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Ministry of Justice**

**Israel's Investigation and Prosecution of Ideologically Motivated Offences
Against Palestinians in the West Bank¹**

Israel has a deep commitment to the rule of law. This characterizes Israel's approach to law enforcement in areas of the West Bank still under its responsibility according to the Oslo Agreements. In recent years, Israel has taken extensive measures to prevent violence in general - and against Palestinians in particular. In addition, efforts have been made to investigate criminal complaints and to prosecute perpetrators when appropriate. In particular, Israeli officials, including high-ranking politicians and senior officials from law-enforcement bodies, have declared an unequivocal zero-tolerance policy towards the phenomenon of "price-tag" offences by Israeli extremists against Palestinians.²

In recent years, Israeli authorities made considerable efforts to enhance law enforcement in the West Bank, which have led to a significant decrease in ideologically-based offences and an increase in the number of investigations and the rate of prosecution. These efforts included the establishment of designated taskforces, increased allocation of funds, and the addition of professional manpower.

This document focuses on offences against Palestinians that were allegedly committed by Israelis; nonetheless it is important to keep in mind that the vast majority of Israelis and Palestinians residing in the West Bank are law-abiding. Moreover, ideologically-motivated offences committed against Palestinians are a small percentage of overall offences committed in the West Bank and also represent a small portion of specifically ideologically-motivated offences in the West Bank, as the majority of such offenses are committed by Palestinians

¹ **Current as of June 2017**

² The term "price-tag" refers to the phenomena of acts of violence by certain Israeli extremists in the West Bank seeking "to exact a price" against Palestinians in response to IDF measures to remove illegal outposts or in response to Palestinian violence against settlers.

See also Noam (Dabul) Dvir *President Rivlin slams 'price tag' attack on mosque as terror*, YNet News (Oct. 14, 2014), available in <http://www.ynetnews.com/articles/0,7340,L-4580600,00.html>; Yoav Zitun, *Ya'alon: Price Tag is terror, perpetrators can expect zero tolerance*, YNet News (Aug. 1, 2014), available at <http://www.ynetnews.com/articles/0,7340,L-4474504,00.html>;

Oranit Etzer, *Minister: Outraged Yitzhar Rioters 'Unrestrained Criminals'*, Arutz Sheva (Aug. 4, 2014), available at: <http://www.israelnationalnews.com/News/News.aspx/179400>;

[Ariel Ben Solomon, Lahav Harkov, Netanyahu says 'Price Tag' attacks go against our values](#), Jerusalem Post, (Apr. 30, 2014), available at <http://www.jpost.com/National-News/Netanyahu-says-Price-Tag-attacks-go-against-our-values-350963>.

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against Israelis. Israel invests considerable law enforcement efforts to investigate alleged offences committed by Palestinians, including ideologically-based offences, termed “security offences.”

Table 1: Cases Investigated by the Police Involving Allegations of Ideologically-based Offences Committed by Israelis and Palestinians (2013- 2015)

Year	Cases investigated by the Israel Police in the West Bank involving allegations of ideologically-based offences committed by Israelis	Cases investigated by the Judea and Samaria Police District involving allegations of security offences committed by Palestinians
2013	497	6,102 (of these: 4,046 allegations of stone-throwing and 4,734 allegations of throwing Molotov cocktails)
2014	367	7,889 (of these: 5,341 allegations of stone-throwing and 851 allegations of throwing Molotov cocktails)
2015	279	7,587 (of these: 5,378 allegations of stone-throwing and 702 allegations of throwing Molotov cocktails)
2016	141	6,961 (of these: 3,360 allegations of stone-throwing and 476 allegations of throwing Molotov cocktails)

Source: Israeli Police, January, December, 2015, April 2016 and June 2017.

Law Enforcement Authorities

The Israel Police operates in those areas of the West Bank remaining under Israeli control. It is responsible for investigating crimes committed in the West Bank, including offences committed by Israeli citizens. The Judea and Samaria Police District (hereinafter: the “District”) consists of 1,100 trained policemen, including police investigators who are fluent in Arabic. Given the importance the Israeli Government places on law enforcement in the West Bank, and the unique challenges associated with the complex legal and factual situation, in recent years, Israel has created special units and designated taskforces within the existing law enforcement authorities to bolster the effectiveness of law enforcement in the West Bank.

For example, in March 2013, the Nationalistic-Motivated Crimes Unit (hereinafter: NMCU), a special police unit, was established within the District for the purpose of policing ideologically-based offences and “price-tag” offences. This special unit currently employs 60 police officers (with an additional support team of approximately 20 auxiliary police officers).

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This Unit was assigned to deal with extreme offences of Nationalistic-Motivated Crimes that are committed in other districts, whilst coordinating with the national investigation and intelligence division. This Unit is currently fully operational. The unit works in cooperation with other Israel Police units, the Israel Security Agency (hereinafter: “ISA”), the Israel Defense Forces (hereinafter: “IDF”) and the Ministry of Justice. The NMCU is responsible for investigating, collecting evidence, and gathering intelligence.

The NMCU within the Israel Police makes considerable efforts to prevent and investigate ideologically-based offences, and to prosecute perpetrators. Upon completion of an investigation, and based on the severity of the crimes involved, cases are transferred to the Prosecution Division of the Israel Police or the State Attorney’s Office.³ When a sufficient evidentiary basis exists, indictments are issued. Since its foundation, the NMCU has conducted dozens of overt and covert investigations into potential areas of friction between Israelis and Palestinians and its intelligence-gathering capabilities have grown significantly.

