



**Extra-judicial executions of Palestinians by Israeli police and security forces
September 2016**

I. Open-fire police regulations and “shoot-to-kill” policy

In September 2015, during a peak in the violence, the Israeli government announced a relaxation in the police's detailed ‘rules of engagement’.¹ **The amendment of these rules of engagement led to a dramatic increase in the unjustifiable use of lethal force by police**, apparently in unjustifiable circumstances, including many instances of what appear to be extra-judicial executions (EJEs), with police resorting to the harshest, often lethal means rather than first attempting to arrest the suspects. In numerous cases, the police appear to have engaged in extrajudicial executions (EJEs), which are effectively prohibited under the UN Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR). This conclusion is corroborated by video evidence and/or first-hand witness accounts in many cases. This ‘shoot to kill’ phenomenon against Palestinian youth has become alarmingly widespread, particularly in East Jerusalem, as well as other parts of the West Bank.²

Politicians and senior police officers have also openly called for the extra-judicial killing of suspects, and have urged civilians to carry guns in statements that effectively endorse the extra-judicial execution of Palestinians. For example, Jerusalem District Police Commander Moshe Edri was quoted as saying, “Anyone who stabs Jews or hurts innocent people is due to be killed.” Interior Security Minister Gilad Arden declared that, “every terrorist should know that he will not survive the attack he is about to commit.” MK Yair Lapid stated, “You have to shoot to kill anyone who pulls out a knife or screwdriver.” Jerusalem Mayor Nir Barkat called on Israeli civilians who own firearms to carry them at all times.

The broad circumstances in which Israeli police officers are permitted to use firearms are set out in a set of general ‘open-fire regulations’. These regulations, which were not altered by the recent amendment, are in the public domain and based in the criminal law. According to these regulations, the use of firearms is subject to a number of conditions, including that: there must be a real, immediate danger to a person's life and limb as a result of the action; there must be no possibility of using another means to prevent the attack; the amount of gunfire must not exceed what is reasonable to prevent the action; and the harm that might result from the gunfire must be commensurate with the harm it seeks to prevent.³

The new regulations permit officers to open fire with live ammunition, as an initial option, preceding any prior attempt to deploy non-lethal weapons – against stone-throwers and those shooting fireworks. The

¹ According to media reports, the relaxation of these rules applies to the areas of East Jerusalem, the Naqab/Negev and the Galilee. See, e.g. Barak Ravid, Yaniv Kubovich, Nir Hasson and Jonathan Lis, “We will also fight stone-throwers also in the Galilee and Negev,” *Haaretz*, 16 September 2015 (in Hebrew): <http://www.haaretz.co.il/news/politics/.premium-1.2731801>

² See also B'Tselem, “Unjustified use of lethal force and execution of Palestinians who stabbed or were suspected of attempted stabbings,” 16 December 2015: http://www.btselem.org/gunfire/20151216_cases_of_unjustified_gunfire_and_executions

³ The National Headquarters Ordinance, chapter 06.02.14 (Hebrew): https://www.police.gov.il/Doc/pkodotDoc/sug_2/060214_2.pdf

regulations were updated, then vetted and authorized by Israeli Attorney General (AG) Avichai Mandelblit, and distributed to officers in December 2015 but remained classified. Sections of the regulations were finally revealed in June 2016, in response to a court petition submitted by Adalah after the police refused to release specific details.⁴ However, despite releasing parts of its updated open-fire regulations to Adalah, the police still nevertheless refuse to reveal significant sections of the regulations. According to the new police regulations, “an officer is permitted to open fire [with live ammunition] directly on an individual who clearly appears to be throwing or is about to throw a firebomb, or who is shooting or is about to shoot fireworks, in order to prevent endangerment.” It further specified “stone throwing using a slingshot” as an example of the sort of situation that would justify the use of live ammunition.

The new regulations contradict existing general guidelines according to which the use of a deadly weapon by officers is permitted only when there is substantiated fear of danger to the life of an officer or other individual, and only if there is no other means by which this danger may be prevented.

