Law Enforcement on Israeli Civilians in the West Bank

Yesh Din Monitoring Update

A. Background and Types of offenses

Every year, Yesh Din publishes a data sheet presenting updated findings concerning the results of investigations by the Samaria & Judea (SJ) District Police (the Israel Police district for the West Bank) into offenses committed by Israeli civilians against Palestinian civilians and property in the West Bank.

This ongoing monitoring of the proceedings and outcomes of investigations forms the core of a long-term project implemented by Yesh Din with the goal of strengthening law enforcement on Israeli civilians (settlers and others) involved in harming Palestinians and their property. The project is based on the principle that Israel bears a legal and moral obligation to protect the residents of the occupied territories under its control. To this end, members of Yesh Din help Palestinian victims to submit complaints with the Israel Police. After the police launches an investigation, the organization’s legal team monitors its progress and outcomes until the conclusion of legal proceedings. When cases are closed without charges brought against the suspects, Yesh Din’s legal team reviews the investigation material, and when the team believes the investigation was not exhaustive, or that the evidence was sufficient for serving an indictment, it appeals the decision to close the file.

As part of the project, Yesh Din has monitored the results of investigations into 1,045 complaints filed by Palestinians with Yesh Din’s assistance at various SJ District Police stations over the past nine years, including the Hebron Area, Samaria Area, Binyamin Station and the Nationalistic Crime Unit at the SJ Central Unit. There are currently no publically available figures on the total number of incidents in which Israeli civilians harmed Palestinians and Palestinian property in the West Bank, and therefore, this document does not summarize the outcomes of the investigations into every such criminal incident. However, the data constitutes a broad sample of the work of the SJ District Police in this field. It is important to note that the data presented here is the outcome of monitoring investigations in which the conditions and circumstances favor the law enforcement agencies from the outset. The reason for this is that Yesh Din functions as a mediating and liaising body between the police and the Palestinian complainants, and in many cases even helps to advance the investigation by bringing witnesses and relevant documents to the investigating units, insofar as these are required by the investigative and prosecuting bodies processing the complaints. Without the assistance provided by Israeli bodies, and particularly by human rights organizations, the ability of Palestinians to submit complaints to the Israel Police or to monitor the outcomes of the investigations would be almost non-existent.

The findings presented below are almost identical to those collected and published on an annual basis by Yesh Din since 2005. Yesh Din divides the investigative files it monitors into four broad categories: violence, property offenses, seizure of Palestinian land, and a fourth category of “other” offenses that do not come under the previous three.

Property Offenses

Of the 1,045 investigative files reviewed in this data sheet, 495 (47.4 percent) involve complaints by Palestinians of damage to their property. These investigations include offenses such as arson, theft, damage to property, cutting down of trees or other damage to crops, theft of crops, and so forth. Incidents of vandalism of Palestinian-owned trees figure prominently among property offenses. An examination of this category of offenses shows that of all the complaints filed with the SJ Police District with respect to property damage, about half (49.6 percent) were related to incidents in which olive and other Palestinian-owned fruit trees were cut down, sawed or otherwise vandalized. These incidents and the results of the investigations into them are detailed in Part D below.

Violence

Of the 1,045 investigative files monitored by Yesh Din, 361 (34.5 percent) involve complaints of violence by Israeli civilians against Palestinians in the West Bank. Violent incidents include instances of shooting, beatings, stone throwing, assault with clubs, knives and rifle butts, running Palestinians over with a vehicle, as well as threats of assault or harm and other offenses.

Seizure of Palestinian Land

Of the investigative files monitored by Yesh Din, 142 (13.6 percent) involve complaints of attempts by Israelis to seize control of Palestinian land, by means such as fencing, unauthorized cultivation, placement of structures, trailers or greenhouses, driving Palestinians away from their plots or denying them access, trespassing, and so forth.

Other Offenses

Yesh Din is monitoring 47 investigative files involving other offenses (4.5 percent of the total files being monitored) that do not come under the previous three categories. These include the killing of farm animals, desecration of mosques and cemeteries, discharging of sewage into Palestinian farmland, dumping of waste on land belonging to Palestinians, and other offenses.

B. Outcome of Police Investigations: Vast Majority of Cases Closed without Charges

The new findings are very similar to those reached by Yesh Din in the past. They point to a one percent decrease in the number of indictments served following investigations.

