



Data sheet, March 2012

Law Enforcement upon Israeli Civilians in the West Bank

Yesh Din Monitoring Update

A

Background

Every year, Yesh Din publishes data based on our **long-term monitoring** of the results of investigations by the Samaria & Judea (SJ) District Police into offenses committed by Israeli civilians (settlers and others) involved in criminal offenses against Palestinian civilians and their property in the occupied territories.

Yesh Din does not claim to monitor the processing by the investigation and prosecution bodies of **every** incident in which Israeli civilians are involved in criminal offenses against Palestinians. However, the data presented below are based on a broad and constantly-growing sample of cases, enabling a representative examination of the results of the investigation of these offenses. This data sheet reviews the results of **781** complaints filed by Palestinians at SJ District Police stations as monitored by Yesh Din since 2005.

Yesh Din's legal staff monitors investigations into complaints filed by Palestinian victims represented by the organization. When asked to do so, Yesh Din assists the investigation and prosecution bodies that process these complaints, in order to ensure that investigations are managed optimally. Accordingly, the results presented here actually present a somewhat over-positive picture of the actions of the law enforcement agencies, since it may be assumed that the level of failure to investigate complaints by Palestinian victims not assisted by human rights organizations or private attorneys is even higher than that reflected in this update.

B

Main Findings

The updated figures show that **less than nine percent of investigations ended in the filing of an indictment.** An examination of the circumstances in which investigations were closed shows that **some 84 percent of investigations were closed due to investigatory failures** - 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 allegedly unjustified closure of investigations due to “absence of criminal culpability.”

These alarming findings are similar to the data presented in the past by Yesh Din¹ regarding the failure of the police investigators in the SJ District Police to investigate offenses by Israeli civilians against Palestinians. Our report **Semblance of Law** (2006) included a detailed review of systemic defects and failures in the management of investigations by the SJ District Police, as well as operative recommendations to redress these problems. The absence of discernible change in the rate of failed investigations suggests that no action has been taken to secure a significant improvement in the quality of investigations.

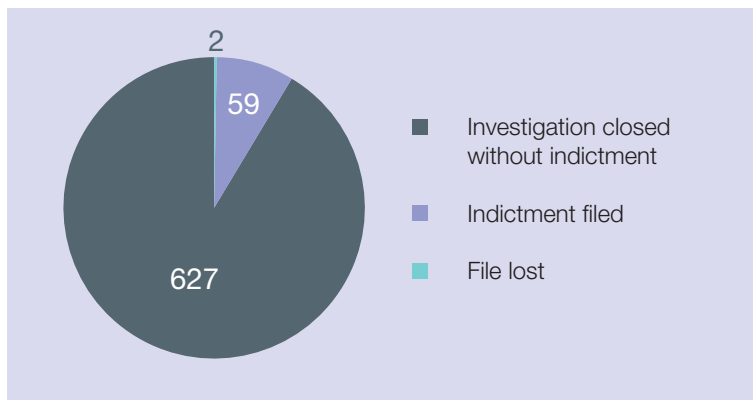
The failure to maintain an effective law enforcement mechanism in the West Bank indicates that the State of Israel is failing to meet its obligation to protect Palestinian civilians in areas subject to its military occupation.

The Israel Police recently published national data showing that the proportion of indictments served throughout the State of Israel is 10 percent of the total number of investigations opened.² However, the apparent similarity between the low proportion of investigations yielding indictments in the SJ District and the national rate is misleading. The statistic regarding investigations monitored by Yesh Din relates to cases in which the offenses were committed against an ideological background. Ideological crime is perceived as particularly serious and, accordingly, the law enforcement agencies invest particular resources and efforts in these cases. It is reasonable to assume that the national proportion of indictments for offenses committed against an ideological background is much higher than the general figure; accordingly, a gap exists between the rate in the SJ District and that in the other districts of the Israel Police.

Investigation Files Closed or Resulting in Indictment

Since 2005, Yesh Din has monitored **781** investigations conducted by the SJ District Police. The investigation and prosecution bodies have completed the processing of **688** of these cases and have made final decisions:³

- In **59** cases (**less than nine percent** of the investigations concluded), indictments were served against suspects;⁴
- **Two** cases were lost and never investigated;
- **627** cases (**over 91 percent** of all the investigations concluded) were closed without an indictment being served against suspects.