The conclusion that the Israeli security forces are implementing a *de facto* and illegal policy of “shoot to kill” against Palestinians is supported by five case examples from Adalah’s case docket (see Appendix attachment). Adalah, together with Addameer - Prisoner Support and Human Rights Association, has represented the families of the deceased in five cases of suspected EJs before the Israeli authorities. The cases concern incidents in which police opened deadly fire at Palestinians who appear *not* to have posed an imminent danger to them or to others when they were shot. To date, **four of these cases have been closed** with the finding that “no crime was committed.” The fifth case currently remains pending.⁵

II. Failure of Israeli authorities to investigate EJs

The decisions by **Mahash**, the Police Investigation Unit within the Israeli Ministry of Justice, to close nearly all the EJ cases so far are the latest examples of the extensive impunity granted to Israel’s security forces for the killings of and brutality against Palestinians. To place it into context: based on official figures, between 2011 and 2013, 11,282 complaints against the police were filed to Mahash. Out of these complaints, **93% were closed** by Mahash with or without investigation; **3.3% led to disciplinary actions** against police officers; and **only 2.7% led to any prosecution**. The recent cases of EJs demonstrate again the ongoing absence of accountability and unwillingness of Mahash to genuinely investigate alleged violations of the law by its security forces.

In response to a letter sent by Adalah in October 2015 demanding an immediate investigation into the killing and injury of Palestinians in violation of the rules of engagement by the Israeli police, the **Attorney General (AG)** merely stated that he had **stressed the importance of the open-fire regulations** to the police and other relevant forces working on the ground, and that the cases in question had been passed to the “relevant authorities.” In the letter, Adalah cited three cases of suspected EJs, including the case of Fadi Alloun, subject of one of the aforementioned complaints by Adalah and Addameer, and

⁴ Administrative Petition 23001-12-15, *Adalah v. The Israel Police (case pending)*. As long as the Israeli police do not reveal the open-fire regulations in their entirety, Adalah will continue to demand a court hearing and decision on the matter. The partially censored version of the regulations that was provided to Adalah is available at: http://www.adalah.org/uploads/uploads/new_police_regs.pdf Adalah is now waiting for the court to deliver its decision regarding the still-censored parts of the regulations.

⁵ *Haaretz* reports that the remaining case, that of 16-year-old Mu’taz Ewisat, has been closed but the official decision has not yet been released.

30-year-old Esaraa Abed, a mother of three from Nazareth who was shot dead by police at the central bus station in Afula as she stood motionless before them.⁶

This inadequate response from the AG, the most senior lawyer in the state, and the decisions of Mahash to close investigation files, supports the conclusion that there is a **lack of state interest in investigating these cases of EJs**. This deliberate omission results in the denial of accountability to the deceased and their families, and both dehumanizes the victims and creates an environment of impunity in which members of the Israeli security forces are not deterred by the state authorities from committing EJs against Palestinians, even when they pose no threat to life. When Israeli security forces feel assured that the investigatory authorities will not act against them for violating the open-fire regulations, in most cases failing to conduct even a limited investigation into death cases involving Palestinians, **further cases of EJs are near-inevitable**.

III. Denial of Autopsies, Failure to Release the Bodies of the Deceased

Perhaps the starkest indication of Israel's unwillingness to conduct proper investigations into these killings is its repeated failure to conduct and/or denial of permission to conduct autopsies. Further, the Israel police have followed a policy of **withholding the bodies of extrajudicially-executed Palestinians**, storing the bodies of the deceased in deep-freezers, and conditioning their release to the families on several provisions, including that the bodies should be buried immediately without autopsy. Other conditions to receive the body include requiring the families to bury the deceased in one of a few cemeteries chosen by the Israeli police, only to invite 25 family members to the funeral and to pay thousands of shekels as a guarantee that they would abide by the rules. In some cases the authorities have also reneged on agreements made with the families of the deceased for their release for autopsy and/or burial.⁷ The withholding of bodies obstructs the possibility of conducting a credible investigation into the circumstances of the alleged EJs and a proper autopsy and creates strong fears of attempts to cover-up the facts of these killings.⁸

In addition to the denial or at least the delay of an autopsy, the withholding of the bodies in itself constitutes a **serious violation of international humanitarian and human rights law**. All human beings have the right to a prompt, decent, and dignified burial as an integral part of the right to human dignity, which also applies after death. The policy further violates the rights to freedom of religion to practice culture, by preventing the families from mourning and burying the bodies in accordance with their faith and the traditional rites and ceremonies of their communities.