In addition, there exists an inter-agency team tasked with overseeing the law enforcement of crimes related to incitement, violent uprisings, and ideological crimes in the West Bank. This team has worked for nearly two decades to improve inter-agency coordination and cooperation, and to monitor criminal proceedings against suspects and defendants of such offences. This team is headed by a Deputy State Attorney and includes representatives from the Office of the State’s Attorney, the ISA, the Police, and the IDF. Furthermore, the District also has a special desk within its Intelligence Department that is in charge of obtaining information regarding ideologically-based offences. As part of the measures taken to support security forces on the ground in their crime-prevention efforts in the West Bank, the District has an assigned Border Police Company at its disposal.

Investigation and Prosecution in the West Bank

Complaints

Complaints or information that gives rise to suspicion of a criminal offence are transferred to the relevant investigative police units in the District. Each police station in the District is staffed with an officer fluent in Arabic in order to ensure the proper handling of complaints

³ The division of responsibilities between the State Attorney’s Office and the Prosecution Division of the Israel Police is based on the gravity of the offences. In general, the latter is authorized to prosecute misdemeanors (offences carrying a sentence of up to three years).

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from Palestinians. Besides the investigations prompted by specific complaints, the Israeli Police initiates its own investigations based on intelligence collected about possible offences or threats.

The Investigative Process

As a general rule, regardless of the severity of the offence, whenever there exists a suspicion that an ideologically-based offence has occurred, a team made up of an investigator, a crime scene investigator, and a detective is called to the crime scene.

A number of practical difficulties can complicate the process of surveying a crime scene, collecting evidence, and obtaining witness testimonies to be used in court. First, immediate arrival at the crime scene is not always possible. For example, the entry into Area A or B of the West Bank requires security coordination with the Palestinian Authority and a military escort. Sometimes, entry to a specific area at a certain point in time is difficult due to violent demonstrations or other security risks. In addition, many complaints are filed only after a considerable amount of time has passed since the alleged offence occurred, which makes it challenging to obtain forensic and other evidence. In certain cases, there may also be reluctance, on the part of victims and witnesses, to cooperate with the Israel Police, which further complicates the investigative process. Notwithstanding these difficulties, the Israel Police takes its responsibilities seriously and ensures to undertake investigations that sufficiently fulfill its obligations, as evidenced in the figures presented in this document.

After the completion of the investigation process, additional difficulties may be encountered by the prosecution authorities, such as when the complainant fails to appear in court to testify which requires withdrawal of the indictment. Considerable efforts are being made in order to overcome, to the extent possible, some of these practical difficulties. For example, in order to facilitate Palestinian access to courts in Israel, the State provides transportation from Area A of the West Bank to courts in Israel.

In addition, District investigators undergo training exercises on how to maintain crime scenes and gather forensic evidence, including visual and other documentation. Similar training is provided to IDF soldiers and policemen from the Border Police. Moreover, the Israel Police conducts training exercises for Palestinian Police officers as part of its cooperation with the Palestinian Authority's Civil Police.

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The Use of Illegal Association Restrictions as a Legal Tool

In order to facilitate investigation efforts by the authorities, on August 13, 2013, the Minister of Defense declared that any association of persons - unionized or not, including any group, cell, social partnership, section, or similar association - that uses the name “price-tag” or any other derivative with a similar meaning is an “illegal association” pursuant to Regulation 84 of the *Defense (Emergency) Regulations* of 1945. Under this classification, a “price-tag” offence can be regarded as a security-related offence that, in certain circumstances, allows for special law enforcement measures to be taken, subject to judicial review. Defining “price-tag” perpetrators as engaging in an “illegal association” attests to Israel’s unequivocal stance against these phenomena and, on the practical level, provides law enforcement and security services with appropriate measures to act against them.

The Counter-Terrorism Law 5776-2016

On June 15, 2016, as part of Israel's ongoing battle against terrorism, the GOI enacted the *Counter Terrorism Law 5776-2016*. This detailed and carefully-designed new law is part of an effort to provide law enforcement authorities with more effective tools to combat modern terrorist threats while incorporating additional checks and balances necessary to safeguard against unreasonable violations of individual human rights. The Law provides, among other things, updated definitions of "terrorist organization", "terrorist act" and "membership in a terrorist organization", detailed regulations for the process of designating terrorist organizations, and enhanced enforcement tools, both criminal and financial. This Law nullifies current legislation in the field of counter-terrorism. It does not create discrimination on the grounds of race, color, decent or national or ethnic origin and does not subject individuals to racial or ethnic profiling or stereotyping.

Prosecution

Upon the completion of an investigation, a decision is made by a senior Israel Police officer whether to transfer the case to the prosecution authorities or to close it. If the case is transferred to the prosecuting authorities, after reviewing the evidence gathered, it is for the prosecution to decide whether there is a sufficient basis to file an indictment - *e.g.*, sufficient evidence to establish a reasonable basis for conviction.

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The decision to close a case is made in accordance with applicable laws and guidelines, upon a determination, for example, that there is insufficient evidence or that there is no public interest in pursuing the case. Unlike other districts where an Israel Police officer of the rank of Chief Inspector may be authorized to close a case, in cases of ideologically-based offences handled by the District, only the State Attorney's Office or the Head of the Prosecution Division of the Israel Police is authorized to close a case. The exception to this rule is where the perpetrator of the alleged crime is unknown, in which case a senior investigator of the rank of Chief Superintendent is authorized to close the case. In any event, any decision to close a case can be appealed to the Attorney General, whose decision can be further reviewed by means of direct petition to the Supreme Court of Israel, sitting as the High Court of Justice.

Judea and Samaria District - Police Cases Regarding Allegations of Ideologically-Based Offences Committed by Israelis

In 2016, 141 cases were investigated by Israel Police in the District involving allegations of ideologically-based offences committed by Israelis. Of this number, as of June 2017, 54 Indictments were served (20 of these indictments were served in cases in which the complaint was received prior to 2016). At least 22 cases were based on complaints filed by Palestinians. Also, 77 persons were arrested in relation to these offences and in 18 cases the suspects were arrested until the end of the proceedings against them.

