

RESTRICTIONS ON TRAVEL ABROAD FOR EAST JERUSALEM AND WEST BANK PALESTINIANS



**A REPORT DETAILING EXIT PERMIT REQUESTS FILED IN 1991
THROUGH THE HOTLINE: CENTER FOR THE DEFENCE OF THE INDIVIDUAL**

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Na'ama Yishuvi, Shirli Aran, Yuval Ginbar – B'tselem: The Israeli Information Center
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Special thanks to Tamara Barnea

Jerusalem, December 1992

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SUMMARY

This report discusses a human rights issue in the territories occupied by Israel since 1967 (East Jerusalem, the West Bank, and the Gaza Strip): the residents' freedom to go abroad and return.

The right to leave one's country of residence and return to it is recognized in various international agreements as a basic human right. Israel is a signatory to some of those agreements.¹ For this and many other reasons, Israeli authorities in the territories accept the exit of residents of the territories, mostly over the Jordan bridges. However based on their extensive powers as military rulers, they reserve the right to forbid the departure of certain residents, and place many obstacles in the paths of others. The declared reason for these restrictions is that they are essential to state security. **Any other consideration is not legitimate.**

Since its founding in 1988, the Hotline: Center for the Defense of the Individual, located in East Jerusalem, has attempted to respond to some of the human rights violations in the territories through the processing of individual residents' complaints. A large number of the appeals (some 500 out of 2,700 up to April 1992) were requests for exit permits. This report is based on some

150 cases – all the requests for exit permits submitted through the Hotline in 1991. From these cases one can see that great harm has been inflicted unnecessarily upon residents of the territories, and that the authorities have been impervious to their needs. In most cases, if there is any reason at all for the authorities' policy, any connection between that reason and security is purely coincidental. In other words, **the Israeli authorities' method of handling exit permits indicates that the given motivation of security considerations is not justified. Furthermore, this method has no moral or constitutional legitimacy.**

Main Findings

- Since at least 1988, hundreds of people wishing to leave through the border terminals have been sent back with no advance warning; others have been refused at the offices of the General Security Services (GSS; shabak or shin bet in Hebrew) and the Civil Administration. When these people appeal to the authorities through the Hotline some 70% receive the answer that "there is nothing preventing their departure."²
- A sweeping directive, never published, requires all males from the age of 16/18 to 36/39 to leave for at least nine months. Those wishing

1 See most notably the International Convention on Civil and Political Rights which Israel ratified in 1991. The section dealing with the right to leave the country received legislative recognition in 1992 in the Basic Law: Human Dignity and Freedom

2 This is also the experience of other groups working for human rights in the territories; see p.13.

to leave for a shorter period encounter prolonged bureaucratic delays. The report emphasizes the damage and injustice of this arbitrary directive.

- Approximately 12 percent of applicants in 1991 received an exit permit on the condition that they exit and remain abroad for a period of years. An ongoing struggle is being waged against this "voluntary exile."
- A total of 12.5 percent of applicants were completely refused exit. An appeal was submitted in most cases of refusal, since the refusal had no visible security justification.
- Urgent requests and requests to

leave for medical treatment are generally met with prolonged delays and callousness.

- The GSS (General Security Services) which is responsible for making the decisions and for a great deal of the prolonged delays is unapproachable; it apparently exploits its authority by denying exit permits for a variety of reasons including collective punishment of families and regions, and to pressure applicants to collaborate.
- A number of applicants have decided to petition the High Court of Justice. In most cases, security officials retreated from their position just before the case was to be heard.

INTRODUCTION

Motives

Why do many residents of the territories want to leave? What is the interest of the authorities in this matter? In addition to the fact that this is a basic human right, there are practical reasons as well.

First, in every country and territory there is two-way traffic of people and goods. This movement is essential for the orderly conduct of life and a healthy economy. Furthermore, the territories are not an independent economic and political unit. Prior to the Six-Day War, East Jerusalem and the West Bank were under Jordanian rule; many residents of these areas are Jordanian citizens, and many have relatives, property, and businesses in Jordan, and are entitled to free schooling and medical care there. Therefore most of the traffic from the West Bank is to Jordan and back. In addition, there is a critical problem of employment and academic and professional training in the territories. Many young people wish to go not only to Jordan, but also to countries all over the world in order to acquire training and find employment.

Means of Departure & Exit Procedures

Most travel from East Jerusalem and the West Bank is over the Allenby Bridge and the Adam Bridge; very few residents leave through Ben Gurion Airport. Residents leave the Gaza Strip mainly through the Rafiah border

terminal. From the beginning of the intifada until September 1991, residents of the territories wishing to leave were required to receive a document from the Civil Administration stating that they had paid all taxes and debts. Their applications were also sent to the GSS. This regulation did not apply to East Jerusalem residents, who are officially subject to Israeli law.

Beginning in September, procedures were changed, and the regulation requiring a permit from the Civil Administration was canceled. Now a person wishing to leave pays a tax at the post office and goes directly to the bridge. (As we will see, this change actually created additional difficulties. See p.13)

The Hotline's Processing of Exit Permit Applications

Some applicants contacted the Hotline after their request to the Civil Administration had been refused. A few contacted the Hotline some years after their last unsuccessful attempt to leave, or even before trying for the first time. However the vast majority (almost two-thirds) contacted the Hotline after going to one of the bridges or another border terminal **carrying all necessary permits**, and being turned back for various reasons.

After receiving the necessary information from the applicant, the Hotline sends a letter, by fax in urgent cases, to the appropriate agency.

For an East Jerusalem resident wishing to leave for an "enemy country" (see p.29), the Hotline applies to the Minorities Section of the Interior Ministry in West Jerusalem, or to the Ministry's office in East Jerusalem.

For West Bank residents wishing to leave for any country, the Hotline applies to the Legal Adviser for Judea and Samaria (hereafter the Legal Adviser). These agencies function as pipelines for passing on requests to the GSS and conveying its decision.

When the answer is unsatisfactory (i.e. a refusal or a minimum requirement on time spent abroad, see below) and the applicant is interested in pursuing the matter, the Hotline may refer the request to the High Court Division of the State Attorney's Office. In a few cases it petitioned the High Court.

The Gulf War took place in 1991, the year examined in this report. During the war the territories were closed off. For about a month-and-a-half it was impossible to leave the territories to go abroad. All requests in this report were considered after the area was reopened. The closure of the territories will not be discussed in this report.

In 1991 the Hotline received some 160 complaints concerning exit permits. After excluding files that were closed or transferred to another agency, as well as two files from the Gaza Strip,

where the Hotline does not have enough experience to draw conclusions, the Hotline handled 152 cases from East Jerusalem and the West Bank. These cases, which are the basis for this report, were examined individually. Their status as they appear in this report was correct up to April 15, 1992. As of this date some 25 requests were still in various stages of appeal.¹

Conclusions from the Report's Findings

The report includes only the 152 applications made through the Hotline for exit permits in 1991, and therefore it is not a random sampling. Nevertheless, more general conclusions may be drawn from the findings. A significant number of conclusions apply to the entire population as the authorities' directives and their modus operandi discussed here are not specific to cases brought to the Hotline, but are directed at the population as a whole. This is the case, for example, with the procedure described in the report of requiring residents of the territories to go to the bridges or other border-crossing points in order to inquire about their right to exit. This is also the case concerning the standard minimum requirement on time spent abroad for men from the age of 16/18 to 36/39, and for other restrictions as well. As for the numerical data, the picture is more

1 Two petitions to the High Court of Justice which were heard after April 15, 1992, but were scheduled before that date, are included.

complicated. According to Civil Administration statistics, the number of departures by West Bank residents over the bridges in 1991 was 137,966.¹

Note that:

- This is the number of departures, not of people departing. Truck drivers who drive to Amman and back almost every day each record more than 100 departures annually, and there are others who leave frequently; the number of people leaving is therefore substantially smaller than the number of departures.
- Almost all those who appeal to the Hotline have been refused exit or sent back from the bridges. The Civil Administration has not provided statistics on the number of people sent back, and therefore we have no way of knowing what percentage of

the total population of people refused and sent back contact the Hotline.

Our ability to draw numerical conclusions from the findings is therefore limited. For example, take the important statistic, which can be gleaned from the authorities' response, that of those who contacted the Hotline about exit refusal, some 70 percent were refused for no real reason. We do not presume to state that this statistic is correct for all the people refused exit. Nevertheless, based on four years of experience with some 500 cases, and based on the experience of other organizations working for human rights in the territories (as we will see later), we can say with certainty that the problems raised in this report are not just problems for the hundreds of people who appeal to the Hotline. Though we cannot give absolute numbers, a large population in the territories is forced to contend with these difficulties.

