



DATA SHEET, FEBRUARY 2011

# Yesh Din Monitoring Update

## Law Enforcement upon Israeli Civilians in the West Bank

### A

#### Background

This data sheet is part of a multiyear Yesh Din project that aims at bolstering law enforcement upon Israeli civilians involved in criminal offenses against Palestinian civilians and property in the occupied territories.

The research published herein presents updated findings concerning results of Samaria & Judea (SJ) District Police investigations into complaints filed by Palestinians regarding offenses committed by Israeli civilians against them and their property.

Yesh Din began monitoring the results of SJ District Police investigations of such cases in 2005 in order to measure the extent to which the State of Israel - as represented by the SJ District Police - carries out its duty to protect the Palestinian population of the occupied territories and their property.

Yesh Din does not claim to monitor the way investigating and prosecution bodies handle every incident in which Israeli civilians - settlers and others - committed crimes against Palestinians and their property. It does, however, address a very large and representative sample of such investigations. This data sheet reviews the results of 642 complaints filed by Palestinians in SJ District Police stations that Yesh Din has been monitoring since 2005<sup>1</sup>.

Yesh Din's legal staff monitors the progress of investigations into complaints filed by Palestinian victims whom Yesh Din represents. Insofar as it is asked to do so, Yesh Din assists the investigating and prosecution bodies that handle those complaints to ensure that investigations are handled optimally. Therefore, if anything, the figures presented below paint a more positive picture of the quality of investigations, since it stands to reason that the level of failure to investigate complaints by Palestinian victims not assisted by human rights organizations or private attorneys would be even higher than the data presented below.



# B

## Yesh Din Monitoring: Main Findings

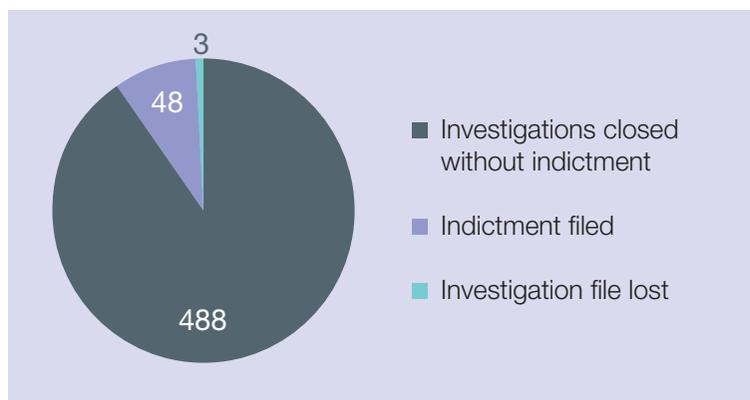
This data sheet updates figures presented in previous Yesh Din reports<sup>2</sup> (and presents figures for investigations monitored since their release), in which we pointed to the SJ District Police's failure to investigate crimes perpetrated by Israeli civilians against Palestinian civilians. The updated data demonstrates that the failure rate has remained just as high, showing that **90% of the investigations in the cases monitored by Yesh Din were closed on grounds that reflect failure on the part of the investigators: "offender unknown" and "lack of evidence"**.

These failures derive from systemic investigatory faults and failures when addressing offenses perpetrated by Israeli civilians against Palestinians in the SJ District. In our 2006 report, "A Semblance of Law"<sup>3</sup>, we pointed out that more than 50% of the investigation files examined failed to meet appropriate police standards and were characteristically sloppy, unprofessional and ignored basic investigation procedures<sup>4</sup>. The up-to-date figures in this data sheet reveal that the State of Israel is still failing to uphold its duty to maintain an effective law-enforcement apparatus against its citizens who commit offenses, including grave ones, against Palestinian civilians who reside in territories under Israeli military occupation.

### Investigation Files Closed or Resulting in Indictment

Yesh Din is presently monitoring **642** investigations conducted by the SJ District Police. The investigating and prosecution bodies have completed processing **539** of those cases and have made final decisions in their regard, as follows<sup>5</sup>:

- In **48** cases (**9%** of the investigations concluded), indictments were filed against defendants<sup>6</sup>;
- **Three** case files were lost and never investigated;
- **488** cases (**91%** of the investigations concluded) were closed without filing an indictment.