On 5 May 2016, representatives of the state announced Israel's intention to release the dead bodies of Palestinians that it has been withholding "within a short space of time". The announcement came during an Israeli Supreme Court hearing held on petitions submitted by Adalah and Addameer to demand that Israel immediately release the bodies of dead Palestinians from East Jerusalem detained by the Israeli

⁶ For video footage of the killing, see: <https://www.youtube.com/watch?v=NvPe5p32ySM&feature=youtu.be>

⁷ See, Adalah and Addameer, "Israeli Occupation forces continue to withhold the bodies of deceased Palestinians, and renege on conditions of release," 1 March 2016: <http://www.addameer.org/news/israeli-occupation-forces-continue-withhold-bodies-deceased-palestinians-and-renege-conditions>

⁸ See also Al-Haq, "From Killing to Burial: Questions Left Unanswered," 10 March 2016: <http://www.alhaq.org/documentation/weekly-focuses/1028-from-killing-to-burial-questions-left-unanswered>

police.⁹ In the aftermath of the hearing Israel released several of the bodies, including that of Mu'taz Ewisat (see case study 4). However, as of early September 2016, according to information received by Adalah from victims' families, 12 bodies are still being held by Israel.

IV. Position of the UN Committee Against Torture on EJs by Israeli forces

On 13 May 2016, the UN Committee Against Torture issued over 50 concluding observations to Israel following its review of the state's compliance with the UN Convention Against Torture (CAT), to which it has been a party since 1991.

Addressing the cases of EJs brought by Adalah and human rights partners, the Committee raised concerns at the allegations of excessive use of force, including lethal force, by Israel security forces against Palestinians in the West Bank, including East Jerusalem, and the access-restricted areas (ARAs) of the Gaza Strip, particularly in the context of demonstrations, in response to attacks or alleged attacks against Israeli civilians or security forces, and to enforce the ARAs of the Gaza Strip.

Thus, the Committee concluded, Israel should ensure that "the rules of engagement or regulations on opening fire are fully consistent with the Convention and other relevant international standards" and that "all instances and allegations of excessive use of force are **investigated promptly, effectively and impartially** by an independent body, that alleged perpetrators are duly prosecuted and, if found guilty, adequately sanctioned" (para. 32, 33).

Notably the UN High Commissioner for Human Rights, in a report in March 2016, also stated that, "some of these responses **strongly suggest unlawful killings, including possible extrajudicial executions**" (A/HRC/31/40, para. 10).

The UN CAT also issued concluding observations regarding the **return of the deceased Palestinian bodies**. While noting Israel's new agreement to initiate the return of the bodies, the Committee urged Israel "to return the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future." (para. 42, 43)

Appendix – Case Studies (updated September 2016)

Case 1: Fadi Alloun, 19 years old, from the Musrara neighborhood, East Jerusalem

Facts of the case: On 4 October 2015, Mr. Fadi Alloun was shot dead by police in the neighborhood of Musrara in Jerusalem, besides the Old City. The shooting occurred following calls by a mob of Israeli Jewish citizens urging the police to shoot him on sight, following an alleged stabbing. A video was taken of the incident that documented the killing and was widely distributed. The video clearly indicates that the deceased posed no immediate threat to life to those around him that could justify the shooting and killing. The video also documents how the Israeli police officers involved exited from two police cars and immediately began to fire a barrage of shots, and it also records the sounds of the crowd who gathered at the scene and urged the police to shoot Alloun.

