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## **Suspicious Sweeps**

### **The General Intelligence Department and Jordan's Rule of Law Problem**

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## I. Summary

*The court may have set you free, but we didn't.*

—Intelligence officer to Issam al-Barqawi<sup>1</sup>

Since 2000, Jordan's main intelligence service, the General Intelligence Department (GID), has carried out waves of arrests of political dissidents – mostly Islamists – in response to alleged plots, demonstrations, and protest activities linked to the Israeli-Palestinian conflict and United States policies in Iraq. The GID does not make available information about the numbers or identities of the people it detains. Over this period, according to defense lawyers, the number of arrests has been steadily increasing.

In the aftermath of the November 9, 2005 suicide bombings of three upscale hotels in Amman, which killed sixty people, the government of Jordan said it intended to expand laws defining terrorism as well as the powers of intelligence and law enforcement officials, including the GID. At the time of writing, the government is drafting a counterterrorism law that would expand the powers of the public prosecutor and extend the time suspects can be held without charge from one to two weeks.

During times of heightened reliance on security services, it is especially important to ensure that their agents and officers operate within the framework of international human rights standards. The cases documented by Human Rights Watch in this report point to a broader practice whereby the GID regularly carries out arrests on grounds which appear to have little or no objective evidential support, and holds individuals in its detention facilities for days or weeks, and sometimes months, often in solitary confinement, without charge or on dubious charges. Further, the GID's authority to conduct law enforcement functions is unclear, as it is nowhere specified in law.

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<sup>1</sup> Human Rights Watch interview with Muhammad al-Barqawi, son of Issam al-Barqawi (also known as Abu Muhammad al-Maqdisi), regarding the GID's re-arrest of the elder al-Barqawi without charge, Rusaifa, September 13, 2005.

During at least the initial days of detention – one week or more – the GID does not permit detainees to have access to legal counsel or to have visits, such as family visits. Human Rights Watch heard consistent and credible reports that during interrogation officers frequently beat detainees to extract confessions. It would appear that many of those detained by the GID are never brought to trial. Of the cases that do go to trial, they are tried before the State Security Court, a tribunal which does not meet international standards of independence and impartiality.

In routinely carrying out these practices, the GID violates Jordanian law and international human rights law. It does so with effective impunity. No GID officers – all of whom use aliases in their dealings with detainees – have faced criminal investigations or charges in connection with these practices

This report includes the cases of sixteen individuals who were victims of arbitrary arrest by the GID between 2002 and 2005, were held in solitary confinement and incommunicado detention, and were almost all subjected to cruel, inhuman or degrading treatment, and in some cases torture (additionally, the report highlights illustrative aspects of two other cases – those of Yasir al-Hilala and `Ali Abu Sukkar). In all sixteen cases, the individuals concerned or their families requested help from local human rights organizations or the International Committee of the Red Cross. They told Human Rights Watch that what happened to them is an all-too-frequent occurrence in Jordan and that many others wrongfully arrested do not file complaints with the authorities or seek outside help, for fear of further harassment by the GID. The absence of a publicly accessible record of who is detained in GID facilities and on what grounds they are held prevents Human Rights Watch or any independent organization from being able to reach a definitive conclusion of how many people the GID has detained or interrogated at any given time.

Of the sixteen individuals whose cases Human Rights Watch investigated, the authorities had released eight without charge and five who were charged with offenses but were never brought to trial. Only one of the sixteen received a trial, at which he was acquitted. The remaining two individuals were in detention at the time of Human Rights Watch's research in Jordan, and remain so at this writing. Only one

former detainee said he had had access to legal counsel at some stage during his detention. The GID kept all sixteen detainees in incommunicado detention in the initial days of detention and, in some cases, for periods of up to several months.

Fourteen of the sixteen detainees, or their family members, alleged that the GID had tortured or ill-treated them. Two detainees did not allege that they had been subject to abusive treatment, although one said officers threatened him with torture. One detainee said that he tried to complain about his treatment to GID commanding officers, but that the officers denied his request. To Human Rights Watch's knowledge, the prosecutor general has initiated no criminal investigations, and no individuals have filed civil actions for redress against arbitrary arrest, violation of due process rights, or torture.

Jordan's obligations under the International Covenant on Civil and Political Rights (ICCPR) include: respect for the right to security and liberty of the person (Article 9); respect for procedural rights when detained including the right to have a court review of the legal grounds for one's detention and the right to be treated humanely when detained (Articles 9 and 10); and due process if a person is charged with an offense (Article 14). Jordan is a state party to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which guarantees the right to be free from torture and ill-treatment, obliges the state to investigate credible allegations of abuse, and requires the state to provide victims of torture with effective redress. Jordan's practices, and some of its laws, do not fulfill these obligations.

To ensure that law enforcement officials, and intelligence officials in particular, respect human rights, Jordan must undertake institutional reforms. At the executive level, the government must ensure that any power of arrest and detention exercised by the intelligence forces has a legal basis and that intelligence officials and agents fully comply with international human rights standards relating to arrest, detention and due process. Jordan's parliament should institute legal reforms to guarantee a detainee's right of access to a lawyer without undue delay, and not only after a person is charged. It should also insist on and exercise public oversight functions with regard to the intelligence and other security forces. The Jordanian lawyers' and

medical associations should work to ensure that medical officials have access to detainees and that they can submit their testimony in court without fear of reprisal. At the judicial level, the High Judicial Council should work to enhance the independence of judges and ensure that only civilian prosecutors try civilians. If officials and agents of the state commit human rights offences, Jordanian prosecutors should hold them accountable.

This report is based on research conducted by Human Rights Watch in Jordan in September 2005 and January 2006. Human Rights Watch visited Amman, Irbid, Zarqa and Rusaifa, interviewing more than twenty persons who had been detained by the GID and their families, in addition to members of parliament, defense lawyers, journalists, human rights activists, and a public prosecutor.

Human Rights Watch has on three occasions written to the GID asking for information and seeking to arrange a meeting, but did not receive a reply. Most recently, Human Rights Watch requested a meeting with GID officials in late June and early July through private channels and through the government's spokesperson but received no response.

## **II. Recommendations**

### **To the Government of Jordan**

- Investigate the General Intelligence Directorate's arrest and detention practices, including their compliance with Jordanian laws and international human rights standards.
- Clarify the basis in law for intelligence officers' powers of arrest and detention.
- Implement an immediate moratorium on detention of individuals by the GID. Any detainees currently detained by the GID should be brought before an independent tribunal to have the lawfulness of their detention reviewed, including whether there are sufficient grounds for detention. In accordance with the decision of the court, any individual whose continued detention is deemed necessary should be transferred to a regularly constituted detention facility and should enjoy the full rights and safeguards to which detainees are entitled under Jordan's human rights obligations.
- At a minimum, and until such measures can be put into effect, put all GID law enforcement activities at the sole direction of the attorney general. Ensure that the GID promptly provides the attorney general with the names of all persons detained and full information concerning the disposition of their cases.
- Immediately suspend the operation of the State Security Court and the State Security Court Law State Security Law and State Security Court pending a review of both, by impartial legal professionals, for their compliance with Jordan's international human rights legal obligations. The review should consider repealing or amending the law to ensure such compliance. The review should recommend steps to ensure that any court handling state security matters is fully independent and separate from the military and the executive.

- Ensure that the allowed period of detention prior to bringing a suspect promptly before a judicial officer does not exceed twenty-four hours in any circumstance, as provided for by Jordan's Code of Criminal Procedure.
- Establish an office empowered to carry out an impartial and thorough investigation into allegations of arbitrary detention and ill-treatment or torture, or other violations of basic rights, in GID facilities.
- Amend the Criminal Procedure Code to:
  - a. Provide for unqualified access to legal counsel without undue delay.
  - b. Allow detainees to petition promptly an independent and impartial court to review the grounds for detention.
  - c. Make evidence obtained through torture or cruel, inhuman or degrading treatment inadmissible in court.
- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **To the Jordanian parliament**

- Create a standing committee for security and intelligence affairs that exercises oversight over the GID.
- Enhance the public defender program, with the cooperation of the Jordanian Bar Association, to provide legal counsel to persons detained for alleged security offences.

### **III. Background: The General Intelligence Department and Rule of Law**

Jordan is a constitutional monarchy with some elements of a parliamentary system. The king appoints the prime minister and his cabinet, but parliament must approve the government by a vote of confidence. Jordan's parliament, the National Assembly, has two chambers – the Chamber of Deputies and the Senate. The Chamber of Deputies (110 members, of whom 100 are elected) debates national issues and ratifies laws and international agreements before they can take effect; it can also initiate legislation and exercise some control over government actions, but in practice does not do so.<sup>2</sup> The king appoints the Senate's fifty-five members, who also must ratify laws. A two-thirds majority of both the Senate and the Chamber of Deputies can pass a motion of no confidence in the government and overrule a royal veto of legislation.

During the period 2001 to 2003, when the king delayed elections after dissolving parliament, the government decreed over 150 temporary laws. Article 94 of Jordan's constitution allows the cabinet "to issue provisional laws covering matters which require necessary measures which admit of no delay, ... provided that they are placed before [parliament] at the beginning of its next session."<sup>3</sup> In practice such decrees remain in effect until parliament reviews and approves or vetoes them.

The Ministry of Interior controls the Public Security Directorate, Jordan's main law enforcement agency. The Public Security Directorate comprises the police, prison service and border service, among others. Specific laws regulate law enforcement powers, such as the power to arrest, which is enjoyed by officials in various agencies besides the police, such as customs, who fall under the supervision of the attorney general when they exercise law enforcement powers.

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<sup>2</sup> Arts. 91 and 95, The Constitution of The Hashemite Kingdom of Jordan, January 1, 1952, henceforth specify, respectively, the right of the prime minister to submit to parliament draft laws for ratification, and the right of ten or more parliamentarians to ask the prime minister to draft a law based on a proposal they submit.

<sup>3</sup> Art. 94, Jordan's constitution. Parliament has not yet completed its review of the approximately 150 laws decreed in the 2001-2003 period.

The General Intelligence Department (GID) (*Da'irat al-Mukhabarat al-'Ammā*) is the country's leading intelligence agency, charged with investigating threats to national security. The king appoints the GID director, who reports to the prime minister. The GID is headquartered in Amman's Jandawil district in Wadi Sir. Its officers are considered military personnel. At its headquarters in Wadi Sir, the GID operates a detention facility. The GID in practice arrests and detains suspects and carries out criminal investigations into charges brought by the military prosecutor at the State Security Court (see below).

Article 97 of Jordan's constitution guarantees the independence of the country's judiciary. A High Judicial Council, regulated by law, handles appointments, promotions and disciplining of judges and prosecutors.<sup>4</sup> This Council is not fully independent, as it includes Ministry of Justice representatives, and the king still appoints some high-level judges. The Ministry of Justice also retains budgetary authority over the court system, and administratively controls the attorney general's office, which in turn, together with the minister of justice, supervises all public prosecutors.<sup>5</sup> Prosecutors at the levels of courts of first instance and the Court of Appeals are bound to execute ministerial instructions.

Jordan's constitution allows for the establishment of special courts. The State Security Court is such a special court, regulated by law, with jurisdiction over crimes against national security. The prime minister appoints civilian and military judges, who sit in a three-judge panel, usually with two judges (including the presiding judge) being from the military. The special prosecutor for this court also hails from the military. The prime minister can transfer any case to this court, regardless of the charge, and the defendants have no right of appeal against this decision.

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<sup>4</sup> Nathan Brown, "Arab Judicial Structures. A Study Presented To The United Nations Development Program," August 2001, <http://www.undp-pogar.org/publications/judiciary/nbrown/jordan.html> (accessed June 16, 2006). Brown notes that Jordan's High Judicial Council is "headed by a judge and thus represents an important guardian of judicial independence. Its composition is largely judicial, but it also includes a representative from the Ministry of Justice. The Council plays an important role in the appointment, assigning, and evaluation of judges."

<sup>5</sup> Art. 11, Criminal Procedure Code.

\* \* \*

King Abdullah, since he assumed power after the death of his father King Hussein in 1999, has regularly promised to expand and advance Jordan's commitment to the protection of basic human rights. The Islamic Action Front (IAF), the political arm of the Muslim Brotherhood, and other, smaller opposition parties – Islamist and secular – have been at the forefront of those pressing for more political freedoms. Under King Abdullah, however, laws on freedoms of expression, assembly, association and participation in public life have either remained unchanged or become more restrictive (municipal councils that previously had been elected bodies are now partially appointed, for example.) In 2005, the government sought unsuccessfully to extend greater executive power over Jordanian professional associations.<sup>6</sup>

The authorities can summarily ban public gatherings and prosecute persons for taking part in an unlawful demonstration.<sup>7</sup> Criticizing the king (*lèse majesté*, “an offense against the sovereign”) or insulting a government institution remains a criminal offense.<sup>8</sup> The authorities have been known to use these laws to target peaceful political opponents.<sup>9</sup>

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The government has credited the GID with the prevention of serious attacks on Jordanian soil. For example, in November 1999, officials said that the GID had uncovered a plot to bomb Jordanian tourist sites, government installations, and U.S.

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<sup>6</sup> See letter from Human Rights Watch to Prime Minister Faisal Al Fayez, “HRW Concerns Regarding Jordan's Draft Law on Professional Associations,” March 30, 2005, <http://hrw.org/english/docs/2005/04/06/jordan10428.htm>.

<sup>7</sup> Article 5a, Public Assemblies Law No. 7, Jordan, 2004, states that “The administrative decision-maker may issue his agreement of the request, or his refusal, at least twenty-four hours before the designated time” of the assembly. The administrative decision-maker is a governor or one of his or her deputies who report to, and are appointed by, the minister of interior. Art. 5c considers any unlicensed demonstration as an illegal act. Article 165, Penal Code, Jordan, 1960, states: “Anyone participating in an unlawful gathering will be punished by a prison sentence of not exceeding one year or with a fine not exceeding twenty-five dinar or with both of the punishments.”

<sup>8</sup> Art. 195, Penal Code. It criminalizes written, verbal or electronic messages, pictures, comical drawings, or broadcasts that touch upon the dignity of the king.

<sup>9</sup> In 1996, for example, the GID arrested and the State Security Court convicted seven persons for “insulting the dignity of the king.” See Human Rights Watch, “Jordan: Clamping Down on Critics, Human Rights Violations in Advance of the Parliamentary Elections,” *A Human Rights Watch Report*, vol. 9, no. 12 (E), October 1997, <http://hrw.org/reports/1997/jordan/JORDAN97.pdf>.

and Israeli interests at the turn of the millennium. Jordan has continued to face serious politically motivated criminal incidents, such as the October 2002 assassination of U.S. Agency for International Development (USAID) official Lawrence Foley and the bombing of three upscale hotels in Amman in November 2005. In April 2004 the government announced that the GID had foiled a plot to set off toxic chemical explosions at the GID headquarters, the U.S. embassy, and Jordanian military bases.<sup>10</sup>

The year 2005 initially promised to be one of reform for the GID. In April, King Abdullah appointed Maj. Gen. Samih Asfura as the new head of the agency. Asfura promptly met with the press, representatives of nongovernmental organizations, and parliamentarians, and pledged that the GID would not interfere in people's lives, especially by ruining career opportunities.<sup>11</sup> King Abdullah, in a letter to Asfura concerning his mission at the GID, wrote that "The intelligence should focus on its fundamental tasks of protecting the internal and external security of the kingdom from threats."<sup>12</sup> The GID granted the National Center for Human Rights, a government-appointed body, access in September to its detention facility, for the first time.<sup>13</sup> In December, following the hotel bombings the previous month, King Abdullah replaced Asfura with his former deputy, Maj. Gen. Muhammad al-Dhahabi, whom many Jordanians saw as the driving force behind the reforms at the agency.<sup>14</sup> Although the majority of the people whose cases are featured in this report were released before the end of 2005, the fact that two remain detained (one without charge for two years), and that Human Rights Watch has received reports this year of torture by the GID, illustrate that problems persist with the GID, notwithstanding the declared reform agenda.

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<sup>10</sup> Rana Hussein, "Four Confess to Plotting Terror Attacks in Jordan Last Year", *Jordan Times*, July 14, 2005.

<sup>11</sup> "Asfoura Meets with JPA Members," Petra News Agency, June 28, 2005, <http://www.jordan.jo/en/en-localnews/wmview.php?ArtID=699> (accessed March 20, 2006); Human Rights Watch interviews with journalist Bassam Badareen, Amman, July 3, 2005, member of parliament 'Ali Abu Sukkar, Amman, September 7, 2005, and journalist Ranya Kadri, Amman, September 18, 2005.

<sup>12</sup> Rana Sabbagh, "Sa'd Khair Moves to the 'National Security Council' ... Jordan: Change of Intelligence Department Director Speaks of the End of Its Political Role," *al-Hayat*, June 5, 2005, [http://www.daralhayat.com/arab\\_news/levant\\_news/05-2005/Item-20050505-ae7bde4-coa8-10ed-0053-d3cf07b893f/story.html](http://www.daralhayat.com/arab_news/levant_news/05-2005/Item-20050505-ae7bde4-coa8-10ed-0053-d3cf07b893f/story.html) (accessed May 22, 2006).