Also in 2016, 217 cases were opened against Israelis for disturbance of the peace. Of this number, as of June 2017, 87 Indictments were served (18 of these indictments were served in cases in which the complaint was received prior to 2016). Also, 126 persons were arrested in relation to these offences and in 25 cases the suspects were arrested until the end of the proceedings against them.

Also, during 2016 (January until October), Israeli authorities issued 30 restraining orders against Israelis (among them minors), prohibiting their presence in the West Bank, and as of November 29, 2016, 11 Israelis were under administrative detention.

In 2015, 279 cases were investigated by Israel Police in the District involving allegations of ideologically-based offences committed by Israelis. Of this number, as of April 2016, three persons were convicted (cases that were served in 2015), 83 indictments were filed (29.7%) (Note that of this figure, 63 indictments were filed in cases that were opened in 2015 and 20 indictments were filed in cases that were opened in previous years), several cases of which

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include a racist motive. As of April 2016, 108 cases were being examined by the relevant State Attorney's Office, 57 cases were still being investigated, 105 cases were closed: 20 cases were closed due to lack of evidence, 70 cases were closed due to unknown perpetrators and 14 cases were closed due to lack of public interest.

Of the 279 cases investigated in 2015, 40 were based on complaints submitted by Palestinians. From this total: nine indictments were filed, 13 cases are still being investigated, and 12 cases were closed.

Also, throughout 2015, Israeli authorities issued 45 restraining orders against Israelis (among them Israeli minors), prohibiting their presence in the West Bank, and four Israelis were under administrative detention.

In 2014, 367 complaints were investigated by the Israeli Police in the District involving allegations of ideologically-based offences committed by Israelis. Of this number, as of December 2014, 58 indictments were filed (16%), 92 cases were still being investigated, 36 cases were closed due to lack of evidence, and 176 cases were closed due to unknown perpetrators.

Of the 367 complaints investigated in 2014, 162 were based on complaints submitted by Palestinians. From this total, as of December 2014, 12 indictments were filed, 25 cases were still pending, seven cases were closed due to lack of evidence, and 117 cases were closed due to unknown perpetrators.

Overall, in 2013, out of the 497 cases that were investigated in the District (based on complaints and self-initiated investigations) involving allegations of ideologically-based offences committed by Israelis, as of December 2013, 94 indictments were filed (19%), 51 cases were still being investigated, 101 cases were closed due to lack of sufficient evidence, 13 additional cases were closed for lack of public interest and two for other reasons and 236 cases were closed due to unknown perpetrators.⁴

⁴ With respect to a large volume of complaints received by Israeli Police, the identity of the perpetrator is unknown. This is true with respect to ideologically motivated offences against both Palestinians and Israelis. For the sake of comparison, in 2013, of the 5,079 cases investigated by the Judea and Samaria Police District involving allegations of offences presumably committed by Palestinians, in 1,547 cases the identity of the perpetrator was unknown. Of the 5,755 cases investigated by the Judea and Samaria Police District involving

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Of the 497 cases investigated in 2013, 236 were based on complaints submitted by Palestinians in the District. Of these, as of December 2013, 15 indictments were filed, 16 cases were still being investigated, 31 cases were closed due to lack of sufficient evidence, one case was closed for other reasons and 173 cases were closed due to unknown perpetrators. The remaining cases are based on Police-initiated investigative measures.

Table 2 Cases Investigated by the Israel Police in the West Bank Involving Allegations of Ideologically-Based Offences Committed by Israelis – by Case Status (2013-2015)

Police Cases	2013	2014	2015
Indictments Filed	94 (19%)	58 (16%)	83 (29.7%)
Open Cases	51 (10%)	92 (25%)	57 (20.4%)
Closed – Lack of Evidence	101 (20%)	36 (10%)	20 (7%)
Closed – Not in the Public Interest	13	4	14 (5%)
Closed – Other	2	1	-
Unknown Perpetrator	236 (47%)	176 (48%)	70 (25%)
Sum	497	367	279

Source: Israeli Police, January, 2015 and December 2015.

In 2013, the cases opened by the Police concerning Israeli suspects included 159 allegations of offences against property (including 113 allegations of malicious damage to property, 20 allegations of ideologically-motivated arson, and 10 allegations of arson); 125 allegations of offences against public order; 83 allegations of security offences; 75 allegations of bodily harm (including 68 allegations of assault and 5 allegations of assaulting a public servant), 50 allegations concerning other offences against human life and two allegations of nationally motivated stones-throwing.⁵

The 2014 cases include 105 allegations of offences against property (including 79 allegations of malicious damage to property, 13 allegations of nationally motivated arson and 5 allegations of arson); 130 allegations of offences against public order; 52 allegations of security offences; 41 allegations of bodily harm (including 34 allegations of assault), 30 allegations concerning other offences against human life and six allegations concerning of nationally-motivated stones throwing.

alleged offences presumably committed by Palestinians in 2014, in 1,846 cases the identity of the perpetrator was unknown.

⁵ Events of stone-throwing by Israelis at security forces are included in a separate category.

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The 2015 cases included the following offences: malicious damage to property, ideologically-motivated arson, conspiracy to commit a crime, assaulting a public servant, defacing real-estate, incitement to violence or terrorism, arson of a motor vehicle, nationally motivated stones-throwing, assault that causes actual bodily harm, threats, escape from legal custody, causing death while committing an offence and others.

The 2016 cases included the following offences: malicious damage to property, ideologically-motivated arson (two cases), nationally motivated stones-throwing, threats, and others.