¹ Since 1967 the average number of annual departures was 400,000; this dropped to some 200,000 at the start of the intifada; in 1991 the Gulf War and the closure of the territories caused an additional drop (according to statistics of the Association for Civil Rights in Israel and B'tselem).

CATEGORIES OF RESPONSE BY THE AUTHORITIES

"There is nothing preventing the departure of the aforementioned"

Table 1: Results of Exit Permit Requests in 1991

(All data in all tables refer only to requests made through the Hotline)

	Numbers	Percentages
Permit given with no time restriction	92	60.5
Permit given with standard minimum requirement	21	13.8
Exit conditional on spending 1-3 years abroad	12	7.9
Absolute refusal	19	12.5
Other	4	2.6
Still no answer	4	2.6
Total	152	100.0

Table 2: Results of Exit Permit Requests from 1988-1991

In numbers:	From mid '88	1989	1990	1991	Total '88-'91
Permit given*	11	67	150	113	341
Conditional on spending time abroad	0	10	13	12	35
Absolute refusal	2	4	11	19	36
General negative**	3	12	18	—	33
Other	0	0	3	4	7
Still no answer	0	3	7	4	14
Total	16	96	202	152	466

In percentages:	From mid '88	1989	1990	1991	Total '88-'91
Permit given*	68.75	69.8	74.3	74.3	73.2
Conditional on spending time abroad	0	10.4	6.4	7.9	7.5
Absolute refusal	12.5	4.2	5.4	12.5	7.7
General negative**	18.75	12.5	8.9	—	7.1
Other	0	0	1.5	2.6	1.5
Still no answer	0	3.5	3.1	2.6	3.0
Total	100.0	100.0	100.0	100.0	100.0

* Note: The data for 1988-1990 were taken from a computer report. For these years the category "Permit given" also includes standard permits for young men required to leave for at least nine months.

** The category "General negative" refers to any answer the applicant found unsatisfactory (generally a requirement to spend a prolonged period abroad, or a refusal).

The most conspicuous statistic in this report, which appears in Table 1, is that about 61 percent of those who approached the Hotline after being refused exit permits subsequently received permission to leave the country without any restrictions. An additional 14 percent, men from the age of 16/18 to 36/39 years of age, were told that "there is nothing preventing" their departure, but because of an all-inclusive directive, they would only be able to return after nine months or more. Combining the two groups reveals that **over 70 percent were refused for no satisfactory reason before they appealed to the Hotline.** Moreover, Table 2 shows that this percentage has remained constant for the last four years.

Since some two-thirds (98 out of 152) were sent back from a bridge or other border terminal,¹ we will attempt to describe the history of one such case: After going through bureaucratic procedures including getting the stamp of various government agencies (required for West Bank residents until September 1991) and paying exit taxes, the applicant takes care of personal business: gets time off from her place of employment or resigns, perhaps even leaves her apartment, packs her belongings, and says goodbye to her family. When she arrives at the bridge she first undergoes a thorough inspection and body search. Only then is she told, usually without explanation, that she may not leave. After she contacts the Hotline, the chances are 7

out of 10 that the authorities will respond in a letter about a month-and-a-half later that "there is nothing preventing the departure of the aforementioned." This letter allows the applicant to leave (73 out of the 98 refused exit eventually received this answer).

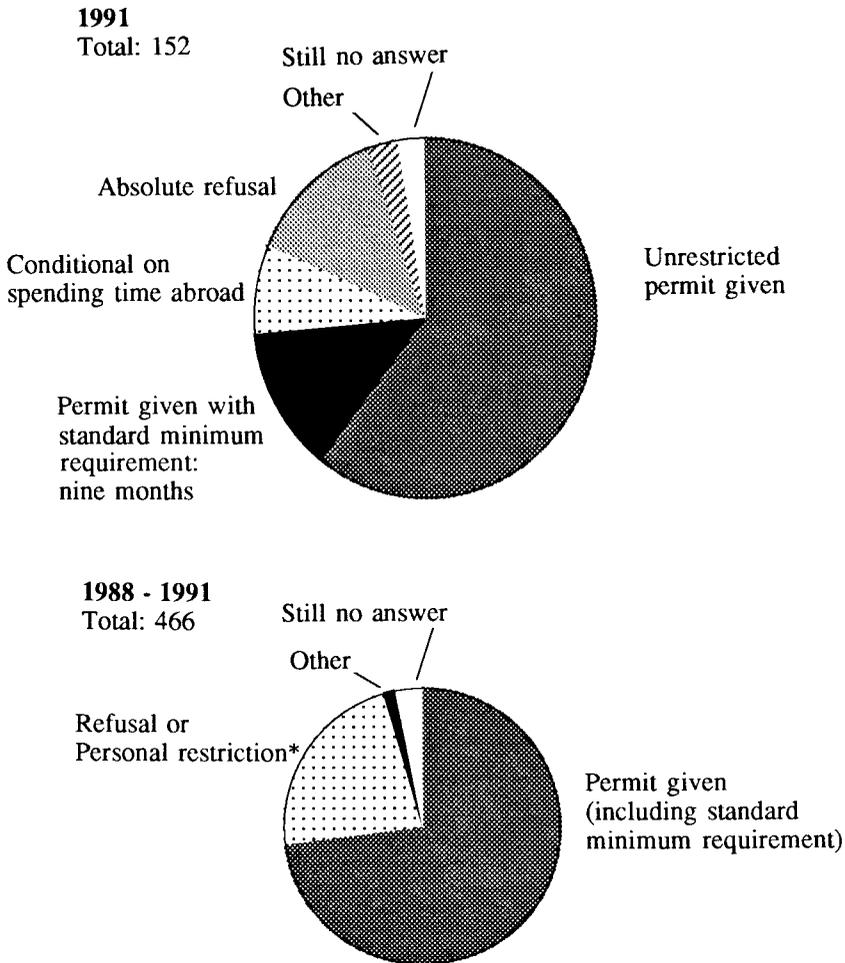
This raises two issues: first, it is apparent that most of those who appealed to the Hotline were sent back from a bridge or refused for no reason. Second – and this is a problem for anyone wishing to leave, not just those who approach the Hotline – an applicant can find out only at the border station whether he or she is entitled to leave.

File 10, from the Jerusalem area: The applicant, a woman of about 60, received a telegram from the Red Cross in Jordan informing her of her brother's death. After taking the appropriate documents she left for the bridge for a condolence call to her sister, and was sent back without explanation. Forty-five days after the written appeal was sent to the Interior Ministry, she received an unrestricted exit permit.

A number of applicants prevented from leaving have been told that their name appears "in the computer," that is, on some computer list of people who are to be prevented from leaving. The Hotline encountered a similar list in the past: IDF soldiers at roadblocks throughout the West Bank were given a computer list of people to be arrested

1 Ninety-three of the 98 were sent back from the Jordan bridges, three from the Rafiah border terminal, and two from Ben Gurion Airport.

Chart 1: Results of Exit Permit Requests Made Through the Hotline in 1991 and from 1988-1991



* The "conditional on spending time abroad," "absolute refusal," and "general negative" categories were combined under "refusal or personal restriction."

upon their arrival at the roadblock. These so-called "bingo" lists included the names of many people against whom the authorities had no claims. Their inclusion in the list placed them under de facto house arrest, as they were liable to be detained every time they left. The Hotline gathered together 200 such cases, and 198 of the names were eventually removed from the list.

The authorities, however, are not interested in examining the list at the bridges in a similar manner, nor are they willing to discuss the matter.¹ In any event, it is clear that there are serious flaws in coordination between the civil administration and the bridge: some people who were refused at the bridge appealed to the Hotline, received a written exit permit, and were **again refused at the bridge.**

File 119, from the Jericho area: The applicant contacted the Hotline about a month after being sent back from the bridge. Twenty-six days after a written appeal was sent, he received an exit permit from the Legal Adviser. The applicant went to the bridge with the letter, and was again prevented from leaving. He left only after further intervention by the Hotline.

Residents who have learned from experience and wish to avoid the difficulties of being sent back from the bridge appeal to the Hotline in advance with a request to find out if they will be prevented from leaving. The authorities' answer is the following:

File 117, from the Nablus area:

In response to the Hotline's request "to spare our client everything involved in receiving the stamp saying 'sent back' from the bridge," the office of the Legal Adviser writes that "the Legal Adviser is not in charge of issuing permits to leave the area. You may appeal to us again if you wish if the aforementioned is told that he is not permitted to leave the area . . ."