<sup>13</sup> Human Rights Watch interview with Nisreen Zureikat, National Center for Human Rights, Amman, September 10, 2005. In its December 2005 visit to the General Intelligence Department facility, the Center found forty-four detainees there. See National Center for Human Rights, "The Situation of Human Rights, The Hashemite Kingdom of Jordan, 2005," Amman, April 2006, p.13.

<sup>14</sup> Human Rights Watch interview with Ranya Kadri, Amman, February 1, 2006.

These developments in 2005 at the GID came amidst a series of other announcements regarding political, economic and social reforms. In February 2005, the king convened a Steering Committee to draft a ten-year reform plan, the “National Agenda.” In April the king replaced Prime Minister Faisal al-Fayez with `Adnan Badran and demanded a cabinet reshuffle, in order, he said, to boost the pace of reform. However, Badran’s new government faced difficulties obtaining a parliamentary vote of confidence, forcing a further cabinet reshuffle.

Following the November 2005 bombings, King Abdullah installed yet another prime minister, Ma’ruf al-Bakhit, who presented a third cabinet to parliament. Al-Bakhit, a former army major-general, vowed to put in place new counterterrorism legislation while at the same time pursuing implementation of the National Agenda reforms.

## **Powers and duties of the GID**

The General Intelligence Department was established by law in 1964. Law No. 24 of 1964 (“the GID law”) mandates the GID to work “for the security and safety” (*salama*) of Jordan.<sup>15</sup> Article 5 of the GID law states that GID officers are members of the armed services. The law stipulates that the prime minister shall designate the GID’s specific duties in writing and that these are to remain confidential.<sup>16</sup> The GID on its website describes its duties as including: “Combating subversive thoughts that generate material acts of subversion and combating any attempt to infiltrate Jordanian society.”<sup>17</sup>

### *Powers of arrest under Jordanian law and the GID*

In August 2005, Dr. Hamza Ahmad Haddad, a former justice minister, criticized the “chaos of law enforcement” that now involves fifteen ministries – half of all the ministries in Jordan. According to Dr. Haddad, more than twenty-five separate specific laws invest powers of law enforcement in a long list of civilian personnel

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<sup>15</sup> Art. 8, Law No. 24 on the General Intelligence Department, Jordan, 1964 (“GID law”). See Appendix 1.

<sup>16</sup> Ibid.

<sup>17</sup> Text as it appears on the website of the Jordanian General Intelligence Department, [www.gid.gov.jo/arabic1/duites.htm](http://www.gid.gov.jo/arabic1/duites.htm) [sic] (accessed May 11, 2006).

from the Special Economic Zone in Aqaba to Environmental Protection and Jordan's Tax Revenue service.<sup>18</sup>

Article 9 of Jordan's Code of Criminal Procedure permits a number of persons and officers of institutions to exercise law enforcement powers, including officials in the Public Security Directorate (which encompasses the regular police); a certain category of judges; community and village elders (*mukhtar*)<sup>19</sup>; and others "tasked with criminal inquiry [*taharr*] and investigations [*mabahith*]." It stipulates the attorney general as head of the prosecution services in Jordan who, as the chief legal officer, has power to issue warrants for arrest, search and detention, and is entitled to access to all places of detention.<sup>20</sup> Prosecutors are also vested with the power to issue arrest warrants and, after charging a detainee, to remand him or her in custody pending trial, for renewable periods of fifteen days.<sup>21</sup> It is also the prosecutor who reviews the legal grounds for detention<sup>22</sup> (this is examined in more detail below). Law enforcement officers are permitted to execute warrants, using such force as may be necessary.<sup>23</sup>

Subsequent legislation, enacted by government-issued decree laws between 2001 and 2003 while parliament was dissolved (see above), specifies that other

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<sup>18</sup> Dr. Hamza Ahmad al-Haddad, "The Extent of the Need for an Anti-corruption Law," <http://www.lac.com.jo/articles24.htm> (accessed November 15, 2005). Dr. Haddad published this article on the Internet following his participation in expert meetings on the draft law with members of the Legal Committee, a standing committee of Jordan's lower house of parliament that reviews draft legislation for approval by the house.

<sup>19</sup> Federal Research Division of the Library of Congress, "Country Studies/Area Handbook Series sponsored by the U.S. Department of the Army - A Country Study: Jordan," data as of 1989, <http://lcweb2.loc.gov/frd/cs/jotoc.html> (accessed May 10, 2006): "The mukhtar, or headman, of a small village linked the villagers with the state bureaucracy, especially if there were no village or municipal council. The mukhtar's duties included the registering of births and deaths, notarizing official papers for villagers, and assisting the police with their investigations in the village. Where there were municipal or village councils, generally in villages with a population of 3,000 or more, the mukhtar had little influence. Instead, the councils, bodies elected by the villagers, allocated government authority and village resources. Young, educated men from influential families, whose fathers may have been traditional leaders in the village, often ran the councils."

<sup>20</sup> Arts. 15 and 16, Law No. 9, Criminal Procedure Code, Jordan, 1961.

<sup>21</sup> The exception are cases that fall under the jurisdiction of the Arbitration Courts (*mahakim al-sulh*), where the judge can act as a prosecutor.

<sup>22</sup> Art. 114, Criminal Procedure Code.

<sup>23</sup> Arts. 19 and 119, Criminal Procedure Code.

ministerial departments also enjoy defined enforcement powers commensurate to their area of responsibility.<sup>24</sup>

The prosecutor general's office oversees the law enforcement roles of the officials listed in Article 9 of the Criminal Procedure Code, but has no apparent authority to supplement that list or empower officials in other branches of government to carry out inquiries or investigations; the list of officials can only be expanded "in accordance with this law and related laws and decrees."<sup>25</sup>

Neither Article 9 of the Criminal Procedure Code, nor any of the 2001-03 decree laws expanding law enforcement competencies, mention the GID.<sup>26</sup> The GID law itself does not include the term "law enforcement" (*al-dabita al-`adliyya*) as one of the GID's mandated tasks, or give any other description from which a power of arrest or detention can be inferred, and no other specific law authorizes the GID to exercise powers of arrest and detention<sup>27</sup> (the only law that explicitly gives the General Intelligence Department policing powers is limited in scope to crimes committed by military personnel<sup>28</sup>). The GID law only spells out with clarity the appointment of its

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<sup>24</sup> These laws were issued between 2001 and 2003, at a time while parliament was dissolved. They are currently subject to parliamentary approval, although they remain in force pending such approval. Human Rights Watch telephone interview with lawyer Sufian Obeidat, Amman, May 18, 2006. An example of a department granted enforcement powers by these laws is the Office for the Rights of Authors, under the National Library and the Ministry of Culture, which a change to the Law on the Right of Authors in 1998 designated as having law enforcement responsibilities. See Yunis Arab, "The General Definitions of the Legal Framework of Literary and Industrial Intellectual Property," lecture, October 13, 2003 (Arabic), [http://www.arablaw.org/Download/IP\\_Lecture.doc](http://www.arablaw.org/Download/IP_Lecture.doc) (accessed May 26, 2006), p. 5.

<sup>25</sup> Art. 9.1, Criminal Procedure Code. The prosecutor general may, however, supervise officials of other departments "when they engage in law enforcement work," but not in their other duties (Art. 15, Criminal Procedure Code). This authorizes him or her to direct the work of police officers within the Ministry of Interior who are investigating a crime and whom Article 9 of the Criminal Procedure Code permits to exercise powers as law enforcement officers.

<sup>26</sup> Art. 9.1, Criminal Procedure Code.

<sup>27</sup> In 2002, when parliament was dissolved, the Jordanian government issued a Law on the Establishment of Military Courts. Passed nearly forty years after the establishment of the GID, article 15 of that law specifically counts intelligence officers among law enforcement officials: "Individuals of the general intelligence (...) are considered to belong to the law enforcement body." However, the specific application of that law cannot be interpreted to extend beyond the jurisdiction of the military courts that are its subject. The military courts mentioned in this law try members of the armed services, cadets in military academies, and those accused of a crime while they were active members of the armed service if they have since left, in addition to standard bearers, prisoners of war, allied forces present in Jordan unless exempted by a bilateral agreement, and war criminals. With the exception of persons accused of war crimes, and cases involving both military officials and civilians, these military courts have no jurisdiction over civilians. The inclusion of GID officers in this law stems most likely from the fact that, as stated above, article 5 of the GID law deems its officers members of the armed services. Article 7 of the same law stipulates that a "military council" has jurisdiction over intelligence officers who are accused of crimes under the jurisdiction of the State Security Court and that a GID officer, who must have a law degree, acts as a prosecutor in such cases.

<sup>28</sup> The GID law uses the term "security forces." Sufian `Obeidat, a lawyer, told Human Rights Watch that this term refers to the military and officials in the Public Security Department.

director and chief officers and the jurisdiction of military courts over GID officers in all matters except those under the jurisdiction of the State Security Court, from which GID officers enjoy immunity.<sup>29</sup> Despite this, all persons interviewed by Human Rights Watch confirmed that the GID in practice exercises powers of arrest and detention, although none were able to cite a clear statutory basis for these powers.<sup>30</sup>

The right of the GID to exercise general powers of law enforcement has, however, been endorsed by the Jordanian courts. In a 1997 ruling, the Court of Appeals for Criminal Cases held: “Employees of the General Intelligence are considered officials tasked with criminal investigations of law enforcement according to the provisions of Article 9 of the Criminal Procedure Code.”<sup>31</sup> In 1998, the same court found that “Officials tasked with criminal investigation (General Intelligence) are part of law enforcement, according to what the jurisprudence of the appeals court has established and according to the provisions of Article 9 of the Criminal Procedure Code.”<sup>32</sup> Another 1998 ruling specified that those investigations are restricted to crimes that touch upon the “security and safety of the kingdom.”<sup>33</sup>

The only time the court apparently challenged this interpretation was in a 1997 decision, relating to the establishment of an anti-corruption department within the GID. A prime ministerial decree establishing the department explicitly required that law enforcement officers be assigned to this new department. According to the decree, the Ministry of Justice must assign a prosecutor general to this department, and the Public Security Directorate must also delegate officers in order for “this department to acquire lawful attributes in pursuing crimes that it considers within its

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<sup>29</sup> Article 3 of the GID law states that the “connection to the armed forces and the Public Security Directorate of the two branches mentioned in paragraphs a) [General Investigations] and b) [Political Investigations], is cancelled.” This indicates that the GID did not inherit law enforcement duties of the Public Security Directorate in spite of its historical connection to that institution. Although the names of the two departments of the GID contain the term “investigation” (*mabahith* and *tahqiqah*), the law gives no further specifications of the nature of their duties, such as a criminal investigation rather than investigative research into political trends (for example, researching the strength of the Communist Party in Jordan).

<sup>30</sup> Human Rights Watch interviewed more than thirty persons in the preparation for this report, including political leaders, lawyers, journalists, human rights activists, and former detainees and their families.

<sup>31</sup> Decision 2, Court of Appeals for Criminal Cases, 1997 (Arabic).

<sup>32</sup> Decision 139, Court of Appeals for Criminal Cases, May 3, 1998 (Arabic).

<sup>33</sup> Decision 380, Court of Appeals for Criminal Cases, September 8, 1998.

jurisdiction.”<sup>34</sup> The Court of Appeals initially held investigations by the GID’s anti-corruption department to be unlawful because it was not a law enforcement agency.<sup>35</sup> However in 2004 the Court reversed its decision, as it had done in other cases, and ruled that “The men of the General Intelligence are considered officers empowered to conduct criminal investigations from among those law enforcement officers mentioned in Article 9 of the Criminal Procedure Code.”<sup>36</sup>

The basis and rationale of the court’s rulings are far from clear to many Jordanian legal practitioners. Five different experts in Jordanian criminal law – Jordanian judges and lawyers – confirmed to Human Rights Watch that the GID exercises law enforcement powers despite the fact that the agency does not appear on the list of entities and officials in Article 9 of the Criminal Procedure Code or any other legislation that expressly confers those powers to it.<sup>37</sup>

The GID law requires Jordanian security forces to assist the GID in executing its tasks, (but does not state that this assistance shall be reciprocal). In most of the arrests that Human Rights Watch documented, uniformed police officers accompanied GID officers, according to the former detainees. In the case of the nighttime arrest of `Abd al-Karim Isma`il `Abd al-Rahman, in Amman on July 6, 2005, around seven GID officers wearing black balaclavas participated in the raid, together with a larger number of police officers, some of whom were also masked.<sup>38</sup> Together they searched the house and took `Abd al-Rahman into custody. Muhammad `Ali Shafqa, arrested in May 2005, described to us how for his transfer from a GID facility in Rusaifa to the central GID facility in Amman he was seated between two officers in military uniforms in the back seat of a civilian car driven by a plainclothes GID officer. He did not know which agency the uniformed officers were from.<sup>39</sup>

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<sup>34</sup> Sufian Obeidat, “The General Intelligence Department: between the Law and Reality,” paper submitted to the Jordanian bar association in June 2004, p. 16.

<sup>35</sup> Decision 292, Court of Appeals for Criminal Cases, 1999.

<sup>36</sup> Decision 714, Court of Appeals for Criminal Cases, 2004.

<sup>37</sup> Two judges and five defense lawyers for criminal proceedings shared their legal analysis with Human Rights Watch.

<sup>38</sup> Human Rights Watch interview with `Abd al-Karim Isma`il `Abd al-Rahman, Amman, July 6, 2005.

<sup>39</sup> Human Rights Watch interview with Muhammad `Ali Shafqa, Rusaifa, September 15, 2006.

In another case, police cordoned off an entire quarter in the Schneller refugee camp while between fifteen and twenty-five GID officers stormed the two-room house of a young man living with his parents and other siblings. He told Human Rights Watch that the officers interrogated him about an accidental shooting at a wedding over half a year earlier.<sup>40</sup>

### *Compliance with International Human Rights Law*

In its rulings the Court of Appeals ascribed powers of arrest and detention to the GID on the basis of its intelligence functions, despite the absence of any explicit legislative basis for those powers. Article 9.1 of the International Covenant on Civil and Political Rights (ICCPR) provides that “No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”<sup>41</sup> Jordan’s constitution echoes this provision in Article 8: “No person may be detained or imprisoned except in accordance with the provisions of the law.”<sup>42</sup>

The phrase “in accordance with law” requires that the act should have a basis in domestic law; that it be of a certain quality that makes it accessible to the persons concerned; and that it be formulated with sufficient precision to enable them or their lawyers to foresee, to a degree that is reasonable in the circumstances, the consequences which a given action may entail. In order for a detention or arrest to comply with the Jordanian constitution and Jordan’s international legal obligations, the powers under which a person can be detained must be sufficiently clear as a matter of law so that ordinary persons know the extent and scope of such powers, and in which circumstances they may be exercised. In a codified system of law, where most powers, particularly where they relate to coercive powers of the state, are explicit and contained in written texts, it is highly questionable whether a power of detention based solely on judicial interpretations recognizing an inherent power to detain as part of a broader criminal justice mandate meets the criteria of “in accordance with law.” In any event, the powers of arrest and detention which are

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<sup>40</sup> Human Rights Watch interview with young Palestinian Jordanian, Schneller camp resident, name withheld by request, Rusaifa, September 14, 2005. He said he had had no part in the shooting.

<sup>41</sup> Art. 9.1, International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976. Jordan ratified the ICCPR in May 1975.

<sup>42</sup> Art. 8, Chapter 2, Jordan’s constitution.

exercised by the GID are vague and imprecise to the ordinary person, and lack clarity or predictability as to how and when they can be used.

As well as exercising initial powers of detention and arrest, the GID itself (as noted above) operates a detention facility within the GID compound in Amman. This compound is not subject to any regular outside independent scrutiny or oversight, depriving its detainees of basic safeguards against potential serious human rights violations.<sup>43</sup> The status and legality of this detention facility is also unclear. In 1993, the minister of interior issued a decree in which he “declared the center of detention and investigation located in the General Intelligence Department a prison” according to the law on prisons of 1953.<sup>44</sup> (Jordan passed a new prison law in 2004 which, like the law it replaced, gives the minister of interior the right to declare any place in the kingdom a place of detention.) However, the Court of Appeals for Criminal Cases in 1998 ruled that persons held at the GID facility for purposes of interrogation are not considered “detained,” since powers of detention are powers which can only be exercised by the prosecutor general. Member of Parliament `Ali Abu Sukkar told Human Rights Watch that when he questioned the minister of the interior about alleged secret U.S.-run detention facilities in Jordan, he received what the ministry said was a complete list of official detention facilities in the country; it did not include the central GID facility.<sup>45</sup>

## The State Security Court and SSC prosecutors

The GID arrests, searches, detains, and interrogates suspects for those crimes that fall under the section of the penal code detailing offenses against national security as well as certain other crimes, such as *lèse majesté*, which together comprise the

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<sup>43</sup> Principle 29, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by UN General Assembly resolution 43/173 of December 9, 1988 (Body of Principles), states: “In order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.”