Table 3: Cases Investigated by the Israel Police in the West Bank Involving Allegations of Ideologically-Based Offences Committed by Israelis – by Type of Offence (2013-2014)

Alleged Offences	2013	2014
Offences against Property	159	105
Offences against Public Order	125	130
Security Offences	83	52
Bodily Harm	75	41
Endangering People on a Traffic Route and Stone-Throwing	52	36
Other	3	3
Total	497	367

Source: Israeli Police, January, 2015.

The figures above indicate a decrease in the number of complaints filed by Palestinians (from 236 complaints in 2013 to 162 complaints in 2014, only 40 complaints in 2015 and 22 (at least) in 2016) and an increase in the rate of indictments relative to those complaints (6.3% and 7.4% in 2013 and 2014 respectively, 22.5% in 2015 and 40.9% in 2016). In addition, the rate of indictments filed regarding ideological based offences committed by Israelis also increased (19% and 16% in 2013 and 2014 respectively 29.7% in 2015 and 24.1% in 2016 (Please note that the figure for 2015 does not include 20 additional indictments that were filed in 2016 in cases that were opened and investigated during 2015, thus the total number of indictments relative to complaints filed by Palestinians in 2015, is 103 representing 36.9% respectively)). The data above indicates that the number of cases that were closed due to lack of evidence in 2014 decreased by 64.3% in comparison with those closed for the same reason in 2013 and decreased again by 44.4% in 2015. The numbers reflect the efforts and resources invested by the Police to investigate complaints filed by Palestinians. It is important to note and emphasize, that all of Israel's authorities, law enforcement and judicial alike, are

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dedicated and committed to preventing, fighting and eradicating any form of violence and, in particular, ideologically-based offences against Palestinians in the West Bank.

This commitment is exemplified by the recent Supreme Court decision to harshen the punishment against two defendants who were convicted and sentenced in the frame of a plea bargain that did not include the sentence by the Jerusalem District Court. In this case, according to the indictment, on November 28, 2014, Shlomo Tweeto (Defendant No. 1), Nachman Tweeto (Defendant No.2) and a third person (Yitzhak Gabay) conspired to set fire to a bilingual school in Jerusalem and deface real estate in protest against assimilation and co-existence between Jews and Arabs. According to the indictment, on November 29, 2014 around 18:00 the three made the necessary preparations, including buying gasoline, equipping themselves with a lighter, black spray paint, etc. and drove to the school. They broke into the school through a window, Defendant No. 1 and the third person entered different classrooms and poured gasoline while Defendant No. 2 sprayed racial slurs on walls outside the classrooms. After Defendant No. 1 exited the school, the third person set fire to the classrooms and they all ran to their car and escaped.

Following an investigation of this case and indictment of the three men, the Jerusalem District Court convicted Defendant No. 1 for arson and defacing real estate and sentenced him to 24 months imprisonment, 8 months suspended imprisonment for a period of three years, a fine of 1,500 NIS (375 USD) and compensation to the school in the sum of 10,000 NIS (2,500 USD). Defendant No. 2 was convicted of arson, defacing real estate and incitement to violence (for publication of terrorist organizations' symbols and content inciting violence and racism on his Facebook account) and was sentenced to 30 months imprisonment, 10 months suspended imprisonment for a period of three years, and compensation to the school in the sum of 15,000 NIS (3,750 USD). (Cr.C. 4001-05-15 *The State of Israel v. Shlomo Tweeto et. al.* (22.7.15)). The State decided to appeal this sentence to the Supreme Court, stating among other things, that the sentences are too lenient and do not reflect the substantial damage to the social values that were harmed, the aggravated circumstances in which these offences were committed and the need to deter others from committing such offences. The Court raised both defendants' sentences by an additional 8 months imprisonment, stating, *inter alia*, that "with their actions the defendants harmed the entire society. Acts such as these may increase tension and inflame hatred between various groups in the population. They [...] harm values of tolerance, equality and co-existence". Justice Rubinstein added that "Anyone who considers engaging in such

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acts should know that the punishment will be severe. The State of Israel is a Jewish and Democratic state and anyone who sets fire to those who seek co-existence between Jews and Arabs, even if he/she disagrees with them, harms not only Israel's democratic values but its Jewish values as well, and instead of acting through tolerance and peace, he/she wages war and inflames hatred. This court and all courts have the duty to fight that". (Cr.A. 5794/15 *The State of Israel v. Shlomo Tweeto et. al.* (31.1.16)). The third person in this case, Yitzhak Gabay, was tried separately from the other two defendants since he claimed that his confession was inadmissible. After deliberation on this matter, the Court rejected this claim, and in the frame of a plea bargain that included the defendant's confession, convicted him for arson of the bilingual school in Jerusalem, defacing real estate in protest against assimilation and co-existence between Jews and Arabs, possession of a knife, incitement to violence, incitement to racism and support of a terrorist organization. The Court sentenced the defendant to 36 months imprisonment, 14 months suspended imprisonment, and ordered him to pay 10,000 NIS (2,500 USD) as compensation to the school. (Cr.C. 31351-12-14 *The State of Israel v. Yitzhak Gabay* (01.12.15)).

Both sides appealed to the Supreme Court in regard to the sentence. The State claimed among other things, that the lower court's sentence is too lenient and does not reflect the substantial severity of the arson and the threat still posed by the defendant. On September 28, 2016, after hearing both sides and receiving additional information about the defendant, the Court raised the defendant's sentence by additional 4 months (from 36 to 40 months imprisonment) (Cr.A. 401/16 *The State of Israel v. Yitzhak Gabay* (28.9.16)).

