

## Violent Enforcement and Violation of the Right of Protest: The Conduct of the Israel Police during Demonstrations in 2020

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## Introduction

Over the past year, and particularly since the outbreak of the Coronavirus pandemic in March 2020, the Israeli public domain has been marked by dynamic and extensive protest activities. A wide range of demonstrations and protests are taking place around the country relating to the Coronavirus crisis, including protests against the restrictions imposed on citizens, against local closures, criticism of the handling of the pandemic, protests at the economic situation, and so forth. In addition, there are the political protests also being held, including demonstrations for or against the government and the prime minister; for or against the law enforcement system and the attorney general; regarding government policy in the Occupied Palestinian Territories, etc. At these events, the police often uses extreme and brutal methods against the demonstrators.

It is important to emphasize that this is not a new phenomenon. For many years, the police has adopted a hard-line policy toward protestors from minority groups – particularly Arabs, members of the Ethiopian-Israeli community, people of Mizrahi appearance, and Haredim – who are automatically regarded by the police as a threat requiring a harsh response and the use of force. This pattern has been seen, for example, during protests by members of the Ethiopian-Israeli community against police violence, demonstrations by Haredim opposed to military service, and demonstrations by the Arab population. The novel behavior over the past year is the expansion of the use of these tools to include demonstrators from the mainstream and protests in the main cities. As a result, practices that were ignored for many years by the general public have been the subject of extensive debate in public discourse and in the Knesset. In addition, the police has also introduced new methods and tools against demonstrators over the past year.

This document reviews the methods and tools used by the police over recent months to suppress demonstrations and protests, and examines the ways in which these violate freedom of expression and the right of protest. The phenomena that have been witnessed include false arrests, the use of water cannons and horses in a manner contrary to procedures, the use of undercover police agents, the conditioning of release from detention on removal from the centers of protests, the unjustified imposition of fines, and so forth. To these means we must also add refusal by police officers to identify themselves, to document their actions, and to accept responsibility. The net result is an alarming picture of the **abuse of the powers given to the police in order to defend citizens and maintain public order used instead for the improper purpose of suppressing legitimate protest.**

It must be stressed that the police does not operate in a vacuum. Over recent months, its conduct toward demonstrators has received support in the comments of the prime minister and other elected officials, who have referred to the demonstrators as “anarchists,” lawbreakers, and spreaders of the Coronavirus. This has been accompanied by the exceptional and extreme restriction of the freedom of demonstration through legislation, under the guise of the struggle against the epidemic. For a period of several weeks, for example, it was established in regulations that people could not move more than one kilometer from their

home. Attending protests and demonstrations was not excluded from this restriction. As a result, during these weeks activities at the main centers of the protests in Jerusalem and Tel Aviv were severely curtailed (although the protests instead dispersed into hundreds of smaller centers around the country).

Another important point is that the police conduct in demonstrations and protests not only harms the demonstrators and the specific protests in which they are involved, but also has a broader chilling effect on the right of protest. Many citizens who would like to participate in demonstrations refrain from doing so because of the physical and emotional cost of confrontation with the police forces, or due to the fear of fines, arrest, or the besmirching of their name by criminal charges. In addition, the suppression of protests also has an impact on public discourse and on public confidence in the police in particular, and in the official authorities in general.

**The state bears an obligation, through the police, to protect citizens who wish to exercise their freedom of expression, and not to use means that will prevent or deter demonstrators from exercising this right.** The police is empowered to disperse demonstrations in certain instances, but the use of force against non-violent protestors is unacceptable. Even when demonstrators are blocking the street or holding a protest without a permit (in instances when a permit is required by law), there is no justification for using force, provided that the demonstrations are not endangering other persons or causing damage to person or property, and provided they do not present an extreme threat to public order and routine life.

The enormous number of cases and individual complaints received by human rights organizations, published in the media, or disseminated in social networks combine to form a cohesive indication of a systemic phenomenon. In addition to taking deterrent actions against individual officers, the police must also recognize that this is indeed a systemic problem, and must address it accordingly. Among other actions, this requires guidance, training, and the presentation of a clear message by senior commanders regarding the obligation incumbent on the police to protect the right of protest.

## **The Right of Protest – A Constitutional Right**

The right of protest is recognized in Israel as a constitutional right accruing from the right to freedom of expression and human dignity. This right has also been enshrined in international human rights conventions. In light of the great importance of the right of protest and to demonstrate, the Supreme Court has clarified on more than one occasion that the function of the police is, first and foremost, to permit demonstrations, and indeed to assist citizens interested in exercising their right of protest. For example, the Supreme Court has ruled that when there is concern that demonstrators may face violence, the police must provide them with due protection, rather than banning the demonstration (HCJ 153/83 *Levi v Commander of Southern District, Israel Police*). The Court has also ruled that when balancing contradictory interests, substantive weight is to be given to the right of protest, and other rights will sometimes need to take second place. By way of example, the right to protest will, in certain

instances, outweigh freedom of movement (SCJ 2481/93 *Dayan v Commander of the Jerusalem District*), the interest of preventing injury to public feelings (HCJ 4712/96 *Meretz Faction v Israel Police*), and the need to preserve public resources (HCJ 2557/05 *Mateh Harov v Israel Police*).

Against this background, it might have been expected that the police would respect the basic right to freedom of expression and protest, protect those wishing to exercise their right to demonstrate and protest, and refrain from dispersing lawful demonstrations or from employing violent and deterring means against demonstrators. Numerous testimonies from demonstrations and protests held over recent months show that this is not the situation on the ground.