<sup>44</sup> Official Gazette, No. 3930, “Declaration issued by the minister of interior considering the center for detention and investigation present in the General Intelligence Department a prison,” November 1, 1993, p. 2143, based on Article 3.2 of Law No. 23 on Prisons, Jordan, 1956.

<sup>45</sup> Human Rights Watch interview with `Ali Abu Sukkar, Amman, September 9, 2005.

jurisdiction of the State Security Court (SSC).<sup>46</sup> In the course of researching this report, Human Rights Watch found no cases in which ordinary courts later tried a suspect originally arrested by the GID. The SSC, however, can hear cases involving suspects arrested or interrogated by agencies other than the GID.

The SSC is a special court established pursuant to Articles 99 and 100 of Jordan's constitution.<sup>47</sup> The SSC law empowers the prime minister to establish this court and to appoint judges to the three-judge panel. He appoints one or more civilian judges on the recommendation of the minister of justice and one or more military judges on the recommendation of the head of the Joint Chiefs of Staff<sup>48</sup>; in practice, two of the three judges, including the presiding judge, have been military. Neither the civilian nor the military judges enjoy effective independence, as they can be replaced at any time by executive decision.<sup>49</sup>

The head of the Joint Chiefs of Staff appoints a military officer to serve as prosecutor, underlining the court's subordinate character. The SSC prosecutor's offices are physically located inside the central GID complex.<sup>50</sup> The SCC prosecutor is the officer who issues charges against detainees and authorizes their continued detention. The SSC prosecutor who investigates the crimes of which detainees at the GID are accused is a military officer, ultimately under the same administrative authority as the intelligence officials. This reflects a fundamental lack of independence and impartiality.

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<sup>46</sup> Articles 107 to 153 of the Penal Code specify crimes against national security. Law No. 17 on the State Security Court, Jordan, 1959 ("SSC law"), in Article 3, details the jurisdiction of the State Security Court. The crimes include Article 50 of the State Documents and Secrets Act (1971), Article 11 of the Drugs and Mental Stimulants Act (1988), Article 13 of the Law on Explosives (1953), Article 34, paragraphs 11 a and b of the Law on Firearms and Ammunition (1952), as well as the Civil Aviation Law (1985), in addition to several other provisions of the Penal Code (1966), such as insulting the king (Art. 195).

<sup>47</sup> Arts. 99 and 110, Jordan's constitution.

<sup>48</sup> Art. 2, SSC law. There is nothing in the law to suggest a specific ratio of military to civilian judges. In theory, they could all be military or civilian.

<sup>49</sup> Most recently, the prime minister appointed ten judges, seven of them military. See Official Gazette, "Decision issued by the Prime Minister According to Article 2 of the Law on the State Security Court, Number 17 of the year 1959, and Its Amendments," May 17, 2006, p. 2015.

<sup>50</sup> Human Rights Watch interview with Zuhair Abu al-Raghib, member of parliament, Amman, September 18, 2005. Abu al-Raghib is also a defense lawyer for detainees held at the GID.

Although military officers largely staff the State Security Court, it tries civilians and follows civilian, not military, criminal law and procedure.<sup>51</sup>

Article 7 of the SSC law provides that people who are being investigated with a view to prosecuting them for a crime for which the SCC enjoys jurisdiction can be detained “where necessary for a period not exceeding seven days” before being brought before the prosecutor to be charged. The prosecutor can extend the detention warrant for renewable periods of fifteen days after charging a suspect, if it is “in the interest of the investigation.”<sup>52</sup> A practicing defense lawyer told Human Rights Watch that “it is normal for detainees to remain at the GID for around six months. They are transferred to a normal prison or released when the GID has finished its investigation.”<sup>53</sup>

Under Jordanian law, although the prosecutor is formally in charge of an investigation once charges are filed, in matters before the SCC the practice is for the prosecutor to delegate responsibility to GID officers to continue the investigation, including interrogation.<sup>54</sup> All the detainees interviewed by Human Rights Watch recalled that during their time in detention they met only with GID staff, except for when they were brought before the prosecutor to be charged. However, several detainees made clear that they were unable with certainty to distinguish between GID officers and officers from the prosecutor’s office, since all wear civilian clothes, conduct interrogations in a similar fashion, and are located in close proximity.<sup>55</sup>

The prosecutor is also the legal authority for detainees’ complaints regarding cruel or inhuman treatment or torture. Jordanian law requires any official, including GID officers, to accept and transmit complaints to their superiors. The role of the prosecutor includes investigating complaints that allege a breach of the law. The fundamental lack of independence of the prosecutor within the GID and SCC

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<sup>51</sup> Art. 7, SSC law.

<sup>52</sup> Art. 7, SSC law.

<sup>53</sup> Human Rights Watch interview with Samih Khrais, defense lawyer, Amman, September 10, 2005.

<sup>54</sup> Art. 47, Criminal Procedure Code. Paragraph 1 entrusts the investigation to the prosecutor general, but paragraph 2 allows him to order law enforcement officers to complete an investigation if they have already begun it.

<sup>55</sup> Human Rights Watch interviews with young Palestinian Jordanian from the Schneller refugee camp, name withheld by request, Rusaifa, September 14, 2005 and with Mustafa R., Amman, September 20, 2005.

structures renders this role wholly ineffective. Samih Khrais, a lawyer who has defended tens of clients before the State Security Court, told Human Rights Watch: “The prosecutor will send a detainee back to the cell if he says he confessed under torture.”<sup>56</sup> Khrais said that because of the prosecutor’s role in the process before the SCC, and the rules that make statements obtained under torture inadmissible in court, the SCC prosecutors are disinclined to act on any complaints of torture.<sup>57</sup> One detainee, Mustafa R., who said he was tortured both before and after being charged, told Human Rights Watch that when he was brought before the prosecutor to be charged he was alone with the prosecutor in his office in the GID complex while a car with his interrogators waited outside to take him back to his cell. The prosecutor did not make any inquiry as to whether illegal force or coercion were used against Mustafa R. during his interrogation.<sup>58</sup> Another former detainee, Muhammad al-Barqawi, told Human Rights Watch that if a detainee demands a lawyer or alleges torture, the prosecutor sends the detainee back for more interrogation, saying “He’s not ready yet.”<sup>59</sup>

The UN Guidelines on the Role of Prosecutors stipulate that the office of prosecutors shall be strictly separated from judicial functions.<sup>60</sup> Jordanian prosecutors, however, do adjudicate on the legality of a person’s detention and remand detainees in custody as well as conducting the pre-trial investigation and the prosecution at trial. Detainees cannot appeal the prosecutor’s decisions.

Prosecutors meet neither the criteria of independence nor impartiality needed to review the legality of detention.<sup>61</sup> The prosecutor at the SSC answers to the Military

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<sup>56</sup> Human Rights Watch interview with Samih Khrais, defense lawyer, Amman, September 10, 2005.

<sup>57</sup> Human Rights Watch telephone interview with Hani al-Dahla, president, Arab Organization for Human Rights in Jordan, and with Samih Khrais, Amman, May 25, 2006.

<sup>58</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005. He added that “[The prosecutor] asked me at first if I needed a lawyer, then some questions about my personal status, before inquiring about the manner and the reason for the arrest.”

<sup>59</sup> Human Rights Watch interview with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

<sup>60</sup> Guideline 10, Guidelines on the Role of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, August 27 to September 7, 1990. It states: “The office of prosecutors shall be strictly separated from judicial functions.”

<sup>61</sup> International Commission of Jurists, “Memorandum on International Legal Framework on Administrative Detention and Counter-Terrorism,” December 2005. Referring to the African Commission on Human and Peoples’ Rights (ACHPR), Decision of

Judicial Institution (*Hay'at al-Quda al-`Askariyya*), not the civilian High Judicial Council in the Ministry of Justice.<sup>62</sup> Thus, those who make determinations over who to arrest; carry out the arrests; conduct interrogations; verify the legality of detentions; prosecute the crimes; and – in cases involving SCC judges – adjudicate the crimes are all part of the Jordanian military establishment. A detainee consequently has little hope of gaining an independent judicial review of the legality of his detention, as Article 9.4 of the ICCPR requires.

## Lack of oversight

Weak institutional oversight has given the GID room to interpret and ignore the law and escape the consequences of doing so. According to Article 4 of the GID law, the king appoints and dismisses the head of intelligence on the recommendation of the prime minister. The king also appoints the principal officers within the GID on the recommendation of the GID director and with the approval of the prime minister.<sup>63</sup> The king, as commander in chief of the armed forces, exercises ultimate authority over the GID through the military chain of command. The king himself is immune from prosecution.

Although the prime minister by law can set specific tasks for the GID, in practice his office and the cabinet function as recipients of intelligence information. In a study for the Geneva Centre for the Democratic Control of Armed Forces, which specializes in analyzing the oversight and accountability mechanisms for security forces in different countries, Jordanian analyst Nawaf Tell wrote that the GID submits its

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15 November 1999, Communication No. 153/96, Case Constitutional Rights Project v. Nigeria, para. 12., the International Commission of Jurists writes:

In a case where an act provided that the Chief of General Staff may order that a person be detained for State security reasons, without charge and established a panel – consisting of Attorney-General, the Director of the Prison Service, and a representative appointed by the Inspector-General of Police plus six persons appointed by the President – with the mandate to review the detention every six weeks, the Commission has stated that these detentions were incompatible with the provisions of the African Charter and that with this system, persons may be detained indefinitely. The Commission has also declared that the panel cannot be considered impartial and cannot be said to meet judicial standards, as the majority of its members are appointed by the President (the Executive) and the other three are representatives of the executive branch as well. Therefore, the ACHPR has stated that this detention was arbitrary, and therefore in violation of the right to a remedy and the right to be tried by a fair trial within a reasonable time.

<sup>62</sup> Human Rights Watch telephone interview with lawyer Sufian `Obaidat, Amman, May 26, 2006. The Public Security Directorate follows a military structure and ranks.

<sup>63</sup> Art. 4.2., GID law.

regular intelligence briefings to the king, not to the prime minister, who is informed of GID activities but has little control over them.<sup>64</sup>

The GID law authorizes its officers to use aliases. Former detainee Muhammad `Ali Shaqfa told Human Rights Watch how on May 3, 2005, three men walked up to his herb and spice store on Rusaifa's main street on the northeastern outskirts of Amman and began questioning him.<sup>65</sup> When he demanded to see their identification, they produced only a badge with a photograph and the words General Intelligence Department written on it. He was unable to get their names or a registration number.<sup>66</sup> Shaqfa added, "Then they asked me to come with them. They said they only wanted me to answer a few questions and that it wouldn't take more than half an hour." The GID officers drove him to the nearby local GID office. Once there, he said, he was not free to leave, and was subsequently transferred to the central GID facility in Amman.<sup>67</sup>

The GID law also authorizes it to hide its budget in the general state budget.<sup>68</sup> Furthermore, no parliamentary committee oversees security or intelligence affairs. The parliament's right to question ministers has little consequence for the intelligence services, which are not answerable to ministers.

## **Who does the General Intelligence Department arrest?**

Radical Islamists who support use of violence and who consider others to be infidels and therefore legitimate targets of violent attacks pose a domestic security challenge in Jordan. Speaking after the November 2005 hotel bombings, King Abdullah said:

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<sup>64</sup> Nawaf Tell, Geneva Centre for the Democratic Control of Armed Forces, "Jordanian Security Sector Governance: Between Theory and Practice," Working Paper No.145, August 2004, p.12: "The authority of the Prime Minister in supervising the activities of the General Intelligence Department, for which he is held responsible according to the constitution, in addition to assigning tasks, is no more than to be informed of these activities, with no direct involvement in them."

<sup>65</sup> Human Rights Watch interview with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005.

<sup>66</sup> Article 100 of the Criminal Procedure Code requires the arresting officer to sign a protocol containing the names of the officers who ordered the arrest and who carried it out.

<sup>67</sup> Human Rights Watch interview with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2006.

<sup>68</sup> Art. 9.b, GID law.

These attacks underline the need to embrace a comprehensive strategy to face the culture of takfir<sup>69</sup>... and wage a no-mercy war on the schools of takfir that are nourished by bigotry, backwardness and isolationism, live on the ignorance of simple and naïve people and work under the guidance of misleading fatwas and approaches.<sup>70</sup>

The danger for the state lies with some adherents of salafism who move from rejecting the state's legitimacy, but generally abide by its laws, to advocating or attempting its violent overthrow.<sup>71</sup> This step typically involves declaring persons and governments un-Islamic and thus the equivalent of an infidel tyrant whose blood can be spilled without violating shari'a provisions.<sup>72</sup>

Growing opposition to the U.S. troop presence in Saudi Arabia in 1990 after Iraq invaded Kuwait gave violent Islamist movements in the region a powerful boost. In Jordan, their displeasure with allegedly un-Islamic policies grew when King Hussein concluded a peace agreement with Israel in 1994 and when the current King Abdullah failed to abrogate that treaty during Israel's military re-occupation of Palestinian West Bank towns in 2002.<sup>73</sup> King Abdullah maintains close ties to Washington: for example, he permitted U.S. forces to operate in Jordan in preparation for the U.S.-led war on Iraq, and he has generally supported U.S. policy in Iraq beyond the initial occupation. Jordan has participated in the training of Iraqi military and police in facilities located in Jordan.

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<sup>69</sup> Gilles Kepel, *Jihad: The Trail of Political Islam* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2002), p. 31: "The term derives from the word *kufr* (impiety) and it means that one who is, or claims to be a Muslim is declared to be impure: by takfir he is excommunicated in the eyes of the Community of the Faithful. For those who interpret Islamic law literally and rigorously, one who is impious to this extent can no longer benefit from the protection of law."

<sup>70</sup> "Mandate reform, fight against terror — Monarch. [Excerpts of His Majesty King Abdullah's Letter of Designation to Prime Minister-designate Marouf Bakhit]," *Jordan Times*, November 25, 2005.

<sup>71</sup> Salafis strive to imitate and replicate the Islam of the Prophet's generation (*al-salaf al-salih*), aiming to rid Islamic practice of the innovations accrued over centuries of human practice. They aspire to follow the literal meanings of Qur'anic injunctions without imputing or deducing another, less obvious meaning. Issues of salafi beliefs frequently involve questions of ritual and everyday life, but more important are questions involving social norms and laws derived from the Prophet Muhammad's reported words and deeds.

<sup>72</sup> Quintan Wiktorowicz, *The Management of Islamic Activism, Salafis, the Muslim Brotherhood, and State Power in Jordan* (New York: State University Press, 2001) p. 127.

<sup>73</sup> "King to Inaugurate New Parliament Session: Majali Expected to Retain Lower House Speakership," *Jordan Times*, November 24, 2000: "A handful of deputies have begun collecting signatures to try to abrogate Jordan's 1994 peace treaty with Israel and to demand again that normalisation with the Jewish state be stopped and that Israel's envoy to Jordan be expelled."

A number of takfiri groups, as well as the banned *Hizb al-Tahrir* (Liberation Party), reportedly continue to spread their message in Jordan.<sup>74</sup> Jordanian officials fear that Jordanians who have joined militants in Iraq will employ violent methods against the government. State television in November 2005 televised the confession of Sajida Rishawi, an Iraqi woman who may be related by marriage to Nidal `Arabiyyat, one of the key Jordanian followers of the late Abu Mus`ab al-Zarqawi, in which she described her participation in the suicide bomb attacks on the Amman hotels.<sup>75</sup> She reportedly took refuge with the `Arabiyyat family before Jordanian intelligence forces arrested her.<sup>76</sup> Journalists told Human Rights Watch that in September and October 2005 intelligence forces arrested fifteen to twenty persons suspected of recruiting for armed groups in Iraq, for belonging to groups such as *al-Takfir wal-Hijra* and *al-Tawhid* that were allegedly planning attacks in Jordan, or for belonging to Hizb al-Tahrir.<sup>77</sup>

The GID keeps a close watch on salafi opposition groups and individuals – peaceful and militant. It views the groups as the natural recruiting ground for those advocating and plotting violence. Religious activists told Human Rights Watch that the GID closely observes devout Muslims who perform the dawn prayer or those who

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<sup>74</sup> Suleiman al-Khalidi, "Jordan Detains Seven Islamists in Crackdown," Reuters, September 7, 2005. Muhammad al-Da'mah, "Jordan: Three Members of Hizb al-Tahrir Sentenced to Prison," *Al-Sharq al-Awsat*, January 24, 2006, (Arabic), <http://www.asharqalawsat.com/details.asp?section=4&article=344819&issue=9919> (accessed March 23, 2006). A major stated goal of Hizb al-Tahrir is to re-establish the caliphate. The caliph was traditionally the leader of all adherents to the Muslim faith, although he gradually had become more a figurehead than a person wielding secular powers. After Mustafa Kemal Atatürk assumed power in the post-World War I Ottoman empire, he abolished the Ottoman sultanate in 1922 and declared Turkey a republic; he then abolished the caliphate in 1924. As far as Human Rights Watch is aware, the government has not charged any Hizb al-Tahrir members in the recent string of arrests with advocating or planning violent attacks.

