



Data sheet, July 2013

# Law Enforcement on Israeli Civilians in the West Bank

Yesh Din Monitoring Update

## Background

Every year, Yesh Din publishes a data sheet presenting updated findings concerning the results of investigations by the Samaria & Judea (SJ) District Police into offenses committed by Israeli civilians against Palestinian civilians and property in the West Bank.

This ongoing monitoring of the proceedings and outcomes of investigations forms the core of a long-term project implemented by Yesh Din with the goal of strengthening law enforcement on Israeli civilians (settlers and others) involved in harming Palestinians and their property. The project is based on the principle that Israel bears a legal and moral obligation to protect the residents of the occupied territories under its control. To this end, members of Yesh Din help Palestinian victims to submit complaints with the Israel Police. After an investigation has been opened, the organization's legal team follows developments and monitors the progress and outcome of the process.

As part of the project, Yesh Din has monitored the results of the investigations in 938 complaints filed by Palestinians at SJ District Police stations over the past eight years. This document does not summarize the outcomes of the investigations into **every** incident in which Israeli civilians are involved in criminal offenses against Palestinians. However, the data constitute a **broad sample** of the work of the SJ District Police in this field. It is important to note that the data presented here are the outcome of monitoring investigations in which the conditions and circumstances from the outset favor the law enforcement agencies. The reason for this is that Yesh Din functions as a mediating and liaising body between the police and the Palestinian complainants, and in many cases even helps to advance the investigation by bringing witnesses and relevant documents to the investigating units, insofar as these are required by the investigative and prosecuting bodies processing the complaints. Without the assistance provided by Israeli bodies, and particularly by human rights organizations, the ability of Palestinians to submit complaints

to the Israel Police or to monitor the outcomes of the investigations would be almost non-existent.

## Main Findings

The updated figures show that **in the period 2005-2013, only 8.5 percent of investigations opened by the SJ District Police relating to suspected attacks by Israelis on Palestinians or Palestinian property resulted in the filing of an indictment.** An examination of the circumstances in which investigations were closed by the SJ Police District shows that **some 84% of investigations were closed due to investigatory failures on the part of the police.** In most cases, this failure was reflected in the inability of the police to identify suspects or collect evidence for prosecution, while in a minority the grounds were the loss of complaints, or the closure of investigations due to “absence of criminal culpability,” despite the fact that the police did not exhaust the investigative actions in the case.

The findings presented below are almost identical to those collected and published by Yesh Din since 2005.<sup>1</sup> Accordingly, their significance is to show that once again no improvement has been seen in the ability of the SJ District Police to investigate offenses by Israeli civilians against Palestinians. The ongoing failure of the SJ District Police in this respect is due to a series of systemic defects and flaws in the manner in which investigations are conducted, as reviewed in detail in Yesh Din’s report **Semblance of Law** (2006). This report found that over half of the investigations examined were characterized by negligence, a lack of professionalism, a paucity of investigative actions, and failure to meet acceptable standards of investigation.<sup>2</sup>