## **Use of Aggressive Policing Means against Demonstrators**

At many events the police makes extensive use of means for dispersing demonstrations, or uses excessive force against demonstrators. This conduct leads to injuries and psychological damage, deters demonstrators from participating in demonstrations, and turns demonstrations into violent incidents.

### **Use of Water Cannons**

The use of water cannons against demonstrators is not new; such devices have been used on a routine basis over recent years at demonstrations by Haredim against the draft, including the use of foul-smelling liquid (the “Skunk.”) Water cannons have caused serious injuries to demonstrators and passers-by, including children, women, and elderly people. The police also regularly uses this method in East Jerusalem and in demonstrations in Palestinian society in Israel, as for example during the annual March of Return on Land Day and during the struggle by Bedouin citizens against the Praver Plan.

Numerous testimonies and photographs published recently regarding the demonstrations close to the Prime Minister’s Residence on Balfour Street in Jerusalem paint an alarming picture concerning the disproportionate use of water cannons in a manner completely contrary to the regulations. Among other incidents, cases have been documented when water was sprayed directly at the heads of demonstrators from close range (contrary to the regulations, which prohibit spraying from a distance of less than 20 meters). There have also been cases of indiscriminate spraying striking citizens on the sidewalks and passers-by (again contrary to the regulations, which require the water must be sprayed in a precise manner, and solely against persons disturbing the peace).

A particularly serious incident occurred during a demonstration on July 23, 2020. While dispersing the demonstration, police officers shoved dozens of demonstrators toward nearby Agron Street, and there, while they had no possibility of escape, [water cannons repeatedly sprayed them at close range](#). The demonstrators were crushed against each other as they vainly attempted to avoid the water. In addition to physical injuries, the demonstrators reported sensations of extreme anxiety and fear that they will continue to experience for an

extended period. To the best of our knowledge, no actions were taken against those responsible for this incident.

The water cannon is an imprecise tool that is liable to harm passers-by who are not taking part in the demonstrations, demonstrators who are not disturbing the peace, and vulnerable populations, such as elderly people and children. Accordingly, this is an inherently **disproportionate means**, and all the more so when it is employed at demonstrations held in city centers, in residential neighborhoods, and in busy areas. The large number of incidents and their recurring pattern reflect a broad defect in the use of this means by the police in the context of demonstrations and protests. Following public and parliamentary criticism of the police, and after a petition on this subject was submitted to the Supreme Court, the use of water cannons against demonstrators has been halted in recent months, and it is to be hoped that it will not be resumed.

### Kettling of Demonstrators

During the demonstrations near the Prime Minister's Residence in October 2020, the police employed the practice of "kettling," whereby officers corral demonstrators by linking hands or using barriers, thereby pushing the protestors into a contained and confined area. The length of time over which kettling is employed varies, and in some cases may be as long as two hours. Those imprisoned in this manner during the Balfour demonstrations included elderly people, children, and journalists covering the demonstrations. Documentation of the corrals created by this method shows that people were trampled due to the high level of congestion, experienced anxiety attacks, and were forced to relieve themselves behind trees and garbage cans. Some of those trapped managed to claim out. Others felt unwell and in vain begged the police to allow them to leave. In some cases, leaving the corral was conditioned on presenting an identity card and the issuing of a fine.

The collective restriction of the freedom of movement of a group of people, even in the context of an unlawful assembly, has no basis in law. By law, the authority of the police is confined to restricting the freedom of movement of an individual when there is **concrete and specific concern** regarding that particular individual, and this solely for the purpose of clarifying the person's identity, questioning, and the presentation of documents. The law certainly does not permit the mass and random detention of individuals with no clear purpose. Kettling is **an improper practice at any time, but during the Coronavirus epidemic it must clearly be seen as unlawful and dangerous**, given the congestion it creates, which prevents demonstrators from maintaining the social distancing rules.

Kettling has been the subject of fierce criticism around the world due to the manner in which it violates human rights; it is also improper in accordance with international law. The UN Human Rights Committee recently published General Comment 37, which details the obligations incumbent on signatories to the Convention on Civil Rights (including Israel) to protect freedom of assembly. The comment, which reflects the desirable legal interpretation of the Convention, establishes that the use of the practice of kettling is prohibited otherwise than for responding to **tangible violence** from **specific** demonstrators. The random use of this

practice without the presence of any tangible threat from the demonstrators is certainly unacceptable.



### Testimonies<sup>1</sup>

*"I was imprisoned at Allenby [Street in Tel Aviv] for over an hour. After midnight I approached a policewoman and asked to leave. I explained to her that I am 57 and it was late for me, but she refused. I needed to relieve myself but there was no possibility to do so near me. I saw a young woman who was forced to hide behind a garbage can in order to relieve herself. Even in areas that were not highly congested, there was no way out."*

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*"We spent an hour and a half in the corral. They seized control of us after we had marched just 300 meters, the human chains of Special Patrol Unit forces, and as soon as they closed the human fence they brought out metal fences and closed us in. Even when we found a side exit, they sent police officers to block it.*

*Inside the corral there were also passers-by. We heard them saying, 'We aren't demonstrators,' but the police officers didn't believe them. There were elderly people who had ended up there and wanted to leave, but could not. There were also demonstrators who had come to protest for a while and wanted to go home, but were unable to do so.*