Yesh Din Monitoring Update – Law Enforcement upon Israeli Civilians in the West Bank

Yesh Din Monitoring Update – Police investigations of vandalization of Palestinian trees in the West Bank

Yesh Din Monitoring Update – A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank

Yesh Din Monitoring Update – 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

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Investigation Files by Category of Offense, 2005-2014

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property offenses</td>
<td>47.4%</td>
</tr>
<tr>
<td>Violent offenses</td>
<td>34.5%</td>
</tr>
<tr>
<td>Seizure of Palestinian land</td>
<td>13.6%</td>
</tr>
<tr>
<td>Other offenses</td>
<td>4.5%</td>
</tr>
</tbody>
</table>

1 Article 64 of the Criminal Procedure 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.” A complainant who has received notification of closure of the investigation is entitled to submit an appeal against the decision within 30 days of the receipt of notification.

2 Previous data was published in the Yesh Din report A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank (June 2006) and Too Late, Too Little: Supervision by the Office of the State Attorney over the investigation of offenses committed by Israeli civilians against Palestinians in the Occupied Territories (May 2008). The monitoring data in these reports was 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, March 2012, July 2013); the data in these data sheets was based on the monitoring of 642, 781 and 938 investigations, respectively.

3 Previous data was published in the data sheet Yesh Din Monitoring Update – Police investigations of vandalization of Palestinian trees in the West Bank (November 2009, October 2010, October 2011, October 2012, October 2013).
into incidents of harm caused to Palestinians and their property. Of 970 concluded files Yesh Din has monitored, indictments were served against Israelis suspected of committing offenses against the Palestinian complainant in only 72 cases (7.4 percent). Over the past two years, law enforcement agencies concluded investigations in more than 100 cases monitored by Yesh Din. Indictments were served in two cases only.

Given the ongoing failure of the SJ District Police to investigate and prosecute suspected offenders in cases involving harm to Palestinians and Palestinian property, in early 2013, the Israel Police announced the establishment of a Nationalistic Crime Unit at the SJ District Police. According to the police, the new unit was tasked with handling “criminal conduct, or planned criminal conduct by an individual or a group, including harm to life or property, or [sic] an attempt to influence state, ideological or religious matters.” According to media reports, the unit was generously funded and is staffed by 80 police officers.

Yet, the data shows no improvement in the capacity of the SJ District Police to investigate offenses committed by Israelis against Palestinians and their property. The SJ District’s ongoing failure in this regard stems from a litany of systemic deficiencies in conducting investigations, presented in detail in Yesh Din’s 2006 report, A Semblance of Law. The report indicated that more than half the investigations that were examined had been negligent, unprofessional, included few investigative measures and failed to meet acceptable investigation standards. Another Yesh Din report on SJ District Police investigations in recent years, set for publication in late 2014, shows that the serious deficiencies outlined in the previous reports have not been addressed, and continue to afflict the investigative work of the SJ District Police today.

From 2005 to 2014, Yesh Din monitored 1,045 SJ District Police investigation files, both concluded and ongoing. Of these, 75 cases are still at various stages of processing and investigation. The investigation and prosecution bodies have completed the processing of 970 cases, allowing monitoring of investigation outcomes:

- In 72 files (7.4 percent of the investigations concluded to date), indictments were served against suspects;
- 887 files (91.4 percent of all concluded investigations) were closed without an indictment being served against suspects;
- 11 files were lost by the SJ District Police and never investigated – despite the fact that the complainants have written confirmation that a complaint was submitted.

The status of investigations in which a final decision has been reached, 2005-2014

- 887 Investigation closed without Indictment
- 72 Indictment filed
- 11 File lost

Grounds for closure of investigation files, 2005-2014

<table>
<thead>
<tr>
<th>Circumstances</th>
<th>Cases</th>
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</thead>
<tbody>
<tr>
<td>Investigation</td>
<td>593</td>
</tr>
<tr>
<td>by other agency</td>
<td>2</td>
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<tr>
<td>Exemption from criminal liability</td>
<td>17</td>
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<tr>
<td>Lack of public interest</td>
<td>76</td>
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<tr>
<td>Absence of criminal culpability</td>
<td>195</td>
</tr>
<tr>
<td>Insufficient evidence</td>
<td>26</td>
</tr>
<tr>
<td>Offender unknown</td>
<td>11</td>
</tr>
</tbody>
</table>

An examination of the data from the past two years shows that after the establishment of the Nationalistic Crime Unit at the SJ District Police, the Israel Police failure rate in investigating ideologically motivated offenses against Palestinians has only increased.