That is, first you will be sent back from the bridge, and then we will handle your case. But to what agency does one apply in order to receive a permit to exit the area?

During most of the Intifada (until June 1, 1991 in the West Bank and January 1, 1992 in Gaza), residents of the territories required an exit permit from the Civil Administration in their district. This served more as proof that they had paid all taxes and fees to the various Civil Administration offices than as an exit permit. As the table above indicates, this permit did not prevent their being returned from the bridge.

These unjustified refusals and returns of people from the bridges with no warning are known not only to Hotline activists; the Association for Civil Rights in Israel protested against such occurrences as early as 1989 on the basis of appeals from before the start of the intifada² Tsevet Aza volunteers often encounter Gaza residents who are

1 In June 1992 the Hotline asked the Civil Administration how many people were on this list; it did not receive an answer.

2 From the Association for Civil Rights in Israel's publication, "Restrictions on the Right to Freedom of Movement in the Administered Territories," Jerusalem, 1989, pp. 38-43.

sent back without warning from the Rafiah terminal. They have corresponded with the defense establishment about this matter. On October 28, 1991 the chair of Tsevet Aza wrote the following:

" . . . in recent months an increasing number of people have complained to us that after receiving exit permits from the Civil Administration, they were sent home when they arrived at the border crossings . . .

" . . . the lack of coordination between the GSS and the Civil Administration results in an injustice . . . this injustice is a paradigm of complete contempt for human beings, and the fact that it results from bureaucratic problems and not security problems makes it even worse."

On December 9, 1991 the assistant to the Coordinator of Activities in the Territories responded thusly:

" . . . one of the steps being taken to make life easier [for residents of the territories] . . . is to return to the exit procedure . . . practiced before the uprising began, whereby a person wishing to exit through these crossing stations need not receive a permit in advance.

" . . . there are, in fact, people who, upon arriving at the Jordan bridges or the Rafiah terminal, are prevented from leaving for security considerations, but these are relatively isolated cases."

On December 11, 1991, the Bureau of the Defense Ministry responded in almost the same way to a similar letter from Tsevet Aza:

"There are, in fact, people who, upon arriving at the bridge, are prevented from leaving for security reasons, but these are relatively isolated cases."

Considering the constant statistic over 4 years of the Hotline's work, that exit permits were given to a full 70 percent of those sent back from the bridge (or refused at the Civil Administration), we maintain that the "relatively isolated cases" number in the hundreds at least. Furthermore, the considerations are largely unrelated to security. In fact, regarding this 70 percent, we see that **the refusals were unjustified and groundless, according to the testimony of the authorities themselves.**

The "steps being taken to make life easier" mentioned by the assistant to the Coordinator do, in fact, make it unnecessary to go to the Civil Administration. However, they actually exacerbate the problem of being sent back from the border crossings, because now, until one gets to the border there is no agency to approach to ask whether one will be permitted to leave.

The assistant to the Coordinator wrote again to the chairperson of Tsevet Aza on March 11, 1992, promising the following:

"2. As for the matter of principle that you raised in your letter, the defense establishment is currently taking steps that will bring about a significant decrease in the number of cases in which people are sent back at crossing stations.

"When the new arrangements for handling this issue are completed, those

wishing to exit will generally have the opportunity to find out in advance whether or not they may leave."

In this letter the assistant to the Coordinator actually admits that one of the phenomena discussed in this section does occur. We all hope that the steps

which he reported are in fact being taken.

It should be remembered, however, that these steps – of which there is as yet no evidence – will solve only the problem of being sent back from the bridges, and not the problem of groundless refusals.

Standard minimum requirement of nine months abroad

Table 3: Results of Exit Permit Requests in 1991, by Age

In numbers:	Born in 1952 or later*		1932-1951	Born before 1932	Total
	Men	Women			
Permit given with no restrictions	16	17	42	17	92
9 month minimum	21	–	–	–	21
Conditional on spending prolonged time abroad	7	1	2	2	12
Absolute refusal	1	6	8	4	19
Other	3	1	0	0	4
Still no answer	2	0	0	2	4
Total	50	25	52	25	152

In percentages:	Born in 1952 or later*		1932-1951	Born before 1932	Total
	Men	Women			
Permit given with no restrictions	32.0	68.0	80.8	68.0	60.5
9 month minimum	42.0	–	–	–	13.8
Conditional on spending prolonged time abroad	14.0	4.0	3.8	8.0	7.9
Absolute refusal	2.0	24.0	15.4	16.0	12.5
Other	6.0	4.0	0	0	2.6
Still no answer	4.0	0	0	8.0	2.6
Total	100.0	100.0	100.0	100.0	100.0

* For male East Jerusalem residents: Born in 1954 or later

According to a directive apparently instituted in April 1988, every male East Jerusalem resident between the ages of 18 and 36 wishing to leave the country **must stay abroad for nine months or more**. There is a similar directive for male residents of the territories from 16 to a slightly higher age (38 or 39). **These directives have never been made public**, and therefore neither the Hotline nor other organizations working in the field have access to them. The application of these directives does not depend on the

identity of the man wishing to leave nor on his past. Until early 1991, the Hotline was not told that its applicants were subject to this directive: the response for men in this age group is identical to the response granting an unrestricted exit permit. However when young men arrive at the bridge, they receive a stamp stating that they may not return until nine months from their date of exit.

Since early 1991 the Hotline has emphasized, if the applicant wishes,

Table 4 : Results of Exit Permit Requests in 1991 by Men Younger Than 36/39, by Type of Application

Application for Special Permit for Shorter Period	Numbers	Percentages
Special permit given for shorter period	16	59.3
Standard permit (9 month minimum)	6	22.2
Conditional on spending at least one year abroad	2	7.4
Absolute refusal	0	0.0
Still no answer	2	7.4
Other	1	3.7
Total	<u>27</u>	<u>100.0</u>

Application for Special Permit for Shorter Period	Numbers	Percentages
Special permit given for shorter period	15	65.2
Standard permit (9 month minimum)	5	21.7
Conditional on spending at least one year abroad	1	4.4
Absolute refusal	2	8.7
Still no answer		
Other		
Total	<u>23</u>	<u>100.0</u>

Note: The main reason for not requesting a permit for a shorter period has nothing to do with security, but is related to the applicant's reason for wishing to leave. Of the 23 applicants who did not request a special permit, 20 wished to go abroad for studies or to immigrate, or were already studying and/or had settled abroad. In contrast, only four of the 27 seeking a special permit were in this situation.

that the request is for a period shorter than nine months. Sometimes the authorities ignore this and respond laconically that "there is nothing preventing his departure according to the regular procedures," that is, for a period of at least nine months. A man receiving such an answer must reapply in order to receive a permit for a shorter period. As a result, the usual handling time for requests by men in this age group is very protracted.

File 135 from the Nablus area: The applicant wished to leave for an operation in Jordan. First he was told that "there is nothing preventing his departure according to the usual procedures." Sixty-two days after reapplying to the Legal Adviser he was told that this meant he could not go for a one-month stay. He petitioned the High Court of Justice.

It is important to note that young men are the largest population group among applicants surveyed for this report, as this is the age group with the greatest mobility. Fifty people, about a third of the applicants to the Hotline in 1991, were men ages 16/18 to 36/39. As can be seen in Table 3, only 16 of them received a special permit for a shorter period, while 21 received a permit with a standard minimum nine-month requirement on time spent abroad. Many of them were not interested in making the effort to receive a special permit, since the standard answer satisfied them. In Table 4 requests for special permits for a shorter period are presented separately from the regular applications.

A comparison of Table 3 with Table 4 shows that the percentage of young males receiving special permits is not very different from the percentage of recipients of regular permits in other age groups and among women. This fact demonstrates the arbitrary nature of the directive: even if it is clear that a young man does not endanger the security of the area in any way, his departure will be for a minimum of nine months. If he makes a special request, however, he has a good chance of receiving a permit for a shorter period.

In addition, it is very difficult to receive an exit permit for a shorter period through the usual channels (that is, through a regular application to the Civil Administration); one needs a lawyer or an organization such as the Hotline. Hence, there are a great many people who do not even know about the possibility of requesting such a permit.

Of course, anyone who is not aware of his options and departs in the normal manner automatically receives the nine-month stamp at the bridge. An instructive example of the harm caused by this directive can be seen in two applications not included in the report because they involve permits to enter the territories. The husbands of the two applicants went to work in the Gulf oil fields, and when they left received a stamp in their laissez passer preventing them from returning within nine months. A short time later the war in the

Persian Gulf broke out and the two were left in Jordan without work, with their wives and children on the other side of the bridge, and with the nine-month stamp preventing them from returning.