*As for the congestion: they close the corral and then move in and push everyone together. There is room to move, but it's congested and it's not possible to follow the [COVID-19] rules. In Florentin I stood near to a woman demonstrator who had a panic attack; she was only allowed out after begging. If they see you eating, drinking, or smoking they hand you a fine on the pretext that 'you mustn't take off your mask in the demonstration corral' – even for purposes for which the law permits the removal of masks. There is also the aspect of mental torture. They keep on telling you that there's a way out this way, but you can't find the way out."*

## Police Violence

The heightened friction between the police and the public over the past year, both in demonstrations and in the enforcement of the Coronavirus regulations, has exposed the issue of police violence in its full potency. While in the past excessive force was directed mainly at

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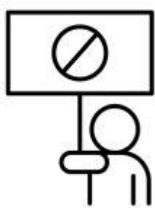
<sup>1</sup> The full versions of the testimonies in this report, and the names of those who gave them, are held by ACRI.

minority populations that inherently have a higher level of friction with the police – Haredim, Mizrahim, Ethiopians, and Arabs – during the Coronavirus crisis police violence has become a national phenomenon affecting all sections of society.

A growing number of incidents of police violence have been documented on film, including cases of exceptional severity. Thus, for example, [the Intelligence Officer for the Zion District Police, Chief Superintendent Nisso Guetta, was filmed attacking and beating demonstrators in Jerusalem](#) (the Police Investigation Department recently filed an indictment against Superintendent Guetta for two of the recorded incidents); [a police officer struck a Haredi demonstrator during a protest](#); [a police officer forcefully pushed a Haredi attorney in Meah She'arim, throwing him to the ground](#); [a police officer violently arrested a young man who was not wearing a mask, using a Taser against him](#), and so forth.

Some of the arrests during demonstrations included the use of excessive force and extreme and painful methods, such as dragging protestors along the ground or choking them. Demonstrators were subjected to violent arrest even when they had not used force or resisted arrest, or when they used passive resistance in response to police attempts to disperse the demonstration. Such circumstances do not entail any immediate danger justifying this extensive use of force. Furthermore, in many instances detainees' hands were shackled both on the street and at the police station while they were awaiting questioning. Since there is no serious risk of escape in such circumstances, such shackling is inconsistent with the conditions established in law and there are grounds for concern that this practice are served in these instances as a means of punishment or deterrence.

**Police officers should use force against civilians solely by way of a last means, and in a manner proportionate to the incident.** The documentation shows that in many cases police officers use force against citizens without justification. Even in instances when the use of force against a citizen was justified, the degree of force used is often beyond that required.



*During a demonstration in Tel Aviv on October 3, 2020, a demonstrator was arrested and shackled, apparently after she attempted to document police officers behaving violently toward other protestors. The demonstrator, who did not forcefully resist her arrest, was handcuffed painfully and marched for several hundred meters in public view in a humiliating and degrading manner. She later experience a panic attack, but the police officers did not act quickly to remove the handcuffs.*

### Use of Horses and Mounted Police Officers

At key flashpoints in the demonstrations it is sometimes possible to see mounted police officers riding their horses into the crowd. In some instances they also hold batons and shields in an attempt to deter the demonstrators and disperse them rapidly. This is a time-honored and effective method that allows the mounted officers to control the site of the demonstrations from a position of clear physical superiority. The mounted police officers can



create mobile barriers and move from one side of the demonstration to another rapidly, while easily deterring and frightening the protestors.

The damage caused by mounted police can be harsh, and at the same time indiscriminate and uncontrollable. The galloping horses are liable to knock over and trampled demonstrators who get in their way and who do not have time to escape. In several instances, demonstrators were taken to hospital after sustaining injuries caused by the horses, including broken limbs. In this context, it is also vital to mention the suffering and stress caused to the horses themselves, for whom participation in such incidents constitutes nothing less than abuse. The noise, the large crowds, and the violence around them cause the horses distress and anxiety. This is a cruel means and should be abandoned.



*The mounted police galloped toward the demonstrators, who were left with no alternative but to turn in the direction of the road work on the other side of the intersection. A demonstrator grabbed one of the barriers that was stuck in the wall. He struggled to move the barrier as the horses were just about to trample them. The demonstrator who gave the testimony was standing close to the barrier. After several demonstrators managed to jump over it, she also tried, but with no success. As she turned her head to the right, one of the horses trod on her right foot and another on her left. She collapsed to the ground, screaming at them to stop the horses. She tried to stand up but was unable to put her weight on her left leg. She is suffering from two fractures in her left foot, one of which may require surgery.*

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*The mounted officers kicked the demonstrators and chose to gallop into them even though they were fleeing and were on the sidewalk, and not on the road. In other words, they galloped after them even though they were leaving the scene.*

## **Use of Plainclothes Police Officers**

Testimonies and filmed material from the demonstrations against the prime minister in Jerusalem and Tel Aviv show that the use of plainclothes police officers has become extremely widespread over recent months. The plainclothes officers mingle among the demonstrators before and during the protests, documenting them with their cell phones and concentrating in particular on individuals they regard as leaders of the demonstrations. In many cases, the plainclothes officers carry out many of the arrests at the protests, whether on the ostensible grounds of an illegal gathering or due to petty offenses that do not usually lead to indictments.