Of the total number of investigation files monitored by Yesh Din, 159 were opened into complaints filed with the SJ District Police in 2013-2014. The investigation and prosecution bodies have completed the processing of 106, allowing monitoring of investigation outcomes: Only two files concluded with indictments being served against the suspected offenders (1.9 percent of the files). In contrast, 86 files were closed on the grounds of “offender unknown,” seven on the grounds of “insufficient evidence.” Two more files were closed on the grounds that no criminal offense had taken place, but Yesh Din believed their closure after reviewing the investigative materials. The implication of these statistics is that of the 106 Police investigation files that were opened in the last two years and have since been concluded, 89.6 percent were closed due to investigative failure.

In an examination of the total number of investigation files monitored by Yesh Din broken down by the type of offense demonstrates that the failure of the SJ District Police to investigate offenses against Palestinians and prosecute suspected offenders is particularly glaring with regard to property offenses:

An examination of the total number of completed investigations into property offenses, 93.1 percent were closed in circumstances suggesting investigative failure: 427 files were closed on the grounds of “offender unknown” or “insufficient evidence,” six files were lost, and two files were closed on the grounds of “absence of criminal culpability” and Yesh Din appealed their closure. 10

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4 This definition was provided to Yesh Din by the Israel Police in response to a Freedom of Information request on March 18, 2014. An identical statement was given to Members of the Knesset by Minister of Public Security Yitzhak Aharonovitch at the 31st Session of the 19th Knesset, held on May 22, 2013.
5 For details of the deficiencies that have been identified, see A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank. Yesh Din, June 2013.
6 The data presented in this information sheet relates to the period covering 2005 to August 30, 2014, unless otherwise noted.
8 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, obedience, 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 (Hebrew): http://www.justice.gov.il/NR/rdonlyres/4B4F6000-AE76-43E3-A4FF-7779D5E17E0F/20100/6083.pdf.
9 Complaints filed with Yesh Din’s assistance between January 1, 2013 and August 30, 2014.
10 In addition, 18 files relating to property offenses were closed on grounds that do not necessarily indicate the success or failure of the investigation: “lack of public interest” (four files), “absence of criminal culpability” (11 files), “insufficient evidence” (two files) and “processed by another authority” (one file).
In offenses involving violence, 83.3 percent of the files in which the investigation was completed and the outcome is known to Yesh Din were closed in circumstances suggesting investigative failure: 254 files were closed on the grounds of "offender unknown" or "insufficient evidence," four files were lost, and six files were closed on the grounds of "absence of criminal culpability" and Yesh Din has appealed their closure.11

In offenses regarding seizure of Palestinian land, where locating suspects and collecting evidence is inherently easier, the SJ District Police shows a lower failure rate. Of the files in which the investigation was completed, 63.2 percent were closed in circumstances suggesting investigative failure: 66 files were closed on the grounds of "offender unknown" and "insufficient evidence," one file was lost, and 12 files were closed on the grounds of "absence of criminal culpability" and Yesh Din has appealed their closure.12

C. Location of Offenses: A large proportion of the incidents take place inside Palestinian towns and villages

In the past few years, Yesh Din has closely monitored the geographic location where offenses leading to complaints to the Israeli Police have taken place. The reason for monitoring geographic data is the belief that offenses committed against Palestinians by Israeli citizens inside Palestinian villages and communities, sometimes inside Palestinian homes and private yards, impacts victims more intensely than offenses committed in more distant locations, such as farmland around the villages, grazing pastures, checkpoints or roads.

First, offenses perpetrated inside villages, homes and yards affect a wider circle of people than offenses that are perpetrated far from the community and target a single person. Second, the offense itself, whether directed against person or property, also severely undermines the sense of personal security and constitutes an invasion of privacy and a form of intimidation. At times, the difficulty is the result of the fact that children, women and other family members who spend more time in the home, are also exposed to such offenses. In addition, these offenses are premeditated, as the offenders consciously enter the built up areas of Palestinian communities for no apparent reason other than committing the offense.

A thorough examination of the complaints filed with the SJ District Police in 2013-201413 and monitored by Yesh Din shows that a significant part of the criminal activity targeting Palestinians takes place inside Palestinian villages and communities. Of 101 investigation files opened by the SJ District Police in 2013, 32 (31.6 percent) involved incidents that took place inside the community, and 69 in open areas outside the village or on roads used by Palestinians. Of the 58 investigation files opened by the SJ District Police in 2014, 13 (22.4 percent) involved incidents that took place inside the community, and 45 outside of it.

