



A Semblance of Law

Law Enforcement
upon Israeli Civilians
in the West Bank

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June 2006

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Acronyms

DCO District Coordination Office

HCJ High Court of Justice

IDF Israel Defence Forces (Israeli Army)

MPCID Military Police's Criminal Investigation Division (responsible for criminal investigation of IDF soldiers).

OPT Occupied Palestinian Territory

SJ Samaria and Judea (reverse acronym for an Israeli term for the West Bank– Judea and Samaria - used in the name of the West Bank police)

Report's Summary

Since the 1980's many reports have been published on law enforcement upon Israelis in the Occupied Palestinian Territory. All of the reports – whether published by official government bodies or produced by human rights organizations – warned against the failure of the authorities to enforce the law effectively upon Israeli offenders, especially those who committed offenses against Palestinian civilians. The conclusion that arises from all the reports is serious: Israel is abusing its obligation to defend the Palestinian civilian population in the OPT against the criminality of Israeli civilians. Years have gone by, committees have been established, recommendations have been made, and governments have come and gone – yet the problem of attacks against Palestinian people and property by Israelis has only grown worse, becoming a daily occurrence.

In March 2005 **Yesh Din - Volunteers for Human Rights** was established. Yesh Din (Hebrew for “There is Law”) volunteers decided upon its foundation that the organization’s first project would be an examination of law enforcement procedures upon Israelis who harass Palestinians in

the West Bank. The main goal of the project is “**to strengthen law enforcement proceedings relating to Israelis in the West Bank.**” As part of the project, the Yesh Din volunteers are attempting to help bring those responsible for attacks to justice, while at the same time examining the actions of the authorities and seeking to identify the reason for the failings in this field, as pointed out by the aforementioned governmental and non-governmental reports. Yesh Din adopted a unique method. Teams of specially-trained volunteers visit Palestinian communities that report criminal behavior by Israeli civilians. The teams record testimonies from victims and witnesses, gather documents, photograph the places where incidents occurred, and, after completing their investigation, accompany victims to the police to file complaints and give evidence. Complainants who wish to do so authorize the legal advisor of Yesh Din to monitor the investigation of their case and, when necessary, to appeal against the closure of the investigation file.

Yesh Din's law enforcement project began in April 2005.

This report is based on the data base created by Yesh Din's work and its volunteers over the past year. The report is based on the investigations conducted by Yesh Din's volunteers and the organization's monitoring of the investigation files in the police's Samaria and Judea (hereinafter - SJ) District. The report's findings indicate a general phenomenon of absence of adequate law enforcement by the authorities upon settlers who commit offenses against Palestinians. The report documents serious faults in all stages of the law enforcement process. In the committing of offenses, IDF soldiers present on the scene show a grave tendency to ignore offenses (Chapter 3); in filing complaints, Palestinian complainants face physical and bureaucratic difficulties (Chapter 4); above all, the investigation stage shows faults in the examination of incidents, failure to implement the required investigatory steps, and sometimes an unwillingness to undertake even a cursory investigation (Chapter 5).

The report's findings are based on Yesh Din's monitoring of 92 investigation files opened at the SJ District of the Israel Police, the vast majority in 2005 and 2006, and a smaller number in the three preceding years. From January to November 2005, 299 investigation files were opened by the SJ District relating to offenses committed by Israeli civilians

against Palestinians. Accordingly, the sample forming the basis of this report is extensive, and enables the drawing of valid conclusions regarding the overall response of the SJ District to this type of offense

- **More than 90% of the complaints and files in which the investigation was completed were closed without indictments being submitted.**
- **96% of the files on trespassing (including all the cases of harming trees) in which the investigation was completed were closed without indictments being submitted.**
- **100% of the property offenses in which the investigation was completed were closed without indictments being submitted.**
- **79% of the assault files in which the investigation was completed were closed without indictments being submitted.**
- **About 5% of the complaints filed were lost and apparently were never investigated.**

In addition to collecting data and producing statistical findings, Yesh Din closely studied 42 investigation files that were closed. In more than half of the cases Yesh Din identified failures and faults in the investigation, for which the organization submitted appeals against the decision to close the files.

The main failures found are:

- The complaints and testimonies were written in Hebrew rather than Arabic – the language in which they were given.
- The police investigators rarely went out to the scene of the offense, and in cases when they did arrive at the scene, there were failures in documenting the scene.
- In many cases testimony was not taken from key witnesses, including suspects and Palestinian and Israeli eyewitnesses of the incident.
- Live identification lineups with Israeli civilian suspects were hardly conducted in the SJ District.
- There were hardly any confrontations between complainants and suspects: of the investigation files examined by Yesh Din, such a confrontation was carried out by police investigators in only one file.
- In none of the files examined by Yesh Din, in which the suspects made alibi claims, were the claims checked before the investigation file was closed.
- The contents of about one third of the investigation files were very thin, and indicated a hasty closure of the file, shortly after the complaint was received.
- In several cases it was decided to close an investigation file, even though the material that accumulated in the file apparently indicated sufficient evidence for

indicting suspects.

- An examination of files that were closed for reasons of “No Criminal Culpability” raised doubts as to the decision to close those files for that reason, considering they were subject to insufficient investigations.

Elaboration of the findings as to faults in investigations appears in Chapter 5 of the report.

The report also includes figures derived from a cross-checking of reports Yesh Din conducted from various sources. It did so in order to arrive at a realistic evaluation of the extent of criminality by settlers against Palestinians during 2005. The examination showed that in 2005 human rights organizations operating in the West Bank received reports of at least 522 separate incidents of abuse by Israeli civilians. In two of the events five Palestinians were killed, and in 89 of them the injury of one person or more was reported. The reported incidents can be divided into three main categories: property damage, incidents on the background of trespassing and land disputes, and various assault incidents.

The report indicates the structural difficulties in the SJ District’s work, which is responsible for investigating offenses by Israelis in the West Bank. Geographically, it is the biggest district

in the Israel Police, whose jurisdiction covers 5,500 km/sq. 1,100 policemen serve at SJ District in operational and administrative positions: 0.48 police per 1,000 residents. Only 5.67% of the Israeli police force serves in the district, and its budget is only 2.5% of the overall budget of the Israel Police. Besides the shortage of human resources and budget, the report reveals several other structural problems in the district's functioning, when it comes to the investigation of complaints filed by Palestinians against Israeli civilians.

First of all, the district is located in an occupied territory, where the army represents the powers of the sovereign. The accountability of the SJ District to the IDF sometimes leads to the intervention of IDF officers or IDF Civil Administration officials in police investigations. Secondly, due to the security situation in the West Bank, the district investigators depend on military escorts when going to an incident scene. Sometimes an escort is not possible at all, and at other times it is provided too late. Thirdly, the complex relationship between the police and the Israeli civilians who live in the West Bank also raises problems. Moreover, the relationship between the police and the Palestinian population of the West Bank also makes effective police activity difficult.

The meager human resources in the SJ District and the limited financial resources at its disposal do not allow for permanent police presence in areas known for friction between settlers and Palestinians. IDF soldiers are often the ones present on the ground at the time of an incident, or arrive shortly after it occurs. However, it appears that the IDF soldiers do not even know the military orders that require them to intervene in cases when Israeli civilians attack Palestinian civilians, to detain the assailants or arrest them. In addition, the IDF does not monitor the cases in which soldiers did intervene, nor does it monitor disciplinary or criminal action against soldiers who operated against orders that obligate them to protect the Palestinian civilian population in the West Bank.

As noted, Yesh Din volunteers regularly accompany those complainants who are interested in filing a complaint with the SJ District police units in order to make sure their complaints are received. The report points to the difficulties confronted by Palestinians who wish to file a complaint in the SJ District including complainants who discover only when they arrive at the District Coordination Office that the policeman who is supposed to be there is absent; police who refuse to receive complaints; and pressures by elements in the Civil Administration to avoid filing complaints.

One of the troubling findings of the report is that at least five percent of the complaints which Yesh Din monitored were lost, and were apparently never investigated at all. Moreover, many complaints that were filed with the SJ District, and which should have been transferred to the treatment of the Military Police's Criminal Investigation Division, were also lost.

Report's Recommendations

Recommendations for the IDF

1. The IDF must define for its soldiers who serve in the West Bank the protection of the Palestinian civilians and their property against the violence of Israeli civilians as a permanent and key mission.
2. The IDF's regional divisions in the West Bank must define in their standing orders assistance to SJ District investigations as a permanent and key mission.
3. The IDF must regularly and frequently allocate forces for patrols in known areas of friction between settlers and Palestinians, with the purpose of ensuring the security of Palestinian civilians.
4. The IDF must brief its soldiers serving in the West Bank regularly on the rules of the "Law Enforcement Procedure" as

to their obligation to intervene in cases that settlers assault Palestinians and/or their property.

5. The IDF must clarify for its soldiers that they have the power to arrest Israeli civilians suspected of assaulting Palestinians, and if necessary take the suspects for continued processing to the nearest police station.
6. The IDF must conduct investigations of incidents in which IDF soldiers were present when Israeli civilians harmed Palestinians and/or their property, and ensure that the soldiers who were witnesses to such events give testimony to the police, and take measures against soldiers who don't comply with the Law Enforcement Procedure directives.
7. The IDF must set standards to examine the level of performance of the Law Enforcement Procedure, on a unit basis.
8. The Central Command should keep regular records and monitor cases when IDF soldiers detained Israelis suspected of assaulting Palestinians and their property, and in which they transferred them to the police.
9. The Military Police's Criminal Investigation Division should maintain constant contact with the

SJ District and receive permanent reports of incidents in which IDF soldiers stood by doing nothing during violent incidents on the part of soldiers and abused their obligation to defend Palestinian civilians. Following such reports the MPCID should initiate, shortly after the incidents, investigations of the behavior of the soldiers and commanders. The conclusions of the MPCID's investigations should lead to a decision by the Central Command prosecutor, for the purpose of criminal or disciplinary prosecution, depending on the circumstances of the matter.

Recommendations for the Police:

A: Recommendations for Recording Complaints

1. The police force at the DCOs should be reinforced, so that the needs of Palestinian complainants are met at all times.
2. The supervision and monitoring of complaints submitted at the DCOs should be reinforced, to ensure that every complaint filed at a DCO does reach the relevant investigation unit.
3. The SJ District patrol officers should be instructed to record complaints in the field from anyone interested, in accordance

with section 2 of the National Headquarters Order 14(1)(1), rather than directing complainants to the police station, except for the completion of their testimony, as needed.

4. Palestinian complainants who wish to should have direct access to the investigation units in the SJ District.
5. SJ District investigators should be instructed not to demand complainants produce land measurement maps, whose production involves a heavy financial expense, as a condition for recording their complaint and investigating it. In cases the Civil Administration does not have updated maps of contended land, it should be the Civil Administration's duty to conduct a current mapping, at its expense.

B: Recommendations on Faults in Investigations

1. Supervision of investigations in the SJ District should be tightened, to ensure the completion of investigations about Israeli civilians assaulting Palestinians and their property. Files that are closed without prosecution should be transferred to the audit of a District Attorney office.
2. It should be established that the

investigation of files of assault and other serious offenses be accompanied by a lawyer from a District Attorney office.

3. Policemen who receive complaints and SJ district investigators should be instructed to write the testimonies of the complainants and witnesses in the language in which they were given.
4. Strictly adhere to the use of

live identification line-ups for the identification of suspects by complainants. The use of photo line-ups as a main and almost exclusive tool for the identification of suspects should be stopped⁵.

5. Coordinatio between the SJ District and the IDF regional divisionsm should be tightened, to ensure military escorts to incident scenes shortly after the event.

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Introduction

In January 2006, a public storm erupted in Israel after reports appeared in the media of the widespread Israeli settler felling of olive trees belonging to Palestinians. At a cabinet meeting, the Attorney-General commented that “there is a feeling of lawlessness and a sense that violence is prevailing.” He added: “This phenomenon is part of a much broader one: the lack of proper law enforcement upon Israelis in the Judea and Samaria Area.”¹ At the same meeting, the minister of defense noted that “this is a worrying and very serious phenomenon and one that reflects a wide range of attacks on the Palestinian population... We must intensify our attention to law enforcement and order in this context.”² The acting prime minister remarked that “the felling of olive trees is a despicable act, and steps must be taken to attend to this matter with full force and without hesitation or compromise.”³

Some six months later, not a single suspect has been prosecuted for damaging olive trees.

The problem of the (non-) enforcement of the law upon Israelis who harm Palestinians and Palestinian property in the West Bank did not begin last January. Since the early 1980s, numerous reports on the matter have been prepared by both government bodies and human rights organizations. Their conclusion has been unanimous: Israel is failing in its obligation to protect the civilian Palestinian population in the OPT against violence at the hands of Israeli civilians. Years have gone by, committees have been established, recommendations have been made, and governments have come and gone – yet the problem of attacks against Palestinian people and property by Israeli civilians has only grown worse, becoming a daily occurrence.

Attacks by settlers against Palestinians form part of the general wave of violence prevailing in the OPT. According to B'Tselem figures, since the outbreak of the first Intifada in December 1987 and through mid-May 2006, some 6,500 people have

1. Ministry of Justice (press release), *Comments by the Attorney-General on the Phenomenon of the Felling and Uprooting of Palestinian Olive Trees in the Judea and Samaria Area*, January 8, 2006.

2. Prime Minister's Office, *Announcement of the Government Secretary after the Cabinet Meeting*, January 8, 2006.

3. *Ibid.*

been killed in hostile actions in Israel and in the OPT: 1,427 Israelis, 5,009 Palestinians, and 60 foreign citizens.⁴

Although violent incidents are commonplace in the OPT, only rarely (as in the case of the attacks on olive trees) do attacks on Palestinians by Israeli civilians receive public attention. The actions of the law enforcement agencies in this area are even less visible.

In March 2005, a human rights organization called **Yesh Din – Volunteers for Human Rights** was established. After Yesh Din (Hebrew for “There is Law”) was founded, the volunteers decided that the first project would be to examine law enforcement upon Israelis who harass Palestinians in the West Bank. The main goal of the project is **“to strengthen law enforcement proceedings relating to Israelis in the West Bank.”** As part of the project, Yesh Din volunteers attempt to help bring those responsible for attacks to justice, while at the same time examining the actions of the authorities and attempting to identify the reason for the failings in this field. Yesh Din chose to adopt a unique method. Teams of specially-trained volunteers from the organization visit Palestinian communities that have reported criminal behavior by Israeli civilians. The teams record testimonies

from victims and witnesses, gather documents, photograph the places where incidents occurred, and, after completing their investigation, accompany victims to the police to file complaints and give evidence. Complainants who wish to do so can authorize the legal advisor of Yesh Din to monitor the investigation of their case and, when necessary, appeal against the closure of the investigation.

The testimonies gathered by the volunteers are examined and compared by a team that specializes in the examination of evidence. Only after these have been found reliable are they forwarded to the legal advisor of Yesh Din, who contacts the police on behalf of the complainant and on behalf of Yesh Din and monitors the processing of the investigation. When cases are closed without any action being taken against suspects, Yesh Din examines the investigation files. If the examination shows that the case was closed without the investigation having been exhausted, or if the case seems to include evidence enabling the prosecution of suspects, the organization files an appeal against the closure.

This report is based on the data base created through the work of Yesh Din and its volunteers over the past year. The report reflects the investigations

4. For further details and comments on the statistics, see the B'Tselem website: www.btselem.org.

undertaken by the organization's volunteers and the monitoring of the investigations instigated in the Samaria and Judea (hereinafter - SJ) District of the Israel Police. In general terms, the report reflects a lack of proper enforcement against criminal activities by settlers directed at their Palestinian neighbors. The report reveals serious faults in all stages of the law enforcement process. In the committing of offenses, IDF soldiers present on the scene show a grave tendency to ignore offenses (Chapter 3); in filing complaints, Palestinians face physical and bureaucratic difficulties when they attempt to file complaints (Chapter 4); above all, the investigation stage shows faults in the examination of incidents, failure to implement the required investigatory steps, and sometimes an unwillingness to undertake even a cursory investigation (Chapter 5).

The findings of the report are based on monitoring by Yesh Din of 92 investigation files opened by the SJ District of the Israel Police – the vast majority in 2005 and 2006, and a smaller number in the three preceding years. From January to November 2005, 299 investigation files were opened by the SJ District relating to offenses committed by Israeli civilians against Palestinians.⁵ Accordingly, the sample forming the basis of this

report is extensive, and enables the drawing of valid conclusions regarding the overall response of the SJ District to this type of offense.

The report shows that at least ninety percent of investigations by the SJ District relating to offenses committed by Israeli civilians against Palestinians had no practical outcome. In addition to statistical monitoring, Yesh Din has attempted over recent months to analyze the systemic faults within the relevant authorities, by examining investigation files closed by the SJ District. The findings of this examination are detailed extensively in Chapter Five.

In the concluding report of the Shamgar Commission, which was established following the massacre committed by Baruch Goldstein in the Cave of the Patriarchs in Hebron, the official commission commented on figures collected by a monitoring team in the State Attorney's Office relating to police attention to attacks on Palestinians and Palestinian property by Israeli civilians. The commission expressed its regret that the findings of the monitoring team were based solely on a statistical analysis, without "specific review of the closed investigation files in order to prevent groundless decisions – if any such occurred – and in order to influence,

5. From a letter to Yesh Din from Superintendent Yaron Shetrit, Assistant to the Head of the Investigations Division in SJ District, May 14, 2006.

by virtue of the very establishment and presence of a supervisory and reviewing body, the quality of the decisions made in concrete cases.”⁶ In an effort to respond to this expression of interest on the part of the Shamgar Commission, the present report examines the faults that have been identified in police investigations **based on an examination of the actual investigation files.** This is the first time that such a detailed examination has been made public. The findings of the report reflect recurring faults in the investigations undertaken by the SJ District, leading to the closure of the majority of investigations instigated following attacks on Palestinians by Israeli civilians.

Anyone who wishes to examine the reasons for the atmosphere of “prevailing violence” alluded to by the Attorney-General will find those reasons here, in the functioning of the investigators in the SJ District. Naturally, the problem of inadequate

law enforcement in the OPT does not begin and end with the IDF and the police. The former head of the Civil Administration, General Ilan Paz, noted in an interview for Ha’aretz that “over the years, restraint has been shown in the face of settler violence. All the enforcement systems have shown such restraint, from the most junior of policemen to the most senior of judges.”⁷ This report does not address the faults in the actions of other agencies involved in enforcing the law in the West Bank: The Prosecutions Unit of the SJ District, the State Attorney’s Office, and the courts. A separate report will be devoted to these bodies. The current report focuses on the first three links in the chain of law enforcement in the OPT: The IDF forces and the manner in which they respond to violent acts against Palestinians by Israeli civilians in the West Bank; the process of filing complaints at police stations and DCOs; and the investigation by the police of the complaints filed.

6. Meir Shamgar (chair), *The Commission of Inquiry into the Massacre in the Tomb of the Patriarchs, Hebron 5754: Report*, Government Commission of Inquiry, 1994, pp. 243-244 (hereinafter – “the Shamgar Report.”)

7. Amos Harel, “Left in Time,” *Ha’aretz*, August 21, 2005.

Part I

Background on Law Enforcement in the West Bank

Chapter I Legal and Factual Background

I(a). The Occupier's Obligation to Protect Civilians Living in the Occupied Territory

Israel is the occupying power in the West Bank and, as such, it bears an obligation established both in the rules of international law and in the provisions of Israeli administrative law to enforce the law in the OPT. The provisions of international humanitarian law (also known as “the international rules of war”) define the obligations of the occupying power toward the population living in the occupied area. The most important and central of these provisions are the Hague Convention of 1907 and its annexed regulations, and the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949).⁸

Article 43 of the Hague Regulations authorizes the occupying power to manage the occupied territory in place of the sovereign, and, to this end, it is granted all necessary powers to maintain law and order in the

occupied territory. The article states that the occupier must take “all the measures in his power to [...] ensure [...] public order and safety.” Article 46 of the Hague Regulations adds that the occupier must respect “Family honor and rights, the lives of persons, and private property [...]” Article 27 of the Fourth Geneva Convention establishes that “Protected persons are entitled, in all circumstances, to respect for their persons, their honor [...] and shall be protected especially against all acts of violence or threats thereof and against insults [...]”

The occupying power (in our case – the IDF) thus bears a responsibility to impose order and security in the area, and to this end – and temporarily for the period of occupation – enjoys the various authorities that permit it to respect this obligation. The IDF must enforce the law, and thereby protect civilians living under its control. To this end, it is granted the powers of enforcement that were granted prior to the occupation to the Jordanian government and police. We must

8. The State of Israel considers that the Hague Regulations, but not the Fourth Geneva Convention, constitute a part of international customary law to which Israel is committed, and this position has been affirmed by the Supreme Court. For example, see HCJ 393/82 *Jam'iyat Iskan al-Mu'allimun al-Ta'awuniya al-Mahdudat al-Masuliya v Commander of IDF Forces in the Judea and Samaria Area*, Piskei Din 37(4) 785, p. 793.

emphasize again that **the obligation to enforce the law rests first and foremost with the IDF, as the occupying army and the sovereign in the occupied area. The IDF is entitled to delegate aspects of its authority, as it has indeed done, to other bodies such as the police; however, in any case the responsibility rests with the military commander. Accordingly, soldiers cannot argue that they are not empowered to undertake enforcement actions such as detaining Israeli civilians who injure Palestinians or Palestinian property. Not only are they entitled and empowered to do so – they are obliged to do so.**

The obligation imposed on the IDF as the occupying power by international law thus centers on the negative obligation to refrain from injuring the protected population and its property, but also includes a positive obligation to take all steps necessary in order to ensure the well-being of

this population and protect it and its property from violence from any third party, whether groups or individuals.⁹ The special protection established in Article 27 of the Fourth Geneva Convention (an article that is considered the foundation of the entire Convention and as the manifestation of its essence)¹⁰ and the clear provisions in Articles 43 and 46 of the Hague Regulations thus oblige Israel to provide the Palestinian population in the OPT with effective protection against settler violence.

The duty of the army to maintain order and protect the security of the civilian population in the OPT has also been recognized in Supreme Court rulings over the years.¹¹ In one ruling, the Supreme Court established that “maintaining and actually protecting order and security are, in accordance with public international law, among the central tasks of the military government.”¹² The responsibility for maintaining the rule of law in the

9. Hans-Peter Gasser, “Protection of the Civilian Population,” in Dieter Fleck (Ed.) *The Handbook of Humanitarian Law in Armed Conflict*. Oxford University Press, 1995, p. 248. See also HCJ 4764/04 *Physicians for Human Rights v Commander of IDF Forces in Gaza*, unpublished, para. 11.

10. Jean S. Pictet, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War*. Geneva, International Committee of the Red Cross, 1958, pp. 199-200.

11. See, for example: HCJ 69/81 *Abu Ita et al. v Commander of the Judea and Samaria Area*, Piskei Din 37(2) 197; HCJ 202/81 *Sa'id Mahmoud Tabib v Minister of Defense*, Piskei Din 36(2) 622, p. 629; HCJ 393/82 *Jam'iyat Iskan al-Mu'allimin al-Ta'awuniya al-Mahdudat al-Masuliya v Commander of IDF Forces in the Judea and Samaria Area*, Piskei Din 37(4) 785, pp. 803-804; HCJ 548/04 *Amana – Settlement Movement of Gush Emunim v Commander of IDF Forces in Judea and Samaria* [Pador (unpublished) 224 (3) 04], p. 3.

12. HCJ 358/88 *Association for Civil Rights in Israel v Commander of Central Command*, Piskei Din 43(2) 529, p. 539. For a further reference to the obligation of the military commander to ensure the security of the residents of the occupied area, see HCJ 10356/02 *Yoav Hess v Commander of IDF Forces in the West Bank*, [Pador (unpublished) 757 (3) 04], p. 7.

West Bank thus rests with the IDF, which has empowered the Israel Police by means of a military order to take part in law enforcement in the area.

I(b). Extent of Criminality by Israeli Civilians against Palestinian Civilians in the OPT

In the period between January – November 2005, 299 investigations were opened by the SJ District of the Israel Police relating to incidents in which Palestinians and/or Palestinian property were attacked by Israeli civilians.¹³ However, this figure is far from exhaustive. In truth, it is impossible to determine the full scope of violence by Israeli civilians against Palestinians and Palestinian property in the OPT. In some parts of the West Bank, such violent incidents are a daily occurrence, and the vast majority is not reported to the Israeli authorities, to Palestinian governmental bodies, or to non-governmental organizations monitoring this phenomenon. Palestinian residents refrain from reporting attacks by settlers for various reasons, including a lack of confidence in the law enforcement

system in the West Bank and fear of reprisals from settlers or security personnel against those who file complaints.¹⁴

In some cases, it has emerged that Palestinians have raised false accusations regarding attacks by settlers when those responsible for the incident were actually Palestinians.¹⁵

In other cases, complainants have given exaggerated accounts of the damage caused. Human rights organizations monitoring the phenomenon cannot always determine whether a given report is reliable or not. Despite these difficulties, it is possible to offer an estimated appraisal, albeit partial, of the scope of violence by Israeli civilians against Palestinians, based on the reports received by various organizations.

Number and Type of Incidents in 2005

In order to provide as precise a picture of the phenomenon as possible, Yesh Din collated reports of settler violence in 2005 as received

13. From a letter to Yesh Din from Superintendent Yaron Shetrit, Assistant to the Head of the Investigations Division in SJ District, May 14, 2006.

14. For a more detailed discussion of this aspect, see Chapter 2 below.

15. Thus, for example, on July 21, 2005, residents from the village of Qaryut (Nablus district) reported that they had found the body of a young child whom they claimed had been murdered by settlers. A joint investigation by the Palestinian police and the SJ District revealed that the child had actually been murdered against the background of an internal conflict in the village. Maan Palestinian news agency, *Commander of Palestinian Police: Motive for Killing of Child in Village of Qaryut Was Criminal*, July 21, 2005.

by the Association for Civil Rights in Israel, B'Tselem, Yesh Din itself, and the Palestinian Monitoring Group. It can be assumed that victims are less inclined to report relatively minor incidents; accordingly, these figures should be regarded as a minimum.

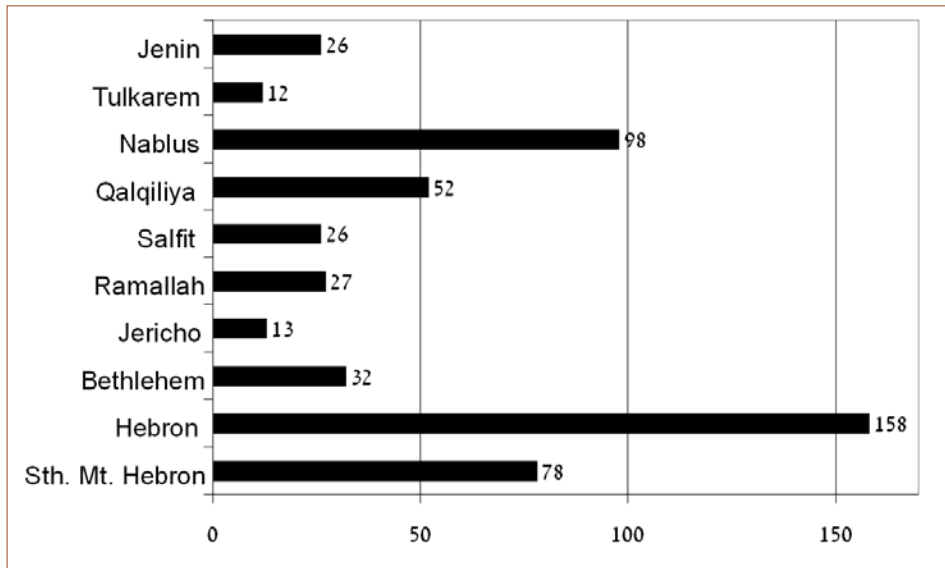
According to the collated figures, at least 522 separate incidents of violence by Israeli settlers against Palestinians were reported in 2005. In two of these incidents, five Palestinians were killed, including Mahayub Asi, a fifteen-year old resident of Beit Liqya, who died after being shot by a private guard employed at a worksite for the establishment of the separation barrier. The boy was in a grove belonging to his family at the time he was shot. Four other Palestinians were killed by their Israeli workmate, a resident of Shevut Rachel settlement. In 89 of the incidents, one or more people were injured.

The reported incidents can be divided into three main categories: assault of various types; property damage; and offenses derived from land disputes and trespassing. Some incidents included several offenses belonging to different categories. These incidents were counted once only, and were classified according to the most serious offense that they included.

- 38 incidents of damage to property were reported in 2005, including arson, theft, and similar offenses.
- 159 of the reported incidents occurred in the context of trespassing and land disputes. These incidents include attempts by settlers to seize plots owned by Palestinians by fencing and farming the plot; denying Palestinian farmers access to their land or expelling them from their land at gunpoint; damage to olive trees and other trees and crops of Palestinians, and the likes.
- During 2005, 306 assaults were reported. These incidents included shooting, beating, assaults with cold weapons, armed robbery, and stone-throwing at people, houses, and cars.
- Other incidents: 19 cases involved incidents such as the killing of Palestinian livestock, threats, roadblocks, and so on.

Manifestations of violence by Israeli civilians against Palestinians are not limited to any particular part of the West Bank. However, the collated reports show that the vast majority of such incidents were reported from the Nablus area (98 incidents), the southern Hebron Mountains (78), and the city of Hebron and its environs (158). Diagram I shows the geographical distribution of events reported in 2005.

Diagram 1: Incidents Reported in 2005, by Region¹⁶



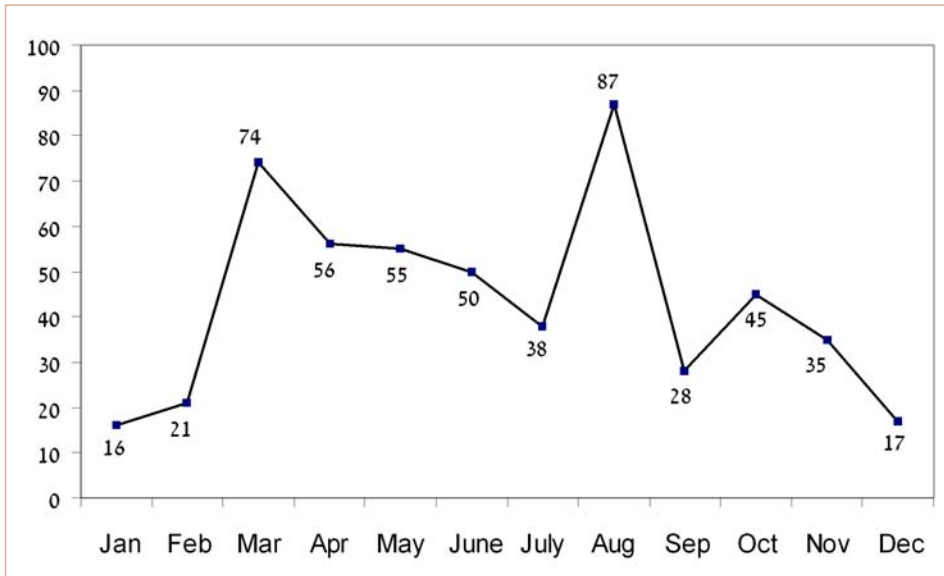
The *Disengagement* was a major event in 2005. The campaign by Israeli civilians – settlers and others – against the withdrawal of IDF forces from the Gaza Strip, and the eviction of the settlements from the Gaza Strip and northern West Bank, included, among other phenomena, an increase in the number of acts of violence by Israeli civilians against Israeli security personnel and Palestinians. The disengagement formed the background to the murder of four Palestinians on August 17, 2005 by a

resident of the settlement of Shevut Rachel, with the goal of halting the disengagement.¹⁷ Indeed, the figures show that August 2005 was the worst month in terms of the scale of violence by Israeli civilians against Palestinians in the West Bank. Diagram 2 shows the monthly breakdown of events reported in 2005. To exemplify the phenomenon, Appendix A provides details of the reports received relating to July 2005 – a month that did not yield a particularly high rate of incidents of settler violence.