<sup>75</sup> Conal Urquhart, "Failed Bomb Attacker Confesses Live on Air," *The Guardian* (London), November 14, 2005, <http://www.guardian.co.uk/alqaida/story/0,12469,1642074,00.html?gusrc=rss> (accessed March 23, 2006). Al-Zarqawi, the Jordanian-born head of the al-Qaeda in Mesopotamia organization in Iraq, was killed by U.S. forces in Iraq in June 2006.

<sup>76</sup> Jackie Spinner, "Failed Bomber Sought Refuge in Jordan after Amman Blasts, Woman Thought to Have Hidden with Kin, Residents Say," *Washington Post*, November 19, 2005.

<sup>77</sup> Human Rights Watch email correspondence with Jordanian journalists, names withheld by request, November 12, 2005, and January 8, 2006. *Takfir wal-Hijra*, literally "excommunication and emigration," refers to individuals who assume the right to declare others infidels and who, in emulation of the Prophet Muhammad's leaving of Mecca for Medina, forsake an impure society. *Tawhid*, literally "unity," refers to a belief in the unity of God, or monotheism. Members of *al-Takfir wal-Hijra* have been charged with planning violent acts against civilian targets in Jordan, and *al-Tawhid* was associated with Abu Mus`ab al-Zarqawi at some point. See also International Crisis Group (ICG), "Jordan's 9/11: Dealing with Jihadi Islamism," Middle East Report No.47, November 23, 2005, p. 20.

sit in the first row at communal Friday prayer.<sup>78</sup> Other reports also note that intelligence officers frequently “round up the usual suspects” in the course of their surveillance of salafis or otherwise suspicious Islamists.<sup>79</sup> Zuhair Abu al-Raghib, a member of parliament for the Islamic Action Front, said that the GID “for the last ten years, has arrested Islamists, but hardly anyone else.”<sup>80</sup>

The government does not make public the names or number of persons detained by the GID, the reasons for arrest, or the duration of detention. Of the sixteen cases Human Rights Watch investigated, most were men from Zarqa, Rusaifa, and Amman. The group comprised engineers, religious instructors, small businessmen, and students. Almost all expressed a general dissatisfaction with political and economic conditions in Jordan. Most belonged to groups whose outlook ranged from a focus on achieving a better world through personal piety, to political activism.<sup>81</sup> Two former detainees belonged to leftist movements, two others had no discernible affiliation, and the rest supported a greater role for Islamic precepts in public life.

Jordanian law criminalizes speech that is critical of the government, participation in unauthorized demonstrations, and membership in unlicensed organizations.<sup>82</sup> Jordanian law also provides for a number of vaguely-worded offences such as “conspiracy to carry out a crime,” “crimes against state security,” or “insulting publicly the head of a foreign state, its army, its science or its national feelings.”<sup>83</sup> In

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<sup>78</sup> Human Rights Watch interviews with Muhammad al-Barqawi, Rusaifa, September 13, 2005, and with `Umar Matar, Arab Organization of Human Rights, Amman, July 6, 2005.

<sup>79</sup> See Wiktorowicz, *Islamic Activism*, p. 130, and ICG, “Jordan’s 9/11,” p. 13.

<sup>80</sup> Human Rights Watch interview with Zuhair Abu al-Raghib, September 18, 2005.

<sup>81</sup> Some of the interviewees seemed to endorse violence, including, but not limited to, against U.S. forces in Iraq. Jordan’s Islamist challenge is a relatively recent phenomenon. In the 1980s a number of Jordanians went to fight with the mujahidin against the Soviets in Afghanistan, with, some say, the official approval of King Hussein. Human Rights Watch interviews with a Jordanian salafi, *Irbid*, September 22, 2005, and with the brother of a mujahid in Zarqa, September 15, 2005. See also ICG, “Jordan’s 9/11,” p. 3, footnote 20. In the late eighties, and increasingly so since then, a more radical group influenced by Jordanian salafi scholars, such as `Umar Abu `Umar (`Umar Abu Qattadah), whom the UK seeks to extradite to Jordan, and Abu Muhammad al-Maqdisi, who is currently detained in Jordan, began to shift toward embracing change through action, including violence against the state. Ahmad Khalayla (Abu Mus`ab al-Zarqawi) and some of his key Jordanian followers have networks in Jordanian cities dating back to shared experiences in Afghanistan. See Hazim al-Amin, “Al-Hayat Inquiry: The City of Al-Zarqa in Jordan – Breeding Ground of Jordan’s Salafi Jihad Movement,” *Al-Hayat*, December 14, 2004 (Arabic).

<sup>82</sup> See “Jordan: Slander Charge Signals Chill. Revise the Penal Code to Guarantee Free Speech,” Human Rights Watch news release, December 23, 2004, <http://hrw.org/english/docs/2004/12/23/jordan9929.htm>. Article 159, Penal Code, criminalizes membership in illegal organizations.

<sup>83</sup> Penal Code, section 2, chapter 1, Jordan, 1960, and Art. 122, Penal Code. According to Jordanian press reports, the State Security Court prosecutor charged ten persons with “sully Jordan’s good relations with a friendly nation,” among other

several cases, former detainees told Human Rights Watch that prosecutors simply used only the charge of “conspiracy to carry out a crime,”<sup>84</sup> without their specifying what those criminal acts were. The vague wording allows the GID to arrest suspects without having to adduce specific evidence of individual criminal responsibility.

Between September 2005 and January 2006, the GID reportedly arrested around forty persons on suspicion of belonging to Hizb al-Tahrir, some of whom had allegedly displayed the emblem of this group and distributed its magazine *al-Wa`i* (The Conscious). The State Security Court later found only three of those arrested guilty of belonging to Hizb al-Tahrir.<sup>85</sup>

On September 17, 2005, and again on January 23, 2006, Human Rights Watch wrote to Maj. Gen. Muhammad al-Dhahabi, whom the king promoted from deputy director to director of the GID in December 2005, seeking information concerning the designation and supervision of GID detention facilities in law; GID officials’ powers of arrest, detention and interrogation; and any disciplinary procedures taken against GID officials who had acted in breach of regulations or the law. Human Rights Watch also requested statistical information about the inmate population. As of July 20, 2006, the GID had not responded to either enquiry, or to Human Rights Watch requests for a meeting with GID officials made in Amman in late June and early July 2006.

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charges, for attempting to join the struggle against Americans in Iraq. See Fayez al-Luzi, “State Security Sentences 10 and Acquits 7 Accused of Targeting Counterterrorism Intelligence Officers, *Al-Dustur*, May 3, 2006 (Arabic).

<sup>84</sup> Art. 107, Penal Code, criminalizes conspiracy. Human Rights Watch interviews with Mahdi Zaidan, Irbid, September 22, 2005, and with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

<sup>85</sup> Muhammad al-Da`ma, “Jordan: Three Members of Hizb al-Tahrir Sentenced to Prison,” *Al-Sharq al-Awsat*.

## IV. Arbitrary Detention

Detention is arbitrary if (1) the authorities provide no legal basis justifying the deprivation of liberty, as when a person is kept in detention after the completion of his sentence or despite an amnesty law applicable to him (Category I); (2) deprivation of liberty results from the exercise of protected rights or freedoms such as freedom of belief or freedom of expression (Category II); and (3) when violations of international fair trial norms are so grave as to give the deprivation of liberty an arbitrary character (Category III).<sup>86</sup> This is explored further in the section “Legal standards,” below.

The GID detained `Adnan Muhammad Sadiq Abu Nujila, of Zarqa, around October 2003, after he was returned to Jordan from Azerbaijan following his arrest there on August 15, 2003.<sup>87</sup> According to his family, `Adnan Abu Nujila had left for Chechnya in 1995. During Ramadan 2003 (October-November), an unknown person came to the home of `Adnan Abu Nujila’s family, who had not seen `Adnan for years and had had only sporadic contact with him, to tell them that he was in detention at the GID central facility. The GID in Amman denied they were holding `Adnan Abu Nujila when the family made enquiries there two months later, at the end of 2003. The family then turned to the International Committee of the Red Cross (ICRC) for help.

The family was unaware of any charges against Abu Nujila, and wrote petitions for mercy (*istirham*) to the GID and political authorities every other week, but never

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<sup>86</sup> The UN Working Group on Arbitrary Detention, Fact Sheet No. 26, <http://www.ohchr.org/english/about/publications/docs/fs26.htm> (accessed March 26, 2006).

<sup>87</sup> The family gave the date of the arrest, but said it did not know how `Adnan came to be in Jordan. Then-U.S. Secretary of State Colin Powell told the UN Security Council in February 2003 that `Adnan Muhammad Sadiq (Abu Nujila) had “graduated from Zarqawi’s terrorist camp in Afghanistan, [and] tasked at least nine North African extremists in 2001 to travel to Europe to conduct poison and explosive attacks.” Speech to the UN Security Council, February 5, 2003, [www.whitehouse.gov/news/releases/2003/02/20030205-1.html](http://www.whitehouse.gov/news/releases/2003/02/20030205-1.html) (accessed August 8, 2006). Andrew McGregor tried to dispel some of the allegations around `Adnan Abu Nujila’s activities, see Andrew McGregor, “Ricin Fever: Abu Musab Al-Zarqawi in the Pankisi Gorge,” *Terrorism Monitor*, vol. 2(24), Jamestown Foundation, December 16, 2004, [http://Chechnya.jamestown.org/email-to-friend.php?article\\_id=2369023](http://Chechnya.jamestown.org/email-to-friend.php?article_id=2369023) (accessed August 8, 2006). See also David Cloud, “Long In U.S. Sights, A Young Terrorist Builds Grim Résumé On Journey to Iraq, Zarqawi Forged Ties With al Qaeda, Attracted Own Followers; An Amputation in Baghdad,” *Wall Street Journal*, February 10, 2004.

received a reply. In July 2004 they hired a representative, Muntasir Hassuna, who managed to visit `Adnan Abu Nujila at the GID facility and confirmed his arrest.

`Adnan Abu Nujila's brother, Ahmad, told Human Rights Watch that on August 24, 2004, the GID brought `Adnan home to Zarqa after ten months at the central GID facility in Amman. Three days later, on August 27, the same intelligence officers who had released him approached `Adnan just before Friday midday prayers and asked to speak to him for "half an hour, just to answer a few questions," according to Zakariyya, a third brother, who told Human Rights Watch that he was with `Adnan Abu Nujila when the officers returned. `Adnan Abu Nujila later told his family during a GID prison visit that the officers drove him from Zarqa back to the GID in Amman. He has been in GID detention without charge since August 27, 2004. `Adnan Abu Nujila told his family that the GID did not interrogate him after his most recent arrest.<sup>88</sup>

The Jordanian government has not replied to an October 2005 inquiry by Human Rights Watch about the reason for `Adnan Muhammad Sadiq Abu Nujila's detention. As of this writing, `Adnan Abu Nujila has been in GID detention without charge for almost three years, with the one brief interruption of three days.

The GID had previously arrested Ahmad Abu Nujila, `Adnan Abu Nujila's brother, solely on the grounds that the authorities were looking for the latter. They held Ahmad Abu Nujila for four days in September 2002 during which they questioned him about the whereabouts of `Adnan and the latter's activities in Turkey, Azerbaijan or Chechnya.<sup>89</sup> After releasing Ahmad Abu Nujila they retained his passport and allegedly ordered the manager of an upscale Amman hotel where he was working at the time to fire him. According to Ahmad Abu Nujila, the manager told him, "I'm sorry, but I received a call from the GID to fire you, there's nothing I can do."<sup>90</sup> In a similar case, the GID arrested Fahmi S., the seventeen-year-old brother of Rami S., who was

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<sup>88</sup> Human Rights Watch interview with Ahmad Abu Nujila and Zakariyya Abu Nujila, brothers of `Adnan Abu Nujila, Zarqa, September 15, 2005.

<sup>89</sup> Human Rights Watch interview with Ahmad Abu Nujila, Zarqa, September 15, 2005.

<sup>90</sup> Ibid.

in Saudi Arabia at the time. Fahmi told Human Rights Watch that an officer remarked during the arrest: “We’ll take you instead of [your brother].”<sup>91</sup>

In May 2003, the GID telephoned university student Muhammad M. at his home in Amman, asking that he report to them. The GID interrogated him then for a number of hours about a trip he had taken to Syria one month earlier. In 2004, the GID again called Muhammad M. for interrogation and forced him to sit and stand in stress positions for thirty continuous hours.<sup>92</sup> Muhammad M. claimed that he was questioned only occasionally. He also said that the officers demanded that he desist from all campus political activities, while at the same time asking him to become a GID informer among leftist students. In October 2005 the GID detained him briefly a third time after he returned from Saudi Arabia.<sup>93</sup>

In another case, ordinary police took Basim F. into custody because they believed that the bus he was driving had fake license plates. Basim F.’s brother told Human Rights Watch that GID officers then turned up at the police station where Basim F. was held and told the police officers, “This one’s ours.” They then proceeded to detain Basim at the central GID facility, alleging he intended to blow up Western embassies.<sup>94</sup> Basim F. was released after two weeks without charge.

Human Rights Watch cannot rule out that the GID may have had information relating to specific alleged criminal activity of those it detained in the sixteen cases reviewed for this report, but the fact that the GID released eight detainees without charge, and a further five without proceeding to trial, suggests that it did not conduct the arrests on the basis of reasonable suspicion. Only one of the cases documented by Human Rights Watch, that of Ziyad A., went to trial, at which he was acquitted by the State Security Court of attempting to smuggle false Iraqi passports.<sup>95</sup> The fact that all except one of the persons whose cases Human Rights Watch investigated were

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<sup>91</sup> Human Rights Watch interview with Fahmi S., Amman, January 8, 2006.

<sup>92</sup> Stress positions include remaining in an uncomfortable position for long hours, which produces excruciating pain. See Human Rights Watch, “‘Stress and Duress’ Techniques Used Worldwide,” *A Human Rights Watch Backgrounder*, June 1, 2004, <http://hrw.org/english/docs/2004/06/01/usint8632.htm>.

<sup>93</sup> Human Rights Watch interview with Muhammad M., Amman, January 8, 2006.

<sup>94</sup> Human Rights Watch telephone interview with Basim F.’s brother, Muhammad, Amman, November 15, 2005.

<sup>95</sup> Human Rights Watch interview with Ziyad A., Rusaifa, September 13, 2005.

either released without charge, charges were not pursued to trial, or in two cases have remained in detention for months without trial (ʿAdnan Abu Nujila, and Issam al-Barqawi, also known as Abu Muhammad al-Maqdisi, whose case is described below) calls into question the legal basis for their arrest in the first place, as well as the legality of the continued detention of Nujila and al-Barqawi.

In all but one of the cases that Human Rights Watch investigated, those previously detained as well as the families of the two detainees still held said that they had no idea what specific crime the GID was alleging had been committed, and that officers showed neither an arrest warrant nor informed the detainee of the reasons for his arrest. The only exception was the case of Mustafa R., an engineer who was arrested by a GID officer at the Jordanian border with Iraq in August 2004. When stopped at the border, officers asked him to explain why he was traveling to Iraq without money or contacts there. When he failed to satisfy the GID officer of a legitimate motive, the GID officer briefly detained him at the border, and told him to report to GID headquarters in Amman, which he did, and was charged (see below, section “Absence of judicial oversight over charges”). Muhammad ʿAli Shaqfa, the herb and spice seller mentioned above, was the only former detainee who said he challenged the GID officers directly: “I asked them why I am being detained,” he told Human Rights Watch, “but they did not give me an answer.”<sup>96</sup>

## Legal standards

Jordan is a state party to the International Covenant on Civil and Political Rights, which requires that a state specify the legal basis on which individuals may be deprived of their liberty and the procedures to be used for arrests and detentions (Article 9). Only arrests and detentions conducted in accordance with such rules are considered lawful, thus restricting the discretion of individual arresting officers. The prohibition against arbitrary arrest or detention also means that deprivation of liberty, even if provided for by law, must be necessary and reasonable, predictable, and proportional to the reasons for arrest.

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<sup>96</sup> Human Rights Watch interview with Muhammad ʿAli Shaqfa, Rusaifa, September 15, 2005.