Recent Examples of Criminal Cases Involving Ideologically Based Offences in the West Bank

1. On January 3, 2016, the Central District Attorney's Office filed an indictment with the Central District's Court, against two defendants: Amiran Ben-Uliel (Defendant No. 1), aged 21 and a minor defendant (Defendant No. 2), aged 17. Amiran Ben-Uliel was indicted for three counts of murder - the murder of the three Dawabshe family members (the parents Sa'ed and Riham and Ali-Sa'ed, aged 18 months) in the village of Duma, attempted murder of an additional Dawabshe family member (Ahmad Dawabshe, aged 4) and additional offences of attempted murder and arson committed with a racist motive. Defendant No. 2 was indicted for conspiracy to commit murder with a racist motive,

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malicious damage with a racist motive and additional offences, among them the arson of the Dormition Abbey.

According to this indictment, following the murder of Malachi Rosenfeld by Palestinians in June 2015, both defendants conspired to take their revenge against Arabs and kill people. Defendant No. 1, made the necessary preparations, including the preparation of a bag with two bottles filled with a flammable liquid, a lighter, a matchbox, gloves and black spray paint. On the relevant day he then went to meet defendant No. 2 in a specific location, however, since he did not meet defendant No. 2 there, he decided to continue on his own. According to the indictment, defendant No. 1 tied a shirt around his head and donned his gloves; he then looked for indications for an inhabited house, sprayed "revenge" and "long live the messiah" on the house and threw an incendiary device into the house with the intent of killing its residents. This house was empty. Defendant No. 1 then immediately turned to the home of Sa'ed and Riham Dawabshe, carrying the second incendiary device. After unsuccessful attempts to open two windows, he managed to open the window of the bedroom in which the family was sleeping. Defendant No.1 then lighted the incendiary device, threw it through the window and escaped, killing three family members (the parents, Sa'ed and Riham and Ali-Saed aged 18 months) and causing severe burns to Ahmad Dawabshe, aged 4.

On January 3, 2016, an additional indictment was also filed against Yinon Reuveny, aged 20, and a 17 year old minor, for involvement in other terrorist incidents. All four defendants were also indicted for membership in a terrorist organization.

These two indictments are the outcome of a thorough investigation conducted by the ISA and the Israeli Police (Judea and Samaria District). The filing of the indictments was approved by the Attorney General and the State Attorney.

2. On October 20, 2014, an indictment was filed with the Petah Tikva Magistrate Court (Cr.C. 26986-10-14) against two Israelis, Dor Ovad and Oleg Klimakovic, alleging that on October 11, 2014, the Defendants were involved in a violent attack against Palestinians during the olive harvest. The attack allegedly occurred within an area that had been declared a Closed Military Zone⁶ in the village of Kfar Yusuf. The Defendants were later allegedly involved in a physical altercation with security forces that were called to the

⁶ For more information on Closed Military Zones, see *infra* "Prevention of Criminal Activity."

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scene. The Defendants were charged, *inter alia*, with assault causing actual bodily harm based on racial motivation, malicious damage to property based on racial motivation, violation of a lawful order and assaulting and obstructing a public servant. On March 30, 2015, both defendants were convicted and sentenced. Defendant no. 1 was convicted, among other offences, for violating a lawful order, prohibited entry into a closed military area, assaulting and obstructing a public servant and assaulting a police officer. He was sentenced to 12 months imprisonment, concurrent imprisonment of 6 months due to a prior case, four months suspended imprisonment for a period of three years for specific offences and two months suspended imprisonment for a period of three years for any other offence. Defendant no. 2 was convicted, among other offences, for violating a legal order, prohibited entry into a closed military area, obstructing a public servant, assaulting a police officer and escape from legal custody. This defendant was sentenced to 5 months and 12 days imprisonment and four months suspended imprisonment for a period of three years for specific offences and two months suspended imprisonment for a period of three years for any other offence.⁷

3. On July 20, 2014, two indictments were filed in the Jerusalem District Court against three Israelis: Adiv Asraf, Yosef Idan Shirazi (Cr.C. 38225-07-14), and Eliran Nahum (Cr.C. (Jer) 38265-07-14). The indictments alleged that the defendants conspired, on several occasions between June 21 and 24, 2014, to commit what is known as a “price-tag” offence. The defendants allegedly spray-painted racial slurs in several locations in Ma’ale Adumim. They also allegedly obtained batons and waited with the hope of attacking Palestinian by-passers at an entrance to Ma’ale Adumim. The defendants were charged with defacing real-estate based on racial motivation and with publication of racist incitement. Asraf and Nahum were also charged with attempted assault based on racial motivation.⁸ One of the defendants, Shirazi, has been remanded to custody until the conclusion of proceedings in another case. In regard to Yosef Idan Shirazi, the parties reached a plea bargain, according to which, the defendant will confess to an amended indictment and will be convicted. No agreement was reached in regard to the sentence. In the frame of the plea bargain, this defendant confessed to two offences of defacing real-estate based on racial motivation and two offences of publication of racist incitement. On February 1, 2016, Yosef Idan Shirazi was convicted and sentenced to six months

⁷ Cr.C. (Petah Tikva) 26986-10-14, *The State of Israel v. Oved and Klimakovic* (30.3.15).

⁸ Cr.C. (Jer) 38225-07-14, *The State of Israel v. Adiv Asraf et. al.*; Cr.C. (Jer) 38265-07-14, *The State of Israel v. Eliran Nachum* (Still Pending).

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imprisonment to be served as community service and 14 month suspended imprisonment for a period of two years. In regard to Adiv Asraf, on September 9, 2015, the parties reached a plea bargain, according to which, the defendant will confess to an amended indictment and will be convicted. No agreement was reached in regard to the sentence. In the frame of the plea bargain, this defendant confessed to defacing real-estate and attempted assault based on racial motivation. On April 4, 2016, the Court convicted the defendant according to the plea bargain and sentenced him to six months imprisonment (since the defendant already served two months imprisonment, the Court ordered that the remaining four month will be served as community service) as well as three months suspended imprisonment for a period of three years. The case against Eliran Nahum is still pending.

