

Data Sheet, December 2017

LAW ENFORCEMENT ON ISRAELI CIVILIANS IN THE WEST BANK

Yesh Din Monitoring Update 2005-2017

According to Yesh Din's data:

- Since 2005, only 8.1% of the investigation files into offenses perpetrated by Israeli civilians against Palestinians in the West Bank monitored by Yesh Din resulted in an indictment; 11.4% of the investigation files opened since 2014 resulted in an indictment.
- Since 2005, in 18.1% of legal proceedings monitored by Yesh Din, the indictment was ultimately cancelled or withdrawn; 18.1% resulted in a judicial decision not to convict the defendants, despite finding that they were guilty of the offenses attributed to them.

A. MONITORING OF IDEOLOGICALLY MOTIVATED CRIME CONTRIBUTING TO DISPOSSESSION IN THE WEST BANK

This data sheet presents current Yesh Din findings on the outcomes of Israel Police investigations into offenses perpetrated by Israeli civilians – settlers and others – against Palestinians and their property in the West Bank. The document also includes figures on the outcomes of legal proceedings that took place in cases in which a police investigation concluded with an indictment being served.

Monitoring Israeli law enforcement responses to crimes perpetrated by Israeli civilians against Palestinians in the West Bank is a core element of a long-term project implemented by Yesh Din. As part of this project, Yesh Din documents incidents in which Israeli civilians harm Palestinians, and assists victims who wish to submit complaints to the Israel Police. After a police investigation is launched by one of the units of the Samaria and Judea (SJ) District Police (the Israel Police district for the West Bank), Yesh Din's legal team monitors its progress and outcomes until the conclusion of the legal proceedings, provided that they are even initiated.

Yesh Din's monitoring project is predicated on the understanding that the context in which Israeli civilians perpetrate crime against Palestinians in the West Bank gives these acts meaning beyond the societal implications of offenses committed by individual members of a democratic society against their peers, who have equal rights and are subject to the same system of laws.

Palestinian crime victims in the West Bank belong to a public that lives under a protracted Israeli military occupation. As the occupying power in the West Bank, Israel is obligated under international law to protect Palestinians and their property. Conversely, the Israeli perpetrators (settlers and others) are Israeli citizens, who are voluntarily present in the West Bank, enjoy the protection of the Israeli military, and, if suspected of a crime, are investigated and tried in Israel under Israeli criminal law.

Moreover, acts of violence, theft and vandalism by Israelis in the West Bank usually take place in areas where there is a concrete struggle over land. Therefore, although the offenses are perpetrated by private individuals, the end result is systemic criminal activity meant to terrorize Palestinians and drive them off their lands, thus helping to expand Israeli control in the West

Bank.¹ Consequently, the vast majority of the offenses monitored by Yesh Din can be characterized as crime motivated by an ideology of dispossession, disempowerment and settlement.

As such, monitoring the outcomes of the work performed by the agencies entrusted with law enforcement on Israeli civilians in the West Bank has two functions. Firstly, it allows for the assessment of the degree to which Israel complies with its obligation under international law to protect the Palestinian residents of the Occupied Palestinian Territories (OPT) and their property. Moreover, documentation of Israel's ongoing failure to meet its obligation to enforce the law on its citizens in the West Bank, in this and other Yesh Din publications, reveals how the practices of Israel's law enforcement agencies enable the continuation of ideologically motivated crime that helps maintain and strengthen Israel's hold over the West Bank.

THE SAMPLE

The data presented in this document does not cover all incidents of ideologically motivated crime that took place in the OPT since Yesh Din's establishment in 2005, nor all incidents documented by Yesh Din during this time. **Rather, it relates to police investigations into offenses and the legal proceedings that followed.** It is important to note that Palestinian victims of crimes perpetrated by Israelis often choose not to file a complaint with the Israel Police, in which case the offense is usually not investigated.

It is also important to note that the data presented here is not a summary of the outcomes of all investigations opened since 2005 into crimes committed by Israeli civilians against Palestinians in the West Bank, but rather, only the results of investigations monitored by Yesh Din. However, the data does constitute a broad, cumulative sample that offers an indication as to how the Israel Police responds to this type of crime.

Finally, the investigation files included in this sample are ones in which law enforcement agencies sometimes enjoy the assistance of Yesh Din, which functions as a mediating and liaising body between the police and Palestinian complainants, and in some cases even helps to advance the investigation by bringing witnesses and relevant documents to the investigating units. As such, the data of this sample may be somewhat skewed in favor of the investigating units, in comparison to the data of the total number of investigations, which are conducted without the assistance of a mediator such as Yesh Din. However, we emphasize that Yesh Din is not party to police investigations, nor to the decisions on their outcomes. Our legal team keeps abreast of the status and outcomes of the investigations as the crime victims' representative.

B. INVESTIGATION OUTCOMES: MAJORITY OF INVESTIGATIONS CLOSED WITHOUT INDICTMENTS; SLIGHT INCREASE IN RATE OF INDICTMENT SINCE 2014

Since 2005, Yesh Din monitored 1,212 investigations, both concluded and ongoing, conducted by the SJ District Police following complaints filed by Palestinian crime victims. Of these, 49 cases are still at various stages of processing by law enforcement agencies. The investigation and prosecutorial bodies have completed the processing of the remaining 1,163, allowing monitoring of investigation outcomes.²

Of the 1,163 concluded investigation files monitored by Yesh Din since 2005:

- **Only in 94 files were indictments served against suspects (8.1% of the investigations);**
- **1,058 files were closed without an indictment (91% of the investigations);**
- **11 files (0.9% of the investigations) were lost by the Israel Police and never investigated.**