16. Source: Association for Civil Rights in Israel, B'Tselem, Yesh Din, Palestinian Monitoring Group.

17. Tal Rosner, "Indictment Served against Terrorist Asher Weissgan," *Ynet*, August 31, 2005.

Diagram 2: Incidents Reported in 2005, by Month¹⁸



The SJ District of the Israel Police is responsible for investigating offenses committed by Israeli civilians against Palestinians in the West Bank. The

next chapter reviews the history of the SJ District and examines structural aspects relating to its function and work.

¹⁸ Source: Association for Civil Rights in Israel, B'Tselem, Yesh Din, Palestinian Monitoring Group.

Chapter 2 The SJ District Police: Background and Structural Problems

The Israel Police has operated in the West Bank since 1967 on the basis of an order issued by the commander of IDF forces in the area immediately after the end of the Six Day War. The Order Regarding Police Forces Acting in Cooperation with the IDF (West Bank Area) (No. 52), 5727-1967, granted police personnel serving in the West Bank the authorities granted to any soldier in the OPT under the Proclamation Regarding the Enactment of the Order Regarding Security Provisions (West Bank Area) (No. 3), 5727-1967,¹⁹ or under the terms of any order or proclamation issued or that would be issued in the future by the military commander. Israel Police personnel were also granted the authorities granted to police personnel in the West Bank in by law as of June 7, 1967.²⁰

From 1967 through 1994, the Israel Police operated in the West Bank in two sub-districts, accountable to existing districts within the police structure. The Judea Sub-District, with four police stations, was under

the authority of the Southern District of the Israel Police, while the Samaria Sub-District, also including four police stations, was under the authority of the Northern District.²¹ In 1994, the police forces in the West Bank were united under a new district, the SJ District (see below).

2(a). The Karp Report

In April 1981, Attorney-General Yitzhak Zamir appointed a “coordinating committee” charged with examining the investigation of offenses committed by Israeli civilians against Palestinians in the West Bank. The appointment of the team came in response to a call from lecturers of law at Israeli universities, who complained of faults revealed in police investigations in these areas. The lecturers’ letter emphasized the obligation of the authorities to investigate any suspicion of offenses, and to locate and prosecute the offenders, “with complete disregard for their identity, nationality, or the personal motives behind their

19. The order regarding security provisions was amended repeatedly, and in 1970 was enacted separately, as an order rather than as an appendix to a proclamation: *Order Regarding Security Provisions (Judea and Samaria) (No. 378), 5730-1970*.

20. See State Comptroller, *Annual Report 52A*, p. 180.

21. Shamgar Commission, p. 166.

action.”²² The signatories to the letter expressed their concern that the reluctance to instigate investigations, or the closure of investigations at an early stage, was often due to pressure applied by the leaders of the settlers to the investigators or even at higher echelons.

The Deputy Attorney-General at the time, Attorney Yehudit Karp, was appointed to head a team that also included the Jerusalem District Attorney, the legal advisor to the Judea and Samaria Area Command, and the head of the Prosecutions Desk in the Israel Police. The letter of appointment empowered the team to propose procedures and instructions relating to investigations and legal action against Israelis in the West Bank suspected of offenses that “are not purely criminal, but which have an affinity to the relations with the Arab residents.”²³

In May 1982, the team submitted its report (hereinafter – “the Karp Report”) to the Attorney-General. In the report, the team also addresses the subject of offenses committed by IDF soldiers in the West Bank, but focuses on police investigations relating to offenses committed by

Israeli civilians against Palestinians and Palestinian property.

The report established that of 70 investigation files examined, only in 15 cases was the investigation fruitful, leading to the transfer of the file to the prosecution with the recommendation that the suspects be indicted.²⁴ The team found that, in general, the police launched investigations only in cases of disorder when a complaint was filed; incidents where no complaint was filed were not investigated. The team formed the impression that Palestinian residents often refrain from filing complaints, both due to concern that they will suffer as a result, and due to their lack of confidence in the Israeli law enforcement system. The report also noted:

“There is undoubtedly a direct correlation between the large proportion of investigation files that are ultimately closed, and the large number of investigation files where processing is extremely protracted, and the tendency to waive the right of complaint. The situation reflects a vicious circle whereby incidents are not investigated, on the grounds of the absence of complaints, while

22. Yehudit Karp (chair), *The Investigation of Suspicions against Israelis in Judea and Samaria – Report of the Monitoring Team*, Ministry of Justice, 1982, p. 2.

23. *Ibid.*, p. 1.

24. *Ibid.*, p. 1.

complaints are not submitted due to the absence of proper investigation. The rule of law and public order certainly gain nothing from this state of affairs.”²⁵

The monitoring team also determined that the closure of investigation files on the grounds “Perpetrator Unknown” – which applied to approximately half the total number of closed files in the sample – was exceptional and unreasonable. Attorney Karp noted in the report that there was a direct connection between inadequate investigations (opened late, protracted, or ones in which a proper effort was not made to locate the suspects) and the high number of cases closed and marked “Perpetrator Unknown.”²⁶

Additional phenomena identified in the Karp Report include a failure by IDF soldiers who witnessed offenses against Palestinians by Israeli civilians to stop these offenses,²⁷ and the use of weapons supplied to Israelis in the OPT by the IDF for the purpose of self-defense in the context of what was termed “the unlawful usurping of

authorities.”²⁸ In this context, Attorney Karp noted patrols by settlers outside the area of settlements, during which they used weapons without authority and contrary to the army regulations.

In general, the monitoring team gained the impression that police investigations relating to offenses committed by Israeli civilians against Palestinians “were undertaken in an ambivalent manner;”²⁹ in part since the police personnel did not consider the suspects to be offenders “in the ordinary sense” of the term, and due to the fact that sources within the military government involved in the investigations supported the suspects.

The report found that the picture revealed “cannot be justified or explained solely on the basis of general constraints.”³⁰ Rectifying the faults found in police investigations into offenses committed by Israeli civilians against Palestinians required “a strengthening of attention to the concepts of the rule of law in its widest and deepest sense,”³¹ concluded the Karp Report.

25. *Ibid.*, p. 26.

26. *Ibid.*, p. 27

27. *Ibid.*, p. 25.

28. *Ibid.*, p. 30.

29. *Ibid.*, p. 28.

30. *Ibid.*, p. 8.

31. *Ibid.*, p. 33.

2(b). The Recommendations of the Shamgar Commission

The Karp Report did not lead to any substantial improvement in the law enforcement situation in the OPT. Approximately one year after the submission of the report, Attorney Karp wrote to the Attorney-General, noting that "no real action has been taken to draw the necessary conclusions from the report, and it has been left on the shelf."³² This letter from Attorney Karp led to an exchange of correspondence and discussions between various political and legal figures. This process continued for years, but did not lead to any change in the way the law was enforced in the West Bank. Evidence of this fact can be found in the report of the official commission established following the massacre of Muslim worshippers at the Cave of the Patriarchs by Baruch Goldstein (the Shamgar Commission). This report, submitted in 1994 – twelve years after the Karp Report – included an extensive review of the failure of law enforcement agencies to implement Attorney Karp's conclusions and those of the monitoring team, which continued its activities under her leadership.³³

The Shamgar Commission recommended a series of reforms in the field of law enforcement in the West Bank, principally the centralization of responsibility for investigative procedures and the authority to instigate such procedures in the hands of the Israel Police. The report also recommended that the police be allocated sufficient personnel to implement its task, and that procedures be established for coordination between the IDF and the police in order to supervise police personnel in performing their tasks and ensure the exchange of information on offenses between the two bodies. A further recommendation was that arrangements be made to facilitate the execution of investigations by the police. The commission proposed that disturbances by Jews should be handled by police forces, rather than soldiers, and that the possibility be examined of establishing a police post in each of the main Jewish settlements in the West Bank.³⁴

The conclusions of the Shamgar Commission encouraged rapid action in two fields that had previously been the subject of unhurried attention: the establishment of coordinated procedures for law enforcement

32. Quoted in the Shamgar Report, p. 173.

33. Shamgar Report, pp. 169-191.

34. *Ibid.*, pp. 250-251.

relating to Israeli civilians in the West Bank (see Chapter 3), and the establishment of the SJ District of the Israel Police.

2(c). The SJ District

On June 24, 1994, two days before the publication of the Shamgar Commission Report, the commander of the Galilee Region of the Israel Police, Lt.-Cmdr. Alik Ron, was summoned urgently to the office of Commissioner Asaf Hefetz. Lt.-Cmdr. Ron was informed of his promotion to the rank of Commander, and his appointment as the commander of a new district, the sixth in the Israel Police: The Judea and Samaria District.³⁵

The hasty decision to establish the Judea and Samaria District, whose Hebrew name was later changed to the Samaria and Judea District (creating the Hebrew acronym SHAI, meaning *a gift*) was made after it became apparent that the Shamgar Commission would recommend a significant improvement in the work of the police in Hebron, in particular, and in the West Bank in general. However, the establishment of a separate district to deal exclusively with the West Bank was not recommended by the commission, but was the decision of then Minister of Police Moshe Shahal.

Even before the massacre by Goldstein, Shahal supported the establishment of a sixth district within the Israel Police, to be known as the Autonomy District, responsible for the West Bank and Gaza Strip. The commissioner in this period, Rafi Peled, was opposed to “the uncontrolled expansion of the police force.”³⁶ Accordingly, a compromise was reached whereby a coordinating command would be established for the Shimshon region (Gaza), Judea, and Samaria, to be known by the acronym “the SJS Command”. The command was supposed to coordinate the work of the sub-districts in the OPT, and also included the Police Mechanism for Coordination and Cooperation, which was established to coordinate the work of the Israel Police with the Palestinian Police. After Hefetz was appointed commissioner in place of Peled, and against the background of the conclusions of the Shamgar Commission, Minister of Police Shahal managed to unify the sub-districts of Samaria and Judea, and transform the proposed command into a fully-fledged police district.³⁷ The sub-districts of Judea and Samaria became regions, and the new district was also given responsibility for the Border Crossings Unit, which included Vered Yericho and Allenby Bridge. In addition, a central unit and special

35. Nachman Gilboa, “The Blue and the Green,” *Al Hamishmar*, June 29, 1994.

36. *Ibid.*

37. *Ibid.*

patrol unit³⁸ were also established, and in 2002 a special intelligence team was created.³⁹

As distinct from the police districts within the territory of the State of Israel, the SJ District is accountable to two bodies. In professional terms, it is accountable to the Israel Police, which also provides its budget; in operational and command terms, the district is accountable to the Commander of IDF Forces in the West Bank.⁴⁰

2(c)(1). Geographical Deployment

The SJ District currently includes two regions – the Samaria Region (with a command center in Ariel), and the Judea Region (with a command center in Hebron). In addition, two police stations operate in the district, Binyamin Station (in Bet El) and Ma'ale Adumim. The district headquarters are based at Ras Al-Amud in Jerusalem, and are due to be transferred in the future to the "EI" area between Ma'ale Adumim and Jerusalem.

A number of police posts operate throughout the district: At Megilot

(the post is affiliated to the Ma'ale Adumim station), in Gush Etzion, at the Cave of the Patriarchs (Hebron region), in Immanu'el, and in Ma'ale Efrayim (Samaria region). In addition, small Community Police Centers function in other settlements.

Although Palestinians are not formally prevented from filing complaints at the police stations, in practice it is difficult for them to reach the stations, some of which are situated inside settlements, including the main investigative units in the district. Thus, for example, a Palestinian who wishes to file a complaint at the Samaria police station in Ariel must coordinate his arrival in advance, wait at a collection point outside the city, and be accompanied by a policeman to and from the police station. The investigations unit of the Binyamin Region police is situated in Sha'ar Binyamin industrial zone, and the Hebron police station is based in the Jewish neighborhood of Giv'at Avot in the city, although there is also a rear entrance via the Palestinian neighborhood of Ja'abri.

In an effort to facilitate the filing of complaints by Palestinians, police

38. Israel Police website, *Establishing a District*: http://www.police.gov.il/districtmain.asp?path=web_shay/mafinei%20mahoz%20shai.xml

39. Israel Police, *Annual Report 2003*, p. 108.

40. State Comptroller, *Annual Report 52A*, p. 180.

personnel were stationed at the District Coordination Offices (DCOs) around the West Bank, in Salim, Qalqiliya, Tulkarem, Grizim (Nablus), Ramallah, Etzion, Hebron, and Jericho. Among other functions, these police officers are supposed to receive complaints from Palestinians, record testimonies, and serve as a liaison between the complainants and the investigators responsible for examining their complaints. In many cases, however, the police officers who are supposed to be in the DCOs cannot actually be found there, and Palestinians who come to file complaints are forced to return. In other cases, grave faults have emerged in the processing of complaints filed at the DCOs (see Chapter 4).

2(c)(2). Personnel and Budget

Approximately 1,100 police employees serve in the SJ District – just 5.67 percent of the total number in the Israel Police.⁴¹

In a report prepared by Attorney Talia Sasson and submitted to then Prime Minister Ariel Sharon (hereinafter – “the Sasson Report;”) it was noted that the number of policemen in the SJ District is small relative to the enormous area included in the district – some 5,000 square kilometers. Moreover, personnel from the district are often sent to reinforce other districts.⁴² The level of 1,100 policemen was reached less than a year after the district was created.⁴³ Although the minister of police at the time stated that the aim was to reach the level of 2,500 policemen,⁴⁴ the actual number has remained at a similar level to this day.⁴⁵ According to Attorney Sasson, the result is a disparity between the scope of the task involved (addressing criminality in the district) and the personnel it is allocated.⁴⁶

The district directly serves over 310,000 people, including some

41. According to an Israel Police document, in 2005, there were 19,394 “policemen in blue.” This figure does not include Border Guard police. Source: Israel Police, *Press Briefing: Summary of the 2005 Work Year and Key Emphases for 2006*, p. 16. <http://www.police.gov.il/pdf/chiff.pdf>.

42. Talia Sasson, *Report on the Unauthorized Outposts*, submitted to the prime minister on March 9, 2005 (hereinafter – the Sasson Report), p. 266.

43. Itim, “Shahal: Police Stations in Judea and Samaria to Be Moved to Jewish Settlements,” *AI Hamishmar*, March 29, 1995.

44. *Ibid.*

45. According to Report 52A of the State Comptroller, the number of policemen in the district as of 2001 was 1,107. In 2002, the figure was 1,050. In a conversation, the Commander of the SJ District, Major-General Yisrael Yitzhak, stated that the number of policemen in the SJ District in 2006 was approximately 1,100. State Comptroller, *Annual Report 52A*, p. 180; Baruch Kra, “Walking on Eggs,” *Ha’aretz*, January 4, 2002; conversation between Yesh Din and the commander of the SJ District, March 23, 2006.

46. Sasson Report, p. 266.

246,100 Israelis⁴⁷ and 65,000 Palestinians living in Area C,⁴⁸ which is under full Israeli control. According to these figures, the number of policemen per 1,000 residents in the SJ District is 3.5, which is slightly above the national average (3.3 per 1,000).⁴⁹ However, alongside the IDF and the GSS, the SJ District is also responsible for responding to security offenses among the entire Palestinian population in the West Bank,⁵⁰ some 2,000,000 in number,⁵¹ and it is in this field that most of its investigations center. If the calculation is based on the total number of Palestinians and settlers living in the West Bank, the number of policemen in the SJ District is just 0.48 to every 1,000 residents.

In 2003, *Ha'aretz* correspondent Baruch Kra attempted to ascertain what the budget of the SJ District was. He was unable to obtain clear figures, since the budgets of the Israel Police are not divided by districts. His calculation, based on data received

from the National Headquarters of the Israel Police, suggested that the cost of the "blue" police in the SJ District was NIS 126 million. This calculation was based on an average monthly salary of NIS 8,000, and an additional cost of NIS 30,000 per policeman per annum (food, stationery, vehicles, telephones, protection, and so on). As noted, these figures do not include the operational costs of the Border Guard within the borders of the district.⁵²

We do not have figures on the total budget of the Israel Police in 2003, the year in which the *Ha'aretz* correspondent undertook his examination. In 2004, however, the total annual budget of the Israel Police was approximately NIS 6.5 billion, including pensions and development costs.⁵³ A comparison between the operating costs of the SJ District, as calculated by the *Ha'aretz* correspondent, and the salary and purchases component in the annual budget of the Israel Police for 2004

47. Figures from the Central Bureau of Statistics updated to December 2005 (temporary figures): http://www.cbs.gov.il/population/new_2006/table1.pdf.

48. Figure quoted as a Civil Administration estimate in Report 56A of the State Comptroller, p. 201.

49. Moshe Barda, *Background Document on the Priorities of the Israel Police*, Knesset – Research and Information Center, March 7, 2005, p. 1.

50. Although the district is also formally supposed to attend to criminal offenses committed by Palestinians living in areas B and C in the West Bank, actual attention to this area seems to be extremely limited.

51. Estimate of the Palestinian Central Bureau of Statistics, excluding the figures for the Jerusalem District of the Palestinian National Authority: http://www.pcbs.gov.ps/Portals/_pcbs/populati/demdl.aspx.

52. Baruch Kra, "NIS 400 Million a Year," *Ha'aretz*, September 23, 2003.

53. Amos Olizwer, *Economic Background Document on a Comparison between the Budgets of the Ministry of Internal Security, 2004-2005*, Knesset: Research and Information Center, January 31, 2005, p. 2.

(NIS 5,141,000,000) shows that the proportion of the budget allocated to the SJ District (not including the Border Guard) is just 2.5 percent of the total budget of the Israel Police.

The technical means available to the district are also very limited relative to the tasks it faces. For example, the number of patrol vehicles is exceptionally low relative to the area of the district, which is the largest district of the Israel Police. There are just seven patrol vehicles in the Samaria Region, while the Hebron Region, which extends from Bethlehem to the far south of the West Bank, has access to just three patrol vehicles⁵⁴

2(c)(3). Statistics on Investigations in the SJ District

Given the large geographical area covered by the district, and the number of Israeli and Palestinian residents under its responsibility, it is apparent that the level of

investigations is significantly lower than in the other districts of the Israel Police. In 2001-2004, the total number of investigation files (both "indictment details" and "no indictment" files)⁵⁵ opened in the SJ District accounted for an average of just four percent of the total number of investigation files opened in all the districts of the Israel Police.

Table I: Investigation Files Opened in the SJ District and in the Remaining Districts of the Israel Police, 2001-2004⁵⁶

Year	SJ District	Other Israel Police districts	Invest. Files in SJ Dist. as % of Total Invest. Files in All Districts
2001	18,741	468,220	3.85%
2002	18,713	463,922	3.88%
2003	18,830	479,184	3.78%
2004	22,813	490,280	4.45%

Most of the investigation files opened in the SJ District relate to security offenses by Palestinians: in

54. The figure was provided by the commander of the SJ District Police in a conversation with Yesh Din, March 23, 2006.

55. "Indictment detail" or ID files are investigation files opened after the receipt of complaints or information constituting prima facie evidence of a criminal offense. In accordance with Section 3(A)(2) of the National Headquarters Ordinance, 14(1)(1) ("Processing a Complaint and an Investigation File,") a police officer with the rank of superintendent or above is authorized not to investigate a complaint if the officer believes that there is no public interest in the investigation, or if another authority is empowered to investigate the offense. Such complaints are classed as "no indictment" or NI files.

56. The figures are taken from the Israel Police's Crime in Israel reports for 2001-2004, and do not include investigations opened by the national units of the Israel Police (as distinct from the districts).

2005, security offenses constituted 55 percent of the total number of investigation files opened in the District.⁵⁷ Some of the investigation files relate to “ordinary” criminal offenses by Israelis in the West Bank, and only a tiny minority relates to what are known in the district as “disturbances” by Israelis – a term that refers to attacks by Israeli civilians both against Palestinian residents and their property and against the Israeli security forces – the IDF and the Police. These investigations are mainly the responsibility of investigators who belong to the “Disturbances Teams” – investigatory teams that address “disturbances” by Israelis.

As noted, the figures for “disturbances” files in the table include both attacks by Israeli civilians against Palestinians and cases in which complaints were filed following attacks by Israeli civilians against the security forces. According to the Investigations and Intelligence Division Officer in the SJ District, the district does not make any formal distinction between attacks by Israeli

civilians on Palestinians and attacks on security personnel.⁵⁸

Despite repeated efforts, Yesh Din has been unable to receive overall figures from the Israel Police relating to the number of investigation files opened in recent years on account of attacks by Israeli civilians on Palestinians and Palestinian property (separate from the figures for attacks by Israeli civilians on Israeli security personnel), and on the results of the processing of these cases.⁵⁹ However, a senior investigations officer in the SJ District estimates that 80-100 investigation files opened each year and classed as “disturbances” files relate to attacks by Israelis against the security forces; the remainder relate to attacks against Palestinians and their property.⁶⁰

The Commander of the SJ District, Commander Yisrael Yitzhak, told Yesh Din that in 2005, there was an increase in the number of “disturbances” files opened, to a level of approximately 800. Most of these

57. This figure was provided by Assistant-Commander Uri Weisskop, Investigations and Intelligence Unit Officer in the SJ District, in a conversation with Yesh Din on March 23, 2006.

58. This comment was made by Assistant-Commander Uri Weisskop, Investigations and Intelligence Unit Officer in the SJ District, in a conversation with Yesh Din on March 23, 2006

59. Repeated requests to the Freedom of Information Officer in the Israel Police yielded only partial results, including the number of “overt” files only (i.e. files in which the police believes that it has identified suspects). These figures do not include cases closed on the grounds “Perpetrator Unknown,” and do not represent the overall processing by the SJ District of complaints filed by Palestinians relating to attacks by Israeli civilians.

60. The comments were made in a conversation with Attorney Michael Sfar on May 11, 2006.

files were opened following attacks by demonstrators against security force personnel in the context of the IDF withdrawal from the Gaza Strip and the eviction of a number of settlements in the north of the West Bank.⁶¹

Table 2: “Public Disturbance” Files in the SJ District, 2001-2004⁶²

Year	No. of Investigation Files opened	No. of “Disturbances” Investigation Files Opened	“Disturbances” Files as % of Total Investigation Files Opened
2001	18,741	537	2.87%
2002	18,713	476	2.54%
2003	18,830	350	1.86%
2004	22,813	511	2.24%

2(d). Structural Problems in the SJ District

Police Accountability to the IDF

Unlike the situation in the State of Israel, where police operations are the sole responsibility of the commissioner, the SJ District is

accountable in command and operational terms to the Commander of IDF Forces in the West Bank. As a result, the police continues to be dependent on the IDF in many of its operations, although it is no longer dependent in budgetary terms (in the past, the police budget in the area was provided by the Civil Administration).

The relations between senior IDF officers in the West Bank and the leaders of the settlers are also manifested in IDF intervention in investigations. Colonel Noam Tibon, who served at the time as commander of the Hebron Division, told a group of Members of Knesset from the National Religious Party who came to visit the city in 2002 that “the attitude of the police toward the Jews of Hebron is unfair.” Tibon explained to the Members of Knesset that “there were Jews here who were involved in 50 or 60 cases; they did not spend a day in jail, because there was nothing behind the cases.”⁶³

61. The conversation took place on March 23, 2006 at the Command Center of the SJ District. As noted above, in the period January – November 2005, the number of “disturbances” files opened on account of attacks against Palestinians totaled 299, out of some 800 “disturbances” files opened for all of 2005.

62. Figures relating to total investigation files in the SJ District (2001-2004): Israel Police’s Crime in Israel reports. Figures for “disturbances” investigation files in the SJ District in 2001, 2002: Talia Sasson, Special Tasks Director in the State Attorney’s Office, Protocol No. 45 of a meeting of the Constitution, Law, and Justice Committee, July 6, 2003. Figures for “disturbances” investigation files for 2003: Shachar Ayalon, Commander of the JD District, Protocol No. 150 of a meeting of the Internal Affairs Committee, February 10, 2004. Figures for “disturbances” investigation files for 2004: Spokesperson of the JD District.

63. Baruch Kra, “There Is Government but There Is No Law,” *Ha’aretz*, October 1, 2003.

The problematic nature of the relations between the IDF and the police was mentioned as early as the Karp Report of 1982, which noted the tendency of officers from the military administration to intervene in police investigations, both by issuing orders relating to the instigation of investigations and by demanding that suspects be released from detention.⁶⁴ The establishment of the SJ District does not seem to have led to any change in the behavioral norms in the IDF, and sources in the IDF and the Civil Administration continue to interfere in police investigations. A policeman in the Hebron Region told *Ha'aretz* correspondent Baruch Kra that IDF officers sometimes asked him to turn a blind eye or to "go easy" on cases. "They tell me, 'Forget it, afterwards it'll only make trouble for us all.' I don't think they really understand our job here," the policeman added.⁶⁵

Dependence on IDF Escorts

Police investigations are dependent on cooperation on the part of the IDF in various aspects. For security reasons, police personnel in the SJ District require IDF escorts when they visit the scene of incidents, which are often adjacent to Palestinian communities. The IDF does not always provide the required escort, and in other cases

the escort arrives late, preventing the possibility to locate findings at the scene of the incident.

Thus, for example, the protracted delay in the arrival of an IDF escort to accompany police on a tour of a Palestinian olive grove prevented a full examination of the damage caused to the olive trees on the site. On July 23, 2005, residents of the village of Salim discovered that over 200 olive trees on their land had been sawn, and the younger trees had been uprooted. The next day, three policemen came to the site, and were accompanied by one of the landowners, Jamil A-Shtayeh. The following is part of the testimony of A-Shtayeh, recorded by a Yesh Din volunteer:

"We traveled in a jeep until we came to the path that leads to the olive grove. From this point, you have to continue by foot. When they heard that the distance to the area was about 300 meters, they consulted among themselves and said that we would wait until the army arrived. They probably also telephoned the army. We waited there for almost an hour. After about an hour, an army jeep arrived with four soldiers. I do not know them or know what were their ranks. My father, who had walked, arrived before we did. When we reached the olive grove, they began to count the trees one by one, but before they

64. Karp Report, pp. 28-29.

65. Baruch Kra, "Walking on Eggs," *Ha'aretz*, January 4, 2002.

finished, they said that they were in a hurry and didn't have any more time. They managed to count 90 trees. They only counted the big trees, they didn't count the small ones."⁶⁶

On August 9, 2005, the investigation file in this case was closed on the grounds "Perpetrator Unknown."⁶⁷

As a result of the dependence of the SJ District Police on IDF escorts, the police force in the district operates mainly in the police stations, receiving complaints and collecting statements, and is highly limited in terms of the implementation of investigative actions in the field: examining the scenes of incidents, collecting findings, and the likes.

Relations with Israeli Civilians in the West Bank

At a meeting of the Knesset Internal Affairs Committee in February 2004, the then commander of the SJ District, Commander Shachar Ayalon, noted that approximately one-third of the policemen in the district live in the settlements. Responding to a comment from the chairperson of the committee, MK Ofir Pines, Commander Ayalon replied that he preferred that as many policemen as

possible in the SJ District live in the district, since he believed that "the role of the police in the SJ District is to serve the residents. The most important person for me in the SJ District is the citizen himself."⁶⁸ At the same meeting, the commander of the district proudly announced that in 2000-2003, there had been a fall in the number of disturbances committed by settlers in the West Bank. In addition to the improved capabilities of the district and to IDF operations in the field of law enforcement, Commander Ayalon explained that this decrease in the number of files opened on account of disturbances was thanks to "a lot of dialogue, a lot of relations that include informational activities, from them to us and from us to them – both our understanding and their understanding."⁶⁹

The Israel Police indeed engages regularly in dialogue with the leaders of the Israeli civilian population in the West Bank, and, in this context, the settler leaders try to persuade the police to moderate their law enforcement operations. Thus, for example, the following notice appeared in 2003 in the newsletter of the settlement of Itamar on behalf of the settlement committee: "On

66. From the testimony of Jamil Mahmoud Ibrahim A-Shtayeh, born 1963, a farmer and resident of Salim. The testimony was recorded by Ruth Kedar and Azmi Bdeir on August 9, 2005 in Salim. Yesh Din file 1057/05.

67. Letter from Chief Superintendent Ami Baran, Assistant Investigations Division Officer, to Attorney Michael Sfar, November 24, 2005. Yesh Din file 1057/05.

68. Knesset, Meeting of the Internal Affairs Committee, Protocol No. 150, February 10, 2004.

the Eve of Yom Kippur, there was an incident with Palestinians including provocations, in which children and youths from Itamar were involved. Criminal files were opened against these youths. The committee of the village has reached an understanding with the district commander that if the youths do not repeat these actions, the files will be closed. You have been warned!"⁷⁰ Thus dialogue between the police and the settlers comes in place of the meaningful enforcement of the law.

The Sasson Report established that "the SJ District Police is forced to cope with a population part of which sees it [...] as the representatives almost of a 'foreign government.'"⁷¹ The relations between settlers and police in the SJ District are indeed complex. In some cases, Israeli

civilians hamper police operations, sometimes by violent means. In February 2003, for example, **Yedioth Ahronoth** reported that dozens of settlers had attempted to break down the iron gate and enter the police station in Hebron by force in order to free their detained friends, who were suspected, among other offenses, of attacking Palestinians.⁷² In another case, settlers from the outpost of Havat Shaked prevented a police force that came to the outpost from leaving the site with detainees suspected of attacking a Palestinian. The settlers set the tires of the police vehicle on fire, blocked the road from the settlement, and locked the gates.⁷³ An investigator in the SJ District commented in a conversation with a Yesh Din volunteer that he is afraid to move around the outposts in police uniform.⁷⁴

69. *Ibid.*

70. *Itamar Newsletter*, 28 Tishrei 5764 issue (October 19, 2003).

71. Sasson Report, p. 266.

72. Guy Mei-Tal, "Settlers Storm Hebron Police," *Yedioth ahronoth*, February 24, 2003.

73. Yonatan Liss, "Five Settlers Arrested; Their Friends Clash with Police," *Ha'aretz*, September 1, 2005.

74. The conversation took place with Yesh Din researchers Ruth Kedar, Yudit Avi Dor, and Azmi Bdeir, on April 2, 2006. Yesh Din file I 168/05.

Hebron: Exploitation of Children in Attacks on Palestinians

On September 29, 2005, Zuhur Awidat went to buy presents for her children in the Hebron market. At about 11:30, after completing her purchases, she was walking along A-Shalala Street when a large stone suddenly struck her on the head. Awidat told the Yesh Din researcher: "I tried to look up to see where it had fallen from, but everything went black and I couldn't see anything. I felt dizzy and fell down. I heard shouting, maybe it was the shopkeepers I could see who were shouting, 'The settlers attacked you.' Two people came and picked me up. Blood was running down over my face, body, and clothes. The blood was flowing like an open faucet. In the background I heard people shouting, 'Settlers.' I felt someone open my eyes and clean my face. I saw soldiers around me moving people away and treating me. That is the last picture I recall. Then I lost consciousness."⁷⁵

In response to a query from Yesh Din, Superintendent Avi Rotenberg, an investigations officer in the Hebron Region, replied: "The investigation

material shows that those involved are minors below penal age whose identity is unknown. [The investigation file] was closed without suspects on the grounds 'not of penal age.'⁷⁶

This is not an isolated incident. **In one-third of the investigation files opened in the SJ District in 2005 and closed by November of the same year - 50 out of 150 files - the offenders were minors under the age of 12, the age of legal responsibility. All these 50 files were opened in the Hebron Region.**⁷⁷

In a press interview, the commander of the Hebron Region in the JD District, Assistant-Commander Eli Zamir, commented: "We have a problem of major proportions here. [The settlers] have realized our weak point, which is the use of children under the age of criminal responsibility - under the age of 12. They do this deliberately. The children throw stones and break walls. The children are the tactical, even strategic, arm of the adults."⁷⁸

75. From the testimony of Zuhur Na'im Abd al-Karim Awidat, born 1972, resident of Shuyukh al-Arrub. The testimony was recorded by Tami Gross, Yehudit Elkana, and Tamar Fleishman on November 2005 in the witness' home. Yesh Din file 1106/05.

