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B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

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# **PLAYING WITH FIRE ON THE TEMPLE MOUNT**

## **USE OF LETHAL AND EXCESSIVE FORCE**

### **BY THE ISRAEL POLICE FORCE**

**Case Study No. 7**

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## INTRODUCTION

On Friday, 27 September 1996, Muslim prayers in the Al-Aqsa Mosque were conducted under the shadow of the previous two days of bloody clashes in the Occupied Territories. Fearing violence during prayers, the number of police at the site was, according to Police spokespersons, unprecedented – “more than 3,500 police officers,” according to Minister of Public Security Avigdor Kahalani. A relatively small number of worshippers, some ten thousand, came to the Temple Mount that day.<sup>1</sup>

In the violent clashes that occurred that Friday, Israeli police shot three Palestinians to death and injured dozens of Palestinians. One police officer was moderately injured, and ten suffered light injuries.<sup>2</sup>

This incident was only one of numerous violent incidents that occurred that week in the Occupied Territories following Israel’s opening of the tunnel leading to the Western Wall. Fifty-eight Palestinians, among them twelve Palestinian security forces, and fifteen IDF soldiers were killed during these clashes.<sup>3</sup>

In most of the violent actions, Palestinian police as well as Palestinian civilians clashed with the IDF, and consequently shooting occurred. Palestinian police are not stationed in East Jerusalem, and the clashes on the Temple Mount were between armed Israeli police officers and unarmed Palestinians.

Because of the sanctity of the site to both Muslims and Jews, there is great sensitivity to any violent incident on the Temple Mount, and any such incident would likely incite clashes throughout the Occupied Territories. Statements of Israeli officials indicate that the Israeli government is well aware of this danger.<sup>4</sup> It is particularly important, therefore, to examine the conduct of the Israel Police Force, which is charged with maintaining public order in Jerusalem, in this incident.

This report summarizes **B’Tselem**’s investigation of the events on the Temple Mount, and examines the degree to which the Police actions, including the use of lethal force, were justified. The report’s findings rely on the testimonies of eyewitnesses, statements of official sources, testimonies of physicians who treated casualties, medical documents, including X-rays of injured persons, and the results of a ballistics test of fragments taken from one of the wounded. The testimonies describe, *inter alia*, the circumstances of the deaths of two of the three persons killed, and of the injuries to several Palestinians.

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<sup>1</sup> Minister Kahalani provided these figures at a press conference on the day of the events, 27 September. The press conference was broadcast on Israeli radio’s Channel 2, and other stations, at approximately 3:00 p.m. (hereafter – the press conference).

<sup>2</sup> The Police spokesperson for the Jerusalem District, Chief Superintendent Shmuel Ben Rubi, provided to **B’Tselem**, by telephone, the data on the injured police officers.

<sup>3</sup> The Palestinian Authority’s Ministry of Health provided **B’Tselem** with data on the Palestinians killed. Major Avital Margalit, head of the assistance section of the public liaison division of the IDF’s spokesperson’s office, in her letter of 24 October, provided **B’Tselem** with data on the Israelis killed.

<sup>4</sup> For example, at the press conference, Minister Kahalani stated: “Jerusalem naturally draws attention, and the Temple Mount was the focus of the start of the major disturbances of the past three days.” *Ma’ariv* of 29 September quoted the Police’s Jerusalem District Commander, Major-General Ariyeh Amit: “What occurs in Jerusalem, for better or worse, will directly influence what happens throughout the country. This is an extremely sensitive area, and we shall try to maintain maximum security.”

These testimonies and documents, Police statements, and media reports combine to provide an overall picture of the course of events.

## FINDINGS

### A. THE COURSE OF EVENTS

**B'Tselem's** investigation indicates that around 11:00 a.m., Muslim worshippers began to enter the expanse of the Temple Mount. The police did not check the identity cards of all those who entered, and requested some of the younger persons to deposit their identity cards with them, a customary practice for Friday prayers. The testimonies indicate that at some of the gates, the police did not conduct body searches or use metal detectors.

At approximately 11:45 a.m., the Imam's sermon began, and the public prayers followed. Different versions exist regarding the stage at which large numbers of police entered the expanse of the Temple Mount. According to some of the testimonies, already at the beginning of the prayers, large numbers of police were positioned along the wall between the Mughrabi Gate and the Mahkama Building, whose rear faces the Western Wall (see the map, p. 15). Other testimonies indicate that a massive number of police streamed toward the Mughrabi Gate during prayers. In any event, it is undisputed that at least two hundred to three hundred police officers were at the site when the prayers ended and before any clashes had occurred.

When the regular prayers ended, the Imam requested the worshippers to hold a special prayer in memory of those who had been killed in the Occupied Territories during the previous few days. After this prayer, at about 12:20 p.m., some of the worshippers joined in groups and added a prayer called the *Suneh* prayer [an individual prayer offered in addition to the communal prayer], and the others began to leave. Simultaneously and for a period of about three minutes, Palestinian youths threw stones at the police. Testimonies given to **B'Tselem** indicate that some one hundred youths were involved in the stone-throwing, which contradicts the statement of Minister of Public Security Kahalani, who stated there were "hundreds" of stone-throwers, and that of Police Inspector General Assaf Hefetz, who mentioned "thousands."<sup>5</sup> Despite intelligence warnings that Palestinians would use firearms on the Temple Mount,<sup>6</sup> no one, including official sources, claimed that Palestinians used firearms during the clashes.

Within seconds, the police stormed the expanse of the Temple Mount, moving toward the area between the two mosques. In addition, hundreds of police were directed to the expanse. In an interview with the media, Jerusalem District Commander Amit indicated that he had ordered the removal of Jewish worshippers at the Western Wall at the same time he ordered the police to storm the Temple Mount. The police advanced towards the worshippers, firing tear gas, "rubber" bullets directed at the protesters from close range, and live ammunition. The police also used clubs and indiscriminately beat stone-throwers and others who were trying to leave the site. The police action lasted until around 12:40p.m.

In his testimony to **B'Tselem**, the journalist T.B. described the police actions:

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<sup>5</sup> Their comments were made at the press conference.

<sup>6</sup> See below, p. 16.

One force, in green uniforms, that was close to me, ascended the stairs to the expanse of the Dome of the Rock. They wore bullet-proof vests and helmets, and carried clubs. I don't remember any of them having shields. I think there were one hundred to two hundred police officers.... They entered accompanied by the sounds of explosions. Immediately they fired at those throwing stones, who then fled. The police spread out over the area between the gate and the water fountain. The commanders followed them, carrying a loudspeaker through which they issued orders to the police. The police chased a group of stone-throwers in the rear area, and they fled eastward and then towards the south. I heard shots all the time.<sup>7</sup>

In his testimony to **B'Tselem**, Z.W., a news photographer who stood at the entrance to the mosque, stated:

Those who were praying alongside the Mughrabi Gate fled towards the mosque and began to shout "Allahu Akbar." The firing was intensive and random. I saw police who aimed their weapons at worshippers. Many were wounded.... The shooting caused those in the courtyard to flee in all directions. Those close to the mosque couldn't run away. They went into the mosque and closed all the doors. Many of the wounded who were in the mosque had been brought there from outside.... I could not tell if the shots struck persons who were praying in the mosque. Police did shoot into the mosque, but the worshippers immediately closed the doors.<sup>8</sup>

'Abdallah Isma'il a-Deqeideq stated in his testimony to **B'Tselem**:

We were saying the *Suneh* prayer, and we hadn't finished. Several youths threw stones at the police. Hundreds of police immediately streamed into the expanse, coming from all the gates. They fired, and everyone who tried to flee was beaten. I immediately took one of the injured and ran away.<sup>9</sup>

As mentioned previously, the stone-throwing continued for about three minutes, and the police reaction, which included the shooting and beatings referred to in these testimonies, lasted about fifteen minutes.