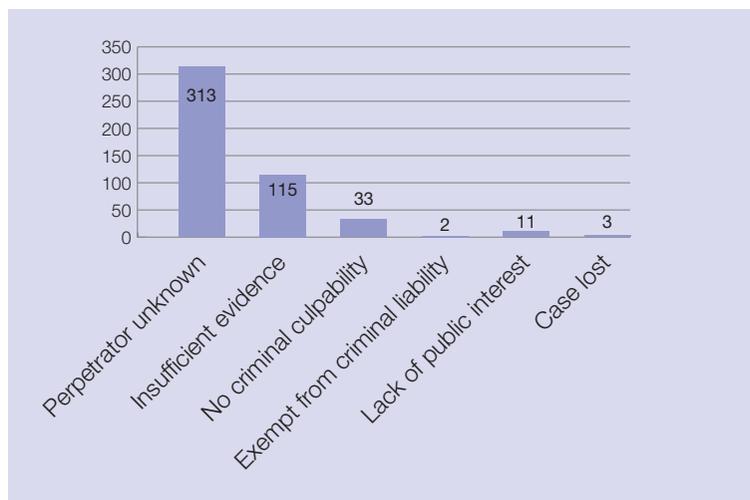
Investigations in which a final decision has been reached



### Grounds for Closing a Case: Mostly due to Investigation Failure

As mentioned above, **488** investigations monitored by Yesh Din were closed without an incitement, on various grounds. With the exception of 10 files regarding which the police have not notified Yesh Din of the grounds for their closing, an examination of the remaining files shows that **90.4%** of them were closed on grounds that suggest investigatory failures:

- **315** cases were closed on the grounds of "offender unknown", which indicates that the police were unable to identify suspects;
- **115** cases were closed on the grounds of "lack of evidence" because the investigators failed to collect and present sufficient evidence to prosecute suspects that were located.
- **Three** case files were lost;
- **33** additional cases (some 7% of the closed investigations) were closed on the grounds of "no criminal culpability"; **11** files were closed on the grounds of "lack of public interest"; and **two** files were closed on the grounds that the suspect is "exempt from criminal liability" - reasons that do not necessarily reflect an investigation failure<sup>7</sup>.

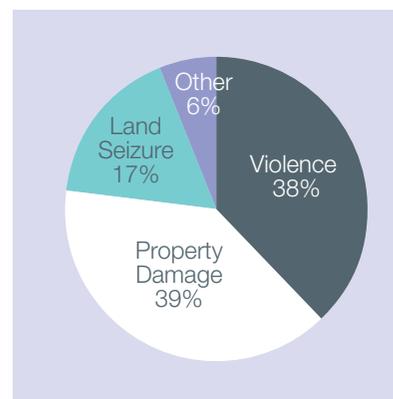


Grounds for closing investigation files monitored by Yesh Din

# C

## Status of Processing Investigation Files, by Group of Offense

Yesh Din monitors the investigation and prosecution bodies' processing of complaints under four main categories of offenses<sup>8</sup>: various types of violence (246 cases); damage to Palestinian property (249 cases); seizure of Palestinian land (110 cases); and a fourth category composed of offenses that do not fall under the previous three (37 cases).



Percentage of Investigation Files Monitored by Category of Offense

Our monitoring data indicates a particularly high failure rate in the investigations of violent and property offenses. The percentage of indictments filed<sup>9</sup> in each of those offense groups is particularly low (14% and 3% respectively). Accordingly, the percentage of files cases closed on grounds that suggest an investigation failure in these offenses is particularly high (78% and 93% respectively). This means that there is a very slim chance that a complaint filed following violent or property-related offenses perpetrated by an Israeli civilian in the West Bank will end in an indictment against the offenders.

### Concluded Investigations by Category of Offense

Offense group	Indictments served	Cases closed on grounds that suggest investigation failure	Cases closed on other grounds	Lost case files	Total number of investigations concluded *
Violence	31 (14%)	167 (78%)	15 (7%)	1	214
Property Damage	6 (3%)	196 (93%)	7 (3%)	2 (1%)	211
Land Seizure	9 (12%)	51 (67%)	16 (21%)	-	76
Other	2 (8%)	16 (62%)	8 (31%)	-	26

\* The table does not include cases whose grounds for closure are unknown to Yesh Din.



### **The Investigation File Was Closed on the Same Day the Investigator Sent a Request for Information**

On 16 May 2008, the house of Kasim Muhammad Hasan Salah, resident of Asira al-Kabliyah, was attacked. According to the complainant, Israeli civilians arrived from the nearby settlement of Yitzhar, pelted the house with rocks, fired at it, and tried to set fire to an adjacent plot of land. The attack caused damage to the house water tank, walls, and windows. IDF soldiers were on site during the incident, but did nothing to stop the attackers. On 20 May 2008, Salah filed a complaint with a police officer stationed at DCO (District Coordination Office) in Nablus.

The complainant's testimony was taken, but other than that, few investigative actions were made in this case other than filing for intelligence data from the SJ District's Central Unit, asking the IDF for a copy of the operational log of the incident day and requesting that the Military Police examine Salah's complaints regarding the soldiers' behavior. Even still, this investigation file was closed on the grounds of "offender unknown" on the same day that the three aforementioned requests were made<sup>13</sup>.

