



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

Report's summary

The report *Too Little, Too Late* examines the way the Office of the State Attorney supervises police investigations in the West Bank and the quality of that supervision. The report reviews and critiques the two means of supervision that currently exist at the State Attorney's Office:

- The "law enforcement team" headed by Deputy State Attorney (Special Assignments);
- The Appeals Department at the State Attorney's Office, regarding appeals submitted against decisions to close investigation files on offenses by Israeli civilians against Palestinians and their property.

This report was written by Yesh Din -- Volunteers for Human Rights, as part of an ongoing project by the organization. The subject of the project is the identification of the causes of the ongoing failure by the Israeli authorities in the area of law enforcement upon Israeli civilians who commit offenses against Palestinians and their property in the West Bank.

Yesh Din's findings, detailed in the first chapter of the report, reveal a similar picture to the one presented in the organization's first report from June 2006 "A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank." The findings show that the high failure rate of SJ District (Samaria and Judea)¹ investigations into the complaints of Palestinians harmed by Israeli civilians remains constant: only 8% of those investigations result in filing indictments. Thus, in 87% of the investigation files on assault offenses whose processing was concluded, the investigation file was closed without an indictment being filed against suspects. Of the investigation files into offenses related to criminal trespass -- including damaging olive trees, seizing land and vandalizing crops -- the investigation files were closed in 92% of the cases Yesh Din is monitoring and whose processing by the law enforcement agencies was concluded. In the two groups of offenses of damage to property and other offenses, all of the files (100%) whose processing was concluded were closed without an indictment being submitted.

¹ "Samaria and Judea" are official Israeli terms for the area known internationally as the "West Bank."

The ongoing failure of the law enforcement agencies in dealing with Israeli civilians in the Occupied Territories (OT) was reviewed extensively in the summary report of the national commission of inquiry into the massacre at the Cave of the Patriarchs in Hebron (the Shamgar Commission), published in 1994. The report's recommendations were adopted by the Government of Israel, including the recommendation that "the Attorney General set forth coordination procedures between the Police and the State Attorney and the District Attorney, to guarantee the monitoring and supervision of the processing of case files, including supervision of each decision to close a case, filing indictments and managing trial procedures." The second chapter of this report examines the changes that occurred in the implementation of that recommendation over the years, focusing on the activity of the "law enforcement team" headed by a senior attorney from the Office of the State Attorney. The findings presented in that chapter show that the "law enforcement team" does indeed work on important and significant issues to increase law enforcement in the Occupied Territories. However, the findings show that the fulfillment of the Shamgar Commission's recommendation -- that there be supervision on behalf of the Attorney General of the management of investigation files, decisions to close them, filing indictments and managing trial procedures -- has been meaningless, and specific investigation files are examined only rarely by the senior attorney appointed to head the team.

Therefore, the only remaining means of supervising specific investigation files that were closed is the appeals track. As a rule, Yesh Din has found that Palestinian complainants who are not accompanied by an Israeli human rights organization avoid filing appeals. Yesh Din's legal team, which represents the Palestinian victims of the offenses whose investigation the organization monitors, regularly examines the investigation files that were closed without filing an indictment. When the legal team finds that investigation files were closed without the investigation being exhausted, or were closed without filing an indictment even though in its opinion the investigation file already contains sufficient evidence to prosecute suspects, Yesh Din files an appeal on behalf of the complainants against the decision to close the case .

The findings of our monitoring of the processing of appeals submitted by Yesh Din showed that the State Attorney's Office does not use appeals as a tool for meaningful supervision of SJ District Police investigations or to correct the defects and failures they reveal. The report's findings regarding the work of the Appeals Department are based on an analysis of the processing of 43 appeals submitted by Yesh Din, in which final decisions were granted in 31. The findings demonstrate that the Appeals Department tends to sweepingly accept the decisions of the Police and district attorneys to close cases. In doing so it adopts the testimonial accounts of the suspects, when suspects were found, accepts the failure to conduct basic investigation activities, and in some cases even ignores evidence contained in the investigation files and whose existence was pointed out in the appeals that were filed. The report's findings also show that the Appeals Department exceeds the provisions of the law that limit the amount of time allowed for processing appeals on the closure of investigation files on offenses of serious violence.

A combination of the findings in the two parts of this report shows, as the Shamgar Commission said, that "*much ink has been spilled on the subject [of law enforcement in the OT], and many words have been spoken, but what was actually done was too slow, too little and too late.*" This comment, written in the middle of the previous decade, is still true today regarding the supervision by the Office of the State Attorney of investigations into offenses by Israeli civilians against Palestinians.

Report's recommendations

Following the report's findings Yesh Din recommends that:

- The "monitoring and coordination procedure" be adapted with the necessary amendments in such a way that reflects the State Attorney's job of maintaining a close monitoring of the investigation files in the SJ District.
- Until the re-adaption of the said procedures, Yesh Din's recommendations published in the report "A Semblance of Law" regarding the supervision of investigations should be adopted: tightening the supervision of investigations in the SJ District in order to guarantee exhausting the investigations of Israeli civilian attacks on Palestinians and their property; transferring cases that are closed without filing an indictment to the review of the District Attorney; appointing an attorney from the District Attorney to follow the investigation of assault cases and other serious crimes.
- Likewise, until the adoption of the aforementioned procedure, the law enforcement team headed by the Assistant State Prosecutor (Special Assignments) should review on a monthly basis at least 10% of the investigation files closed by the SJ District concerning crimes by Israeli civilians against Palestinians.
- The staffing of the Appeals Department of the State Attorney's Office should be increased so that the department can fulfill its commitments by the law to decide on appeals regarding violence and sex crimes within six months. We propose that the Appeals Department establish a procedure to check appeals in other investigation files rooted in ideological crime within a given timeframe, in order to effectively complete the investigation at the appropriate time.
- The law enforcement team should be instructed to maintain permanent contact with the Appeals Department in order to ascertain patterns of failures and defects in the SJ District investigations.