During the incident, the police did not allow ambulances to reach the site to evacuate the injured. In his testimony to **B'Tselem**, the Waqf guard on the Temple Mount, Jum'ah Khalaf, aged 62, stated:

I walked towards the mosque's clinic, which is alongside the Chain Gate. There were many wounded but no ambulances, and only one doctor was treating the wounded. I took my radio transmitter and asked where the ambulances were. We were told that the ambulances are ready outside the Lions' Gate, but the soldiers are not letting them enter. There were lots of

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<sup>7</sup> The testimony was given to Eitan Felner at **B'Tselem**'s offices on 7 October. The witnesses's name is on file at **B'Tselem**.

<sup>8</sup> The testimony was given to Fuad Abu-Hamed in East Jerusalem on 7 October. The witnesses's name is on file at **B'Tselem**.

<sup>9</sup> The testimony was given to Mazen Dandis and Yuval Ginbar in East Jerusalem on 28 September.

wounded, all parts of the body having been hit. A woman who had been wounded in the head was among them. Because the soldiers did not allow the ambulances to enter, persons started to pick up the wounded and carry them one-by-one toward the Lions' Gate. The ambulances arrived late, about 1:00 p.m. Most of the wounded, some of them unconscious, had already been taken out by hand.<sup>10</sup>

At least two Palestinians were shot while attempting to evacuate the wounded. In his testimony to **B'Tselem**, Nidal a-Deqeideq, whose brother Ayman was shot to death during the incident, stated:

Ayman fell [after being shot in the head]. I went to take him, and the police shot me. Three rubber bullets hit me in the leg, and one shot struck me in the face.<sup>11</sup>

Another wounded, Wa'il Tamimi, stated in his testimony to B'Tselem:

Several people were around. They picked me up and removed me from the site by hand. During the evacuation, they [the police] continued to shoot at us.<sup>12</sup>

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<sup>10</sup> The testimony was given to Fuad Abu-Hamed in East Jerusalem on 8 October. The news photographer, Z.W., also stated in his testimony to B'Tselem that only after the clashes ended "did [the soldiers] allow the ambulances to enter and evacuate the wounded from the mosque.

<sup>11</sup> The testimony was given to Mazen Dandis and Yuval Ginbar in East Jerusalem on 28 September.

<sup>12</sup> The testimony was given to Mazen Dandis and Eitan Felner in East Jerusalem on 4 October.

## **B. DEATH CASES**

The findings of **B'Tselem's** investigation indicate that police gunfire killed three Palestinians. The Israel Police Force has not yet admitted this fact.

The day after the clashes, the media reported the comments of the spokesperson of the Police's Jerusalem District, Chief Superintendent Shmuel Ben-Rubi, about the persons killed:

The bodies were snatched from the hospital and buried. At that point, we had no way of checking whether these persons had been killed by gunfire, or even if they had been killed on the Temple Mount. We have no proof of that. We are in contact with the hospital officials.<sup>13</sup>

Only ten days later did a senior Police official admit in the media that “the Police are aware of one Arab worshipper who was killed by a rubber bullet during the clashes on the Temple Mount.”<sup>14</sup>

### **Ayman Yahya Mustafa a-Deqeideq aged 28, resident of East Jerusalem**

According to the testimonies, police shot Ayman a-Deqeideq from very close range, about twenty meters, while he was standing at the entrance to Al-Aqsa Mosque. Nidal, Ayman's brother, stated in his testimony to **B'Tselem**:

After about 10 minutes [from the start of events], I saw my brother Ayman get struck in the head with a bullet. At the time, I was closer to him, right next to the entrance to Al-Aqsa, maybe four to five meters from him. The police who shot him were twenty meters from him. When the shooting occurred, he stood facing them. Ayman fell. I went to pick him up and the police fired at me.<sup>15</sup>

In his testimony to **B'Tselem**, H.B. stated:

Most of the time, I was about three meters from the fallen victim, and some ten to fifteen meters from the police. Some of the people went into Al-Aqsa to get away from the shooting, and some fled towards the Dome of the Rock. Police from the special forces unit shot at the upper part of the bodies. I was about five meters from him when he was shot. I saw him fall to the ground. Everyone who tried to help him became a target to be shot. We picked him up and took him into the mosque. I saw he had been wounded hit in the head.<sup>16</sup>

Records of Makassed Hospital, in East Jerusalem, indicate that a-Deqeideq reached the hospital at 12:45 p.m. The head of the hospital's Neurosurgery Department, Dr. Istiyah 'Abd a-Razek, who received the patient at the hospital, stated in his testimony to **B'Tselem**:

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<sup>13</sup> See *Ha'aretz*, 29 September 1996.

<sup>14</sup> The comments were made on the Army Radio station's abbreviated news on 8 October at 9:00 p.m.

<sup>15</sup> The testimony was given to Mazen Dandis and Yuval Ginbar in East Jerusalem on 28 September.

<sup>16</sup> The testimony was given to Mazen Dandis and Yuval Ginbar in East Jerusalem on 28 September. The witness's name is on file at **B'Tselem**.

[A-Deqeideq] arrived with his head bandaged. I removed the dressing and saw a lengthwise cut to the forehead along the hairline. The scalp was open, almost certainly singed. I removed the skin, and there was no brain. Someone who was alongside me said, “Here is the brain,” and gave me the brain wrapped in something white. The brain was complete, except for the upper portion, which had been injured.

The bones appeared crushed. There were signs of singeing. I am unable to determine with certainty what kind of bullet it was, since forensic medicine is not my specialty.<sup>17</sup>

The death certificate listed the cause of death as “gunshot wound to head.”

### **Ibrahim Musa Abu-Ghanam, born in 1977, resident of East Jerusalem**

According to the testimonies, Ibrahim Musa Abu-Ghanam was shot in the neck from a distance of about forty meters. In his testimony to B'Tselem, A.Y. stated:

I fled with others toward the Dome of the Rock. I was next to the fallen, Ibrahim, maybe forty meters from the police. One second he was next to me, and then he suddenly fell to the ground. We took him to Makassed Hospital, and he was already dead. I saw a small open wound on his neck, and a gigantic hole in his right shoulder.<sup>18</sup>

The death certificate issued at Makassed Hospital noted that Abu-Ghanam had been shot in the neck and chest.

Dr. Istiyah ‘Abd A-Razek, who received the patient at the hospital, stated in his testimony to **B'Tselem**:

He had a small entry wound to the left chest, just above the nipple, and two larger cuts to the left side of the neck. He was dead on arrival. I performed chest massage, and blood spurted from his chest.<sup>19</sup>

### **Jawad ‘Abd al-Halim Bazlamit, born in 1975, resident of East Jerusalem**

**B'Tselem** was unable to locate an eyewitness to the circumstances in which Jawad Bazlamit died.<sup>20</sup>

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<sup>17</sup> The testimony was given to Mazen Dandis and Eitan Felner at Makassed Hospital on 3 October.

<sup>18</sup> The testimony was given to Mazen Dandis and Yuval Ginbar on 28 September. The witness’s name is on file at **B'Tselem**.

