

DATA SHEET, DECEMBER 2022

# LAW ENFORCEMENT ON ISRAELI CIVILIANS IN THE WEST BANK (SETTLER VIOLENCE)

## YESH DIN FIGURES 2005-2022

- The Israel Police failed in the investigation of **81.5%** of the files opened between 2005 and 2022 concerning Israelis who harmed Palestinians and their property.
- **93%** of all investigation files were closed without an indictment.
- Since 2005, only **3%** of investigation files opened into ideologically motivated offenses by Israelis against Palestinians in the West Bank have led to a conviction.
- Police figures point to discrimination in Israeli law enforcement in the OPT: Israelis who harmed non-Palestinians (security forces or others) were **2.5 times more likely** to be indicted than Israelis who harmed Palestinians in the West Bank.

**The State of Israel betrays its obligation under international law to protect Palestinians in the West Bank from Israelis who seek to harm them.** Yesh Din's long-term monitoring of the outcomes of investigations into ideologically motivated offenses committed by Israelis shows that Israeli law enforcement agencies consistently and systematically fail to enforce the law on Israeli civilians who harm Palestinians and their property in the Occupied Palestinian Territories (OPT).

The failings of Israel's law enforcement system can be observed in every aspect of its response to ideologically motivated crime by Israelis against Palestinians in the West Bank: **ineffective prevention, failed police investigations, low indictment rate, and lenient sentences for convicted offenders.** All of these result in a lack of deterrence for the criminals and leave Palestinians in the OPT defenseless in the face of attacks and harassment by Israelis.

**The fact that this is a systemic failure that has continued for at least two decades proves the State of Israel normalizes and supports ideologically motivated violence perpetrated by Israeli settlers against Palestinians in the West Bank as a matter of policy and benefits from its effects.**

## A. BACKGROUND: MONITORING INVESTIGATIONS OF OFFENSES COMMITTED BY ISRAELIS IN THE WEST BANK

Israel has exercised control over the West Bank and its millions of Palestinian residents for over 55 years as part of a regime of military occupation. According to international law, these residents are “protected persons,” and Israel has a duty to protect them.<sup>1</sup>

For the past 18 years, Yesh Din has been documenting offenses committed by Israeli civilians - settlers and others - against Palestinians in the OPT and helping crime victims file complaints with the Israel Police, if they choose to do so. Yesh Din’s legal team monitors police investigations and represents Palestinian crime victims in legal proceedings against the offenders if any are taken.

Offenses committed by Israelis against Palestinians in the West Bank have a particular significance as they are carried out amid a regime in which one national group controls another. The offenders are citizens of the State of Israel who have chosen to live in the occupied territory. They enjoy the protection of the military and other state authorities, and if they commit an offense, they are investigated and tried under Israeli criminal law. Their victims are Palestinians who live under a repressive military rule that is forced upon them and have no access to the electoral process that determines the regime governing them and its policies.<sup>2</sup>

Acts of violence by Israelis against Palestinians are carried out all over the West Bank - in agricultural lands, on roads, in the streets of villages, towns and cities, and even inside homes. Settlers use violence to take over more Palestinian lands while sowing fear and terror among Palestinians and disrupting their daily lives. In this way, separate offenses committed by individuals combine to form a system of **ideological crime** that is designed to dispossess Palestinians of their lands and expand Israeli control in the West Bank.<sup>3</sup>

1 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 1949.

2 For more, see: Yesh Din, [The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion](#) (June 2020); Yesh Din, [Mock Enforcement: Law enforcement on Israeli civilians in the West Bank](#) (May 2015), pp. 14-19.

3 See, e.g. Yesh Din, [Plundered Pastures: Israeli settler shepherding outposts in the West Bank and their infringement on Palestinians’ human rights](#), (December 2021); Yesh Din, [Yitzhar – A Case Study: Settler violence as a vehicle for taking over Palestinian land with state and military backing](#) (August 2018); Yesh Din, [The Road to Dispossession - A Case Study - The Outpost of Adei Ad](#) (February 2013).