4. On February 5, 2014, two indictments were filed in the Central District Court, against three Israelis -- one against Yehuda Landsberg and Yehuda Savir (Cr.C. 8751-02-14), and another against Benjamin Richter (Cr.C. 8718-02-14). According to the indictments, the defendants embarked on arson and destruction activities during the night of November 18, 2013. The defendants' actions, aimed at Palestinian residents in Pura'ta and other villages, were intended to destroy local Palestinian property. The defendants were charged with conspiracy to commit a crime based on racial motivation, arson and attempted arson, defacing real-estate based on racial motivation, and attempt to commit malicious damage based on racial motivation. Richter allegedly violated the terms of his house arrest and was therefore also charged with violation of a lawful order. As part of a plea bargain, on November 30, 2014, the Central District Court convicted Landsberg and Savir of conspiracy to commit a crime based on racial motivation, defacing real-estate based on racial motivation, and arson. On December 21, 2014, the Court sentenced Landsberg and Savir to 30 months imprisonment, a 12-month suspended sentence for a period of three years, and payment of compensation to the complainant in the sum of 15,000 NIS (3,950 USD).⁹

Also as part of a plea bargain, the third defendant, Richter, was convicted on December 25, 2014, of conspiracy to commit a crime based on racial motivation, defacing real-estate based on racial motivation, arson, and violation of a lawful order. On February 4, 2015, the Court sentenced Richter to 36 months imprisonment, a 12-month suspended sentence

⁹ Cr.C. (Central) 8751-02-14 *The State of Israel v. Landsberg*.

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for a period of three years, and ordered him to pay compensation to the complainant in the sum of 15,000 NIS (3,950 USD).¹⁰

The court noted that the Israeli legislature intended to express the severity of offences based on racial motivation because these offences “undermine the foundations of law and the democratic essence of the State of Israel.”¹¹

The court referred to memoranda it had received from the Ministry of Foreign Affairs and the ISA and stated that they demonstrate:

"the enormous damage of these offenses, and their contribution to the deterioration of the relationship between Israel and the Palestinians, the nurturing of continued hostility between the conflicting sides, as well as the status of Israel in the international community".¹²

5. On March 8, 2013, an indictment was filed in the Jerusalem Magistrate Court (Cr.C. 16277-03-13), against Dor Ovad, an Israeli, alleging that on March 4, 2013, near Shiloh, the defendant damaged and spray-painted racial slurs on vehicles belonging to Palestinians. After the Police arrived at the scene, the defendant allegedly tried to resist arrest; a search revealed that he was in possession of two knives, a brass knuckle and tear gas. On December 26, 2013, pursuant to a plea bargain, the Jerusalem Magistrate Court convicted him of the offences of malicious damage based on racial motivation, interference in the performance of police duty, and unlawful possession of a knife and brass knuckles. The Court sentenced him to 12 months' imprisonment (which included a previous suspended sentence) and a six-month suspended sentence for a period of three years.¹³

Prevention of Criminal Activity

In addition to investigating and prosecuting perpetrators, Israeli authorities take extensive measures to deter and prevent ideologically-based offences, based on intelligence information. These efforts include administrative measures, such as orders denying certain Israeli nationals access to various areas in the West Bank. In 2015, Israeli authorities issued

¹⁰ Cr.C. (Central) 8718-02-14 *The State of Israel v. Richter*.

¹¹ *Id.*, at ¶ 23.

¹² *Id.*, at ¶ 23.

¹³ Cr.C. (Jer) 16277-03-13 *The State of Israel v. Oved* (26.12.13).

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36 administrative restraining orders against Israelis (among them Israeli minors), prohibiting their presence in the West Bank, and four Israelis were under administrative detention. In 2014, 13 administrative restraining orders were issued. In 2013, 19 such orders were issued. In past years, the Supreme Court of Israel, sitting as the High Court of Justice, denied several petitions challenging the legality of such orders filed by Israeli nationals who were the subject of these orders. The Court held that while these administrative orders infringed upon certain individual rights, in weighing the balance between these rights and security concerns, the orders were necessary to maintain law and order in the West Bank.¹⁴

In addition, the Military Commander of IDF Forces in the West Bank is authorized to declare a specific area as a Closed Military Zone if necessary in order to protect public order and security.¹⁵ This Order may be applied, as required, to Israelis, Palestinians, or both. The South Hebron Hills region, certain places in the Valley of Shiloh, and other locations have been declared Closed Military Zones because the Military Commander has deemed them as friction sites prone to ideologically-based offences.

Furthermore, at the end of 2011, the Ministry of Education ordered the closure of the *Dorshei Yehudecha* yeshiva high school in Yitzhar due to the involvement of both students and staff in acts of violence against Palestinian civilians and Israeli security forces. The Ministry of Education also decided to cut financial support to the Yeshiva *Od Yosef Chai* for similar reasons.¹⁶ During 2014, the Military Commander of IDF Forces in the West Bank seized and took hold of the Od Yosef Chai Yeshiva, enabling the IDF to control a major center for “price-tag” offences and other violent activities. Subsequently, there has been a significant reduction in “price-tag” offences in the West Bank.