76. Letter to Yesh Din from Superintendent Avi Rotenberg, April 4, 2006.

77. Letter to Yesh Din from Chief-Superintendent Yaron Shetrit, Head of the Investigations Unit in the SJ District, May 14, 2005.

78. Meron Rappoport, "Ghost Town," *Ha'aretz*, November 18, 2005.

Lack of Cooperation from Palestinians

The Karp Commission, the Shamgar Commission, and the Sasson Report all noted that one of the factors impeding police operations in the West Bank is the reluctance of Palestinians to file complaints or cooperate with police investigators. This claim is also raised repeatedly in conversations with officers and investigators in the SJ District. There are several main reasons why Palestinians are unwilling to cooperate with police forces.

Lack of Confidence in the Police

One of the main reasons why Palestinians refrain from filing complaints is their lack of confidence in the desire or ability of the law enforcement system to prosecute settler offenders. Thus, for example, Abd Bani Jam'a, a resident of Aqraba south of Nablus, made the following comment after his son was threatened at gunpoint by settlers who also vandalized agricultural equipment belonging to him:

“So far, we haven’t filed a complaint with the police, because we have lost our confidence in the police, which fails to protect us against acts of violence by

the settlers. We didn’t see any point in filing complaints [...] My son told me that he wants to file a complaint against the settlers with the police. I told him there was no point doing that, because the police won’t do anything to them, but afterwards they will harass us, so it’s pointless.”⁷⁹

A friend of Abd Bani Jam'a, whose son was also attacked in the same incident, filed a complaint in the matter, but the investigation file opened in the Samaria Region (ID 9519/05) was closed on the grounds “Perpetrator Unknown.”⁸⁰

Threats by Settlers against Complainants

A further factor impairing the willingness of Palestinians to file complaints with the police is their fear of harassment by settlers. The outpost of Elmatan is situated close to land belong to the residents of Kafr Thulth in the Qalqilya region. The small number of settlers living in the outpost regularly attempt to seize land belonging to the villagers and to plow and plant crops on the land. In some cases, settlers have even attacked residents of the village. In 2005, residents of the village filed eight complaints against settlers from

79. From the testimony of Abd Ahmad Sa'id Bani Jam'a, born 1935. The testimony was recorded by Ofra Katz and Dina Goor on September 6, 2005 in Aqraba. Yesh Din file 1069/05.

80. Letter from Chief-Superintendent Ami Baran, Assistant Investigations Officer for the Samaria Region, to Attorney Michael Sfarid dated September 24, 2005. Yesh Din file 1069/05.

Elmatan. On December 18, 2005, Ibrahim Alam, a farmer and resident of the village, filed a complaint against residents of the outpost who plowed his private land (as well as the land of other residents of Kafr Thulth) and sowed seeds. A few days later, while he was working on his land, two settlers from Elmatan approached him and threatened to take revenge because of the complaint he had filed:

“The settler told me: ‘You’re always complaining about us to the police and the DCO.’ I replied: ‘Don’t come near my land and I won’t complain, don’t bother us and we won’t bother you.’ The settler said: ‘You will be real sorry you complained to the police.’”⁸¹

Whether in connection with these threats or not, on December 31, 2005, four armed settlers, included two recognized as residents of Elmatan, attacked two shepherds who were grazing their flocks on the land of Kafr Thulth. The shepherds were tied up and beaten savagely:

“The settler [...] grabbed my hands and tied them behind my back with a rope. [A second settler] grabbed my shirt and

began to hit my face with the barrel of a revolver. My nose and mouth were bleeding. Then all four of them jumped on me and knocked me down on my back. My hands were tied and I could not resist. After knocking me over they began to beat and kick my stomach, face, and my whole body. They kicked me and beat me with their hands, their guns, and with my shepherd stick that they took from me. This went on for a quarter of an hour, and then they left me on the ground, my hands tied, and my nose and mouth bleeding. My right foot and left hand were injured.”⁸²

The investigation file relating to the assault against the residents of Kafr Thulth was closed on the grounds “Lack of Evidence.”⁸³

Interrogation of Complainants as Suspects

In some cases, Palestinians who came to a police station to file a complaint have found themselves interrogated as suspects. Fear that the complainants will be held responsible for the offenses is another factor in the reluctance of Palestinians to file complaints relating to attacks by settlers.

81. From the testimony of Ibrahim Rashid Ahmad Alem, born 1947, resident of Kafr Thulth. The testimony was recorded by Dina Goor and Azmi Bdeir on December 28, 2005 in Kafr Thulth. Yesh Din file 1131/05.

82. From the testimony of Mahyub Mufid Othman Oudeh, born 1983, resident of Kafr Thulth. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on January 1, 2006 in Kafr Thulth. Yesh Din file 1134/06.

83. Letter from Chief-Superintendent Shlomo Yonas, head of the Samaria Annex in the Prosecutions Unit of the S.J. District, to Attorney Michael Sfard dated May 17, 2006.

On March 1, 2005, Hamad Oudeh, a 70-year old man, was working on his land close to the outpost of Elmatan when a resident of the outpost ordered him to leave the area. After he refused and said he would not leave the land, two settlers approached him.

“They began to drag my cart and donkey, threw a large number of stones at me, hit my donkey, and forced me to leave the area. They did not allow me to take with me the grass I had picked for my sheep. They pushed me forcibly. I tried to talk to them and asked them to leave the cart and donkey alone. I got on the cart and rode to my home in the village. At the top of the slope, I suddenly saw a white settler’s car following me. He overtook me, stopped in the middle of the road and got out of the car. I thought that perhaps he could not get past, so I said: ‘Wait a minute, I’ll move the cart and donkey and you can drive on.’ The driver didn’t listen to me. He grabbed me out of the cart and threw me on a rock head first. I lay on the ground. I think I must have passed out. I tried to get up and everything was spinning around. I didn’t understand what had happened. After a while I managed to stand up. I put my hand to my head and felt that my hand was full of blood. I just managed to take my cart and donkey home, and then I

went to the village doctor who gave me first aid.”⁸⁴

A resident of the village drove Oudeh to the police station in Qedumim. Testimony was taken and Oudeh was asked to bring a medical certificate relating to his injury. After undergoing treatment at hospital in Qalqilya, Oudeh returned to the police station with a Yesh Din volunteer to complete his testimony. To his surprise, he was interrogated for two hours under warning, on suspicion of attacking settler A,⁸⁵ a 25-year old man, who had complained that Oudeh had attacked him. The police officers in the station were not unaware of the absurdity of questioning Oudeh. Yesh Din volunteers heard one of them say: “This old guy would fall down if an eight-year old boy touched him. He’s 70 and he has heart problems – there’s no way he attacked him.” Oudeh was released at the end of the interrogation, but only after signing a guarantee and after a Yesh Din volunteer signed a third party guarantee on his behalf. The investigation file (ID 1568/05) was eventually closed due to “Lack of Evidence”.⁸⁶ Attorney Michael Sfard has filed an appeal against the decision to close the investigation file on behalf of Yesh Din.⁸⁷

84. From the testimony of Hamad Dib Hamad Oudeh, born 1935, a resident of Kafr Thulth. The testimony was recorded by Ofra Katz on March 3, 2005 in Kafr Thulth. Yesh Din file 1039/05.

85. Suspects mentioned in this report are identified by letter.

86. Letter from Chief-Superintendent Ami Baran, Assistant Investigations Officer for the Samaria Region, to Attorney Michael Sfard dated November 24, 2005. Yesh Din file 1039/05.

87. The appeal was filed on April 4, 2006.

In other cases, complainants have been questioned under warning on suspicion of filing false complaints. Thus, for example, Amer Nasser, a resident of Aqraba, complained that settlers from the outpost of Gevaot Olam stole his identity card and that of his friend Kamal Bani Jaber, pierced the tires on his tractor, broke his mobile phone, and threatened Bani Jaber at gunpoint. After the complaint, one of the settlers, B., whom Nasser identified by name, was questioned. The suspect denied his involvement in the incident and claimed that he was elsewhere at the time. The investigators did not examine B.'s alibi, but quickly questioned Nasser under warning on suspicion of filing a "mendacious complaint" against B.⁸⁸ The investigation file (ID 2713/05) was closed on the grounds "Perpetrator Unknown."⁸⁹

Fear of Withdrawal of Permits

In other cases, Palestinians refrain from filing complaints out of fear that various permits and licenses they need will be taken away, such as entry permits to Israel, permits to pass through checkpoints, and the likes. Thus, for example, after an incident in which settlers vandalized cars parked close to the Beit Furiq checkpoint, two of the owners of the cars refused to

file a complaint with the police, in case their permits enabling them to enter Nablus for their work were withdrawn by way of "revenge." Only one of the owners of the cars filed a complaint, and the others, who witnessed the incident, refused to give testimony. The investigation file (ID 7668/05) was closed on the grounds "Perpetrator Unknown." In another incident, two landowners in the village of Aqraba declined to file complaints after dozens of olive trees on their land were uprooted, due to their fear that the entry permits to Israel they hold would be withdrawn.⁹⁰

2(e). Conclusion

The sixth district of the Israel Police is something of a stepchild both in relation to the Israel Police and to the IDF. Its resources are restricted and its personnel is limited relative to the general practice in the Israel Police. With the exception of Commander Shachar Ayalon, most of the commanders move to other positions before completing a full period of service in the district.⁹¹

Although the reason for the establishment of the SJ District was the need to ensure improved

88. Yesh Din file 1011/05. For more details on this incident, see p. 108.

89. Letter from First-Sergeant Major Shahar Mor, Criminal Records Officer in the Samaria Region, to Attorney Michael Sfar, September 21, 2005. Yesh Din file 1011/05.

90. Yesh Din file 1083/05.

91. Baruch Kra, "There Is Government but There Is No Law," *Ha'aretz*, October 1, 2003.

law enforcement relating to Israeli civilians in the West Bank, following the recommendations of the Shamgar Commission, the security situation means that the district actually focuses its efforts mainly on attending to security offenses by Palestinians. This situation, combined with the pressure applied on the SJ District Police by the settler leaders, the lack of confidence of Palestinian civilians in the police, and the shortage of personnel and equipment, means that the SJ District is virtually incapable of enforcing the law effectively upon Israeli civilians who attack Palestinians. The result is that only a tiny proportion of the police investigations in the SJ District relate to violence by Israeli civilians

against Palestinians and Palestinian property. As we shall see below, in this report, most of these investigations end in failure.

In the absence of additional data beyond those quoted in this chapter, particularly in terms of the number of investigators and prosecutors employed in the district,⁹² Yesh Din prefers not to make any recommendations regarding additional budgets or personnel in the SJ District. Clearly, however, the Ministry of Internal Security should consider the matter and examine the need for additional resources in the SJ District given the diverse and complex nature of the tasks it faces.

⁹²The request by Yesh Din to receive data on these aspects from the SJ District was not accepted.

Part 2

From the Offense to the Completion of the Investigation:

The Three Stages of the Non-Enforcement of the Law



An Israeli boy kicks a Palestinian woman as a girl pulls her headdress in a market in Hebron, Aug. 9, 2001. (© AP Photo / Nasser Shiyoukhi)

Chapter 3 In Real Time: Soldiers Refrain from Stopping Settler Violence while it is Happening

3(a). The IDF's Law Enforcement Obligations in the OPT

3(a)(1). "The Special Procedures"

One of the recommendations included in the Karp Report, and which was also emphasized by the Shamgar Commission, was to prepare proper procedures for the division of work between the IDF and the police in the context of law enforcement relating to Israeli civilians in the West Bank.

A few months before the massacre committed by Baruch Goldstein in the Cave of the Patriarchs, then Attorney-General Michael Ben Yair began to prepare a "Procedure for the Enforcement of Law and Order in the Judea and Samaria Area and in the Gaza Strip Area." The procedure was completed only after the publication of the recommendations of the Shamgar Commission. The document, which is popularly known as the "Special Procedures," determined, among other provisions, that the GSS

would be responsible for the collection of intelligence among the settlers; that criminal files against civilians who had committed offenses would be opened even in the absence of complaints; and that, when necessary, administrative restricting orders would be issued against Jewish suspects.⁹³ The publication of the introduction of this procedure led to pressure from the settler leaders, who claimed that the Special Procedures constituted discrimination against Israeli civilians living in the settlements, and branded all the settlers as offenders.

In 1998, following ongoing pressure on the government by the settler leaders, then Prime Minister Benjamin Netanyahu appointed a ministerial team headed by the minister of justice to examine the Special Procedures. On September 2, 1998, the new Attorney-General, Elyakim Rubinstein, disseminated the amended procedure, "The Procedure for the Enforcement of Law and Order Regarding Lawbreakers in the Judea and Samaria Area and in the Gaza Strip Area" (hereinafter – "the Law Enforcement Procedure.")

93. Baruch Kra, "Walking on Eggs," *Ha'aretz*, January 4, 2002.

(3)(a)(2). The Law Enforcement Procedure

The procedure was divided into two sections. The first section established the general framework for law enforcement operations relating to Israelis in the OPT – locations, types of offenses, and the definition of the operational responsibilities of the IDF and the police. The second section established guidelines for operational activities. The procedure, which is largely technical in nature, outlines the locations where offenses may take place – agricultural areas, isolated Palestinian communities, and so on – and defined the working procedures in the fields of intelligence, preparations, briefings, preparations for events, and general instructions for dealing with different incidents in which law enforcement is required.

Section 6 of the procedure, headed “Operational Responsibility for Law Enforcement,” divides the fields of responsibility between the IDF and the police according to two criteria – the location of the incident (inside the settlements or elsewhere) and the question of the presence of prior information about the incident. The procedure also distinguishes between cases when the security forces have prior information about occurrences, such as planned road blockages by Israeli civilians, the eviction of outposts, and the likes – and incidents regarding

which there is no prior information, such as attacks on Palestinians, seizure of land, and so on.

Section 6(1) of the procedure establishes that law enforcement operations inside the Israeli settlements shall be the responsibility of the police, while the IDF is to be responsible for attention to the “surrounding shell” of the settlement, regardless of the question as to whether or not there was prior information relating to the incident. Section 6(2) adds that the responsibility for any incident regarding which there is prior information enabling preparations to be made rests with the Israel Police; the IDF will assist through attention to the surrounding shell of the incident. Lastly, section 6(3) establishes that the IDF will attend to all incidents that emerge without prior intelligence, pending the arrival of the police on the scene and the transfer of responsibility to the police. Accordingly, the procedure imposes the principal responsibility for law enforcement on the police, though it does not exempt IDF soldiers from the obligation to attend to incidents immediately and detain suspects. Section 11(a)(5) of the procedure addresses an incident regarding which there is no prior information, and when IDF soldiers are the first to arrive on the scene. The IDF is instructed to secure the scene pending the arrival of the police, but expressly establishes that

“the content of this section does not derogate from the obligation of IDF forces to take all steps required in order to attend to injured persons or prevent injury to life, person, or property, and to detain and arrest suspects liable to flee the scene.”⁹⁴

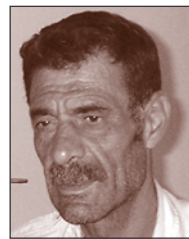
Some time after the publication of the Law Enforcement Procedure by the Attorney-General, the IDF formulated its own procedure, which also established that responsibility for preventing and processing offenses by Israelis in the West Bank rests with the police. However, the IDF procedure instructs “any soldier who witnesses an Israeli committing an offense, both against person and against property, to act immediately to prevent and/or stop the offense, [and] insofar as necessary to detain and arrest those suspected of committing the offense, and to document and guard the scene.”⁹⁵

3(b). The Situation on the Ground: Standing Back and Doing Nothing

In practice, the approach that has taken root in the IDF is that soldiers who witness criminal offenses by Israeli civilians should wait for the police and refrain from interfering. Only rarely

do soldiers attempt to arrest Israeli civilians committing offenses against Palestinians or Palestinian property. At best, the soldiers intervene in an attempt to stop the offense, but do not arrest the offender. At worst, the soldiers themselves participate in the offense.

In the evening of August 30, 2005, a soldier detained Zahda Abd al- Mu'ti, born 1948, who was walking home with a group of Palestinians:



“Close to Beit Hadassah, at the army post, two children aged 11-13 were standing talking to the soldier, hiding behind the post. The soldier only called me – I was the oldest person in the group – and asked to see my card. The others stood there, but the soldier sent them all away and I was left on my own. He made me stand against the wall holding my identity card. I asked for permission to go, and they went up the steps. The soldier showed the children my card and told them to go up to him. Other children joined him, and there were now six children in all, all of more or less the same age.”

94. Attorney-General, *Procedure for the Enforcement of Law and Order Regarding Israeli Offenders in the Judea and Samaria Area and in the Gaza Strip Area*, Section 11(a)(5)(c). Emphases added.

95. Letter from Captain Harel Weinberg from the Office of the Legal Advisor for the Judea and Samaria Area to Attorney Limor Yehuda of the Association for Civil Rights in Israel, July 31, 2005.

“The children began to throw stones at me, and the soldier stood there smiling, evidently happy. I started shouting at him, and said, ‘You did it deliberately.’ I complained, ‘It’s your right to check my card, but not to throw stones.’ I told him, ‘I will show you, I’ll call the police.’ I called the police station in the Cave of the Patriarchs and told them about the incident. They asked me to wait. After I called the police, the soldier attempted several times to give me my card back, but I refused to take it. I told him that I was waiting for the police. The soldier told the children to get out of there, and they all went into Beit Hadassah.”⁹⁶

(3)(b)(1). Standing Back and Doing Nothing: Examples

Yesh Din File 1003/05: Suha and Ahmad Salah

Of all the houses in the village of Asira al-Qibliya, the home of Ahmad and Suha Salah is the closest to the settlement of Yizhar. Their home is situated on the slope of a woody hill, and the settlement is on the top of the hill. Over the seven years that passed after the construction of the home, youths from Yizhar often approached and shouted curses, but the house and its residents were not attacked.

On Friday, March 25, 2005, the Jewish festival of Purim, Ahmad Salah was

working at the quarry in the village. Suha Salah was at home with three of their four children. Through a window, she saw four youngsters sitting between the trees on the hill, at a distance of about 200 meters from the house. The youths were talking among themselves and pointing at the house.



“I telephoned my husband, who was working at the quarry, and asked him to look at the settlers – the area around our home is visible from the quarry. Two of the settlers, dressed in black and white, went up toward the settlement, and when they returned, after 10 or 15 minutes, there were about 13 other settlers with them. One of the settlers was armed with a long rifle. Within about half a minute, five of them began to dance, their faces covered with black cloth masks with holes for the eyes and nose, and moved forward until they reached the trees that are about ten meters from our home. The others, who were not masked, stayed behind.

“I saw the five people pick up stones. They came toward the house shouting, and began to throw stones at the house. Two windows in two rooms on the third floor of the house were broken by the stones. I was in the kitchen all the time, and I could see them clearly through

96. From the testimony of Zahda Idris Abd al-Mu'ti, born 1948, a resident of Hebron. The testimony was recorded by Yehudit Elkana and Hanna Barag.

the window. The children ran into the bathroom and closed themselves in, shaking with fear. As soon as the settlers started throwing stones, I telephoned my husband again and told him what was happening.”⁹⁷

Villagers who saw the incident, including Suha’s husband Ahmad Salah, went toward the house. The attackers saw them coming and began to climb back up the hill toward Yizhar. In the meantime, an IDF detail arrived on the scene, but the soldiers allowed the attackers to continue on their way to the settlement, without delaying them or intervening in any way:

“While the settlers were running away, the army arrived – approximately ten soldiers stood further up the hill. The soldiers could see the house and the settlers, who passed right by the soldiers as they returned to Yizhar. If the soldiers had wanted to arrest the settlers, they could have done so, because the settlers walked right past them. The soldiers stayed there for about half an hour and then went away.”⁹⁸

According to press reports, a few hours after the event, police entered Yizhar accompanied by an IDF escort, but withdrew without detaining suspects after the police and soldiers were attacked by residents of Yizhar.⁹⁹ The Samaria Region investigated the incident,¹⁰⁰ and the file was closed on the grounds of “Lack of Evidence.”

Yesh Din File 1070/05: Stones thrown at taxi

On August 27, 2005, Maisar Yousef Ahmad Shana’a and her family attended a family wedding celebration in Qalqilya. At about 21:15, she ordered a taxi, and she traveled back to her village, Fur’ata, with six other women and a young girl. Maisar was sitting in the seat beside the driver:



“When we reached Laqif intersection, we suddenly found ourselves surrounded by a large number of settlers, over one hundred. They

threw a large number of stones at us.

97. From the testimony of Suha Abd al-Karim Omar Salah, a resident of Asira Al-Qibliya. The testimony was recorded by Dina Goor and Ofra Katz on March 28, 2005 at the witness’ home. Yesh Din file 1003/05.

98. *Ibid.*

99. Efrat Weiss, “Hundred settlers in Yizhar throw stones at soldiers,” *Ynet*, March 25, 2005; Uri Glickman, “Settlers throw stones at soldiers,” *NRG Ma’ariv*, March 26, 2005; Amos Harel, “Settler disturbances in West Bank on the rise; IDF considers banishing extremist leaders from territories,” *Ha’aretz*, March 27, 2005.

100. ID 2214/05.

101. From the testimony of Maysar Yousef Ahmad Shana’a, born 1958, a resident of the village of Fur’ata. The testimony was recorded by Racheli Merhav, Yudit Avi Dor, and Azmi Bdeir on September 5, 2005 in the witness home. Yesh Din file 1070/05.

The window to my right was open, and suddenly a stone struck my face. I felt everything go black and it felt as though my face was on fire. I put my hands up to my eyes and a lot of blood dripped onto them. I lost consciousness. The next thing I remember was being treated at a house in Kafr Laqif.”¹⁰¹

In testimony to Yesh Din, the taxi driver, Amar Hisham Mohammad Zid, recalled the incident and the reaction of the IDF soldiers who were standing nearby:

“Immediately after the Ginot Shomron intersection, we found ourselves surrounded by a large group (150-200) of Jewish youths aged 15-20, who were demonstrating on the road. They ran toward us, jumped on the taxi, threw stones at us, and attempted to block the road with their bodies. I could not turn around and go back, I had to make my way between them and get by as quickly as I could. That’s what I did. The whole thing lasted a few seconds. The passenger next to me was injured in the eye by a stone. A passenger sitting in the back was injured in the shoulder by a stone. The car was also damaged by stones. If I had slowed down, we would have paid a heavier price.

“About 200 hundred meters away from the attackers, at the intersection, two

IDF Hummers were parked. I stopped by them and told the soldiers that we had injured people. Although they could see that the passenger next to me was injured, their response was, ‘Get out of here.’

“I decided to head for the nearest village, Laqif, so that the injured women could receive first aid. Laqif intersection is only 50 meters or so from Ginot Shomron intersection. In order to reach the village, I had to make a U-turn and travel along a path that runs parallel to the road we had come along. The attackers again ran toward us. The soldiers just watched. There was a lot of panic in the taxi. We thought that if we got stuck, they would kill us all.”¹⁰²

The Samaria Region Police opened an investigation file into the incident (ID 6710/05). On November 24, 2005, Chief-Superintendent Ami Baran from the Samaria Region informed Yesh Din that the file had been closed on the grounds of “Perpetrator Unknown.” On January 9, 2006, after examining the investigation file, the legal advisor of Yesh Din, Attorney Michael Sfar, filed an appeal against the decision to close the investigation file. Attorney Sfar asked that the investigation material relating to the failure of the soldiers who witnessed the incident to intervene be forwarded to the

102. From the testimony of Amar Hisham Mohammad Zid, born 1969, a resident of Qalqilya. The testimony was recorded by Racheli Merhav, Yudit Avi Dor, and Azmi Bdeir on September 6, 2005. Yesh Din file 1070/05.

Military Police's Criminal Investigations Department (MPCID). In response, the Samaria Region stated that copies of the investigation material had been forwarded to the MPCID for the Judea and Samaria Area, adding: "The soldiers acted reasonably in the circumstances of the incident. It was important to get the woman out; there was a mass demonstration of settlers at the site on that day." On April 10, 2006, after repeated efforts to clarify with the MPCID whether they had, in fact, received the investigation material and whether the actions of the soldiers at the scene had been investigated, the MPCID stated that the material had not been forwarded from the Samaria Region Police.¹⁰³

Yesh Din File 1040/05: The Amer home

The home of the Amer family in Mas-ha is the only house in the village that was left on the western side of the separation barrier; close to the houses of the settlement of Elkana. A road and fence to the west of the house separate it from the last houses of Elkana, some twenty meters away. A high concrete wall, connected to an electronic fence, separate the Amer home (which is also surrounded to

the south and north) from the village of Mas-ha itself. Youths from Elkana regularly throw stones at the Amer family home. In one stone-throwing incident, an IDF jeep passed by. The mother of the family, Munira Ibrahim Yousef Amer, stated in testimony to Yesh Din:

*"On Saturday, July 2, 2005, at 13:45, several settlers from Elkana began to throw stones at our home. I went outside and saw an army jeep traveling toward Mas-ha, with four soldiers inside. I ran toward the jeep and told the soldiers that people were throwing stones at our home, but the soldiers told me to shut up. I thought he might not have heard me, but I have young children and I was afraid for them, so I left the jeep (I wrote down the number) and went home. The stone-throwing went on all this time."*¹⁰⁴

About half an hour later another military jeep arrived. The soldiers did go onto the roof of the Amer home to see what was happening, but did not record the stone throwers or arrest them:

"At about 2:15 p.m. another military jeep arrived from the north. I approached the jeep, in which another four soldiers were sitting. I told them:

¹⁰³. Letter from Chief-Superintendent Avichai Meibar, Head of the Investigations Supervision Desk in the MPCID, to Natalie Rosen from the law office of Attorney Michael Sfar, April 10, 2006. Regarding the loss of complaints and investigative material marked for transfer from the SJ District Police to the MPCID, see Appendix D.

¹⁰⁴. From the testimony of Munira Ibrahim Yousef Amer, a resident of Mas-ha. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on July 13, 2005 in the witness' home. Yesh Din file 1040/05.

they are throwing stones at us, come onto our roof and see what they are doing to us. Two of the soldiers went on the roof with me and we saw five settlers, around the ages of 12-17, standing on the road and throwing stones at us. The soldiers on the roof began calling out to the settlers. All but one fled back in the direction of Elkana. The one who remained stood across from us and began cursing me and Allah and saying ‘Muhammad is a pig.’ There were also exchanges of curses between him and the soldiers. Then he too left.”¹⁰⁵

When IDF soldiers do intervene at settler violence, at best they attempt to persuade the settlers to stop their actions, or attempt to stop the attacks on Palestinians. Only in extremely rare cases do the soldiers detain the offenders pending the arrival of the police.

Yesh Din File 1051/05: Goats Stolen by Settlers While Soldiers Detain Goatherds

On March 8, 2005, Mu’ad Bani Jaber was grazing his flock of goats in the fields of the village of Aqraba, approximately 300 meters from the Gitit checkpoint. At about 08:00, two IDF soldiers staffing the checkpoint

approached Bani Jaber and ordered him to leave his flock and come with them to the checkpoint. According to the soldiers, Bani Jaber was grazing the goats too close to the checkpoint. Bani Jaber told the soldiers that he always grazed the goats in the same place, but to no avail.

“The soldiers took me and made me stand at the checkpoint with them. All the time I was standing by the checkpoint, I was in eye contact with the flock. I stood there for four hours. No one talked to me during this time, and they did not ask for my identity card. At 1:30 p.m., five or six settlers came to the checkpoint and spoke to the soldiers. I do not know them, but I could identify them. At about 2 p.m., the soldiers blindfolded and handcuffed me, put a canvas sheet over my head, and put me between the concrete blocks of the checkpoint. At 4 p.m., the security officer of the settlement of Gitit, a man called G., came to the checkpoint. He spoke to the soldiers and they released me.”¹⁰⁶

Another shepherd in the village, Nasri Bani Jaber, noticed that his friend had been detained at the checkpoint, and saw the settlers taking goats from Mu’ad’s flock in full sight of the soldiers.

105. *Ibid.*

106. From the testimony of Mu’ad Abdallah Abd al-Jani Bani Jaber, born 1987, a resident of Aqraba. The testimony was recorded by Azmi Bdeir on July 6, 2005, in Aqraba. Yesh Din file 1051/05.

"I watched what was happening from a hill and saw two settlers by the observation tower. The settlers were standing by the soldiers all the time and talking to them. Then the settlers went up to Mu'ad's flock of goats, which were close by under the observation tower. I saw the settlers separate Mu'ad's goats, approximately ten in number, from the sheep in the flock. They left the sheep there, and took the goats on foot toward the settlement of Gitit. The soldiers saw what was happening, but did not say a word to the settlers."¹⁰⁷

After Mu'ad was released, he discovered that all the goats in the flock had gone:

"When they released me, at about 4 p.m., I saw Nasri Bani Jaber standing with G. at the checkpoint. The flock was with Nasri. I went toward the flock and realized that ten goats were missing. We have a large flock of sheep, and we just had ten goats. All my goats had gone. When I discovered that all our goats were missing, I went back to the checkpoint and told the soldiers that my goats had been stolen. The bearded soldier who had been in the observation

*tower earlier told me to go away or he would shoot me. He said that he didn't care about my goats, and hadn't seen anything."*¹⁰⁸

The SJ District Police told *Ha'aretz* journalist Meron Rappoport that the complaint had been forwarded to the Military Police Criminal Investigation Department, "since it involves soldiers."¹⁰⁹ After protracted correspondence between Yesh Din, the MPCID, and the SJ District Police, it emerged that the complaint had been lost, and was probably never investigated.¹¹⁰

Yesh Din File 1079/05: Tree torched in the yard of a home in Tel Rumeida

On September 1, 2005, Hisham Aza was with his family in their home in the Tel Rumeida neighborhood of Hebron. At about 1 p.m., the family heard stones being thrown at their home. Aza went out to the yard and saw a group of youths aged 12-17, including several whom he knew well as residents of the Jewish settlement in Tel Rumeida – throwing stones at the house. After a few minutes, the youths came to the entrance to the

107. From the testimony of Nasri Wasif Bani Jaber, born 1987, a resident of Aqraba. The testimony was recorded by Azmi Bdeir on July 6, 2005, in Aqraba. Yesh Din file 1051/05.

108. From the testimony of Mu'ad Abdallah Abd al-Jani Bani Jaber, born 1987, a resident of Aqraba. The testimony was recorded by Azmi Bdeir on July 6, 2005, in Aqraba. Yesh Din file 1051/05.

109. Meron Rappoport, "The Battalion of Opponents to Disengagement," *Ha'aretz*, July 15, 2005.

110. For more on this subject, see Appendix D.

yard, where there is an ancient olive tree, and attempted to set the tree on fire by means of a burning rag. In his testimony, Hisham told Yesh Din:



“At the same time, two soldiers were guarding by the trailers further up the hill. They saw what was happening. One of

the soldiers came down to talk to the settlers and asked them to leave, but they refused. I shouted at the settlers that I had called the police and they were on their way, and then they ran away. After they left I put out the fire.