The testimonies and filmed material show beyond any doubt that the plainclothes officers attempt to suppress and disperse the demonstrations. In most cases, their actions are directed against the demonstrators themselves, rather than against hostile elements liable to harm the demonstrators, as might be expected. The officers are not engaged in enforcement against serious offenses of violence or incitement – offenses that have been completely absent from

the ongoing demonstrations against the prime minister, but concentrate on minor infractions relating to unlawful gatherings. In many instances, the plainclothes officers are accompanied by uniformed officers, yet the former undertake routine enforcement functions of detention and arrest. In such circumstances, the exercising of authority by plainclothes officers is clearly unnecessary.

The use of plainclothes officers who pretend to be demonstrators, conduct arrests, and document the demonstrators' actions grossly violates the demonstrators' freedom of expression and deters the general public from exercising its right to protest. This practice also clearly deviates from the general principles applying to the work of police officers, and from the obligation incumbent on every officer to act openly and in an identifiable manner, including a uniform and a badge. While extremely exceptional instances may exist that justify the use of plainclothes officers during demonstrations, **this method, which is usually intended for actions against serious crime, is not appropriate for responding to non-violent demonstrations**, and cannot become a routine tool in light of the disproportionate violation of human rights it causes.



*“Last Saturday, at Shmuel Hanagid Street near Balfour, I saw people in civilian clothes putting a friend of mine into a vehicle. I asked one of them to identify himself. In response they accelerated and then braked, knocking into me. One of the officers simply threw me to the ground. I didn’t even know whether he was a police officer or someone who had come to attack us. I went back and again asked him to identify himself, but he just ran off to another vehicle. I tried to approach the vehicle, almost putting my head inside and asking them to identify themselves. In response they just started to beat me with their fists and put me inside the vehicle. One of them leaned over me with his foot and knee on my neck and chest.*

*I told him that I couldn’t breathe and asked him to get off me. It went on for about 15 seconds, while he screamed at me “calm down!” I really didn’t think they were police officers, it didn’t make sense that they would behave like this and they refused to identify themselves. There was no need to choke me. There were three or four people there in plain clothes (today I know that they were police officers). I tried to escape – I thought they had come to attack us. How was I supposed to know that they were police officers?”*

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*“I realized that they wanted to detain me again. They weren’t in uniform and they didn’t have hats. They didn’t tell me why they were detaining me or give me any relevant information. It doesn’t matter whether they’re in uniform or not – they assume that we know who they are. So they just walk alongside us (the demonstrators), filming us as much as they like and sticking by us the whole time.*

*They approached me. There were lots of demonstrators around me. Straight away I raised my hands, and suddenly there was a kind of circle around me. The police officers started to shove me. It was very violent and unpleasant.*

*I'm not a protest leader. I'm just one of the demonstrators. I was just standing there."*

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*The protestor S.R., who attends the demonstrations regularly, was arrested by three plainclothes police officers during a protest on Hamasger Street, after he asked the officers on the scene why their body cameras were not working and why they were not wearing name tags. One of the officers pointed at him, and then a plainclothes officer arrived. S.R. recognized the officer from previous demonstrators. The officer took him away and arrested him together with two other plainclothes officers who did not identify themselves. The protestor was handcuffed and taken to the police station, where he was questioned on suspicion of disturbing the peace and released unconditionally.*

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*S.S., another prominent activist in the demonstrations, was arrested by plainclothes officers at three separate protests on vague suspicions concerning an unlawful gathering. He was arrested for the first time in July at a demonstration in Jerusalem, while he was marching alongside thousands of other demonstrators toward Paris Square. The demonstrator and a friend next to him were plucked out of the crowd by plainclothes officers who refused to identify themselves. They handcuffed him and did not explain why he was being arrested. The plainclothes officers put the two protestors by a fence, and after about 30 minutes they were taken to Moriah police station in Jerusalem where they were questioned on suspicion of conduct liable to disturb public order."*

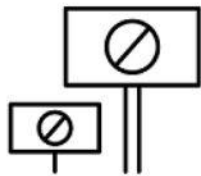
## **Documentation of Demonstrators by Means of Police Officers' Cell Phones**

ACRI has received and continues to receive numerous testimonies from demonstrations showing that police officers have begun to use their cell phones to document protestors during demonstrations. This practice deters demonstrators and violates their freedom of expression and their right to protest, as well as their right to privacy. The police clarified that while this practice began as an initiative by the officers themselves, it was later formalized in a police procedure. The testimonies suggest that even after the publication of the procedure, officers are not observing the restrictions and limitations it imposes.

In the past, the police used a film crew to document demonstrations when there was concern at possible disturbances. The crew was supposed to be present throughout the protest and to observe the event from the side. This permitted the objective documentation of the course of the protest, in contrast to selective documentation undertaken by an individual officer using

their own cell phone and on their own initiative. Moreover, when an officer documents a demonstration on their own cell phone, they hold the material and may use it in an unfair or biased manner and only when it serves their own claims. Naturally, demonstrators will not have equal access to documentation taken from officers' cell phones, and accordingly will find it difficult even to prove that documentation took place, if the police denies this. This practice prevents demonstrators from responding to various charges by proving their innocence or by placing events in their broader context.

Instead of validating private documentation on cell phones, the police should prohibit officers from using their own phones for this purpose. In any case, even according to the police's own procedure, such documentation is not intended for preplanned events, and accordingly its use at demonstrations is improper. The procedure does not resolve numerous difficulties and doubts, such as the danger that the material will be used in a biased and unsupervised manner. Insofar as it is justified to document demonstrations and demonstrators, this should be regulated explicitly by law.