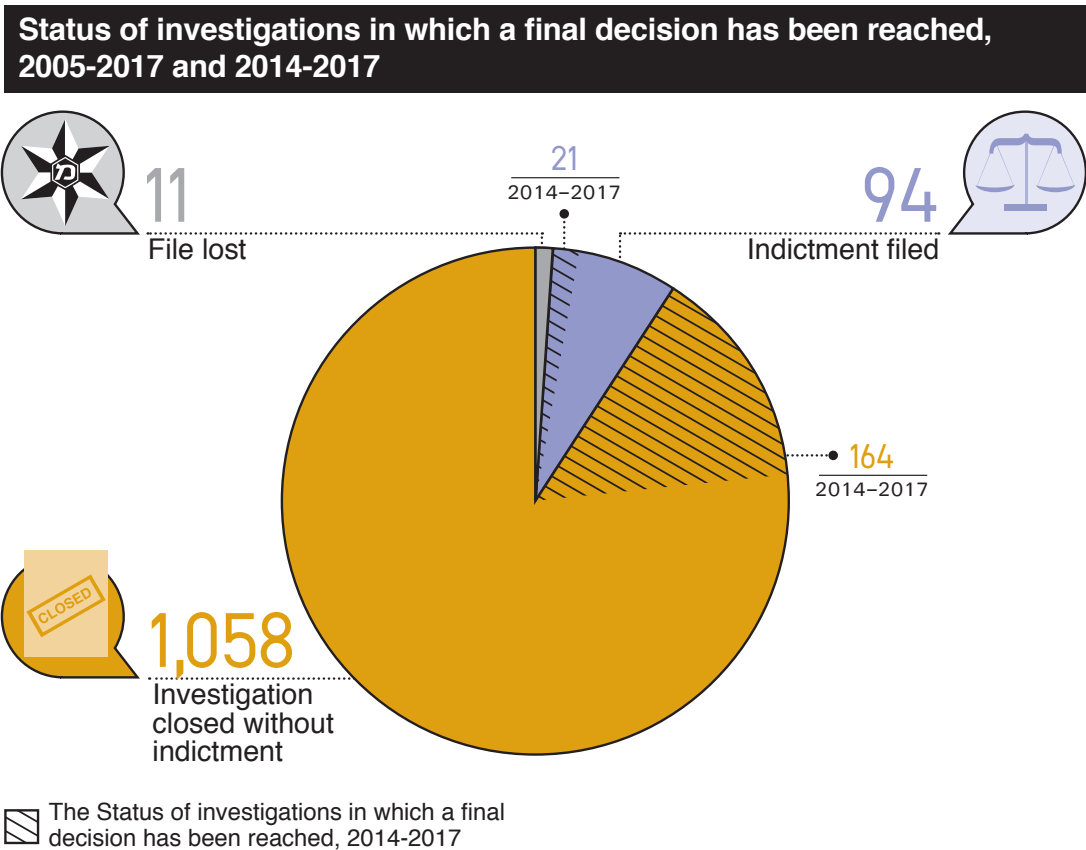
1 In our 2013 report, *The Road to Dispossession*, the outpost of Adei-Ad served as a test case to demonstrate the connection between systematic settler crime, as well as lack of law enforcement, and the outpost's expansion, see: Yesh Din, [The Road to Dispossession: A Case Study – The Outpost of Adei-Ad](#) (February 2013).

2 Unless otherwise noted, the data presented in this data sheet relates to information in Yesh Din's possession as of September 17, 2017.



In 2013, the SJ District Police established a special unit dedicated to the investigation of what the police defines as nationalistic crime – the Nationalistic Crime Unit.³ From the beginning of 2014 to August 2017, a period of three years and eight months, 225 investigation files were added to Yesh Din’s sample. The indictment rate in files opened during this time is slightly higher than in Yesh Din’s overall sample. **To date, investigation and prosecutorial bodies have completed the processing of 185 of the 225 investigation files added to Yesh Din’s monitoring project since 2014. Of these:**

- **21 files resulted in indictments (11.4% of the investigations).**
- **164 files were closed without an indictment (88.6% of the investigations).**



ANALYSIS: INCREASED RELUCTANCE BY PALESTINIAN CRIME VICTIMS TO FILE COMPLAINTS WITH ISRAEL POLICE

Yesh Din’s data regarding the number of indictments served in investigations opened since 2014 indicates a slight increase in the indictment rate in files monitored by Yesh Din during these years, as compared to the previous five years (2009-2013).⁴ Another striking feature arising from Yesh Din’s monitoring since 2014 is an **increase in the number of cases in which**

³ The unit focuses on the West Bank, though it is also charged with investigating nationalistic crime inside the Green Line. See Statements of Minister of Public Security, Yitzhak Aharonovitch, **Session 31 of the 19th Knesset**, 22.5.2013.

⁴ An analysis of the data on indictment rates in investigation files added to Yesh Din’s monitoring project over the past four years shows a higher indictment rate in 2015 compared to other years. Of the 56 investigation files that were added to Yesh Din’s monitoring roster during that year, and in which investigations have been concluded, eight resulted in an indictment (14.3%). In contrast, of the 42 files added to Yesh Din’s monitoring project in 2016 in which investigations have already concluded, indictments were filed only in four (9.5%).

Palestinian victims of crime perpetrated by Israelis choose not to file a complaint with the Israel Police. This trend results in fewer cases being added to Yesh Din's sample each year.

In 2016, Yesh Din documented 113 incidents of ideologically motivated crime against Palestinians or Palestinian property in the West Bank. Of these, in 48 cases (42%), the victims told Yesh Din they were not interested in filing a complaint with the Israel Police. This is a significant increase compared to data from 2013 to 2015. Over the course of those three years, Yesh Din documented 413 incidents of ideologically motivated crime. In 30% of these, the Palestinian crime victims told Yesh Din they were not interested in filing a complaint with the Israel Police.⁵ Most crime victims who chose not to file a complaint cited mistrust of Israeli law enforcement agencies as the reason. Some had experienced complaints that had come to naught, either first hand or through acquaintances. Many others cited fear that filing a complaint would bring harm to themselves or to their families.