Law enforcement entails creating effective systems for deterring and preventing crime and prosecuting offenders to the full extent of the law in order to maintain public order and protect members of society. Lack of enforcement emboldens criminals and enables crime. **An analysis of Yesh Din data proves that the Israeli law enforcement system fails in fulfilling its duty to protect Palestinians from Israeli violence. The fact that this is a longstanding systemic failure is indicative of a deliberate Israeli policy of not only accepting and internalizing ideologically motivated violence by settlers against Palestinians in the West Bank, but also supporting it and benefitting from its outcomes.**

## **B. THE SAMPLE**

**Since 2005, Yesh Din has monitored 1,597 investigation files into cases of violence by Israeli civilians against Palestinians in the West Bank (excluding East Jerusalem).**<sup>4</sup> These investigations are carried out by the Samaria and Judea (SJ) District Police (the Israel Police district for the West Bank), and once concluded, the Israel Police and the State Attorney's Office decide whether to make an indictment or close the file.

The figures presented in this document do not include all incidents of harm to Palestinians by Israelis in the West Bank. They are limited to cases documented and monitored by Yesh Din. However, the data obtained through these cases since 2005 does constitute a broad, cumulative sample that enables an analysis of how the Israel Police responds to ideologically motivated crime by Israelis in the West Bank.

In some of the investigation files included in the sample, Yesh Din's staff had to liaise between police investigators and Palestinian crime victims and even perform tasks such as locating witnesses, documents and photographs and supplying them to the investigating units. This absurdity demonstrates that the police is unable or unwilling to take effective action to properly investigate Israeli crime against Palestinians. Not only that, but the data in this sample is somewhat skewed in favor of the investigating authorities compared to other cases in which no external body, such as Yesh Din, receives updates on the status of the investigations and their outcomes as the

<sup>4</sup> All figures in this document are correct as of December 1, 2022. It should be noted that as part of an upgrade to Yesh Din's digital database, all figures received additional review.

representative of the victims. At the same time, it is important to emphasize that Yesh Din is not party to police investigations or the decisions made in them.

In addition to the 1,597 cases on which this analysis is based, over the years, Yesh Din has documented hundreds of additional incidents of settler violence in which the Palestinian crime victims chose not to file a complaint with the police. In most, if not all, of these cases, the offenses go uninvestigated by the police.

For example, from 2020 to 2022, Yesh Din documented 402 incidents in which settlers harmed Palestinians or their property. In 248 of the cases, crime victims filed a complaint with the police, following which an investigation was opened. The results of these investigations are included in this data sheet. **However, 154 of the crime victims (38%) chose not to file a complaint with the police and the violence against them was never investigated.** Of these, 88 individuals expressed mistrust in the Israeli authorities and the investigation process and 37 feared that filing a complaint would harm them or result in their Israeli work or entry permit being revoked.

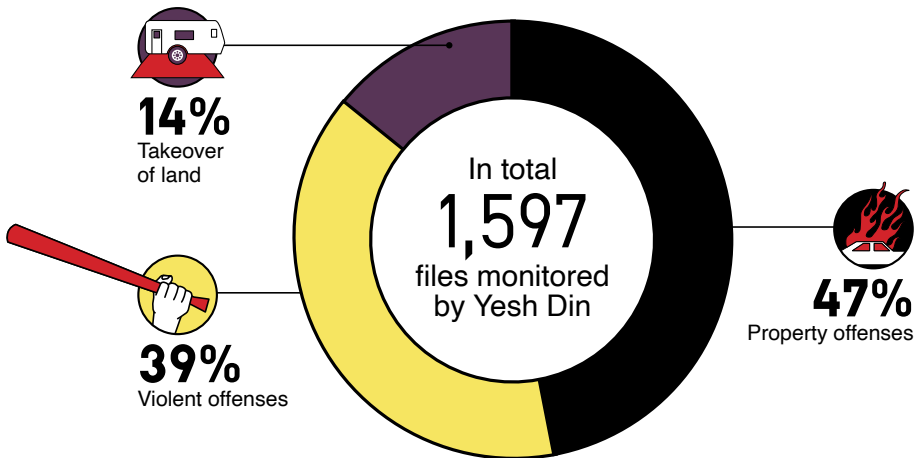
These numbers point to incompetence on the part of Israeli enforcement agencies in the West Bank. Despite being aware of this situation for years, they have done nothing to allay Palestinians' mistrust in the establishment that should protect them from violence. And so, more and more Palestinian crime victims forego filing a complaint, meaning offenders are not investigated or prosecuted for their actions, and ideologically motivated crime proliferates.