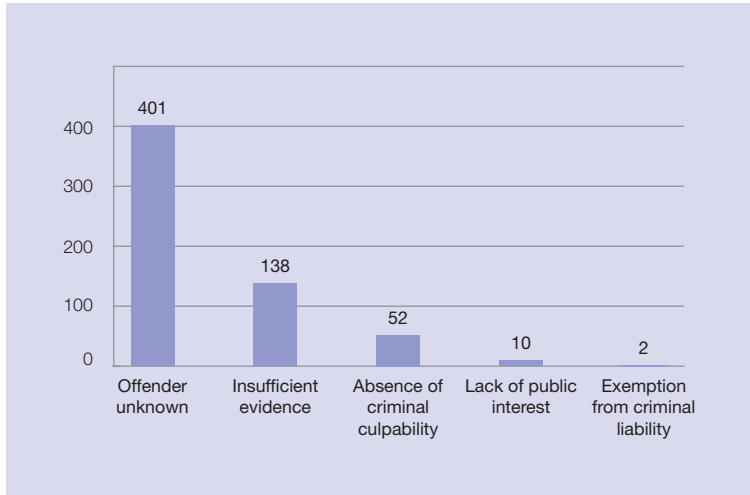
Investigations in which a final decision has been reached

Grounds for Closure: Most Cases are Closed due to Investigation Failures

Of the 627 investigation files closed, the SJ Police District has not yet informed Yesh Din of the grounds for closure in 24 cases.⁵ The grounds for closure of the remaining 603 investigations were as follows:

- **401** cases were closed on grounds of “offender unknown,” reflecting the failure of the police to locate and identify suspects responsible for the offenses;
- **138** cases 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;
- **52** cases were closed on grounds of “absence of criminal culpability;” of these, Yesh Din appealed against 18 decisions, since it did not believe that it was appropriate to close the investigations on these grounds.

- A further 12 cases were closed on grounds that do not indicate the success or failure of the investigation: 10 were closed on grounds of “lack of public interest” and two on grounds of “exemption from criminal liability.”



Grounds for closure of investigation files monitored by Yesh Din

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,⁶ over 84 percent were closed due to investigational failure: 539 cases were closed on the grounds of “offender unknown” or “insufficient evidence,” two cases were lost and were never investigated, and 18 cases were closed on the allegedly unjustified grounds of “absence of criminal culpability” (as noted, Yesh Din appealed against the closure of these cases).

Appeals against the closure of investigations without indictment

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.”⁷ A complainant who has received notification of closure of the investigation is entitled to submit an appeal against the decision within thirty days from the receipt of notification.⁸

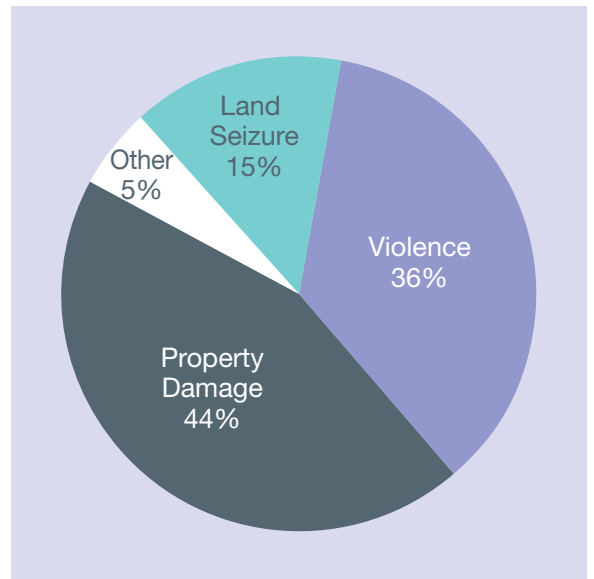
The appeal grants the complainant the right of argument before a higher body in the law enforcement system than the one that decided to close the file, in order to indicate directions of investigation that were not exhausted and because of which the investigation should be resumed, or to argue that the 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 153 appeals filed by Yesh Din against the closure of an investigation without indictment, the arguments in the appeal were accepted in 28 cases (approximately 21 percent of the total number of appeals 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 105 appeals (75 percent), the arguments in the appeal were not accepted and it was rejected.⁹

C

Status of Processing Investigations, by Offense Group

Yesh Din divides the investigation and prosecution cases it monitors into four broad categories: various forms of violence (280 investigations, as of the date of publication of this data sheet); property offenses (342); seizure of Palestinian land (116); and a fourth category including offenses that do not belong to the first three groups (43).