The slight increase in the indictment rate in files opened between 2014 and 2017 may reflect some improvement in the response of the Israel Police to crime perpetrated by Israeli civilians against Palestinians or their property in the OPT in the years that followed the establishment of the Nationalistic Crime Unit. However, a look at the full picture suggests this increase alone is insufficient to arrive at a definitive conclusion that the performance of Israeli law enforcement agencies in the West Bank has significantly improved. Yesh Din's data showing increased reluctance among Palestinian crime victims to complain to the police suggests that the slight increase in the indictment rate does not reflect a change in the lived experiences of Palestinians who fall victim to crime perpetrated by Israeli civilians in the West Bank. It certainly does not indicate the eradication of ideologically motivated crime by Israelis.

As a side note, it is also worth mentioning that Palestinian crime victims' proclivity to refrain filing a complaint with the police may impact the indictment rate in files monitored by Yesh Din. When the number of cases in the sample decreases (a change, which, as stated, does not necessarily reflect a drop in the number of offenses actually perpetrated), the rate of indictment changes even if the number of indictments served each year does not change significantly. So, for instance, to date, eight indictments have been served in files added to Yesh Din's sample in 2011. These account for 7% of the files opened that year and concluded since. Eight indictments have been served in files added to Yesh Din's sample in 2015 as well, but in this case, they account for 14.3% of the files opened in that year and concluded since.

COMPARISON TO ISRAEL POLICE STATISTICS: INDICTMENT RATE IN IDEOLOGICALLY MOTIVATED CRIME AGAINST PALESTINIANS MUCH LOWER THAN GENERAL INDICTMENT RATE IN SJ DISTRICT

According to figures published in the Israel Police Annual Statistical Report for 2016, indictments were served in 13.8% of all investigations opened by the police during the year covered. In 2015, the indictment rate was 16%, and in 2014 it stood at 16.3%.⁶ The indictment rate in investigation files monitored by Yesh Din since 2014 is lower than the overall indictment rate in police investigations opened during this time – despite the fact that the files in Yesh Din's sample concern ideologically motivated crimes, which, as such, are particularly grievous.

Moreover, **the indictment rate of the files monitored by Yesh Din – all of which are investigated by the SJ District Police – is significantly lower than the indictment rate of all the files investigated by the district.** In 2016, the indictment rate in all investigations opened by the SJ District Police stood at 33.89%; in 2015 it was 38.37%; and in 2014, 36.44%.⁷

5 Yesh Din, [Avoiding complaining to police - facts and figures](#) (August 2016).

6 Israel Police: [Annual Statistical Report 2016](#) (June 2017), p. 22 (Hebrew).

7 Israel Police: [Annual Statistical Report 2016](#), p. 22 (Hebrew); Israel Police: [Annual Statistical Report 2015](#) (May 2016), p. 21 (Hebrew); Israel Police: [Annual Statistical Report 2014](#) (May 2015), p. 23 (Hebrew).

The indictment rate at the SJ District Police is also much higher than in other police districts, such as the Central, Jerusalem and Southern Districts. The gap was explained by the authors of the Israel Police Annual Statistical Report for 2014 as follows:

One of the main reasons for this is the difference in the type of crime handled by the SJ District Police – numerous security offenses in which indictments are usually served. In addition, it is not just the type of crime that is different in the SJ District, but also the legal process is different.⁸

This explanation reveals that the total number of investigations used to calculate the indictment rate at the SJ District Police includes investigations and indictments in offenses committed by Palestinians, who are subject to the military legal system and who are therefore investigated and tried under military law and in military courts. Israelis in the West Bank (both settlers and others), on the other hand, are generally investigated and tried under Israeli law.⁹

Yesh Din data presented in this document, together with data and analysis published by Yesh Din in previous years, indicate a consistent failure by Israel to fulfil its obligation to protect Palestinians living under its control from harm by Israeli civilians in the West Bank. The staggering gap between the overall indictment rate in SJ District Police cases and the indictment rate in Yesh Din's sample, as well as the gap between the overall Israel Police indictment rate and the indictment rate in Yesh Din's sample indicate that this failure is not a coincidence but rather a manifestation of policy.

Information provided to Yesh Din by the Israel Police regarding investigation files opened by the SJ District Police in 2015, and classified as "Jewish nationalistic crime" supports this conclusion. The information provided to Yesh Din relates to offenses committed by Israeli citizens only, and reveals a stark contrast between investigation outcomes in cases in which the victims are Palestinian and cases in which the victims are not Palestinian. The latter may include offenses against security forces, public order offenses and others. **Only 4.5% of investigations opened by the SJ District Police in 2015 into suspected Jewish nationalistic crime against Palestinians resulted in an indictment compared to 28.8% of investigations into suspected Jewish nationalistic crime in which the victim was not Palestinian.**¹⁰

As it does every year, in early 2017, Yesh Din filed a Freedom of Information request with the Israel Police regarding its response to this type of crime over the course of 2016. As of November 2017, no response had been received, though more than nine months had passed since the request was filed.¹¹

Israeli citizens who settle in the West Bank enjoy superior civil and legal status to that of Palestinian residents of the West Bank, who live under military occupation. As a general rule, this fact makes it difficult to compare between the outcomes of Israeli law enforcement responses to offenses committed by Israelis against Palestinians or their property in the West Bank, and the responses of the same authorities to offenses committed by Palestinians living under Israeli military rule.

However, the significant gap between the overall indictment rate in SJ District Police investigations, including investigations into offenses by Palestinians, and the indictment rate in investigations monitored by Yesh Din (all of which concern suspected offenses by Israeli civilians against Palestinians or their property), illustrates how Israelis' favorable civil and legal status in the West Bank manifests itself in the outcomes of police investigations as well. Israeli civilians who harm Palestinians and their property stand a much lower chance of being investigated and indicted compared to their Palestinian neighbors.

8 **Israel Police: Annual Statistical Report 2014**, p. 24 (Hebrew). Farther below in the report, the authors provide a similar explanation for the frequent use of remand in custody pending completion of proceedings at the SJ District Police. *Ibid.*, p. 28.

