in the original.]

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**In an interview with two officers from the "Duvduvan" undercover unit, published in the daily "al-HaMishmar" on February 4, 1994, Captain J., in answer to the question of whether there were cases in which persons had been killed by mistake, stated:**

"Despite all the activity at the checkpoints, we knew that wanted terrorists were commuting from place to place. Therefore, we set up checkpoints on many major arteries. There had been incidents such as this in the past. For example, a car would arrive at a checkpoint, recognize it as a checkpoint, and flee. The result is that fire is opened, and sometimes people are killed. Not everybody who flees is wanted. It took us a while to realize that. Indeed, people were killed who, for example, stole a car and sped away in it from the checkpoint, or some were killed when they fled because of a crime they had committed. Such persons perhaps should have been punished, but they didn't have to be killed."

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<sup>13</sup> Letter of Col. Be'eri, see note 10.

In all likelihood, the soldiers' suspicion, given the circumstances, was not unreasonable, but in fact the passengers in that vehicle were not involved in a serious felony and there was no connection between their behavior and the prior information in the soldiers' possession.

This and other cases documented in the report show the serious consequences of permitting the security forces to exercise such broad discretion. Practically speaking, they cannot determine whether passengers of a vehicle that does not stop at a roadblock are involved in a serious felony or whether a particular vehicle is related to the information in their hands.

Therefore, the discretion allowed the security forces should be reduced by means of a clear order that it is permissible to open fire only in cases of mortal danger. Even if the soldiers suspect that a vehicle's passengers have been involved in a serious felony, they should not open fire unless their own lives are endangered.

## IDF POLICY

**B'Tselem** asked the Military Advocate General's Office on two occasions whether, in light of the many cases in which passengers in vehicles were hit even though they did not endanger the lives of the security forces, the military had decided to limit the options for opening fire. The reply to the first query was:<sup>14</sup>

It should be noted that the IDF is aware of the danger inherent in opening fire at checkpoints, and therefore restricts the opening of fire at checkpoints to limited situations only. Unfortunately, in situations when [vehicles] break through IDF roadblocks, and the soldiers have information about armed wanted individuals who are operating in the region - who have often also attacked soldiers at checkpoints (as the events of recent days show) - there is little room for the possibility that the checkpoint was breached innocently... .

The reply to the second query stated:<sup>15</sup>

[...] The terrorist incidents in which soldiers at checkpoints have been attacked make it difficult to accept the policy you propose, since these soldiers are exposed in static positions, and because their task is to control the traffic on the road where they are posted they have no cover behind which they can take shelter. In this situation, limiting them to opening fire only when they are fired on, without taking account of suspicious, unusual behavior [which occurred] earlier, places them in extreme danger, [a situation] which is not acceptable.

Two cardinal points are implicit in these replies:

(1) In practice, policy ignores the explicit order that it is permissible to open fire at a vehicle only if the passengers are suspected of having committed a serious felony, and not at every vehicle that fails to stop. The above replies indicate that approval is given, either in advance or after the fact, to firing at vehicles on the basis of general information about "armed wanted individuals who are operating in the region," even though there is no necessary connection between this information and the vehicle itself.

(2) Current IDF policy permits soldiers to fire at a vehicle in cases of "suspicious behavior" by the driver. This does not mean behavior that constitutes immediate mortal danger to the security forces - i.e., the passengers in the vehicle open fire or the driver tries to run them down - but any instance in which the vehicle tries to flee. In the existing circumstances, as described here, it is misleading to argue that when a vehicle breaks through a checkpoint, "there is little room for the possibility that the checkpoint was breached innocently." As already explained, the reason for such behavior may be that the car is stolen, or that the driver does not have a license, or that he did not notice a poorly marked checkpoint. Even if such behavior is not always "innocent," it does not warrant opening fire.

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<sup>14</sup> Ibid.

<sup>15</sup> Letter of Lt. Weissman, see note 12.

It is therefore not the case that the IDF restricts the opening of fire to "limited situations." In fact, the replies above suggest that current policy actually allows soldiers to exercise even broader discretion in opening fire. For example, if the security forces have information about wanted individuals operating in the area, and at the same time a vehicle fails to stop at a roadblock, soldiers may open fire at that vehicle. However, as this report shows, such situations have often brought injury or death to individuals who did not endanger the lives of the security forces and were neither wanted nor armed.

## CASES

The following are cases in which passengers in vehicles were shot even though they did not endanger the lives of the security forces.