## C. TYPES OF OFFENSES

Yesh Din categorizes investigations it monitors by the main offense committed. The three categories are violence, damage to property, and takeover of Palestinian land.

Of the 1,597 cases monitored by Yesh Din, 631 (39%) involve **violent offenses** perpetrated by Israeli civilians against Palestinians, including homicide, assault, use of firearms, stone-throwing, threats, and the killing or harming of animals; 750 (47%) concern **property offenses** such as torching homes, mosques and cars, theft, cutting down trees, harming crops, vandalizing property and spraying graffiti (known as "Price Tag attacks"); 216 cases (14%) concern incidents in which Israelis attempted to **take over Palestinian land**, for instance by fencing off land, erecting structures or blocking access.

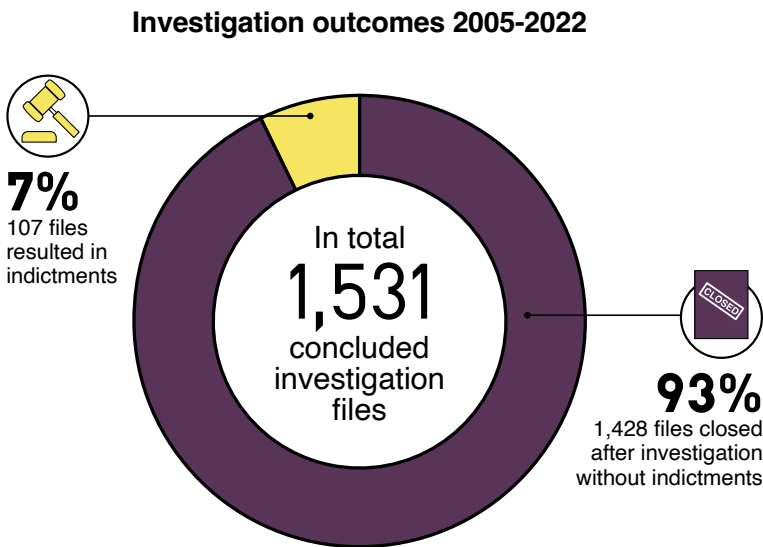
### Investigation files opened between 2005 and 2022, by type of offense



## D. INVESTIGATION OUTCOMES: MOST CASES ARE CLOSED WITH NO INDICTMENT FILED

As of early December 2022, 66 of the 1,597 investigation files opened following Yesh Din complaints since 2005 were still being processed by law enforcement agencies. Of the **1,531 concluded investigations**:

- **1,428 cases (93%) were closed at the end of an investigation without filing an indictment.**
- **Indictments were filed in just 107 cases (7%).<sup>5</sup>**



<sup>5</sup> Four of the investigation files were closed by the police but reopened following appeals filed by Yesh Din with an indictment ultimately filed. These cases were counted twice, both as cases that were closed at the end of an investigation and as cases that ended with an indictment.

## E. GROUNDS FOR CLOSURE: POLICE FAILS IN INVESTIGATING IDEOLOGICALLY MOTIVATED CRIME

Palestinian crime victims give power of attorney to Yesh Din's legal team to represent them vis-à-vis Israeli law enforcement agencies. When investigations close, Yesh Din's legal team examines materials from the police files. If the team finds that the police failed to take required investigative measures or that the evidence collected is sufficient for indicting, Yesh Din files an appeal against the closure on behalf of the Palestinian victim.

Enforcement authorities are expected to keep Yesh Din updated about developments in the investigation and are required to provide written notice of decisions to close investigation files. In keeping with the law, in these cases, Yesh Din asks for the grounds for closure.<sup>6</sup> Receiving the grounds for closure is important for exhausting the remedies available to crime victims, as they provide information about the circumstances in which the case was closed and whether the police had managed to build a factual infrastructure. This information also helps the legal team decide whether to appeal the closure.