*"We were standing at Nes Harim intersection when a Border Police car with a single officer in drove past. The car stopped on the other side of the road and the officer took out his phone and started photographing everyone who was standing at the intersection."*

*"We were standing on the sidewalk at the corner of Yigal Alon and Yitzhak Sadeh. A police officer on a moped stopped opposite us. He got off the moped, walked around, and took out his personal cell phone and took several photographs of the citizens from various angles. I've no idea what he's going to do with these photographs."*

## **False Arrests and Selective Enforcement**

In recent months the police has used fines and arrests in an unjustified and discriminatory manner, as a means for dispersing demonstrations or for punishing demonstrators for the mere act of participating in the protests. Once again, this practice constitutes the abuse of the tools and powers that are granted to the police by law for purposes for which they were not intended. The result is the unjustified denial of demonstrators' liberty, their stigmatization as lawbreakers, and the deterrence of citizens from participating in the protests.

### **Issuing of Fines to Demonstrators**

During the period covered by this report, the police has undertaken targeted and selective enforcement actions against demonstrators close to the Prime Minister's Residence and elsewhere. This includes enforcement of the Coronavirus regulations (masks, social distancing, etc.) as well as other offences (e.g. traffic violations). This method seeks to cause financial damage to demonstrators **for extraneous reasons and with the intention of harassing them and violating the freedom of protest.**

This intention was expressed openly in a recorded conversation between Public Security Minister Amir Ohana and Jerusalem Police Commander Deputy Commissioner Doron Yedid. In the conversation, the minister can be heard telling Yedid: “We can’t go on with this chaos. We can’t go on with this anarchy.” In response, Yedid tells the minister about the steps taken against citizens who participated in the demonstration in Jerusalem: “They also got fines for masks. Yesterday we handed out 160 fines for failure to wear masks in the demonstrations, **which is unusual... We usually refrain from doing this at demonstrations**” (emphasis added).

Among other practices, the police extensively enforced the offense of “refusal of an instruction to disperse a gathering” at the demonstrations. Many protestors, and even passers-by, have received fines of NIS 500 or 1,000, even when no order was given to disperse and they were not given a chance to respond. At demonstrations in Tel Aviv, protestors were even fined in instances when the police itself surrounded them and blocked their way (for example by use of kettling, as discussed above), so that they had no possibility to disperse.

Demonstrators who organized protests were often fined when they did not present any risk of infection or any danger of any other kind to the public. This is corroborated by the fact that demonstrators were fined long before regulations were enacted requiring Israelis to wear masks in the public domain.

As early as March 2020, very heavy fines of NIS 2,000 and NIS 5,000 were issued to hundreds of demonstrators and activists who participated in a convoy to Jerusalem and the Knesset protesting at the developments in the parliamentary and political realm. The fines were issued at dedicated roadblocks established by the police for this purpose. The pretext for the fines was that the convoy was disrupting traffic or public order, since the vehicles were traveling at an unusually slow speed. The police does not, of course, generally issue fines for slow driving, particularly when this does not disrupt traffic – as was the case in these incidents, since due to the lockdown the roads were virtually empty. It is difficult to avoid the conclusion that the fines were intended to deter and punish the protestors.

Moreover, in some cases demonstrators reported that the police took the opportunity to fine them on various grounds when arriving and leaving the site. The fines related to offenses such as riding an electric bike without a helmet or on the sidewalk, as well as moving a few meters further than the regulations allow from their home, during periods when this restriction applied.

From August 2020, the Jerusalem Police began to use the traffic regulations in an improper manner during the demonstrations by the Prime Minister’s Residence. Provisions intended to prevent traffic accidents were exploited to harm and deter the demonstrators. This is an exceptional and unusual tool that has not been used by the police in other protests in recent years. As part of this practice, the police imposed numerous fines in the sum of NIS 500 for “disrupting traffic,” at the same time recording four negative points on the recipients’ drivers’ licenses. Testimonies from demonstrators who were fined in this manner show that the police erected roadblocks around the locations of the demonstrations in order to block their way. The demonstrators then received the fines while they were standing on roads where there

was no traffic, due to the roadblocks. Accordingly, the foundations of the offense of “disrupting traffic” did not apply. Moreover, the testimonies show that many demonstrators were forcefully pushed into the road by the police before they were fined. Others were fined on buses carrying arrested protestors, after they had been pulled out from the demonstration and detained, while others still were fined while leaving the scene of the demonstration and returning to their homes. In several instances, the Jerusalem District officers did not confine themselves to imposing traffic fines, instead arresting demonstrators on suspicion of “disrupting traffic.”

The use of enforcement means in the manner described here is tantamount **grossly selective and deliberate enforcement motivated by irrelevant and improper considerations**. This practice constitutes the abuse of the enforcement powers granted to the police, is contrary to the principle of equality before the law in its most fundamental sense, and renders the basic right to due process meaningless. The decision to impose a fine on a citizen is an administrative one that must be based solely on objective consideration. The attempt to instill fear in demonstrators and to determine them from participating in a demonstration through the heightened enforcement of a particularly offense **gravely violates freedom of expression and the right to protest**.