Young unmarried men in this situation are certainly liable to change their permanent place of residence from the territories during the period they spend abroad. This is what gives the impression that the nine-month regulation is in fact **exile in legitimate disguise**.

File 84 from the Bethlehem area: The applicant sought to depart for Jordan for a family visit. The request to the Legal Adviser for a permit for a shorter period was granted after 37 days.

File 19 from the Hebron area: The applicant wished to leave for studies in Europe. The request to the Legal Adviser was granted after 25 days with the standard answer, that is, nine months. This minimum requirement was not relevant to the applicant.

Young Male East Jerusalem Residents

The legal status of East Jerusalem residents differs from that of residents of the territories: East Jerusalem residents are residents of the State of Israel, though most are not Israeli citizens. Their blue identity card is usually considered an asset which makes their dealings with the

authorities easier than those of residents of the territories. It is true that for departures through Ben Gurion Airport, the situation of East Jerusalem residents is better than that of West Bank residents (see p.30). On the other hand, when it comes to exit permits to Jordan, the main destination of those who leave, the situation of men from East Jerusalem up to the age of 36 is worse than that of their West Bank counterparts. This is because of callousness and protracted delays in the Interior Ministry departments that handle their cases.

The same officials in the office of the Legal Adviser who handle regular requests for exit permits also handle requests for exits for shorter periods. The waiting-time for a **first** response in these cases is similar. For Jerusalem residents, however, the Minorities Section, located in the Interior Ministry's West Jerusalem office, handles regular requests and usually gives an answer within a reasonable period of time, while the East Jerusalem office of the Ministry is in charge of special requests by young men. Despite telephone negotiations with Ministry officials in East Jerusalem (i.e., the Hotline calls them on occasion to try to receive answers) including granting one special exit permit and refusing one, at the time of this writing, the Ministry office in East Jerusalem **had not sent the Hotline a single letter regarding exit permits**. In four cases no answer has yet been received, either orally or in writing.

These are urgent matters for people who have already waited five, six, or seven months (as of April 15, 1992) for an answer. The policy of the East Jerusalem office of the Interior Ministry to ignore applications constitutes collective punishment of young male East Jerusalem residents. They are completely prevented from leaving for a short period of time.

File 130 from the Jerusalem region: The applicant wished to depart for Jordan for a short time because of family problems. The letter to the East Jerusalem office of the Interior Ministry was sent in October 1991. By April 1992, about six months later, despite a number of reminders in writing and by phone, there had still been no answer or written response.

Exit conditional on spending a prolonged period of time abroad

Table 5: First Responses* to Exit Permit Requests in 1991, by District

<u>Numbers</u>	<u>Jerusalem</u>	<u>Nablus</u>	<u>Hebron</u>	<u>Ramallah</u>	<u>Other**</u>	<u>Total</u>
Unrestricted permit given	35	22	12	5	11	85
Standard 9 month minimum	5	5	5	2	6	23
Conditional on spending years abroad	1	0	7	7	3	18
Absolute refusal	7	5	5	2	0	19
Other	1	1	0	1	3	0
Still no answer	3	0	1	0	0	4
Total	52	33	30	17	20	152

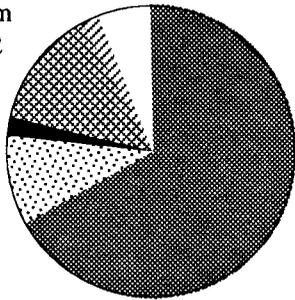
<u>Numbers</u>	<u>Jerusalem</u>	<u>Nablus</u>	<u>Hebron</u>	<u>Ramallah</u>	<u>Other**</u>	<u>Total</u>
Unrestricted permit given	67.3	66.7	40.0	29.4	55.0	55.9
Standard 9 month minimum	9.6	15.15	16.7	11.8	30.0	15.1
Conditional on spending years abroad	1.9	0.0	23.3	41.2	15.0	11.8
Absolute refusal	13.5	15.15	16.7	11.8	0.0	12.5
Other	1.9	3.0	0.0	5.9	0.0	2.0
Still no answer	5.8	0.0	3.3	0.0	0.0	2.6
Total	100.0	100.0	100.0	100.0	100.0	100.0

* It should be noted that these are first answers. In eight cases--four in the Hebron district, three in Ramallah, and one in Jerusalem--the authorities' decision was reversed sometime later (by April 15, 1992) as a result of appeals.

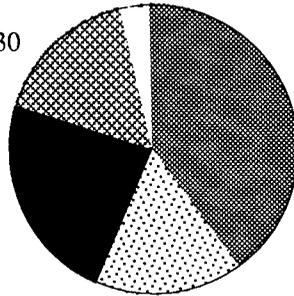
** "Other" includes requests from the Bethlehem, Tulkarem, Jenin, and Jericho districts.

Chart 2: First Response to Exit Permit Requests Made through the Hotline in 1991, by District

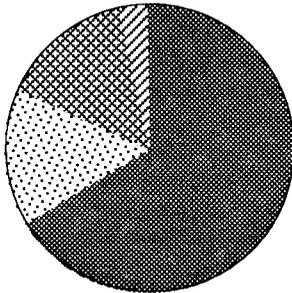
Jerusalem
Total: 52



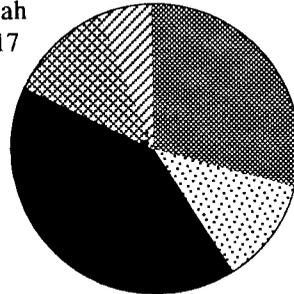
Hebron
Total: 30



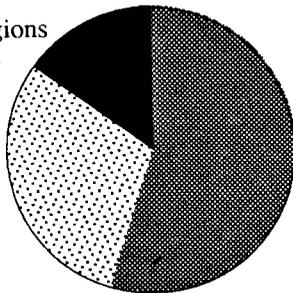
Nablus
Total: 33



Ramallah
Total: 17



Other regions
Total: 20



Key:
Unrestricted permit given



Permit given with standard minimum requirement: nine months



Conditional on spending time abroad



Absolute refusal



Other



Still no answer



As can be seen from Table 5, in 1991 authorities responded to 18 out of 152 initial exit permit requests in the following manner: "the regional commander's position on the aforementioned's departure is negative, but if the aforementioned undertakes to leave for at least one year/two years/three years, we will reconsider our position." In cases of this sort the role of the "authorities," i.e. the GSS, is very obvious. The legal basis for making the departure conditional on a commitment to go into voluntary exile is dubious.

If the 18 cases are compared by district, it appears that in Nablus and Jerusalem, from which most of the appeals to the Hotline came, this method is used infrequently (not at all in Nablus, once in Jerusalem), but that it is common in Hebron and Ramallah: in Hebron there were seven exit permits conditional on spending time abroad, and seven in Ramallah (out of only 17 appeals from this region). On the basis of the general breakdown of the first responses in these districts (see Chart 2), it does not appear that an effort is being made to meet the applicants half-way, that is to require a period abroad in place of an absolute refusal. In terms of percentages, it appears that the requirement to spend a period of time abroad is **given instead of permits** in Hebron and Ramallah.

The typical applicant who receives an "offer" to spend a period of time abroad is a person with no "pure" security reason preventing departure; either the applicant was placed under administrative detention without trial, or he or she has a relative who was

imprisoned or placed under administrative detention. Thirteen out of the 18 meet one of these criteria. Two others were imprisoned after trial, and the other three were never arrested, nor were their relatives.

File 73 from the Nablus region, which is not included in the 18 cases listed above, sheds some light on other possible reasons for receiving an exit permit conditional on spending time abroad: the applicant had studied abroad and started a family there, and then returned to live in the territories. He had never been arrested. He sought to leave to visit his family. The GSS made him the following offer: collaboration or a commitment to leave for three straight years. After appealing to the Hotline he received a standard permit (nine months minimum requirement on time spent abroad).

Of the 18 who received a conditional exit, four were women over the age of 60. None had ever been arrested, but all had relatives who had been imprisoned for long periods. Since it is hard to imagine how a woman of this age from a traditional society could be away from home and country for one to three years, this in fact is a cynical method of saying no without officially refusing.

The Hotline's Position on Demands to Spend a Period of Time Abroad

The Hotline: Center for the Defence of the Individual, as well as other groups and individuals working for human rights in the territories, considers the

demand to spend a specific amount of time abroad illegitimate, illegal, and immoral. For elderly women, it is adding insult to injury. For young men and women, **it is an attempt to coerce them into "voluntary" exile**; young persons' knowledge that they may not return in the next few years will greatly affect their decision about whether to settle abroad. Political motivations are frequently couched in security explanations. When the security agencies' response contains such a requirement, it not infrequently includes an **offer to bargain about the length of time the applicant commits to stay abroad**. This shows the weakness of the security basis for their position and indicates contempt for the applicants' basic rights (see letter on next page).