### A

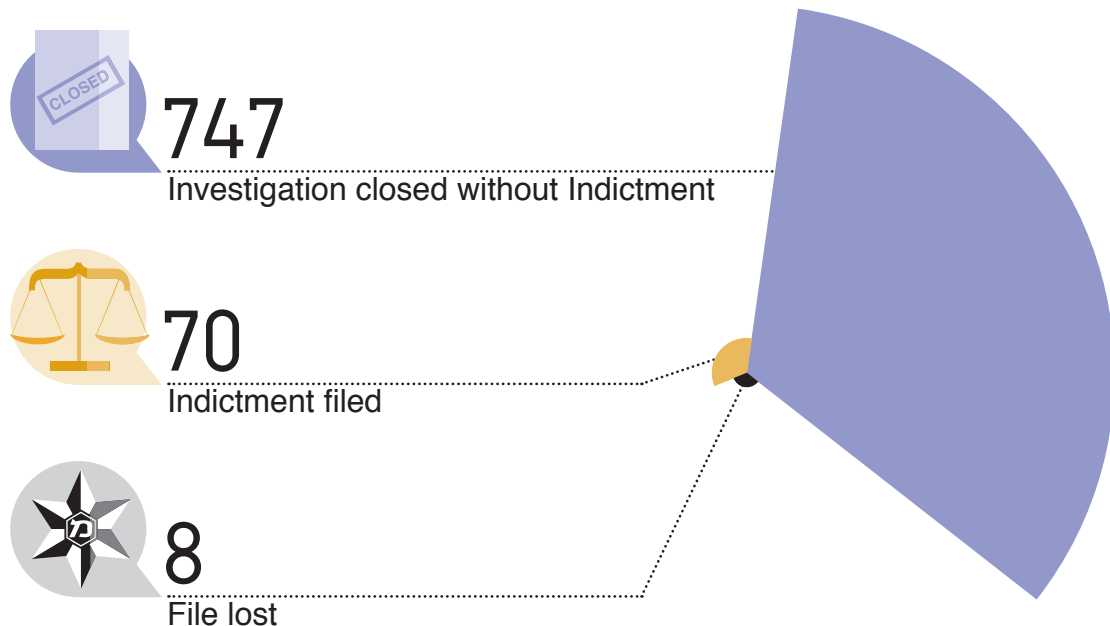
## The Outcome of Police Investigations in the Vast Majority of Cases: A Decision to Close the File

**Yesh Din is monitoring 938 investigations that have been conducted, or are currently being conducted, by the SJ District Police.** Of these, 113 cases are still at various stages of processing and investigation. **The investigation and prosecution bodies have completed the processing of 825 cases and have made the following final decisions:**

- 1 Previous data were published in the Yesh Din reports **A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank** (June 2006) and **Too Little, Too Late: Supervision by the Office of the State Attorney over the investigation of offenses committed by Israeli civilians against Palestinians in the Occupied Territories** (May 2008). The monitoring data in these reports were based on the examination of 92 and 205 investigations, respectively. Additional statistics were published in the data sheet **Yesh Din Monitoring Update – Law Enforcement upon Israeli Civilians in the West Bank** (February 2011, March 2012); the data in these data sheets were based on the monitoring of 642 and 781 investigations, respectively.
- 2 For details of the flaws and defects identified, see **Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank**. Yesh Din, June 2006, 75-97.

- In **70** files (8.5 percent of the investigations concluded to date), indictments were served against suspects;
- **747** files (90.5 percent of all the investigations concluded) were closed without an indictment being served against suspects;
- **8** files were lost by the SJ District Police and never investigated – including five in the last year alone.

### The status of investigations in which a final decision has been reached



## B

## Grounds for Closure: Most Cases are Closed due to Police Failure to Locate Offenders or Collect Evidence

After closing the investigation file, the Israel Police is required to notify the complainant of the decision to close the file<sup>3</sup> and to state the reason for closure in accordance with the nine grounds mentioned in the law.<sup>4</sup> Of the 747 closed investigation files monitored by Yesh Din, the SJ Police District has not informed us of the grounds for closure in 32 cases. The remaining 715 investigations were closed on various grounds testifying to the quality of the investigation, as detailed below.