“After about 45 minutes, a jeep arrived with two policemen. They took me and my cousin to the police station in Kiryat Arba where I filed a complaint.”¹¹

Yesh Din File 1125/05: Girls attack olive pickers in Sinjil

On the morning of November 13, 2005, the residents of the village of Sinjil set out to pick the olives on their land, in coordination with the IDF and under army protection. After working through the morning and midday, the pickers placed several sacks of olives close to the road. At about 3 p.m., two girls from the neighboring settlement

arrived. Kamal Shabana, one of the pickers, identified one of them as having been involved the previous year in stealing his olives. The girls left bags on the road and walked toward the settlement of Ma'ale Levona. Approximately fifteen minutes later, a Ford Transit vehicle arrived. Some ten girls got out and tried to put the two sacks of olives into the vehicle. Some of the pickers shouted at the girls, and soldiers who were in the area came to the scene when they heard the shouting.

“When the girls saw the soldiers, they became bolder and again tried to take the sacks. Afterwards, perhaps because they were unable to load the sacks onto the vehicle, they cut them with a utility knife and started to stamp and crush the olives that spilled out, shouting and cursing. They also cut three sacks that had already been loaded onto a donkey. In total, they destroyed eight or nine of the twelve sacks of olives we had picked. They destroyed everything that was there – the plastic sheets we lay out under the trees, cartons, food boxes, and thermos flasks. They shouted at us that we should leave and that this isn't our land.

“We stopped working and gathered in one spot to defend ourselves against the girls, who were carrying knives.

111. From the testimony of Hisham Younes Hashem Aza, born 1963, a resident of Hebron. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir in the witness' home on September 22, 2005. Yesh Din file 1079/05.

We tried to defend ourselves, our possessions, and our crop. During the struggle, the girls threw a stone on my aunt's foot and pulled off our women's head-coverings. They kept on shouting and cursing. A male settler came to help them [...] He beat my cousin, Aziz Shabana, on his leg. I tried to talk to the settler girls and tell them to stop, but it didn't help. One of the settlers beat my mother on the arm with a stick. When my mother grabbed the stick to defend herself, one of the soldiers took it from her hand and told her to leave the girls, because they were young.

"There were about fifteen soldiers on the scene, under the command of A. During the whole time, from 3:15 to 4:30, the soldiers didn't do anything to stop the girls going wild, even though I reminded them that they were there to protect us from the settlers and asked them to stop the girls."¹¹²

Only after an officer from the Israeli DCO arrived on the scene, accompanied by a policewoman from the SJ District, did the soldiers take practical steps to stop the girls attacking the olive pickers. At 5 p.m., the pickers gathered their tools and returned to their homes, while some of the girls were taken to the Binyamin police station. The IDF officer who was responsible for protecting the area telephoned Kamal

Shabana and asked him and his cousin to come immediately to the police station in order to give testimony and identify the girls involved. Later, after the complainants had left the police station, the DCO officer telephoned Kamal Shabana, apologized for the incident on behalf of the soldiers, asked the pickers to continue their work the next day, and promised that there would be no recurrence of such incidents.

Yesh Din File I 127/05: Olive pickers in Awarta attacked by settlers

On November 16, 2005, some 200 residents of Awarta went to pick olives on their land, after the local council received authorization for the harvest from the IDF. Several IDF and Civil Administration vehicles were parked near the site, with the goal of protecting the pickers against attacks by settlers. Three residents of the village, Sham'a Awad, her father-in-law Thalji Awad (born 1917), and her sister-in-law, Maryam, headed for their plot and found that many of the trees had been vandalized. While they were in the area, a group of ten to twelve Jewish youngsters, aged 15 to 20, arrived on the scene.

"They ran toward us, shouting, cursing, and throwing stones. We began to

112. From the testimony of Kamal Abd a-Rahman Ibrahim Shabana, born 1964, a resident of Sinjil. The testimony was recorded on November 29, 2005, by Azmi Bdeir and Racheli Merhav in Sinjil. Yesh Din file I 125/05.

move back, then my father-in-law told my sister-in-law, Maryam, and me to leave. He said he would manage on his own. We went toward the group we had come with, who intended to pick olives nearby. We shouted at the people to come. By now the stones they were throwing were reaching us. The youths came to Thalji and started hitting him. We were about ten meters away. The youths knocked Thalji over and went on beating him as he lay on the ground. Two soldiers standing nearby saw everything – the stone-throwing and the beating – and did nothing. But when an army jeep approached, the youths took the saddle from the donkey and fled. The jeep chased the youths and did not stop.”¹¹³

Other olive pickers from the village, including Ahmad Darawsha, came to the scene and tried to help Thalji Awad.

“When Thalji’s daughter-in-law shouted that the settlers were throwing stones, and told us to call the soldiers and police, I shouted at the soldiers down the hill that some children were throwing stones. After I shouted, the soldiers came up and the children took the saddle from the donkey and ran off.

“When I reached Thalji, his daughters-in-law were already picking him up off the ground. I carefully took him toward the paved road, but the soldiers did not agree to let us use the paved road, which would be more comfortable. So we went back down and walked through a stony area. I held him by the hand until we reached the gate. Then we put him on the donkey that his daughters-in-law had brought over.

“As I took Thalji, I turned to the two soldiers, who had been standing there the whole time doing nothing, and asked them why they were standing there doing nothing. One of them told me that I should go away from here. I asked him where, and he said: to Jordan. I replied that I had always lived here. Then he told me that if we were alone, he would have put a bullet in my head.”¹¹⁴

Although the soldiers were present on the scene and could have stopped the settlers attacking the olive pickers, they chose not to intervene or to exercise their authority to arrest them or detain them pending the arrival of the police. The investigation file opened by the Samaria Region into this

113. From the testimony of Sham'a Adel Hasan Awad, born 1960, a resident of Awarta. The testimony was recorded by Menucha Moravitz and Azmi Bdeir on December 27, 2005 in the village of Awarta. Yesh Din file 1127/05.

114. From the testimony of Ahmad Hussein Hasan Darawsha, born 1968, a resident of Awarta. The testimony was recorded on December 27, 2005, by Menucha Moravitz and Azmi Bdeir in the village of Awarta. Yesh Din file 1127/05.

incident was closed on the grounds "Perpetrator Unknown."¹¹⁵

Yesh Din File 1078/05: Ten-year old boy attacked by settler woman in Hebron

Even in cases when settlers attack IDF forces during the course of violence toward Palestinians, the soldiers sometimes refrain from exercising their authority to detain the offenders. The following is an example of such a case.

Settlers living in the Tel Rumeida neighborhood of Hebron installed playground facilities for their use close to the home of the A. family, in a manner that blocked access by Palestinians to a neighboring road. After intervention by the Association for Civil Rights in Israel, the court issued an order for the removal of the facilities. In March 2005, the facilities were removed, and debris remained on the site. On Wednesday, March 23, 2005, soldiers ordered Y.A., a ten-year old boy, and other children with him to remove the debris.

"At 5 p.m., together with my cousin R.A., aged seven, and my twelve-year old neighbor, I went up to the dirt road above the house. There were three soldiers there, and when they saw us, they ordered us to clear away the

playground facilities and rolls of barbed wire that were blocking the area. The three soldiers left the area and went on their way. We began to remove the obstacles, and we just managed to remove what was left of the slide, an olive tree trunk, and the roll of barbed wire. After about forty minutes, a soldier named E., who was standing ten meters away from us, called us and asked us why we were moving the objects. We told him that three soldiers who had been there earlier had told us to do so.

"At the same time, D., a settler who lives in a trailer [alongside the home of Y.A.] arrived in her car. She got out of the car, cursing Allah and the Prophet Mohammad. Three of her small children also got out, while two others stayed in the car. She took stones that were lying around and began to throw them at us. The two children that were with me ran away. I tried to run away and scratched myself on the barbed wire, which was blocking my way. I tried to run round the car, but D. was faster than me. She grabbed me by the shirt and crushed me against a wall. The soldier E. tried to intervene and separate us. She pushed him back. The soldier's foot got caught in the barbed wire and he fell down. While holding me with one hand, she bent down and quickly took a stone from the ground with the other hand. She put the stone in my mouth, closed my mouth

¹¹⁵ ID 8926/05. Notification was made by telephone by Chief Superintendent Ami Baran, Assistant Investigation Division Officer for the Samaria Region, to Natalie Rosen from the law office of Attorney Michael Sfar, on February 13, 2006. Yesh Din file 1127/05.

forcefully, and pressed on my face so that my mouth stayed shut.

“I felt that my teeth were breaking. My mouth was bleeding a little. I couldn’t resist. In the meantime, the soldier stood up. He did not intervene any more and started to talk on his walkie-talkie, I guess to call for help.

“As soon as he began to talk, she left me and went to her car. She parked the car and went into her home with her children. Two of my teeth were broken.”¹¹⁶

Following the child’s complaint and the testimony of the soldier E., the Prosecutions Unit of the SJ District decided to prosecute the assailant.

3(b)(2). “I don’t know from the law”

Limor Yehuda, a staff attorney in the Association for Civil Rights in Israel, spoke to a soldier in Hebron and learned that he was often present during violent attacks by settlers against Palestinians (and against himself). However, he said, he “can’t do anything.”¹¹⁷ A senior police

investigator in the SJ District told Yesh Din that, in his opinion, IDF soldiers are simply unaware that they have the authority to detain settlers who are committing acts of violence.¹¹⁸ Testimonies collected by members of the “Breaking the Silence” organization from IDF soldiers who served in the West Bank clearly show that the soldiers are unfamiliar with the Law Enforcement Procedure and unaware of their authorities vis-à-vis settlers who attack Palestinians. One soldier told “Breaking the Silence:”

“But one of the things that really bothered us all was this business that we weren’t really given any powers to cope with the settlers. I’m a soldier. I don’t know how you arrest someone, a Jewish person. I don’t know how the law works. No one ever told me that I’d have to do anything like that. Even in Hebron they told me, ‘That is not your job, that’s what the police are here for.’ But the police weren’t there, and I remember the police commander explaining to us that they don’t really have the budget to have enough policemen there to respond to every call. So we just had to stand there, and this is absolutely

116. From the testimony of Y.A., born 1995, a resident of Hebron. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on September 22, 2005 in the witness’ home. Yesh Din file 1078/05.

117. The remarks are quoted in a letter from Attorney Limor Yehuda of the Association for Civil Rights in Israel to Brigadier-General Avichai Mandelblit, the judge advocate-general, dated June 27, 2005.

118. The conversation between Yesh Din researchers Racheli Merhav and Yudit Avi Dor and the investigator took place in September 2005 at a police station in the SJ District. The conversation is documented in Yesh Din file 1072/05.

something that's decided from above. They could just as easily have decided that we shouldn't be powerless, that there should be more policemen, or that we should have more powers to arrest settlers."¹¹⁹

In January 2006, an IDF officer was injured in the eye by a stone thrown by settlers after he attempted to separate a group of settlers from a Palestinian they were attacking. The comments of Second-Lieutenant Ariel Nussbacher to a reporter from the Ynet Internet site show that he was also unaware of the orders obliging him to detain Israeli civilians who commit acts of violence against Palestinians:

"At first, approximately forty settlers marched toward the Kasbah and went through the Abu Sneineh neighborhood. They claimed that this was a Shabbat walk that they did every Saturday. On the way, they threw stones at Palestinians and at Palestinian homes and shops. At first there were 40 of them, then there were about 300, mostly youths. At first we were restrained. We tried to talk to them. But they were running down every alleyway after Arabs and starting to hit them. We tried to talk

to the girls at the front of the line [...] Suddenly, a riot broke out as three youths began to beat an Arab resident. I ran over to separate the two sides. I moved the settlers aside and attended to the Arab man and calmed him down. Then I turned to the detail, and just then a large rock struck my left eye."¹²⁰

The lack of awareness among IDF soldiers of their obligation to protect Palestinian civilians from settler attacks was also noted in the Sasson Report:

"From my long-standing acquaintance with the law enforcement problem in the Territories, most IDF soldiers, and even the commanders, are completely unfamiliar with the law enforcement procedure in the Territories. In order to bring this procedure to the attention of the brigade commanders in the Judea and Samaria Area, the SJ District Police organized a study day for the commanders approximately two years ago, together with Central Command Commander Kaplinsky, officers from the SJ District Police, the attorney-general, and the state attorney's office. Even after the study day, however, nothing changed on the ground [...]"¹²¹

119. Breaking the Silence, *Testimonies of Soldiers in Hebron – First Collection*, p. 14.

120. Efrat Weiss, "Officer Injured in Hebron: Settlers Gave Nazi Salutes," *Ynet*, January 15, 2006.

121. Sasson Report, p. 261.

3(b)(3). “I don’t want to see soldiers confronting settlers”

According to Attorney Sasson, the problem is due not only to the lack of awareness of the Law Enforcement Procedure, but also to an unwillingness to follow this procedure. Attorney Sasson noted that “the function of enforcing the law against the settlers is not perceived as an integral part of the role of the IDF” among IDF officers.¹²² The atmosphere noted by Attorney Sasson filters down from the commanders to their soldiers on the ground. An IDF soldier who served in Hebron made the following comment:

“[...] You always get this feeling that the brigade commander is kind of saying to himself, ‘I’ve got a million and one things to deal with, this isn’t important. We won’t bother with them. At worst they’ll burn another shop, damage another house, or occupy another house. It isn’t a tragedy.’”¹²³

During a discussion in the Knesset Constitution, Law, and Justice Committee in February 2005, Judge-Advocate General Brigadier-General Avichai Mandelblit stated that the police was “more capable” than the IDF in enforcing the law upon Israeli

civilians: “There are some aspects here that have only a very slight connection to the army [...] The subject of attention to the Jewish population in the Territories, whether or not there are exceptional cases, is one that, by government decision, should be dealt with by the Israel Police; the SJ District [...] should realize that there is a government decision, and it wasn’t made without reason, and substantively I strongly support it. I don’t want to see soldiers confronting settlers [...] Sometimes I feel that it is very convenient to complain to the army about things that happen there, but there was an informed government decision, and rightly so.”¹²⁴

Mandelblit’s comments illustrate that even the professional echelon in the IDF responsible, among other tasks, for ensuring that IDF operations are consistent with the international legal standards established in the rules of war – ignores the obligation of the IDF to actively protect the Palestinian civilian population against violence from any third party,¹²⁵ in this case, from settler violence. Imposing the responsibility for preventing such violence on the SJ District Police, which is hampered by limited resources, normally responds only after incidents have occurred, and

122. *Ibid.*, p. 259.

122. *Ibid.*, p. 259.

123. Breaking the Silence, *Testimonies of Soldiers in Hebron – First Collection*, p. 12.

124. Protocol of a Meeting of the Knesset Constitution, Law, and Justice Committee, February 22, 2005.

125. See above, page 25-23.

which suffers from grave faults in its operations to investigate such incidents (see below) means leaving the Palestinian civilian population in the OPT without real protection against settler violence.

The Orchid Company

Following the massacre committed by Baruch Goldstein in the Cave of the Patriarchs in February 1994, a Military Police unit known as the Orchid Company was established within the Central Command. The company was established on the order of then Chief-of-Staff Ehud Barak, and was charged with attending to disturbances by Israeli civilians in Hebron. Over the years, the soldiers in the company have also participated in IDF operations against Palestinian elements in Hebron, alongside their law enforcement upon Israeli civilians in the city. The company was removed from Hebron in 2005, and its soldiers were attached to the Military Police unit Taoz, which staffs checkpoints in the West Bank.¹²⁶ This brought an end to the only regular activity of the IDF in the field of law enforcement upon Israelis in the OPT.

3(b)(4). IDF Activities in the Area of Law Enforcement

Instructions Given to IDF Soldiers in Accordance with the Law Enforcement Procedure

The IDF occasionally takes action in an attempt to tighten law enforcement upon Israeli civilians in the West Bank, particularly after incidents when IDF soldiers themselves are attacked by settlers. In May 2005, for example, it was reported that following a series of attacks on IDF soldiers by settlers in the Yizhar area, the Commander of the Central Command, Yair Naveh, had ordered his soldiers to exercise their authority and arrest Israeli civilians attacking Palestinians. It was also reported that fifty cameras would be distributed among IDF soldiers serving in the area in order to document offenses of this type.¹²⁷ However, such initiatives seem to evaporate after some time, and declarations are not translated into decisive action. The IDF Spokesperson was unable to inform Yesh Din of the number of cases in which IDF soldiers have detained or arrested settlers attacking Palestinians or Palestinian property. The Spokesperson explained that the IDF does not monitor attention to such incidents,

126. Amos Harel, "IDF removes military policewomen from hebron," *Ha'aretz*, July 25, 2005; Bamachaneh correspondent, "Orchid Company Has Joined the Taoz Unit," *Bamachaneh*, December 23, 2005.

127. Alex Fishman, "Two border guard companies to respond to Jewish rioters," *Yedioth Ahronoth*, May 2, 2005.

since they are forwarded to the Israel Police.¹²⁸

The official IDF version is that its soldiers are briefed and are familiar with their authority in accordance with the Law Enforcement Procedure. Yesh Din asked the IDF Spokesperson for a detailed list of actions undertaken by the IDF since 2002 to inculcate the provisions of the Law Enforcement Procedure among its soldiers.¹²⁹ This request was not met, with the exception of the generalized comment that soldiers are regularly briefed on the matter, as shall be described below.

Detaining, not Arresting, Offenders

In response to the inquiry from Yesh Din, the IDF Spokesperson wrote:

“At the briefing before any task during which disturbances may erupt between settlers and Palestinians, the soldiers are instructed to detain any settler who physically attacks a Palestinian or Palestinian property, and to call the police to arrest the rioter [...] During their visits to the different areas, commanders at all echelons emphasize to the soldiers that Israelis who use violence against Palestinians

should be detained. The soldiers are also instructed to file complaints with the police in any case when they are present at an incident of this type and are unable to detain the rioters.”¹³⁰

Judge-Advocate General Brigadier-General Mandelblit stated at a meeting of the Knesset Constitution, Law, and Justice Committee in February 2005 that the instruction to IDF soldiers “is not to stand back, but to deal with the matter and forward the incident as quickly as possible for attention by the police. [They should] intervene, take details [...] The soldiers detain them and hand them over to the policeman. This is the instruction to the soldiers.”¹³¹

It would seem, therefore, that even when IDF officers explain to soldiers their obligation to intervene when Palestinians and their property come under attack from Israeli civilians, they do not instruct them to arrest the lawbreakers, but merely to detain them pending the arrival of the police. Soldiers do not seem to be given clear instructions regarding their obligation to arrest the offenders, in the event that the police cannot reach the scene, as can reasonably be expected given the limited personnel and small

128. Letter from the IDF Spokesperson to Yesh Din, May 11, 2006.

129. Letter from Yesh Din to the IDF Spokesperson, March 30, 2006.

130. Letter from the IDF Spokesperson to Yesh Din, May 11, 2006.

131. Protocol of a meeting of the Knesset Constitution, Law, and Justice Committee, February 22, 2005.

number of patrols available to the SJ District. In any case, it would seem that the vast majority of IDF soldiers serving in the OPT are unaware of their obligation to take effective steps against Israeli civilians who attack Palestinians and to detain or arrest them. The message from IDF commanders to their soldiers is that it is not part of the IDF's function to enforce the law upon Israeli civilians in the West Bank.

Enforcing the Law Enforcement Procedure

At the above-mentioned discussion of the Knesset Constitution Committee, Judge-Advocate General Brigadier-General Mandelblit added that soldiers are punished if they fail to act in accordance with the orders instructing them to intervene when Israeli civilians attack Palestinians in their presence:

"If there are exceptions in this matter, and I have recently encountered some exceptions, these are dealt with. I refer to disciplinary action, including the trying of soldiers, and including the jailing of soldiers who failed to intervene. Such cases have occurred."¹³²

Attorney Michael Sfar, the legal advisor of Yesh Din, spoke on the telephone to Lieutenant Y., commander of the Military Police Criminal Investigation Department in the Judea and Samaria Area (who is responsible for MPCID investigations in the West Bank), and asked him what is the investigative policy regarding cases when soldiers witness violence by settlers against Palestinians and fail to intervene. Lieutenant Y. replied that when the soldiers' involvement is passive, the investigation is undertaken mainly by the Israel Police (against the suspected Israeli civilians), and that only thereafter does the MPCID intervene in the investigation.¹³³

In reply to an inquiry from Yesh Din, the IDF Spokesperson stated that since 2002, no investigations have been instigated by the MPCID and no soldiers have been subject to criminal prosecution for failing to detain or arrest Israeli civilians who attacked Palestinians. The Spokesperson added that the appropriate instrument in this context is not criminal action, but the use of "disciplinary and command-chain tools." It is impossible to know whether use has indeed been made of these "disciplinary and command-chain tools," and the IDF Spokesperson

132. *Ibid.*

133. The telephone conversation took place on November 6, 2005. The conversation is documented in Yesh Din file 1051/05.

did not respond to the inquiry of Yesh Din on this matter. According to the Spokesperson, these are internal procedures within IDF units

that are not controlled or monitored above unit level, and figures are not collected by an overall command echelon.¹³⁴

Authorities of Detention: The Judge Is Unfamiliar with the Procedure

In one of the few cases in which IDF soldiers exercised their authority to detain Israeli civilians suspected of attacking Palestinians, this led to the conviction of a woman settler from Hebron who threw a plastic bottle at a Palestinian resident of the city. In the ruling, the judge at the Jerusalem Magistrate's Court quoted from the testimony in court of the soldier Micha Gliss:

"I was a patrol commander in Hebron, in the army, and I went to the [outpost] of Hazon David where there was a gathering of Jewish girls - I don't remember exactly how old they were. They were blocking the road, throwing stones, stopping Arab pedestrians from passing. An Arab came along. As I arrived I was facing them and the Arab was between me and them. He was around 40-50 years old. He was walking toward them and wished to pass. They started to shout at him, blocking the way, and he continued toward them regardless. I moved closer

to them. Then an older Jewish woman arrived. She also began to shout, and moved quickly toward the Arab pedestrian making threatening gestures. I moved closer and saw the Arab lift his hands up in self-defense. I shouted to the Arab to get away from there. He kept on walking. The Jewish woman picked up a plastic bottle from the ground and threw it at him. By now I was alongside her as she picked up stones and wanted to throw them at the Arab, so I simply stood before her and told her, like, not to throw the stones, without touching her. I began to ask her to stay with me, and I wanted to go to the police. I detained her. She remained with me for a few minutes. After I asked her again to stay with me, she began to run down the steps toward her neighborhood. Just at this point one or two policemen, I don't remember exactly, arrived. I pointed at her and they reported this to another policeman who was in the settlement above us."¹³⁵

134. Letter from the IDF Spokesperson to Yesh Din, May 11, 2006.

135. Ruling in CC 3079/04 *State of Israel v Shoht Vered* (Jerusalem Magistrate's Court), May 16, 2006.

On the basis of the soldier's testimony, which the judge found reliable, the defendant was convicted of improper behavior in a public place. The defendant was acquitted of a further charge, "disturbing a policeman in the course of his duty," in running away from the soldier and the policemen. The reason for the acquittal was that the judge was unaware that a soldier in Hebron has the authority to detain Israeli suspects:

"Purely as an aside, I am aware of the testimony of the soldier Micha Gliss, who stated that the defendant fled from him, and insofar as the court has seen fit to believe the above-mentioned soldier, this may be seen as an accomplished fact. **However, the above-mentioned soldier has no powers of detention**, and hence, and in the absence of any claims from the prosecution on this matter, I did not see fit to conclude anything in the defendant's disfavor, even if this is, without doubt, suspicious and even improper behavior, on the face of it."¹³⁶

3(c). Conclusion

Despite its obligation in accordance with the provisions of international humanitarian law to protect the Palestinian civilian population, the IDF does not undertake regular and consistent action in known areas of friction with the goal of protecting Palestinians and preventing attacks by settlers on farmers and passersby. The attitude of IDF soldiers and commanders regarding their obligation to protect Palestinian civilians and their property against violence by Israeli civilians appears to be apathetic and dismissive. In any case, the provisions of the Law Enforcement Procedure are essentially reactive in nature, and do not constitute a substitute for clear orders requiring an active and ongoing effort to protect Palestinian lives and property, as required by the international rules of war. In the absence of the clear definition of the protection of Palestinian civilians against settler violence as one of the tasks of the IDF in the West Bank, no change can be expected in this state of affairs.

The official IDF version is that its soldiers are regularly briefed regarding their authority, in accordance with the Law Enforcement Procedure, to detain Israeli civilians who attack Palestinians or Palestinian property. Despite this, there appears to be confusion on this

¹³⁶ Section 4 of the ruling, *ibid.*; emphases added.

issue among IDF soldiers in the field, who are unaware of their obligation to protect Palestinians against settler violence. This is a direct result of the “unwritten law” presented by the IDF to its soldiers: law enforcement is the authority of the police, and is not one of the functions of the army. Given the limited personnel and means of the SJ District Police, the police is clearly unable to protect Palestinian civilians against violent settlers. The IDF must bear the brunt of this task.

The current instructions in the IDF, which order soldiers to detain Israeli civilians who attack Palestinians and Palestinian property, are inconsonant with the Law Enforcement Procedure, which clearly establishes that soldiers are obliged to detain **or arrest** Israeli suspects liable to escape from the scene of the incident.¹³⁷ Moreover, it appears that in the vast majority of cases in which IDF soldiers are witnesses to attacks on Palestinians and Palestinian property by Israeli civilians, the response ranges from inaction to an attempt to separate the sides. The detention, not to mention arrest, of Israeli suspects by IDF soldiers is rare.

The failure to monitor cases in which IDF soldiers exercised their authority in accordance with the Law Enforcement Procedure reflects

the IDF's attitude regarding its obligation to protect Palestinians against settler violence. The fact that the IDF does not have data relating to the prosecution of soldiers who remained aloof and failed to intervene while Palestinians were being attacked by settlers also reflects a systemic failure to address issues relating to law enforcement. In the absence of quantifiable data relating to the IDF's handling of incidents of settler violence, the IDF will be unable to achieve any real change in the attitudes of its commanders and soldiers. Nor will it be able to protect Palestinian civilians against violence at the hands of Israeli civilians.

Recommendations

1. The IDF must define for its soldiers who serve in the West Bank the protection of the Palestinian civilians and their property against the violence of Israeli civilians as a permanent and key mission.
2. The IDF's regional divisions in the West Bank must define in their standing orders assistance to SJ District investigations as a permanent and key mission.
3. The IDF must regularly and frequently allocate forces for patrols in known areas of friction

¹³⁷ Section 11(A)(5)(C) of the Law Enforcement Procedure. Emphases added.

between settlers and Palestinians, with the purpose of ensuring the security of Palestinian civilians.

4. The IDF must brief its soldiers serving in the West Bank regularly on the rules of the "Law Enforcement Procedure" as to their obligation to intervene in cases that settlers assault Palestinians and/or their property.
5. The IDF must clarify for its soldiers that they have the power to arrest Israeli civilians suspected of assaulting Palestinians, and if necessary take the suspects for continued processing to the nearest police station.
6. The IDF must conduct investigations of incidents in which IDF soldiers were present when Israeli civilians harmed Palestinians and/or their property, and ensure that the soldiers who were witnesses to such events give testimony at the police, and take measures against soldiers who don't comply with the Law Enforcement Procedure directives.
7. The IDF must set standards to examine the level of performance of the Law Enforcement Procedure, on a unit basis.
8. The Central Command should keep regular records and monitor cases when IDF soldiers detained Israelis suspected of assaulting Palestinians and their property, and in which they transferred them to the police.
9. The Military Police's Criminal Investigation Division should maintain constant contact with the SJ District and receive permanent reports of incidents in which IDF soldiers stood by doing nothing during violent incidents on the part of soldiers and abused their obligation to defend Palestinian civilians. Following such reports the MPCID should initiate, shortly after the incidents, investigations of the behavior of the soldiers and commanders. The conclusions of the MPCID's investigations should lead to a decision by the Central Command prosecutor, for the purpose of criminal or disciplinary prosecution, depending on the circumstances of the matter.

Chapter 4 After the Crime: Difficulties Filing Complaints with the SJ District Police

4(a). The Right to File a Complaint

The Criminal Procedure Law grants all persons the right to file a complaint about a criminal act they claim has been committed – whether or not they were the victims of the act (Section 58 of the Criminal Procedure Law [Consolidated Version], 1982). The law also stipulates that it is incumbent on the police to conduct an investigation following such a complaint (Section 59). The right to file a complaint is the basis for police work; without it, “rule of law” loses its meaning.

Orders of the National Headquarters of the Israel Police: Receipt of Complaints

Section 2 of the National Headquarters Order 14(1)(1) of the Israel Police (“Processing Complaints and Investigation Files”)¹³⁸ affirms the principle that all persons have the right to file a complaint. This section states that each police officer is obligated to receive complaints, and it outlines the circumstances in which

complaints are filed:

- “2. Receipt of a complaint
- A. Every police officer is obligated to receive complaints brought to them about criminal acts, whether or not the complaints raise suspicion of criminal activity.
 - B. After receiving the complaint, the police officer will decide, based on the circumstances, whether to:
 - I. Handle the complaint immediately.
 - II. Alert the police unit assigned to the matter at hand.
 - III. Refer the complainant to the police unit in the area where the incident occurred.
 - C. Complaints about criminal acts will be received in one of the following ways:
 - I. From a complainant who approaches a police officer somewhere other than a police facility.
 - II. From a complainant who arrives at a police facility.
 - III. Through a letter sent to a police unit.
 - IV. Through a telephone call to a police unit [...].”

¹³⁸ Orders of the National Headquarters are detailed internal regulations set by the Commissioner of the Israel Police, and police officers must abide by them.

Palestinians living in the West Bank have, in principle, three options for filing police complaints: at the Palestinian District Coordination Office (DCO), which is supposed to pass the complaints on to its Israeli counterpart; with a police officer stationed at one of the eight Israeli DCOs whose job it is to receive complaints directly from Palestinian civilians; or at police stations themselves, many of which are located within settlements – a particular difficulty for Palestinians, who cannot enter these areas without special permits.

Repeatedly, official responses to crimes committed by settlers are prone to mishaps and other problems right from the start. A few examples follow:

4(b). No Policeman to Receive the Complaint

Tight IDF restrictions on the movement of West Bank Palestinian residents make it hard for them to reach the nearest DCO in order to file a complaint. Even in cases when they succeed in doing so, there is no guarantee a police officer will be present to receive the complaint.

This was true in the case of Hani Amer, who wanted to file a complaint at the Qalqilya DCO about an Elkana settler who threw rocks at his home. Only after having to wait several hours at the DCO gate did Amer learn that no officer was present at the facility that day:

“On Wednesday, June 15, I walked to the Israeli DCO at the entrance to Qalqilya to file a complaint. I reached the DCO gate at 7:00 a.m., and the soldier at the gate told me they would call me. I waited there for three hours. At 10:00 a.m., a jeep came out of the camp. I asked about S. [the police officer at the DCO] and was told he wasn’t there that day. I called H. [the IDF officer at the DCO], who told me he himself was in Ramallah and that S. would, indeed, not be there at all that day.”¹³⁹

In another instance, Palestinians were told that complaints would not be received that day. On November 16, 2005, settlers assaulted olive pickers from the village of Awarta with rocks and clubs. A Civil Administration officer, H., instructed the villagers to file a complaint at the Nablus DCO on Sunday, November 20, 2005.

“On Sunday, I went with the old man

139. From the testimony of Hani Muhammad Abdallah Amer; born in 1957 and a resident of Mas-ha. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on June 13, 2005 in Azzun Atma. Yesh Din file 1043/05.