*K.A. participated in a demonstration on August 30, 2020. While she was standing on the sidewalk, Special Patrol Unit officers pushed her toward the road. Immediately after she got up, intending to leave the demonstration, two officers approached her and wrote out a fine notice in the sum of NIS 500, without explaining to her why the fine was being imposed.*

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*A.R. participated in a demonstration on September 13, 2020. At a certain point he began to document one of the demonstrators, who was being attacked by police officers. Suddenly another officer ran toward him and issue him a fine for NIS 500 for disrupting the traffic, although the road was blocked to vehicles.*

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*S.E. participated in a demonstration on September 13, 2020. While he was holding signs together with his friends, police officers approached him and issued him a fine for NIS 500. When he asked why he had received a fine, the office added four negative points to his driver’s license.*

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*P.A. participated in a demonstration on September 13, 2020. While he was moving forward with the goal of leaving the demonstration, two police officers approached him and asked him to move onto the sidewalk, despite the fact that at this point there was no sidewalk by the road, but*

*municipal barriers blocking access to an excavation site on the road. After he attempted to cross the road in order to proceed toward his home, the officers issued him a fine for NIS 500 and four negative points to his driver's license, claiming that he was disrupting vehicular traffic – despite the fact that the road was blocked to cars.*

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*E.V. participated in a demonstration on September 13, 2020. He was detained by force, handcuffed, and placed on a bus of detainees. While he was on the bus, a police officer issued him a fine for NIS 500.*

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*H.A. participated in a demonstration on September 21, 2020. As he was about to leave the scene of the demonstration, he looked for his younger brother, who had gotten lost during the protest. Suddenly, while he was standing close to the sidewalk and the road was completely free of vehicles, four Special Patrol Unit officers approached him and seized him forcefully, although he did not show any resistance. The officers led him to the side of the road where they asked him to wait for a traffic officer to arrive. H.A. waited for the officer, who arrived and claimed that H.A. had been blocking the road and disrupting traffic. The officer issued him a fine for NIS 5000 and four points on his license. H.A. later discovered that his younger brother had received a similar fine.*

## **False Arrests**

In many cases, the use by the police of the tool of arrest in general, and the arrest of demonstrators in particular, deviates from the lawful purpose of this tool and instead serves as a means of deterrence and punishment. It must be recalled that arrest is an extreme measure permitting the police to deprive a person of their liberty on an immediate basis. In order for this measure to be used, the police must have specific grounds relating to the individual and indicating the need to interrogate them immediately, or showing the danger they present to another person or to public order.

During the current wave of protests, as in the past, the police appears to be using the tool of arrest on an almost random basis against demonstrators, with the goal of dispersing the protests and deterring demonstrators from continuing their protests or from deviating from the conditions imposed by the police for the protests. In many cases, individuals regarded as the “leaders” of the protests are arrested repeatedly, in the hope that this will quell the other demonstrators, and as a type of punishment. It must be emphasized that we are not referring here to the arrest of violent protestors or those endangering public order. The grounds for arrest are defined in an arbitrary and irrelevant manner as “disrupting interrogation proceedings” and/or “presenting a danger.” In many cases, demonstrators have also been arrested for the offenses of “assaulting a police officer” or “interfering with a police officer”

for trivial actions – attempting to defend themselves when an officer uses force, passive resistance of arrest, filming an incident, etc.

During the recent large protests, dozens of demonstrators were arrested, almost all of whom were released by the police within a few hours. To date, virtually no indictments have been made in these cases.

**There is no justification for arresting demonstrators suspected of offenses connected to the demonstration.** If there are grounds to suspect that an offense has been committed, all that is required is to detain the individual for the purpose of recording their identity and to summons them for questioning. **The use of arrest for the purpose of dispersing a demonstration is unlawful.**



*“Yes, I am marching at the front and I’m filming it, but I am also there as a lawful demonstrator. The plainclothes police officers saw that I sometimes shout out a slogan to all the demonstrators, so they labeled me as a leader, which isn’t true. I’m one of a circle of dozens of people out there. Toward the end of the protest in Florentin, the officers formed a corall. Two plainclothes officers came up to me and told me forcefully to come with them and bring my telephone. They grabbed it from me.*

*They took me to Salame police station, where I waited for questioning. I didn’t have my phone. After questioning, they informed me that the interrogator had decided that my phone would be kept for the purposes of the investigation. I didn’t understand why, as I had only been detained, and not arrested.*

*They released me at three or four o’clock in the morning.*

*I reiterate – I wasn’t doing anything other than protesting.”*

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*During a protest on October 4, 2020, 38 demonstrators were arrested while the demonstration was being dispersed, of whom 37 were released the same night or the next morning. On October 31, 2020, five citizens who were holding a protest vigil opposite the home of the Defense Minister were arrested after the police ordered them to move away from the site. The citizens were released soon after, without any conditions.*

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*Oren Simon was arrested and held overnight after he held a one-man demonstration opposite the home of the Attorney General. The court recently ruled that the police did not have grounds for arresting him, and awarded him compensation in the sum of NIS 30,000 (CC (BY) 16933-11-17 Oren Simon v Petach Tikva Police (Oct. 27, 2020)).*



## Conditional Release of Detainees

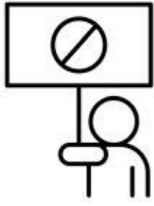
Most of the people detained during the demonstrations were released at the police station following questioning. A particularly common phenomenon is the abuse by the police of its authority to condition release in order to establish unreasonable and spurious conditions intended to restrict future demonstrations and punish those detained. In many cases demonstrators are ordered not to approach specific protest areas (Balfour Street, Rothschild Street, Rabin Square, etc.), and in some cases they are even banned from entire cities in order to prevent them from continuing to participate in demonstrations.