### *The Death of Wafa Hatam a-Zagha*

Wafa Hatam a-Zagha, 24-year-old student, was killed on September 15, 1993, in Nablus. After studying that evening with a friend, Amar Hussein Kurdi, and then driving to the latter's office for a coffee, a-Zagha and Kurdi decided to take a different route back. Kurdi, who was driving, told **B'Tselem**:<sup>16</sup>

When we reached 'Omar Ibn al-Khitab Street, I noticed nails on the road at a distance of 25 meters (the soldiers or police put nails on the road at checkpoints). There was no "stop" sign and no fire, such as the army places at night checkpoints, but there was street lighting. I did not see soldiers next to the checkpoint. I saw a large garbage can there. When I noticed the nails, I braked abruptly. The car pulled to the left and the front headlight hit a tree. My glasses fell off. I turned the steering wheel and the left taillight hit a tree. At that moment the car began to be fired on.

Immediately I put my head between my legs [and bent down] under the steering wheel. The car kept going downhill, and then I heard Wafa shout that he was wounded. I looked at him and I saw that there was blood all over his chest. I felt the car run over the nails. The shooting, which only lasted a few seconds, stopped. I raised my head and grabbed the steering wheel. Both front wheels had been punctured and I could not stop the car. The car kept going downhill, until finally it hit a road sign and stopped.

I got out of the car and shouted that someone was wounded and to call an ambulance. Two young people arrived and together with them I took Wafa out of the car and we walked about 30 meters with him. Suddenly there were more shots. The two fellows who were with me ran off and I was left alone with Wafa. Six soldiers appeared, from behind some trees. Two soldiers told me to back off and stood next to Wafa. Four other soldiers started to tend to him, until ambulances of the Red Crescent and the army arrived, after about ten minutes.

More soldiers, policemen and GSS (General Security Service) personnel arrived, and testimony was taken from 'Amar Kurdi. He was not summoned to any further inquiry.

No IDF Spokesperson announcement was issued about this incident, but the press quoted official army sources as stating that a-Zagha had been shot after he had failed to obey soldiers' orders to halt and had tried to flee.<sup>17</sup>

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<sup>16</sup> Testimony to **B'tselem** fieldworker Bassem 'Eid on September 29, 1993, at the scene of the incident.

<sup>17</sup> **Ha'aretz**, September 19, 1993.



### *The Death of Iyad Mahmud 'Awad 'Amali*

Iyad Mahmud 'Awad 'Amali, from the village of Qabalan, in the Nablus District, was killed while in a car on November 13, 1993 near the village of Salfit. The driver, Bilal Yihyeh 'Abd al-Fatah Amal, told **B'Tselem**:<sup>18</sup>

On November 13, 1993, at 6:40 p.m., I drove from the home of my friend in Salfit together with my friends Iyad and Jihad to the village of Qabalan (Iyad sat next to me and Jihad sat behind me). After we were about a kilometer and a half from Salfit... I started driving up the hill, and on top I saw many lights and projectors, which prevented me from continuing. I stopped because I could not see. Suddenly someone got out of a vehicle with a lit projector and aimed it at me, and then shooting started, a lot of shooting.

I bent over and I saw blood on Iyad's face and realized that he had been wounded. I heard the front windshield shatter.

I started shouting: Who are you? You have wounded my friend. Someone answered me in Hebrew: We are soldiers. They came closer to the car, carrying flashlights, in such a way that I could not identify them. They grabbed me by the neck from behind, removed me and Jihad from the car, and took us a few meters from my car. They made us lie on our stomachs, face down, and the soldiers stood over us. I tried to raise my head to see what had happened to Iyad, but every time I did so the soldiers kicked my head back down. This went on for about an hour and a half. I heard soldiers talking amongst themselves in Hebrew and saying that the wounded man was breathing and had also been hit in the hand. (I speak Hebrew well.) Afterward I called to a soldier: "Let us sit up, we cannot keep lying with our faces on the ground, we are cold." The soldier sat us up in the dust with our backs to my car.

The driver and the other passenger were taken to the gas station at the settlement of Ariel, where they were interrogated briefly. They were then driven to Tapuah junction and given a summons to report for a GSS interrogation on November 15, 1993. Concluding his statement, the driver of the car emphasized:

That is all that happened. I did not hear anyone ordering me to stop, and besides, I stopped completely by myself.