<sup>19</sup> The testimony was given to Mazen Dandis and Eitan Felner at Makassed Hospital on 3 October.

<sup>20</sup> The likely reason that there were no eyewitnesses is that he was far from the expanse of the Al-Aqsa Mosque. See the map, p. 14.

Dr. Istiyah ‘Abd A-Razek, who received Jawad Bazlamit at the hospital, stated in his testimony to **B’Tselem**:

[Bazlamit] arrived with a wound to the forehead above one eye. I don’t remember which one. There was no wound at the back. I do not recall other wounds. He was unconscious. There was reaction in his four limbs. He was taken for X-rays and pre-op. I requested a neck and skull X-ray, and a brain CAT scan.

After the skull and neck X-rays were taken, they took him to the CAT scan room. When he reached the room, but before the CAT could be performed, the attendants called me to come, and I found him dead.

The X-rays showed a square object deep in the brain.<sup>21</sup>

The X-rays clearly show that the object that had penetrated his brain was a “rubber” bullet. Such bullets can only penetrate the skull when fired from extremely close range.

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<sup>21</sup> The testimony was given to Mazen Dandis and Eitan Felner at Makassed Hospital on 3 October. **B’Tselem** has a copy of the X-rays.

## C. INJURY CASES

**B'Tselem** received information regarding 103 Palestinians who received medical treatment at Augusta Victoria Hospital and Makassed Hospital following the events on the Temple Mount.

Of the forty-nine patients treated at Augusta Victoria Hospital, twenty-five had been injured from beatings and fifteen by “rubber” bullets. Makassed Hospital treated fifty-four persons, thirty-five of whom had been injured in the head and shoulders.<sup>22</sup>

### **Siyam ‘Ammar Yunis Hussein, aged 23, resident of East Jerusalem**

Siyam Hussein was wounded in the back of his head by a live bullet while he was praying. In his testimony to **B'Tselem**, Siyam Hussein stated:

I was praying in the colonnades area of Al-Aqsa Mosque, on the eastern side, not inside the mosque itself. In the midst of the *Suneh* prayer, I heard shots, but I continued to pray, looking toward the south [to the direction of the mosque], because it is forbidden to look to the side during prayers. I heard shots ring out, and cries of “a martyr has fallen.” Then I was wounded in the back of the head. A person who was next to me also was hit, and we fell down together. I do not know him.

Some people took me into the mosque, where they gave me first aid. Then they took me toward the Lions’ Gate in a private car that had entered the Temple Mount, and then to Makassed Hospital.<sup>23</sup>

Dr. ‘Abd A-Razek, who received Hussein at the hospital, stated in his testimony to **B'Tselem**:

The patient arrived with numerous wounds in the rear of the skull. He was in a state of hazy consciousness, and moved his four limbs. I sent him to the Neurosurgery Department for X-rays. While there, he complained of pains in the area of the wounds. Neck and skull X-rays and a CAT scan were taken, and numerous foreign objects were found in the back of the head, which did not penetrate the skull. We removed several pieces of these foreign objects.<sup>24</sup>

In the X-ray report, the head of the Radiology Department of Makassed Hospital, Dr. Khamis Shafi, wrote that “foreign metal objects” were found in the muscles in the rear portion of the wounded patient.<sup>25</sup>

Dr. ‘Abd a-Razek gave **B'Tselem** several metal fragments that had been taken from Hussein’s head. **B'Tselem** forwarded them to Mr. Nachum Adan, director of I.T.M.

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<sup>22</sup> **B'Tselem** has no information concerning the other nine persons whom Augusta Victoria Hospital listed as injured. The hospital provided the data to **B'Tselem** by telephone on 7 October. The injury list that Makassed Hospital provided on 10 October did not mention the cause of injury.

<sup>23</sup> The testimony was given to Mazen Dandis and Eitan Felner at Makassed Hospital on 3 October.

<sup>24</sup> The testimony was given to Mazen Dandis and Eitan Felner at Makassed Hospital on 3 October.

<sup>25</sup> See Appendix 1, (only in the printed issue of this report)

- The Institute for Technology and Forensic Consulting Ltd., for a ballistics analysis. Mr. Adan is an expert in criminal identification and a former director of the Tool-Marks and Materials Laboratory of the Criminal Identification Department of the Israel Police Force. On 7 October, **B'Tselem** received Mr. Adan's report. The report clearly indicates that Hussein was wounded by live ammunition.<sup>26</sup>

### **Wa'il Hussein Murtada 'Abd al-Basset Tamimi, aged 26, resident of East Jerusalem**

According to his testimony, Wa'il Tamimi was shot in the shoulder while tying his shoes after finishing his prayers at Al-Aqsa Mosque. The bullet penetrated his shoulder, made a small hole at the point of entry and a large hole in his back where the bullet exited.

In his testimony to **B'Tselem**, Tamimi stated:

When I had almost completed the *Suneh* prayer, I heard lots of shots and shouts from outside the mosque. I finished praying and went outside to put on my shoes. While I was putting them on, I heard someone who was standing about a meter to my left cry out and fall. I lifted his head, and immediately – within seconds or less - a bullet hit me in the right shoulder, and I fell. A few men who were nearby picked me up and carried me away from the site. While they were doing that, shots continued to be fired at us.

They carried me through the Lions' Gate and out of the Old City, and then by ambulance to Makassed Hospital. I lost consciousness, from loss of blood, while I was in the ambulance. I woke up that night in Makassed Hospital. They found that the shot had entered my right shoulder, creating a small hole, and made a big hole as it exited my back. The doctors told me that it was from a metal bullet that went through my body.

They operated on me two days ago, and I was hospitalized at Makassed Hospital for six days.<sup>27</sup>

In his X-ray report, Dr. Khamis Shafi, head of the Radiology Department of Makassed Hospital, recorded that "foreign metal objects" of various sizes were found in the shoulder.<sup>28</sup>

### **Muhammad Ahmad al-Halawani, aged 35, resident of East Jerusalem**

In his testimony to **B'Tselem**, Muhammad al-Halawani stated that police had beaten him with clubs:

I left the mosque after Friday prayers, on 27 September 1996, and three police officers assaulted me, beating me with their clubs. I heard one of them

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<sup>26</sup> The ballistic report's findings are mentioned below. For the entire ballistics report, see Appendix.

<sup>27</sup> The testimony was given to Mazen Dandis and Eitan Felner in East Jerusalem on 4 October.

<sup>28</sup> See Appendix 2, p. 27 (only in the printed issue of this report).

say: “Let me have him.” I tried to get up and run away. They shot at me, hitting me in the [left] leg and back. I bled a lot, and my jeans were drenched with blood. I tried to get up but couldn't.... I am a merchant, and never in my life did I ever throw a stone at anyone. Nobody was nearby to help me. The police even beat me when I was on the ground, after the shooting.<sup>29</sup>

### **Muhammad Mahmud Jadallah, aged 75, resident of East Jerusalem**

Muhammad Jadallah testified to **B'Tselem** that police shot him in the leg with a “rubber” bullet and beat him with clubs while he was attempting to leave the mosque. Jadallah stated:

.... After we finished the special prayer, the sounds of soldiers firing outside started. I knew there were problems outside. I left via the mosque's eastern gate. As soon as I got outside, I saw a massive number of police. They fired tear gas and “rubber” bullets at us. Many worshippers went back into the mosque out of fear, and because the eastern door was narrow, not everyone could get back into the mosque.

I remained outside. A “rubber” bullet hit me in my left leg. The police who reached the eastern door immediately fired tear gas and beat everyone, including the elderly, with clubs all over their bodies.