Despite the legal obligation to inform victims of the grounds for closure upon request, and despite the legal importance of providing this information, **since 2019, Yesh Din has observed a growing tendency by the police to avoid disclosing grounds for closure in cases in which Yesh Din represents Palestinians who were harmed by Israelis in the West Bank.**

In the 14 years between 2005 and 2018, the police did not provide grounds for closure in 14 of the 1,193 (1%) investigations that concluded without an indictment. In the last four years, 2019 to 2022, despite repeated requests from Yesh Din, the police did not provide grounds for closure in 40 of 235 (17%) concluded investigations. In addition to violating the law, this practice exacerbates the harm to Palestinian crime victims and further weakens law enforcement against settlers in the West Bank.

<sup>6</sup> **Criminal Procedure Law (Consolidated Version) 1982**, Section 63(a)(2): "A decision not to prosecute will be communicated to the complainant in writing without indicating the grounds for closure but noting the complainant may inquire about the grounds for closure personally at any police station or by one of the other means determined by the police."

The Israel Police National Headquarters Ordinance lists nine possible grounds for closing or shelving investigation files.<sup>7</sup> An examination of the grounds for closure provided to Yesh Din by the police offers insight as to how and why investigations into offenses committed by Israelis against Palestinians in the OPT are concluded. An analysis of the information collected helps trace trends and patterns in the work of the police and the State Attorney's Office. Of the 1,428 investigation files opened since 2005 and closed without an indictment, the Israel Police provided Yesh Din with the grounds for closure in 1,374 files:

- **885** (64%) files were closed on grounds of **offender unknown**. In other words, the police determined a criminal offense had been committed but failed to name suspects.
- **287** (21%) files were closed on grounds of insufficient evidence. In other words, the police determined a criminal offense had been committed in those cases and had named suspects but failed to collect and consolidate sufficient evidence to prosecute.
- **148** (11%) files were closed on grounds of **absence of criminal offense** or **absence of criminal culpability**. In other words, the police either concluded that no criminal offense had been committed or that the evidence does indicate a criminal offense had been committed but fails to meet the bar required for prosecution. Yesh Din filed appeals in 36 of these closed files after determining that the investigations had not been exhaustive and that the police had erred in its decision to close the file.<sup>8</sup>
- **44** (3%) files were closed on the grounds of **circumstances not suited for investigation/prosecution** (previously called "lack of public interest").
- **10** (1%) files were closed on other grounds: three files were closed due to **exemption from criminal liability**;<sup>9</sup> one file was closed due to **limitations**; and six files were closed due to **investigation purview of another agency**.

<sup>7</sup> **Israel Police National Headquarters Ordinance 14.01.01: Complaints and other Information regarding Offenses - Reporting, Classifying and Processing**, August 23, 2020. In addition to the grounds listed below, the police may also close an investigation file on grounds of "suspect deceased."

<sup>8</sup> Twenty-two of the appeals were rejected and 13 were accepted and resulted in the reopening of the investigation. Yesh Din has yet to receive a response with respect to one appeal.

<sup>9</sup> Suspect or defendant is not criminally liable due to age (under age 12) or lack of mental capacity.



B. is a 47-year-old farmer from the village of Qaryut who has 250 olive trees in his plot. On Tuesday, March 23, 2021, he arrived at his plot of land and saw the fence surrounding it had been cut and breached and about 50 olive trees had been uprooted. A short time later, the Civilian Security Coordinator (CSC) of the settlement of Shilo arrived at the scene and told B. security camera footage from two days before shows a group of settlers arriving from the direction of the nearby outpost of Adei Ad and entering B.'s privately owned farmland. The CSC said he handed the footage over to the Israeli military and that he would be willing to give a statement to the police. He even gave B. his name and telephone number in case he needed them. The next day, on March 24, 2021, B. filed a complaint at the Binyamin police station with respect to the uprooting of trees and damage estimated at roughly NIS 7,000 (not before being forced to wait for three and a half hours for an investigator to arrive at the station).

It should be noted that a week earlier, B. went to his plot and discovered settlers had broken the gate but did not damage the trees. When the settlers saw him approaching, they fled on foot towards the unauthorized outpost of Adei Ad, but he managed to film them with their faces visible. When Israeli military and DCO personnel arrived, the settlers were still standing on the hillside, watching. The soldiers looked at them and did nothing.