An arrest or detention is arbitrary if not carried out in accordance with the law, or if the law is itself arbitrary or so broadly worded as to allow arrest and detention for the peaceful exercise of basic rights such as freedom of expression or association.<sup>97</sup> The UN Human Rights Committee, which monitors state compliance with the ICCPR and provides authoritative interpretation of the Covenant, explained in reviewing one case that:

“arbitrariness” is not to be equated with “against the law,” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law.... [T]his means that remand in custody pursuant to lawful arrest must not only be lawful but reasonable in the circumstances. Remand in custody must further be necessary in all the circumstances, for example, to prevent flight, interference with evidence or the recurrence of crime.<sup>98</sup>

The circumstances of what is necessary and reasonable may change from case to case and differ between the decision to carry out an arrest, the decision to bring charges, and the decision to remand a suspect charged with a crime in custody.

In order for an arrest to be reasonable, the evidence at hand would have to satisfy an objective observer that there are reasonable grounds to believe that the suspect has committed a crime.<sup>99</sup> Jordan’s Criminal Procedure Code stipulates that in order to execute an arrest warrant, a law enforcement officer must have “sufficient grounds to

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<sup>97</sup> Article 9.1 of the ICCPR states: “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

<sup>98</sup> UN Human Rights Committee, Communication No. 458/1991, A. W. Mukong v. Cameroon (Views adopted on 21 July 1994), in UN doc. GAOR, A/49/40, (vol. II), p. 181, para. 9.8.

<sup>99</sup> “[H]aving a ‘reasonable suspicion’ presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence ... [What] may be regarded as ‘reasonable’ will ... depend upon all the circumstances,” European Court of Human Rights, Case of Fox, Campbell and Hartley v. the United Kingdom, 30 August 1990, Series A, No. 182, p. 16, para. 32. The Court went on to explain in the same case that “in view of the difficulties inherent in the investigation and prosecution of terrorist-type offences, ... the ‘reasonableness’ of the suspicion justifying such arrests cannot always be judged according to the same standards as are applied in dealing with conventional crime. Nevertheless, the exigencies of dealing with terrorist crime cannot justify stretching the notion of ‘reasonableness’ to the point where the essence of the safeguard secured by Article 5 § 1 (c) is impaired...” Both quotations taken from United Nations, Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, (New York and Geneva: United Nations, 2003), Chapter 5: “Human Rights and Arrest, Pre-Trial Detention and Administrative Detention,” p. 174.

charge” the suspect with a crime. Unless a police officer witnesses a crime in progress, the prosecutor who issues the arrest warrant must fulfill this condition. The ICCPR requires an arresting authority to immediately inform detainees of the reasons for their arrest.

The ICCPR also requires an arresting authority to promptly communicate to detainees any charges against them. A person can lawfully be held without charge – the question is for how long. If a person is detained on suspicion of a crime he or she must be charged within a reasonable time. As noted above, there is a permitted seven-day limit for detention without charge prescribed by the State Security Court law. (By contrast, in ordinary criminal cases in Jordan a prosecutor must charge detainees within twenty-four hours and the Criminal Procedure Code requires that “the evidence linking [the suspect] to the act in question is available” before the prosecutor can remand the suspect in custody.<sup>100</sup> An official who detains a person longer than twenty-four hours in ordinary cases without presenting him to the prosecutor is liable to charges of arbitrary deprivation of personal liberty under Jordan’s penal code.<sup>101</sup>) Also as noted above, one of the sixteen detainees whose cases Human Rights Watch investigated, Adnan Muhammad Sadiq Abu Nujila, has been in detention without charge almost continually for nearly two years. Human Rights Watch found that of the eight other detainees who were never charged and were released, the detention of six had exceeded the permitted seven-day limit for detention without charge prescribed by the State Security Court law.

Once a person is charged with a crime, remand in custody is not automatic. The ICCPR requires that detention be the exception, not the rule, for ensuring that persons charged with a crime but not convicted are available for trial. Before remanding a suspect to detention, the judicial authority – in the case of Jordan, the prosecutor – should consider whether detention is proportionate to the alleged crime and whether bail would be a sufficient condition for release.<sup>102</sup> Reasonable grounds for remand in custody generally include considerations of the likelihood of

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<sup>100</sup> Art. 114.1, Criminal Procedure Code.

<sup>101</sup> Art. 113, Criminal Procedure Code.

<sup>102</sup> Art. 9.3, ICCPR. See also United Nations Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring* (New York/Geneva: United Nations, 2001), Chapter IX: “Visits To Persons In Detention,” <http://www1.umn.edu/humanrts/monitoring/chapter9.html> (accessed August 9, 2006).

the suspect's committing another offense if released, whether he or she might flee justice, or whether he or she may interfere with the trial, for example by intimidating witnesses or destroying evidence. One way to ensure a suspect cooperates with his or her trial is to set conditions for bail, such as a cash bond.

Jordanian law automatically excludes the possibility of the prosecutor granting bail to pre-trial detainees charged with crimes that carry sentences of the death penalty, hard labor, or life imprisonment.<sup>103</sup> Despite giving prosecutors discretion to determine whether bail should be granted in other circumstances, Jordanian law fails to impose a test of the reasonableness of detention.

In addition, international law grants a detainee the right to challenge the lawfulness of his or her detention by petitioning an appropriate judicial authority to review whether the grounds for detention are lawful, reasonable and necessary. The powers of the prosecutor in Jordan are sufficient to fulfill the criteria required in the ICCPR of a competent judicial authority reviewing the lawfulness of the detention.<sup>104</sup> A Jordanian prosecutor has the authority to make a binding order, not only a recommendation, for the release of the person in question; he or she has the power to review both the legality of the detention (that is, its compliance with the procedures laid down for arrest and detention), as well as the substantive grounds for detention (the necessity and reasonableness – see below). What is at issue, however, is that the independence, rather than the powers, of a Jordanian prosecutor falls short of the criteria required of a competent judicial authority reviewing the lawfulness of detentions. As noted above, the prosecutor is neither independent, nor impartial. Administratively, the military prosecutor at the State Security Court depends on the military chain of command, which is a part of the executive. A

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<sup>103</sup> Arts. 122 and 123, Criminal Procedure Code.

<sup>104</sup> The UN Human Rights Committee has held that: “the public prosecutor cannot be characterized as having the institutional objectivity and impartiality to be considered as an ‘officer authorized to exercise judicial power,’” and on that basis found a violation of Articles 9 (3) and (4) of the ICCPR. See *Bandajersky v. Belarus* Communication No. 1100/2002, April 18, 2006. This case follows a line of cases in which the Human Rights Committee also determined that a public prosecutor lacked institutional objectivity and impartiality to meet the requirements of Article 9 (See for example *Kulomin v. Hungary* Communication No. 521/1992, March 22, 1996; *Platonov v. Russia*, Communication No. 1218/2003, Views adopted on November 1, 2005; and recently *Sulatanova v. Uzbekistan*, Communication No. /915/2000, April 19, 2006). Article 9 of the ICCPR requires in paragraphs 3 and 4 that “.. anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power” and that “anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings ... in order that a court may decide without delay on the lawfulness of his detention...”

prosecutor is also never impartial, as he or she takes an active part in the trial of the suspect, with in interest in securing a conviction. The UN Human Rights Committee examining a case of a legal system with a similar, but in fact more limited, role for the prosecutor, stated that it was “not satisfied that the public prosecutor could be regarded as having the institutional objectivity and impartiality necessary to be considered an ‘officer authorized by law to exercise judicial power’ within the meaning of article 9(3) of the Covenant.”<sup>105</sup>

## **Absence of judicial oversight over charges**

The powers of the prosecutor to determine and file charges without judicial oversight deprive detainees of an essential safeguard against arbitrary arrest. Jordan’s criminal procedure law does not require that evidence meet a particular standard before charges are brought against a suspect. The prosecutor brings charges and at the same time orders suspects detained for up to fifteen days; in felony cases this is renewable up to six months.<sup>106</sup> The basis of the charges is not subject to review by an independent tribunal during an ongoing investigation.

Charges were brought in seven of the sixteen cases investigated by Human Rights Watch. In three of these seven cases the detainees told Human Rights Watch that they were not made aware of the evidentiary basis for the charges against them. “The prosecutor just verified my name and status, read out the charges, and asked if I needed a lawyer, before the GID officers outside took me back to my cell,” Mustafa R. said.<sup>107</sup>

The GID arrested Mahdi Ahmad Zaidan’s four sons on several occasions. He described his family to Human Rights Watch as very religious. He said that they had

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<sup>105</sup> UN Human Rights Committee, Communication No. 521/1992, *Kulomin v. Hungary* (Views adopted on 22 March 1996), in UN doc. GAOR, A/51/40 (vol. II), p. 81, para. 11.3, quoted in: United Nations, *Human Rights in the Administration of Justice*, p. 189. The Committee stated: “it is inherent to the proper exercise of judicial power that it be exercised by an authority which is independent, objective and impartial in relation to the issues dealt with.” A European Court of Human Rights decision in 1998 clarified its understanding of the meaning of the independence required for a judicial review of detention: “the ‘officer’ must be independent of the executive and the parties... at the time of the decision on detention...: if it appears at that time that the ‘officer’ may later intervene in subsequent criminal proceedings on behalf of the prosecuting authority, his independence and impartiality may be open to doubt.” European Court of Human Rights, *Case of Assenov and Others v. Bulgaria*, judgment of 28 October 1998, Reports 1998-VIII, p. 3298, para. 146.

<sup>106</sup> Art. 114.1, Criminal Procedure Code.

<sup>107</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

at one point belonged to a takfiri group and that he still held opinions opposed to state policies, but that they did not support or engage in violence.<sup>108</sup> Thirty-three-year-old ‘Umar Zaidan spent three months in GID detention after his arrest in August 2004, and his younger brother Muhammad Zaidan spent two months there following his arrest the following month. Prosecutors charged the Zaidan brothers with conspiracy to commit a crime, without specifying the crime in question.<sup>109</sup> Mahdi Zaidan said his sons were told after months in detention, “Just sign your confessions.”<sup>110</sup>

The GID had arrested his son ‘Umar ten times, Mahdi Zaidan said, sometimes also on suspicion of *lèse majesté*.<sup>111</sup> Over the years, he said, the authorities never charged any family member with a crime and they never faced trial.<sup>112</sup> Following their arrest in August and September 2004, the GID released both ‘Umar and Muhammad around November 2004 without going to trial.

Defense lawyer Samih Khrais told Human Rights Watch that 95 percent of the evidence for the prosecution’s case typically rests on confessions alone. The permitted seven-day period of detention before charging a suspect (which, as noted above, is often breached) gives the GID ample opportunity to extract confessions under duress, because in practice the GID keeps the detainee in solitary confinement during that period and he or she is unable to appoint a lawyer or contact his or her family or consulate (if not Jordanian). Article 63 of Jordan’s Criminal Procedure Code obliges the prosecutor to alert a suspect of “his right not to respond to [the charge] unless in the presence of a lawyer.” If he declines to appoint a lawyer or if the lawyer fails to appear within twenty-four hours, however, “the investigation continues in his absence.” Investigators may start questioning the suspect “before [the suspect] has called a lawyer” in “urgent cases for fear of losing evidence.”<sup>113</sup>

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<sup>108</sup> One son, Mahmud, still lives in Afghanistan, where he went in 1997; another son, Ibrahim, is currently detained in U.S. detention at Guantanamo after having been kidnapped by local Afghan militias and then sold to the Americans in December 2001. Human Rights Watch interview with Mahdi Zaidan, Irbid, September 22, 2005.

<sup>109</sup> Ibid.

<sup>110</sup> Ibid.

<sup>111</sup> Art. 195, Penal Code.

<sup>112</sup> Human Rights Watch telephone interview with Mahdi Zaidan, Irbid, July 10, 2006.

<sup>113</sup> Art. 63, Criminal Procedure Code.

Some provisions in Jordan's Penal Code are so vague that prosecutors can construe criminal charges against suspects based on scant evidence. Article 107, for example, defines conspiracy as "an agreement between two or more persons to carry out a crime by specific means."<sup>114</sup> Without independent judicial oversight to examine evidence in order to determine whether the grounds for detention are reasonable, charging a suspect risks becoming a mere formality for continued detention.

Detainee Abu Muhammad al-Maqdisi is an influential salafi scholar with a history of arrests and convictions; his followers included Abu Mus`ab al-Zarqawi. On December 27, 2004, the State Security Court found al-Maqdisi (whose real name is Issam Muhammad al-`Utaibi al-Barqawi) not guilty of charges of plotting to attack the U.S. embassy and other targets. The authorities did not free al-Maqdisi until June 28, 2005, however, when they allowed him to return to his home in Zarqa.

According to his son, Muhammad, the authorities put no restrictions on al-Maqdisi regarding media interviews following his release. In a telephone conversation with the GID after his release, al-Maqdisi told Abu Haitham, his GID interrogator, that he would be giving an interview to the Al-Jazeera satellite television station, his son told Human Rights Watch.<sup>115</sup> The GID responded that they preferred he give an interview to another station, but al-Maqdisi said he intended to go ahead with the Al-Jazeera interview, which took place on the evening of July 5, 2005.<sup>116</sup> A few hours later, just after midnight, GID officers arrested him without a warrant.<sup>117</sup> Muhammad told Human Rights Watch that his father had been successively moved to several police stations, from Jarrash to al-Bayadir, before being returned to the central GID detention facility.<sup>118</sup>

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<sup>114</sup> Art. 107, Penal Code.

<sup>115</sup> Human Rights Watch interview with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

<sup>116</sup> Al-Maqdisi gave several interviews following his release. See Marwan Shahada and Maisara al-Shammari, "Al-Maqdisi to *Al-Hayat*: Bin Laden Rejected Zarqawi's Request to Lecture his Followers Using My Books and Advised Abu Mus`ab to Avoid Killing Civilians or Hitting Churches or Shi'a Mosques", *Al-Hayat*, July 10, 2005 (Arabic), <http://www.daralhayat.com/special/dialogues/07-2005/Item-20050709-fc84176c-coa8-10ed-00f8-0297dc320257/story.html> (accessed March 28, 2006). See also transcript of Al-Jazeera program "Behind the News: The Arrest of Abu Muhammad al-Maqdisi," July 28, 2005, <http://www.aljazeera.net/NR/exeres/D2FA9B70-9DC0-4B6D-914B-41D2CE1EB679.htm> (accessed May 10, 2006).

<sup>117</sup> Human Rights Watch interview with journalist Rana Al-Sabbagh, who was present at the time, Amman, January 8, 2006.

<sup>118</sup> Human Rights Watch interview with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

According to Muhammad, GID officials told al-Maqdisi, “The court may have freed you, but we didn’t!”<sup>119</sup> In a press conference, then-Deputy Prime Minister Marwan al-Muasher said that al-Maqdisi had been rearrested on charges of conspiracy after making telephone contact with what al-Muasher said were terrorist groups in Jordan and abroad. Al-Maqdisi’s family allege that officer `Ali Burjaq of the GID told them on a visit to the detention center on July 8 that the arrest came as a result of the Al-Jazeera interview and that, as of September 2005, prosecutors had not filed charges.<sup>120</sup> As of this writing, Abu Muhammad al-Maqdisi had remained in solitary confinement at the GID detention facility for over a year.<sup>121</sup>

In another instance of basing charges on vaguely worded law, the SSC prosecutor charged Mustafa R. with “breaching the security of the state.” The rubric of “breaches of state security” in the Penal Code contains a number of articles, including the crime of terrorism. Article 147 defines terrorism as:

The use of violence or threat of violence, regardless of its motives or purposes, to carry out an individual or collective act aimed at disturbing public order or endangering public safety and security where such is liable to spread alarm or terror among the public or jeopardize their lives and security or cause damage to the environment, public facilities or property...<sup>122</sup>

Prosecutors charged Mustafa R. apparently on the sole basis of what they considered to be his unconvincing explanation for why he wanted to go to Iraq. His attempt to enter Iraq raised suspicion at the border, where the GID turned him back on August 20, 2004, ordering him to report to the GID central station in Amman after his return. He returned in a taxi on August 21 and presented himself the next day. A GID officer issued an arrest warrant for his detention on the spot.

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<sup>119</sup> Human Rights Watch interview with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

<sup>120</sup> Human Rights Watch interview with al-Maqdisi’s family, Rusaifa, September 13, 2005.

<sup>121</sup> Human Rights Watch telephone interview with Muhammad al-Barqawi, Rusaifa, June 16, 2006.

<sup>122</sup> Translation of Art. 147.1, Penal Code, amended October 2001, as it appears in Jordan’s Fourth Report to the United Nations Counter-Terrorism Committee, S/2005/162, March 15, 2005.

The GID waited one month after arresting Mustafa to search his house. Mustafa told Human Rights Watch that during the first two weeks of detention, his interrogators were mostly interested in learning the names of family members and mosque prayer leaders. He said neither interrogators nor the prosecutor presented any evidence to shed doubt on his claim that he was going to Iraq to find work as an engineer.<sup>123</sup>

The prosecutor also did not specify which alleged planned acts justified charging Mustafa R. with “breaching the security of the state.” Mustafa R. spent two months incarcerated in the central GID facility before the prosecutor dropped charges and released him.

