



Law Enforcement upon Israeli Civilians in the OPT: Yesh Din's Monitoring

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Background

The investigations by the Samaria and Judea (SJ) District Police of offenses by Israeli civilians against Palestinians and their property are met with little success. The findings of a Yesh Din study published in the report "A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank" (hereinafter: "A Semblance of Law") in June 2006 revealed that some 90% of the SJ District Police investigations into such offenses ended in failure: investigation files were closed on the grounds of "lack of evidence" and "perpetrator unknown," and in some cases complaints were filed and lost and thus never investigated. Along with significant structural problems, including the dependence of police investigators upon IDF escorts in order to reach certain crime scenes, the inadequate manpower at the SJ District, and the lack of trust by Palestinians of the Israeli Police, Yesh Din has identified recurring patterns of defects and failures in investigations.

Among the main defects noted were: victims' complaints and testimonies were recorded in Hebrew rather than Arabic, the language in which they were given; the police investigators rarely visited the crime scenes, and in the cases when they did arrive on site, defects were noted in documenting the events; in many cases testimony was not collected from key witnesses, including suspects and both Palestinian and Israeli eyewitnesses of the incident; live identification lineups of Israeli civilian suspects were hardly ever carried out; confrontations between victims and suspects were also rarely staged; in none of the investigation files checked by Yesh Din, in which the suspects offered claims of an alibi, were their claims verified before the case was closed; the contents of about one third of the investigation files were very sparse, and indicated a hasty closure of the case shortly after the complaint was received; in a number of cases a decision was made to close the investigation, even though the material accumulated in the case file indicated sufficient *prima facie* evidence to prosecute the suspects; and an examination of cases closed on grounds of "no criminal culpability" raised questions about the decision to close cases on those grounds, given that the closure was executed on the basis of insufficient investigations.

Based upon updated figures from Yesh Din's monitoring, this Data Sheet shows that the extent of the failure on the part of the SJ District Police to investigate offenses committed by

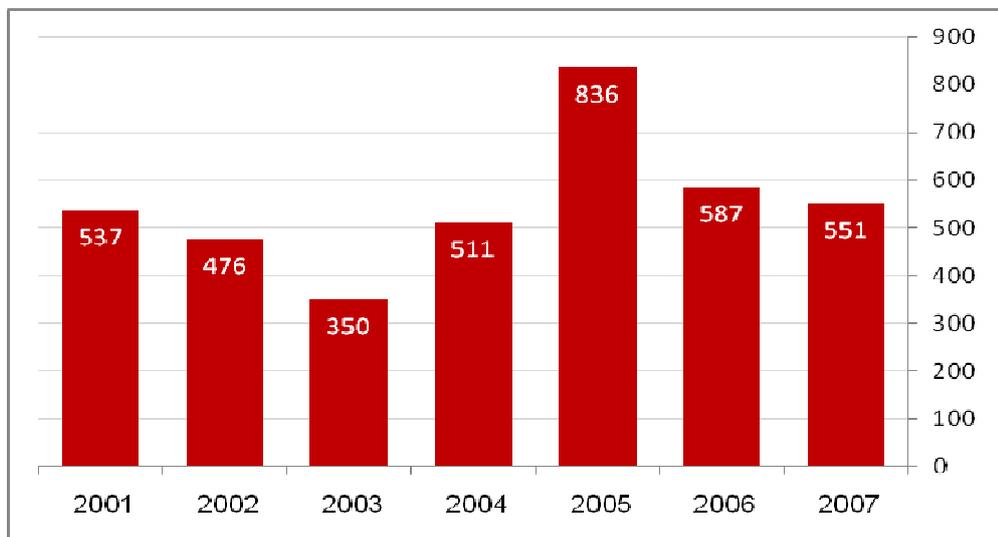
Israeli civilians against Palestinians remains: 9 out of 10 cases are closed without filing an indictment.

Official figures

No official Israeli body maintains complete data on the investigation of offenses committed by Israeli civilians against Palestinians and their property, or about the results of such investigations. Investigation files on offenses committed by Israeli civilians against Palestinians are included in a category the SJ District Police calls "Israeli DOP," meaning disturbances of the peace (DOP) by Israeli civilians. This category includes, along with "ideological" offenses against Palestinians, offenses by Israeli civilians against members of the Israeli security forces – the army and police. Therefore, the authorities do not regularly collect data regarding "Israeli DOP" against Palestinians and the results thereof, nor do they distinguish between them and figures on DOP cases and offenses committed against members of the security forces.

The following chart therefore presents the only official figures that exist as to the number of investigation files opened in the last several years against Israeli civilians in the OT, in so-called "ideological" offenses.