The implication of these statistics is that over the last two years, more than a quarter of the offenses perpetrated against Palestinians in the West Bank (28.3 percent), targeted victims while they were at home, or in its vicinity, an area where, by all standards, they should be safe. It is important to note that the category of offenses perpetrated inside the community includes only those that clearly took place inside communities and villages: inside the home, in private yards, or on streets inside the built up areas. Incidents that took place in grazing pastures, farmland, village outskirts, roads, checkpoints, or in any other location outside the community, were considered incidents that took place outside the community.

D. Police Investigations into Vandalism of Palestinian Owned Trees

One of the better known manifestations of ideologically motivated crime in the West Bank is vandalism of Palestinian owned trees. Vandalism of olive trees and other fruit trees severely damages property owned by Palestinians and directly harms their welfare, as most of the Palestinian population of the West Bank relies on farming as a significant source of income, predominantly olives which supply income and jobs for roughly 100,000 households.14 Palestinian residents also consider the olive tree a national and cultural symbol, and deliberate attacks on these trees are intended also as an assault on Palestinian identity and heritage.

In the context of monitoring investigations conducted by the SJ District Police, Yesh Din puts a special emphasis on incidents in which fruit trees were cut down, uprooted, stolen or damaged. The vast majority of these trees are olive trees, but almond, lemon, fig and other trees have also been targeted.

11 Thirteen more investigation files concerning violence were closed on grounds that did not necessarily indicate the success or failure of the investigation: "lack of public interest," five files; "absence of criminal culpability," eight files.
12 Thirty more investigation files concerning seizure of Palestinian land were closed on grounds that do not necessarily indicate the success or failure of the investigation: "lack of public interest" (six files), "absence of criminal culpability" (24 files).
13 The data in Part C of this information sheet is based on the file numbers identified in the SJ District Police’s information sheet to complaints filed with Yesh Din’s assistance between January 1, 2013 and August 30, 2014.
15 This data excludes 17 other incidents of tree vandalism in which Yesh Din received no response.
16 On July 24, 2013, Yesh Din contacted the Freedom of Information Officer at the Israeli Police, requesting data on the total number of incidents in which Palestinian owned trees were vandalized known to the SJ District Police. The response we received, dated January 22, 2014, contained data regarding 129 files opened by the SJ District Police. The cumulative data shows that of the 246 investigation files opened by the SJ District Police following Palestinian complaints during this time, which is clearly much higher.16
17 Details of the investigation files monitored by Yesh Din that were closed in circumstances suggesting investigative failure: 264 files were closed on grounds of "offender unknown," reflecting the investigators' failure to locate and identify suspected offenders; 23 files were closed on grounds of "insufficient evidence," reflecting the investigators' failure to collect and consolidate sufficient evidence to prosecute suspects who had been located; 39 files were closed on grounds of "absence of criminal culpability," Yesh Din appealed the decision to close the file in one of these cases; one file was closed on grounds of "lack of public interest." In four cases, indictments were filed against one or more suspected offenders.17
18 As explained in detail in Part B, circumstances suggesting investigative failure include files closed on grounds of "offender unknown" and "insufficient evidence." In the fourth case, 2559/12, an indictment was served against a minor who was charged with damaging a cultivated tree. The indictment was later withdrawn.
19 As explained in detail in Part B, circumstances suggesting investigative failure include files closed on grounds of "offender unknown" and "insufficient evidence." In the fourth case, 2559/12, an indictment was served against a minor who was charged with damaging a cultivated tree. The indictment was later withdrawn.
20 Details regarding Vandalism of Palestinian owned Trees 2005-2014
21 The map below details the incidents of vandalism of Palestinian owned trees documented by Yesh Din over the years, by Palestinian community. The number of incidents documented in a community is indicated next to it. Clicking on the number brings up a table listing the dates of the incidents, a brief description of them and the status of the police investigation at the time of publication. Click on the table to close it.
22 As the map demonstrates, in some areas, the number of incidents is particularly high. These localities are known to individuals and agencies that are familiar with the area, including military and law enforcement agencies, as constant friction zones, where much of the ideologically motivated crime against Palestinians and their property takes place, including tree vandalism. The fact that these offenses continue to be committed in these crime-prone areas, along with the Israeli Police high failure rate in investigating incidents after the fact provide more proof of the incompetency of law enforcement agencies in the West Bank and Israel's abdication of its obligation to protect the area's residents.
23 One file was closed on grounds of "lack of public interest." In one case, the SJ District Police concurred with Yesh Din's findings on the location of the incident.
24 The cumulative data shows that of the 246 investigation files opened by the SJ District Police following Palestinian complaints during this time, which is clearly much higher.
25 Details regarding Vandalism of Palestinian owned Trees 2005-2014