### *House searches*

Jordan’s Criminal Procedure Code permits entry into and search of a person’s house if he or she is suspected of a crime, and in cases of hot pursuit.<sup>124</sup> Jordan’s constitution stipulates that “Dwelling houses shall be inviolable and shall not be entered except in the circumstances and in the manner prescribed by law.” The law, however, is lax about the need for a search warrant. Article 94 of the Criminal Procedure Code allows police officers to search a house if accompanied by the mukhtar – a respected community or village head who serves as an interface between local citizens and the authorities – or by two local residents. The article does not explicitly mention the need for a search warrant in those cases. Article 83 of the Criminal Procedure Code requires the presence of the mukhtar if the suspect himself is not present.

In nine of the sixteen cases that Human Rights Watch investigated, the GID carried out house searches. Former detainees or family members said that the officers confiscated mainly books and videotapes. During six house searches, local police

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<sup>123</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

<sup>124</sup> Art. 81, Criminal Procedure Code.

accompanied the GID officers. Two former detainees confirmed that the mukhtar was present during the searches and signed the list of confiscated items as a witness.<sup>125</sup>

In four cases, family members or former detainees said that GID officers asked them to sign a list of confiscated items.<sup>126</sup> Isma`il `Abd al-Rahman told Human Rights Watch that GID officers did not give him time to read the search warrant or the list of confiscated items after they arrested his son `Abd al-Karim Isma`il `Abd al-Rahman, a student, in the early hours of July 6, 2005. Isma`il `Abd al-Rahman said that the GID and police wrecked his house, turning everything upside down, without telling him what they were looking for or, for that matter, appearing to look for anything in particular. "They beat me, and later the officer in civilian clothes showed me a piece of paper and told me to sign it, explaining that it said 'we searched your house and didn't break anything.' I was scared and never had time to read it."<sup>127</sup> Article 96 of Jordan's Criminal Procedure Code allows, but does not require, the suspect to obtain a signed copy of the list of confiscated items.<sup>128</sup>

Yasir Abu Hilala, Jordan bureau chief for Al-Jazeera, told Human Rights Watch that the GID arrested him in his flat on November 12, 2002, carrying a blank search warrant that the officer filled out later. The GID freed him a short while later without charge. Abu Hilala told Human Rights Watch that he believed the purpose of the arrest operation had been to confiscate footage he had taken depicting unrest in the southern town of Ma`an, to prevent it from airing.<sup>129</sup>

Illegal possession of firearms or explosives is an offence that falls within the jurisdiction of the State Security Court and which GID officers investigate. In three cases, GID officers said they were looking for firearms or explosives, and families

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<sup>125</sup> Human Rights Watch interviews with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005; with Shaikh al-Jawabirah, Rusaifa, September 13, 2005; and with young Palestinian Jordanian, Schneller camp resident, name withheld by request, Rusaifa, September 14, 2005.

<sup>126</sup> Human Rights Watch interviews with Isma`il `Abd al-Rahman, Amman, July 7, 2005; with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005; with Mustafa R., Amman, September 20, 2005; and with young Palestinian Jordanian, Schneller camp resident, name withheld by request, Rusaifa, September 14, 2005. Articles 32, 36 and 38, Criminal Procedure Code, require the suspect, the prosecutor and witnesses to confirm and sign for confiscated items.

<sup>127</sup> Human Rights Watch interview with Isma`il `Abd al-Rahman, Amman, July 7, 2005.

<sup>128</sup> Art. 96, Criminal Procedure Code.

<sup>129</sup> Human Rights Watch interview with Yasir Abu Hilalah, Amman, September 11, 2005.

reported that the officers began threatening suspects when their initial search proved fruitless. One former detainee told Human Rights Watch: “They came at night and looked everywhere but didn’t find anything. The officer then said that there would be serious consequences if I did not tell them the location of my hidden cache.”<sup>130</sup> He said that the GID never found firearms or explosives. In another case, GID officers during a house search found a pigeon shooting rifle belonging to Muhammad `Ali Shaqfa’s father. Shaqfa told Human Rights Watch:

I said to them: “If you don’t find anything, that’s it.” The police officer said “OK,” but one of the GID officers said, “We’ll take you anyway.” Then we all sat around and the GID officers said to me: “Muhammad, it will be easier for you if you cooperate. Now, where are the Kalashnikovs?”<sup>131</sup>

## Incommunicado detention

Jordanian authorities do not apply the country’s law on prisons to the GID facility.<sup>132</sup> The continuing confusion over what legal regime applies to the GID detention facility, and why the regular prison service apparently does not supervise that facility, has permitted GID officers to operate in effective secrecy and maintain a practice of incommunicado detention.

Article 13 of the current law on prisons, issued in 2004, grants detainees a number of important rights that are protections against incommunicado detention, such as informing one’s family of one’s whereabouts, speaking to a lawyer, receiving visits from lawyers, family or other persons, and communicating with friends and family.<sup>133</sup> The law does not specify any differences in exercising these rights between those held without charge, those in pre-trial detention, or those who are serving a prison sentence.

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<sup>130</sup> Human Rights Watch interview with young Palestinian Jordanian, Schneller camp resident, Rusaifa, September 14, 2005.

<sup>131</sup> Human Rights Watch interview with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005.

<sup>132</sup> As noted above, the Ministry of Interior in 1993 declared the “place of detention and investigation [at the GID] a prison.” Ministry of Interior, Declaration published on page 3930 of the Official Gazette, November 1, 1993.

<sup>133</sup> Art. 13, Law No. 9, Centers of Reform and Rehabilitation (“Prison law”), Jordan, 2004.

During the seven-day detention period that the State Security Court law permits before a detainee of the GID should be charged, the GID prohibits detainees from notifying anyone about their arrest or where they were taken. Suspects do not have the opportunity to speak with a lawyer, to receive family or consular visits, or to remain silent and not to incriminate themselves.

Moreover, the GID keeps some detainees in incommunicado detention at its facility for prolonged periods of time (in three cases we investigated, incommunicado detention lasted several months). Mustafa R. spent about two months at the GID central detention facility before his father was able to visit him. The GID detained `Adnan Muhammad Sadiq Abu Nujila incommunicado for five to seven months after he was returned from Azerbaijan (the family cannot be sure of the time, because no one informed them when `Adnan was returned from Azerbaijan). Muzaffar Samih Ahmad al-Jawabira also spent about three months in detention before his father was able to visit.<sup>134</sup>

The practice of incommunicado detention is at odds with human rights law. In the first instance, incommunicado detention facilitates torture. Sir Nigel Rodley, then-UN special rapporteur on torture noted in 1999:

Based upon information received over the course of the past seven years, the Special Rapporteur is of the view that incommunicado detention is the most important determining factor as to whether an individual is at risk of torture. As such, the Special Rapporteur reiterates the recommendation of his predecessor and urges all States to declare incommunicado detention illegal.<sup>135</sup>

Allegations of torture in GID detention are discussed below.

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<sup>134</sup> Human Rights Watch interviews with Mustafa R., Amman, September 20, 2005; with the family of `Adnan Abu Nujila, Zarqa, September 15, 2005; and with Shaikh al-Jawabira, Rusaifa, September 13, 2005.

<sup>135</sup> UN General Assembly, Fifty-fourth session, Agenda item 116 (a), Human rights questions: implementation of human rights instruments, "Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Submitted by Sir Nigel Rodley, Special Rapporteur of the Commission on Human Rights, in Accordance with General Assembly Resolution 53/139," October 1, 1999, para. 42.

Incommunicado detention also violates the right of a detainee to meet with his or her lawyer to be able to adequately prepare his or her defense.

In 1994, the UN Economic and Social Council presented a “report on existing international norms and standards pertaining to the right to a fair trial.”<sup>136</sup> Those standards guarantee to all detainees “the right to receive visits from counsel, persons assisting counsel, family, friends and others at regular intervals under necessary supervision.”<sup>137</sup>

### *Access to legal counsel*

Jordanian law permits detainees to seek legal counsel not at the point of arrest, but only at the point of being charged. According to Jordan’s Criminal Procedure Code, a detainee has “the right not to reply [to the charges] unless in the presence of a lawyer,” although the prosecutor may proceed with the investigation in special circumstances.<sup>138</sup>

Jordanian prosecutor Sabr al-Rawashda confirmed to Human Rights Watch that detainees “have no right to an attorney” before meeting with the prosecutor and being charged with a crime.<sup>139</sup> Defense lawyer Samih Khrais, who regularly defends suspects before the State Security Court, also confirmed that the GID does not allow lawyers to visit clients in the first seven days of detention. None of the former detainees with whom Human Rights Watch spoke had asked for a lawyer at the time of arrest, but this appears to have been less about awareness that they had no right to one until charged than the belief that they were merely going to “answer a few questions” to clear up a misunderstanding and would be freed shortly.<sup>140</sup>

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<sup>136</sup> United Nations Economic and Social Council, Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-sixth session, “The Right to a Fair Trial: Current Recognition and Measures Necessary for its Strengthening,” E/CN.4/Sub.2/1994/24, June 3, 1994.

<sup>137</sup> *Ibid.*, para. 45. f).

<sup>138</sup> Art. 63, Criminal Procedure Code.

<sup>139</sup> Human Rights Watch interview with prosecutor Sabr al-Rawashda, Amman, September 22, 2005.

<sup>140</sup> Human Rights Watch interviews with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005, and Mustafa R., Amman, September 20, 2005.

The ICCPR specifies a defendant's right to be informed of charges, to have legal assistance, and not to incriminate him or herself. Principle 93 of the Standard Minimum Rules also provides that:

For the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence and to prepare and hand to him confidential instructions. For these purposes, he shall if he so desires be supplied with writing material. Interviews between the prisoner and his legal adviser may be within sight but not within the hearing of a police or institution official.<sup>141</sup>

Jordanian law is thus out of step with international standards of human rights law that affords detainees the right of access to legal counsel as soon as reasonably possible from the time of detention.

Prosecutor Sabr al-Rawashda, who works at a court of first instance in Amman, told Human Rights Watch that the overwhelming majority of detainees do not exercise their right to appoint a lawyer when charged with a crime.<sup>142</sup> Some former detainees told Human Rights Watch that this was because they could not afford one.<sup>143</sup> When the case goes to trial, al-Rawashda said, the court appoints a lawyer in felony cases, but for misdemeanors, which can be tried before the SCC, there is no such requirement.<sup>144</sup> However, lawyer Zuhair Abu al-Raghib complained to us of the general lack of access to detainees at the GID facility even after they have been charged: "It is difficult for us lawyers to visit the GID facility, although it is guaranteed in the criminal procedure law."<sup>145</sup> Where the GID prevents lawyers from seeing their clients after the prosecutor has charged them, it would appear that it does so in violation not just of international standards, but of Jordanian law. (For al-

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<sup>141</sup> Principle 93, United Nations Economic and Social Council, Standard Minimum Rules.

<sup>142</sup> Human Rights Watch interview with prosecutor Sabr al-Rawashda, Amman, September 22, 2005.

<sup>143</sup> Human Rights Watch interview with Shaikh al-Jawabira, Rusaifa, September 13, 2005.

<sup>144</sup> Human Rights Watch interview with prosecutor Sabr al-Rawashda, Amman, September 22, 2005.

<sup>145</sup> Human Rights Watch interview with Zuhair Abu al-Raghib, Amman, September 18, 2005.

Rawashda's comments on the consequences of the lack of contact with lawyers for the reporting of abuse and securing redress, see chapter V, below.)

*Family notification, and communication with the outside world*

Jordan's Criminal Procedure Code requires the arresting officer to prepare a signed protocol and to inform the suspect or his lawyer about the time he was taken into custody and the place of detention or imprisonment.<sup>146</sup> Article 13 of the Law of Correctional and Rehabilitation Centers states that inmates have the right to "3. inform his/her family of his/her location; 4. correspond with family and friends and have facilitated means of communication; 5. receive visitors, unless there be a motive-based decision taken by the Director of the Centre prohibiting these visits."<sup>147</sup>

The GID, however, does not permit detainees to communicate promptly with family members, even after they request to do so. In the cases that Human Rights Watch investigated, GID officers consistently failed to allow the arrested person to notify his family at the point of arrest, from the initial place of detention, or promptly after transfer to the GID central facility in Amman. Fahmi S. told Human Rights Watch that during his twenty days of detention by the GID he received no visits, and that officers barred him from making telephone calls.<sup>148</sup>

Similarly, the GID makes no effort itself to inform the families of detainees, and in some cases will not tell families the truth that it is holding the individual the family has come seeking. In Muhammad `Ali Shaqfa's case, GID officials returned with him to search his flat, in the presence of the police and his father, before taking him away again, but in most other cases no family member witnessed the arrest. Family members told Human Rights Watch that they learned of the arrest of their sons or husbands by word of mouth, and that their initial searches for them at the local police station, the governor's office, the local intelligence office and even the central GID facility proved fruitless.

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<sup>146</sup> Art. 100, Criminal Procedure Code.

<sup>147</sup> Art. 13.3-5, Prison Law.

<sup>148</sup> Human Rights Watch interview with Fahmi S., Amman, January 9, 2006.

In early 2003, officers at the central GID facility threatened the father of Ziyad A., whom the GID had arrested shortly before, saying, “We do not have him, but go ahead and look for him. But if you don’t find him, we will keep you here!”<sup>149</sup> Shaikh Jawabira had a similar experience in March 2004 when he went looking for his son Muzaffar al-Jawabira. He told Human Rights Watch that he spoke with officials at the Rusaifa office of the GID, who denied having his son in custody. Muzaffar al-Jawabira’s brother Tariq, however, soon thereafter brought money for Muzaffar to the same local office. The officer in charge took the money with a promise to give it to Muzaffar al-Jawabira, who confirmed to Human Rights Watch that he had received some money.<sup>150</sup>

On July 7, 2005, Human Rights Watch met with Isma`il `Abd al-Karim `Abd al-Rahman at the offices of the Arab Organization for Human Rights in Jordan, where he had gone to seek help in finding his son, whom the GID and police had arrested the previous day. He had no way of getting in touch with his son or knowing where he was, although he suspected he might be at the GID central facility.

The U.N. Standard Minimum Rules for the Treatment of Prisoners require that “An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends.”<sup>151</sup> The right to notify one’s family applies every time the detainee moves to another detention facility. The U.N. Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles) require that

Promptly after arrest and after each transfer from one place of detention or imprisonment to another, a detained or imprisoned person shall be entitled to notify or to require the competent authority to notify members of his family or other

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<sup>149</sup> Human Rights Watch interview with As`ad A., Zarqa, September 15, 2005.

<sup>150</sup> Human Rights Watch telephone interview with Muzaffar al-Jawabira, Rusaifa, September 13, 2005.

<sup>151</sup> Rule 92, Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody.<sup>152</sup>

The Standard Minimum Rules require that the right of notification be available “immediately”; the Body of Principles sets an outer limit of not “more than a matter of days” before a detainee can exercise this right.<sup>153</sup>

The International Committee of the Red Cross conducts regular, unannounced visits to Jordanian detention facilities, including the GID facility, in order to monitor the treatment of detainees.<sup>154</sup> The ICRC suspended such visits on a number of occasions when the GID did not grant it access to its facility or certain detainees. The organization only gradually secured access to the GID facility, negotiating first biweekly and then weekly access.<sup>155</sup> An ICRC representative told Human Rights Watch that it has had regular access since October 2004.<sup>156</sup>

The young Jordanian Palestinian from the Schneller refugee camp said that the first person unaffiliated with the GID he saw was an ICRC representative; he could not recall how long into his detention that visit occurred. He had not been able to contact anyone in the outside world before that. He told Human Rights Watch that he thought the ICRC “only visits detainees who are innocent,” because he had the

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<sup>152</sup> Principle 16, Body of Principles.

<sup>153</sup> Principle 15, Body of Principles.

<sup>154</sup> The ICRC does not accept conditions on its visits. Its own guidelines require that the ICRC have access at all times, unannounced, to all places of detention, to all prisoners, and to the entire facility. See International Committee of the Red Cross, “Visiting People Deprived of Their Freedom: Purpose and Conditions of ICRC Visits,” August 8, 2001, <http://www.icrc.org/Web/eng/siteeng.nsf/iwpList265/929018E28243CCBoC1256B6600600D8C> (accessed May 25, 2006). The ICRC also maintains a policy of confidentiality and shares its findings only with the administration of the concerned facility and with the government. In Jordan, the ICRC sends its reports to the prime minister and the king. Human Rights Watch interview with Adriana Alarcon Diaz, ICRC representative, Amman, September 10, 2005.