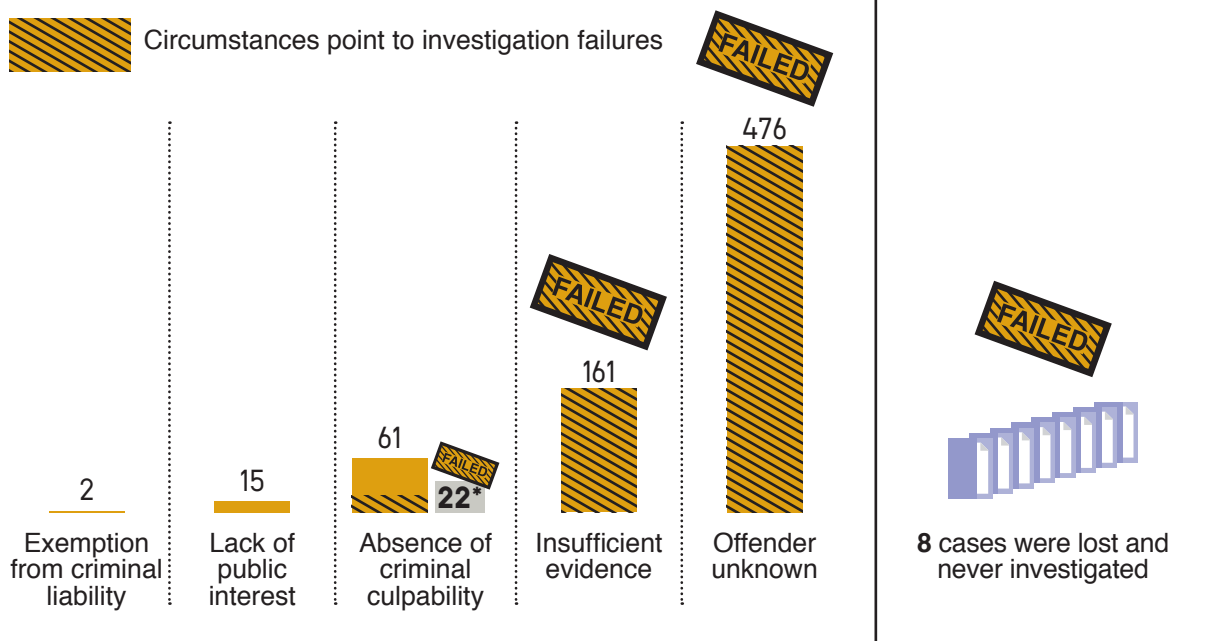
- **476** files were closed on grounds of "offender unknown," reflecting the failure of the police to locate and identify suspects responsible for the offenses;
- **161** files were closed on grounds of "insufficient evidence," due to the failure of the investigators to collect and consolidate sufficient evidence to prosecute suspects who were located;
- **61** files were closed on grounds of "absence of criminal culpability," meaning that no criminal offense was committed or that the suspect did not have any connection to the offense; of these, Yesh Din appealed against 22 decisions, since it believed it was unreasonable to close the investigations on these grounds;
- **15** files were closed on grounds of "lack of public interest;"
- **2** files were closed on grounds of "exemption from criminal liability."

The breakdown of the circumstances behind the closure of the investigation files shows that **637** files were closed on the grounds of "offender unknown" and "insufficient evidence." A further **22** files were closed on the grounds of "absence of criminal culpability," but detailed examination shows that the investigations in these cases were not exhausted, and accordingly we submitted an appeal against their closure. The Israel Police lost **eight** files, which were therefore never investigated. **The implication of these statistics is that of the cases in which processing has been completed, and where the results are known to Yesh Din, 84.1 percent were closed due to investigational failure on the part of the police.**

3 Article 63 of the Criminal Law Proceedings Law [Combined Version], 5742-1982, SB 1043.

4 The Israel Police Ordinance details nine grounds on which the police prosecutor may order the closure of an investigation file: Absence of guilt, unknown offender, insufficient evidence, lack of public interest, death of the suspect or defendant, obsolescence, the suspect is a minor, the suspect is insane, and another authority is empowered to investigate the case. See the Israel Police Ordinance, National Headquarters Ordinance 14.01.50: Authority of a Police Prosecutor to Close an Investigation File (Hebrew): <http://www.justice.gov.il/NR/rdonlyres/4B4F6000-AE76-43E3-A4FF-7779D5E17E0F/20100/6083.pdf>

## Grounds for closure of investigation files



\*An appeal was filed against the closure of the investigation

**None of the eyewitnesses to the assault were summonsed for questioning; the file was closed on the grounds of “offender unknown”**

S.B. is a shepherd from the village of Imatin in Samaria. His family makes a living from its flock of some 200 head of sheep. On April 24, 2012, S.B. left his home early in the morning, together with three other shepherds, to graze the flock on the eastern side of the village, which is situated approximately two kilometers west of the illegal outpost of Havat Gilad.