In this entire area, east of the mosque and the courtyard, there was no confrontation between the security forces and the young men. Most of those who exited through this door were elderly persons who wanted to go home. My left shoulder was injured from being struck by a club.<sup>30</sup>

One of the young men began to drag me towards the Lions' Gate. He took me to the room of the Waqf guards, which is east of the steps to the Dome of the Rock. When he took me into this room, I saw a wounded man who was disoriented, and whose chest and shoulder were bleeding. Also present was a child whose hand had been broken. The guards asked us to stay, and said that an ambulance was on the way and that we would get in with them.

Many soldiers came from the east of the Dome of the Rock. Dozens of police came from the north and attacked us with clubs while we were in the room. They attacked me and the two who had been injured, and also the two guards who were there. I fled towards the Lions' Gate. The worshipers lifted me up, took me outside, and placed me in a van.... The driver decided to take us to the Augusta Victoria Hospital because it was easier to reach. .... I had difficulties breathing because I had inhaled smoke.<sup>31</sup>

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<sup>29</sup> The testimony was given to Mazen Dandis at Makassed Hospital on 27 September.

<sup>30</sup> Fuad Abu-Hamed, who took the testimony, indicated that he saw bruises on Jadallah's shoulder and back.

<sup>31</sup> The testimony was given to Fuad Abu-Hamed at Makassed Hospital on 6 October.

**Sharif ‘Abd a-Rahman, aged 22, resident of Abu Ghosh**

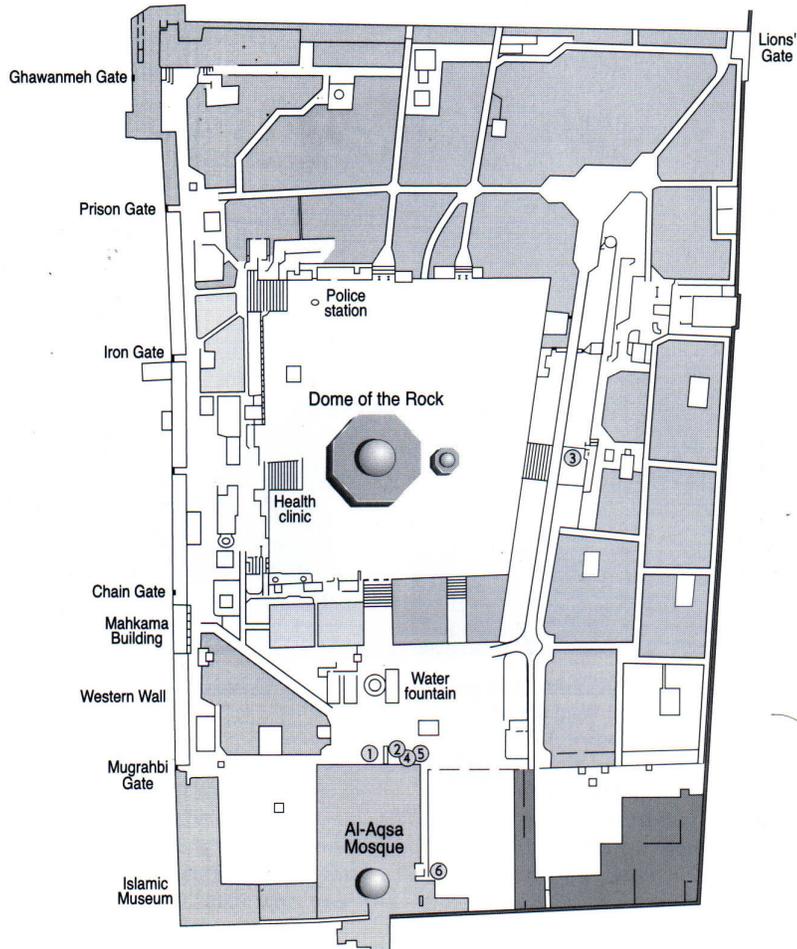
Sharif a-Rahman was beaten on his head and limbs, and received a light injury from being struck by a “rubber” bullet. In his testimony to **B’Tselem**, a-Rahman stated:

I prayed at the mosque. When I left the mosque, a “rubber” bullet struck me in the head. I saw “special forces” police shooting at me. They were dressed in a grey uniform with the symbol of the Israel Police Force. I fled towards the eastern exit, some sixty meters, and suddenly I saw several police officers in front of me. I laid down on the ground. They approached, armed with clubs, and told me in Hebrew, “Jerusalem is ours.” In Hebrew I told a police officer that I am an Israeli citizen and hold an Israeli passport, and that I request help. He did not do anything, but other police officers beat me with their clubs. When they left me, some youths came and took me outside the expanse of the mosque.<sup>32</sup>

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<sup>32</sup> The testimony was given to Mazen Dandis at Makassed Hospital on 27 September.

## MAP OF THE TEMPLE MOUNT (AL-HAREM AL-SHARIF)



Map: Yoned Shaili

The numbers on the map refer to the location where the following persons were shot:

- |                       |                   |                      |
|-----------------------|-------------------|----------------------|
| 1. Ayman a-Deqeideq   | 3. Jawad Bazlamit | 5. Wa'il Tamimi      |
| 2. Ibrahim Abu Ghanam | 4. Siyam Hussein  | 6. Muhammad Jadallah |

The area known as the "Temple Mount" comprises some 140 dunams and is surrounded by a wall. North of the wall is Jerusalem's Old City; to the south lies the City of David excavations; Nahal Kidron and the Ophel Road are to the east; and the Western Wall is west of the wall. The walled expanse contains two large mosques – Al-Aqsa and the Dome of the Rock (Omar's Mosque). The site also contains fourteen other buildings which house Islamic religious and educational institutions. Ten gates lead into the expanse from its north and west. Four other gates, from the south and east, are cemented shut.

## ANALYSIS

The Minister of Public Security described the action of the police as “so quick, so good.”<sup>33</sup> The Police Force’s Inspector General, Commissioner Assaf Hefetz, and the Jerusalem District Commander, Major-General Ariyeh Amit, offered similar praise.<sup>34</sup>

Concerning the means used by the police, Major-General Amit said:

We used minimal means in our assault to push the rioters back. We used rubber [bullets], very little gas, it wasn’t necessary, and no live ammunition as far as I know.<sup>35</sup>

The Police found nothing wrong, therefore, with its actions during the course of which three persons were killed and more than a hundred wounded. Apparently, the Police believe that the shooting and beatings were justified in each instance, and that the responsibility for the casualties lies with the stone-throwing Palestinians.

**B’Tselem’s** investigation reveals a different picture. The Police’s actions during the events were replete with illegal acts and numerous defects, which led to the large number of injured.

The Police actions before and during the clashes have a common feature: no attempt was made to calm the situation, reduce the tension, or refrain from unnecessary friction. Moreover, the Police acted in a particularly harsh manner that was totally unreasonable under the circumstances.

### A. POLICE PREPARATION

Suitable Police preparation can, in many instances, prevent unnecessary conflagrations, and reduce, if not totally prevent, use of force and casualties.

According to media reports, for several days in advance, the Police had expected disturbances after Friday’s prayers, and even reported that it had intelligence reports on Palestinian intentions to take firearms onto the Temple Mount.<sup>36</sup> According to a report in the media, the Cabinet approved, on Thursday night, a military action plan in the event of

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<sup>33</sup> The minister’s comments were broadcast on Israeli television’s Channel Two News on 27 September.