[Thalji Awad] to see the police officer. We waited an hour and a half, from 9:00 to 10:30 a.m.. We asked the soldier there if we could see [the police officer] or the [Civil Administration officer]. At 10:30, a [Civil Administration officer] approached us, apologized, and said no complaints were being received by the police that day. Since then, we haven't gone back to complain.”¹⁴⁰

In the end, a complaint was filed with the assistance of Yesh Din volunteers on December 27, 2005 – some six weeks after the incident took place. The investigation file (ID 8926/05) was closed eventually on the grounds of “Perpetrator Unknown.”

Following a number of other instances in which Yesh Din volunteers accompanied Palestinian complainants to the DCO only to find that no police officer was present to receive the complaint, an agreement was reached between Yesh Din and the Samaria Region: volunteers would coordinate their arrival in advance with district investigators. It is clear, however, that not every Palestinian wishing to file a complaint turns to Yesh Din for assistance. We can only hope that when these people arrive at the DCO gates, there will be a police officer present.

4(c). Refusal to Receive a Complaint

Yesh Din volunteers encountered a number of instances in which SJ District police officers refused to fulfill their obligation to receive complaints – at a police station, DCO, or in the field. Several examples follow:

“A police station of his choosing”

On February 8, 2006, residents of Bil'in noticed that a bulldozer operating along the separation barrier near the village homes was scooping out soil from the eastern side of the barrier. This was land privately owned by Bil'in residents. Following a heated exchange with the bulldozer operator and security guards posted at the barrier, village residents T.H. and Muhammad Khatib, together with Israeli peace activist Elad Oriyan, stood in the path of the bulldozer to prevent it from dumping soil on the residents' land.

“We began picking up the trash from our land, and we were standing right where [the bulldozer] entered to dump the trash. But the bulldozer driver kept on working. The security guard told him to continue working and to pay

140. From the testimony of Saad Fathi Abd al-Fatah Awad, born in 1965 and a resident of Awarta. The testimony was recorded by Tamar Fleishman and Azmi Bdeir on December 14, 2005 in Awarta. Yesh Din file I 127/05.

no attention to us. He went back for another load and dumped the soil and rocks on us. With the tractor shovel, he pushed the three of us back to a distance of about five meters. He did this three times, dumping the pile of trash on us, and pushing and dragging us with the shovel.

“The security guards threatened us by saying, ‘No one disturbs the work here.’ One of the guards instructed the two others to move us away forcefully, and to the tractor driver said, ‘If anyone bothers your work, run him over, dump the trash on him.’”¹⁴¹

Muhammad Khatib phoned the Giv'at Ze'ev police to ask that a force be sent to the location. The police officer who arrived on the scene took Elad Oriyan's identification card and told him he would be detained for disturbing construction of the separation barrier. After hearing what Orayan and the Bil'in residents had to say, the officer told them, “You will not disturb them. They will continue working and clean up later.”¹⁴² Despite repeated requests, the officer refused to record a complaint by Bil'in residents and the Israeli activist.

In response to a query by Yesh Din's legal advisor Atty. Michael Sfar, the SJ District public complaints officer stated that the police officer had not acted wrongly. In her words, “the officer instructed your client to file an official complaint at a police station of his choosing, and he was told that if he were prevented from doing so he could come to the [DCO] to file the complaint and have it verified.”¹⁴³ This response contradicts National Headquarters Order requiring that police officers receive complaints both in and outside of police facilities.

Submitting Documents as a Condition for Filing a Complaint

For various reasons, most West Bank land is not recorded in the Land Registry (*Tabu*).¹⁴⁴ As a result, it is difficult for Palestinians to prove ownership of land taken by Israeli civilians. Monitoring by Yesh Din revealed cases in which complainants were required to present documents proving ownership before being allowed to file complaints about settlers seizing their land. Despite the fact that in one instance this condition was presented post factum as a

141. From the testimony of Muhammad Abd al-Karim Mustafa, born in 1974 and a resident of Bil'in. The testimony was recorded by Yudit Avi Dor and Dina Goor on February 14, 2006 in Bil'in. Yesh Din file 1151/06.

142. From the testimony of Elad Orayan, born in 1974 and a resident of Tel Aviv. The testimony was recorded by Yudit Avi Dor on March 21, 2006 in Tel Aviv. Yesh Din file 1151/06.

143. Letter from Superintendent Rotem Ganz, Public Complaints Officer, to Atty. Michael Sfar, March 21, 2006. Yesh Din file 1151/06.

144. For more information, see Part 3 of the B'Tselem report, “Land Grab: Israel's Settlement Policy in the West Bank,” May 2002.

recommendation, merely as a means of speeding up the bureaucratic process, it appears that the demand for documentation is normal procedure that, in many instances, deters potential complainants or brings a quick end to investigations of complaints already on file.

On Thursday, May 12, 2005, just a few hours after Samih a-Shtayeh, a resident of Salim, had been badly beaten while working on his land, fellow villagers noticed thick smoke rising from their fields, which lie about one kilometer north of their homes. Flames emerged from several locations in the fields of Salim and Azmut. When they got to the site to extinguish the flames, the Salim residents saw a group of about five settlers gazing at the fire from a distance.¹⁴⁵

On Tuesday, June 7, 2005, Yesh Din volunteers responded to a request by landowner Khader a-Shtayeh to accompany him to the Nablus DCO as he filed a complaint with the on-duty police officer. The officer refused to file the complaint, claiming the request "could not be made" three weeks after the incident. Another reason, he said, was that a-Shtayeh did not bring a title

(*kushan*) proving that he owned the land. Despite the intervention of the volunteers, the officer would not agree to register the complaint.

Yesh Din legal advisor Michael Sfard sent a written complaint to the SJ District commander and the Samaria Region commander.¹⁴⁶ In his response, Samaria Region Deputy Commander, Uzi Zomer, verified the facts as presented by Sfard. He noted that, "the officer explained to the complainant that in order to avoid unnecessary delays and red tape, he should bring the title to the land" and added that the officer at the Nablus DCO would receive any complaint filed by a-Shtayeh.¹⁴⁷

On June 16, 2005, Yesh Din volunteers once again accompanied a-Shtayeh to the DCO to file his complaint. They found that no officer was present to receive the complaint. It was later learned from the DCO commander that the officer was on vacation until June 19 and that no other officer had been assigned to replace him. The DCO commander promised to summon a-Shtayeh to file his complaint when the officer returned from vacation.

¹⁴⁵. Yesh Din file 1023/05.

¹⁴⁶. Letters from Atty. Michael Sfard to SJ District Commander Israel Yitzhak and Samaria Region Commander Rami Sonnenfeld, July 8, 2005. Yesh Din file 1023/05.

¹⁴⁷. Letter from Samaria Region Deputy Commander Uzi Zomer to Atty. Michael Sfard, July 9, 2005. Yesh Din file 1023/05.

On June 30, 2005, Khader a-Shtayeh returned to the DCO for the third time to file his complaint about the fire set on his land. On September 4, 2005, the investigating officer for the Samaria Region informed Atty. Sfarid that the file in this matter had been closed the grounds of “Perpetrator Unknown.”¹⁴⁸

“Without measurements, the file will be frozen”

In addition to having to produce documents testifying to their ownership of land, Palestinians complaining of trespassing (whether or not damage was also incurred) are sometimes required to submit a map prepared by a certified surveyor. Doing so is quite expensive and comparable to submitting a situational map of one’s house and neighborhood for a police report following a break-in. Submission of a surveyor’s map is sometimes a condition for filing a complaint.

Qassem Mansour, of the village of Dir Astia, owns a ten-dunam plot of land that borders on Route 66 and Wadi Qana, near the settlements of Ginot Shomron, Karnei Shomron, and Ma’ale Shomron. He irrigates the grapevines

and citrus trees there using pumped water from wells dug on his property. In testimony recorded by Yesh Din, Mansour reported that residents of the nearby settlements often trespass on his property, and in recent years they have vandalized pumps and other agricultural equipment.¹⁴⁹

On September 1, 2005, Mansour discovered that the door to the pump storage room had been broken into and that one of the pumps was vandalized. A Yesh Din volunteer telephoned a Samaria Region police investigator to arrange a date for Mansour to lodge his complaint. The investigator said that Mansour must first produce his title to the land, as well as a map prepared by a certified surveyor. When the volunteer asked why Mansour needed to go to great expense to obtain official measurements of his land, she was told, “Those are the conditions, and remember that I told you so. You won’t be able to come back, claiming you didn’t know the law and asking why the files weren’t being handled. Without measurements, the file will get stuck on the shelves.”¹⁵⁰ Mansour eventually filed his complaint at the Qedumim Police Station on September 7, 2005. The investigation

148. Letter from Chief Superintendent Haim Fadlon, Samaria Region Investigations Officer, to Atty. Michael Sfarid, September 4, 2005. Yesh Din file 1023/05.

149. Yesh Din file 1068/05.

150. Telephone conversation between Yesh Din volunteer Ofra Katz and a Samaria Region investigator, September 5, 2005. The conversation is documented in Yesh Din file 1068/05.

file (ID 6657/05) was closed on September 4 – four days after the complaint was filed – on the grounds of “Perpetrator Unknown.”¹⁵¹

Ismail Ahmad, of the village of Saniriya, passed away in 2003 having bequeathed an 11-dunam plot of land to his five children. Its location is a few hundred meters from the bordering settlement of Sha’are Tikva. To cross the fences and reach their land, Ahmad’s children must first acquire travel permits from the IDF. Therefore, they rarely set foot on the property, visiting mainly during plowing season. In October 2005, the property owners discovered that a dovecote and a stable housing four or five horses had been built, covering a dunam of their land. They also saw that several olive trees on the property had been vandalized. One of the landowners, Muhammad Ahmad, turned to two local Israeli civilians for help, and they promised to dismantle the stable and dovecote. About a month later, one of the landowners returned to find that not only were the structures still standing

but that the farm built on the family’s land was expanded even further.¹⁵²

On February 13, 2006, Muhammad Ahmad, accompanied by Yesh Din volunteers, filed a complaint at the Qedumim Police Station. He also produced his title to the land, as well as the required maps. Several weeks later, Yesh Din learned that the maps Ahmad submitted were insufficient; the Civil Administration demanded that he supply the police with “surveyor’s maps consistent with the coordinate grid and signed by a certified surveyor.”¹⁵³

In cases of land disputes in the West Bank, the police usually request that the Civil Administration – the IDF organ charged with land registry in the region – determine the rightful owner, based on documents presented by complainants and the Administration’s own records. When the Civil Administration is unable to determine ownership, the police instruct complainants to submit surveyor’s maps. The cost of such maps, as mentioned, is prohibitive,

151. Letter from Shachar Mor of the Samaria Region Police to Atty. Michael Sfard, September 7, 2005.

152. Yesh Din 1152/06.

153. Conversation between a Samaria Region investigator and Natalie Rosen of Atty. Michael Sfard’s office. The conversation is documented in Yesh Din file 1152/06. Following this case, and others in which Palestinians complaining of trespassing were required to present the police with surveyor’s maps, Yesh Din contacted the head of the SJ District investigations unit, Commander Uri Weisskop, and Atty. Yoni Lahav, legal advisor for the SJ District, to demand that they respond to the issue. To date, no response has been received.

and the expense must be assumed by complainants rather than by the Civil Administration itself. Few Palestinian farmers can afford to pay a certified surveyor for a map that meets Civil Administration requirements, and this demand by the police, is, essentially, a surefire way of closing investigation files for cases in which Israeli civilians have taken control of Palestinian-owned land.

“This is the last time I ever handle one of your complaints”

Palestinians who repeatedly fall victim to settler violence and still take the trouble to file complaints are often perceived by police officers as a nuisance, and their cases are handled accordingly.

The Amer family home, which lies very close to homes on the outer edges of the Elkana settlement, is frequently pelted with rocks thrown from inside the settlement. Following these incidents, Hani Amer usually files a complaint at the Qalqilya DCO. None of them, however, have produced any results. In July 2005, after teenagers from Elkana once again threw rocks at his home, Amer attempted to file his complaint by first calling the DCO officer to schedule an appointment. The officer told him that the DCO staff would have no time that day to record his complaint. A few days later, Amer

went to the DCO and was again told that no investigator was present to record the complaint. Only when he telephoned once again was Amer told to come to the Qalqilya DCO on Sunday, July 10, 2005 to file his complaint with the on-duty police officer. On that day, at the entrance gate to the DCO, Amer met with an officer who had recorded previous complaints he filed.



“As soon as he saw me, [the police officer] said, ‘Go away. I haven’t got time for you. You’ve complained lots of times.’ I said,

‘What should I do? It’s the only thing that’s permitted. There’s nothing else I can do.’ He told me to leave the site: ‘Go wherever you want, but not here.’ I explained to [the DCO officer] that the [police officer] refused to record my complaint. He spoke with the police officer on the walkie-talkie and asked him why he wouldn’t record the complaint. After the conversation, the [DCO officer] told me to go away and come back in another two hours. Then, they’d have time for my complaint. I came back at 1:30 p.m., and the [police officer], who was there and speaking with someone, told me to wait outside until he called me.

“At about 2:00 p.m., [the officer] told me to step into his office, and when I

got there he said, 'This is the last time I ever handle one of your complaints.' I asked him, 'Where should I go?' 'Go to the Ariel Police,' he said. I said, 'If I go to Ariel, they'll send me back to you. They won't let me in unless you contact them first.' He said, 'I don't care.'

"He recorded the complaint, gave me a receipt for it, and told me again that it would be the last time."¹⁵⁴

The investigation file (ID 5753/05), opened by the Samaria Region Police after recording Amer's complaint, was closed on the grounds of "Perpetrator Unknown."¹⁵⁵

Pressure to not file a complaint

Palestinians wishing to file complaints are sometimes subject to pressure by Israeli officials who attempt to dissuade them. Yesh Din monitored two cases in which Civil Administration officers told Palestinians that in exchange for not filing their complaints, the injustice they suffered would be redressed.

Another case¹⁵⁶ involved a Qalqilya DCO officer who tried to dissuade Kafr Thulth resident Ibrahim Alem from filing a complaint against a resident of Elmatan, an illegal outpost. The settler had threatened Alem following a previous complaint he filed against a fellow settler who plowed and seeded a portion of Alem's land and the land of other village residents. The DCO officer pressured Alem not to file the complaint, promising he would put an end to the harassment of district residents. Alem decided not to complain about the settler's threat. The harassment of Kafr Thulth farmers by residents of the Elmatan outpost continues to this day.

154. From the testimony of Hani Muhammad Abdallah Amer, born in 1957 and a resident of Mas-ha. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on July 12, 2005 in Azzun Atma. Yesh Din file 1040/05.

155. Yesh Din file 1040/05. For more information on the investigation of the complaint, see p. 107.

156. Yesh Din file 1131/05.

A Civil Administration officer makes a deal

On Monday, March 21, 2005, Bader Khatib, from the village of Bil'in, learned that bulldozers working on the construction of the East Matityahu neighborhood of the nearby settlement of Modiin Elit were uprooting olive trees on his land. The trees, which had been growing adjacent to the site of the new neighborhood, were being transported to an unknown location.¹⁵⁷ V., the supervising foreman, was located but denied any connection to the uprooting and disappearance of the trees. The secretary of the Bil'in Local Council, Muhammad Khatib, telephoned the police to ask them to send a squad car but was told that no car would be dispatched to the site. The landowners, he was told, would have to come to the station to file a complaint. A short time later, Civil Administration Officer Z. arrived at the site. He spoke with Bader Khatib, took photographs, and - accompanied by Khatib - left to meet with V. in

the Kiryat Sefer neighborhood of Modi'in Illit.

"While we were traveling, we saw the truck loaded with the olive trees in the vicinity of the settlement. Z. stopped the truck and questioned the driver. The driver said he worked for V. of the [...] Company. Then, we went to V.'s office, and Z. told him he had to return the olive trees to the place they were taken from. At first, V. denied taking the trees, but when he realized that we'd caught the truck he admitting taking them. However, [he said] he didn't have them. Z. told him, 'I want to know who you brought the trees to,' and V. answered, 'I'll tell you later.'"¹⁵⁸

At that point, the Civil Administration officer tried to make a deal between the tree thieves and their owner:

"They [Z., the Civil Administration officer, and V., the foreman] made an offer to return the trees, re-plant them, and water them every day of the week. I told them that these were 200-year-old trees and they would die if they weren't re-planted immediately. I had no choice but to

157. Yesh Din file 1010/05.

158. From the testimony of Muhammad al-Karim Mustafa Khatib, born in 1974 and a resident of Bil'in. The testimony was recorded by Ofra Katz on March 22, 2005 in Bil'in. Yesh Din file 1010/05.

agree in order to guarantee they would return the trees to me."¹⁵⁹ In the end, six of the 40 uprooted and stolen trees were returned to the landowner. Sixty other trees had been uprooted but not stolen.

The following day, Yesh Din volunteers accompanied Bader Khatib and Muhammad Khatib to the Giv'at Ze'ev Police Station to file a complaint about the stolen trees. They were surprised to learn that the police investigator there refused to record the complaint, claiming that the landowners had "made a deal" with people from the company that uprooted and stole the trees.

"I understood that he didn't want me to file a complaint, and that's what I explained in Hebrew to Dina Goor of Yesh Din, who drove me to the police station. The investigator got angry and began yelling at me: 'You will not decide what I do and what I don't,' and he threw Dina and me out of the room. I told him we had a right to file a complaint, and I asked him if this land did not belong to Bil'in. The investigator

confirmed that the land did, indeed, belong to Bil'in, and I told him I wanted to file the complaint on behalf of the Bil'in Local Council. So, he said we'd made a deal with Z. not to file a police complaint and that we'd settle this between us, outside the police. At that stage, Ofra and Dina of Yesh Din intervened in the conversation and an argument started. The investigator told Ofra and Dina, 'You are inciting the Arabs to file complaints against us.' The police officer said he needed to speak with Z. Bader, who was next to me, offered to give him the phone number. The officer told him that he knew the number. He called Z. and told him that we were adamant about filing the complaint."¹⁶⁰

In a telephone conversation with Bader Khatib and Yesh Din volunteers, Z. said he "would not be responsible" for what happens if a complaint is served. Only after the Yesh Din volunteers contacted the police station commander was Bader Khatib's complaint recorded.¹⁶¹ The investigation file (ID 1130/05) was eventually closed for "Lack of Evidence."¹⁶²

159. From the testimony of Bader Ali Muhammad Khatib, born in 1971 and a resident of Bil'in. The testimony was recorded by Ofra Katz on March 22, 2005 in Bil'in. Yesh Din file 1010/05.

160. From the testimony of Muhammad al-Karim Mustafa Khatib, born in 1974 and a resident of Bil'in. The testimony was recorded by Ofra Katz on March 22, 2005 in Bil'in. Yesh Din file 1010/05.

161. The conversation is documented in Yesh Din file 1010/05.

162. Notification of the file's closing was transmitted through a telephone call from a Binyamin police investigator to Natalie Rosen of Atty. Michael Sfard's office on February 12, 2006. The conversation is documented in Yesh Din file 1010/05.

4(d). Conclusion

Although police orders guarantee that anyone wishing to file a complaint can do so, many Palestinians have trouble exercising this right. DCO officers are not always present, and even when they are, complainants must sometimes wait for hours at the gate until called to enter. At other times, complainants are told to “go away and come back.” To gain access to some police stations – particularly those where investigators are posted, in addition to police officers who record complaints – complainants must coordinate their visits in advance or enter the borders of a Jewish settlement.

In the eyes of both the complainants and the SJ District Police, filing a complaint will not necessarily lead to an investigation. A senior officer in the district even suggested to Yesh Din activists that “serious complaints” – ones that have a good chance of leading to suspects and not being dropped from the files because the perpetrators are “unknown” – should be filed at major police stations rather than at DCOs.¹⁶³

As early as its first week of activity in the SJ District, Yesh Din noted irregularities in the process of handling complaints by Palestinians. Yesh Din wrote to the Israeli Attorney General and the Police Commissioner to request that they inform commanders of SJ District police stations of their duty to record complaints brought by civilians, to investigate the complaints in cases of possible criminal activity, and to transfer them to another authority if the police are not authorized to conduct the investigation. Yesh Din also asked that police station commanders clarify to their staffs that any departure from these instructions is a violation of the law.¹⁶⁴ In his response, Atty. Shai Nitzan of the Attorney General's office wrote that, to the best of his knowledge, police station commanders in the West Bank are well aware of these duties, but that following Yesh Din's request, “responsible parties” would be asked to once again clarify the matter to their staffs and confirm that the instructions were fully understood by police officers in the field.¹⁶⁵

163. The conversation with the SJ District senior officer took place in September 2005.

164. Letter from Atty. Michael Sfard to Atty. General Menahem Mazuz and to Police Commissioner Moshe Karadi, April 20, 2005.

165. Letter from Atty. Shai Nitzan, Deputy Attorney General (Special Functions) to Atty. Michael Sfard, July 5, 2005.

As mentioned, filing a complaint does not guarantee an investigation will follow. The many instances in which complaint files are lost point to negligence and disregard in the police handling of complaints by Palestinians. Unfortunately, this callous approach is also evident in investigations conducted by the SJ District Police, as we will discuss shortly.

Recommendations

1. The police force at the DCOs should be reinforced, so that the needs of Palestinian complainants are met at all times.
2. The supervision and monitoring of complaints submitted at the DCOs should be reinforced, to ensure that every complaint filed at a DCO does reach the relevant investigation unit.
3. The SJ District patrol officers should be instructed to record complaints in the field from anyone interested, in accordance with section 2 of the National Headquarters Order 14(1)(1), rather than directing complainants to the police station, except for the completion of their testimony, as needed.
4. Palestinian complainants who wish to should have direct access to the investigation units in the SJ District.
5. SJ District investigators should be instructed not to demand complainants produce land measurement maps, whose production involves a heavy financial expense, as a condition for recording their complaint and investigating it. In cases the Civil Administration does not have updated maps of contended land, it should be the Civil Administration's duty to conduct a current mapping, at its expense.

Chapter 5 Typical investigation procedure in SJ District: the complaint is filed, the file is closed, and the perpetrator remains free

5(a). The Obligation to Investigate

The obligation of the police to investigate crimes is a given. In legal systems based on the rule of law, criminal investigation is a crucial means of maintaining order. The function of law enforcement authorities, the police among them, is to perform the role the public has assigned them: to prevent crime, investigate crimes committed, and bring the perpetrators to justice. In the absence of a proper investigation, there is no trial and no punishment. Without those, there is no deterrence, and with no deterrence, violations of the law become more commonplace and serious.

The obligation to investigate is anchored in the Criminal Procedure Law and the police orders. Section 3 of the latter (new version), published in 1971, states that “the Israel Police are concerned with preventing and discovering crime, apprehending criminals and bringing them to justice [...], and maintaining

public order and security of persons and property.’ As mentioned, Section 59 of the 1982 Criminal Procedure Law (Consolidated Version) states that when the police learn of a crime – through a filed complaint or by any other means – they must begin an investigation. Their obligation to conduct the investigation efficiently is also cited in the text: “The investigative authority must conduct every investigative activity required [...] as part of its obligation to locate criminals, gather sufficient evidence to prosecute them, and convict them.”¹⁶⁶

5(b). Monitoring the Handling of Complaints by Palestinians against Settlers: Yesh Din’s Findings

Between the time Yesh Din began monitoring the situation in March 2005 and the beginning of May 2006, the organization opened 147 files, a large majority of them resulting from complaints about violence perpetrated by Israeli civilians against Palestinian civilians and their property.¹⁶⁷ Most of

166. CC (Jerusalem) 102/99 **State of Israel v Osama Salem** (Jerusalem District Court) 99(3), 104.

167. Among the files opened by Yesh Din that are not in this category, in one the complainant is an Israeli civilian. In another, involving a complaint about road paving and uprooting trees, the perpetrator was discovered to be the IDF as part of work to build the separation barrier; and in two files the complaints were transferred to the treatment of the Civil Administration’s legal advisor and the treatment of the public complaints officer of the Immigration Police.

these files contain monitoring records for the authorities' handling of events occurring in 2005 and 2006, and a few contain records for events that occurred over the previous three years.

Yesh Din froze its monitoring efforts for 19 of the files following a decision by the victims not to file a police complaint. Three other files are now being prepared, and the testimonies they contain are being cross-checked to ensure that the information given to Yesh Din is accurate and reliable.

In five of the remaining 121 files being monitored by Yesh Din, the main perpetrators named by Palestinians were IDF soldiers, with Israeli settlers sometimes mentioned as accessories.¹⁶⁸ In the other 116 files, Israeli civilians are listed as the main perpetrators. For 19 of the files, no response to Yesh Din's first communication has been received from the SJ District Police, and those files have not been included in the summary that follows. In some instances, the files being monitored contain two separate complaints by Palestinians concerning crimes apparently committed by the same people on separate occasions. While Yesh Din prefers to open separate files

for each incident, the SJ District Police combines these incidents into one file, together with previous complaints by the same person. As a result, ten Yesh Din files are combined in five SJ District Police investigation files.¹⁶⁹ As of the beginning of May 2006, Yesh Din has been monitoring 97 complaints by Palestinians concerning Israeli civilian violence in the West Bank, cases which are contained in 92 SJ District Police investigation files.¹⁷⁰ Thirteen of the investigation files being monitored by Yesh Din were opened between 2002 and 2004, and the others were opened in 2005 and 2006.

Part of Yesh Din's work is to assist police investigators, at their request, in obtaining documents and locating eyewitnesses – as well as accompanying them to the police station or, if necessary, to the courtroom. Therefore, the following data tend to **bias positively** the results of investigations conducted by the SJ District Police following complaints by Palestinians. We can assume that for investigations not being monitored by Yesh Din, the success rate is even lower. We should also note that not one of the files being monitored by Yesh Din has been closed for a lack of public concern," although partial information

168. For information about the functioning of the SJ District in transferring investigative material involving IDF soldiers to the Military Police's Criminal Investigations Division, see Appendix D.

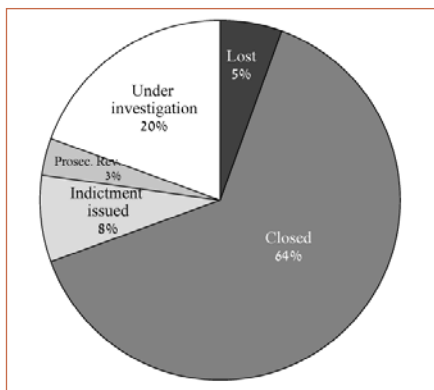
169. Yesh Din files 1041/05 and 1074/05 were investigated as file ID 5138/05; Yesh Din files 1003/05 and 1014/05 as ID 2214/05; Yesh Din files 1015/05 and 1037/05 as ID 1838/05; Yesh Din files 1063/05 and 1064/05 (incitement and gunfire) as ID 6361/05; and Yesh Din files 1056/05 and 1058/05 as ID 7202/05.

170. The 92 Yesh Din files cited include complaints that were filed but are known to have been lost.

obtained by the organization indicates that investigation files of complaints brought by Palestinians have, indeed, been closed for this reason.¹⁷¹ This fact, as well, reflects well on the results of investigations being monitored by Yesh Din. Nevertheless, what appears to be a positive trend is minimal in light of the overall dismal findings about the law enforcement system in the West Bank.

Of the 92 complaints and investigation files being monitored by Yesh Din, 21 files (about 24 percent) have yet to be decided. Eighteen (about 20 percent) are still under investigation, and three have been transferred to be reviewed by a prosecutor at the SJ District prosecution office or at a district attorney office, for a decision on whether to close the file or serve an indictment.

Diagram 3: Processing of SJ District Investigation Files Monitored by Yesh Din



In 71 of the files (76 percent of the sample), investigation of the complaints has been completed. In seven cases (about 10 percent of the completed files), indictments were served. Fifty-nine investigation files (about 83 percent of the completed files) were closed for various reasons, and five complaints (about seven percent of the completed files) were lost – apparently before any investigation was performed. In all, 90 percent of the files for which investigation has been completed (or never performed, due to loss of the complaint) were closed without obtaining an indictment.

Of the 59 investigation files that were closed, the reason in 20 cases was lack of sufficient evidence and in 34 cases “Perpetrator Unknown.” Five cases were closed on the grounds of “No Criminal Culpability” (that is, either no crime was committed, or the suspect proved he had no connection to the crime). Yesh Din examined four of these five cases and found that these were not valid grounds for closing them.¹⁷²

The significance of the data is that for **at least** 90 percent of the complaints no longer being handled by the SJ District Police (or were lost by them), the perpetrators were not brought to justice and not punished

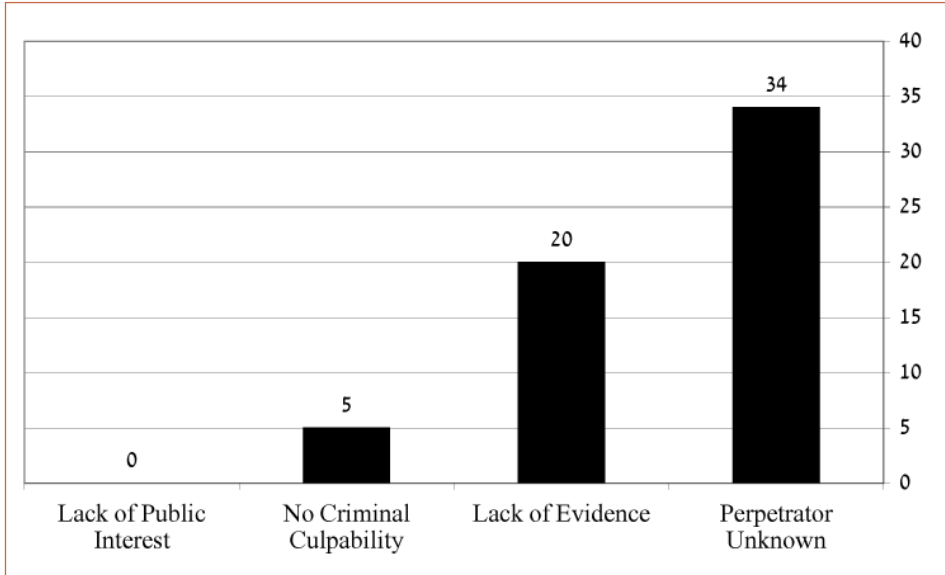
171. This partial information was supplied to Yesh Din by Superintendent Atty. Irit Liebman, the Israel Police official responsible for freedom of information, on December 28, 2005.

172. See p. 102.

because the police failed to gather sufficient evidence, failed to locate the perpetrator; closed the investigation

file for the apparently unjust reason of “No Criminal Culpability;” or lost the complaint.

Diagram 4: Reasons stated for Closing Investigation Files Monitored by Yesh Din



173. The data were collected from the investigation files, some of which include complaints about

Handling Common Offenses: Yesh Din's Findings

The cases monitored by Yesh Din also allow us to examine the results of police handling of complaints about common offenses.¹⁷³

Crimes of Assault: Personal assault was cited as the reason for the complaint in 34 of the files in the sample. In seven of these, live weapons were used against Palestinians, in 12, rocks were thrown, and in 15 Palestinians were beaten, sometimes using clubs or knives. Of these assault-based files, five are still open: three are still being investigated¹⁷⁴ and two have been transferred to prosecutors for a decision.¹⁷⁵

In six of the cases, indictments were handed down.¹⁷⁶ Twenty-three investigation files were closed, 11 of them for "Lack of Evidence"¹⁷⁷ and 12 because the perpetrator was "unknown."¹⁷⁸ **Seventy-nine percent of the personal assault files for which a final decision has been reached were closed.**

Criminal Trespassing (involving a land dispute): The sample included 31 files in which the most serious offense recorded was criminal trespassing, with or without damage to trees or crops (fencing in and seizing Palestinian land, farming Palestinian land, damaging plots of land or crops, preventing Palestinians from working on their land, etc.).¹⁷⁹ In one of these files an indictment was served,¹⁸⁰ four files are still being investigated,¹⁸¹ and 18

separate incidents, or the same incident occurring more than once. Yesh Din files, on the other hand, are opened for each individual complaint. For files in which more than one crime is recorded, the most serious one was counted.