Following the hasty conclusion of the investigation without exhausting the investigation procedure, Yesh Din filed an appeal against this decision<sup>14</sup>. On 16 May 2010, two years after the incident took place, the State Attorney's Office Appeals Department notified us that it found no reason to reverse the police decision to close the investigation file<sup>15</sup>.

### **Property Damage Offenses**

Yesh Din monitored **249** investigation files relating to property-related offenses against Palestinians, including offenses ranging from theft, arson, and other damage to property, to damage to crops, crop theft, and so on.

In **213** of these property damage cases, the processing of the investigations has been concluded: indictments were filed in **six** cases, **two** case files were lost and **205** (96% of all concluded investigations) were closed without charges filed. Of those:

- **170** cases (some 83%) were closed on the grounds of "offender unknown";
- **26** cases (some 13%) were closed on the grounds of "insufficient evidence";
- **Two** cases were closed on the grounds of "lack of public interest"; and **five** were closed on the grounds of "no criminal culpability".

In one case, the police cited "misdemeanor" as the reason it was closed<sup>16</sup>. In an additional case, we are not aware of the reason for closure.

The processing of 36 property damage cases has yet to be completed<sup>17</sup>.

### Land-Seizure Offenses

Of the 642 cases Yesh Din is monitoring, 110 (17%) deal with a variety of offenses related to seizure of Palestinian lands via: illegal fencing; unauthorized cultivation of land, placement of buildings, trailers, or greenhouses on those plots; driving Palestinians away from their plots or denying their access to them, and so on.

The processing of **81** land-seizure cases has been concluded. Indictments were filed against defendants in **nine** cases, whilst **72** cases (89% of the concluded land-seizure offense cases) were closed without indictments, as follows:

- **34** cases (some 47%) were closed on grounds of "offender unknown";
- **17** cases (some 24%) were closed on grounds of "insufficient evidence";
- **13** cases (some 18%) were closed on grounds of "lack of criminal culpability"; and **three** cases were closed on ground of "lack of public interest".

In one case, the police stated that the investigation was closed because of "lack of cooperation from the complainant"<sup>18</sup>.

The law enforcement authorities have not yet completed the processing of 29 land-seizure cases<sup>19</sup>.

### Other Offenses

Of the 642 cases Yesh Din monitors, 37 deal with other offenses, such as the killing of farm animals, desecration of mosques and cemeteries, the pollution of Palestinian farm land by industrial sewage plants, waste disposal, and more.

The processing of **27** of these "other offenses" cases has been concluded. Indictments were filed against suspects in **two** cases, and **25** cases were closed without indictments. Among them:

- **12** cases were closed on grounds of "offender unknown";
- **Four** cases were closed on grounds of "insufficient evidence";
- **Seven** cases were closed on grounds of "no criminal culpability"; and **one** was closed on grounds of "lack of public interest".

Yesh Din does not know the grounds for closing one other case.

The processing of another 10 "other offenses" cases has not yet been completed<sup>20</sup>.

**The Suspect was Identified by the Complainant, but was not Summoned for Questioning**

AT<sup>21</sup> owns land located 300 meters away from a known Outpost. On 3 September 2009, while he was picking figs from trees on his plot, he was attacked by three Israeli civilians - two were masked and carried axes, and the third, unmasked, carried a large stick and had a large dog with him. The three attacked AT, beating his back and chest with the stick and ax handles. They were soon joined by another three masked men. The attackers removed AT's belt from his pants and beat him with it on the head and face. Next, they stripped him, took away his clothes, shoes and wallet, containing his ID documents and 200 shekels, and left him in his underwear. When AT started walking toward his home, they threw stones at him. AT was later taken by his family members to Qalqilia Hospital.

Filing his complaint with the Ariel Police, AT gave a description of the unmasked person who was among his attackers and even identified him in a police mugshot album. The person identified had a long history of violent offenses against Palestinians in the Samaria area, and had been convicted of using his firearm against Palestinians before. He was also questioned as a suspect in an incident of assault under aggravated circumstances and the kidnapping of a Palestinian boy.

Before inviting the suspect identified by AT for questioning, a SJ Central Unit Police detective wished to inquire whether he had previously been associated with other public-order violation incidents in the Samaria region. The answer to this intelligence request was that he had not been associated with previous incidents in the region or with the incident in question.

Needless to say, had the suspect's criminal record been provided, his past involvement in violence against Palestinians in Samaria would have been revealed, but that did not happen and the suspect, whose mugshot was identified by the victim, was never summoned for questioning<sup>22</sup>.