<sup>34</sup> For example, at a press conference in which Commissioner Hefetz stated: “I praise the police officers and Jerusalem District, and the District Commander, for the quick and firm action taken during the past few days in Jerusalem.

<sup>35</sup> On the “Weekly Journal” program of Israeli television’s Channel One, 27 September.

<sup>36</sup> Two days before the events occurred on the Temple Mount, the media reported that the Jerusalem District Commander, Major-General Ariyeh Amit, expected the tension in the capital to reach its peak on Friday in the expanse of the mosques. Already on Tuesday, hundreds of police officers from throughout Israel had been deployed in Jerusalem on the fear that Palestinians would riot following the opening of the tunnel. See *Yediot Aharonot*, 25 September 1996. At the press conference, Commander Amit said that “the information we had was that today, at prayers, various persons would bring firearms onto the Temple Mount, and that groups of youth are organising to throw stones on the Temple Mount.” At the press conference, Minister of Public Security Kahalani confirmed that “there was a general preparation, a readiness, with a special emphasis being placed on the Temple Mount.”

disturbances on the Temple Mount.<sup>37</sup> However, it appears that despite the early warning, the Police did not suitably prepare itself for violent disturbances and to keep order among the civilian population:

\* On Friday, the Police did not conduct body searches or use metal detectors at the various entrances to the area in order to detect firearms;

\* Despite early warning about the danger of stone-throwing and rioting, the police officers stationed there were not equipped with protective devices customarily provided, like fiberglass shields and water-spray hoses, which could have protected them from the stones, eliminating the necessity to use lethal means; and

\* The massive presence of police in the expanse of the Temple Mount before any clashes began only inflamed the passions and created unnecessary friction.

## **B. POLICE BEHAVIOR DURING THE CLASHES**

Examination of the comments of senior Police officials raises the suspicion that during the clashes, the police did not act only to restore order. Rather, these comments give the impression that the police wanted to confront the Palestinians on the Temple Mount, and acted harshly to deter further violence by the Palestinians, showing no concern for the lives and safety of those worshipping on the Temple Mount.

When the clashes had ended, Commissioner Hefetz commented: “I hope that the Arabs will learn from what happened today, and will not inflame matters.”<sup>38</sup> A week after the clashes, Jerusalem Police Commander Amit said:

I think that the lesson you all received on last Friday showed that we know very well that when we have to enter the Temple Mount, we do it.<sup>39</sup>

Similarly, in an interview with Israeli television on the day of the clashes, the Minister of Public Security stated: “At the moment, what interests me is the security of the Jews residing here, and of Israelis in surrounding areas.”<sup>40</sup>

Analysis of the findings of the investigation of police conduct during the events reinforces the suspicion raised by these comments.

### **1. The danger faced by the worshippers at the Western Wall and by the police**

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<sup>37</sup> *Ha'aretz*, 29 September 1996.

<sup>38</sup> *Ma'ariv*, 29 September 1996.

<sup>39</sup> In an interview broadcast on the “At Midday” program of Israeli radio’s Channel Two, 4 October 1996 at 12.45 p.m.

<sup>40</sup> In an interview broadcast on the “Weekly Journal” program of Israeli television’s Channel One, 27 September 1996.

Senior Police officials alleged that stone-throwers endangered police and Western Wall worshippers.<sup>41</sup> They also contended that the Police measures were proportional to the danger presented by the Muslim rioters.<sup>42</sup> However, the Police provided no support for its allegations and did not show that the methods used were reasonable to meet the danger presented.

The degree of danger faced by worshippers at the western wall and the police is extremely important in determining the reasonableness of the means used by the police, particularly lethal gunfire.

The statements of senior Police officials concerning this danger were not clear. It is unclear if they were referring to the immediate danger to life or to a lesser danger. The difference is significant because the police regulations dealing with lethal gunfire distinguish between the two situations.

As regards life-threatening situations, the regulations stipulate:

The use of firearms is permitted where there is an actual fear of immediate injury to the life or body of the police officer or others, and no other way exists to prevent the injury.

The use of firearms under this section shall not exceed the degree reasonable to prevent the said injury, and the harm that may be caused shall be weighed against the damage intended to be prevented.<sup>43</sup>

As regards firing “to disperse rioters,” the regulations stipulate:

The use of firearms under this section refers to firing in the air and not at persons. Even if firing in the air does not disperse the rioters, firing at persons is prohibited.<sup>44</sup>

The regulation concerning shooting in the air also stipulates, in part, that police officers may shoot in the air if warning is given that force will be used, and where a lesser degree of force had been used, the necessity of dispersing the rioters remains.

If the force used by the police on the Temple Mount was intended to disperse rioters, then the force used was illegal because the police did not only shoot in the air, they also fired at persons. In addition, they gave no warning about the use of force. On the other hand, the

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<sup>41</sup> For example, at the press conference, Minister of Public Security Kahalani stated: “Everything was quiet at the beginning, then at the end of prayers, hundreds of persons started to throw stones. There was danger to the area of the Western Wall and to the police. The police reacted very quickly, and after a few minutes the area was quiet.”

<sup>42</sup> For example, Inspector General Assaf Hefetz stated at the press conference: “Thousands, not hundreds, attacked our forces on the Temple Mount, and we had no choice but to repel them immediately and restore quiet on the mount. I regret persons were injured, but I think that in considering the severity of the situation, the number of injured was relatively small.”

<sup>43</sup> Police directive 06.02.14, Use of Firearms, sec. 4. Under international law, firing is permitted only in life-threatening circumstances. See, for example, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,” adopted by the Eight United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 1990), art. 9.

<sup>44</sup> *Ibid.*, sec. 3(b).

course of events as shown by the testimonies given to B'Tselem and from comments of senior Police officials raises doubts that the lives of police officers or worshippers at the western wall were in danger.

### **The danger to worshippers at the Western Wall**

In an interview broadcast on the day of the clashes, Commander Amit said:

We are used to getting hit. My greatest concern was for the safety of the worshippers at the Western Wall. And then I gave an order to a) move them away, and b) to attack, using the minimal means, the rioters in order to move them back.<sup>45</sup>

Because the Jewish worshippers at the Western Wall had been removed prior to the police assault, the assault could not have been to protect them.<sup>46</sup> Consequently, the measures were far from “minimal.” There was no need to concentrate large numbers of forces on the Temple Mount, and the expected clashes with the Palestinian worshippers could have been prevented. The police did not concentrate large numbers of forces the following week, as we shall see below, and that action prevented friction and injuries.

### **The danger to police forces**

**B'Tselem's** investigation indicates that the police used excessive force, and that the danger from the stone-throwing was not proportional to the harm caused by the violent police response.

- Within a few seconds after the stone-throwing, hundreds of police streamed onto the Temple Mount. The police, firing their weapons, attacked the stone-throwers and the worshippers. The danger to the police at the beginning, if such existed, resulted from their unnecessary assault on the Temple Mount, for at this stage the Jewish worshippers had already been removed from the Western Wall, and the police were not, therefore, justified in using lethal gunfire.
- Even if we accept the Police's version that the worshippers and police forces were in danger, it does not explain why the police continued to use force after the stone-throwers fled. The stone-throwing lasted only some three minutes, while the Police action, consisting of gunfire and beatings, continued for some fifteen minutes after the stone-throwing had ceased.
- The small number of police who were wounded, and the slight injuries they received, reinforce the belief that the Police action was excessive in comparison to the danger they faced.
- Immediately after the clashes, police officers described one of the incidents that had taken place. A Palestinian bearing a non-firearm weapon attacked a policeman, who fired a

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<sup>45</sup> The “Weekly Journal” program on Israeli television's Channel One, 27 September 1996.