174. Yesh Din files 1056/05 and 1058/05 (which comprise one investigative file), and Yesh Din files 1159/06 and 1168/06.

175. Yesh Din file 1054/05 involving the killing of the boy Mahyoub Asi of Beit Liqya by a weapon fired by a guard working at the security fence. The file was transferred to the Jerusalem District prosecutor's office for a decision. Yesh Din file 1124/05 involving teenagers who threw rocks at a home and vehicle in the village of Dura al-Qara was transferred to the SJ District prosecution unit.

176. Yesh Din files 1015/05 and 1037/05 (which comprise one investigative file) and Yesh Din files 1024/05, 1078/05, 1100/05, 1125/05, and 1132/05.

177. Yesh Din files 1003/05 and 1014/05 (which comprise one investigative file) and Yesh Din files 1002/05, 1012/05, 1019/05, 1030/05, 1039/05, 1103/05, 1107/05, 1112/05, 1119/05, and 1134/06.

178. Yesh Din files 1063/05 and 1064/05 (which comprise one investigative file) and Yesh Din files 1027/05, 1028/05, 1035/05, 1040/05, 1043/05, 1070/05, 1082/05, 1102/05, 1105/05, 1106/05, and 1127/05.

179. Damage to trees is included in the category of incidents involving land disputes and trespassing, rather than in the category of property damage. Unlike incidents involving damage to vehicles and other property, trees are most often vandalized in an attempt to seize a Palestinian plot of land.

180. Yesh Din file 1174/05.

181. Yesh Din files 1079/05, 1091/05, 1095/05, 1101/05, 1115/05, 1129/05, 1146/06, and 1163/06.

182. Yesh Din files 1041/05 and 1074/05 (which comprise one investigative file) and Yesh Din file 1117/05.

files were closed (two on the grounds of “No Criminal Culpability,”¹⁸² five for Lack of Evidence,¹⁸³ and 11 because the perpetrator was “unknown”¹⁸⁴). Four of the complaints about criminal trespassing were lost, and it appears that they had not been investigated.¹⁸⁵ Of all investigation files in the sample that concern primarily criminal trespassing, 71 percent were closed or the complaints lost. **Of the files for which investigation has ended, approximately 90 percent have been closed (or the complaints have been lost).**

In one other investigation file – which included complaints of gunfire, seizing private land, and fencing and planting by settlers – an indictment was served only for the use of weapons.¹⁸⁶ Another – which investigated an armed threat and the prevention of Palestinians from farming their land – was closed for “Lack of Evidence.”¹⁸⁷

Property Damage: For fifteen of the files monitored by Yesh Din, the

police conducted an investigation for property damage: theft, arson, vandalization of agricultural equipment, and damage to other property. One of these files is still being investigated¹⁸⁸ and one has been transferred to the Jerusalem District prosecutor’s office.¹⁸⁹

The police have ended their work on 13 of the property damage files, and all have been closed: two for “Lack of Evidence”¹⁹⁰ and the others because the perpetrator is “unknown.”¹⁹¹

Other Crimes: Twelve of the files monitored by Yesh Din involved other types of complaints: settlers killing animals belonging to Palestinians (two files), threats (three files), sewage flowing from settlements onto Palestinian agricultural land (four files), and others (three files). Of these, five are still being investigated,¹⁹² one complaint was lost and had apparently not been investigated,¹⁹³ and five files have been closed: three on the grounds of “No Criminal Culpability”¹⁹⁴ and two for a “Lack of Evidence.”¹⁹⁵

183. Yesh Din files 1010/05, 1077/05, 1090/05, 1093/05, and 1139/06.

184. Yesh Din files 1008/05, 1018/05, 1022/05, 1023/05, 1057/05, 1111/05, 1118/05, 1120/05, 1121/05, 1128/05, and 1162/05.

185. Yesh Din files 1033/05, 1094/05, 1130/05, and 1142/06. Yesh Din has copies of receipts for the filing of the lost complaints.

186. Yesh Din files 1015/05 and 1037/05 (which comprise one investigative file).

187. Yesh Din file 1089/05.

188. Yesh Din file 1085/05 (ID 6917/05).

189. Yesh Din file 1114/05 (ID 1117/05).

190. Yesh Din file 1081/05 (ID 6980/05).

191. Yesh Din files 1011/05, 1050/05, 1055/05, 1061/05, 1068/05, 1069/05, 1071/05, 1073/05, 1097/05, and 1113/05.

192. Yesh Din files 1038/05, 1044/05, 1133/05, 1151/06, and 1156/06.

193. Yesh Din file 1080/04.

194. Yesh Din files 1025/05, 1029/05, and 1049/05.

195. Yesh Din files 1072/05 and 1089/05.

In the following section, we will explore the reasons for the high failure rate of SJ District Police investigations of complaints filed by Palestinians against settlers.

5(c). Main Failures in SJ District Investigations

Yesh Din's legal advisor, who represents complainants in cases that are monitored by the organization, receives copies of investigation files that the police have decided to close. He reviews them and determines whether there is justification for appeal. According to the guidelines of the State Attorney's Office, copies of files sent to the attorney representing the complainant must also contain all material relevant to the investigation, apart from intelligence information and internal memos.¹⁹⁶

Between the time Yesh Din began operating and the preparation of this report, the organization examined 42 investigation files of the SJ District Police. The great majority of them, from the Samaria Region,¹⁹⁷ were closed for various reasons, and

no actions were taken against the suspects. Twenty-four of the files examined were closed because the offender was "unknown," 13 because of insufficient evidence, and four on the grounds of "No Criminal Culpability." The decision to close one file, which Yesh Din is appealing, was followed by an announcement (after the appeal was served) that the file had, in fact, not been closed and is still being investigated.¹⁹⁸

Yesh Din has not yet decided whether to appeal the closure of five other files it examined. In thirteen other cases, the organization decided not to appeal the file closures.¹⁹⁹ **In 22 of the 42 files examined (about 52 percent) Yesh Din discovered flaws and failures in the investigations, which caused the organization to file appeals against the decisions to close these files.**

Examination of the files revealed repeated failures in investigations conducted by the SJ District Police. A description of the most flagrant problems follows.

196. Guidelines of the Office of the Attorney General, Directive No. 14.8, **Requests by various parties for investigative material in police files**, August 1, 2002, Section B(6).

197. Yesh Din began its work in northern West Bank settlements, which are within the jurisdiction of the Samaria Region. Only later did its activities spread to other West Bank areas. Therefore, most of the files that are no longer being investigated, and which Yesh Din has been able to examine, are from the Samaria Region.

198. Yesh Din file 1101/05 (ID 7474/05).

199. In one of the instances in which Yesh Din did not file an appeal, it asked a Samaria Region investigations officer to explain why the investigation had failed. In another instance, Yesh Din requested a time extension for its appeal (in order to wait for the results of an appeal it had filed in a different case) but was refused.

Recording the Complaint and Testimony in Hebrew

According to the standing orders of the Israel Police, testimony given to police officers is to be written, whenever possible, in the language of the person being interrogated.²⁰⁰ In the event that the interrogator does not speak the language of this person, police guidelines allow for assistance by an interpreter. State Comptroller Report 56A, which focused on particular procedures carried out by the SJ District Police, criticized the fact that in every investigation file opened in the District – apart from terror-related cases – the testimony was recorded in Hebrew rather than in the language in which it was provided.²⁰¹

Through its monitoring, Yesh Din learned that the overwhelming majority of complaints filed by Palestinians in the SJ District are recorded at DCOs. The police officers stationed at these facilities speak, read, and write Arabic. Despite this fact, and the fact that complaints and testimony by Palestinians are communicated in Arabic, the material contained in nearly every investigation file examined was written in Hebrew – whether recorded upon receipt of the complaint or when additional testimony was provided. In only one (!)

investigation file was the testimony of a Palestinian complainant written in Arabic and later translated to Hebrew.²⁰²

If the testimony of complainants and witnesses is recorded in a language foreign to them, they are unable to read and approve the only complete and accurate account of the incident from their point of view. In one of the investigation files examined, a complainant was questioned about possibly filing a false complaint. In the first testimony he provided, immediately following the incident, the name of one of the persons involved in the assault was not recorded; the name does appear, however, in additional testimony he gave the following day. The first testimony was communicated to the investigator in the field and in Arabic but was recorded in Hebrew. The complainant stated firmly that he had mentioned the name of the suspect but that the investigator may not have recorded it.²⁰³ Had the testimony been written in the language in which it was delivered, the complainant could have read it and noted any details that were omitted. The resulting bank of evidence against the suspect would have been stronger, and the complainant would not have been interrogated as a suspect himself.

200. "Recording and translation of confessions by accused criminals, testimony of witnesses."

201. Comptroller's Report 56A, p. 182.

202. Yesh Din file 1029/05 (ID 5114/05).

203. Yesh Din file 1011/05 (ID 2713/05). See p. 47 [SJ District section] and below.

Although five years have passed since the Comptrollers criticism of this policy in the SJ District, investigators there continue to record the testimony of complainants and witnesses in Hebrew – even when it is delivered in Arabic. Police orders, as noted, prohibit this practice.

Visits to the Crime Scene for Evidence Gathering

Monitoring by Yesh Din has revealed that only rarely do SJ District investigators visit the crime scene to collect evidence.

Qassem Mansour, a resident of Deir Istiya, owns a plot of land in Wadi Qana, adjacent to Route 66. Local settlers often trespass on his land and, on occasion, have destroyed agricultural equipment there. On the night of Wednesday, August 31, 2005, unidentified persons broke through the gate surrounding a storage room containing Mansour's water pump, removed the door to the room, and vandalized the pump with rocks they picked up from the site.²⁰⁴

On Wednesday, September 7, 2005, Mansour, accompanied by Yesh Din volunteers, came to the Qedumim Police Station within the SJ District and filed a complaint about the damage to his property. The investigator said he planned to visit the location, but after hearing that Yesh Din had photographs documenting the damage, he changed his mind, claiming that his police vehicle could not maneuver the rocky terrain at the site of the incident. The officer agreed to accept the photographs taken by the Yesh Din volunteers at the site.²⁰⁵

Even in cases when investigators visit the site, their work is sometimes marked by negligence that minimizes the chances of obtaining evidence. For example, an investigator who came to photograph a structure built by settlers on land owned by a Palestinian civilian was unable to do so; the memory card of his digital camera was full.²⁰⁶ In another instance, the investigator arrived at night to photograph a tractor that had been vandalized by settlers; he failed to do so because his camera lacked a flash attachment.²⁰⁷

204. Yesh Din file 1068/05. The testimony of Qassem Nasser Muhammad Mansour, born in 1953 and a resident of Deir Istiya, was recorded by Dina Goor and Ofra Katz on September 3, 2005 in Deir Istiya.

205. Conversation between Dina Goor and a Samaria Region investigator, September 28, 2005. The conversation is documented in Yesh Din file 1068/05. On September 11, 2005, five days after the complaint was recorded, the Investigation file (ID 6657/05) was closed on grounds of "Perpetrator Unknown." The police investigator who received Yesh Din's computer disc containing the photographs telephoned one of the volunteers on September 28 to ask which file they belonged to. The investigator was surprised to learn from the volunteer that the file had been closed about two weeks earlier.

206. Yesh Din files 1041/05 and 1074/05 (ID 5138/05).

207. Yesh Din file 1011/05 (ID 2713/05).

Recording Testimony

In some of the investigation files Yesh Din checked, the file was closed after testimony was recorded from the person who filed the complaint, but who was not an eyewitness to the event or was present only in a small part of it.²⁰⁸ In other investigation files – even some where a deeper investigation was conducted – the investigators avoided summoning witnesses - Palestinians, settlers or soldiers. Therefore the possibility of reaching relevant information about the circumstances of the incident or the people responsible for it was prevented.

This was the case in the investigation that opened following the beating of Thalji Awad, 88, by a group of Israelis on his land near the settlement of Itamar during the olive harvest. The file was closed on the grounds of “Perpetrator Unknown,” after the victim declared in his testimony that he could not identify his assailants. The victim’s daughters-in-law, who were witnesses to the incident, were not summoned to give testimony, even though it is possibly they could have provided evidence that would have led to the identification of the assailants. The police made no effort

to identify the soldiers who were present during the incident with the purpose of safeguarding the harvest and invite them to give testimony. Moreover even though Awad complained that the soldiers – who were stationed there as mentioned for the purpose of protecting the harvesters – stood by and did nothing when he was attacked, the investigation material was not handed over to the Military Police investigation unit so that an investigation could be launched against those soldiers.²⁰⁹

In the investigation of one of the complaints filed by Hani Amer, resident of Mas-ha, about recurrent stone throwing from the roof of one of the houses in Elkana at his house, the police received information on the identity of the residents of the settlement houses near the Amer home. Nonetheless, the owner of the home from which, according to Amer, the stones were thrown was not summoned for investigation.²¹⁰

Identification Lineups

Yesh Din’s monitoring has shown that when it is assumed the complainant could identify the offender, the SJ District Police habitually conducts a photo identity lineup. But in none

208. See for example Yesh Din file 1069/05, p. 106, below.

209. Yesh Din file 1127/05 (ID 8926/05). For description of incident see p. 61.

210. Yesh Din file 1043/05 (ID 4893/05).

of the investigation files Yesh Din monitored was a live identification lineup conducted, which has far higher chances of success, level of accuracy and evidential value. In a small number of the investigation files that were examined the suspects were asked whether they would be willing to show up for an identification lineup, and they answered in the negative or maintained the right of silence.

A senior SJ District investigator asked by a Yesh Din volunteer why “live” identification lineups were not held answered that “we don’t have enough people who resemble each other for a live identification lineup. If we were in Tel Aviv we would do a live lineup. Then I could recruit enough people who look alike.” The volunteer asked the investigator what happened if the complainants could not identify the suspects by their photos, and to this the investigator replied, “Then too bad.”²¹¹

Confrontations

In only one of the investigation files checked was a confrontation conducted between the complainant and the suspect.²¹² In all the other investigation files checked, and in all the other files under Yesh Din monitoring which are still being handled, confrontations were not held between complainants and suspects.

Alibi Claims

In five of the investigation files checked seven suspects made alibi claims and declared they could prove they were not at the site of the incidents when they took place. Verification of alibi claims can refute suspicions against suspects or strengthen them, if it emerges that the claim was false. According to the documentation that appears in the investigation files given to Yesh Din, no alibi claim was ever examined.

One suspects accused of in causing damage to property and threatening with a weapon claimed that at the time of the incident he was in Jerusalem shopping and had used his credit card. In the investigation file there is no documentation of an attempt by the investigators to receive the relevant documentation from the credit card company or to collect testimony from a saleswoman, whom the suspect declared would remember his face. Another suspect in the same incident claimed that at the time he was in the guard station, but in the investigation file there is no documentation that shows that the shift records were checked. The investigation file was closed on the grounds of “Perpetrator Unknown.”²¹³

A suspect identified by a complainant as someone who threatened him in the presence of police, claimed that at

211. The conversation between Yesh Din volunteer Tzvia Shapira and the senior investigator is documented in Yesh Din file 1134/05.

212. Yesh Din file 1107/05 (ID 7842/05).

213. Yesh Din file 1011/05 (ID 2713/05).

that time he went to a health clinic in a nearby settlement. The police who were witnesses to the event were not questioned, and it appears that no effort was made to identify them and find out whether the suspect was present at the site of the incident when it happened. The investigation file was closed on the grounds of "No Criminal Culpability."²¹⁴

A suspect in grave assault of an elderly resident of Beit Dajan claimed he was home all that day with his wife. The suspect's wife was not summoned for investigation, and no attempt was made to verify or refute the alibi claim. The investigation file was closed on the pretext of "Lack of Evidence."²¹⁵

A suspect in an incident of torching olive trees, felling trees and stealing olives from a Palestinian's grove claimed that on the day of the incident he was in a certain settlement, on "personal business." The suspect was unable to name a person who saw him in that settlement. He added that at night he went back to sleep in his own bed, after his roommates fell asleep and that he woke up in the morning and left before they woke up. He refused to provide the names of those he claimed slept in the same room as him. Another suspect in the same incident claimed he went to Jerusalem that day with his family, and that he

slept in his own bed at night. None of the alibi claims made by the suspects was checked, and the investigation file was closed on the grounds of "Lack of Evidence."²¹⁶

A person suspected of uprooting vines and stealing them, as well as an extortion attempt, claimed he wasn't present at the scene when the incident occurred. But when he was asked to provide his alibi the suspect repeatedly evaded the request. Finally, the investigation file against him was closed on the pretext of "Perpetrator Unknown."²¹⁷

Closing Investigation Files before they are Exhausted

Some of the investigation files checked were extremely thin, and that reflected superficial and negligent investigations. Thirteen of the files (about one third of the sample that was examined) included only a few pages. Those files included only the complainant's testimony (and in two of the files the testimony of another person), with or without accompanying documents the complainant provided to support his version. In those 13 files there was no additional document that could indicate any investigative action that was taken before it was decided to close the file.

214. Yesh Din file 1029/05 (ID 5114/05).

215. Yesh Din file 1019/05 (ID 3045/05).

216. Yesh Din file 1077/05 (ID 7900/04).

217. Yesh Din file 1090/05 (ID 2143/05).

So, for instance, the investigation file on the assault of Samih a-Shtayeh and his brutal beating was closed after taking the testimony of the victim and a person who was called to rescue him from the place where he was assaulted. The testimony of the person who called the rescuer, who could have been an eye witness to the incident, was not taken at all, and the investigation file was closed on the grounds of "Perpetrator Unknown."²¹⁸ The investigation file in the complaint of Mayser Shana'a, who received an eye injury from stones settlers threw at the taxi she was traveling in, was closed on the same pretext. The copy of the investigation file given to Yesh Din did not include documentation of any attempt to locate the other passengers in the taxi (even though the complainant gave their details to the investigator) or the driver.²¹⁹

Closing Files Despite the Existence of Prima Facie Evidence that would Allow Prosecution

In three investigation files checked by Yesh Din it turned out the files were closed even though they appeared

to contain sufficient evidence to prosecute the suspects.

In the dead of night, About half an hour after an incident of stone-throwing and theft at the village of Asira al-Qibliya, an IDF force called to the scene arrested, an Israeli civilian making his way from the village to the settlement of Yizhar. A suspicious piece of evidence was seized among his belongings. In the investigation the suspect maintained the right of silence in such a way that reinforced the suspicions against him. Nonetheless, the investigation file was closed on the grounds of "Lack of Evidence."²²⁰ Following an appeal filed by Yesh Din²²¹ the Samaria Region investigator announced the investigation reopened,²²² and that an indictment against the suspect was being prepared.²²³ In another file that was closed on the grounds of "Lack of Evidence" the complainant identified in a photo lineup a suspect connected to the incident, and suspicious findings were detected near the suspect's house.²²⁴ The appeals department in the state prosecutor's office rejected an appeal filed by Yesh Din against closing the

218. Yesh Din file 1027/05 (ID 254/05).

219. Yesh Din file 1070/05 (ID 6710/05).

220. Yesh Din files 1003/05 and 1014/05 (ID 2214/05). For elaboration on the incident and the deficiencies in its investigation see p. 111 below.

221. The appeal was filed on November 1, 2005.

222. A telephone conversation between the investigator of the Samaria Region and Natalie Rosen from Atty. Michael Sfard's office, March 13, 2006. Yesh Din files 1003/05 and 1014/05.

223. A letter from Superintendent Yaron Shetreet, deputy officer of investigation division at SJ District, to Atty. Michael Sfard, May 15, 2006. Yesh Din files 1003/05 and 1014/05.

224. Yesh Din file 1103/05 (ID1094/04). For elaboration on the incident and the faults in its investigation see p. 117 below.

file.²²⁵ Another investigation file, this time in the Hebron Region, was closed on the grounds of “Perpetrator Unknown,” even though the person suspected of uprooting vines and stealing them, as well as an extortion attempt, was identified by the two complainants in a photo identification lineup, and refrained from making an alibi claim.²²⁶ Yesh Din appealed against the closure of the file.²²⁷

Closure of files on the grounds of “No Criminal Culpability”

The Israel Police’s National Headquarters Order on handling a complaint and investigation file elaborates the conditions on which a file can be closed on the grounds of “No Criminal Culpability”: when it emerges, at any stage after receiving the complaints, that the action does not constitute an offence,²²⁸ or in case it emerges that the action does constitute an offense, but there is not a shred of evidence that the offense was committed by the suspect.²²⁹ When an investigation file against a suspect is closed on the

grounds of “Lack of Evidence” or “Lack of Public Concern”, the police computers maintain a criminal record of the suspect. In contrast, when an investigation file closes on the grounds of “No Criminal Culpability,” the suspect’s criminal record is erased from the police computers.²³⁰ The purpose of this practice is to prevent even the appearance that there is a doubt as to the suspect’s innocence, and thus to prevent an unnecessary injustice against the suspect.²³¹

Five of the investigation files Yesh Din is monitoring were closed on the grounds of “No Criminal Culpability.” By the time this report was written the organization was able to check four of them, and the examination raises doubts as to the decision to close the files on those grounds.

One of the investigation files was opened because of a complaint that goats were run over by an Israeli driver, near the settlement of Ariel. The investigation file made no mention of the fact that the incident was also investigated by the Samaria

225. Letter from Jenny Ginzburg, Deputy State Attorney (Appeals), March 14, 2006. Yesh Din file 1103/05.

226. Yesh Din file 1090/05 (ID2143/05). For elaboration on the incident and the faults in its investigation see p. 112 below.

227. The appeal was filed on January 9, 2006.

228. Section 5(a)(1) of the Israel Police’s National Headquarters order 14(1)(1) (“Treatment of Complaint and Investigation File”).

229. Section 5(a)(2), *ibid.*

230. Dan Lahav, *Background paper on the policy of closing files in the DA and police prosecution*, the Knesset, Research and Information Center, February 6, 2006, p. 11.

231. The state prosecutor’s instructions, instruction no. 1.3, *Closing files on grounds of “Lack of Evidence” and grounds of “No Criminal Culpability”*, latest update: January 1, 2003, section 10.

Region police's traffic department.²³² Assuming that the police of the traffic department did question the offending driver, his version and other findings from that investigation were not contained in the file opened as a result of the complaint by the owner of the goats, and consequently were not before the investigators when they decided to close the file. Nor did the investigators collect evidence from a policeman who was a witness to the event. The file was closed as mentioned on the grounds of "No Criminal Culpability."²³³

In another file, Palestinians complained serious damage was done to their groves because of the constant dumping of sewage from a factory in the industrial area of the Immanu'el settlement, over a period of three years. The investigation file was closed on the grounds of "No Criminal Culpability," after the owner of the factory claimed in his testimony that the local council was responsible for a fault in the pumps that led to the dumping of the sewage according to a letter from the "Municipal Environmental Associations of Judea and Samaria," included in the investigation file, in December 2004 and January 2005 there really was a fault in the pump, but it was fixed. The

versions of the factory owner and the municipal association contradict the complainant's version as to the length of time in which sewage was poured onto his land, but for an unclear reason the Samaria Region police was satisfied with that and closed the investigation file without determining who was responsible for the damage caused to the complainant. In this case, the decision to close the file on the grounds of "No Criminal Culpability" not only appears to be unfounded, but could even prevent the complainant from knowing who was responsible for the harm to his land and filing a civil damages suit against him.²³⁴

5(d). Examination of Investigation Files in SJ District: Selected Examples

ID 5138/05 (Yesh Din files 1041/05 and 1074/05)

The outpost of Elmatan was created in July 2000, near the land of Hamed Oudeh, born in 1935, a farmer and resident of Kafr Thulth. The residents of the outpost built a road on the private lands of Oudeh and other Palestinians, but it was destroyed following a promise of the state to

232. That detail was learned from a conversation between Yesh Din volunteers, who accompanied the complainant to submit the complaint, and the investigator who recorded it. The conversation is recorded in Yesh Din file 1049/05.

233. Yesh Din file 1049/05 (IG 406/05).

234. Yesh Din file 1025/05 (IG 310/05). For a description of the circumstances of the closure of the two other files on the grounds of "No Criminal Culpability," see p. 99 (Yesh Din file 1029/05) and below (Yesh Din files 1041/05 and 1074/05).

the HCJ in March 2005.²³⁵ Besides that the settlers of Elmatan built on Oudeh's land a barn and a petting zoo. One of them grazes his horses on Oudeh's plot and feeds them there, and another regularly grazes his goats there. In early March 2005 Oudeh was beaten by one of the residents of Elmatan.²³⁶

"I work early in the morning, alone or with my wife and my sons. The settler comes every day. When I see him coming, I leave the site, because I'm afraid he will beat me.



"The settler from Elmatan who has goats takes his herd, 30 or 40 goats, into my land. He does it on purpose. I can identify him, I have complained against him in the past.

"Last week I went to my land. I saw the settler with the goats near the big olive trees, near my water hole. The goats eat the olives from the low branches, only the olives on top remain. Olives have a good year and a meager year, alternately. This year there is not a lot of fruit, so if the goats eat the olives below, what is left for me? Even if each goat only eats a little, it adds up to a lot of olives.

*"I am willing to identify the settler. I don't know his name, but the police have to call him, and then I can identify him."*²³⁷

Between March and September of 2005 Oudeh filed five separate complaints with the SJ District Police at the Qedumim station for trespassing and damaging his property by residents of Elmatan, cutting down olive trees on his land and spreading the tree stumps with poison that prevents their recovery, as well as causing damage to a water hole.²³⁸

An examination of the investigation file that opened in the Samaria Region of the SJ District Police (ID 5138/05) shows that Oudeh's first three complaints – that were submitted at the Qedumim station in March, May and June, 2005 – did not lead to the launching of any investigation. That is despite the fact that Oudeh was given receipts for submitting the complaints. Only after he returned to the police station on July 7, 2005, and filed another complaint, was an investigation file opened in the Samaria Region – nearly four months after he filed the first complaint.

235. HCJ 10588/04. *Al-Alam et al v commander of IDF forces in Judea and Samaria* (not published).

236. See p. 46.

237. From the testimony of Hamed Dib Hamed Oudeh, born 1935, resident of Kafr Thulth. The testimony was taken by Ruth Kedar on July 6, 2005, in Kafr Thulth. Yesh Din file 1041/05.

238. The complaints were filed on March 14, May 7, June 1, July 7 and September 10, 2005. Yesh Din has copies of the receipts for the submission of the complaints.

On the day the fourth complaint was filed a policeman went with Oudeh to the area, to document the damage that was caused. In a memo that appears in the investigation file the policeman noted he took only one photograph, because the memory card of the digital camera in his possession was full, and he could not take additional pictures. The policeman added that the barn Oudeh indicated was familiar to him “from previous incidents,” but he could not question Oudeh about it because of a language barrier – the policeman did not speak Arabic.

The investigation file has no documentation of additional actions taken after the fourth complaint was filed. On September 14, 2005, Oudeh submitted another complaint, this time because sheep were brought into his land and caused damage to his crop.²³⁹ Only on October 2, 2005 – some three months after the investigation file was opened and about seven months after the first complaint was filed – was a suspect from Elmatan investigated. In October the statements of two additional suspects from the outpost were taken.

The two suspects H. and A. were investigated as to their involvement in all of the incidents about which Oudeh complained. H. confirmed in his investigation that he operates an petting zoo but claimed it is located

within the boundaries of the settlement Ma’aleh Shomron. He laconically denied his involvement in the other incidents. A. too denied all of the claims made against him, but confirmed he keeps horses in the area. He also claimed the area where the horses are located is in the boundaries of Ma’aleh Shomron. According to the documentation that appears in the investigation file, the police did not bother at all to ascertain the possessory and statutory status of the area where the petting zoo and the barn are located, and whether it is in the boundaries of the settlement of Ma’aleh Shomron, as the suspects claimed. Had they checked, they would have discovered that the animal corner stands next to the road the settlers built on Oudeh’s private land, and which the Civil Administration destroyed after a petition on the matter was filed to the HCJ.

T., the third suspect, was interrogated on October 31, 2005, in connection with trespassing and causing damage. He was suspected of grazing his goats on Oudeh’s land, and that his goats ate from the complainant’s olive trees and damaged them. T. was asked of his actions on the day of the incident, June 4, 2005 – some five months before the time of the investigation – and replied that he did not remember. The suspect confined himself to short and vague denials of all of the charges made against him.

239. Yesh Din file 1074/05.

Other than questioning the three suspects the Samaria Region police did not take any further investigative action in the file. Oudeh was not asked to identify the pictures of the suspects in the offenders' album, there was no identification lineup of them, no confrontation was held between the complainant and the suspects, and, as noted, the claim of two of the suspects as to the possessory or statutory status of the contended area was not checked at all. Despite all the aforementioned the investigation file was ultimately closed on the grounds of "No Criminal Culpability."

After checking the file and in the context of the many faults detected in the investigation, Yesh Din filed an appeal against its closure.²⁴⁰ At the time of the writing of this report no answer was received yet from the appeals department of the state attorney's office.

ID 6519/05 (Yesh Din file 1069/05)

Near the village of Aqraba there is a rocky wadi with a spring. Shepherds from the area graze their herds in the area and water them with the spring water. In May 2005 shepherds from Aqraba lay a two-kilometer long plastic pipe from the spring to a 200-liter barrel to collect the spring water.

The purpose of this was to make it easier to water the herds. When herds of sheep arrive there, the shepherds open a faucet in the barrel and let the water flow into a pool, from which the herds drink the water.

On Friday, August 26, 2005, Rabi Bani Jaber, a resident of Aqraba, went to herd his family's goats. Around 4 p.m., when he was watering the herd at the water pool, Bani Jaber noticed a few settlers approaching him. The settlers called out to Bani Jaber in Hebrew, and he noticed they were aiming guns at him. The frightened Bani Jaber fled, leaving his herd of goats behind. He hid among the nearby rocks and called his father to get help.²⁴¹

Another shepherd, Aqraba resident Samih Bani Juma, was a witness to the incident:

"[The settlers] called Rabi, 'come, come, you son of a bitch.' They spoke Hebrew, and Rabi doesn't understand Hebrew, but I heard, and I understand Hebrew. I asked them 'what do you want from the kid?' I was 300 meters away from them. The guys told me: 'Come, come, we'll beat you up.' Two were aiming guns. Rabi ran away and the two ran after him. The other three stayed put. They didn't have guns. I ran away, went up, and they didn't find me. They fired in the air five or six bullets. My sheep

240. The petition was filed on April 4, 2006.

241. According to the testimony of Rabi Fadel Ayyad Bani Jaber, born 1986, resident of Aqraba. The testimony was taken by Dina Goor and Ofra Katz on September 6, 2005 in Aqraba. Yesh Din file 1069/05.

*stayed put. From far away I saw the settlers breaking the faucet on the barrel, taking apart the pipe, cutting it, and taking it up, towards the spring. I ran away and didn't come back until the next morning, and then I found pieces of the pipe spread on the ground.'*²⁴²

The next day, August 27, 2005, the residents of Aqraba repaired the pipe, but the next day it was found broken again. On August 30, 2005, Rabi Bani Jaber's father filed a complaint at the Nablus DCO.