Four months later, on July 19, 2021, the police informed Yesh Din it had closed the investigation file on grounds of offender unknown. Yesh Din's legal team, representing B., asked to review the investigation material. The review revealed that the only investigative measure in the file was B.'s statement to the police investigator at the station. Despite the fact that while making the complaint, B. told the police the incident was caught on the settlement's security camera and that he had photos of possible suspects, the police did nothing to obtain the evidence or try to identify suspects.

Yesh Din filed an appeal against the closure, demanding the investigation be reopened and basic investigative measures be taken toward locating the evidence and the offenders. In January 2022, the police said the appeal had been accepted, and the investigation would be reopened.

Six months later, in June 2022, the police again closed the investigation, once again on grounds of offender unknown. Yesh Din demanded to review the investigation materials once more, and discovered the police had done nothing,

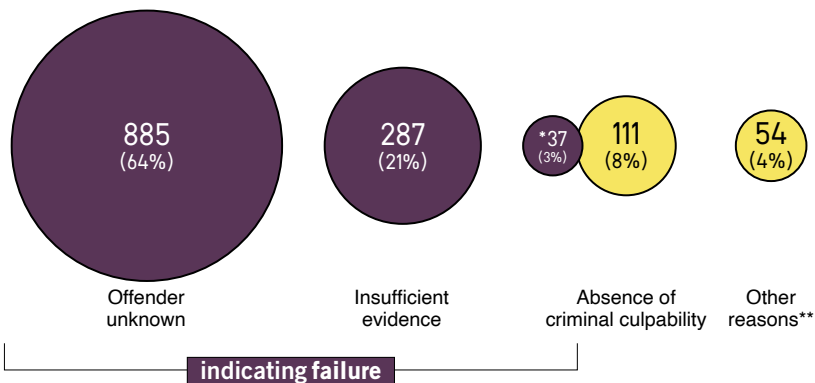
even after the appeal was accepted and notice was given that the investigation would reopen.

On October 30, 2022, some 18 months after the incident, Yesh Din was forced to file a second appeal against the closure, demanding the police fulfil its duty and take effective action to find and prosecute the offenders. As of early December 2022, the appeal is pending.<sup>10</sup>

Analyzing the circumstances under which investigation files were closed reveals that **the police has failed in the investigation of 81.5% of files opened since 2005 and concluded with known outcomes (1,208 of 1,481 files)**. Of the closed files, 1,172 were closed on the grounds of offender unknown or insufficient evidence, indicating the police found that an offense had been committed, but failed to name suspects or gather enough evidence to prosecute. Yesh Din appealed in 36 of the investigation files closed on grounds of absence of criminal offense or absence of criminal culpability, after assessing that evidence of a criminal offense was, in fact, present or that the investigation had not been exhaustive. Accordingly, these files are also counted among the cases closed in a manner indicating investigative failure.

**The high rate of failure points to a longstanding systemic failure in law enforcement responses to ideologically motivated crime against Palestinians in the West Bank.**

#### Grounds for closure of investigation files 2005-2022



\* One appeal filed against the decision to close the case due to absence of criminal culpability.

\*\* Files closed on grounds of circumstances not suited for investigation/prosecution, exemption from criminal liability, limitations or investigation purview of another agency.

<sup>10</sup> Yesh Din Case 13740/21.