Video evidence: [youtube.com/watch?v=wETAMJqc5nA](https://www.youtube.com/watch?v=wETAMJqc5nA); [youtube.com/watch?v=w_34gTwfm_c](https://www.youtube.com/watch?v=w_34gTwfm_c)

Legal action taken: (1) On 10 October 2015, Adalah and Addameer sent a complaint on behalf of the family of Fadi Alloun to the Israeli Police Investigation Unit (“Mahash”) demanding an investigation into the circumstances of the police shooting and killing of Alloun.¹⁰ Adalah and Addameer argued that the police officers at the incident had violated the rules of engagement by using deadly force as a first course of action instead of as a last resort. In addition, the complaint noted that the police had refused Addameer’s request to conduct an autopsy of Alloun’s body, needed to establish the circumstances of his death. The complainants argued that the police’s rejection raised the concern of a clear conflict of interest and serious suspicion that the police are attempting to tamper with the evidence and disrupt the investigation in advance, as well as damage essential factual findings.¹¹ The Israeli authorities held Alloun’s body for one week before releasing it to his family, and he was buried without an autopsy. On 5 November 2015, Adalah sent a reminder to Mahash, with video footage of the killing and photos of the dead body showing the location of the bullet holes attached.

(2) On 29 December 2015, Adalah sent a request for a criminal investigation into the case to the AG’s Office. On 27 April 2016, the AG responded that the case had been closed due to the finding that no crime had been committed. On the same day Adalah requested a copy of the investigation materials in order to review the case and potentially lodge an appeal. The AG has yet to respond to this request despite two additional reminder letters.

State’s response: Case closed: no crime has been committed.

Current status: Adalah is waiting for Mahash to respond to its request for the investigation materials, pending a possible appeal.

Case 2: Muhammad Abu Khalaf, 19 years old, from Kufr ‘Aqab, West Bank

Facts of the case: On 19 February 2016 Muhammad Abu Khalaf was shot to death by police in the area of Damascus Gate in the Old City of Jerusalem. The police claim that he attempted to stab a police

¹⁰ The family also asked the Jerusalem Magistrates’ Court to appoint an investigative judge to the case, but the request was denied on 8 October 2015.

¹¹ See, “Family demands that Israeli Police Investigation Unit “Mahash” investigate police killing of Palestinian youth Fadi Alloun,” 11 October 2015: <http://www.adalah.org/en/content/view/8654>

officer, but video evidence is inconclusive. The video of his shooting does show him running away from police, being shot and falling to the ground. Police officers then surrounded him and shot dozens of bullets into his body.¹²

Video evidence: <https://www.youtube.com/watch?v=-LwfK6Olgew>

Legal action taken: (1) Adalah filed a complaint to Mahash and the AG on 28 April 2016. In a decision dated 15 May 2016, Mahash announced the investigation into the case had been closed. Mahash ascribed the conduct of the police to an “instinctive response” to being attacked, claiming that in such “unusual circumstances the subjective sense of facing a serious and actual threat may cause an over-reaction.” Despite the severity of the incident, in which an incapacitated person was shot to death, Mahash concluded that there was no “reasonable suspicion that a criminal offense was perpetrated by any of the officers at the scene.” Mahash further stated that it would transfer all the investigation materials “to the authorized bodies within the police force in order to examine the incident and learn lessons from it.” On 28 July 2016 Adalah requested access to the investigation file.

(2) Adalah sent a request to the Police AG and the State Pathologist for a private autopsy to be conducted on the body on 28 April 2016. On 8 May 2016, the police responded that according to the National Center of Forensic Medicine there was no need for an autopsy, but that the family could perform one privately. The autopsy was carried out on 31 May 2016 with a Palestinian doctor sent by the Justice Ministry of the Palestinian Authority observing. The report of the autopsy has still not been made available to Adalah.

State’s response: Case closed: no crime has been committed.

Current status: Adalah is waiting for a response to its request for the investigation file, pending a possible appeal, and for a copy of the autopsy report.