<sup>155</sup> In its annual report for 2004, the ICRC in Jordan stated: “In late July the ICRC resumed visits to GID facilities after a three-month suspension owing to problems of access to certain detainees.” In 2002, the ICRC reported: “On several occasions in the first half of 2002, incomplete notification and access problems led to a suspension of visits at GID places of detention. Visits resumed following discussions with the GID and the military prosecutor’s office that resulted in the Jordanian authorities renewing their commitment to fully comply with established notification and access procedures. The ICRC continued to encourage the authorities to allow family visits to all detainees.” In 1998, the ICRC reported: “On 13 October 1997 the ICRC suspended its visits to the GID because its delegates were refused access to the detainees held there. Representations were made immediately at the highest level, and were repeated at the beginning of 1998. The ICRC was able to resume its regular visits to the GID on 11 February, apart from a hiatus from 11 May to 16 June.”

<sup>156</sup> Human Rights Watch interview with Adriana Alarcon Diaz, ICRC representative, Amman, September 10, 2005. In accordance with its customary policy of addressing only government officials of the country concerned, the ICRC would not confirm allegations of torture at the GID facility to Human Rights Watch.

impression that the ICRC did not visit all detainees at the GID facility.<sup>157</sup> Two families told Human Rights Watch that they only learned of the detention of their male relatives at the GID facility after contacting the ICRC.<sup>158</sup>

According to family members, `Adnan Muhammad Sadiq Abu Nujila claimed that GID officers had hid him from the ICRC on two occasions in 2004.<sup>159</sup> The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment requires that: “A detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment in accordance with paragraph 1 of the present principle, subject to reasonable conditions to ensure security and good order in such places.”<sup>160</sup> The GID’s failure to allow a detainee these rights would appear to violate Jordanian law as well as international human rights standards.

The family of `Adnan Muhammad Sadiq Abu Nujila also told Human Rights Watch that family visits had been called off after what they later learned were torture sessions. On one visiting day the GID told them that `Adnan “was not feeling well and did not want to see them.” The family also said that after the GID allowed them to visit `Adnan Abu Nujila him when he was re-arrested in August 2004, an officer stood directly behind him, occasionally putting an arm on `Adnan Abu Nujila’s shoulder.<sup>161</sup>

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<sup>157</sup> Human Rights Watch interview with young Jordanian Palestinian, Schneller camp resident, name withheld by request, Rusaifa, September 14, 2005.

<sup>158</sup> Human Rights Watch interviews with young Jordanian Palestinian, Schneller camp resident, name withheld by request, Rusaifa, September 14, 2005, and Shaikh al-Jawabira, Rusaifa, September 13, 2005.

<sup>159</sup> Human Rights Watch interview with the mother and brothers of `Adnan Abu Nujila, Zarqa, September 15, 2005.

<sup>160</sup> Principle 26, Body of Principles.

<sup>161</sup> Human Rights Watch interview with the mother and brothers of `Adnan Abu Nujila, Zarqa, September 15, 2005.

## V. Torture and Ill-treatment

Fourteen out of sixteen detainees or their families told Human Rights Watch that they had been subjected to some form of abuse and in some cases actual torture at the central GID facility. Of the two who did not allege to have been victims of abusive treatment, one said he was threatened with torture. All detainees or their families said they were subjected to solitary confinement throughout their detention, for periods ranging from two days to several months.

Jordanian officials have claimed that allegations of torture are a common ploy by detainees to gain favorable verdicts in their State Security Court trials.<sup>162</sup> However, fifteen of the sixteen detainees did not face trial. They had nothing to gain from persisting in making false allegations of torture, as thirteen of the fifteen had been released.

In fact, all but one were initially reluctant to speak to us about this aspect of their experience of detention. Allegations of abuse typically arose in the course of our interviews with them, which focused on procedural aspects of arrest, detention and interrogation. While some detainees initially only related the sense of insult they felt about the manner in which they were interrogated, such as being questioned about the female members of their families, their testimony later revealed that while in custody fifteen of the detainees had been beaten or otherwise ill-treated. One former detainee, Basim F., said of the beatings he suffered that GID officers had treated him “a little harshly.”<sup>163</sup>

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<sup>162</sup> U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, “Country Reports on Human Rights Practices – 2005: Jordan,” March 8, 2006, <http://www.state.gov/g/drl/rls/hrrpt/2005/61691.htm> [accessed August 8, 2006]: “Government officials denied many allegations of detainee abuse, pointing out that many defendants claimed abuse in order to shift the focus away from their crimes. During the year defendants in nearly every case before the Security Court alleged that they were tortured while in custody.”

<sup>163</sup> Human Rights Watch telephone interview with Basim F., Amman, September 15, 2005.

## Beatings and other torture

Information about the interrogation and detention of the individuals in the sixteen cases reviewed by Human Rights Watch indicates that the GID regularly practices ill-treatment, including torture, on the detainees in its central facility. For example, Mustafa R. said that at the end of the third round of interrogations, the intelligence officers called officers in military uniform to bring him downstairs to what he called the “torture hall,” where they beat him.<sup>164</sup> Since conducting our research in Jordan, Human Rights Watch has received information indicating that these practices continue.<sup>165</sup>

One form of torture reportedly practiced by the GID is beatings on the soles of the feet (*falaqa*), a type of torture widely used in several countries. The practice was identified as being perpetrated by the GID over a decade ago by the UN special rapporteur on torture,<sup>166</sup> and evidently persists: Four detainees or their families whom we interviewed in Jordan told Human Rights Watch that GID officers beat them with bamboo sticks on the lower parts of the legs and on the soles of the feet. The young Jordanian Palestinian from the Schneller refugee camp told Human Rights Watch: “I was beaten many times on the legs.”<sup>167</sup> Mustafa R. told Human Rights Watch that he was subjected to *falaqa* twice within one week in 2004, each time for about 30 minutes. He told Human Rights Watch: “I was beaten on the lower parts of my legs and on the soles of my feet until they bled. When I didn’t answer a question they would beat me harder.”<sup>168</sup>

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<sup>164</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

<sup>165</sup> For example, Human Rights Watch in May 2006 spoke by telephone to a former detainee shortly after he had been released without charge who alleged that GID officers tortured him during his one-month detention there. He also alleged that the GID ill-treated around a dozen others whom the GID arrested at the same time. Amnesty International in April 2006 documented cases of alleged torture by the GID in January 2006, see “Jordan: Amnesty International calls for investigation into alleged torture and ill treatment of detainees,” Public Statement, AI Index: MDE 16/004/2006, May 4, 2006, <http://web.amnesty.org/library/Index/ENGMD160042006?open&of=ENG-2MD> (accessed July 14, 2006).

<sup>166</sup> In 1995 the UN Special Rapporteur on Torture found in regard to the GID that “During such periods of incommunicado detention, incidents of torture or ill-treatment were reported to occur. Beatings, including *falaqa* (beatings on the soles of the feet), were said to be administered in an underground corridor known as Saha, within GID headquarters in Amman.” See UN Economic and Social Council, Human Rights Commission, “Question Of The Human Rights Of All Persons Subjected To Any Form Of Detention Or Imprisonment, In Particular: Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment, Report of the Special Rapporteur, Mr. Nigel S. Rodley, Submitted Pursuant to Commission on Human Rights Resolution 1992/32,” E/CN.4/1995/34, January 12, 1995.

<sup>167</sup> Human Rights Watch interview with young Jordanian Palestinian, Schneller refugee camp, Rusaifa, September 14, 2005.

<sup>168</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

Two detainees separately reported an associated form of torture, the “salt and vinegar walk.” In the large 20-by-40 meter hall where they said torture took place, they described how an officer would pour vinegar on the ground and pour salt on top in a small circle in part of the hall. “Then they forced me to walk around this circle for about five minutes with my bare feet, which were bleeding from the *falaqa*,” Mustafa R. said.<sup>169</sup> When the interrogators and torturers were not satisfied with a particular session, the torture would culminate in this practice, before the detainee received medical attention.<sup>170</sup>

Abu Muhammad al-Maqdisi’s son, Muhammad al-Barqawi, told us how the GID had called him for questioning and beat him. He told Human Rights Watch: “In early 2003, in February or March, the GID asked me to come, after I had returned from *‘umra* [the lesser pilgrimage] in Saudi Arabia. I was beaten with an electric cable, but only for a few hours.”<sup>171</sup> Ahmad Muhammad Sadiq Abu Nujila told Human Rights Watch that during his arrest in 2002 “the [GID] interrogators whacked me around while they questioned me about my brother, but mostly to scare me.”<sup>172</sup>

Three former detainees, two of whom suffered torture, told Human Rights Watch that they regularly heard screaming from their cells, which one inmate said were close to the “torture room.”<sup>173</sup> One said that he heard “screams and the sounds of beatings from the hall” where he himself had been tortured, a few yards down from his cell. He thought that this was done on purpose to frighten other detainees.<sup>174</sup> Another said that from his cell he regularly heard screams at night.<sup>175</sup>

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<sup>169</sup> Ibid.

<sup>170</sup> Human Rights Watch interview with young Palestinian Jordanian, Schneller refugee camp, Rusaifa, September 14, 2005.

<sup>171</sup> Human Rights Watch interview with Muhammad al-Barqawi, Rusaifa, September 13, 2005.

<sup>172</sup> Human Rights Watch interview with Ahmad Abu Nujila, Zarqa, September 15, 2005.

<sup>173</sup> Human Rights Watch interviews with Muhammad ‘Ali Shaqfa, Rusaifa, September 15, 2005; with Mustafa R., Amman, September 20, 2005; and with young Jordanian Palestinian, Schneller refugee camp, Rusaifa, September 14, 2005.

<sup>174</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

<sup>175</sup> Human Rights Watch interview with young Palestinian Jordanian, Schneller refugee camp, Rusaifa, September 14, 2005.

Former detainees also report experiencing at the hands of the GID other practices that are cruel, inhuman and degrading. Four detainees reported being forced to sit rigidly straight for hours, without moving. When they did move, an officer would beat them.<sup>176</sup> Two persons reported having to squat or stand in uncomfortable positions, one for thirty hours;<sup>177</sup> and one other detainee said officers forced him to undress fully during interrogations.<sup>178</sup> Insults were common, from vulgar expressions to specific personal insults about the family. Two detainees reported being threatened with “being taken downstairs,” which they said they understood to mean torture.<sup>179</sup>

In describing their interrogations, former detainees said that there were rarely less than three to four persons present, and sometimes up to seven or even eight persons. Two detainees described how interrogators called four to five other officers, dressed in military uniform, with their faces masked, to take detainees for interrogation. They would escort the detainee to a hall on the lower floor of the building, accompanied by the initial interrogators who wore civilian clothes.<sup>180</sup> Both groups participated in torture, Mustafa R. told Human Rights Watch, but only the plainclothes interrogators asked questions.

### *Participation of medical doctors*

Two detainees told Human Rights Watch that medical personnel were present inside the GID central detention facility.<sup>181</sup> Mustafa R. described how interrogators took him to what he called a medical room “right around the corner” from the hall where they had just tortured him.<sup>182</sup> The two doctors who attended to his wounds did not ask

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<sup>176</sup> Human Rights Watch interviews with Rami S. and Muhammad M., Amman, January 8, 2006; with Mustafa R., Amman, September 20, 2005; and with Ahmad Abu Nujila, Zarqa, September 15, 2005.

<sup>177</sup> Human Rights Watch interview with Muhammad M., Amman, January 8, 2006.

<sup>178</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

<sup>179</sup> Human Rights Watch interview with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005, and Muhammad M., Amman, January 8, 2006.

<sup>180</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005; with Mahdi Zaidan, Irbid, September 22, 2005; and with young Palestinian Jordanian, Schneller refugee camp, Rusaifa, September 14, 2005.

<sup>181</sup> See also National Center for Human Rights, “The National Center for Human Rights Visits the General Intelligence Department,” December 14, 2005 (Arabic), [http://www.nchr.org.jo/ar/pages.php?menu\\_id=&local\\_type=1&local\\_id=34&local\\_details=1&local\\_details1=&localsite\\_branchname=NCHR](http://www.nchr.org.jo/ar/pages.php?menu_id=&local_type=1&local_id=34&local_details=1&local_details1=&localsite_branchname=NCHR) (accessed May 12, 2006).

<sup>182</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

about how he had sustained those injuries. After a second session, one of the doctors asked, “Was it very bad today?”<sup>183</sup> They did not give the detainee their names.

The United Nations General Assembly has agreed Principles of Medical Ethics. The Principles consider it:

a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.<sup>184</sup>

Medical treatment of a detainee after torture does not violate this principle, unless, for example, the doctors treat the person so that torture can resume sooner. But medical doctors have a responsibility to report abuse they witness.<sup>185</sup>

A medical professional should only consider not reporting indications of abuse if doing so would breach the confidentiality of his or her patient, or if it would further endanger the patient. If the doctor is a witness to a pattern of abuse, considerations of patient safety must be weighed against the risk or likelihood of future abuse.

The doctors at the GID central detention facility cannot but know what violations lead to the injuries they treat, yet they do not seem to have raised it successfully with the GID director or with other executive or judicial authorities. Fathi Abu Nassar, the president of the Freedoms Committee of the Professional Associations, including the Medical Association, was not aware of such protestations, whether in private or

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<sup>183</sup> Ibid.

<sup>184</sup> Principle 2, United Nations General Assembly, Principles of Medical Ethics, Resolution 37/194, December 18, 1982.

<sup>185</sup> Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Istanbul Protocol”), August 9, 1999. The United Nations General Assembly in its resolution 55/89 of February 22, 2001, drew the attention of governments to the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Principles) emanating from the Istanbul Protocol.

public.<sup>186</sup> According to the head of the Jordanian Medical Association, the doctors who work at the GID are military officers. GID prisoners who require medical attention are taken to the Royal Medical Services, not the al-Bashir hospital which treats inmates of other prisons.<sup>187</sup> Detainees at the GID, as in any detention facility, should enjoy a right to request or petition a judicial or other authority for a second medical examination or opinion.<sup>188</sup>

## Solitary confinement

In each of the sixteen cases investigated by Human Rights Watch, the GID held the detainee in solitary confinement.<sup>189</sup> Prison practice worldwide recognizes legitimate preventive reasons for segregating inmates, for example, for a prisoner's own protection from imminent harm, or where a prisoner has a history of attempted escapes or violent behavior. Prison administrations may also place inmates in isolation to address a public health threat. But solitary confinement appears to be the routine mode of detention at the GID, not an extraordinary measure.

The GID isolates suspects from the moment they enter the GID detention facility. Muhammad `Ali Shaqfa described the procedure to Human Rights Watch. He said that GID officers confiscated all his belongings and made him wear a blue prison uniform. After recording his personal details in one office, they blindfolded and handcuffed him and took him to his cell. Peering from under his blindfold, he saw that all the hatches on the cell doors had been closed so that other detainees could not see who was walking by.<sup>190</sup> Mustafa R. said that he was always blindfolded and handcuffed when officers transferred him from his cell to the interrogation room or the torture room downstairs.<sup>191</sup> Once in his cell, verbal communication with cell neighbors was forbidden, he said.

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<sup>186</sup> Human Rights Watch Interview with Fathi Abu Nassar, President of the Freedoms Committee of the Professional Associations, Amman, July 1, 2006.

<sup>187</sup> Human Rights Watch interview with Dr. Hashim Abu Hassan, Amman, June 25, 2006.

<sup>188</sup> Principle 25, Body of Principles.

<sup>189</sup> A lawyer told the organization that "many" of the detainees are put in solitary confinement. Human Rights Watch interviews with Samih Khrais, Amman, September 10 and 21, 2005.

<sup>190</sup> Human Rights Watch interview with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005.

<sup>191</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005, and with young Jordanian Palestinian, Schneller refugee camp, Rusaifa, September 14, 2005.

The GID held Muzaffar al-Jawabira in solitary confinement for around three months.<sup>192</sup> Others remained in solitary confinement for shorter periods before being released. During that time, they did not have contact with other detainees or eat with them. The cells are about two-by-four meters, and have a toilet, a bed, and a wash basin, but no windows.<sup>193</sup>

The evidence suggests that the GID uses solitary confinement regularly and, at least in these sixteen cases, exclusively. Detainees ate their meals inside their cells, where they were held around the clock in isolation, interrupted only by interrogations and occasional short exposures to sunlight, lasting ten to thirty minutes every other day at the most, also in isolation.<sup>194</sup> One detainee said he was taken outside for fresh air every two or three days for about ten minutes, accompanied by guards.<sup>195</sup> Another said guards took him outside every five days or so, for half an hour.<sup>196</sup>

International norms require that stricter forms of isolation be imposed only after establishing that less drastic means are unavailable to meet the need. They also require regular and transparent reviews of confinement in isolation.<sup>197</sup> The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has argued that prolonged, consecutive solitary confinement can constitute ill-treatment:

The principle of proportionality calls for a balance to be struck between the requirement of the situation and the imposition of a solitary confinement-type regime, which can have very harmful consequences for the person concerned. Solitary confinement can in

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<sup>192</sup> Human Rights Watch interview with Shaikh al-Jawabira, Rusaifa, September 13, 2005. Shaikh al-Jawabirah was on the telephone to Muzaffar to confirm details during the course of the interview.