Israeli authorities have also continued their substantial efforts to prevent criminal acts against Palestinians during the annual olive harvest in the West Bank.¹⁷ The olive harvest is considered by the Military Commander to be a major annual occurrence. Thus, the IDF takes

¹⁴ See, for example, H.C.J. 4101/10 *Akiva Hacoheh v. The Commander of the IDF Forces in Judea and Samaria* at P. 19-22 (1.7.10); H.C.J. 1052/05 *Federman v. The Commander of the Central District* (23.2.05); H.C.J. 7772/05 *Adler et. al. v. Major General Yair Naveh et. al.* (23.8.05); H.C.J. 7191/06 *Albert v. The Commander of the IDF Forces in Judea and Samaria, Major General Yair Nave et. al.* (5.12.06); H.C.J. 7489/06 *Gruner v. The Commander of the IDF Forces in Judea and Samaria et. al.* (13.11.06).

¹⁵ Article 90 of Decree of Security Provisions, *Security Provisions Order [Consolidated Version] (Judea and Samaria)*.

¹⁶ Chaim Levinson, *Ministry closes Yitzhar school over violent attacks*, Ha'aretz (2.11.11), available at www.haaretz.com/print-edition/news/ministry-closes-yitzhar-school-over-violent-attacks-1.393217.

¹⁷ See *Olive Harvest in Judea and Samaria*, Military Advocate General's Corps (5.9.12), available at <http://www.law.idf.il/163-5247-he/Patzar.aspx?pos=53> (in Hebrew)

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measures to provide security arrangements for the harvest, *inter alia*, by issuing injunctions, providing soldiers with specific instructions and training, coordinating meetings and maintaining regular dialogue with certain human rights organizations. In the past, military and police personnel conducted field visits in advance of the harvest in order to locate potential areas of friction. The IDF also prevented access of Israelis to certain areas, reinforced military and police forces before and during the olive harvesting season and provided security forces to accompany workers in certain places where there was substantial potential for disturbances in agricultural activity due to land ownership disputes.

Law Enforcement against Ideologically Based Offences in Israel

As described above, Israel has made a concerted effort to improve law enforcement in the West Bank and to put a stop to “price-tag” offences in the West Bank. Unfortunately, the recent deterioration in the security situation has resulted in a volatile environment that has contributed to the increase of ideologically-based offences within Israel. Both Jews and Arabs have been the victims of these despicable offences. One of the most egregious recent examples was the kidnapping and murder of a sixteen-year-old Palestinian, Muhammed Abu Khdeir as claimed “revenge” for the abduction and murder of three Israeli teenagers by Hamas terrorists in June 2014. Following an intensive investigation of Abu Khdeir's murder by the Police, the State filed an indictment in the Jerusalem District Court against three Israelis, two of them minors.¹⁸ On November 30, 2015, the Court convicted both minor defendants in the murder of Abu Khdeir and determined that defendant No. 1 was also involved in the murder, however, due to a last minute psychological opinion that was served; the Court decided to postpone the decision in his regard. On February 4, 2016, the Court sentenced Defendant No. 2 (minor) to **life imprisonment**, additional three years imprisonment to be served concurrently, compensation of 5,000 NIS (1,300 USD) to the family of the boy the three tried to kidnap and compensation of 30,000 NIS (7,800 USD) to Abu Khdeir's family. In addition the Court sentenced Defendant No. 3 (minor) to **21 years imprisonment**, one year suspended imprisonment and compensation of 30,000 NIS (7,800 USD) to Abu Khdeir's family, On April 19, 2016, after reviewing psychiatric expert opinions provided by both sides, the Court accepted the opinion provided by prosecution and rejected

¹⁸ For detailed information on this case, see Criminal Proceedings in the Murder of Mohammad Abu-Khdeir, State of Israel, Ministry of Justice, The Legal Counseling and Legislation Department (International Law) (Jan. 29, 2015), available at <http://index.justice.gov.il/Units/InternationalAgreements/InternationalRelations/Faq/Criminal%20Proceedings%20in%20the%20Murder%20Case%20of%20Mohammad%20Abu-Khdeir.pdf>.

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the expert opinion provided by the defense, and noted, *inter alia*, that at the time of the incident, defendant No. 1 was not in a psychotic state, he understood what he was doing and was responsible for his actions. The Court therefore noted that defendant No. 1 was the initiator of these acts and convicted him for Abu Khdeir's murder, in addition to kidnapping for the purpose of murder, assault causing grave bodily harm and attempted arson. On May 3, 2016, the Court sentenced Yossef Haim Ben David to **life imprisonment, an additional 20 years imprisonment to be served concurrently**. Ben David was also sentenced to compensation of 20,000 NIS (5,260 USD) to the family of another boy the three had tried to kidnap and compensation of 150,000 NIS (39,500 USD) to Abu Khdeir's family. (Jerusalem District Court, S.Cr.C. 34700-07-14, *The State of Israel v. Yossef Haim Ben David* (19.4.2016)).

Prosecution of Ideologically-Based Offences which Took Place in Israel

In response to the growing phenomenon of ideologically-based offences, Israel has adopted a more stringent enforcement policy. The following are some recent examples of charges filed against Israelis for ideologically motivated offences against Arabs in Israel:

1. On August 28, 2015, an indictment was filed in the Jerusalem District Court (Cr.C. 55372-08-15) against two defendants (Avraham Gafni (Defendant No. 1) and a minor (Defendant No. 2)). According to the indictment, prior to August 13, 2015, the defendants and a third person conspired to spray paint racial/ethnic slurs next to encampments belonging to Arabs residing on Route No. 458, motivated by racism, animosity and hostility. According to the indictment, the three acquired spray-paint and means for committing arson, and on August 13, 2015, at around 02:00, they drove to an encampment belonging to Mustafa Ka'abaneh, and spray painted the word "revenge" on a nearby rock. The three returned to their car and drove away after being discovered. Later that night at around 03:00 they drove to an encampment belonging to Youssef Ka'abaneh, where they sprayed the words "revenge" and "administrative" on the path, with the aim of frightening the residents and others. The defendants and the third person set fire to the encampment and drove away. As a result the tent and its content were completely destroyed. The defendants were indicted for arson, conspiracy to commit a crime with a racial motive, threat, and obstruction of justice.