9 For more on this issue, see: The Association for Civil Rights in Israel, [One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank](#) (October 2014).

10 This comparison is based on figures provided to Yesh Din on January 12, 2016, in response to a Freedom of Information request. The information received relates to investigation files opened by the SJ District Police in 2015 and classified as investigations of "offenses with a public disturbance motive by Israelis, and Jewish nationalistic crime." For more details see: Yesh Din, [Data Sheet - Law Enforcement on Israeli Civilians in the West Bank](#) (February 2017), section D.

11 According to the Freedom of Information Act, a public authority that receives a Freedom of Information request must inform the applicant of its decision regarding the request within 30 days. It may extend the deadline by 90 more days, on condition that it supplies the applicant with a detailed notice. Once a decision has been made, the information must be provided to the applicant within 15 days. **Freedom of Information Act**, 5758-1998, Sec. 7.



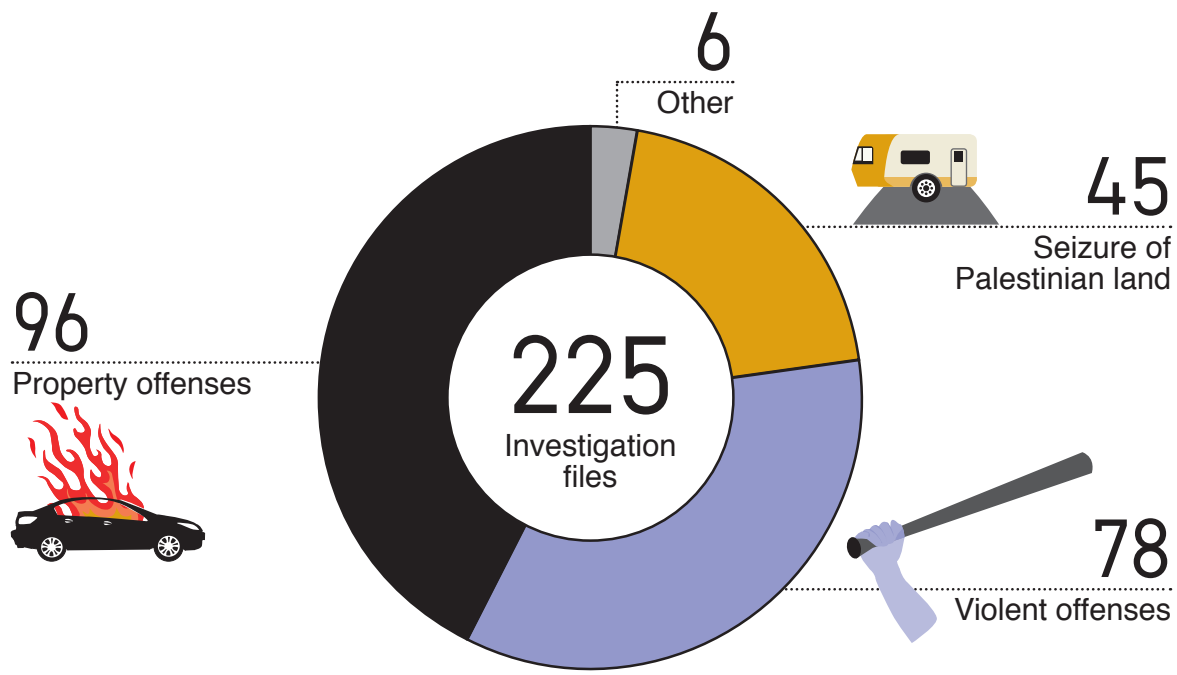
C. TYPES OF OFFENSES

Yesh Din divides the investigation files it monitors into four main types according to the main offense in the file: violent offenses, property offenses, seizure of Palestinian land and a separate category for all other offenses.

Of the 225 investigation files added to Yesh Din's sample since the beginning of 2014, **78 files (35%)¹² involve violence** by Israeli civilians against Palestinians in the West Bank. Violent incidents include instances of stone throwing, assault, shooting and threats. **96 files (43%) involve property offenses.** These investigations include offenses such as arson, theft, cutting down of trees and damage to agricultural crops. **45 files (20%)** were opened following complaints of **attempts by Israelis to seize control of Palestinian land** by means such as: fencing, unauthorized cultivation, placement of structures, driving Palestinians away from their plots of land and denying them access. Six cases (3%) involve other offenses that do not come under the previous three categories. These include killing or harming farm animals, desecration of mosques, and other offenses.

A breakdown by type of offense of all 1,212 investigation files monitored by Yesh Din since 2005, yields similar results to those seen in files opened since 2014. 35% of the files were classified as involving violent offenses, 46% as dealing with property offenses, 15% concern seizure of Palestinian land and 5% relate to offenses that fall under Yesh Din's "other" classification.

Investigation files by type of offense, 2014-2017



¹² Percentages of investigation files by type have been rounded and therefore may amount to more than 100 when added up.



D. GROUNDS FOR CLOSURE OF INVESTIGATION FILES

When an investigation file is closed, the Israel Police is required to notify the complainant of the decision to close the file¹³ and state the reason for the closure in accordance with the nine grounds stipulated in the Police Ordinance.¹⁴ Yesh Din's legal team, representing the crime victims, receives the notice and grounds for closure from the police. Yesh Din uses this information to gain knowledge about the circumstances in which investigations of offenses perpetrated by Israeli civilians against Palestinians in the West Bank are closed. Yesh Din's legal team also evaluates the investigation materials included in these closed files, and when it reaches the conclusion that the investigation had not been exhausted, or the evidence collected can support an indictment, files an appeal against the closure.

Of the 164 investigation files opened since 2014 and closed without charges laid, the Israel Police provided Yesh Din with the grounds for closure of 163 files:

- **93 files were closed on grounds of “offender unknown”**, reflecting a failure of the police to locate and identify suspected offenders, even though there was evidence that a criminal offense was committed (56.7% of all closed files opened since 2014). **Since 2005, 677 of the files monitored by Yesh Din were closed on these grounds** (64% of all closed files).