In most case there is no foundation for removing those detained from protest areas. **The imposition of conditions that restrict demonstrators' freedom of movement and future freedom of expression as a condition for release from arrest is an improper practice and is contrary to clear judicial rulings on this matter.** In light of the circumstances surrounding the arrests, and the fact that in most cases the police has no intention of undertaking further investigative actions, detained persons should be released unconditionally.

In the isolated cases in which demonstrators refused to agree to the draconian conditions and remained in detention until they were brought before a judge, the courts criticized the police's conduct and the conditions imposed for release. In many other cases, detainees signed the conditions of release in order not to spend the night in detention, and later filed an appeal against the conditions of their release. The police repeatedly agreed to cancel the conditions following criticism from the court or after an appeal was submitted. Yet despite the criticism leveled by the courts, the police is continuing to implement this practice. At demonstrations over the past few weeks, it has again insisted on releasing detainees on conditions that remove them from the main protest sites for a protracted period.

Thus, for example, at demonstrations held on October 2-3, 2020, dozens of demonstrators were detained and were subjected to conditions removing them from the protest sites (including Habima Square and Dizengoff Square). Some of the demonstrators were banned from these sites for 30 days, although the police's power in this field is restricted to 15 days. In a hearing held on October 5, 2020 in an appeal submitted by 27 demonstrators at the Magistrate's Court in Tel Aviv, the police cancelled the conditions of release on its own initiative, admitting that this was an error and that the original conditions were unlawful. The court also nullified all of the conditions banning demonstrators from Rabin Square and Dizengoff Square for periods of 15 days or less.

We have also recently encountered cases in which the police has insisted on house arrest for demonstrators at Balfour. In the past, the police demanded house arrest in the case of demonstrators from the Bedouin population in the Negev or the Arab population. This demand is now being extended to Jewish protestors at demonstrations in the main cities. In most cases, when an appeal was submitted against release on condition of house arrest, the court found the condition to be unjustified and it was nullified.



*On August 29, 2020, B.A. was detained while standing on the sidewalk during a demonstration in Jerusalem. According to the testimonies, the police officers shoved the demonstrators down the sidewalk, while another line of officers stood opposite them. The demonstrators were crushed between the officers and could not proceed. B.A. was pushed forcefully by an officer and explained that there was no way for him to move forward. Immediately thereafter he was detained. At the police station he was asked to sign a document banning him from a radius of one kilometer around the site of the demonstrations for 15 days, as a condition for his release. He reluctantly signed the document, since he had to get home to care for his son. Two days later B.A. submitted an appeal to the court to amend the conditions of release. The Jerusalem Police notified the court that it agreed to the nullification of the conditions.*

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*On August 22, 2020, L.R., R.A., and four other demonstrators were detained while participating in a demonstration in Jerusalem. The six demonstrators were questioned on suspicion of assaulting a police officer, and after refusing to sign the conditions of release they were detained overnight. The next day they were brought to court, where the police repeated the charges, but was unable to provide any evidence or even to identify the officer who was supposedly assaulted. The court ruling stated:*

*“The sole relief the Police requests in this case is the removal of the Respondents from Jerusalem for 15 days. It is unclear what purpose the removal of the Respondents from Jerusalem for 15 days is supposed to serve. If it is argued that any of the Respondents is dangerous, then their removal from Jerusalem does not serve the purpose of responding to this threat, since there is no argument that the Police is not asking that the Respondents be prohibited from demonstrating elsewhere in Israel and intends that they be removed specifically from Jerusalem, with all this implies given that Jerusalem is Israel’s capital and the location of the symbols of government [...] On the basis of the general and sometimes unclear remarks recorded in the questioning forms, there is no justification to violate the basic right they enjoy to demonstrate in Jerusalem.”*

## Evading Responsibility: Officers Preventing Documentation and Refusing to Identify Themselves

### Harassment of Citizens Documenting Police Officers

There have recently been a growing number of testimonies concerning the harassment by police officers of citizens documenting their actions as they exercise their powers in the public domain. The officers use various means to prevent documentation: intimidation and threats, violence, the seizure of cell phones, and detaining citizens. These are not isolated incidents but a phenomenon that requires systemic examination and the issuing of clear guidance to officers.

Israeli law does not prohibit the documenting of police officers performing enforcement actions in the public domain. Indeed, such documentation is protected as a derivative of freedom of expression and the public right to know, and is vital in order to support criticism of the police and prove the innocence of suspects and defendants.

Officers repeatedly claim that photography constitutes an offense of disturbing or hindering a police officer, even if the citizen is documenting the events from a distance. Accordingly, we believe that the police must establish clearly in a procedure that documentation that does not disturb the movements of the police officer, does not touch the officer, and does not restrict their range of action does not constitute any offense. The police has ignored our correspondence on this matter.



In the morning of October 8, 2020, A.B. age 17 from Modi'in Illit, was sitting with his friends in Hashvatim Square. Suddenly several patrol vehicles and police officers on mopeds arrived and arrested one of the youths (presumably following demonstrations in the area earlier). A.B. filmed the incident from a distance without causing any disturbance to the police officers. As can be seen clearly in the footage from the incident, one of the officers suddenly noticed that A.B was filming what was happening. Although he was several meters away, he jumped toward the youth, seized him forcefully, and dragged him to the patrol car, telling him: "Get away from here. Hey, are you filming? No problem. You're also arrested for hindering an officer and for disturbing an officer in the course of duty. Come on, stand here." The officer threatened to take A.B.'s cell phone and detained him for about 15 minutes before relenting and telling him to "get off home."