Investigation files opened in the SJ District following offenses by Israeli civilians against Palestinians and members of the security forces, 2001-2007¹



¹ Sources for the 2001-2004 figures appear in the Yesh Din report "A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank" (June 2006) , p. 39 (footnote 62); the source of the figure for 2005: SJ District Police response to the report "A Semblance of Law," *ibid.*, p. 130; the source of the figure for 2006: the response of director of freedom of information at the Israeli Police, Chief Superintendent Irit Liebman, to a Yesh Din inquiry based on the Freedom of Information law, July 25, 2007; the source of the figure for 2007: response of Deputy State Advocate (special assignments) Attorney Shai Nitzan to a Yesh Din inquiry, March 19, 2008.

Following Yesh Din's inquiries, the organization was also provided with figures as to the main offenses that appear in the "Israeli DOP" cases opened in 2006 and 2007:

Main offenses in "Israeli DOP" cases opened in the SJ District in 2006-2007²

Main offense	2006	2007
Causing death	1	0
Illegal use of a weapon (including threatening with a weapon)	14	19
Assault	232	186
Damage to property	105	106
Criminal trespass	53	59
Violation of an injunction	50	97
Other offenses	132	84
Total	587	551

Yesh Din monitoring

Given that the SJ Police has declined to collect figures on the processing of offenses by Israeli civilians against Palestinians, Yesh Din's monitoring of a broad sample of such investigations constitutes the only source of figures on the matter.

The report "A Semblance of Law" was based on 92 investigation files managed by the SJ District, which were examined by Yesh Din. Since the report's release Yesh Din has continued accompanying Palestinian complainants who approach the organization for assistance and monitoring their cases' SJ District Police investigations. At the time of the writing of this report Yesh Din was monitoring 205 investigation files managed in the SJ District. A current analysis of the results of the investigations shows that the high failure rate in investigating Israeli criminal activity against Palestinians in the West Bank, as was reported in "A Semblance of Law," has remained.³

² Source of the 2006 figures: the response of director of freedom of information at the Israeli Police, Chief Superintendent Irit Liebman, to a Yesh Din inquiry based on the Freedom of Information Law, July 25, 2007; source of the 2007 figures: response of Deputy State Advocate (special assignments) Attorney Shai Nitzan to a Yesh Din inquiry, March 19, 2008.

³ It should be noted that among the figures provided to Yesh Din by Shai Nitzan in his letter of March 19, 2008, the latter informed Yesh Din that until that time 72 indictments had been filed in DOP cases opened in 2007. However, the figure does not reveal how many of those indictments were filed following offenses committed against Palestinians and how many were concerned with offenses against members of the security forces. Therefore this figure says nothing about the filing of indictments concerning Israeli civilians accused of harming **Palestinians**.

Of the 205 investigation files, police processing and prosecutorial review have been concluded in 163 files.⁴ In 13 of the concluded cases, indictments were filed against defendants (representing 8% of the cases in which a final decision has been made). One case file (approximately 1% of the cases monitored) was lost and never investigated,⁵ and 149 investigation files (91%) were closed without filing indictments against suspects.

The status of processing investigation files, by group of offense

Yesh Din follows the processing by investigation and prosecution bodies of three main categories of complaints: offenses of various kinds of assaults, trespassing on Palestinian land (and offenses that derive from trespass) and offenses of causing damage to Palestinian property. Alongside these main categories, other offenses were collected in a separate category, to be discussed below.

Assault offenses: 81 of 205 investigation files monitored by Yesh Din are concerned with attacks on Palestinians by Israeli civilians. Among those files, 11 cases involve shooting that led to death (two cases) and injury (nine cases). In the other cases Palestinians were assaulted with blows, sometimes with the use of sticks, knives and rifle butts, as well as with stones thrown at their houses, the cars they were driving, or their bodies while cultivating their privately owned land.

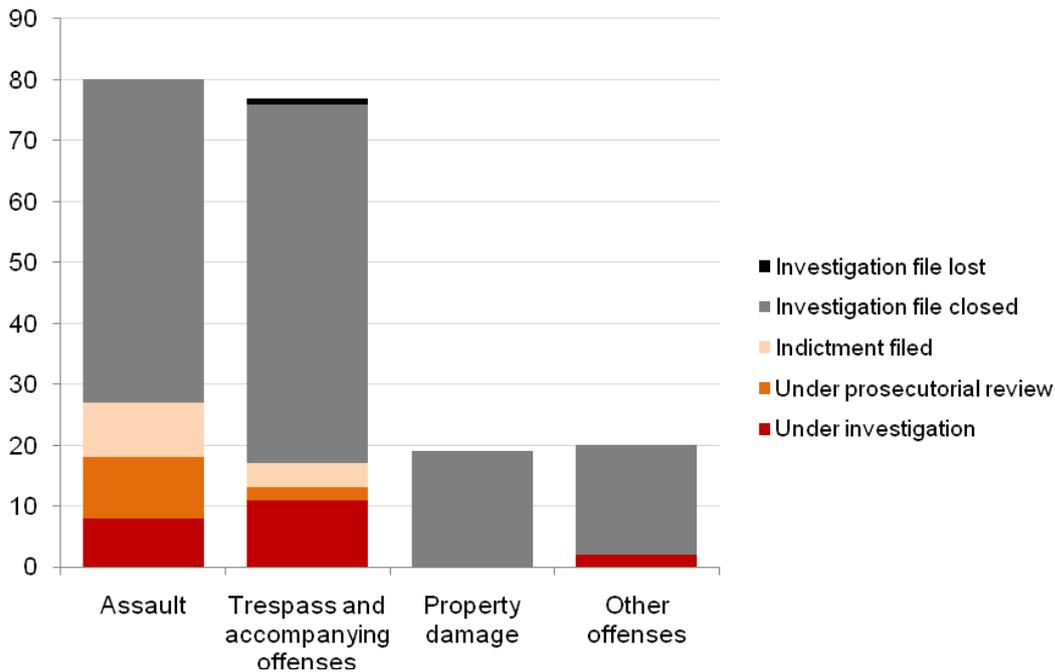
In 18 of the cases regarding assault the processing has not yet been completed: eight are still under investigation and 10 were transferred to the review of a prosecutor, in order to decide whether to close the case or file an indictment. Yesh Din does not have information about the status of processing of one investigation file because our requests to the authorities for information have not yet been answered.