Similar testimony was given by Jihad Abu Ziadah, age 23, from the village of Qabalan, the other passenger in the car.

The IDF Spokesperson's announcement on November 15, 1993, stated that the soldiers opened fire when the passengers in the vehicle "did not respond to their calls and began to flee." A few days later, the IDF Spokesperson stated that "a few operational faults were discovered in the

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<sup>18</sup> Testimony to **B'Tselem** fieldworker Bassem 'Eid on November 14, 1993 in the village of Qabalan, Nablus District.

soldiers' activity. The investigation of the incident has been transferred to the Military Police Investigators."<sup>19</sup>

### *The Death of 'Ali Muhammad Ahmad al-Fara*

On November 23, 1993, 'Ali Muhammad Ahmad al-Fara, age 35, from Khan Yunis in the Gaza Strip, was killed while a taxi transporting him home was stopped by soldiers. While the taxi waited, the soldiers opened fire at a vehicle coming from the opposite direction, but some of the bullets hit al-Fara's taxi and he was killed. The driver of the car at which the soldiers were aiming was wounded in the head.

The taxi driver, Suleiman Mussa Yusuf Ka'abush, told **B'Tselem**.<sup>20</sup>

At about 5 p.m. I stopped at the gas station in Beit Lahiyeh to pick up passengers who were coming back from work in Israel and bound for Khan Yunis. Seven passengers got in, including the deceased, whom I knew personally. I drove on the eastern road of the Shuja'iyah neighborhood. As I approached the mosque, I noticed two army jeeps standing on the left side of the road, facing north. I was going in the opposite direction, from north to south. As I came closer, I saw that all the soldiers had gotten out of the jeeps. There were six soldiers standing on the road.

As I got closer, one of the jeeps turned and stopped in front of me. I immediately stopped the taxi. It was only by chance that I did not hit him, because I was driving fast. Not one soldier came over to the taxi, and I kept waiting. More vehicles arrived that were going from north to south, and they all stopped behind me. This is the time that the workers usually come home. I waited in the taxi between five and seven minutes.

I saw two vehicles coming from the other direction. One was a Peugeot and the other was a BMW. The soldiers, who were standing on the other side of the road, stood next to each other, by the yellow line painted on the road. The Peugeot that came from opposite braked forcefully but did not succeed in stopping completely. When it was directly opposite my taxi, the soldiers opened fire. Suddenly the deceased called out: "Abu Jihad," (that is how I am known), "I've been shot." The shooting continued. I got out of the car with the passengers and we lay down on the road. The wounded man remained in the car.

When the shooting stopped, the taxi driver told one of the soldiers that there was a wounded passenger. The soldier looked in the taxi and then informed the officer, who ordered the taxi driver to take al-Fara to the hospital. About half an hour later, in the hospital, he was pronounced dead.

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<sup>19</sup> This was made known to journalist Gideon Levy following an article he published in **Ha'aretz** on November 19, 1993.

<sup>20</sup> The testimonies that follow were taken by **B'Tselem** fieldworker Bassem 'Eid on November 28, 1993 at the scene of the incident.

Muhammad Sa'ed Ahmad Abu Sariyyeh, the driver of the Peugeot, told **B'Tselem**:

I was driving on the eastern road of the Shuja'iyah neighborhood, from south to north. I noticed on the road a line of local vehicles standing on the other side of the road, with an army jeep in front of them. On the right side of the road I saw a vehicle with its lights on. I did not see soldiers other than the army jeep on the other side of the road. I kept going, all the time watching the vehicle on the right.

When I approached the jeep on the left, I suddenly heard shots. I felt that I had been wounded in the head. I braked fast and I stopped on the right-hand side. I heard soldiers talking. The passengers who were with me got out of the car. The pain in my head became worse and I felt dizzy. I opened the door next to me and fell on the ground.

About fifteen minutes later an ambulance arrived and took the wounded driver to the Ashkelon hospital. He was then moved to Tel Hashomer and released the following day, after paying hospitalization fees.

The IDF Spokesperson's announcement on November 24, 1993, stated:

An investigation of yesterday's incident at the Shuja'iyeh junction shows that 'Ali Muhammad Ahmad al-Fara was killed when fired was opened at a suspicious car that had broken through an IDF checkpoint and had not responded to the soldiers' calls to stop at another checkpoint. The latter was not in the suspicious vehicle, but in another vehicle that was moving in the opposite direction from the suspicious vehicle. IDF commanders expressed their regret at the circumstances in which he was killed. Based on the findings of the investigation, it was decided to transfer the matter to Military Police Investigators for further handling.