While the four men were tending to their flock, some five masked civilians approached, and an army jeep carrying soldiers also arrived on the scene. According to S.B.’s statement to the police, the masked men and the IDF soldiers asked him and the other shepherds to leave the area, without any visible reason. At the same time, the civilians violently attacked the sheep, kicking them mercilessly. As a result of the assault some of the sheep were injured and bruised, and one aborted on the spot the lamb it was carrying.<sup>5</sup>

The same day, S.B. filed a complaint of assault at the police station in Ariel. He stated to the investigators that he had been present on the scene with three other shepherds, and that IDF soldiers also witnessed the events. S.B. provided the investigators with a description of two of the attackers, despite the fact that their faces were masked. Despite

5 Yesh Din file 2606/12.

this, the SJ District Police decided one month later to close the file on the grounds of “offender unknown,” without questioning any suspects concerning the incident.

A review of the investigative material in the closed file shows that apart from collecting the complainant’s testimony, the only investigative action taken was a telephone call to the command center of the Shomron Regional Brigade with the goal of ascertaining whether the incident indeed occurred. The telephone inquiry confirmed that the incident had been recorded in the operations log at the command center and that IDF soldiers were indeed present on the scene. No further actions were taken to clarify the identity of the suspected attackers or to collect evidence from the soldiers who were present and who probably saw the attackers’ faces. No evidence was collected from the other shepherds present during the incident, and no attempt seems to have been made to locate them.

Accordingly, Yesh Din formed the conclusion that the investigation had not been exhausted and that the closure of the file was unjustified. On September 6, 2012, we filed an appeal against the decision. The State Attorney’s Office rejected the appeal outright, claiming that its submission had been delayed, and the claims raised in the appeal were therefore not examined.

## **C Appeals against the Closure of Files: Approximately One-Fifth of Yesh Din’s Appeals Led to the Re-Opening of Investigations**

Article 64 of the Criminal Law Proceedings Law establishes that “the complainant is entitled to appeal against the decision not to investigate or not to prosecute on the grounds that there is no public interest in investigation or trial, insufficient evidence was found, or the determination that there is no culpability.” A complainant who has received notification of closure of the investigation is entitled to submit an appeal against the decision within 30 days from the receipt of notification.

The appeal grants the complainant the right of argument before a higher body in the law enforcement system than the one that decided to close the file, in order to indicate directions of investigation that were not exhausted and because of which the investigation should be resumed, or to argue that the evidence collected in the investigation is sufficient to file an indictment. Appeals against the closure of investigations by the Israel Police are examined by the head of the Appeals Section in the State Attorney’s Office. For the purpose of the examination of the appeal by the State Attorney’s Office, it is first forwarded for inspection and comments by the function that ordered the closure of the investigation (usually the police Prosecutions Unit or the investigating officer). In some cases, this leads to the resumption of the investigation even before the appeal is forwarded to the Appeals Section.



Of all the investigation files monitored by Yesh Din, 715 were closed by the SJ District Police at the end of the investigation and we were informed of the grounds for closure. **After reviewing the investigative material and examining the circumstances behind the closure of these files, Yesh Din reached the conclusion that in 172 files (24 percent) the investigative proceedings were not exhausted, or the material collected in the investigation was sufficient to file an indictment. Accordingly, Yesh Din appealed against the closure of these files.** Over the past two years there has been a sharp fall in the number of appeals filed by Yesh Din, mainly due to a change in the organization's policy in this respect.<sup>6</sup> This fact does not alter the findings regarding the outcomes of the appeals submitted.

The figures show that **the arguments in the appeal were accepted in 28 cases (approximately 21 percent of the total number of appeals filed by Yesh Din in which a decision was made), and it was decided to return the file for further investigation by the police, or to file an indictment on the basis of the evidence already gathered.** In 117 appeals (78.5 percent), the arguments in the appeal were not accepted and it was rejected.<sup>7</sup>

6 In many cases investigative files are closed after a considerable period of time, or Yesh Din only receives notification of closure after a long delay. Accordingly, Yesh Din has decided in principle only to appeal against the closure of files in cases where we believe that there is still a reasonable chance that the resumption of the investigation will yield new evidence. When a long period has elapsed since the event under investigation, the chance of securing new evidence is negligible. Accordingly, there is no point filing an appeal, even if it appears that the investigative actions were not exhausted.