The processing of 62 of the cases dealing with assault offenses has been completed. In nine of them indictments were filed against defendants, including one case in which an indictment was filed only following an appeal submitted by Yesh Din on behalf of the complainant, asking to reopen the investigation after a decision had been made to close the case. In 53 of the cases (87% of the assault cases in which processing has been completed) the investigation was closed: 29 investigation files were closed on the grounds of "perpetrator unknown" and 23 on the grounds of "lack of evidence." In an additional case Yesh Din does not have information on its grounds for closure.

⁴ Of the other files being monitored by Yesh Din 21 are still under investigation and 12 were transferred to a prosecutor – either at a district prosecution office or at the Prosecution Unit of the SJ District Police – whose job it is to decide whether to file an indictment or close the investigation file. The status of nine other investigation files is unknown to the organization because our inquiries to the investigation units about their statuses have not yet been answered.

⁵ That file is one of five files reported to Yesh Din as "lost" before publication of the report "A Semblance of Law." Following the organization's requests the other four files were located.

Status of the investigation files being monitored by Yesh Din, by category of offense



Criminal trespass: 79 of the cases monitored by Yesh Din are concerned with the offense of criminal trespass and accompanying offenses: cutting down, uprooting and setting fire to olive and other fruit trees, seizing land (including fencing of Palestinian land and preventing Palestinians from cultivating their land), damaging crops, stealing olive sacks during the harvest season and others. 11 of these cases are still under investigation and two were transferred to the review of a prosecutor. The status of the processing of two other cases has not yet been reported to Yesh Din.

In 64 cases, a final decision has been reached. One of those case files was lost and the complaint was never investigated. In four cases indictments were filed, while 59 cases were closed (which represents 92% of the investigation files in this category in which a final decision was granted): 40 cases were closed on grounds of "perpetrator unknown," 14 cases were closed for "lack of evidence," and three cases were closed based on "no criminal culpability". The grounds for closing the two remaining case files are unknown to Yesh Din.

Property damage offenses: a smaller group of investigation files is concerned with damage to Palestinian property: theft, arson, vandalizing agricultural equipment and damage to other property. This category includes 22 investigation files being monitored by Yesh Din. Regarding three of those files the organization has not yet been informed of their status. All of the remaining 19 cases - 100% of those in which Yesh Din was notified of the final decision - were closed: 16 on grounds of "perpetrator unknown" and three on grounds of "lack of evidence."

Other offenses: 23 investigation files included in Yesh Din's monitoring were opened based on other offenses: killing of animals belonging to Palestinians, threats of violence, desecrating cemeteries and mosques, dumping waste from industrial plants located in settlements into Palestinian agricultural land, and more. Two of those cases are still under investigation and the status of three others has not yet been reported to the organization. The remaining 18 - again, 100% of the case files in which a final decision was reached - were all closed: six on grounds of "perpetrator unknown," three for "lack of evidence," six on grounds of "no criminal culpability" (half of those are concerned with dumping waste on Palestinian land) and another case, again involving dumping waste on Palestinian agricultural land, was closed on grounds of "lack of public interest." The grounds for closing two other cases in that group have not yet been provided to Yesh Din.

The grounds for closing investigation files

As mentioned above, 149 investigation files that were monitored by Yesh Din were closed on various grounds. Yesh Din is not aware of the grounds on which five additional cases were closed. Of the 144 other cases, 94% were closed on grounds that indicate a failure in the investigation: in 91 files investigators failed to identify suspected perpetrators of the offenses and those files were closed on grounds of "perpetrator unknown;" in 43 cases, in which suspects were identified, the investigators failed to collect sufficient evidence to prosecute them, and the cases were closed on grounds of "lack of evidence."

In addition to the above, one case was closed on grounds of "lack of public interest" and nine cases (6% of the closed investigation files in which Yesh Din is aware of the grounds for closure) were closed based on "no criminal culpability."

Grounds for closing investigation files monitored by Yesh Din