Atty. Michael Sford, who examined the police file, discovered that the investigation included only one action: taking the statement of the complainant, the father of Rabi Bani Jaber, who as noted was not even present at the site at the time of the incident. The police did not take testimony from his son Rabi, or from Samih Bani Juma, who saw the settlers firing in the air, chasing Rabi and causing damage to the pipe and the faucet. Only one day after filing the complaint the investigation file was closed on the grounds of "Perpetrator Unknown."²⁴³

Yesh Din filed an appeal against the closure of the file before the investigation was exhausted.²⁴⁴ At

the time of writing this report no response has yet been received from the state prosecutor's office's appeals department.

ID 5753/05 (Yesh Din file 1040/05)

The separation barrier divides the home of the Amer family – the couple Hani and Munira and their six children – from the rest of the homes of the village of Mas-ha. West of the house, which is surrounded by the barrier on all its four sides, there is a fence and a road. Only 20 meters west of the house are the outer homes of the settlement of Elkana. Children and youths from Elkana regularly throw stones at the Amer home, and its owner filed several complaints with the policeman stationed at the Qalqiliya DCO, but to no avail.

In the early afternoon hours of Saturday, July 2, 2005, several settlers began again to throw stones at the Amer home. Munira Amer, who was at home with her children at the time, went outside and asked the soldiers of the military patrol that went by to intervene and stop the stone-throwers. The soldiers refused and went on their way. The soldiers of the next patrol arrived about half an hour

242. From the testimony of Samih Abed Ahmad Bani Juma, born 1958, resident of Aqraba. The testimony was taken by Ruth Kedar and Yudit Avi Dor on September 6, 2006, in Aqraba. Yesh Din file 1069/05.

243. Notice of closure of the file was given to Yesh Din in a letter from Chief Superintendent Ami Baran, Assistant Investigation Division Officer for the Samaria Region, on November 24, 2005. Yesh Din file 1069/05.

244. The appeal was filed on January 9, 2006.

after the stone-throwing began, and a few of them went onto the roof of Munira's home with her. The soldiers called to the stone-throwers, who escaped, except for one of them, who continued cursing the owners of the house and the soldiers. Hani, Munira's husband, who was not present during most of the incident, returned home, and received from the soldiers, who refused to identify themselves by name, the name of their company and the codename of their patrol.

Amer tried to coordinate with the policeman at the Qalqiliya DCO the time of his arrival to file a complaint, but was put off again and again. Finally he was told to come to the DCO on July 10, 2005. There too the policeman refused at first to take his complaint, and finally agreed to do so only after an argument.²⁴⁵ The investigation file that opened following the complaint (ID 5753/05) was closed on the grounds of "Perpetrator Unknown."²⁴⁶

Yesh Din's examination showed that the investigation file includes the testimony of Hani Amer (who, as noted, was not present at home at the time of the stone-throwing), and an activity report by the DCO policeman, that refers to a previous complaint filed by Amer. According to the examination, no other action was

taken in the file: testimony was not taken from Munira Amer, who was an eye-witness to the event; no attempt was made to identify the soldiers, the name of whose company and patrol Amer provided in his complaint; no identification lineup was conducted and no other action was taken that could have led to the identification of the stone-throwers and their prosecution. Nor was any effort made to identify the patrol soldiers who refused to help Munira Amer and transfer their matter to the investigation of the Military Police Criminal Investigation Division – even though the license plate number of the jeep they were driving was given to the police.

Yesh Din appealed the decision to close the investigation file before it was exhausted.²⁴⁷ Following the appeal the file was reopened for the completion of the investigation.²⁴⁸

ID 2713/05 (Yesh Din file 1011/05)

On the afternoon of Sunday, April 10, 2005, two residents of Aqraba, Kamal Bani Jaber and Amer Nasser, were driving a tractor with a wagon to a field near the built-up part of the village, to leave fodder for their families' herds of sheep. On their way back they were stopped by two

245. See details on p. 82.

246. A letter from Asst. Commander Uzi Zomer, deputy commander of the Samaria Region, to Atty. Michael Sfard, September 13, 2005. Yesh Din file 1040/05.

247. The appeal was filed on November 13, 2005.

248. Notice was given by the prosecutions unit of the Israel Police National Headquarters on February 28, 2006. Yesh Din file 1040/05.

armed settlers, at least one of whom arrived in a security vehicle, and ordered them to wait there. Nasser identified one of the settlers as B., resident of the Gevaot Olam outpost near the settlement of Itamar, who had been involved in many violent incidents with residents of the area.

“B. asked us for identity cards and I gave him. B. asked me whether we have a cell phone and I told him I didn’t, even though I did. He took our papers and moved with the [other] settler a few meters away from us. They started talking amongst themselves and I didn’t



hear very well what they were saying. I only heard they were talking about Kamal’s father who lives in Dawa [an agricultural compound with a few houses] and owns the field. From his body language I understood B. was using foul language. Then B. sat with his friend on the ground, indicated with his finger a circle on the ground, and made a hole in the middle of the circle. I thought they wanted us to be in the middle and they would surround us. From what I heard I thought they were planning to kill us. I heard him talking on the radio, and I knew more people were going to come and they could kill us. We were sitting on the tractor the whole time. They didn’t let us get off of it. The settlers didn’t even let me smoke.

At about 6:15 p.m., when they moved away a little, I called my son and sent him to tell Walid, who is a resident of Aqraba and works in the Palestinian Authority, about our situation. Meanwhile another van drove down to us from the direction of Itamar, but I couldn’t see how many people were in it. About 15 minutes after I spoke to my son, Walid called me. B. and the other one who stayed in the area heard the phone ring. B. ran up to me, took the phone, slammed it on the floor and broke it. I got off the tractor and yelled at B., ‘why did you break the phone?’ Then B. went over to the tractor’s wagon. I don’t know what he put in the wheel, but the wheel exploded.

I told Kamal to run away and I wanted to too. I ran in one direction and Kamal in the other, on the path towards the dawa [...] I ran maybe 200 meters towards the wadi, with four settlers running after me. I looked back and saw a crowd of settlers around, I don’t know exactly how many. I began running down again towards the wadi. The settlers chased me for about 500 meters, and then they went back. We heard a loud explosion of the tractor wheels from far.”²⁴⁹

At around 8 p.m. Nasser and Bani Jaber met at the nearby village of Yanun army and police details, called in by activists from the Arab-Jewish organization Ta’ayush. Nasser’s sons

249. From the testimony of Amer Salim Ahmad Nasser, born 1960, resident of Aqraba. The testimony was taken by Dafna Banai, Rachel Afek and Yudit Avi Dor on April 20, 2005 in Aqraba. Yesh Din file 1011/05.

drove back to the scene of the incident with a military escort, and towed away the tractor and the wagon, all of whose wheels were pierced several times. Around midnight the two met an investigator from the Samaria Region who took Nasser's testimony. The investigator wanted to photograph the tractor, but couldn't, because the camera he had didn't have a flash. The complainants gave the police the pictures of the vandalized tractor at a later stage.

The Samaria Region police opened an investigation file following the incident marked as ID 2713/05. The file was closed for reason of "Perpetrator Unknown."²⁵⁰

A Yesh Din examination found that even though the two complainants claimed they could identify their assailants if they saw them, and even identified one of them by name, the police investigators did not conduct an identification lineup – even though the documentation of the investigation file suggests there was an intention of holding a photo identification lineup. Amer Nasser's testimony shows he was asked to look at a photo album at the police, but did not see in the album pictures of B. and the other assailant. The viewing of the photo

album is not mentioned in the investigation file.

The two settlers who were investigated, B. and V., denied their involvement in the incident and raised alibi claims. The investigator accepted those claims at face value and did not check them at all. Moreover, one of the complainants, Amer Nasser, was summoned to the police again and investigated under warning, on the charge that he lied to the investigator when he said he identified B.²⁵¹

The identify cards of Nasser and Bani Jaber, without which they can not move through the West Bank, remained in the hands of the settlers. The police investigators did not search the Gevaot Olam outpost for the identity cards taken from the two. In a phone call Atty. Sfarid asked the investigator in the file why such a search was not conducted. The investigator answered that looking for the cards in Gevaot Olam was equal to searching for a needle in a haystack, and there was no chance it would product results.²⁵²

Yesh Din filed an appeal against the decision to close the investigation file.²⁵³ At the time of writing this report no response was received yet from the state prosecutor's appeals department.

250. Letter from FSM Shachar Mor from Samaria Region Police to Atty. Michael Sfarid, September 27, 2005. Yesh Din file 1011/05.

251. See also p. 47.

252. The phone call was held in May 2005 and is documented in Yesh Din file 1011/05.

253. The appeal was submitted on November 13, 2005.

ID 2214/05 (Yesh Din files 1003/05 and 1014/05)

Around 2 a.m. on March 27, 2005 – less than two days after settlers from Yizhar went down to Asira Al-Qibliya, fired shots and threw stones at the home of the Salah couple²⁵⁴ - the A. couple awoke in their home at the edge of the village from suspicious sounds.²⁵⁵ From the window of the bathroom G.A., the head of the household, saw a person wearing black, whose head was also covered with a black cover; throwing stones at the nearby street lamp. G.A. called his neighbors and asked them to come to his house. His neighbor Ahmad Salah, whose home had been attacked as noted by stone-throwers from Yizhar only two days earlier; called the policeman stationed at the Nablus DCO and reported the events to him. A few minutes later, when the car of a resident of the village drew close to the house, the stone-thrower ran away, after shattering the street lamp. After G.A. left the house he discovered the water pump attached to the wall of his home had been stolen. The next day G.A. filed a complaint with the policeman at the Nablus DCO.

The investigation file opened for this incident and stone-throwing in the village (2214/05) was closed for “Lack of Evidence.”²⁵⁶

An examination of the file showed that in contrast with the first incident, in which the IDF allowed the stone-throwers to return home, in the second incident the soldiers arrested around 2:30 a.m. a young Jewish man named K., who was going up to Yizhar from Asira Al-Qibliya. Found in K.’s possession was a black stocking hat, and the suspect was handed to the Samaria Region police. He was investigated under warning, but refused to answer the investigator’s question as to his involvement in the two incidents, claiming it was a “political investigation.”

Even though the suspect was arrested in the early morning on his way from the village to the settlement, even though a black sock hat similar to the one the complainant described was found in his possession, and even though his silence in the investigation strengthened the suspicions against him – the SJ District Police decided not to submit an indictment against him, and the investigation file was closed as noted “for Lack of Evidence.”

L., another youth from Yizhar, was investigated two days later at the Samaria Region on the suspicion that he participated in the events at Asira Al-Qibliya. He denied his involvement in the events and claimed an alibi, according to which he was somewhere

254. See p. 54.

255. Yesh Din has the name of the couple but is refraining from publishing it at their request.

256. Letter from Asst.-Cmdr. Uzi Zomer, deputy commander of Samaria Region, to Atty. Michael Sfarid, May 30, 2005. Yesh Din files 1003/05 and 1014/05.

else at the time of the events. Like in other cases, in this case too the police investigators failed to check the alibi claim made by the suspect. Moreover, the investigators did not search the suspect's house or any other place in Yizhar for the water pump stolen from the complainant.

A Yesh Din examination also found that as far as investigating the shooting and the stone-throwing at the Salah home on March 25, 2005, the testimony of Ahmad Salah, given to a policeman at the Nablus DCO on March 27, 2005, was not found in the investigation file at all. Nor was the letter sent by Suha Salah to the policeman by fax, in which she gave her testimony, in the file. Therefore, the investigation file did not include any reference of the complainants to the first incident at Asira Al-Qibliya.

Yesh Din filed an appeal and demanded prosecuting suspect K., or alternatively completing the investigation file.²⁵⁷ Following the appeal the file reopened in March 2005, and the Samaria Region investigators took testimony from the complainants.

ID 2143/05 (Yesh Din file 1090/05)

In June 2002 the outpost of Sde Boaz (also known as Neve Daniel North) was established north of the compound called Ein Qasis by the Palestinians, which contains plots owned by residents of the village of al-Khadr in the Bethlehem

area. Since the outpost was established clashes have occurred there between the Palestinian land owners and residents of the outpost, led by the youth M., who tried to prevent the Palestinians from cultivating their land.

A few hundred meters from the outpost's mobile homes is a plot that belongs to the family of Nabil Salah, which contains planted vines. On the morning of Thursday, May 27, 2004, Nabil and his sister Basma Salah went to the plot to tend it. At around 7 a.m. two settlers approached them, one of whom was identified by Nabil as M., with a dog. M. demanded Nabil's identity card, and when he refused he grabbed the card by force and kicked Nabil in the leg. M. made the return of the identity card contingent on Nabil and his sister leaving the site. Nabil refused and told M. to keep the card, and that he, Nabil, would complain to the police. In response M. pulled out a gun, cocked it, pointed it at Nabil's head and threatened to shoot him if he didn't leave. Then M. ordered Nabil to give him NIS 5,000 the next day in exchange for his "permission" that Nabil tend the land, or else M. would vandalize the plot. Only then did M. return Nabil's identity card to its owner, and Nabil and his sister went home without tending the plot.

The next day, May 28, 2004, Nabil returned to the plot with several members of his family and discovered that about 20 vines were uprooted

²⁵⁷The appeal was filed on November 1, 2005.

and stolen. Nabil's uncle, Imad Salah, went to the police station in Gush Etzion and reported the damage. Following the report an investigation file was opened (ID 2143/05) in the Hebron Region police.

An examination of the file by Yesh Din found that in two separate photo lineups Nabil and his sister Basma identified the picture of M., and pointed at him as the person who threatened them.

Despite repeated attempts by the Hebron Region investigators, M. did not respond to the messages left on his phone or with his neighbor in the outpost. A search order issued against his home was not carried out, because on the various visits the police made there M. was not home. Only on August 3, 2004, after an arrest order was issued against him, was M. found at his home in the outpost, arrested and brought for investigation – more than two months after committing the actions of which he was suspected.

In his investigation M. denied his involvement in the events. He added that the description of the other person whom the complainants claimed was with him during the events sounded like his friend N. The complainants did not identify the picture of N. in the identification

lineups conducted by the police, and therefore he was not summoned to the investigation at all.

M. also said in his investigation that he didn't remember what he did on the day of the event and where he was at the time, and that he would need a few days to provide an alibi. At the end of the investigation M. was released. On August 29, 2004, an investigator called M. and asked him whether he had managed to comprise an alibi claim. M. replied he had not yet managed to ascertain where he had been at the time of the event, and promised to check shortly. After another phone call initiated by the investigator on October 12, 2004, was not answered, the police made no further attempts to receive an alibi claim from M.

Even though the complainants identified M., even though the suspect vaguely denied in his investigation his involvement in the events, even though he did not provide an alibi and even though he repeatedly evaded the police – the head of the prosecutions unit at the SJ District Police decided to close the file on the grounds of "Lack of Evidence."²⁵⁸ Atty. Michael Sfar appealed on behalf of Yesh Din and on behalf of the complainants against the decision not to indict M.²⁵⁹ At the time of writing this report no response was received yet from the state prosecutor's appeals department.

258. Letter from Dep.-Cmdr. Shlomo Efrati, officer of investigations in the Hebron Region, to Atty. Michael Sfar, November 20, 2005. Yesh Din file 1090/05.

259. The appeal was filed on January 9, 2006.

ID 7474/05 (Yesh Din file 1101/05)



Salim olive groves on fire, October 16, 2005. Photography: Jaffer a-Shtayeh

On Sunday, October 16, 2005, residents of Salim noticed a fire raging in the olive groves that belong to the residents of the village. A few of them went out to put out the fire. When they approached the site, they noticed soldiers and a small group of settlers.

“We arrived at the scene and tried to put out the fire. There were areas we couldn’t reach because of the height of the flames. We tried to get the fire under control in places where the fire was lower. The soldiers, who were afraid of a confrontation between us and the settlers, tried with gun threats to keep us away. Yet we insisted, and continued by ourselves to put out the fire.

The soldiers stood and watched us. A few minutes later they left and went back up towards the outpost south of the village of Salim. The moment the

settlers left, the soldiers let us put out the fire.

Shortly after the settlers left the fire truck arrived from Nablus. We worked with the firemen, and within half an hour put it all out. One of the soldiers, an officer, approached me and Ahmad Shabour, who speaks Hebrew. The officer identified himself by name and told us he was willing to testify at the police about what he saw.”²⁶⁰

According to the head of the Salim council, the fire afflicted some 300 dunams planted mostly with olive trees. Besides, the residents of the village discovered that some 200 other olive trees were sawed down. All together plots belonging to some 40 of the residents of Salim were hurt. The day after the event representatives of the Nablus DCO came to the area and the next day 10 policemen and

260. From the testimony of Adli Walid Adel a-Shtayeh, born 1958, council head of the village of Salim. The testimony was taken by Yudit Avi or and Azmi Badeir on November 14, 2005 in Salim. Yesh Din file 1101/05.

police officers arrived, photographed the scene of the event and collected testimony from land owners.

Four days after the event G.S. and members of his family arrived at his plot, where trees had been sawed down, to harvest the olives from the remaining trees. During the harvest G.S. found an identity card and other documents belonging to P, a youth from the nearby settlement Alon Moreh. A policeman from the Nablus DCO came the next day to the place where the documents were found. According to press reports P. was arrested for a few days, and then released.

Following the event the Samaria Region police opened an investigation file (ID 7474/05). On January 25, 2006, an investigation officer in the

Samaria Region told Yesh Din that the investigation file was closed with the assertion that it was not arson, but “a fire.”²⁶¹

An examination of the file by Yesh Din indicated many faults in the investigation. As noted, the IDF officer who was a witness to the event promised the residents of Salim he would testify “about what he saw,” but the police investigators did not take any testimonies from the soldiers and officers who were present. The investigators were satisfied with laconic statements from officers in the sector, according to which investigations conducted in the company and the brigade produced no findings, and the officer, who arrived first in the area, could not identify the settlers who were there.

למשפחת [redacted] היקרה!
 אנו, נוער אלון מורה שכנס - מחזקים את ידיכם ומצדיעים לכם על מסירות
 הנפש שזכיתם לקיים על א"י - עם מעצרו של חברנו [redacted].
 אנחנו גאים שזכינו להשתייך לחברה של אנשים שנתפסים על דברי תורה ולא על
 דברים אחרים שפלים ומבוזים. אשריו ואשריכם שבודאי שכרם לא פחות משלו.
 יה"ר שנזכה בקרוב ל"כל הרשעה כולה כעשן תכלה", "ופדונוי ה' ישובוך ובאו
 ציון ברינה... ששון ושמחה ישיגו, ונסו יגון ואנחה".
 נוער אמ"ש

An announcement in the Alon Moreh settlement newsletter Keshet Amiz (Lech Lecha portion issue, November 11, 2005), following the arrest of P. as a suspect in damaging the trees in the village of Salim: "Dear [...] family, We, the youth of Alon Moreh Shechem – support you and salute you for the sacrifice you had the merit to demonstrate for the Land of Israel – upon the arrest of our friend [...]. We are proud for deserving to belong to a community of people who are caught for practicing the word of the Torah and not for other contemptuous or worthless things. Blessed be him and you, who surely will be no less rewarded than him. May we soon see the day when 'all evil will go up in smoke', 'and the ransomed of the Lord shall return, and come to Zion with songs and everlasting joy upon their heads... they shall obtain joy and gladness, and sorrow and sighing shall flee away.' AMS youth".

261. A letter from Ch.-Supt. Ami Baran, Assistant Investigation Division Officer for the Samaria Region, to Atty. Michael Sfar, January 25, 2006. Yesh Din file 1101/05.

The copy of the investigation file given to Yesh Din included no details about P's identify card and the documents belonging to him, which were found in the area, nor about the circumstances of his arrest and release. Even though the police has not yet given Yesh Din the full file, the material that was provided is enough to raise questions about the investigators' conclusion that it was not arson.

A note in the operations diary of the regional brigade in the area, which was attached to the file, said that "it appears the fire was an act of malice." In the "visit report" from October 17, 2005, which was also included in the investigation file, a technician of the forensic department wrote "there is no contiguity between the fire areas

and it may well be arson." Therefore, it is not at all clear on what basis the police investigators determined that the fire, that destroyed hundreds of olive trees, was not caused by arson. On the background of the many events that took place in the area, in which olive trees were burned or cut down, that determination raises an even bigger question.

Yesh Din filed an appeal against the decision to close the file.²⁶² After the appeal was received the investigation officer informed Yesh Din that in contrast with his previous notice, the file was not closed and is still under investigation.²⁶³ The officer added that following the filing of the appeal additional investigative actions were performed.

262.The appeal was filed on April 4, 2006.

263.The notice was given in a phone call from Ch.-Supt. Ami Baran, Assistant Investigation Division Officer for the Samaria Region, on May 9, 2006. Yesh Din file 1101/05.

Recurrent Faults in SJ District Police Investigations: the Case of Aziz Hneini

Aziz Hneini is an elderly shepherd from the village of Beit Dajan. On Tuesday, February 10, 2004, he went out with his herd of goats and two donkeys (a donkey and a foal) to his permanent grazing area, which is a few kilometers from the outpost of Skali's Hill. Around 10:30 Aziz noticed a man and a woman leaving a car parked on the path leading to Skali's Hill and approaching him. The man was armed.



“When they came some 150 meters from where I was with the herd, the guy started shooting in the air. He shot about 10 shots in the air. The

two approached me and I started escaping down. The guy began throwing stones at the goats. I stopped a few dozens of meters away. I saw the girl take my two donkeys and lead them up the mountain towards the settlement. The man walked towards the settlement too.”²⁶⁴

Six days after the event Hneini went to the Nablus DCO to serve a complaint against the armed robbery. Right after filing the complaint Haniei was taken in a police patrol car on a patrol between

the homes of the settlement, but the donkeys were nowhere to be seen. But it emerges from memos that were in the investigation file that a day before the complaint was filed detectives from the SJ District Police patrolled the outpost and saw two donkeys, a big one and a small one. On the back of the big donkey was a yellow saddle (as was on the back of Hneini's donkey). The detectives did not photograph the donkeys.

A day after the complaint was served the Samaria Region investigators took Hneini for another patrol of the outpost, during which he identified the vehicle from which the donkey thieves emerged. The owner of the vehicle said in his investigation that during that time his vehicle was driven by a person named S., a resident of Skali's Hill. On April 1, 2004, S. was brought in for investigation. In his investigation S. denied any connection to the event and added that Yitzhak Skali, who established the outpost, does not allow animals to be brought into it. He also said in his investigation that “he didn't have the strength” to come to the police station another time for a live identification lineup, and that he prefers there to be a photo identification lineup.

264. From the testimony of Aziz Abd al-Karim Salman Hneini, b. 1935, resident of Beit Dajan. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on November 7, 2005 in Beit Dajan. Yesh Din file I 103/05.

On May 17, 2005, about three months after the event, a photo identification lineup was held by the police, during which Hneini identified the picture of S. Hneini said the picture resembled the person who fired in the air during the event, and that he could identify the suspect with certainty if he saw him face to face. Nonetheless, S. was not invited to a live identity lineup.

The woman suspected of participating in the robbery is A., S.'s wife. In her investigation she denied any connection to the event. Even though she answered all the other questions she was asked, A. chose to maintain the right to remain silent when she was asked whether she knew of the theft of donkeys under gunpoint. Despite the suspicions against her, the investigators of the Samaria Region did not conduct any identification lineup for her, whether live or in pictures, and Hneini was never asked to identify her.

Following the faulty investigation the Central District Attorney Office closed the file on the grounds of "Lack of Evidence." Yesh Din filed an appeal for closing the file, but the state attorney's office rejected it. The response from the state attorney's appeals department said among other things: "Unfortunately, because of the photo identification

lineup conducted for your client in which he identified the suspect uncertainly as the person who committed the offenses, there is no point in conducting another live identification lineup now."²⁶⁵

On Sunday, April 24, 2005, Hneini was with his herd grazing again, when suddenly he noticed the person who had stolen his donkeys 12 months earlier, approaching him from Skali's Hill, with four young men, carrying stones.

"[The settlers] signaled for me to stop. I told them: 'What do you want from me? I'm an old man, 70 years old. I haven't hurt you or done anything to you.'" The settlers, one adult and four youths, jumped on me and tried to take my shepherd's stick that was in my hand. I knew if they did they would hit me with it.

I fought with them until the stick broke. Part of the stick remained in the hands of one of them, who began beating me with it on my head and face. Two of his friends threw stones at my head and kicked me all over my body. Two other ones stood guard and did not participate in the hitting. During the event I told the assailants I am a diabetes patient, but they ignored that and continued. Finally they pulled my headdress and headband off my head to insult and humiliate me, took

265. Letter from Atty. Jenny Ginzburg, deputy state prosecutor (appeals department), to Atty. Michael Sfard, March 14, 2006. Yesh Din file 1103/05.

them and went towards the settlement. The abuse lasted about 15 minutes.

I was losing a lot of blood. I tried to stop the bleeding with salt and water. I got on the donkey and started going down towards home. I saw a relative working in the field and I asked him to go to my house and tell my children and grandchildren to bring me a headdress because I could not go into the village without my headdress and band. Relatives came with a headdress, I covered my head and they took me home.”²⁶⁶

From his home Hneini was driven to the Beit Furiq checkpoint, where a policewoman called to the scene by the soldiers recorded his testimony. From there he was taken by ambulance to a hospital in Nablus and hospitalized for five days.

In this case too a Yesh Din examination found faults in the investigation of the event. In the testimony Hneini gave at the Beit Furiq checkpoint he noted he identified one of the assailants as the person who had stolen his donkeys. Consequently S. was taken from his home to an investigation the day after the event. The suspect denied any involvement in Hneini's assault, and claimed that on the day of the event he was home with his wife the whole time. In this case too

the police investigators did not bother to check the alibi claim. A., who as noted was suspected of participating in stealing the donkeys, was not summoned to the investigation nor asked to verify her husband's alibi claim. No identification lineup was conducted in the file, no confrontation was conducted between Hneini and the suspect and no other investigative action was taken.

On September 7, 2005 the Central District Attorney Office closed the investigation file on the grounds of "Lack of Evidence." Atty. Michael Sfard submitted on behalf of Hneini and Yesh Din an appeal against the decision to close the file.²⁶⁷ At the time of writing this report no response was received from the state attorney's appeals department.

On Sunday, October 25, 2005, six months after the assault, Hneini returned from grazing to his home, and suddenly heard shouts from the back. In his testimony to Yesh Din Hneini said:

"I looked back and saw two men 15 meters away from me. The two approached me at a run. The two were masked, with a black cover on their heads. One of them was holding a 70-cm long club, with a head shaped like a ball. The other was holding stones in one

266. From the testimony of Aziz Abd al-Karim Salman Hneini, born 1935, resident of Beit Dajan. The testimony was recorded by Yudit Avi Dor on May 2, 2005 in Beit Dajan. Yesh Din file 1019/05.

267. The appeal was filed on November 21, 2005.

hand and a box cutter in the other. From what I saw, they didn't have guns.

As soon as I got off the donkey to run away, the man with the club came to me from behind and beat me with his club on my shoulders and back. He continued beating me vigorously with the club all over my body, while the other threw stones at me. I discovered later in the hospital that my left leg and two of my ribs were broken. I couldn't stand the pain and I fell down. The other one bent over me, and with the box cutter began slashing both of my arms, another slash over my right eye and slashes in both of my legs. The two didn't talk to me or with each other.

I lost a lot of blood and felt foggy. Then the first one also bent over me and the two did a search on me. First they searched my pockets, but I didn't have any money or papers. Then they cut my jacket and galabiya all the way down. They took my shoes, my headdress and my headband. I tried to get up but couldn't. I was very foggy, and I couldn't tell when they left.”²⁶⁸

Hneini's children, who got worried when the goats returned to the village without him, went to look for him. His son found him bleeding with torn clothes. Hneini was taken to hospital in Nablus and hospitalized.

A Yesh Din examination found that the investigation file opened following the assault contained only a few documents: Hneini's testimony, the testimony of his son who found him and medical documents that testify to his injury. No other investigative action was taken in the file, which was closed for reason of "Perpetrator Unknown."²⁶⁹

The case of Aziz Hneini is a good example of how recurrent faults in the work of the SJ District Police investigators expose the Palestinian residents of the West Bank to recurrent attacks by Israelis. The defects in the investigation that opened because of the armed robbery in which two donkeys were stolen from the complainant led to the closure of the file against S. and his wife. More than a year later Hneini identified S. as the person who participated in his cruel assault, which led to his hospitalization. This time too the investigation ended in futility, without the required actions being taken in it, such as checking the alibi claims offered by the suspect. A few months went by, and Hneini was attacked again, this time even more cruelly, by masked men who cut him with a knife. This investigation too ended in futility.

268. From the testimony of Aziz Abd al-Karim Salman Hneini, born 1935, resident of Beit Dajan. The testimony was recorded by Yudit Avi Dor and Azmi Bdeir on November 7, 2005 in Beit Dajan. Yesh Din file 1102/05.

269. A letter from Ch.-Supt. Ami Baran, Assistant Investigation Division Officer for the Samaria Region, to Atty. Michael Sfard, January 25, 2006. Yesh Din file 1102/05.

5(e). Conclusion

The reasons for the continuous failure of the SJ District Police to enforce the law upon Israeli civilians who violate Palestinians and their property are obvious from an examination of the district's investigation files. More than half of the investigation files examined by Yesh Din do not meet adequate standards of investigation, and are characterized by negligence, lack of professionalism and disregard for basic investigative procedures. The security situation, the budget constraints and the work load of the SJ District investigators can not justify the recurrent defects that were discovered in the files examined.

The solution to the current situation is a close and strict monitoring of the SJ District investigations – inasmuch as they involve offenses by Israeli civilians against Palestinians and their property – by experienced lawyers, as well as increasing the coordination and cooperation between the police and the IDF forces in the West Bank.

Recommendations

1. Supervision of investigations in the SJ District should be tightened, to ensure the completion of investigations about Israeli civilians assaulting Palestinians and their property. Files that are closed without prosecution should be transferred to the audit of a District Attorney office.
2. It should be established that the investigation of files of assault and other serious offenses be accompanied by a lawyer from a District Attorney office.
3. Policemen who receive complaints and SJ district investigators should be instructed to write the testimonies of the complainants and witnesses in the language in which they were given.
4. Strictly adhere to the use of live identification line ups for the identification of suspects by complainants. The use of photo line ups as a main and almost exclusive tool for the identification of suspects should be stopped.
5. Tighten the coordination between the SJ District and the IDF regional divisions, to ensure military escort to incident scenes shortly after the event.

Conclusion

In his testimony before the Shamgar commission then-Police Commissioner Insp.-Gen. Rafi Peled was asked whether the police did not serve as a fig leaf in the area of law enforcement in the West Bank. In his response Peled admitted: "I agree there is a semblance of law, to a certain degree."²⁷⁰ Twelve years later police work in the West Bank still amounts to a semblance of law.

The results of Yesh Din's monitoring reveal a total failure of the SJ District Police in investigating Palestinian complaints about Israeli civilians harming them and their property. In 90% of the complaints that were filed the police treatment ended with the investigation file being closed or the complaints lost.

An examination of a large sample of the investigation files showed that the investigations that were carried out suffered from significant defects, which led to the closure of a high percentage of the files without filing indictments.

The Karp Report, published in 1982, already established that "there is undoubtedly a direct correlation between the large number of investigation files that are closed, the many files in which the investigation drags on, and the [decision to] forgo the right to complain."²⁷¹ The length of time of processing investigation files was not checked in the current report, but there is no doubt that the high percentage of investigation files that close with no results – mostly as the direct consequence of failures of the SJ District investigation teams – discourages Palestinians from complaining against settlers who hurt them or their property.