Case 3: Ahmad Abu Shaaban, 22 years old, from Ras al-Amud neighborhood, East Jerusalem

Facts of the case: On 14 October 2015, Ahmad Abu Shaaban was shot dead by the Israeli police in the area of the Jerusalem Central Bus Station. According to a police report of the incident, which was rejected by his family, the deceased was shot after being suspected of stabbing a woman in the area. A video of the incident shows that when the police shot Abu Shaaban to death, he was already lying on the ground, incapacitated, and posed no threat to anyone. An officer then stood next to him and shot him several times until he was dead. The fact that Abu Shaaban was shot several more times after he was already lying on the ground is a clear indication of the shooter’s intention to kill.

Video evidence: <https://www.youtube.com/watch?v=w-a8gio2W5M>

Legal action taken: On 21 January 2016, Adalah and Addameer sent a letter to Mahash on behalf of Ahmad’s parents to demand a criminal investigation into the killing and the immediate suspension of the officers involved. They argued that the shooting appeared to constitute a serious violation of the

¹² For more information, see Adalah, “Israeli Justice Ministry refuses Adalah’s request to investigate fatal police shooting of incapacitated Palestinian suspect,” 2 August 2016: <http://www.adalah.org/en/content/view/8876>.

rules of engagement.¹³ Mahash decided to close the investigation because “no factual foundation was established suggesting a criminal offense on the part of any of the officers during the incident.” It is indicative of Mahash’s unprofessional handling of these cases that the decision to close the file is dated 27 January 2016, but was received by Adalah five months later, on 20 June 2016.

Adalah requested the investigatory materials on 23 June 2016 and Mahash responded that, “There are no materials in our file except for the letter received by our department from your organization.”¹⁴ It therefore became clear that no investigative action had ever been taken in the case. Before taking its decision to close the case, Mahash took none of the following basic investigatory steps: request an autopsy, conduct an external examination of the body, run a CT scan, question officers involved in the incident, examine the officers’ incident reports or collect eyewitness testimony from bystanders. Mahash also failed to examine the serious suspicion that the use of lethal fire in this case was unjustified because the deceased was shot at a time when he did not present a significant danger to the lives of police and others.

On 27 July 2016 Adalah appealed to the State Attorney against Mahash’s decision to close the investigation and demanded an impartial, independent and prompt investigation into the killing.¹⁵

State’s response: Case closed: no crime has been committed.

Current Status: Adalah is awaiting the response of the State Attorney.

Case 4: Mu’taz Ewisat, 16 years old, from Jabal al-Mukaber neighborhood, East Jerusalem

Facts of the case: The Israeli police killed Mu’taz Ewisat on 17 October 2015 in the Israeli Jewish settlement of Armon HaNatziv in East Jerusalem. According to police reports, two police officers asked Ewisat to identify himself and show his ID card, and he immediately pulled out a knife and tried to stab them. One of the officers used physical force and struck the deceased. Ewisat fell to the ground but he continued to hold the knife in his hand. He allegedly stood up again and tried to stab one of the two policemen, and then he was shot by the police officers.

Video evidence: In contrast to other recent cases, there is no known video footage of the incident and we do not know yet whether there were security cameras operating in the area at the time of his killing. The family only learned of Ewisat’s death from the media. The only known account of the killing is the version given by the police. His family vigorously denies the police’s version of events.

Legal action taken: (1) On 4 November 2015, Adalah and Addameer demanded that Mahash open a criminal investigation into the killing, and requested an autopsy with the presence of a medical examiner commissioned by his family. The organizations argued that the police had no justification for fatally shooting Ewisat, and that they had other courses of action available to them that could have secured his arrest. Over five months, the Israeli police refused to conduct an autopsy of Ewisat and refused to release his body to his family. The police conditioned the release of his body on the family’s

¹³ “See Adalah and Addameer demand investigation into the killing of Ahmad Abu Shaaban,” 10 February 2016: <http://www.adalah.org/en/content/view/8746>.

¹⁴ Mahash’s response dated 27 June 2016, On 4 July 2016 Adalah sent a request for the investigation materials to the police; response still not received.