On 31 September 2009, the Samaria Police informed Yesh Din that the case had been closed on the grounds of "offender unknown"<sup>23</sup>. In the wake of this questionable decision to close the case without even summoning the suspect for questioning, Yesh Din filed an appeal<sup>24</sup>. We were informed that on 22 July 2010, the Appeals Department of State Attorney's Office decided to accept the appeal and returned the case file to the police for completion of the investigation<sup>25</sup>.

1. For the sake of comparison, the police notified Yesh Din that in 2009, Palestinians filed 256 complaints against Israelis who allegedly wronged them under a category the police called "Israeli DOP (Disturbance of Peace)" - referring to ideologically motivated offenses by Israelis; *Israel Police reply to Yesh Din's information request 1899; 10 May 2010.*
2. 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 Territories*** (July 2008). The data in these reports was based on the monitoring of 92 and 205 files, respectively.
3. ***A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank*** (June 2006), pp 75-97.
4. This report includes two examples of investigation files in which Yesh Din found serious faults. They were chosen from among hundreds of files in which Yesh Din found failures.
5. Of the remaining files monitored by Yesh Din, 60 are still under investigation and 28 are presently under review by the State Prosecution (the District Attorney's Office or the SJ Police Prosecution Department), which is charged with deciding whether indictments should be filed or the file closed. Yesh Din's inquiries to the police regarding four additional files have not yet been answered. Yesh Din has not yet requested updates from the police with respect to 11 more recent investigation files.
6. Six of the indictments filed were related to the Givat HaOr Outpost built on private land belonging to the residents of the Palestinian village of Bittin (Yesh Din Files Nos. 1394/08 and 1395/08).
7. The police failed to cite grounds for closure of an additional two files; in the first, it cited "lack of cooperation from the complainant" and in the second, it used the ambiguous justification, "misdemeanor". It should be noted that the Israel Police Order lists nine grounds due to which a police prosecutor may order an investigation file closed: lack of culpability; offender unknown; lack of evidence; lack of public interest in the case; the death of a suspect or defendant; statute of limitation of the offense; (the defendant is) a minor; insanity; or - another authority is authorized to investigate. See Israel Police Order: National HQ 14.01.50: Police Prosecutor's Power To Close an Investigation file at the Justice Ministry site:<http://www.justice.gov.il/NR/rdonlyres/4B4F6000-AE76-43E3-A4FF-7779D5E17E0F/20100/6083.pdf>
8. Yesh Din has recently updated its categories. Accordingly, this data sheet uses the updated categorization, which is slightly different from previous Yesh Din publications.
9. Out of the total number of case files in which the investigation has concluded.
10. Defendant Asher Weisgan was found guilty of murdering four people and sentenced to four consecutive life sentences. Weisgan committed suicide in his prison cell in December 2006.
11. One indictment was filed after Yesh Din filed an appeal on behalf of the complainant, and after the authorities initially decided to close the case without an indictment (Yesh Din File No. 1079/05).
12. 12 cases are still under investigation; 11 have been sent to the prosecutor to decide whether an indictment should be filed, or the case closed. We have not yet asked the police to update us on the status of another four investigation files, and with respect to another case the police have yet to respond to our update requests.
13. Appeal in Yesh Din File No. 1476/08 against the decision to close SJ District Police File No. 31732/09 [appeal rejected].
14. Appeal in Yesh Din File No. 1476/08 against the decision to close Samaria Police File No. 31732/09 27 January 2009.
15. In a letter from Ms. Nehama Zussman, Senior Deputy Attorney General, Appeals, 16 May 2010.
16. See footnote 7.
17. 25 cases are still under investigation; five were sent to the prosecutor to decide whether charges should be filed, or the cases closed. We have not yet asked the police to update us on the investigation of five additional cases. The police have not yet responded to our update requests in another case.
18. See footnote 7.
19. 18 cases are still under investigation; seven were sent to the prosecutor to decide whether charges should be filed, or the case was closed. We have not yet asked the police to update us on the investigation of another two cases. The police have not yet responded to our update requests in another two cases.
20. Five cases are still under investigation, and five have been sent to the prosecutor to decide whether charges should be filed, or the case closed.
21. Identifying details were removed from the description of this incident, as the case is still under police investigation.
22. Appeal in Yesh Din File No. 1894/09 against the decision to close Samaria Police File No. 34411/09.

23. Response to Yesh Din request from the Samaria Police to for updates on several investigations, 31 December 2009.
24. Appeal in Yesh Din File No. 1894/09 against the decision to close Samaria Police File No. 34411/09 (the appeal was accepted and the case was reopened for completion of the investigation).
25. In a letter from Attorney Nehama Zussman, Senior Deputy Attorney General, Appeals, dated 22 July 2010. At the time of writing, we have not received a response to our update request in this case.