In July 2016, the SJ District Police opened an investigation following a complaint filed by a resident of Hebron after settlers invaded a plot of land he owns in the area of Tel Rumeidah, altered the land, and built a stone wall inside it. In his police interview, the complainant supplied photographs and gave the investigator the name of a Palestinian who had witnessed the invasion. The complainant added that the Palestinian witness believed the wall was built by a settler who was familiar to him, and supplied the police with the name of the settler who, according to the witness, invaded and altered his plot of land.

In June 2017, about a year after the investigation was opened, Yesh Din was informed that the police had closed the case on grounds of “offender unknown”. According to the investigation file received by Yesh Din, no attempt had been made prior to the investigation’s closure to reach the witness who had seen the invasion, or the settler who, according to the statement, had carried it out. The file contained a single document – the complainant’s statement to the police. Yesh Din appealed the closure and the investigation was reopened in October 2017.¹⁵

- **17 files were closed on grounds of “insufficient evidence”**, which also indicates that an offense had been committed but the police had failed to collect and consolidate sufficient evidence to prosecute suspects who had been located (10.4% of all closed files opened since 2014). **Since 2005, 225 of the files monitored by Yesh Din were closed on these grounds** (21.3% of all closed files).
- **42 files were closed on grounds of “absence of criminal culpability”**, meaning that the police concluded that no criminal offense had been committed or that the suspect that emerged from the investigation had no connection to the offense (25.6% of all closed files opened since 2014). At the time of writing, **Yesh Din had appealed eight of these decisions**, based on its conclusion that the investigation had not been exhausted, and the police had erred in its decision to close the investigation on these grounds. **Since 2005, 120 of the files monitored by Yesh Din were closed on these grounds (11.3% of all closed files). Yesh Din appealed the closure of 35 of these files.**¹⁶ This figure points

¹³ Criminal Procedure Law [Consolidated Version], 5742-1982, Sec. 63.

¹⁴ The Israel Police Ordinance details nine grounds on which the police prosecutor may order the closure of an investigation file: Absence of guilt, offender unknown, insufficient evidence, lack of public interest, death of the suspect or defendant, obsolescence, the suspect is a minor, the suspect is mentally ill, and another agency has jurisdiction 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**.

¹⁵ Letter from Yesh Din to Hebron Area Head of Investigations, **Appeal against Decision to Close Police Investigation File 305989/16**, 28.8.2017.

¹⁶ Eighteen of the appeals were rejected. Thirteen were accepted and the investigations reopened. Yesh Din has still not received a response with regards to four appeals.

to an increase in the percentage of files closed on grounds of “absence of criminal culpability” since 2014, compared to all files monitored by Yesh Din.

Over the course of 2009, Palestinian residents of the villages of Tell and Far’ata filed complaints with the Israel Police regarding trespass and illegal construction on their land, where the unauthorized outpost of Gilad Farm was built. The two investigation files opened following these complaints were closed by the police four years later – one on the grounds of “insufficient evidence” and one on grounds of “absence of criminal culpability”. The investigations remained open throughout the years as police investigators waited for an expert opinion on the ownership of the land in question from the Civil Administration (an Israeli military agency responsible, among other things, for land management in the West Bank).¹⁷ The expert opinion was never received, but the police, nevertheless, decided to close the investigations in late October 2013. The decision was made despite the fact that there was no dispute that caravans had been placed on the plots named in the complaint and that the identity of the person in possession of one of these caravans was known to the police.

An appeal Yesh Din filed in early 2014 resulted in the formal reopening of the investigations, though no action was taken until, in early 2017, more than seven years after the land owners complained, the Israel Police received a partial expert opinion from a representative of the Supervisor of Governmental and Abandoned Property at the Civil Administration. The expert opinion stated that since the land in question was unregistered,¹⁸ the complainants should be referred for a tour of the land with Civil Administration representatives. Instead of taking the necessary steps to see that the tour took place, the police opted to close the two investigations once more on grounds of “absence of criminal culpability”, though the expert opinion never settled the issue of land ownership, nor did it address the issue of illegal construction at the site. Yesh Din appealed the closure once more.¹⁹

The experience gained by Yesh Din over the years indicates that the lack of coordination between the police and the Civil Administration and the long wait for expert opinions on land issues in these investigations are not isolated incidents, but are demonstrative of an ongoing failure. Waiting for such expert opinions from the Civil Administration often delays investigations, and files are sometimes closed after years, without the expert opinion having been received.²⁰ This failure stands in the way of Palestinians seeking to protect themselves and their land by turning to law enforcement agencies and plays to the hands of settlers wishing to take over Palestinian land.²¹

- Nine files were closed on grounds of “lack of public interest”; one file was closed on grounds of “exemption from criminal liability”; and one file was closed on grounds of obsolescence. Since 2005, a total of 28 files were closed on grounds of “lack of public interest”.

17 When the Israel Police needs information about land ownership as part of an investigation into trespass and illegal construction, it has to rely on the West Bank land ownership registry managed by the Civil Administration.