Of the 18 applicants of whom a demand was made to spend a prolonged period of time abroad, only two agreed to remain abroad: one for two years and one for three years, and they left. Two others gave up and decided not to leave.

As for the remaining 14, in six cases an appeal succeeded in changing the authorities' decision, once through a second application, twice through a letter to the State Attorney's Office, and three times through a petition to the High Court of Justice.

Two applicants are still in the process of making regular appeals.

The last six cases were heard by the High Court of Justice, one through a private petition and five through a

group petition (which included a number of the Hotline's cases as well as those of other human rights organizations). At the petitioners' request an order nisi was issued ordering the respondents to show cause why they were demanding a commitment to remain abroad for a prolonged period of time.

Petitions to the High Court of Justice will be discussed in a separate section.

***File 82 from the Hebron area:** The applicant, who is over the age of 60, sought to leave for a family visit and medical treatment. She has a relative who was imprisoned. The first answer received from the Legal Adviser 49 days later was a demand to spend a minimum of one year abroad. Following a second application with additional medical documents, she received an unrestricted exit permit: 141 days after the first letter was sent.*

***File 67 from the Hebron area:** The applicant was accepted for studies abroad. After submitting a request for an exit permit he was placed under administrative detention for four months, for the first time in his life. The first letter was answered after 22 days with a demand to spend three years abroad. The complainant chose to agree to this and depart.*

***File 149 from the Ramallah area:** The applicant, a journalist, wished to go abroad to study. He has been imprisoned in the past on political charges. The first letter was answered after 21 days with a demand to spend three years abroad. The applicant refused to accept this and wished to petition the High Court. His case was heard as part of the group petition.*

Israel Defence Forces
Judea and Samaria Region
Office of the Legal Adviser

October 27, 1991

Dalia Kerstein
Hotline: Center for the Defense of the Individual
2 Abu Obeida Street
Jerusalem 97200

Dear Ma'am,

Subject: _____ – Request to leave the area _____
Your letter from 1991

The position of officials on the aforementioned's departure is negative, but if the aforementioned seeks to leave the area for a period not less than one to two years, and makes a commitment to this effect, this position will be reconsidered.

Sincerely,

Carmit Avnon,
Second Lieutenant
Acting Section Head,
Legal Dept.
for the Legal Adviser

Document 1: Letter from the Legal Advisor for Judea and Samaria containing an implied offer to bargain about the length of time of the undertaking to remain abroad. (see p.19)

Those refused exit

Nineteen applicants, or 12.5 percent, received an absolute refusal. They are divided more or less evenly among age groups and districts, except that young men received fewer absolute refusals and young women more (see Tables 3 and 5).

The authorities do not always explain their refusal, and when they do it is usually written in standard laconic language, "for reasons of regional security." When the Hotline does not accept this answer and requests an additional hearing, this hearing is often delayed for as long as six months or more, and in the end the response is the same. The Hotline tends to appeal in cases where laconic security explanations appear on the face of it to be groundless. In five cases the applicants preferred not to make such an appeal. In another four cases the applicants gave up after several fruitless appeals. The other ten cases are in different stages of appeal. Some of them will be discussed in greater depth in the section on petitions to the High Court and requests to the High Court Division of the State Attorney's Office made prior to petitions to the High Court.

Eleven of the 19 refused were women. This in spite of the fact that only 59 of the 152 people (39%) seeking exit permits through the Hotline in 1991 were women. Only one of the women refused had spent time in prison or in detention. However, most have relatives who are serving or have served prison terms, or were killed during the intifada. These statistics hint at the possibility that the applicants are suffering from collective punishment for acts carried out by their relatives. Most of the women refused had received exit permits without difficulty in the recent past.

Of the eight men refused, three had served long prison terms or had been under administrative detention for an extended period. The other five had never been arrested.

File 161 from the Jerusalem area: The middle-aged applicant had never been arrested. He sought to travel to Jordan to visit his mother and was refused for "security reasons." The Hotline has still not received an answer to its request for a hearing in the presence of the GSS investigator and the Hotline lawyer.

ASPECTS OF PROCESSING APPLICATIONS

Urgent Cases and Medical Treatment

The Hotline received 24 urgent appeals in 1991, some the result of an unexpected event, and others the result of an event the applicant anticipated though the authorities' handling of the request took so long the case became urgent. In all these cases, the applicants wished to leave within several days or even less. The reasons for leaving were the following:

- 7 were related to a family crisis (funeral, a relative's operation, etc.);
- 3 to a family celebration (wedding, birth);
- 8 to studies (exams, beginning of school year);
- 2 to urgent medical treatment;
- 4 to other matters (attending a ceremony, arranging a pilgrimage, returning after a vacation to a job abroad).

It appears from the handling of these requests that often it is not easy to leave the territories, even for an urgent matter.

In all 24 cases the Hotline made the urgency of the matter very clear to the authorities; in 21 cases the request was sent by fax or some other method of rapid communication. Since the time that elapses between the submission of an urgent request and the receipt of an answer is as important as the answer itself, the handling must be examined mainly on the basis of the time factor (see Table 6).

An examination of handling time together with the reason for the request indicates that the authorities have their own criteria for determining what is "urgent" and what "non-urgent": in six of the seven cases involving a family crisis the answer took a month at most. On the other hand, in two of the three cases involving a family celebration handling took so long that the applications were no longer relevant. In the two cases involving urgent health problems, no answer has yet been received. For regular requests that are not unusually delayed, 15-30 days for an answer is considered normal. It can be seen from Table 6 that in **just over one-third of the cases**, the agencies involved (the GSS and intermediaries) made an effort to consider the urgency of the request, and were able to respond in a shorter time than usual. This raises the following questions:

- If the 11 other cases – almost half – there was ultimately nothing preventing the applicant's departure, why were these urgent requests not

Table 6: Urgent Requests for Exit Permits in 1991 by Handling Time

Received permit in less than two weeks	9
Received permit in two-four weeks	4
Received permit after more than one month	4
Delayed until application lost relevance	3
Did not receive permit	4
Total	24

handled with the same speed as the first nine?

- In all 20 cases in which there was nothing preventing the granting of a permit, couldn't a reasonable way have been found to provide an immediate solution without the applicants' having to enlist the aid of an organization like the Hotline?

***File 156 from the Jerusalem area:** The applicant came to the Hotline with a telegram from the Red Cross informing him of his father's death. The Hotline referred him to the Interior Ministry with a letter. On the spot he received a permit to go to Jordan for the funeral.*

File 48 from the Jerusalem area:** The applicant was supposed to go to Jordan to marry his fiancée, and to return to work within a month. He went to the Interior Ministry's East Jerusalem office with the appropriate document stating the length of his leave from work. After sending a letter to the Interior Ministry he was summoned to a GSS interrogation in the Russian Compound (the Jerusalem district police headquarters and jail). There he was told orally that he had no chance of receiving a one-month permit. (The interrogation took place more than two months after the first letter was sent.) **In the end he gave up and decided not to get married that year.

***File 136 from the Ramallah region:** The applicant was returning to his studies in Europe after a vacation. He had already gone through all security procedures and had all the appropriate documents. **He was taken off the plane just before the flight.** The request faxed to the Legal Adviser was granted 18 days later. By this time,*

however, the applicant was forced to miss the academic year. The agencies involved admitted their mistake and apologized. A suit for damages is being considered.

***File 60 from the Nablus area:** The applicant, a middle-aged woman suffering from cancer, had in the last few years been going regularly for treatment to Jordan, where her brother is a doctor. In 1991 she was refused upon arrival at the bridge, and told that residents of the area in which she lives may not depart.*

The request faxed to the Legal Adviser was rejected 33 days later. The Hotline decided to try to get the Civil Administration to cover the cost of hospitalizing the woman in Israel. As of April 1992, a final answer had not yet been received. As a new year had begun, her request for an exit permit was resubmitted through the Legal Adviser and was again rejected. It should be noted that not only did the woman leave regularly before 1991, neither she nor members of her family have ever been imprisoned (with the exception of one son, who was arrested for a month and released without being tried).

The case is still open, and the patient is still not receiving medical treatment either in Israel or in Jordan.