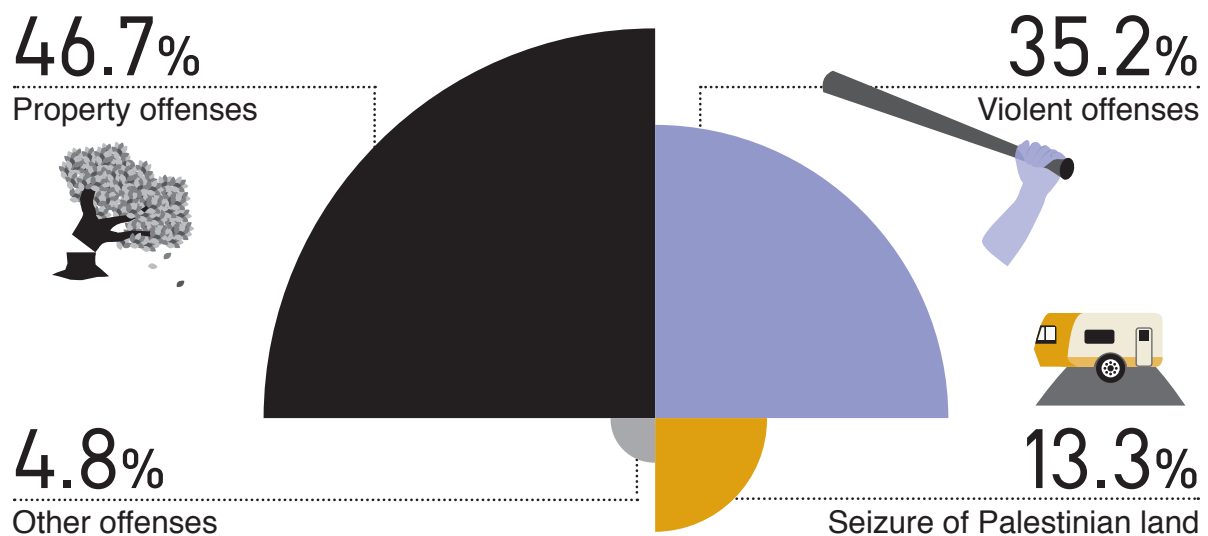
7 As of the date of publication of this data sheet, 11 appeals filed by Yesh Din are still being examined and no final decision has been made. The processing of five appeals was discontinued on the initiative of Yesh Din, while five other appeals were not examined by the State Attorney's Office due to claims of delays in submitting the appeal. Two other appeals were lost after they were submitted and it is not known what became of the appeal.

## D

## Analysis of Files by Type of Offense: Investigative Failures are Particularly Apparent in the Field of Property Offenses

Yesh Din divides the investigative files it monitors regarding attacks by Israelis on Palestinians into four broad categories: violence, property offenses, seizure of Palestinian land, and a fourth category including offenses that do not belong to the first three groups.

### Investigation Files by Category of Offense



### Property Offenses

Of the 938 investigative files reviewed in this data sheet, 438 (46.7 percent) involve complaints by Palestinians of damage to their property. These investigations include such offenses such as arson, theft, damage to property or crops, theft of crops, and so forth.