Investigation Files by Category of Offense

Violent Offenses

Of the 781 investigations Yesh Din is monitoring, 280 (some 36 percent) involve violence by Israeli civilians against Palestinians in the West Bank. These cases include 38 instances of shooting, while the remainder of the cases involve beatings, stone throwing, assault with clubs, knives and rifle butts, as well as threats and other offenses.

The processing of 249 investigations relating to violent offenses has been concluded. In 36 of these cases (14.5 percent), indictments were served against suspects;¹⁰ 212 cases were closed, and one was lost. Of concluded investigations in which the results of the investigation are known to Yesh Din,¹¹ some 81 percent were closed in circumstances reflecting investigative failure: 186 cases were closed on the grounds “offender unknown” and “insufficient evidence,” one case was lost, and six cases were closed on the allegedly unjustified grounds of “absence of criminal culpability.”¹²

Yesh Din file 2516/11: Elderly woman injured by stone throwing

Date: October 31, 2011

Incident: Two Israeli civilians threw stones, injuring a 75-year-old woman in the head. The woman, a resident of the village of Mukhmas, was on her way to harvest olives on her plot of land, which is adjacent to Migron Outpost.

On January 10, 2012, it was decided at Binyamin police station to close the investigation file on the grounds “offender unknown.”
(Police file number 449416/11)

Property Offenses

Yesh Din is monitoring 342 investigations involving property-related offenses such as arson, damage to property or crops, theft of crops, and so forth.

The processing of 303 investigations relating to property offenses has been completed. Of these, indictments were served in eight cases (2.64 percent); 294 cases were closed and one was lost. Of concluded investigations in which the results of the investigation are known to Yesh Din,¹³ some 95 percent were closed in circumstances reflecting investigative failure: 278 cases were closed on the grounds “offender unknown” and “insufficient evidence,” one file was lost, and two cases were closed on the allegedly unjustified grounds of “absence of criminal culpability.”¹⁴

Yesh Din file 2529/11: Damage to car and attempted arson

Date: December 12, 2011

Incident: Three Israeli civilians damaged a car belonging to a resident of ‘Asira al-Qibliya and attempted to set fire to the car during an incursion into the village at night by a group of Israelis.

On February 1, 2012, the Samaria Police decided to close the investigation file on the grounds “offender unknown.”
(Police file number 516327/11)

Seizure of Palestinian Land

Yesh Din is monitoring 116 investigations involving the seizure 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 98 investigations relating to property offenses has been completed. Of these, indictments were served in 14 cases (some 14 percent); 84 cases were closed without indictment. Of concluded investigations in which the results of the investigation are known to Yesh Din, some 59 percent were closed in circumstances reflecting investigative failure: 50 cases were closed on the grounds “offender unknown” and “insufficient evidence,” and six cases were closed on the allegedly unjustified grounds of “absence of criminal culpability.”¹⁶

Yesh Din file 2453/11: Invasion of farmland

Date: May 1, 2011

Incident: Unknown persons invaded a plot of land belonging to a resident of the village of Malek, close to the settlement Kokhav HaShachar, and planted trees on the plot.

On November 28, 2011, it was decided at Binyamin police station to close the investigation file on the grounds “offender unknown.”
(Police file number 272227/11)

Other Offenses

Yesh Din is monitoring 43 investigations involving other offenses. 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 37 investigations relating to “other offenses” has been completed. Of these, an indictment was served in just one case, while the remainder (36) were closed without indictment. Of concluded investigations in which the results of the investigation are known to Yesh Din,¹⁷ some 85 percent were closed in circumstances reflecting investigative failure: 25 cases were closed on the grounds “offender

unknown” and “insufficient evidence,” and four cases were closed on the allegedly unjustified grounds of “absence of criminal culpability.”¹⁸

Yesh Din file 2275/10: Killing of sheep

Date: December 12, 2010

Incident: Israeli civilians threw stones at sheep belonging to a resident of the Palestinian village of Qusra. As a result of the attack, two sheep died and two others were injured.

On May 22, 2011, the Samaria Police decided to close the investigation file on the grounds “offender unknown.”