Medical Care

Many medical services Israeli citizens take for granted are not provided in the territories. In Jordan the level of medicine is higher, and many West Bank residents are entitled to very inexpensive or even free medical care there. In Israel, residents of the

territories are forced to pay much more unless the Civil Administration agrees to cover the cost. Many residents of the territories therefore go to Jordan regularly for medical care. East Jerusalem residents, who are entitled to medical insurance in Israeli health funds, are exceptions to this rule. Only one of the 19 applicants wishing to leave for medical reasons in 1991 (including the two urgent cases mentioned previously) was a resident of East Jerusalem.

About half the applicants (10) are middle aged; four are over 60, and only five are under 40. Considering the applicants' ages – they are older than the usual applicants (see Table 3 on p. 15) – and given the problems of medical care in the territories, one would expect greater consideration and a larger percentage of exit permits for those seeking medical treatment, but this does not seem to be the case:

Ten of 19 applicants (including the two urgent cases mentioned above) received an unrestricted permit, three received a standard nine-month minimum requirement on time spent abroad, and five an absolute refusal. One applicant has still not received an answer some four months after submitting an application. The percentage of applicants who receive permits for medical reasons is a bit lower than the general receipt of exit permits. Only one of the five whose applications were rejected had ever been arrested.

In sum, the authorities give the impression of not being particularly

sensitive to applicants with medical problems.

The General Security Services

While the Hotline corresponds with the office of the Legal Adviser and with Interior Ministry officials in Jerusalem, it is clear that they are not the officials who decide whether a person will be permitted to leave the area. The security agency responsible for this decision is the GSS. However, the GSS is inaccessible to the Hotline, except through intermediaries (i.e., the Interior Ministry and the Legal Adviser). The Hotline has not yet received an answer to two requests by its attorney to accompany an applicant to a face-to-face meeting with the GSS interrogator in Jerusalem.

We previously discussed regional differences between the GSS in the granting of exit permits. These differences and others to be discussed, as well as additional characteristics of the handling of applications, indicate that considerations of the GSS are not limited solely to issues of security. They also reveal problematic work methods.

First we will discuss intentional delays. While the Interior Ministry's East Jerusalem office imposes bureaucratic red tape in handling applications, most of the applications to other officials in the Interior Ministry and to the Legal Adviser are answered within about four to six weeks. During this time the Hotline requests and receives an oral update on the status of the handling of applications. Therefore, when an

answer to an application to the Legal Adviser takes two months or more, it is reasonable to assume that this is an intentional delay.

Such delays can be seen in the handling of appeals by **women aged 60 and over**. Of seven permits given to members of this group, **the fastest took 45 days**. In three cases the permit took 90 days or more.

Additional regional differences: If GSS officials in Hebron and Ramallah are stingy with exit permits, and generous with offers to allow applicants to leave if they agree to spend time abroad, in Jerusalem they are very tenacious about summoning people for interrogation. Most applicants from this region (29 out of 52) received a summons to a GSS interrogation before coming to the Hotline. In Hebron too, many people receive a summons to an interrogation (10 out of 30). It should be remembered that these are people who had never been summoned by the GSS before they asked to depart. Now, not only have they been turned back at the bridge, they also receive a summons to the GSS. In Jerusalem two applicants were summoned for interrogation **following the Hotline's submission of an exit request**.

In the Nablus district only three out of 33 were summoned for interrogation. There a different method was employed: if in other districts the vast majority of applicants received their permit from the Civil Administration only to be turned back at the bridge, in

Nablus the majority came to the Hotline after being refused at the initial stage of submitting an application to the Civil Administration.

The GSS sometimes places applicants in an impossible dilemma by **demanding that they collaborate**. This is generally done to people who have never been arrested. Such people, who have thus far watched their step and are interested in leaving the area for one reason or another, find themselves suddenly held hostage by the GSS interrogator, who tells them straightforwardly that they will receive an exit permit only if they collaborate. Fourteen of 46 applicants interrogated by the GSS specifically reported this offer (Jerusalem with nine and Hebron with four again stand out in this regard). Since this is an uncomfortable issue for the applicant, it is possible that additional applicants chose not to tell the Hotline that they were asked to collaborate. All those who reported this offer refused it (nine of the 14 who were asked to collaborate eventually received an unrestricted exit permit, three received a permit with the standard minimum requirement, and two were refused). However, it is possible that others decided to forgo the difficult route of appeals and chose to collaborate in order to be able to leave. The Association for Civil Rights in Israel, in a 1989 publication, also notes the large number of demands to make departure conditional on collaboration, and **suggests that this is a policy**.¹

Some cases clearly indicate that one GSS method is to block the departure

1 From the ACRI publication, "Restrictions on the Right to Freedom of Movement," Jerusalem, 1989.

of female relatives of intifada activists. This is seen in the sections on offers for a minimum requirement on time spent abroad and on exit permit refusals. Additional characteristics associated with the GSS which appear in a number of applications are a general prohibition on departure for villages or neighborhoods that have "made trouble," and threats to an individual applicant. Regarding the issue of collective prohibition on exit of entire villages, a petition was submitted in 1989 by the Association for Civil Rights in Israel on behalf of the residents of a number of villages who had openly been forbidden to leave for many months. Security officials backed down and lifted the prohibition before the hearing.¹

File 150 from the Jerusalem area: The applicant was summoned to an interview with "Captain Maurice" at the Russian Compound after she was sent back from the bridge. He offered to let her depart if she agreed to collaborate. She refused and contacted the Hotline. The Interior Ministry granted an unrestricted exit permit after 17 days.

File 72 from the Nablus area: The applicant, who had never been arrested but who had a relative in prison, knew that she had been photographed by the GSS during a sit-down strike to improve prisoners' conditions. Her request to exit was rejected by the Civil Administration in Nablus in the summer of 1991. After turning to the Hotline, she received an unrestricted exit permit within 23 days.

File 77 from the Nablus area: The applicant knew that all residents of his village had a problem obtaining exit permits. Officials of the Civil Administration in Nablus ripped up his exit request form before his eyes. The request for a special permit for a period of one month was accepted by the Legal Adviser after 43 days.

File 11 from the Jerusalem area: The applicant, who had been turned back at the bridge a number of times, had been arrested in the 1970's. A relative had been sentenced to a long prison term. The applicant was interrogated at the Russian Compound and told that no one in her family may leave. After appealing to the Hotline she received an unrestricted exit permit from the Interior Ministry after 77 days.

Exit to Non-Enemy Countries (the Justice Ministry's Response to the Hotline-B'tselem 1991 Report)

In response to the section on exit permits in the Hotline-B'tselem report from summer 1991,² Justice Ministry spokesperson Etti Eshed wrote the following:

"a distinction should be made between exit permits to countries not in a state of war with Israel, to which the departure of residents [of the territories] is not restricted, and departure for enemy countries, to which no right of exit is granted either to residents of the areas or to Israeli citizens.

1 High Court of Justice case 660/89, not published.

2 The Hotline and B'tselem, "Complaints of Human Rights Violations in the Israeli Occupied Territories," Jerusalem, 1991, pp. 10, 11, 15.

"In spite of the danger to security inherent in departures for an enemy country, the security authorities endeavor to permit such departures whenever possible."

This answer, while apparently logical, requires an examination of the distinction between enemy and non-enemy countries in legal policy and in practice.

It appears that for East Jerusalem residents, who are residents of Israel, the Justice Ministry's statement is valid. East Jerusalem residents with laissez-passers are entitled to leave at will to non-enemy countries.¹ This is indicated by the fact that not a single appeal for exit to a non-enemy country was submitted to the Hotline in 1991 by an East Jerusalem resident. Let us now examine the status of West Bank residents.

In order to check the actual policy, we collected the 19 appeals submitted by West Bank residents to the Hotline in 1991 in which the country of destination was not an enemy country or an Arab country (all but one of the 19 applicants were men up to the age of 36/39, and 15 of the 19 applications were for study or professional purposes; almost all the remaining 133 applications in the report are for exit to Jordan).

First, it is important to emphasize that at least 17 of the 19 applicants came to the Hotline after encountering difficulties in obtaining an exit permit and/or laissez passer. Thus **even before appealing to the Hotline their**

Table 7: Results of Requests in 1991 for Exit Permits to Non-Arab countries

Permit given without restriction	3
Standard permit given	10
Demands to spend years abroad	5
Absolute refusals	0
Other	1
Total	19

departure had been restricted, despite the fact that their destination was not an enemy country. The breakdown of the responses following the Hotline's handling is presented in Table 7.

As can be seen from Table 7, although there were no absolute refusals, most exits were in some way restricted even after the Hotline's intervention. The applicants did not generally fight to cancel the standard nine-month minimum requirement since they intended to leave for a long period of time, but neither did the authorities initiate the cancellation of this restriction. In other words, **the standard minimum requirement on time spent abroad is made on the basis of the applicant's age, and has nothing to do with destination.** In this connection, the Justice Ministry's statements have no relation to reality, and are in fact misleading.