### Violation of Freedom of Press

Another phenomenon that emerges from the testimonies is the harassment of journalists and press photographers carrying out their work and documenting the demonstrations, including attempts to use materials covered by journalistic immunity against demonstrators. By way of example, at a demonstration against the annexation held in Tel Aviv in June, the press photographer Tomer Appelbaum was violently attacked by police officers while documenting

the demonstration. During the demonstrations in Tel Aviv in October, [the freelance journalist Yonatan Hempel was knocked to the ground](#) by a police officer while he was attempting to document an arrest, despite presenting his journalist's card. The same evening, the journalist Bar Peleg was fined for "failing to maintain distancing" while documenting the protest, although he, too, presented his journalist's card.

In another serious incident, two press journalists, Eyal Warshavsky and Orian Cohen, were arrested while documenting demonstrators removing police barricades that had caused congestion and endangered the protestors. Warshavsky was detained and released after a few hours' questioning, while Cohen was questioned and arrested. Her legs were shackled and she was taken to Neve Tirza Prison. After a day in detention she was released without a hearing on restrictive conditions. The police confiscated both journalists' cameras and submitted a request for a search warrant in order to use the filmed material as evidence. The magistrate's court approved the request, but after an appeal to the district court the warrant was nullified and the cameras returned to the journalists.

The growing phenomenon of police violence against journalists and the grave incident in which journalists were arrested and their equipment seized undoubtedly constitute **a serious violation of journalistic freedom and immunity**. Such practices are liable to have a chilling effect on journalists interested in documenting the protest, and on media workers in general.

### **Refusal by Police Officers to Show Their Tags**

The obligation incumbent on a police officer to show their name tag is a vital and basic one that seeks to discourage officers from abusing their authority. This obligation is formalized in law and in the police regulations. In the absence of an open and prominent form of identification, it is impossible to criticize police conduct or to clarify properly complaints of violence or conduct contrary to the procedures by officers. An understanding of this may encourage officers to behave as if they will not be required to account for their actions.

Testimonies collected during confrontations between police officers and citizens over recent months show that officers are exercising significant enforcement powers – such as the use of force, arrest, detention, and the dispersal of gatherings – while they are not openly identified. In some cases their name tag was concealed by a protective vest, motorcycle jacket or such like (in such cases, the officer should wear the tag on the outer garment, but this does not happen in practice). In others, officers operate in civilian clothes, with a police cap but without a name tag. Sometimes regular uniformed officers deliberately avoid wearing name tags or, even more seriously, refuse to identify themselves when asked to do so, sometimes harassing those who document this refusal.

There are certain instances in which police officers are entitled to operate discretely, when this is necessary in order to exercise their powers or in order to protect their personal safety. However, as the police ordinances establish, this is a temporary and restricted situation, and it must end as soon as circumstances permit. The desire of police officers not to be identified while undertaking controversial actions or exercising power against citizens, or the desire to avoid the need to account for their actions, do not constitute adequate justification.

In light of the repeated nature and scope of this phenomenon, we contacted the police and demanded a system-wide response, including refreshing the procedures and providing suitable training for officers in the field. We also demanded that disciplinary action be taken against officers who violate the instructions requiring them to wear name tags and to identify themselves.

## Conclusion

The use of unnecessary and excessive force and the abuse of police powers, as described in this report, would be impossible if every officer who deviated from their authority or act violently were required to account for their actions and bear the full consequences. Instead, we see phenomena that reflect an organizational culture characterized by a lack of accountability and the systemic circumvention of the laws and procedures.

It is worth highlighting the relatively swift indictment that was recently served against Chief Superintendent Nisso Guetta for using violence against a demonstrator. The Police Investigation Department also decided, subject to a hearing, to indict the police officer Ben Ifgen, who was documented violently arresting a young man in Holon who was not wearing a mask; the officer even used a Taser device against the man. However, these well-publicized examples are the exception to the rule. Over the years, over 80 percent of complaints submitted to the Police Investigation Department on account of police violence were not even investigated. The proportion of indictments served against officers is less than three percent of the complaints. The disciplinary process, which is supposed to provide a solution in cases that do not meet the criminal threshold, is marred by impotence and a lack of deterrence. Every year only some 20 officers face disciplinary action for offenses relating to the use of force, and the sanctions imposed on them are very lenient (at most a severe reprimand or a demotion equal to just a few months' service).

In addition to detailed and serious attention to each case, both through criminal tools by the Police Investigation Department and through disciplinary and command tools by the police, **the police is failing to accept systemic responsibility for the situation.** Senior police representatives invited to the relevant Knesset committees or interviewed in the media repeatedly refer to incidents involving the excessive use of force as “mishaps” or “isolated errors.” They grant almost automatic backing to the officers. Unless the police acknowledges that this is a phenomenon that must be uprooted, it will be impossible to take effective action to change police conduct. Audit committees established decades ago that the police should maintain routine processes for drawing conclusions, collecting, and processing data in order to monitor problematic behavioral patterns and ensure ongoing review of officers' behavior.

Naturally, the mood is set by those at the top of the system. When the Public Security Minister declares that ["anyone who comes to attack a policeman must know that their own blood will be on their head,"](#) and when he urges police commanders [to impose fines on demonstrators in order to end the "chaos"](#) –the use of excessive force and extreme measures to suppress protest is unlikely to end.