<sup>46</sup> Already prior to the assault, Major-General Amit had ordered removal of the few worshippers at the Western Wall. See reports on the events in *Ma'ariv* and the *Jerusalem Post*, 29 September 1996.

“rubber” bullet at the attacker from close range. Police officials provided conflicting versions concerning the weapon held by the attacker. On 29 September, two days after the incident, *Ha'aretz* reported that Commander Amit claimed the weapon was a hatchet. On 9 October, Commander Amit stated in an interview with Israeli television's Channel Two news that the weapon was “a five-kilogram hammer.” Then, on 10 October, *HaModiyah* reported that “according to the Police,” the attacker used a metal bar. Contrary to customary practice, the Police did not publish specific details about the policeman who had been attacked nor the precise place where the attack had occurred. The entire episode raises doubts regarding the authenticity of the incident.

## 2. The means used by the Police

**B'Tselem's** investigation indicates that, contrary to Commander Amit's contention that the Police used the minimal means necessary to move the rioters back, the Police used unreasonable and unjustifiable means under the circumstances. The Police apparently did not reevaluate the necessity of using force in the various stages of the incident, and did not cease using lethal force even when the danger passed, if any danger had existed at some earlier time. The Police officials made no attempt to speak with Waqf officials to instill calm and end the confrontation in order to minimize the number of injured.<sup>47</sup>

The principal means used by the Police during the clashes on the Temple Mount were the firing of live ammunition, “rubber” bullets, and beatings with clubs.

### Live ammunition

The public responses given by Police officials to the question as to whether the police used live ammunition have been varied and diverse. On the day of the events, Major General Amit stated that “no live ammunition was used as far as I know.”<sup>48</sup> Two days later, Amit was quoted slightly differently: “I cannot state with certainty that there weren't certain instances here and there where live ammunition was used. In any event, the investigation will continue.”<sup>49</sup>

In a telephone conversation with **B'Tselem** that same day, Chief Superintendent Shmuel Ben Rubi, spokesperson for the Police's Jerusalem District, said that rubber bullets and tear gas were used, but live bullets and plastic bullets were not used. Finally, according to an article in a Jerusalem weekly newspaper a week after the events, “the Police stated that, according to the investigations' findings, no live ammunition was used.”<sup>50</sup>

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<sup>47</sup> In his testimony to B'Tselem, Sheikh Muhammad Hussein, director of Al-Aqsa Mosque, stated:

“When I saw what was happening, I telephoned the officer at the Police Force who is responsible for the holy places, and protested the way the police were treating the worshippers. He asked me to meet him at one of the gates near the Dome of the Rock, where he was located. I went there... The police were firing barrages of rubber bullets and tear gas, and the officer requested that I hide behind him so that I would not be hit. I asked him why they are doing that, shooting so much, and he said that those were the orders.” The testimony was given to Fuad Abu-Hamed on 7 October 1996 on the Temple Mount.

<sup>48</sup> In an interview broadcast on the “Weekly Journal” program of Israeli television's Channel One, 27 September 1996.

<sup>49</sup> *Ha'aretz*, 29 September 1996.

<sup>50</sup> *Kol Ha'ir*, 4 October 1996.

**B'Tselem's** investigation unequivocally shows that at least two persons injured during the clashes, Siyam Hussein and Wa'il Tamimi, were injured by live ammunition. X-rays taken of the two at Makassed Hospital show metal fragments characteristic of live ammunition. The metal fragments in Tamimi's body were not removed for medical reasons. The metal fragments removed from Hussein's body were taken to I.T.M. - The Institute for Technology and Forensic Consulting Ltd. for ballistics examination. **B'Tselem** received the test results on 7 October.<sup>51</sup>

The findings of the report are based on visual, chemical and stereo-microscopic examination. The analysis of the findings states, in part:

1. From the macroscopic and microscopic shape of the fragments and the findings regarding their chemical composition, it is possible to conclude with certainty that the source of the metal fragments is the parts of ordinary bullets whose core is lead and whose jacket is copper.
2. It is possible that some of the fragments have the unique barrel markings which enable ballistic comparison. The Israel Police Force is able to make such a ballistic comparison.

The circumstances in which Hussein and Tamimi were wounded, based on their testimonies, are extremely worrisome. Neither of them were involved in stone-throwing or any violent activity. Moreover, Hussein was wounded in the back of his head while he was praying, and Tamimi was wounded while tying his shoes after prayers. Their testimonies reinforce each other, each describing how the other was wounded.

**B'Tselem** is unable to determine whether the Hussein and Tamimi cases were the only ones in which police used live ammunition on the Temple Mount. Dr. Abu Libdah informed **B'Tselem** that, in his opinion, Al-Halawani was wounded by live ammunition. However, **B'Tselem** does not have medical documents supporting Dr. Libdah's contention.

It is very likely that two of the persons killed, a-Deqeideq and Ghanam, were killed by live ammunition. This conclusion is based on the nature of the wound and the location of the two men when they were wounded.<sup>52</sup> As mentioned previously, the shattered skull of a-Deqeideq bore signs of singeing. The physicians found a small opening on the left side of Ghanam's chest and two larger cuts on the left side of his neck. Such penetration and exit openings are characteristic of a wound by live ammunition. Similar openings were also found on the body of Wa'il Tamimi.

According to the testimonies, a-Deqeideq and Abu Ghanam were shot to death while they were in the area alongside the colonnades of the Al-Aqsa Mosque. They had been standing a few meters from each other, very close to where Siyam Hussein and Wa'il Tamimi had been injured by live ammunition. But even if a "rubber" bullet killed a-Deqeideq, the shooting was illegal because he was shot at a distance of fifteen meters, and as will be shown below, it is forbidden to fire "rubber" bullets at such close range.

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<sup>51</sup> See Appendix.

<sup>52</sup> The third person killed, Jawad Bazlamit, apparently was killed by a "rubber" bullet.

**B'Tselem** is unable to determine whether the police had been directed to use live ammunition, or whether they opened fire at their own initiative. However, Commander Amit's comments to the media a few days after the events are instructive: "Contrary to the custom of the past two years, yesterday the police stationed in the expanse of the mosques were equipped with firearms."<sup>53</sup> On 29 September, it was reported that several hours prior to the events, the government had authorized an action plan in the event of violence. The plan included preparation to use live ammunition on the Temple Mount.<sup>54</sup>

### **"Rubber" bullets**

Most of the ammunition fired by the police were "rubber" bullets. The use of "rubber" bullets was among the most customary means used by IDF soldiers to disperse rioters during the intifada, and the Police use "rubber" bullets almost exclusively in dealing with violent demonstrations of Palestinians in East Jerusalem.

The Police directive regarding use of firearms allows firing in the air to disperse rioters, but does not relate to the use of "rubber" bullets.<sup>55</sup> In response to its request, **B'Tselem** received a letter from the legal advisor of the Israel Police Force, Brig. Gen Amira Shabti, regarding the specific Police directives concerning firing of "rubber" bullets. The letter states, in part:

The Israel Police Force considers this means to be extremely harsh because of the danger accompanying its use, and it is used, inter alia, only pursuant to the directives of the District Commander and in the most serious public disturbances.<sup>56</sup>

The nature of this means, in particular its lethal capability, is apparent from the IDF's open-fire orders in the Occupied Territories, which contain an entire section on the use of this type of ammunition.<sup>57</sup> This section, which is included within the chapter dealing with the means to quell disturbances, stipulates, in part, that "The minimal range is forty meters. It is *absolutely forbidden* to fire rubber ammunition at a range of less than forty meters."<sup>58</sup> The directives emphasize that rubber bullets "shall be aimed only at the legs of a person who is identified as a rioter or stone-thrower."