Furthermore, five applicants were required to spend long periods of time abroad. Several of these cases reached the High Court of Justice.

It is important to note that the Hotline always states in its letters to the

¹ The catch is that East Jerusalem residents cannot obtain a laissez passer without GSS approval.

authorities the destination and the reason for departure.

The Justice Ministry's claim can also be disputed by examining treatment at the various terminals of departure. If preventing travel to an enemy country is the criterion guiding security officials, it would be reasonable for them to encourage departures for friendly countries through Ben Gurion Airport in order to prevent travel through an Arab country or another enemy country. But exactly the opposite is the case. **In order to leave through Ben Gurion Airport a special request must be made. If the words "Ben Gurion Airport" do not appear on the letter from the authorities, a resident of the territories may not enter the airport.** Seven of the applicants made special note of the fact that they wished to leave through Ben Gurion Airport. Five were given permission and two were refused, that is, they were permitted to leave only through an enemy country. In addition to the two who were refused, there is also the case of the person taken off the plane (file 136, see "Urgent Cases").

The Justice Ministry's distinction also fails from the legal point of view. The law restricting departure for "enemy countries"¹ applies only to residents of the State of Israel. West Bank and Gaza Strip residents are not residents of the State of Israel; they are under the military rule of the governor of the area. By law, and also by logic, Jordan is not an enemy country for them. Therefore, **the distinction between enemy countries and friendly countries is irrelevant to West Bank and Gaza**

Strip residents from a legal point of view.

To summarize, according to the report's statistics residents of the territories (not including East Jerusalem) suffer from restrictions on their ability to leave the country irrespective of their destination. Moreover, special obstacles are placed in the way of those seeking to leave for a non-enemy country. For residents of the territories, there is no legal or practical validity to the distinction made by the Justice Ministry on the basis of destination.

Appeals to the State Attorney's Office and the High Court of Justice

In the previous section on exit to non-enemy countries we saw again that the most common destination of most of the population seeking to leave is Jordan. For young men there is also a tendency to travel abroad to obtain an education and find work.

If we return to the quotation from the Justice Ministry spokesperson at the beginning of that section, we will see that she stated explicitly that there is no right of departure for enemy countries. In other words, **the Justice Ministry is saying that for most of the population, departure for the destination most natural for visits, medical treatment, and other personal affairs is not a right but a privilege.** It is precisely on this point that the Justice Ministry's approach is completely consistent with that of security officials.

¹ Appendix to the Emergency Regulations (Departure for a Foreign Country), sections 5-7; Prevention of Infiltration Law 1954, section 2a.

We see, therefore, that the official approach of the authorities to departure for Jordan, the main destination of the applicants, and the actual approach of the officials involved, irrespective of the destination, are that the granting of an exit permit is a gesture of good will: a privilege and not a right.

In contrast, the Hotline believes that **this is not a privilege, but a basic human right**. The view that the human rights of residents of the territories are privileges that can be revoked is unrealistic, and based on the illusion that Israeli military rule over the territories has lasted a few days, rather than 25 years. Given this protracted occupation, it is impossible not to recognize the residents' basic rights; without such recognition, normal life in the area is impossible.

The Hotline continues to process applications which are rejected by security officials by requesting the intervention of the State Attorney's Office, or by petitioning the High Court.

Requests for Intervention by the State Attorney's Office

In the nine appeals made in 1991, a letter was sent to the High Court Division of the State Attorney's Office requesting that the case be examined and that the Office intervene.

In three appeals the decision was changed to benefit the applicant. In three other cases, the decision remained unchanged. The remaining three were still unanswered as of April 15, 1992.

***File 114 from the Hebron area:** The applicant sought to depart because his mother was to undergo open heart surgery. He brought the appropriate documents stating her condition. His father was expelled from the territories 20 years ago. The GSS demanded that he collaborate in exchange for his exit permit, and as a result of his refusal his request was denied.*

The Hotline sent a fax to the Legal Advisor and received a response within 32 days. The response suggested a one year minimum requirement on time spent abroad. Following an appeal to the State Attorney's Office, an exit permit was granted with no time restrictions.

***File 9 from the Jerusalem area:** The applicant, a journalist and political activist, sought to depart in order to receive a Jordanian license to practice law. He had been sent back from the bridges several times in previous years.*

The Interior Ministry answered after 40 days with a rejection without explanation. The appeal to the State Attorney's Office was met with the response that the applicant was a senior Fatah activist and had been under administrative detention in the past. Due to his political beliefs the applicant was not interested in petitioning the High Court. It should be noted that since the end of 1991 (the application was from the beginning of that year), many political activists identified with the PLO have departed from the territories as representatives and advisers in the peace talks.

***File 112 from the Jerusalem area:** The applicant requests to depart for Jordan and get married there, and will have to return to his place of employment within a month.*

Neither he nor his relatives have ever been arrested.

Fifteen days after applying to the Interior Ministry he received a standard permit (nine-month minimum requirement on time spent abroad). His application to the Ministry for a special permit went unanswered, despite two written reminders. Ninety-seven days later, in a telephone call, the Interior Ministry gave an oral refusal. Following this refusal, an appeal was sent to the State Attorney's Office. As of April 15, 1992, no answer had yet been received.

Petitions to the High Court of Justice

Many applicants are not interested in petitioning the High Court of Justice. Applicants who receive a regular refusal can try to make a second request the following year. They can also be saved by a change in personnel at the local offices of the GSS or by any other change; in any event, there is hope. By contrast, a resident of the territories who petitions the High Court of Justice against officials of the security forces is at a disadvantage, even if represented by the best lawyers. An applicant who loses a High Court appeal is **forbidden to leave for life**. A petition submitted through the Hotline following a 1990 application ended in this way.

In addition to anxiety about losing, there is a fear of vengeance following a victory, as well as fatigue. Not everyone is capable of withstanding protracted legal battles. An examination of the type of handling by the authorities in each of the petitions indicates that security officials believe that the delays work in their favor, and thus exploit this situation.

In addition to the group petition concerning the offers to grant an exit permit in exchange for a commitment to spend a prolonged period of time abroad, four applicants submitted appeals through the Hotline to the High Court of Justice in 1991. Only one of the petitions was heard. In the other three appeals **the security officials agreed to the applicant's request before the hearing**. In the petition that was heard, an order nisi was issued ordering security officials to show cause why they were demanding a commitment to remain abroad for a long period of time. A similar order nisi was also issued in the hearing on the group petition.

That the security officials capitulated in three of the four appeals indicate that for the 20-25 percent of applicants whose requests were rejected, or who were given a minimum requirement on time spent abroad, the authorities are virtually unable to defend their position against the criticism of the judiciary. In other words, when asked to justify their actions, the authorities realized that departure is not a privilege, but **a right of which it is very difficult to deprive people**.

The Four Petitions

File 81 from the Hebron area: The applicant sought to depart for a month to visit his family and arrange pilgrimages for others for payment. He and his relatives have never been arrested. When he refused to collaborate with the GSS, the officials canceled the exit permit he had received from the Civil Administration.

Seventy-four days after the Hotline contested this decision, the Legal Adviser

responded, making his departure conditional on spending a minimum of one year abroad. The Hotline's appeal, which contained an offer for the applicant to undertake to refrain from committing a crime, and noted that this was a family visit, elicited the response that "the position of officials on the aforementioned's departure from the region stands." After the petition was submitted to the High Court of Justice, the State Attorney's Office contacted the Hotline's attorney and agreed to the proposal. The Hotline withdrew its petition, while noting that "the respondent has agreed to allow the appellant to depart for Jordan for a period of one month on condition that he make a commitment that the goal of his visit is organizing trips by believers . . . and a visit to his brother there, and that is all." The appellant departed with a one-month exit permit.

File 123 from the Hebron area: The applicant was returning after summer vacation to her studies in Jordan when she was sent back from the bridge. The GSS told her that she was sent back because of a "political charge." The applicant had never been arrested, but one of her relatives was under administrative detention.

The Hotline sent a fax to the Legal Advisor which received a response after twenty-one days: her departure would be made conditional on spending a minimum of one year abroad. The applicant did not agree and decided to petition the High Court. Here, too, the State Attorney's Office contacted the Hotline's attorney, and agreed to the following compromise: The applicant made a commitment to leave and not to return for about four months, that is until the conclusion of her last remaining semester and to remain in the territories for one year upon her return. In our report's statistics this

arrangement appears under "other" and not under "unrestricted permit," but it satisfied the applicant.