(Police file number 462824/10)

An eyewitness to an assault was not questioned, and the file was closed on the grounds “offender unknown”

A.H. lives with her family in the village of Umm al-Kheir, in a tent situated some twenty meters from the perimeter fence of the Carmel settlement. On January 15, 2011, at about 4:00 p.m., while A.H. was in the tent holding year year-old baby girl, seven Israeli civilians aged 17-21 approached the tent and began to throw stones at them, while cursing. One of the Israelis pulled down his pants and underpants and made lewd gestures. In response, A.H. began to shout out to a neighbor on the settlement, whom she describes as a “good man” who had told her and her family in the past to call him if stones were being thrown at them. After A.H. cried out, the neighbor’s daughter, a young woman aged about 20, came out of their house and spoke to the stone-throwers. After an exchange, the stone-throwers fled the scene. Relatives of A.H. also rushed toward the tent after hearing her shouts. A few minutes later, the stone-throwers returned, but when they saw that a large number of people had gathered near the tent, they again left the scene. According to the complainant, the neighbor, who came out of his home only after the incident ended, said that his daughter stated that the stone-throwers were not residents of the settlement, but were youngsters who were staying in the settlement as guests.¹⁹

On January 16, 2011, the day after the incident, A.H. submitted a complaint to the Hebron Police. Over six months later, on July 24, 2011, the investigation file was closed on the grounds “offender unknown.”²⁰

A review of the investigation file reveals that no investigative actions were undertaken apart from collecting the statement of A.H. Although A.H. noted in her statement that the neighbor’s 20-year-old daughter witnessed the incident, and she specified the neighbor’s name and place of residence, the investigators did not speak to the daughter or her father and did not attempt to clarify the identity of the assailants or their hosts. Although Carmel is a relatively small settlement, no attempt was made to collect testimonies from the residents in order to find out who hosted the assailants, or if someone saw them and could provide details as to their identity.

1. Previous data were published in the Yesh Din reports **A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank** (September 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** (July 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); the data in this data sheet were based on the monitoring of 642 investigations.
2. Yaron Doron, “Fall in Number of Police Cases Resolved,” **Yediot Acharonot**, February 8, 2012 (Hebrew).
3. Of the remaining files being monitored by Yesh Din, 48 are still under investigation; 33 are being reviewed by the prosecution (the District Attorney’s Office or the SJ Police Prosecution Unit), which is responsible for deciding whether to file indictments or to close the investigation; in 12 cases, Yesh Din has not yet received a reply from the police to its inquiry regarding the status of the investigation.
4. Six of the indictments filed related to the Givat HaOr Outpost, established on private land belonging to the residents of the Palestinian village of Bittin (Yesh Din Files 1394/08 and 1395/08).
5. 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>
6. Excluding cases that are being processed by the investigation and prosecution bodies and in which no decision has yet been taken, investigations whose status is unknown to Yesh Din, and investigations that were closed but regarding which the grounds for closure are unknown to Yesh Din.
7. Criminal Law Proceedings Law (Combined Version), 5742-1982, Section D Pre-Trial Proceedings, Part A: Complaint, investigation and prosecution, article 64.
8. *Ibid.*, article 65.
9. The State Attorney’s Office is continuing to process 17 appeals, in which no decision has yet been made. Two appeals were withdrawn by Yesh Din after their submission. The status of one appeal is unknown as of the time of writing.
10. One indictment was served following an appeal submitted by Yesh Din on behalf of the complainant, after the investigation and prosecution bodies decided to close the investigation without indictment (Yesh Din file 1079/05).

11. Yesh Din was not informed of the grounds for closure regarding 11 investigation files.
12. Nine additional cases involving violent offenses were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (four cases) and “absence of criminal culpability” (five cases).
13. Yesh Din was not informed of the grounds for closure regarding seven investigations.
14. Seven additional cases involving violent offenses were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (two cases), “absence of criminal culpability” (three cases) and “exemption from criminal liability” (two cases).
15. Yesh Din was not informed of the grounds for closure regarding three investigations.
16. A further 25 files involving seizure of land were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (three files) and “absence of criminal culpability” (22 files).
17. Yesh Din was not informed of the grounds for closure regarding three investigations.
18. Four cases involving “other offenses” were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (one case) and “absence of criminal culpability” (three cases).
19. Yesh Din file 2307/11.
20. A letter from Inspector Yosef Amoyel, Hebron Disturbances Officer, November 22, 2011, in response to a request from Attorney Ido Tamari of the Yesh Din legal team.