## F. OUTCOMES OF LEGAL PROCEEDINGS: ONLY 3% OF INVESTIGATION FILES LED TO A CONVICTION

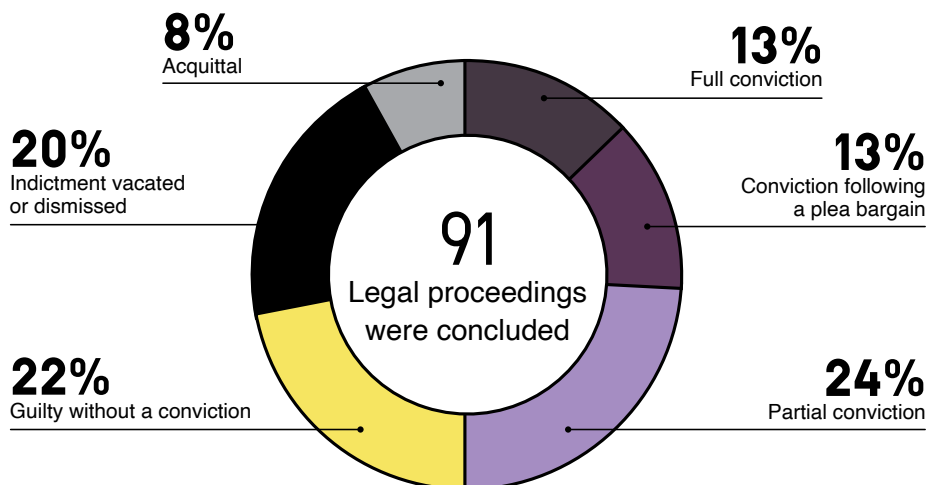
This section differs from previous sections in that it does not address the results of police investigations, but rather the outcomes of the legal proceedings in the few cases in which police investigations monitored by Yesh Din led to indictments. It is important to note that Palestinian crime victims are not party to these legal proceedings. The State – represented by the police prosecution units or the State Attorney's Office - prosecutes Israeli civilians who harm Palestinians in the West Bank. However, crime victims are afforded certain rights under the Crime Victims' Rights Law, and Yesh Din's legal team, which represents them, monitors the legal proceedings and their outcomes.<sup>11</sup>

The data presented here concerns 107 indictments filed in investigations monitored by Yesh Din since 2005. Legal proceedings are still underway in 10 cases. In six cases, Yesh Din was informed that legal proceedings were concluded, but no information was provided regarding outcomes. Yesh Din has information regarding the outcomes of 91 concluded files, which can be presented.

- **12 proceedings ended with a full conviction** of all the defendants (13% of concluded legal proceedings).
- **12 proceedings (13%) ended with a conviction following a plea bargain** signed between the prosecution and the defendants, usually on lesser charges than those brought in the original indictment.
- **22 proceedings (24%) ended in a partial conviction**, meaning either the defendants were not convicted of all charges in the original indictment or only some of the defendants were convicted.
- **20 proceedings (22%) ended with a finding of guilt without a conviction**, that is, the court determined that the defendant did commit the offense or offenses they were charged with but avoided a conviction by law.
- **18 proceedings (20%) ended with the indictment vacated or dismissed** after being filed with the court by the prosecution.
- **7 proceedings (8%) ended in the defendant or defendants' acquittal.**

<sup>11</sup> Crime Victims' Rights Law – 2001.

## Outcomes of legal proceedings in Yesh Din cases 2005-2022



In summary, as of December 2022, in 91 cases of offenses committed by Israeli civilians against Palestinians in the West Bank and monitored by Yesh Din, police investigations concluded in indictments with known outcomes.

Only **50% (46 cases)** of the indictments filed following a complaint by a **Palestinian harmed by Israeli civilians in the West Bank ultimately resulted in convictions (partial or full) of the guilty parties.** 42% of the proceedings (38 cases) ended in nothing, either after the court found the defendants guilty but still decided not to convict them for their actions or after the indictment was vacated or withdrawn.

**In total, since 2005, only 3% of investigation files opened following ideologically motivated offenses Israelis committed against Palestinians in the West Bank led to convictions (46 of 1,531 concluded investigation files monitored by Yesh Din).** The low conviction rate in the Yesh Din sample, which consists entirely of ideologically motivated offenses committed by Israeli civilians against Palestinians in the West Bank, sends the message that the law enforcement system does not consider this type of crime to be a serious issue, and contributes to the perpetrators' sense of immunity and the recurrence of these acts.

## G. YESH DIN AND ISRAEL POLICE FIGURES FOR 2021 COMPARED: DISCRIMINATION IN THE WORK OF ISRAELI LAW ENFORCEMENT AGENCIES IN THE OPT

As noted, the information Yesh Din collects and analyzes does not include all of the incidents in which Israelis, settlers and others, harm Palestinians or Palestinian property in the West Bank. To get a broader perspective, Yesh Din obtains figures from the agency directly responsible for law enforcement in the West Bank, the Israel Police, through annual requests under the Freedom of Information Act. Data provided by the Israel Police can complement the picture emerging from the analysis of Yesh Din's long-term monitoring.