The processing of 377 investigations relating to property offenses has been completed. Of these, 361 files (95.8 percent) were closed on completion of the investigation; indictments were filed in 13 files (3.4 percent), while three files were lost by the SJ District Police and never investigated. **The ongoing failure of the SJ District Police to exhaust the investigation and indict offenders is particularly apparent in the field of property offenses.** Of 366 files in which the investigation was completed and the outcome is known to Yesh Din,<sup>8</sup> 341 (93.2 percent) were closed in circumstances suggesting investigative failure: 336 files were closed on the grounds of “offender unknown” or “insufficient evidence,” three files

<sup>8</sup> Yesh Din was not informed of the grounds for closure regarding 11 investigations.



were lost, and two files were closed on the grounds of “absence of criminal culpability” and Yesh Din has appealed against the closure of the file.<sup>9</sup>

## Violence

Of the 938 investigative files reviewed in this data sheet, 330 (35.2 percent) involve complaints of violence by Israeli civilians against Palestinians in the West Bank. by Palestinians of damage to their property. Violent incidents include instances of shooting, beatings, stone throwing, assault with clubs, knives and rifle butts, as well as threats and other offenses.

The processing of 294 investigations relating to violent offenses has been completed. Of these, 248 files (84.4 percent) were closed on completion of the investigation; indictments were filed in 42 files (14.3 percent), while three files were lost by the SJ District Police and never investigated. **The failure rate of the SJ District Police in the investigation of violent offenses is 81.7 percent.** Of 278 files in which the investigation was completed and the outcome is known to Yesh Din,<sup>10</sup> 227 were closed in circumstances suggesting investigative failure: 217 files were closed on the grounds of “offender unknown” or “insufficient evidence,” four files were lost, and six files were closed on the grounds of “absence of criminal culpability” and Yesh Din has appealed against the closure of the file.<sup>11</sup>

## Seizure of Palestinian Land

Of the investigative files monitored by Yesh Din, 125 (13.3 percent) involve complaints of attempts by Israelis to seize control of Palestinian land, by means such as: fencing, unauthorized cultivation, placement of buildings, trailers or greenhouses, driving Palestinians away from their plots or denying them access, trespassing, and so forth.

The processing of 111 investigations relating to land seizure has been completed. Of these, 96 files (86.5 percent) were closed on completion of the investigation; indictments were filed in 14 files (12.6 percent), while one file was lost by the SJ District Police and never investigated. **The failure rate of the SJ District Police in the investigation of seizure of Palestinian land is 61.1 percent.** Of 108 files in which the investigation was completed and the outcome is known to Yesh Din,<sup>12</sup> 66 were closed in circumstances suggesting investigative failure: 56 files were closed on the grounds of “offender unknown”

9 In addition, 12 files relating to property offenses were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (three files), “absence of criminal culpability” (seven files) and “exemption from criminal liability” (two files).

10 Yesh Din was not informed of the grounds for closure regarding 16 investigations.

11 In addition, nine files relating to violent offenses were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (four files) and “absence of criminal culpability” (five files).

12 Yesh Din was not informed of the grounds for closure regarding three investigations.

or “insufficient evidence,” one file was lost, and nine files were closed on the grounds of “absence of criminal culpability” and Yesh Din has appealed against the closure of the file.<sup>13</sup>

## Other Offenses

Yesh Din is monitoring 45 investigative files involving other offenses (4.8 percent of the total files being monitored). These include the killing of farm animals, desecration of mosques and cemeteries, pollution of Palestinian farmland by sewage from factories, dumping of waste on land belonging to Palestinians, and other offenses.

The processing of 43 investigations relating to “other offenses” has been completed. Of these, 42 files (97.7 percent) were closed on completion of the investigation. An indictment was filed in just one case, but was later withdrawn by the prosecution. **The failure rate of the SJ District Police in the investigation of these offenses is 80.5 percent.** Of 41 files in which the investigation was completed and the outcome is known to Yesh Din,<sup>14</sup> 33 were closed in circumstances suggesting investigative failure: 28 files were closed on the grounds of “offender unknown” or “insufficient evidence,” and five files were closed on the grounds of “absence of criminal culpability” and Yesh Din has appealed against the closure of the file.<sup>15</sup>

13 In addition, 28 files relating to the seizure of Palestinian land were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (six files) and “absence of criminal culpability” (22 files).

14 Yesh Din was not informed of the grounds for closure regarding two investigations.

15 In addition, seven files relating to the seizure of Palestinian land were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (two files) and “absence of criminal culpability” (five files).