File 133 from the Bethlehem area: The applicant returned to his home for summer vacation from his studies in a Western country, and planned to return and continue his studies at the end of the vacation. The Civil Administration refused to renew his laissez passer. About two months after the Hotline's appeal, the Legal Adviser responded with an exit permit conditional on remaining abroad for a minimum of three years. Following an additional appeal, officials shortened the period to two years, but did not eliminate the requirement. The applicant petitioned the High Court, which issued an order nisi ordering the respondents to show cause why they would not renew the laissez passer, and why they were demanding a commitment of at least two years. The period in which the respondents must give their answer has still not expired. In the meantime, the applicant has lost a full academic year.

File 146 from the Ramallah area: The applicant, a divorcee, sought to depart to visit her son in Jordan. She was sent back at the bridge even though she had an exit permit from the Civil Administration. Eighteen days later the Legal Adviser responded to the Hotline's appeal, making her departure conditional on a commitment to spend two years abroad. A second appeal elicited the same response. The applicant petitioned the High Court. Before the date of the hearing the State Attorney's Office announced that security officials had reversed their position. The applicant withdrew her petition, and the Hotline received a letter from the Legal Advisor confirming that there is nothing preventing her unrestricted departure.

Hotline: Center for the Defense of the Individual
2 Abu Obeida Street, Jerusalem 97200
Phone: 02-283555

October 27, 1991

Our reference:

Ms. Yochi Gensin, Attorney
State Attorney's Office
Ministry of Justice
Salah a-Din Street
Jerusalem

Dear Ma'am,

1. I request your response to my request of May 29, 1991 about criteria for granting exit permits. The question arose during handling of _____'s request (your letter of June 11, 1991 without reference number).

2. Please respond. I sent you a reminder and a copy of my letter on September 4, 1991.

Sincerely,

Andre Rosenthal, Attorney

Document 2: Letter sent by the Hotline to the State Attorney's Office requesting clarification of criteria for granting exit permits. None of the letters has yet been answered (see summary, p. 36)

CONCLUSION

Exit permits are not the most widely discussed human rights issue in the territories. Nevertheless even this minor, everyday problem causes many people to suffer. The report paints a general picture of directives that are not published; criteria that are not clear to anyone; and the many misleading and groundless answers which give the impression that the main criterion for granting exit permits is the mood of the individual official at the bridge, the Civil Administration official, and the GSS official handling each particular case. (See p.35 for one of the many unanswered letters sent by the Hotline to the authorities in an attempt to clarify the criteria.) All this indicates a complete disregard for the rights, feelings, honor, time, and money of many people, whose only crime is their desire to leave the area.

This is all unnecessary; it is a result of policy. It is our impression that the main harm done to the populace in connection with exit permits is strongly connected with the authorities' **basic conception that the granting of exit permits is a privilege and not a right.** We call upon the authorities to make a revolutionary change in this approach, in accordance with the human rights declarations Israel has signed and with the demands of the situation.

If leaving the country was considered a right, an all-inclusive directive affecting men from 16/18 to 36/39, which requires them to leave for at least nine months or submit a special

request to leave for a shorter period, would be impossible. This is because a basic right may be denied only if a crime has been committed and there has been a conviction, and then only denied a particular person, and not an entire segment of the population.

If leaving the country was considered a right, the authority that determines whether to prevent someone's departure (i.e., the GSS) would not be so absolute, arbitrary, and inaccessible. The lists sent by the GSS to the bridges include many more people than the GSS itself believes should be prevented from leaving. The demands that applicants stay abroad for a year, two years, three years, or more, and the "offers" to grant exit permits in exchange for collaboration are also a result of **the misuse of this authority** and of the basic conception that this is a privilege that may easily be revoked.

Bureaucratic delay in the processing of applications does not necessarily result from one view or another. But when neglect and failure to process applications such as that described in the report continue for an extended period of time, and when policymakers are aware of the delays and hassles and actually try to conceal them, as the letters from the assistant to the Coordinator of Activities in the Territories and the Defense Minister's office indicate, then this is a **policy of intentional delays.** (See the section "There is nothing preventing the departure of the aforementioned.")

Suggestions for Correcting the Situation

Immediate Steps:

- The regulations governing exit permits will be open and public.
- Cancellation of the all-inclusive directives concerning men from 16/18 to 36/39.
- Cessation of the practice of making departure conditional on a commitment to spend years abroad, which is an attempt to impose "voluntary exile."
- Establishment of a telephone information and control center so that residents of East Jerusalem and the territories may call to find out whether they may leave. The answer would be immediate; the applicant would not be required to go to the offices of the Civil Administration or GSS, nor have to travel to the bridge.
- Establishment of a procedure whereby, in the event of a contradiction between the applicant's permission to leave and a list at the border terminal, the official at the terminal would have to consult by phone with the control center before turning the applicant away empty-handed.
- Cessation of the practice of pressuring applicants to collaborate in order to receive an exit permit.
- Correction of the bureaucratic

failures pointed out in this report, particularly the failure of the Interior Ministry's East Jerusalem office to handle cases, which in fact is collective punishment of young East Jerusalem residents.

Steps to be Taken in the Near Future

- Abolition of the list currently found at the border terminals. Although it would be replaced by a list prepared by the GSS, the new list would be presented for review to a judicial official or officials outside of the defense establishment (a Supreme Court justice, the State Attorney's Office, or a legal committee), who would have the final word. **Before the decision is made, the person liable to be prevented from leaving would have the right to enter an oral or written plea** within a short time. The GSS would have to show that there is a **real danger** (and not just a "reasonable suspicion," as is customary today) that the person would endanger state security by leaving. Only individuals would be forbidden to leave, and the prohibition would be limited to a period not exceeding three months. We recommend to the GSS, on the basis of the report's findings, to greatly limit the number of residents who are forbidden to depart.
- Establishment of a **fast, direct, and efficient review board**. This board, which would be granted the authority to change prior decisions, would eliminate the delays caused

today by the conveying of requests and answers through intermediaries. It would give specific explanations for its decisions, and a judicial official would be a member of it.

- Establishment of a channel for **immediate appeals in urgent cases** within this review board.
- Participation of an **independent**

medical commission in decisionmaking in medical cases.

- Assurance that **East Jerusalem residents, will also benefit from all improvements made in this realm**, since their situation concerning exit permits is very similar to that of residents of the territories (despite the differences in legal status).

APPENDIX 1: COMMENTS ON WORK METHODS IN THE REPORT

We wish to note that the applicants gave information about their cases only in order to improve their situation, not as data for any report.

The report includes all information that reached the Hotline before April 15, 1992 (except for two petitions heard by the High Court after this date). It is possible, therefore, that the status of some of the applications has changed in the meantime, but such a change would not be statistically significant (progress in those cases that are still open is especially slow).

In the report we have been careful not to reveal identifying information about those who appealed to the Hotline. The file numbers in the report are not the numbers used in correspondence with

outside officials, but are part of an internal numbering system. This is in accordance with the Hotline's policy of not revealing information about an applicant, except during handling of his or her case.

Each section of the report has a number of examples. The examples do not represent all the cases in each category in a precise quantitative manner. Nevertheless, we attempted to give examples of each type of problem, and to emphasize the various difficulties arising from the requests and the methods of handling them.

We are hopeful that the use made in the report of the cases of the 152 applicants will be helpful to them and to others who encounter similar problems in the future.

APPENDIX 2: RESPONSES OF GOVERNMENT MINISTRIES

In early August a draft of this report was sent to four government offices for their reaction. Unfortunately, by the time the report was completed in early September, the Hotline had not received a single substantive response, that is, one that addresses the problems raised in the report:

1. The **Interior Ministry** spokesperson was on vacation, and there was no acting spokesperson to respond in her absence.
2. In a telephone conversation on August 20, the spokesperson of the **Prime Minister's Office** had trouble understanding the connection between his Ministry and the report (the connection is that the Prime Minister's Office is responsible for the GSS). No written response has been received from the Prime Minister's Office.
3. The assistant **Attorney General** sent a letter stating that since the matter was pending before the High Court, he would not respond to the report before the hearing. (This was a reference to the two petitions in which an order nisi was issued, which deal with the minimum requirement on time spent abroad, and are mentioned in the section on this topic.) After a phone call and a letter, in which we made it clear that most of the issues in the report have nothing to do with the matter being discussed in the High Court, a second answer arrived stating that these matters would be checked. By the time the report was completed, no further reaction had been received.
4. The assistant to the **Coordinator of Activities in the Territories**, basing himself on the first letter from the assistant to the Attorney General, stated that he could not respond.