<sup>193</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005, with Muhammad `Ali Shaqfa, Rusaifa, September 15, 2005, and with young Palestinian Jordanian, Schneller refugee camp, Rusaifa, September 14, 2005.

<sup>194</sup> Human Rights Watch interviews with Mustafa R., Amman, September 20, 2005, and with Rami S., Amman, January 8, 2006.

<sup>195</sup> Human Rights Watch interview with Mustafa R., Amman, September 20, 2005.

<sup>196</sup> Human Rights Watch interview with Rami S., Amman, January 8, 2006.

<sup>197</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Icelandic Government on the Visit to Iceland, conducted between 6 and 12 July 1993, Strasbourg, France, 28 June 1994, CPT/Inf (94) 8, p. 26, <http://www.cpt.coe.int/documents/isl/1994-08-inf-eng.htm#II.B.3> (accessed June 8, 2006).

certain circumstances amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should last for as short a time as possible.<sup>198</sup>

Jordan's Law on Correctional and Rehabilitation Centers, which the GID does not in practice apply to its detention facility, allows for a maximum of seven days of solitary confinement without visitation.<sup>199</sup>

Three families told Human Rights Watch of the suffering of their detainee relatives in custody and their continuing psychological problems. One mother said that her son, ever since having spent twenty-seven days in solitary confinement, sleeps all day and has become listless. This young man, from a poor family in the Schneller Palestinian refugee camp outside Rusaifa, agreed to speak to Human Rights Watch but found it hard to talk about details of his ordeal.<sup>200</sup>

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<sup>198</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2nd General Report, CPT/Inf(92)3, p.20.

<sup>199</sup> Art. 38.d., Prison law.

<sup>200</sup> Human Rights Watch interview with young Palestinian Jordanian and his elderly parents, Schneller refugee camp, Rusaifa, September 14, 2005.

## VI. Redress

Victims of torture, arbitrary arrest and violations of due process rights in Jordan are generally unable to obtain redress for these violations. As already noted, the State Security Court military prosecutor and the Court itself lack independence from the GID's military officers who commit these violations. GID officers, prosecutors and two out of three judges at the SSC bench are themselves military officers.

The Jordanian constitution guarantees personal liberty and stipulates that “[n]o person may be detained or imprisoned except in accordance with the provisions of the law.”<sup>201</sup> For detention (except in flagrant arrests) to be lawful under Jordanian law, prosecutors must issue a warrant for arrest.<sup>202</sup> Jordan's Penal Code makes it a crime for officials to carry out arbitrary arrests: “Any official who arrests or imprisons a person in circumstances other than those provided for by law shall be punished by imprisonment for a period of three months to one year.” The code further punishes any official who “uses his office in a direct or indirect manner to obstruct or postpone the implementation of the provisions of the law or regulations in force... with a prison term from one month to two years.”<sup>203</sup>

While maintaining an individual's right to pursue private claims for damages in civil court, Jordanian law also obliges the state to take disciplinary action or initiate criminal prosecution against those who commit serious offences. The Public Security Law, which specifies penalties for members of the security forces who violate the law, punishes “any individual [who] commits any one of the following transgression, [e.g.] exercising authority unlawfully which begets harm to any person or to the state, [... with] one of the following penalties:

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<sup>201</sup> Art. 8, Jordan's constitution.

<sup>202</sup> Art. 114, Criminal Procedure Code.

<sup>203</sup> Arts. 178 and 182, Penal Code. See also Committee against Torture, Initial reports of States Parties due in 1992: Jordan. CAT/C/16/Add.5, March 3, 1995.

- Lowering of the rank for those who are below the rank of *wakil*<sup>204</sup>
- Confiscation of salary for a period not to exceed two months
- Prison or detention for a period not to exceed two months.”<sup>205</sup>

Article 107 of Jordan’s Criminal Procedure Code gives every detainee the “right to present at any time to a prison official a complaint in written form or verbally, and to request him to transmit it to the attorney general. The official must accept and transmit it...”<sup>206</sup> Article 108 of the code makes it incumbent on anyone who knows of an arbitrary or unlawful arrest to inform the attorney general’s office. Article 25 of the Criminal Procedure Code is even more specific: “Every authority or its employees carrying out official duties who gain knowledge of a felony or misdemeanor taking place is obliged to notify the general prosecutor concerned and to send him all the information and minutes and papers related to the crime.”<sup>207</sup> GID or other military officers, however, are tried under the Military Procedure Code. A military prosecutor has jurisdiction over all crimes involving military officers, including GID officers.<sup>208</sup>

The military prosecution department belongs administratively to the Military Judicial Institution.<sup>209</sup> The military prosecutor’s offices are located within the GID, and his superiors in the military also oversee GID investigators and appoint the military judges at the State Security Court. A prosecutor’s freedom to determine whether to prosecute violations committed by fellow security officers may therefore be significantly compromised.

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<sup>204</sup> *Wakil* is the highest rank in the Jordanian army for enlisted personnel, roughly corresponding to Master Sergeant or Command Sergeant Major in the U.S. Army.

<sup>205</sup> Art. 37, Public Security Law No 38 of 1965.

<sup>206</sup> Art. 107, Criminal Procedure Code.

<sup>207</sup> Art. 25, Criminal Procedure Code.

<sup>208</sup> Arts. 2 and 3, Military Criminal Prosecution Law 31, 2002. Article 7 of the GID law stipulates that GID officers are exempt from trial before the State Security Court. Instead, a court comprising GID officials judges GID officers accused of wrongful acts that would otherwise fall under the SSC’s jurisdiction. Article 85 of the Public Security Law shields non-GID security officers from the jurisdiction of civilian courts and requires that trials of security officials be held in a “police court,” presided over by three security officers, at least one of whom must have a law degree. Article 85 provides that the prosecution at this court, too, comprises and is appointed by security officials.

<sup>209</sup> Human Rights Watch interview with lawyer Sufian `Obaidat, Amman, May 26, 2006.

There are further reasons why so few security officers are held accountable for their actions, even in civil suits. Sabr al-Rawashda, the Amman first instance court prosecutor who told us that the overwhelming majority of detainees do not exercise their right to appoint a lawyer when charged with a crime and may not get a court-appointed lawyer (see above), made the observation that without visits by a lawyer, or by family, there may be no witness to human rights violations for those detainees whose cases never reach a trial stage, especially where medical officers do not come forward or are not called on to give testimony. Al-Rawashda told Human Rights Watch that to his knowledge no GID official had ever been prosecuted for arbitrary arrest or torture.<sup>210</sup> Sufian `Obaidat, a lawyer, told Human Rights Watch that an ordinary court would reject any such civilian claim for lack of competency, citing the jurisdiction of military courts over GID officers.<sup>211</sup>

All former detainees whom Human Rights Watch interviewed said that they had no interest in pursuing claims against those who wrongfully arrested or tortured them. The reply of Walid S.'s mother was typical: "Thank God it is over, we do not want to have anything to do with this any longer and just get on with our lives."<sup>212</sup> The prosecutor who dropped charges against Basim F. because he found no evidence for the charges of forging a license plate asked him if he wanted to press charges against the police officer who had wrongly detained him and handed him over to GID officers at an Amman police station. Basim declined, preferring to put the matter behind him, his brother told Human Rights Watch.<sup>213</sup>

International human rights law obliges the state to provide redress for violations of the right to liberty of the person and to security of the person. In the words of the ICCPR, "Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."<sup>214</sup>

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<sup>210</sup> Human Rights Watch interview with Sabr al-Rawashda, prosecutor, Amman, September 22, 2005.

<sup>211</sup> Human Rights Watch interview with lawyer Sufian `Obaidat, Amman, May 26, 2006.

<sup>212</sup> Human Rights Watch telephone interview with Walid S.'s mother, Zarqa, March 25, 2006. Basim F.'s brother, Muhammad, expressed similar feelings: Human Rights Watch telephone interview with Basim F.'s brother, Amman, November 22, 2005.

<sup>213</sup> Human Rights Watch telephone interview with Basim F.'s brother, Amman, November 22, 2005.

<sup>214</sup> Art. 9.5, ICCPR.

A state has a clear obligation to investigate credible allegations of torture. The Convention against Torture, to which Jordan became a party in November 1991, requires in Article 4 that: “Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.” The state also has an obligation to investigate and prosecute allegations of torture. Article 13 of the Convention against Torture states: “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.” Article 12 of the convention obliges states to act even where a torture victim does initiate the complaint: “Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.”<sup>215</sup> Victims can also press civil charges against the person or entity responsible.

The UN Committee Against Torture (CAT) has previously commented that Jordanian law does not seem to prohibit all acts of torture as required by its human rights obligations.<sup>216</sup> Article 208 of Jordan’s Penal Code states: “Anyone who inflicts on a person any form of unlawful violence or harsh treatment with a view to obtaining a confession to an offence or information thereon shall be punished ...”<sup>217</sup> A Jordanian government representative told the CAT in 1995 that Jordanian law considers only attacks on a person’s “physical integrity” as crimes.<sup>218</sup> He clarified, without citing a legal basis, that “methods of investigation that involve duplicity, coercion, intimidation, the use of narcotic drugs, lie-detectors or recourse to solitary confinement, electric shocks or other forms of cruel treatment are prohibited by

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<sup>215</sup> Art. 12, United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments (CAT), 1465 U.N.T.S. 85, entered into Force June 26, 1987, ratified by Jordan on November 13, 1991:

<sup>216</sup> Committee against Torture, Concluding Observations of the Committee against Torture: Jordan, A/50/44, July 26, 1995, paras.159-182.

The Committee is concerned that the definition of the act of torture as specified by Art.1 of the Convention is not incorporated in Jordanian legislation. Current Jordanian criminal law does not cover all cases of torture and ill treatment, as provided for in the Convention.[Paragraph 166]

<sup>217</sup> Committee Against Torture, Consideration of Reports Submitted by States Parties under Art. 19 of The Convention, Initial reports of States Parties due in 1992, Addendum, Jordan, November 24, 1994, para. 48.

<sup>218</sup> Ibid. The Jordanian government wrote in the report that “Jordanian criminal law prohibits all ways and means of obtaining information or confessions that are prejudicial to physical integrity.”

Jordanian law and any investigatory procedure based thereon is null and void.”<sup>219</sup> Torture remains hard to prove, though, because Jordanian law requires the perpetrator to show intent to extract a confession and awareness that extracting confessions under coercion is a criminal act. In its report to the Committee Against Torture, the government of Jordan explained: “The perpetrator must also be aware of the unlawfulness of his behaviour, since criminal intent can be established only by proving such awareness and the existence of a desire to achieve the objective.”<sup>220</sup>

The Jordanian victims of torture interviewed by Human Rights Watch said that while they may be able to visually identify perpetrators, they never learned their names. Article 4 of the GID law allows GID officials to assume pseudonyms to conceal their real identities (see above). Unless the GID assigns pseudonyms on a permanent basis, or keeps a daily roster matching officers’ pseudonyms with their real identities, and cooperates in an investigation, the victim can only rely on recalling individual visual or other traits that identify his perpetrators. The officers in military uniform taking part in the torture, three detainees said, wore face masks. Concealing the real identity of GID officers also counters a number of articles of the Criminal Procedure Code which require arresting, detaining, and interrogating officers to sign protocols with their name.

One former detainee, Rami S., told Human Rights Watch that he asked to file a complaint with the director of the GID about the abuse he suffered, but that the officer refused.<sup>221</sup> Because the GID kept Rami in incommunicado detention for five days before transferring him to another prison, he was unable to list an independent person as a witness. Another former detainee told Human Rights Watch that GID interrogators prohibited him from saying his own name aloud, and that GID personnel address all detainees equally as “*hajji*” so that other detainees would not learn the real names of one another.<sup>222</sup> No detainee is able to know the identity of a

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<sup>219</sup> Ibid., para. 59.

<sup>220</sup> Ibid., para. 49.

<sup>221</sup> Human Rights Watch interview with Rami S., Amman, January 8, 2006.

<sup>222</sup> Human Rights Watch interview with Muhammad M., Amman, January 8, 2006. “Hajji,” originally a term of respect for someone who has performed the Muslim pilgrimage (*hajj*) to Mecca, is often used by security forces in a slightly derogatory form as a generic name.

fellow detainee and consequently associate screams, or the times of entering or exiting cells, with a particular detainee.

Consequently, there are no other witnesses to confirm that torture has taken place in GID facilities besides the perpetrators and doctors. Testimony from doctors who witnessed the effects of torture can be a prime source of evidence for victims of torture to substantiate their claim to an investigation or in court.<sup>223</sup> Some forms of torture that detainees allege that they have experienced at the hands of GID officers leave few physical traces that investigators can confirm forensically, such as forcing a detainee to kneel and stand up repeatedly. Jordanian lawyers told Human Rights Watch that some detainees had attempted unsuccessfully to obtain an independent medical evaluation while in detention or to call prison doctors to testify on their behalf.<sup>224</sup>

The UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2001) sets out standards for conducting impartial investigations into allegations of torture. The second principle makes clear that even reports of torture without evidence must lead to an investigation: “States shall ensure that complaints and reports of torture or ill-treatment are promptly and effectively investigated. Even in the absence of an express complaint, an investigation shall be undertaken if there are other indications that torture or ill-treatment might have occurred.”<sup>225</sup> Doctors who as witnesses provide testimony to an investigation are entitled to protection under Principle 3: “Alleged victims of torture or ill-treatment, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any other form of intimidation that may arise pursuant to the investigation.”

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<sup>223</sup> Human Rights Watch also interviewed the relatives of Sulaiman Furaihat, two months before Jordan executed him after the State Security Court had found him guilty of murdering U.S. diplomat Lawrence Foley in 2002, rejecting the lawyer’s claims that Furaihat’s confession had been extracted under duress. The relatives told Human Rights Watch that the doctor in Bireen prison treated Sulaiman for injuries to his eye sustained as a result of torture at the GID over three months, yet the doctor did not appear as a defense witness. Human Rights Watch interview with the aunt and the cousin of Sulaiman Furaihat, Amman, January 8, 2006.

<sup>224</sup> Defense attorneys said they are unable to call doctors practicing at the GID central facility to testify in trials at the State Security Court. Human Rights Watch telephone interview with Samih Khrais, Amman, May 24, 2006.

<sup>225</sup> Istanbul Protocol, “Investigation and Documentation of Torture.”

The police court reportedly does try a number of alleged torture cases each year, although none have involved the GID. In 2004, for example, a court sentenced prison guards who beat an inmate to death in Qafqafa prison to several years behind bars. Such cases remain the exception, and prosecution of security officials has not yet crossed the threshold of the General Intelligence Department.

## **Non-judicial accountability**

In 2003, the Jordanian government created a National Center for Human Rights pursuant to Law 75 (2002). The law tasks this center with receiving and following-up individual complaints. In its report for the period June 2003 to December 2004, the center said it had received 250 complaints of ill-treatment in security centers; in criminal investigation branches; and in the counter-drug and counterfeiting branch (a special law enforcement branch), including two complaints of cruel and inhuman treatment against the GID. The GID, the center wrote, had “the broadest powers and responsibilities to safeguard the rights to security, freedom, and personal safety of the individual, but they only have the weakest of judicial, legislative, and even administrative oversight structures.”<sup>226</sup> In its 2005 report, the center included observations from two visits to the GID detention facility in September and December 2005, noting: “One of the [detainees at the GID] stated that he had been subjected to beatings and others stated that they had been subjected to torture as well.”<sup>227</sup> The center’s report does not analyze the compatibility of Jordanian and international human rights law. Where officers do not violate procedural aspects of Jordanian law, the center does not pursue complaints.<sup>228</sup>

## *International scrutiny*

In the absence of judicial remedies, effective parliamentary oversight, or pressure by civil society, it falls to Jordan’s international backers to demand that the government bring the operations of the GID and the laws that govern it into line with international human rights standards. Western governments and commentators regularly praise

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<sup>226</sup> National Center for Human Rights, “The Situation of Human Rights, The Hashemite Kingdom of Jordan, 2005,” p. 13.

<sup>227</sup> Ibid.

<sup>228</sup> Human Rights Watch interview with Nisrin Zuraikat, Amman, September 11, 2005.

Jordanian intelligence service for its work preventing terrorist acts,<sup>229</sup> but only rarely mention human rights abuses.

Eleven years ago, in 1995, the Committee against Torture called on the Jordanian government to establish independent oversight over detention procedures at the GID.<sup>230</sup> This recommendation remains just as relevant in 2006, and if Jordan is serious about complying with international human rights standards, the government will make this a top priority.

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<sup>229</sup> Ken Silverstein, "U.S., Jordan Forge Closer Ties in Covert War on Terrorism," *Los Angeles Times*, November 11, 2005: "GID personnel are characterized as highly capable interrogators by Frank Anderson, a former CIA Middle East division chief."

<sup>230</sup> UN Committee against Torture, Concluding Observations of the Committee against Torture: Jordan, A/50/44, July 26, 1995, paras.159-182.

## **VII. Acknowledgements**

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