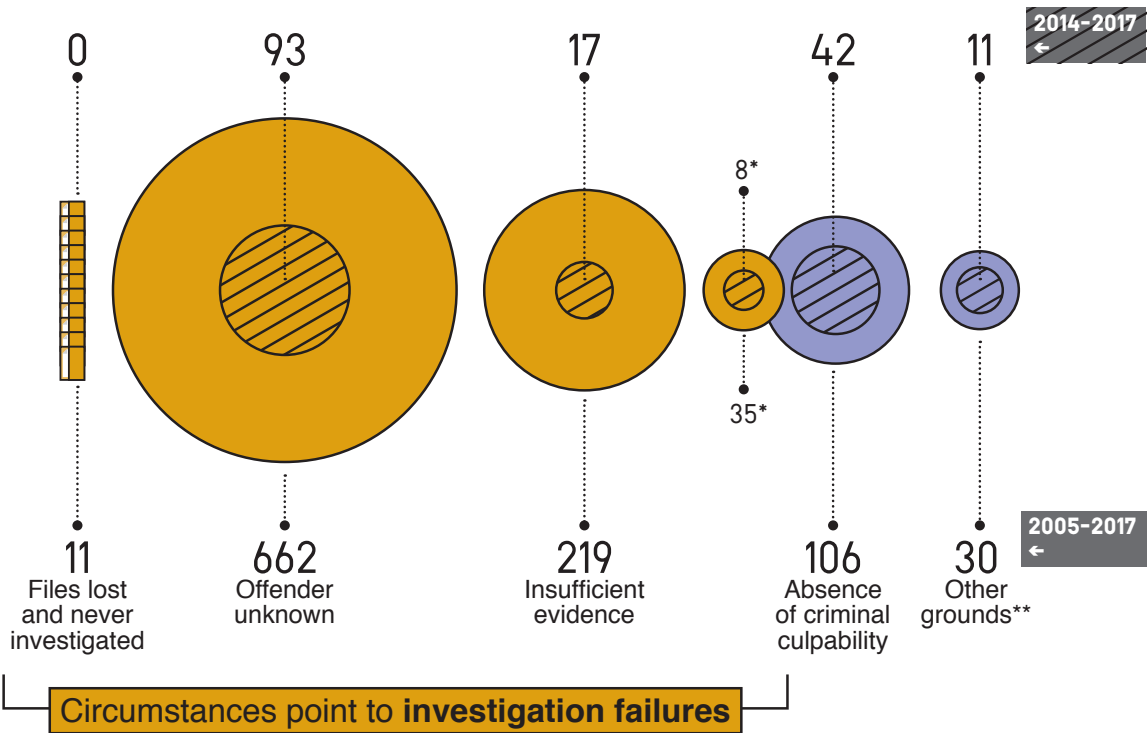
18 After the occupation of the Palestinian territories in 1967, Israel halted the process of land registration in the West Bank. This means that there are currently two types of private Palestinian land: registered and unregistered. For more see Yesh Din, [Glossary of Terms: Settlements and Outposts in the West Bank](#).

19 Letter from Yesh Din to the Head of Investigations for the Samaria Area, **Appeal against Decision to Close Police Investigation Files 118089/08, 379223/08, 362614/08, 187813/09, 183751/09, 264226/09, 14825/11, 7067/12**, 9.1.2014; Letter from Yesh Din to Collaboration Officer Samaria Area, **Appeal against Decision to Close Police Investigation Files 187813/09 and 183751/09**, 19.7.2017. Yesh Din has not yet received a response to the appeal filed in July 2017.

20 See also: Yesh Din, [Mock Enforcement: Law enforcement on Israeli civilians in the West Bank](#) (May 2015), pp. 117-118. In May 2017, Yesh Din contacted the SJ District Police Commander with respect to these two cases, as well as two other investigations the police closed after receiving a referral for a tour to determine land ownership from the Civil Administration, and a fifth case that was closed some three years after it was opened, without having received an expert opinion from the Civil Administration. Letter from Yesh Din to SJ District Police Commander, **Pattern of Closure of Investigations into Suspected Land Offenses Without Exhausting Them**, 28.5.2017.

21 For a discussion of other aspects of responses to illegal construction by Israeli citizens in the West Bank, illustrating how the conduct of Israeli law enforcement agencies in effect gives offenders immunity, see: Yesh Din, [Crime without Punishment: Law enforcement in cases of illegal construction and violation of judicial and administrative orders by Israelis in the West Bank](#) (January 2017).

Grounds for closure of investigation files 2005-2017 and 2014-2017



A breakdown by grounds for closure of investigation files opened since 2014 shows that 118 files were closed under circumstances attesting to police investigative failure. Of these files 110 were closed on grounds of “offender unknown” or “insufficient evidence”, indicating the police determined an offense had been committed but failed to name suspects or collect and consolidate sufficient evidence for prosecution. Eight files were originally closed on grounds of “absence of criminal culpability” but Yesh Din appealed their closure after finding the investigation had not been exhausted. **Of the total number of concluded files monitored by Yesh Din since 2005, 948 were closed in circumstances indicating police investigative failure.**²²

A review of the proportion of files closed in circumstances indicating police investigative failures reveals that **out of the total number of files opened since 2014 and concluded with known outcomes, the police failed in 64% of these investigations** (118 out of 184). The police investigative failure rate is higher in the total number of files monitored by Yesh Din. **Of the files opened between 2005 and 2017 and concluded with known outcomes,**²³ **82% were closed in circumstances indicating police investigative failures** (948 out of 1,160 files).

22 902 cases were closed on grounds of “offender unknown” and “insufficient evidence”; Yesh Din appealed 35 cases originally closed on grounds of “absence of criminal culpability” after finding the investigation had not been exhausted; and 11 files were lost by the Israel Police.

23 The Israel Police informed Yesh Din of the grounds for closure in 1,160 of the 1,163 closed investigation files opened since 2005.

E. OUTCOMES OF LEGAL PROCEEDINGS

This section differs from the previous sections of this data sheet in that it does not address the outcomes of police investigations, but the outcomes of legal proceedings that took place in the few cases in which police investigations monitored by Yesh Din resulted in indictments. It is important to note that Yesh Din is not party to these proceedings, in which the state (represented by the police prosecution units or the State Attorney's Office) prosecutes Israeli civilians who have harmed Palestinians in the West Bank. Yesh Din, however, does monitor the outcomes of these proceedings as a representative of the crime victims.

The data presented here relates to a sample that includes 97 indictments served in investigation files Yesh Din has monitored since 2005.²⁴ **Of the 97 cases, criminal proceedings have concluded in 83.** Proceedings are pending in the remaining 14. In nine cases, Yesh Din received information that the case had concluded but currently has no details on the outcome of the legal proceedings. The outcomes in the remaining 74 proceedings are known to Yesh Din and available for analysis.