Although the Police directives are not necessarily identical to those of the IDF,<sup>59</sup> it is likely that the Police Force's directives prohibit, at least, firing rubber bullets from a distance of less than forty meters, and that shots must be aimed at the person's legs. On this assumption, and based on the testimonies and hospital data, it may be concluded that even if all the stone-throwers and rioters wounded on the Temple Mount were struck by "rubber" bullets, the

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<sup>53</sup> *Yediot Aharonot*, 25 September 1996.

<sup>54</sup> *Ha'aretz*, 29 September 1996.

<sup>55</sup> Police Directive 06.02.14

<sup>56</sup> The document is dated 20 October 1996. The letter also states that the directives will not be provided to

**B'Tselem.**

<sup>57</sup> *Pocketbook for the Soldier serving in Judea and Samaria and the Gaza Strip*, July, 1993, sec. 43. According to media reports, since the Oslo Accords, the open-fire regulations in the Occupied Territories changed to adapt them to Areas A, B, and C. **B'Tselem** does not have the updated version. It is likely, however, that the precautionary measures to be taken when using "rubber" bullets have not changed.

<sup>58</sup> *Ibid.*, sec. 34©. Emphasis in the original.

<sup>59</sup> For details, see **B'Tselem**, *The Use of Firearms by the Security Forces in the Occupied Territories* (Jerusalem, July 1990).

Police firing was illegal in most of the instances. The illegality is particularly evident as regards the wounded who only wanted to go home after prayers.

- \* The testimonies given to B'Tselem indicate that in several cases, the police fired “rubber” bullets intensively from a distance of some twenty meters.
- \* The findings regarding the location on the body where the wounded were struck show that of the fifteen persons wounded by “rubber” bullets who reached Augusta Victoria Hospital, six had been hit in the head and shoulder, one in the chest and stomach, and only three in the leg. **B'Tselem** does not know the location of the bullet wound in the other five cases. Fifty-four persons wounded by “rubber” bullets were taken to Makassed Hospital. Thirty-five had been wounded in the head and shoulders, and only two in their legs.

### **Beatings with clubs**

The media reported two statements of the Jerusalem District Commander, Major-General Ariyeh Amit, about the use of clubs by police during the Temple Mount events. Ha'aretz quoted Amit as follows:

We used lots of rubber bullets and a very little tear gas, if at all, to force the rioting youths backwards, so that we would not have to use the clubs, which would have produced much more serious injuries.<sup>60</sup>

In an interview with Israeli television's Channel Two news on the day of the incident, Amit said:

When the praying ended, what occurred was exactly what I had expected... There were about 10,000 persons on the mount and thousands of rocks and stones were thrown at our forces. A number [of persons] simply attacked the police and from no distance at all threw rocks at their heads, and then there was no choice, and we also used clubs.

Testimonies given to **B'Tselem** show that the Police's contention that police used clubs only in cases when they were attacked “by persons throwing stones at them from close range” is false. Witnesses told **B'Tselem** that they had been beaten with clubs when they tried to leave the mosque or leave the expanse of the Temple Mount.

In his testimony to **B'Tselem**, Sheikh Muhammad Hussein, director of Al-Aqsa Mosque, stated:

I saw police officers using clubs to beat old people and even women, wounding some of them.<sup>61</sup>

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<sup>60</sup> *Ha'aretz*, 29 September 1996.

<sup>61</sup> The testimony was given to Fuad Abu-Hamed on the Temple Mount on 7 October. For other cases, see pp. 9-13 above.

### C. POLICE CONDUCT ON THE TEMPLE MOUNT A WEEK LATER

The contention that the Police made no effort to refrain from unnecessary confrontation with the Palestinians on the Temple Mount is strengthened when the policy adopted by the Police on the following Friday, 4 October, is considered. Ha'aretz reported that on that day, hundreds of police were stationed in the expanse of the Western Wall. They were dressed in bullet-proof vests and had shields, clubs, and riot-control equipment in the event they had to take control of the Temple Mount.

When the Muslim prayers ended, several dozen young Palestinians threw stones at police waiting at the Mughrabi Gate. Waqf guards, who were stationed on the Temple Mount, immediately drove the stone-throwers backwards, and the worshippers quietly dispersed. Fearing that stones would be thrown in the direction of the Western Wall and injure Jewish worshippers, Commander Amit ordered that the Western Wall area be cleared. The Western Wall expanse remained empty for some thirty minutes. According to the report, Major-General Amit said that after discussions with heads of the Waqf, a large number of guards and attendants were stationed on the Temple Mount to ensure public order.<sup>62</sup>

The policy implemented by the Police a week after the clashes indicates that it knows how to ensure public order while refraining from violent confrontation and infliction of unnecessary injuries. However, it is likely that the decisions regarding the methods employed in the two incidents were influenced by extraneous considerations. This suspicion arises from Commander Amit's comments in an interview immediately after the second Friday's incident:

Today it was clear to all of us, and I, as Jerusalem Police Commander, view it from a broad and not narrow perspective, that for the discussions held on Sunday [between the Israeli delegation and the Palestinian delegation concerning redeployment in Hebron, held at Erez checkpoint] to get a good start, and so that Jerusalem would also not become inflamed, which may then lead to problems throughout the Occupied Territories, we had to do everything today to ensure that the prayers would be conducted peacefully, and that nobody on the other side would be injured.<sup>63</sup>

### D. THE AUTHORITIES' HANDLING OF THE EVENT AFTER IT ENDED

The authorities' handling of the event after it ended was defective in several aspects.

- *Collecting evidence at the scene:* Testimonies given to **B'Tselem** indicate that neither the Police nor the Department for the Investigation of Police, of the Department of Justice, closed the expanse to the Temple Mount immediately after the clashes terminated, and neither conducted a criminalist inspection at the site of the events. Proper investigative

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<sup>62</sup> See *Ha'aretz*, 6 October 1996.

<sup>63</sup> In an interview broadcast on the "At Midday" program on Israeli radio's Channel Two, 4 October 1996 at 12:45 p.m.

procedures include cordoning off the site in order to gather evidence.<sup>64</sup> Compliance with proper investigative procedures would have produced bullet shells from the bullets fired and other significant evidence that would have made the investigation more fruitful.

- *Police reporting to the media:* As noted in this report, senior Police officials gave conflicting reports to the media concerning the use of live ammunition. The Police also gave diverse versions concerning the shooting of a Palestinian with “rubber” bullets at close range.
- *Investigation of the event:* On 9 October 1996, immediately after publication of a draft of this report in the media, investigators of the Department for the Investigation of Police contacted **B'Tselem** to receive a copy of the report and the medical and ballistics findings upon which it was based. The Department also requested the author of this report, Eitan Felner, to give testimony. On 14 October, while giving his testimony, Felner told the investigator that as of that date, more than two weeks after the events, the Department had not opened a formal investigation, and had only collected material on the circumstances surrounding the deaths of the three Palestinians. **B'Tselem** was informed that the Department had not checked the inconsistencies between the Police’s contention that it did not use live ammunition and the reports of the physicians from Makassed Hospital, which had been reported in the newspapers, that indicated X-rays showed that at least one person had been wounded by live gunfire.<sup>65</sup> The Department’s investigators also did not contact the families of those killed in an attempt to convince them to consent to an autopsy after burial.