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2. On July 2015, an indictment was filed in the Nazareth District Court (Cr.C.57576-07-15) against two defendants (Yinon Reuveni (Defendant No. 1) and Yehuda Asraf (Defendant No. 2)). According to the indictment, prior to June 17, 2015, Defendant No. 1 conspired with other persons, whose identity is unknown (hereinafter: "the others"), to set fire to the Church of the Multiplication of the Loaves and Fish in Nahum Village in order to harm sanctities of the Christian faith. In addition, both defendants conspired that Defendant No. 2 will transfer his car to Defendant No. 1, knowing that the car will be used to commit an offence with a racial or hostile motive towards a religion motive. Accordingly, on June 17, 2015, at around 22:40, Defendant No. 1 and the others made the necessary preparations, including buying gasoline and equipping themselves with matches, gloves and a lighter. On June 18, 2015, at around 03:00, Defendant No. 1 and the others arrived at the church, parked their car across the street, entered the church compound, and then entered a room that serves as the church conference room. Defendant No. 1 and the others then poured gasoline on the doors and walls and lit the structure on fire. As a result, the room that was built out of wood collapsed and the fire spread to two additional rooms. In addition, the arsonists ignited the church's residential building door, which caused damage to the structure. The arsonists also sprayed the words "The false gods will be eliminated." on a nearby wall and then escaped. Defendant No. 1 was charged with arson under aggravated circumstances, defacing real estate with a motive of hostility against the public, conspiracy for committing a crime, conspiracy for committing other offences, using a car in the commission of a crime obstructing a police officer and violation of a legal order. Defendant No. 2 was charged with providing means for the commission of a crime and conspiracy for committing other offences. On August 17, 2015, Defendant No. 1 was detained until the end of the proceedings against him.
3. In addition, in April, 2015, an indictment was filed against David Orr Shahaar for three different incidents. According to the first charge against him, on October 31, 2013, the defendant and two others (A.M. and S.A.) arrived at the gate to the Bat-Aa'in settlement, where Ahmad Dar Msalem (Complainant No. 1) was standing and where an IDF soldier was standing guard (Complainant No. 2). The three decided to assault Complainant No. 1 just for being an Arab person by spraying teargas that was in the possession of A.M. and by hitting him. Prior to the assault, the three veiled their faces and the defendant equipped himself with a plank. The three implemented their plan, A.M. and the defendant ran towards Complainant No. 1, while S.A. observed their actions from behind. A.M. sprayed

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the teargas in Complainant No. 1's eyes and the defendant hit him several times with the plank. During this incident, tear gas was also sprayed in Complainant No. 2's eyes. For this incident the defendant was charged with assault under aggravated circumstances with a racial motive and assault of a public servant. The defendant was also charged with attempted malicious damage based on a racial motive for throwing stones with the two others at a hay truck owned by an Arab person, and with malicious damage of a racial motive for cutting, with the two others, the branches of 35 olive trees owned by Arabs north of Bat-Aa'in and for spraying racial slurs on two rocks nearby. The defendant was placed under full house arrest until the end of the proceedings against him. On December 7, 2015, the Court convicted the defendant, in the frame of a plea bargain of assault under aggravated circumstances with a racial motive, assault of a public servant, malicious damage based on a racial motive and attempted malicious damage based on a racial motive. On June 1, 2016, and after receiving a probation service' review , the Court sentenced the defendant to 10 months imprisonment, compensation of 5,000 NIS (USD) to each of the complainants and 18 months suspended imprisonment (Cr.C.46577-04-15 *The State of Israel v. David Orr Shahar* (1.6.16)).

4. On May 26, 2014, an indictment was filed in the Nazareth Juvenile District Court (Cr. C. 47655-05-14) against three Israeli minors who are residents of the West Bank. According to the indictment, on the night of April 3, 2014, the defendants arrived at Jish (Gush Halav), an Arab village in northern Israel, where they punctured tires and spray-painted vehicles. Their actions resulted in damage to 44 vehicles. In addition, the defendants spray-painted racist slogans and graffiti on the walls of a residential home. The defendants were indicted with malicious damage to vehicles and defacing real-estate based on racial motivation.¹⁹ The case is pending.
5. On January 22, 2015, an indictment was filed in the Jerusalem Juvenile District Court (Cr.C.11626-06-14) against three Israeli defendants who are residents of the West Bank. According to the first charge, the defendants uploaded a video to YouTube that encouraged the assault of security forces. Based on this action, the defendants were charged with incitement to violence. According to the second charge, on the night of June 16, 2013, the defendants punctured the tires of 34 vehicles and spray-painted graffiti calling for “death to the Arabs” in the predominantly Arab village of Abu Ghosh. The

¹⁹ Cr.C. (Nazareth) 47655-05-14 *The State of Israel v. Anonymous et. al.* (Still Pending).

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defendants were charged with defacing real-estate, publication of racist incitement, and malicious damage to vehicles based on racial motivation.²⁰ The case is pending.

Conclusion

Israel is fully committed to fighting racist and ideologically-based violence, including against Palestinians. Israel has implemented, and continues to implement, its policies of upholding law enforcement in the West Bank and in Israel. These efforts are based on Israel's respect for the fundamental principles of democracy and the rule of law. The comprehensive efforts made by law enforcement authorities attest to Israel's commitment. Thus far, these efforts have proven to be successful in containing ideologically-based offences against Palestinians in the West Bank. Israel is committed to continuing its efforts on this front by investigating and prosecuting alleged offences, with the hope of preventing further offences in the future.

²⁰ Cr.C. (Jer) 11626-06-14 *The State of Israel v. Anonymous et. al.* (Still Pending).