- **13 cases concluded with a full conviction** of all defendants²⁵ (**15.7%** of concluded legal proceedings).
- **23 cases concluded with a partial conviction.** In 16 of these, the defendants were ultimately convicted of lesser counts than originally included in the indictment, usually following a plea bargain with the prosecution. Seven cases ended with the conviction of only some of the defendants, or with convictions on only some of the counts originally included in the indictment (**27.7%** of concluded legal proceedings).²⁶
- **15 cases ended with a finding of guilt without a conviction**, meaning the court found that the defendant committed the offense or offenses attributed to him or her, but refrained from conviction (**18.1%** of concluded legal proceedings). In four of these cases, the defendants were minors.

The proportion of legal proceedings monitored by Yesh Din that ended with a finding of guilt without a conviction is much higher than it is in the overall number of cases adjudicated in Israel's Magistrates and District Courts.

Figures released by the State Attorney's Office indicate that of the total number of criminal cases handled by the office and concluded in 2015, a finding of guilt without a conviction was recorded in only 6%.²⁷ A study published in 2012 found that in the period under review, only 5.3% of the criminal cases tried in the Magistrates Court concluded with a finding of guilt without a conviction. In the District Court, the rate was lower at 1.2%.²⁸

The conclusion of a legal proceeding with a finding of guilt without a conviction is meant to help rehabilitate offenders who have committed relatively minor offenses, have no criminal history, and whose reputations or livelihoods might be harmed

24 The figures presented in this section of the report constitute an update for the figures presented on this issue in a data sheet Yesh Din published in May 2015. Yesh Din, [Data Sheet - Prosecution of Israeli Civilians Suspected of Harming Palestinians in the West Bank](#) (May 2015). The total number of indictments in files monitored by Yesh Din differs from the total number of investigations resulting in an indictment presented above for several reasons. First, to avoid counting the same indictment multiple times, five investigation files were omitted from the total indictment count, as the indictment served in them was amalgamated with another indictment filed in another investigation file. Second, two indictments were added to the indictment sample after more than one indictment was served in a single investigation file. Finally, the total number of indictments in Yesh Din's sample includes six indictments served as a result of investigation files that had originally been closed by the police, but subsequent appeals filed by Yesh Din ultimately led to indictments. We note that six cases were omitted from the indictment sample in Yesh Din's May 2015 data sheet. These were cases in which the crime victims were not Palestinians, but Israeli citizens or foreign nationals who were harmed when visiting the West Bank as Palestinian rights activists. These cases are included in the review of legal proceeding outcomes presented in this document.

25 Of these, one case concluded with a full conviction only after the State's appeal against the defendant's acquittal of some of the counts was accepted.

26 Of the seven files, one case ended with the defendants' acquittal on all counts related to harm to Palestinians, together with conviction on other counts – impeding a police officer and assault of a police officer.

27 The State Attorney's Office handles criminal cases related to the gravest offenses in statute (including murder, rape and burglary), which account for 10% of all criminal cases. Ministry of Justice, State Attorney's Office, **Annual Summary 2015: State Attorney's Office** (August 2016), pp. 15, 23 (Hebrew).

28 Oren Gazal-Ayal, Inbal Galon and Keren Weinsahl-Margel, **Conviction and Acquittal Rates in Criminal Proceedings**, Judicial Authority Research Department and the Center for the Study of Crime, Law and Society, University of Haifa (May 2012), p. 12 (Hebrew). The research does not include legal proceedings regarding minors. The Israel Central Bureau of Statistics does not publish updated information on the proportion of criminal cases that result in a finding of guilt without conviction.

merely as a result of their conviction.²⁹ The high frequency of this outcome in Yesh Din's sample cases, which relates to ideologically motivated crime by Israelis against Palestinians in the West Bank, sends a message that the authorities do not consider such offenses grievous, which in turn bolsters the offenders' sense of impunity.

- **15 cases ended with the indictment withdrawn or cancelled** after being filed with the court by prosecution authorities (**18.1%** of concluded legal proceedings)

An examination of the circumstances that resulted in indictments withdrawn or cancelled reveals that in three cases, to Yesh Din's knowledge, the proceedings were halted due to evidentiary difficulties, in other words, failure on the part of investigation and prosecutorial bodies to prove the allegations against the defendants. In one of these cases, years of delays after the indictment was served, in part due to the suspension of proceedings,³⁰ led to what the prosecution called "an erosion of the evidence", and hence the indictment was pulled by the prosecution and the proceeding was stopped. Only in one case out of the cancelled proceedings, was the decision made due to the defendant's incompetency to stand trial.

- **5 cases ended with full acquittal** of the defendant or defendants (6% of concluded proceedings). The rate of acquittal in these cases is higher than the overall rate of acquittal in criminal cases tried in Magistrates and District Courts in Israel. According to a study published in 2012, only 0.4% of the criminal cases tried in the Magistrates Courts, and 0.3% of the cases tried in the District Courts in the period under review resulted in the defendant's full acquittal.³¹ Figures published by the State Attorney's Office reveal that 4% of the cases handled by the State Attorney's Office and concluded in 2015, ended with either the defendant acquitted, or the indictment vacated.³²
- **Three cases ended with other results.** Two cases were suspended and another, in which three defendants were indicted, ended with proceedings against one defendant suspended, charges against another dropped, and a finding of guilt without a conviction for the third defendant.

In conclusion, as of September 2017, 1,163 investigations into offenses committed by Israeli civilians against Palestinians in the West Bank, that were monitored by Yesh Din, have concluded. Police investigations have resulted in the indictment of suspects only in a small minority of these cases, 94 (8.1%). On top of this, in 18.1% of the legal proceedings that have concluded, the indictment ultimately yielded no results as it was withdrawn or cancelled. Defendants were found guilty in 61.4% of the legal proceedings monitored by Yesh Din (51 cases), but in 29.4% of these (15 cases), the court decided not to convict the defendants. As such, only 36 of the rare cases in which indictments were served ended with a finding of guilt and a conviction (43.4% of concluded legal proceedings). **Only approximately 3% of investigation files opened as a result of a complaint filed by a Palestinian in the West Bank who fell victim to crime perpetrated by an Israeli civilian culminated in full or partial convictions.**

29 **Conviction and Acquittal Rates in Criminal Proceedings**, pp. 11, 16 (Hebrew).