¹⁵ For more details see, Adalah, “Adalah appeals Israeli Justice Ministry decision to close probe into police killing of Palestinian youth,” 8 August 2016: <http://www.adalah.org/en/content/view/8882>.

immediate burial of the deceased, which would make an autopsy impossible, and thwart an impartial investigation into the killing. Adalah has still received no response from Mahash.¹⁶

(2) Adalah sent a request for a criminal investigation into the case to the AG's Office on 9 December 2015, followed by a reminder on 22 December 2015. No substantial response has been sent to Adalah to date, only a note that the request had been received from December 2015.

(3) On 13 March 2016, Adalah and Addameer submitted a petition to the Israeli Supreme Court on behalf of Ewisat's family demanding private autopsy of his body.¹⁷ The petitioners argued that, "preventing the family from conducting an autopsy only reinforces the strong suspicions that the police have tampered with the evidence and impeded the process of investigation." The police are typically the party that requests such procedures to be able to uncover the truth. However, in this case the police are refusing the autopsy. Following the submission of the petition, the state agreed to allow an independent doctor to be present at the autopsy of Ewisat's body. The autopsy was conducted on 21 March 2016 at the family's expense. The family is still awaiting the findings.¹⁸ Following the autopsy, the body was not returned to the family, in contravention of an agreement between the family and the police, but was refrozen.

(4) On 7 April 2016, Adalah filed a second petition to the Supreme Court to demand that Israel immediately release the body of Ewisat. In parallel Addameer filed a petition on behalf of other dead Palestinians from East Jerusalem whose bodies have been detained, often for months, by the Israeli police.¹⁹ Finally, after being held for seven months in Israeli custody, Mu'taz Ewisat's body was released, and he was laid to rest on 16 May 2016.

State's response: No response.

Current status: Adalah is still waiting for the state's response, and for a copy of the autopsy report.

Case 5: Mustafa Khateeb, 17 years old, East Jerusalem

Facts of the case: Mustafa Khateeb was shot to death by police on 12 October 2015 in the Old City of Jerusalem. He immediately fell to the ground, face down. After he was incapacitated police continued to fire bullets at his upper body.

Video evidence: <https://www.youtube.com/watch?v=O0NC69Mrrpg>

Legal action taken: (1) Adalah sent a complaint to Mahash in the case on 1 December 2015. After receiving no response, Adalah followed it with a further complaint to the AG's Office on 29 December. On 3 April 2016 the AG's Office responded that the case had been closed since it had found no crime had been committed. Adalah requested and received the investigatory materials from Mahash in

¹⁶ On 25 October 2015, Mr. Ahmad Ewisat, the father of the deceased, requested from the Jerusalem Magistrates' Court the appointment of an investigatory judge to inquire into the circumstances of his son's death. The court rejected his request on 26 October 2015.

¹⁷ Case citation: HCJ 2086/16, *Ahmad Ewisat v. The Israel Police*.

¹⁸ See Adalah press release, "Following petition, autopsy conducted on body of Palestinian minor Mu'taz Ewisat," 22 March 2016: <http://www.adalah.org/en/content/view/8767>.

¹⁹ Case citation: HCJ 2882/16, *Ahmad Ewisat v. The Israel Police, et al.*

addition to a video from the police that shows clearly that Khateeb was shot from the back while running away, and therefore at a time when he posed no threat to anyone's life. The materials received from Mahash indicated that Mahash had failed to conduct any investigation into the case before closing it; rather, it relied solely on materials given to them by the police. Adalah filed an appeal on 20 June 2016 to Mahash and the AG's Office and is waiting for a response.

(2) An autopsy performed on 12 January 2016 under the auspices of the Palestinian Authority concluded that the majority of shots were to the upper back. The fatal shot entered his upper back and exited from his neck. Other bullets punctured his right lung, broke several ribs, and injured his abdomen and hip. The CT scan showed there were several bullets in his chest, abdomen and hip.

State's response: Case closed: no crime has been committed.

Current status: Adalah's appeal against Mahash's decision to close the investigation is pending.