A special cause for concern is provided by the complaints filed with the SJ District police units that disappeared. The relatively high number of complaints lost by the police – in addition to complaints the police was supposed to hand over to the treatment of the MPCID, but were lost en route – indicates serious defects as far as the SJ District's

270. Shmuel Mittelman, "Unable to enforce the law," Ma'ariv, March 30, 1994.

271. The Karp Report, p. 26.

treatment of Palestinian complaints. In this case it is not possible to even try to explain the failure by a lack of resources: the only lack is of attention and professional work.

Alongside the SJ District Police, the IDF forces in the West Bank also have a great deal of responsibility for the State of Israel's shirking its duty anchored in martial law to protect the residents of the OPT from the violence of a third party. As noted, the IDF does not view the protection of the Palestinian civilians as one its missions, and does not explain to its

soldiers and commanders their duties in that area. A systemic treatment by the IDF and monitoring of treatment of soldiers who are not filling the army's orders drafted in the spirit of the Law Enforcement Procedures do not in fact exist.

At the end of each of the chapters of the current report appear Yesh Din's recommendations. The IDF and SJ District Police should use those recommendations to repair the defects and failures that evolved in their work.

Responses

SJ District Police

IDF spokesperson



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SJ District Headquarters
B u r e a u
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Jerusalem, Wednesday, 11 Sivan, 5766

June 7, 2006

Ref. (M)87/30575-01/NT

To
Yesh Din
Volunteers for Human Rights
15 Rothschild Blvd., Tel Aviv

Re: Response to draft of Yesh Din report

- 1) A draft of the report was received by my office on May 29, 2006, and subject to the tight schedule, attached is the SJ District's response to the report's findings:

a General

- 1 The following response refers to the SJ District's role in law enforcement in the Judea and Samaria area and does not refer to the role of our partners: the sovereign in the area (the IDF), the Civil Administration and the other security bodies.
- 2 The response is to the summary of the report (subject to the aforementioned schedule), to the main defects and recommendations presented, and does not include a response to the matter of the district's manpower and budget, since those are not in our area of responsibility.
- 3 The SJ District Investigations and Intelligence Department Officer instructed all the files and events mentioned in the draft report to be studied. A detailed response to all the comments made will be provided after the various procedures for which comments were made on each file separately are checked.

b The investigation files:

- 1 The response is in principle to the comments made:

(A) Recording complaints from locals in the Arabic language
– The SJ District has special teams that deal with disturbance offenses (against locals and security forces). The investigation



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teams are comprised of veteran and professional investigators and officers, all of whom speak the Arabic language at a very good level, even if they don't read and write in Arabic. According to the Police Order and the law, there is no obligation to record evidence from a complainant in their mother tongue. If there is a need for transcription or translation, there are means for doing that and they are available to the investigators. The author of the report might have been referring to the investigation of suspects where according to Section 8(2) of the Criminal Procedure Law from April 7, 2002, there is an obligation to record testimony in the mother tongue or alternately to record it on film.

- (B) Visiting the scene – In general, the instructions of the SJ District Investigations and Intelligence Department require a visit to the scene of the disturbance and its recording with cameras issued especially for the treatment of such offenses. However, the Israel Police operating in the Judea and Samaria area is required to go to incident scenes with military escort (because it is hostile territory), and there are times when the IDF is unable to provide escort forces to the police force for various reasons.
- (C) From the experience gained over the years we learned certain investigative procedures must be conducted on the ground for optimal evidence collection, and therefore we try to record the testimonies and the investigation as quickly as possible on the ground. There are many cases in which local witnesses are required to come testify at police stations but they refuse to do so and that indeed hinders the investigation. There are witnesses including members of the security forces who can not give their testimonies on the ground because of operational activity and that indeed impedes the management of the file because it is very difficult to locate the soldiers and the processing of the file takes longer than average. We try to overcome those cases too, by investigators going out to different IDF units spread throughout the country, where we need to detect and collect testimonies. It should be noted that in many cases complainants were required to appear to testify in court and since they did not appear the prosecution had to withdraw the indictment.



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There are also many cases when the SJ District Police even takes care of driving Palestinian witnesses from A areas to courts in Israel to testify, at the expense of operational activity, to facilitate the prosecution/district attorney office's management of the file and the consummation of effective measures against Israeli defendants.

- (D) Not in every file can a live identification lineup be held. For instance, when a suspect refuses an identification lineup, we are not permitted to conduct an identification lineup by force; when there is no certain identification by the complainant, or if the offense was committed at night and the suspect can not be identified with certainty, an identification lineup can not be held. We try in every way (even if very weak) to identify the suspect and prosecute him. Identification by photographs is a way to reach suspects to conduct an investigation that doesn't always lead to an indictment. The same is true for confrontations. When the suspect refuses to conduct a confrontation we can not force him to do so.
- (E) Alibi claims are part of conducting an investigation in a file. There are times when a suspect provides a general alibi and there is no point in checking it because it would not add or detract from the evidence in the investigation file.
- (F) In both regions, Samaria and Hebron, (where most disturbance files against Palestinians are opened), there are senior officers with the rank of Deputy Commander who are the only ones allowed to close those files on the grounds established by the law. It should be noted that the SJ District Investigations and Intelligence Department conducts frequent reviews of the investigation units with an emphasis on the disturbance teams so that we try to ensure the investigation procedures are carried out as required. Our actions are also reviewed by the state attorney office.
- (G) The SJ District has a professional prosecution unit comprised of lawyers who review the files and decide on serving indictments if there is evidence. Those lawyers also accompany certain investigation files.



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- (H) In 2005 some 836 disturbance files opened, in which 152 indictments were served against 222 suspects. Of the total disturbance files 299 complaints of locals were recorded against Israelis for various offenses. Out of 299 files so far 43 indictments were served against Israelis who hurted locals, that is 14.5% of the files in which the complainants are Palestinians. That number is dynamic and we are unable to refer to a specific point in time. Out of 43 indictments, 18 indictments are for land offenses, which is 6% of the total files. It should be noted there are additional files from 2005 still being processed and whose fate has not yet been decided. It should be noted that 50 files closed against minors who are not criminally responsible.
- (I) In 2006 (January-April) 250 files opened, in which 151 indictments were served against 188 suspects, of which there are 8 files in which indictments were served against Israelis who hurt Palestinians.

2 On the recommendations to correct defects in investigation:

- (A) There is tight and continuous supervision of all disturbance files. Every cell has a responsible officer because of the sensitivity that exists in the said files.
- (B) Many reviews are carried out of the investigation procedures, both by parties in the Region and parties in the National Headquarters, in planned and surprise visits.
- (C) When files of a grave nature (such as murder, injury under aggravated circumstances and so on), the file is processed quickly and the suspect is usually indicted during the period of his arrest with the close accompaniment of a lawyer.
- (D) As to recording statements and identity lineups see reference above.
- (E) The SJ District Investigations and Intelligence Department Officer ordered all the events mentioned in the draft report studied. A detailed response to all the comments will be provided after the various procedures as to which comments were made for each file separately are checked.

3 On the recommendations about receiving complaints:

- (A) The Palestinian population has the possibility of arriving and filing a complain at every police station in the Region in addition



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to the cases (according to standing orders) of receiving complaints on the ground, as well as through the DCO policemen, who are available on Sunday-Thursday during business hours.

- (B) Complaints filed at DCO's are transferred to the relevant investigation units.
- (C) The phone numbers of the police, including the Samaria Liaison and Coordination Officer, are known to the Yesh Din organization, and it uses them to refer complainants.

2) Conclusion:

The complex area where the Region operates makes the investigative activity difficult, but efforts are made to fulfill the dictates of the Shamgar Commission Report on complaints and investigations. We do not operate in the middle of a city and are not present at every spot in the large area. There are places where access requires coordination, escort and security, and there are still elements in the area that wish to hurt us, which delays the performance of simple and elementary investigation procedures. Investigated parties from both sides refrain from cooperating and there are difficult problems in proving land ownership, since most of the land is not legally registered. The variety of security forces operating in the area and the lack of professional expertise in the area of law enforcement are not an element that adds to effectiveness. Threats to police forces and attacks on their persons and property as occurred lately do not harm our determination, on the one hand, but point to a high level of hostility towards us, because of our determination, on the other hand. And finally, we are presently studying the report and the comments made and as a learning organization we will amend whatever requires amendment (if anything).

- 3) At your request.

Sincerely,

Moshe Pintzy, Chief Superintendent
Assistant Commander of SJ District
And District Spokesman



Israeli IDF Int.	Defense Spokesperson Org.	Forces Unit Desk
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12	June	2006

To
Lior Yavne
Yesh Din

RE: Response to the report by "Yesh Din"

There is no difference of opinion regarding the responsibility of the Military Commander for law enforcement in the region. This duty is based on Article 43 of the Hague Regulations annexed to the 4th Hague Convention respecting the Laws and Customs of War on Land (1907), stipulating that the Military Commander must take all measures in his capacity to ensure public order and safety. Additionally, Article 46 places on the Military Commander the duty to respect family honor and rights, as well as the lives of persons and private property.

In recognition of this duty, the Military Commander enacted the Order Regarding Police Forces Acting in Cooperation with the IDF (the West Bank) (No.52) 1967, which grants members of the Israeli Police acting in the region all the powers exercised by soldiers according to security legislation in the Judea and Samaria area, as well as powers exercised by the police according to the local law as it applied prior to the deployment of IDF forces in that territory. This Order was enacted as a result of the understanding that it is the Israeli Police, and not the IDF, which has the specialization needed to handle criminal activity, and so as to allow optimal treatment of violations of law and order. IDF soldiers are not skilled in law enforcement, and they are not trained as criminal investigators. This point also arises from statements made by the Military Advocate General (hereinafter: "the MAG") to the Knesset's Law, Constitution & Justice Committee.

As stated by the MAG, the decision that law enforcement vis-à-vis the Israeli settlers in Judea and Samaria should be handled by the Israeli Police is anchored in a decision of the Israeli Government. Moreover, the MAG mentioned that he would not accept a state of affairs in which soldiers are witness to acts of abuse against Palestinian residents and fail to take any action. These statements emphasize that, contrary to the claim which arises from the report, the IDF does not ignore the duties and responsibilities laid upon it by international law.

The procedure regarding law enforcement vis-à-vis Israeli settlers has also been drafted taking this understanding into account and derives from the Israeli Government's decision on the matter. The procedure has been grounded in IDF Orders and, therefore, binds all soldiers and commanders.

In general, the procedure differentiates between events in respect of which there is advance information (e.g. public demonstrations) and events in respect of which there is none: in the former case, the main responsibility will be that of the Israeli Police, while the IDF will only assist in securing the perimeter; in the latter case, inasmuch as IDF forces arrive first at the scene, they will handle law enforcement pending arrival of the Israeli Police. Thus, in the absence of Police presence, soldiers of the IDF are responsible, yet they must, to the extent that it is possible, refrain from entering the scene and must disperse all parties present in order to preserve the evidence in tact until the Police arrive. It will be mentioned that, if necessary, IDF forces are authorized, as well as obligated, to detain and even arrest those suspected of criminal activity.

IDF soldiers have acted and continue to act according to the abovementioned procedure (barring certain exceptional cases), and are regularly briefed on the duty to act accordingly. In addition, soldiers serving in areas of friction in Judea and Samaria are briefed on these issues as part of the basic training which they receive prior to active duty.

Furthermore, IDF soldiers are directed to fully cooperate with Police investigations (*inter alia* by providing testimony).

Still further, the IDF acts to refresh awareness of procedures and guidelines amongst ground forces, in addition to the lectures on the topic of law enforcement in Judea and Samaria, which are given by the legal officers of the Military Advocate General's Corps.

In addition to the above, preventative measures are also part of the great efforts being made in the field of law enforcement. Amongst others, one can mention Restrictive Orders issued to Israeli settlers and Closed Military Zone Orders, issued with intent to prevent violations of law and order in the region.

It is especially worthwhile to mention that great efforts are being invested in preventing "friction" between Israelis and Palestinians, either by advanced IDF deployment (especially in sensitive times and places), or by promoting resolution of boundary disputes in order to determine rightful ownership and in order to enable undisturbed cultivation of land.

Some of the recommendations which appear in the report are already implemented in practice. As mentioned, soldiers are briefed regarding law enforcement procedures, relevant duties and existing authorities, including the power to arrest (which is expressly stipulated both in law and procedure). As for the recommendation regarding expansion of IDF presence in known "friction" centers, it will be noted that IDF forces are exercising best efforts to respond in the said centers, taking into account the limitation of force numbers and their daily tasks and responsibilities. In this context, two Border Guard companies were reassigned to handle law enforcement tasks vis-à-vis both Palestinians and Israeli settlers in the regions of Northern Samaria and Hebron. Thus, in some of the recent cases of friction, one of the companies was deployed to ensure the rule of law and order in light of violations by Israeli settlers and Palestinians, including those surrounding the issue of Palestinian presence in agricultural land adjacent to Israeli settlements in the South Mount Hebron sector.

It is the intention of the IDF to review the report's recommendations in depth and to inspect the need for its implementation.

Bearing in mind all of the above, it must be remembered that IDF activity in relation to law enforcement in Judea and Samaria is being conducted in addition to its primary defensive role. IDF forces operate day and night in the fight against terrorism and in the continuous maintenance of security.

Sincerely,

**Ron Roman, Professional Academic Officer
Head of the International Organization Desk
IDF Spokesperson Unit**

Appendices

Appendix A: Reports of events of Israeli civilians assaulting Palestinians and their property, July 2005

July 1, 2005	Settlers fenced off 20 dunams of olive trees owned by Salah Hamoudi and Diab Saleh, residents of the village of Kifl Haris in the Ariel area.
July 2, 2005	Settlers torched olive trees on the land of the village of Qusin, west of Nablus.
	Settlers from Elkana threw stones at Amer family's home in the village of Mas-ha.
July 3, 2005	Settlers fenced off a plot of land belonging to the Hirani family in the area of the settlement of Ma'on and planted it.
	On July 3 and 4 settlers torched 130 dunams of groves in the village of Einabus in the Nablus area.
	A group of settlers threw stones at the homes of residents in the neighborhood of Wadi Nasara in Habron.
July 6, 2005	Settlers from the area of Yizhar forced farmers from Awarta to leave their grove at gunpoint.
July 7, 2005	Settlers from the Gush Etzion area sprayed vines of Palestinian farmers with poison. Some 130 vines were vandalized.
	Settlers from Hebron threw stones at workers who tried to fix the gate of the Abu Ayesha family home in Tel Rumeida, which was vandalized in a previous attack on the house.
July 8, 2005	Settlers raided a gas station in Kafr Sur in the Tulkarm area and tried to hurt the station worker.
July 9, 2005	Around 3 p.m. settlers threw stones at Palestinian homes in the Tel Rumeida area in Hebron.
July 12, 2005	Settlers threw stones at Palestinian homes in Tel Rumeida. Raja Abu Ayesha, 16, was injured by the stones.

July 13, 2005	A resident of Hebron was injured after settlers from Kiryat Arba threw stones at his car.
	Settlers threw stones at a Palestinian car at the Tapuah junction near Salfit. The car's windshield was broken.
	Settlers threw stones at cars traveling near the village of Jit near the settlement of Qedumim.
	At around 3:30 a.m. settlers threw stones at the home of the Salah family in Asira al-Qibliya and torched a car parked nearby.
	A settler threw stones at a taxi at Tapuah junction and broke the windshield.
July 14, 2005	Around 5 p.m. settlers torched olive trees in the village of Sanniriya. An IDF force prevented a Palestinian fire truck from reaching the scene.
July 15, 2005	Settlers stole a donkey belonging to Khalil Abu Tabikh, a resident of the village of a-Tawani in the South Mt. Hebron area, and led it to the settlement of Karne Zur. Later a foreign peace activist who entered Karne Zur to retrieve the donkey for its owner was attacked and beaten.
July 16, 2005	Settlers in Hebron vandalized three Palestinian stores, which were closed for the last three years. The settlers damaged the doors and walls of the structures.
	At around 1 p.m. four settlers from Suseya attacked Wadha Nawja from Khirbet Suseya, in her family's olive grove. When her husband, Hajj Khalil Nawja, arrived to help her, the settlers beat him too. Wadha needed medical care.
	A Hebron settler attacked two workers of the Hebron municipality, responsible for building restoration, when they were restoring a house in the center of town. The workers, Ahmad Da'na, 17, and Adib a-Sneine, 22, were taken for medical care.
July 18, 2005	Several settlers threw stones at a bus in the Salfit area. The windshield broke and the driver was wounded in his face.
July 22, 2005	At 6:45 p.m. four armed settlers from Yizhar entered the village of Urif, claiming they were looking for stolen horses.

July 23, 2005	At around 6:30 p.m. settlers entered an olive grove belonging to Ziad Jibrin Nawja from Khirbet Suseya. The settlers brought sheep with them who ate the olives.
	At least 200 olive trees were cut down on the land of Jamil a-Shtayeh, a resident of the village of Salim.
	In the morning hours settlers beat Ali Musa, 65, while he was farming his land near the village of Hussan in the Bethlehem area. Musa was taken to hospital for treatment.
	A little before midnight a group of armed settlers from the Yizhar area raided the village of Urif again. The residents of the village made them leave before an IDF force arrived.
July 24, 2005	Several dozen dunams of olive trees were torched on the land of the village of Iskaka near the settlement of Ariel.
	10 olive trees were uprooted from a grove belonging to Mustafa Jaber, a resident of Beitillu west of the settlement of Nahali'el. Vegetable seedlings were also uprooted. Drip irrigation pipes and other agricultural equipment were vandalized.
	At around 4 p.m. settlers cut down several olive trees belonging to Salah Bader, a resident of the village of Qaryut in the Nablus area.
July 25, 2005	A settler beat with a stick three shepherds, residents of the village of Yanun in the Nablus area, kicked one of them and cocked his gun towards another one who escaped.
July 26, 2005	Settlers from Suseya attacked farmers farming their land west of the settlement. The farmers were forced to leave the area.
July 27, 2005	A settler from the Elmatan outpost herded goats on the land of Hamed Oudeh from Kafr Thulth. The goats caused damage to the crop in the field.
July 29, 2005	Security officers from Suseya beat and wounded three Palestinians who were in their fields near the settlement.
July 30, 2005	In the morning settlers killed four sheep belonging to the Shawahin family from the village of Jawaiya and stole 10 of them. Police were called to the scene, but refused to come.

July 31, 2005	An agricultural structure belonging to Qassem Mansour, a resident of the village of Deir Istiya south of Nablus, was vandalized, and a water pipe that was in it was damaged.
	At around 4:30 p.m. several settlers stopped a taxi on the road between the villages of a-Nassiriya and Beit Dajan in the Nablus area and beat its passengers. The settlers also damaged the taxi.

Appendix B: Yesh Din monitoring of SJ District treatment of complaints of damage to trees

No. of Yesh Din file	Date of incident	Details	Status of investigation file
1010/05	March 21, 2005	About 100 olive trees uprooted from land of Bil'in. About 60 of them were stolen.	Investigation closed for "Lack of Evidence."
1008/05	April 1, 2005	Three olive trees cut down and one uprooted in Kafr Thulth.	Investigation closed on grounds of "Perpetrator Unknown."
1023/05	May 12, 2005	150 olive trees belonging to residents of Salim torched.	Investigation closed on grounds of "Perpetrator Unknown."
1022/05	May 19, 2005	Some 200 olive trees belonging to residents of village of Jinsafut cut down.	Investigation closed on grounds of "Perpetrator Unknown."
1033/05	June 5, 2005	51 trees cut down in Asira al-Qibliya, including 12 almond trees and the rest olive trees.	Complaint lost by the Samaria Region police.
1050/05	June 26, 2005, July 24, 2005	11 olive trees cut down on the land of Mustafa Jaber, resident of Beitillu. Likewise vegetable seedlings were uprooted and agricultural equipment was vandalized.	Investigation closed on grounds of "Perpetrator Unknown."

1085/05	September 13, 2005	Some 20 olive trees and a fig tree were vandalized when a settler's bulldozer wrecked a stone wall in Kafr Thulth.	Under investigation.
1077/05	September 20, 2005	More than 100 olive trees were amputated, cut down and torched on the land of the village of Far'ata.	Investigation closed on grounds of "Lack of Evidence."
1111/05	October 15, 2005	Some 50 olive trees were stolen from the land of the village of Iskaka, apparently by workers building the separation barrier.	Investigation closed on grounds of "Perpetrator Unknown."
1101/05	October 16, 2005	An area of 300 dunams, planted mainly with olive trees, was torched in Salim; more than 200 other olive trees were cut down.	Under investigation.
1122/05	November 2, 2005	An illegal road was built on the land of Bil'in west of the separation barrier. During the construction some 190 olive trees were uprooted and stolen.	Investigation closed on grounds of "Lack of Evidence."
1121/05	November 27, 2005	Some 250 olive trees were cut down on the land of Salim.	Investigation closed on grounds of "Perpetrator Unknown."
1128/05	December 14, 2005	An olive tree was uprooted and stolen from the land of Oudeh Khatib from the village of a-Sawiya south of Nablus.	Investigation closed on grounds of "Perpetrator Unknown."

1130/05	December 24, 2005	Some 100 olive trees cut down in Burin in Nablus area.	Complaint lost by the Samaria Region police.
1140/06	January 6, 2005	Some 120 olive trees were cut down on the lands of the village of a-Tuwani in the South Mt. Hebron area.	Yesh Din has not yet received a report on the status of the investigation in the file.
1142/06	January 9, 2005	At least 110 olive trees were cut down on the land of the village of Burin.	Complaint lost by the Samaria Region police.
1155/06	February 20, 2006	Two saplings of olive trees were stolen from Ibrahim Alem's plot in Kafr Thulth.	Investigation closed on grounds of "Perpetrator Unknown."
1171/06	March 13, 2006	An olive tree was uprooted and stolen from the land of Oudeh Khatib in the village of a-Sawiya.	Yesh Din has not yet received a report on the status of the investigation in the file.

Appendix C: Loss of complaints filed to Samaria Region police

In five of the cases Yesh Din is monitoring complaints filed by Palestinians about settlers harming them and their property were lost. All of the lost complaints were served in Samaria Region police units, with Yesh Din volunteers. Also lost were complaints and investigation material that was supposed to be sent from the Samaria Region to the MPCID.²⁷²

Asira al-Qibliya: Complaint about cutting down trees

On Sunday, June 5, 2005, residents of Asira al-Qibliya discovered that over night 51 olive trees and one almond tree were cut down in a field that belongs to six families from the village. Two days after the incident one of the land-owners, Muhammad Abd al-Qada, filed a complaint with the Palestinian DCO in Nablus.²⁷³ A few months later, in which he heard nothing about the handling of his complaint, al-Qada went on November 28, 2005, to the Nablus DCO – this time accompanied by Yesh Din volunteers – and filed another complaint, with the Samaria Region police of the SJ District. The complainant was given a receipt confirming that he filed the complaint,

signed by a policeman. Yesh Din has a copy of the receipt. The complaint was lost.

Deir Istiya: Complaint about holding up and blocking cars

On September 23, 2005, two weeks after residents of Deir Istiya filed a complaint against two settlers who threatened them with guns near the spring on their land in Wadi Qana,²⁷⁴ settlers held up two cars of residents of the village, traveling on the road near that spring. One of the complainants, Fawzi Mansour, identified among the settlers a man who threatened him with a gun in a previous incident. The settlers blocked the way of the cars and asked the passengers where they live. Mansour, who was afraid the settlers wanted to take revenge on the residents of Deir Istiya because of the complaint they filed, answered that the passengers were residents of Jinsafut.²⁷⁵ At Mansour's request, Yesh Din volunteers accompanied him to the Samaria Region police station in Qedumim, where he filed a complaint. Yesh Din has a copy of the receipt confirming the complaint was filed. The complaint was lost.

Mas-ha: A complaint of the theft of olives that were harvested

The only access road to the land of Haroun Amer, resident of the village

272. See Appendix D.

273. Yesh Din file 1033/05.

274. Yesh Din file 1072/05.

275. Yesh Din file 1080/05.

of Mas-ha, goes through the Sha'arei Tikva settlement. Khaled, Amer's son, tends the land, and the settlement guard, A., usually drives him in his car from the gate of the settlement to the plot. On October 3, 2005, at the peak of the olive harvest season, A. drove Khaled, his brother and his friend to the plot, so they could harvest its olive trees. About two hours after they arrived at the plot two Israeli civilians came there. One of them, who according to Khaled occasionally appears in the plot and claims he bought it, ordered the Palestinians to hand over to him all the olives they harvested. When Amer refused the two called the police. An Israeli policeman ordered the harvesters to give the Israeli civilian the olives they harvested, and took the two to the police station. This was despite the fact that the settlement guard A. testified to him that he knew Amer and that the plot really did belong to his family. After Khaled's testimony was recorded, he was freed and went back to work in the plot. The olives taken from him were not returned.²⁷⁶ On October 11, 2005, Yesh Din volunteers accompanied Khaled's father, the owner of the plot, Haroun Amer, to file a complaint with the Qedumim police station of the Samaria Region.

Yesh Din has a copy of the receipt confirming the complaint was filed. The complaint was lost.

Burin: Complaint about sawing olive trees

On Saturday night, December 24, 2005, the residents of the village of Burin heard sounds of an electric saw coming from an olive grove that belongs to them. The next morning they discovered that 100 olive trees, planted in the plots of two of the village's residents, were cut down. The land owners informed the Palestinian DCO of the incident, and its people approached the Israeli DCO. At around 1 p.m. police accompanied by soldiers arrived at the plots. The police walked through the area and instructed the land owners to come to the police station and file a complaint.²⁷⁷ Indeed, the next day the owners of the vandalized plots, Muhammad Zaban and Raha Nidhar, arrived at the Nablus DCO, with Yesh Din volunteers, and filed a complaint with the Israeli policeman there. Yesh Din has a copy of the receipt confirming the complaint was filed. The complaint was lost.

Burin: complaint about uprooting dozens of olive trees

On Wednesday, January 11, 2006,

276. Yesh Din file 1094/05.

277. Yesh Din file 1130/05.

residents of Burin discovered that several dozen olive trees planted in plots that belong to two of the village's residents were cut down, apparently two days earlier.²⁷⁸ On Sunday, January 22, 2006, the two land owners, Yusef Sariya (on whose land 36 olive trees were cut down),

and Ali Eid (on whose land 75 olive trees were cut down), went with Yesh Din volunteers to the Israeli Nablus DCO, and submitted their complaints. Yesh Din has a copy of the receipt confirming the complaint was filed. The complaint was lost.

278. Yesh Din file I | 142/06.

Appendix D: Loss of complaints transferred from the SJ District Police to the MPCID

In five cases included in Yesh Din's monitoring, investigation files were transferred from the SJ District Police to the MPCID, because of the involvement of soldiers in the incidents.²⁷⁹ Despite repeated appeals to the Judea and Samaria Area MPCID base, Jerusalem MPCID base and head of the investigation supervision department in the MPCID headquarters, by the time of writing this report the MPCID had not found even one of those five files. As a result the MPCID did not open investigations of soldiers' involvement in incidents of violence by settlers towards Palestinians. In a phone call with Yesh Din, Maj. A, commander of the Jerusalem MPCID base, noted that the loss of files on their way from the police to the MPCID, is a "known and familiar problem."²⁸⁰

The monitoring of those files reveals negligent and curious conduct, both on the part of the SJ District Police and on part of the MPCID. Following is one example.

On March 19, 2005, a confrontation developed between residents of the Palestinian village of Deir Nidham and

Israeli civilians from the settlement of Hallamish, after the Palestinians arrived to tend a plot that belongs to one of them and is located outside of the village. Settlers who were present fired in the air, and an IDF force arrived. The soldiers led four of the Palestinians to a nearby military base handcuffed, and beat them severely before they released them a few hours later.²⁸¹

On April 10, 2005, four youths – Rafat Tamimi, Munjid Tamimi, Muhammad Sultan and Bilal Tamimi – came to the Binyamin police station in the industrial area Sha'ar Binyamin, with Yesh Din volunteers. The Palestinians filed complaints against settlers from Hallamish, who trespassed and attacked them, and against IDF soldiers who beat them. All of the complainants received receipts for filing the complaint. On one of the receipts a police investigator wrote "will be transferred to the MPCID."²⁸²

On May 30, 2005, Atty. Michael Sfarid contacted the Binyamin police station on behalf of Yesh Din and on behalf of the complainants, in an attempt to ascertain what the investigation had found. After failing to receive an

279. Yesh Din files 1005/05, 1017/05, 1047/05, 1051/05 and 1070/05. Additional Yesh Din files in which soldiers were involved are still under investigation at the SJ District Police.

280. The conversation between Rosen from Atty. Michael Sfarid's office and Maj. A. took place on February 16, 2006.

281. Yesh Din file 1005/05.

282. Yesh Din has copies of all the receipts for filing the complaints.

answer, Atty. Sfard sent four reminder letters to the Binyamin police, between June 28, 2005 and September 5, 2005. None of them was answered.

On October 9, 2005, Atty. Sfard sent a letter to the commander of the Binyamin police station and to the commander of the SJ District, complaining that his inquiries were not answered. His complaint was assigned to the public complaints officer in the SJ District. On November 28, 2005, the officer replied to Atty. Sfard that in the Binyamin police station there is no record of any such event, and that it is possible that the MPCID handled the complaints.

On December 4, 2005, Atty. Sfard contacted the Judea and Samaria Area MPCID base, and simultaneously contacted the Binyamin police again. He sent them copies of the receipts for serving the complaints, which were received by the police, to help them locate the complaints.

On December 19, 2005, after no response was received from the MPCID, Atty. Sfard sent a reminder letter. When it went unanswered Natalie Rosen from Atty. Sfard's office had a telephone conversation with the Judea and Samaria Area MPCID base, in which she was told to call back in another week, since due to the unit's relocation to a new base they could not check. Another reminder was sent

to the Judea and Samaria Area MPCID 10 days later, after again no response was received.

On January 29, 2006, Atty. Sfard asked an officer from the Samaria Region of the SJ District Police to help find the complaints in this file, as well as complaints in other files that were supposed to be transferred to the MPCID. A few days later, on February 5, 2006, the officer informed him he was unable to locate the files on the police computer.

The same day Ms. Rosen talked to Lt. Y., commander of the Judea and Samaria Area MPCID. The base commander promised to check what happened to the complaints, and asked Ms. Rosen to call him a few days later. Later the same day Ms. Rosen called the MPCID base in Jerusalem, to ask if the complaints happened to have been transferred there. A secretary from the office of the base commander, Maj. A., said she was not familiar with the complaints and advised Ms. Rosen to contact Maj. A. herself.

On February 14, 2006, Ms. Rosen spoke again to Lt. Y., commander of the Judea and Samaria Area MPCID base, but this time she was told that according to instructions he received, she must from now on contact the head of the investigation supervision department in the MPCID headquarters, Maj. M.

On February 26, 2006, after they spoke on the phone, Ms. Rosen gave Maj. M. the list of complaints and the copies of the receipts that confirmed they were filed. On March 6 Ms. Rosen spoke with Maj. M. again, who promised to give his answer "in a few days." When no answer came, Atty. Sfard sent Maj. M. a reminder.

On April 10, 2006, exactly a year after the complaints were submitted to the Binyamin police against the IDF soldiers who beat residents

of Deir Nidham, Atty. Sfard's office received the answer of Maj. M. In his letter Maj. M. reported that the complaint filed by four residents of Deir Nidham was not located, neither at the Binyamin police station nor at the MPCID. This was despite the fact that members of the SJ District Police told Yesh Din that the complaints appeared to have been transferred to the MPCID. In his answer to Atty. Sfard Maj. M. added: "It is not clear to me why you noted in your letter [...] that the incidents were transferred by the Israel Police to the MPCID unit."