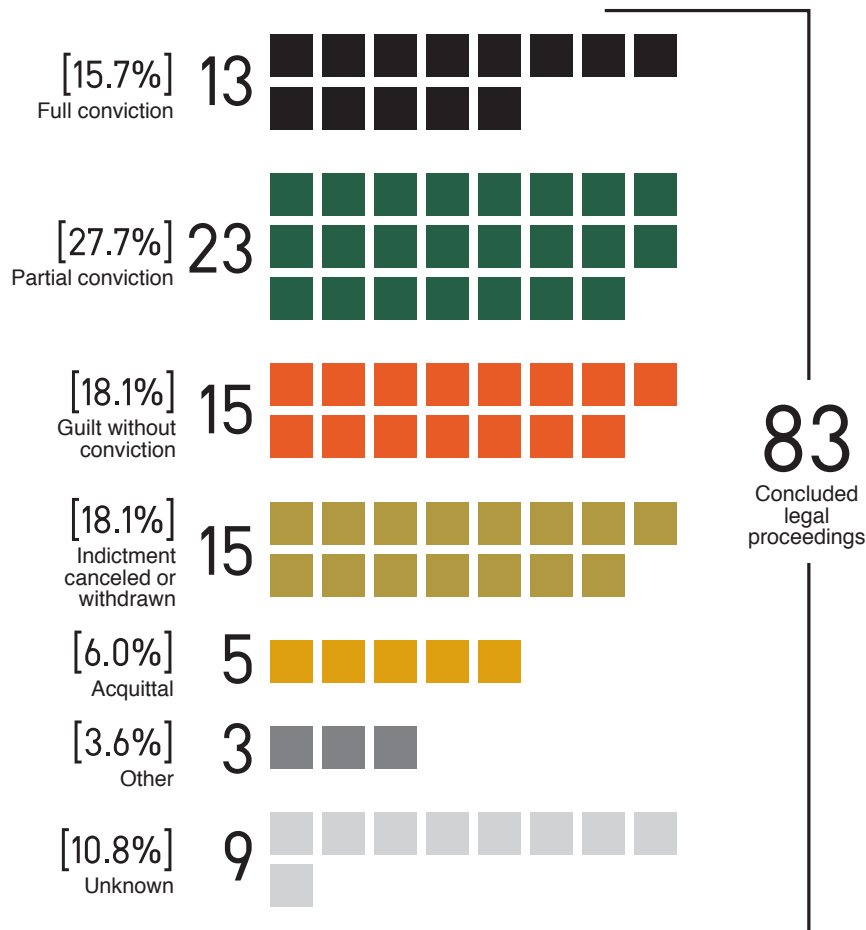
30 Section 94A of the Criminal Procedure Law stipulates that a court may suspend legal proceedings if it is convinced the defendant cannot be brought to court for the continuation of the trial. In such circumstances, the proceedings may be resumed once the defendant is located. **Criminal Procedure Law [Consolidated Version]**, 5742-1982, Section 94A.

31 **Conviction and Acquittal Rates in Criminal Proceedings**, pp. 11, 16 (Hebrew). The Central Bureau of Statistics does not publish updated information on the proportion of criminal cases that result in acquittals.

32 **Annual Summary 2015: State Attorney's Office** p. 23 (Hebrew).



Proceeding outcomes in Yesh Din cases, 2005-2017



The data presented in this document together with the analysis of the practice of law enforcement authorities and of actual investigations files involving offenses committed by Israelis against Palestinians in the West Bank, as provided in Yesh Din publications over the years, point to Israel's consistent failure to enforce the law on Israeli civilians who have harmed Palestinians in the West Bank or their property. The first manifestation of this failure can be found in police investigations that end in circumstances evincing failure to find suspects or to collect and consolidate sufficient evidence for prosecution (64% of the cases opened since 2014, and concluded since, and 82% of all concluded cases in Yesh Din's full sample, were closed under these circumstances).

This failure is also manifest in the low indictment rate in cases of ideologically motivated crime by Israeli civilians against Palestinians in the West Bank (only 11.4% of cases opened since 2014 and 8.1% of all cases in Yesh Din's sample culminated in an indictment). Yesh Din's monitoring indicates that the slight increase in the indictment rate in recent years is not indicative of a substantive change in the lived experience of Palestinians, who remain vulnerable to harm by Israeli civilians in the West Bank, nor does it demonstrate the eradication of ideologically motivated crime in the West Bank. The low indictment rate is particularly striking when compared to the large proportion of SJ District Police investigations that do end in indictments (from 2014 to 2016, indictments were filed in 36.2% of SJ District Police investigations on average per year).

And finally, the failure is manifest in the large proportion of legal proceedings that end with the charges withdrawn or cancelled (18.1% of the cases monitored by Yesh Din), or with a finding of guilt by the court, but no conviction (18.1% of the cases monitored by Yesh Din).



In sum, it can be concluded that Israel fails to fulfil its duty under international law to ensure the safety of the Palestinian public in the occupied territory as a protected population and the integrity of Palestinian property. This failure is particularly grave considering the nature of the offenses and the context in which they are carried out. Most offenses take place in areas where a struggle for land is ongoing, and as such, these offenses aid in pushing out Palestinians from their lands. This state of affairs intensifies Palestinian mistrust in Israeli law enforcement authorities, a trend manifest in the growing reluctance among Palestinian crime victims to lodge complaints with the Israel Police. At the same time, lack of effective enforcement bolsters the perpetrators' sense of impunity and contributes to the continuation of ideologically motivated crime contributing to dispossession of Palestinians in the West Bank.