A few days after **B'Tselem** and other human rights organizations had written to the Attorney General, Michael Ben-Yair, demanding an investigation of the events, it was reported that an investigation had been initiated.<sup>66</sup>

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<sup>64</sup> See, for example, the “Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions” (“Minnesota Protocol”), UN Centre for Social Development and Humanitarian Affairs, *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, 1991.

<sup>65</sup> See *Ha'aretz*, 29 September 1996.

<sup>66</sup> **B'Tselem** sent its letter to the Attorney General on 14 October

## CONCLUSIONS

**B'Tselem's** investigation of Police actions during the events on the Temple Mount on 27 September 1996 paint a dismal picture of the excessive and illegal use of force, including lethal force, that left three persons dead and some one hundred wounded.

Particularly serious is the use of live ammunition, which continues to be denied by senior Police officials. B'Tselem's investigation indicates that at least two persons were wounded by live ammunition. According to the findings, it is very likely that two of the three persons who died were killed by live ammunition, whose use was absolutely forbidden in the circumstances that B'Tselem's investigation found had existed.

During the events on the Temple Mount, which lasted about twenty minutes, the police fired "rubber" bullets at masses of people, wounding many. In numerous instances, the shots were fired at distances of less than forty meters and struck the upper portion of the body. Firing in this manner is illegal, even where the wounded were involved in violent disturbances, certainly where most of the wounded were injured while praying, fleeing, or trying to help the wounded, and where the firing continued for a long time until the stone-throwing - the pretext for the firing - had ceased.

Although less lethal, the use of clubs by the police was just as serious a violation. The testimonies show that police struck numerous people with clubs for purposes other than to repel an immediate and actual attack, but rather to punish and frighten, and in reprisal. The police clubbed many persons who had not thrown stones, among them women and the elderly. The police clubbed at least two persons who had previously been shot.

The Police activities before and during the clashes share a common feature: no attempt was made to instill calm, reduce tension, or refrain from unnecessary confrontation. Quite the contrary. The comments of senior Police officials cited above give the impression that the Police acted so harshly, in blatant disregard for the lives and well-being of the worshippers on the Temple Mount, in order to deter the Palestinians from committing violent acts in the future.

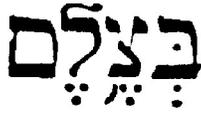
**B'Tselem's** investigation also revealed defects in the authorities' actions following the events. Among the defects were failing to collect evidence at the scene, providing contradictory reports to the media, and not initiating an investigation until after human rights organizations had intervened.

B'Tselem urges the Department for the Investigation of Police to investigate thoroughly the events on the Temple Mount, the cases of death and injury that occurred there, and also each and every case of suspicion of unjustified use of live ammunition, "rubber" bullets, or clubs, or any other use of force. Also, B'Tselem urges the Department to investigate Palestinian contentions on the delay in evacuating wounded resulting from the Police prohibition on ambulances from entering the Temple Mount.

The criminal-identification expert's analysis of the bullet fragments taken from the body of one of the wounded, conducted at B'Tselem's request, shows that the Israel Police Force has the technology to conduct a ballistics comparison to determine

which police officer fired the bullet whose fragments had been analyzed. **B'Tselem** urges the authorities to use this opportunity to conduct a thorough investigation.

6 October 1996



מרכז המידע הישראלי לזכויות האדם בשטחים (ע.ר.)

B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories

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## Appendix

Scientific Report No. 61002 ITM

The Subject:

### CHARACTERIZATION AND DETERMINATION OF SOURCE OF METAL PARTICLES

THE CLIENT: B'TSELEM

Prepared by:

          s/            
Nahum Edan \*

OCTOBER 1996

\* Expert in criminal identification, former Director of Tool-Marks and Materials  
Laboratory of the Criminal Identification Department, Israel Police

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## **1. GENERAL**

1.1 On the 6th of October 1996, a closed plastic container was received at the laboratory. It was marked: "Eitan Felner", and contained metal particles. Mr. Eitan Felner, Deputy Director of B'Tselem, requested me to characterize the nature of the particles and determine their possible source.

## **2. EXAMINATION PROCEDURES:**

2.1 Visual description of the particles performed. The particles were weighed.

2.2 The particles were examined by a stereo-microscope, including micro-photographs.

2.3 The particles were chemically analyzed to characterize their elemental composition by a electronic microscope scanner (SEM) combined with a system to examine the spectrum of X-ray emissions (EDX).

## **3. THE FINDINGS**

### **3.1 Findings of the examination of the exterior**

3.1.1 Four particles ranging in size from 2 mm to approximately 6X4 mm. The total weight of the particles is about 0.3 grams. External inspection indicates that the particles are flat in shape.

3.1.2 The above particles have a shiny metal appearance, two of the particles having the shine characteristic of copper, the third has a grey metal shine, and the fourth particle, the smallest one, has a metal shine and a grey metal shine. From an inspection of its exterior, it is possible to conclude that these particles are metal fragments.

### **3.2 Findings of the stereomicroscope examination**

3.2.1 In microscopic photograph no. 1 we discern the general appearance of the metal fragments. It is possible to discern that the metal fragments have a flat shape, the fragments being crooked and crushed, and their edges clipped. These findings indicate a powerful force that absorbed the fragments.

3.2.2 Some of the fragments were covered with a reddish layer similar to blood (no analysis was made to determine if blood was on the fragments).

3.2.3 On the metal fragments with a copper shine were grooves conforming to the grooves (cannelures) found on various bullets. Microscopic photograph no. 2 shows one of the particles with a copper shine, on which it is possible to distinguish clearly grooves like the cannelures in bullets. See Appendix 1 (only in the printed issue of this report), which indicates the location of the cannelures in bullets.

3.2.4 On the particles with the copper shine it is possible to discern a finer set of grooves that conform to grooves whose possible source is in the unique marks that the barrel leaves on the bullet jacket (see photograph no. 2). This set of grooves enables comparison with a particular weapon that fired the bullet.

3.2.5 Photograph no. 3 presents the fragment with the grey metal shine.

#### **4. FINDINGS OF THE CHEMICAL EXAMINATION OF THE PARTICLES**

4.1 The examination of the composition of the chemical elements of one of the metal fragments with a copper shine indicated that its composition is:

89% - copper  
10% - zinc  
less than 1% lead (apparently contaminants)

This composition is characteristic of the copper jacket of various ammunition.

See Appendix 2 (only in the printed issue of this report), in which are shown the spectrum emission of the X-rays and the results of the half-quantitation analysis of the fragment (the analytic margin of error is  $\pm 10\%$ ).

#### **5. INTERPRETATION OF THE FINDINGS**

1. From the macroscopic and microscopic shape of the fragments and the findings regarding their chemical composition, it is possible to conclude with certainty that the source of the metal fragments is the parts of ordinary bullets whose core is lead and whose jacket is copper.

2. It is possible that some of the fragments have the unique barrel markings which enable ballistic comparison. The Israel Police Force is able to make such a ballistic comparison.

3. Since we do not have any information regarding the source of the fragments and/or a relevant pathological report, the institute's pathologist is unable to determine whether the source of these fragments is a bullet that had been fired at an individual, struck the person, and was crushed in the individual's body, or is a bullet that hit a solid object and was crushed, and afterwards the person was injured by the ricocheted bullet fragments.