In 2021, Yesh Din monitored 99 investigations opened by the SJ District Police into ideologically motivated offenses by Israelis against Palestinians in the West Bank. Seventeen of these investigations are still underway. Of the 82 concluded investigations, the authorities closed 80 and **filed only two indictments, accounting for just 2.4% of the total investigation files.** Furthermore, 53 out of the 65 investigations (82%) closed with known grounds and without an indictment were closed on grounds indicating police failure.<sup>12</sup>

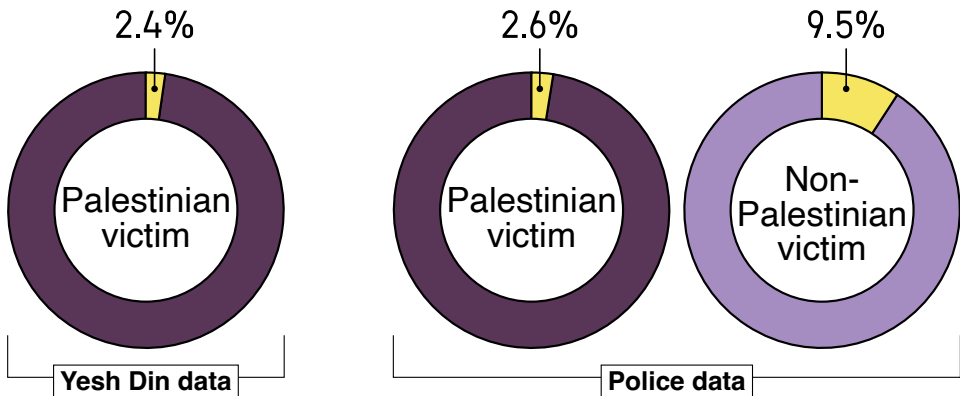
**Figures the Israel Police provided** to Yesh Din indicate that in 2021, the SJ District Police opened 282 investigation files into Israeli disorderly conduct and Jewish nationalistic crime.<sup>13</sup> In 113 cases, the crime victims were Palestinians, and in 169, the crime victims were non-Palestinians. Cases with non-Palestinian victims usually involve offenses against Israeli security forces, with a very small proportion involving violations of administrative orders or harm to Israelis and foreign nationals (activists).

Only three indictments were filed in cases in which the victims were Palestinians, **accounting for 2.6% of the total number of investigations.** However, in cases in which the victims were not Palestinian, 16 indictments were filed, accounting for 9.5% of the total number of investigations. In other words, Israeli law enforcement agencies are 2.5 times more likely to indict Israelis who harm non-Palestinians in the West Bank (Israeli security personnel and others) than Israelis who harm Palestinians.

<sup>12</sup> Forty-one investigations were closed on grounds of offender unknown, 10 were closed for insufficient evidence, and two were closed for lack of criminal culpability. Yesh Din filed appeals in these cases having determined that the investigation had not been exhausted. The police did not provide the grounds for closure in 15 of the 80 closed cases.

<sup>13</sup> From National Public Liaison Officer to Yesh Din, **Response to Application under the Freedom of Information Act**, May 22, 2021.

### Odds of investigation leading to indictment in cases of Jewish nationalist crime in the West Bank in 2021



**These figures are indicative of discrimination in Israeli law enforcement in the OPT.** Crimes committed by Israelis against non-Palestinians, meaning against members of the security forces and others, are properly investigated by the police and lead to indictments. On the other hand, in cases of violence against Palestinians, the performance of law enforcement agencies is, at best, negligent, and offenders are not brought to justice.

**Lack of enforcement and deterrence against ideological crime perpetrated by Israelis against Palestinians enables persistent crime against a defenseless population. Israel's failed enforcement policy against settler violence precludes any possibility of deterring perpetrators and shows Israel is responsible for and complicit in violence against Palestinians.**

Legally required declaration: Yesh Din is mostly funded by foreign governmental entities. A list of our donors is available on the Israeli Associations Register's website and on our website. Yesh Din is proud to be funded by states that believe, as we do, that the occupation is not an internal Israeli matter and that support the advancement of human rights.