## CONCLUSION

The current policy of opening fire at a "suspicious vehicle" does not and cannot prevent injury to people who are not endangering the lives of the security forces. In many instances the security forces have opened fire even when this could have been avoided and fatalities prevented.

Beyond the fact that in practice the security forces do not implement the Rules of Engagement regarding vehicles, and that the execution of some of the directives has lethal consequences, statements by official sources show that the security forces do not intend to enforce the regulations strictly, still less to revise them in order to prevent unjustifiable injuries.

The fact that there have been many cases in which Palestinians tried, sometimes successfully, to attack soldiers at checkpoints, cannot justify opening fire at a vehicle that does not stop at a checkpoint.

Taking into account that children in a car may not be visible, that a vehicle's evasion of a checkpoint cannot be taken as evidence that those in the vehicle intend to attack the soldiers, and that shooting at a car's wheels frequently results in the body being hit, what is required is an order prohibiting shooting at a vehicle whose passengers do not endanger the lives of the security forces.

**B'Tselem** urges that the policy on opening fire at a "suspicious vehicle" be revised.

The security forces should be permitted to open fire solely in defined instances where they face immediate, concrete mortal danger. They should not open fire simply because a vehicle does not stop or if there is a danger that others may be hit. Reducing the discretion which the security forces can exercise will prevent unjustified injury to children and to others in vehicles that do not stop.

The regulations regarding the visibility of checkpoints must be adhered to strictly. Improperly marked roadblocks are the cause of injury and death to car passengers; a checkpoint which is correctly set up does not endanger the lives of those manning it.

The defense establishment must ensure that the orders and regulations are followed and that violators are severely punished.

## IDF SPOKESPERSON'S RESPONSE

IDF Spokesperson's Unit  
Information Branch  
February 1, 1994

### The IDF Spokesperson's Response to the Betselem Report on "The Security Forces Opening Fire on Vehicles"

Roadblocks put up by the security forces are one of the measures necessary to ensure safe passage of vehicles on the roads, to frustrate the disruption of IDF search operations in the region, and to prevent escape from the region or evasion from checks.

One of the characteristic terror attacks carried out by terrorist cells operating in Judea, Samaria and Gaza is firing at civilians and IDF soldiers from moving vehicles, causing injuries and deaths, and then escaping quickly in the vehicles.

In December just passed there were *three* such attacks in which terrorists fired from vehicles. *Six* civilians were killed in these attacks, amongst whom were Mordechai Lapid and his son Shalom.

The fast and efficient erection of roadblocks is therefore central in preventing the escape of vehicles containing armed terrorists and at times also prevents such attacks.

The Open Fire orders in the Territories have been approved by the IDF legal system, and when the need arises legal action is taken against those who violate the orders. These orders, with regard to vehicles as well, are reviewed time and time again by the IDF legal system and are authorized by the IDF Advocate General and the Attorney General of the state of Israel amongst others. **In any case, the Open Fire orders quoted in the Betselem report are *not* the specific orders valid for current IDF activities. For obvious reasons, we are unable to disclose the exact orders.**

In terms of opening fire at checkpoints, we would like to make clear that every incident is individually investigated, according to all the relevant information, often including pictures and diagrams displaying the line of sight and the ability to discern at the checkpoint, testimony given by soldiers and locals (often evidence collected by Betselem), and evidence remaining at the checkpoint (tire marks, the location of the vehicle and so on). The IDF Advocate General's findings as to the legality and justification of the soldiers' actions are therefore the results of an exacting investigation of all the evidence in light of orders and the law.

**The Open Fire orders currently in force define the scope of soldiers' individual judgement at roadblocks, limiting it to the appropriate situations where life is threatened or there exists real suspicion that a dangerous crime is about to be committed.** In the case of suspicion of a dangerous crime about to be committed, it should be noted that the running of a roadblocks is a central but not necessarily the only factor determining the soldiers' behaviour, which was clarified in the IDF Advocate General's comments published in the report.

The principle claims made in the report, concerning the conditions for opening fire at a roadblock, the scope of individual judgement afforded the soldier who might open fire and the essence of the considerations necessary for all these, were considered by the IDF legal system. Furthermore, these considerations are regularly reviewed and in the cases mentioned in the report were discussed in detail.