



Investigation of criminal offenses by IDF soldiers against Palestinians and their property Indictments, 2000-2007

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Background

This data sheet, the third in a series, is published as part of a Yesh Din project aimed to increase the transparency of IDF law enforcement procedures upon soldiers suspected of committing crimes in the occupied territories against Palestinian civilians and their property. As part of the project, Yesh Din works to expose data and other information relating to investigation and prosecution procedures conducted following incidents in which security forces personnel are suspected of committing crimes against Palestinian civilians. This information, for the most part, has not been exposed in the past and in some instances was not even gathered by the public authorities charged with enforcing the law. The three datasheets published by Yesh Din to date, along with other documents to be published in the coming months, are intended to make this information public in order to allow the public to determine whether, or to what extent, the IDF is fulfilling its obligation to protect the civilian population that is not engaged in combat. This obligation is anchored in the international Laws of Belligerent Occupation, a branch of the International Humanitarian Law, and in International Human Rights Law.

Opening investigation files and filing indictments

Between the start of the second intifada on September 29, 2000 and the end of 2007, the Military Police Criminal Investigation Division (MPCID) opened 1,246 investigation files concerning various offences committed by IDF soldiers against Palestinian civilians — offences connected with firing incidents (those leading to death or injury and those causing no bodily injury), violence and abuse, property crimes (primarily looting and theft), and others. Of these 1,246 files, only 76—about six percent—have translated into indictments served against one or more soldiers.¹

¹ This figure is based on an examination of indictments filed by the Military Advocate General (MAG), based on investigation files opened between September 2000 and the end of 2007. We note here that a previous Yesh Din data sheet (No. 1, of December 2007) was based on misleading information provided to Yesh Din by the IDF spokesperson: In response to the organization's request, the IDF spokesperson sent Yesh Din a table listing the investigation files opened alongside the number of **accused**, which was described as the number of **indictments**. Since some of the investigation files resulted in indictments against several accused parties, the result was a misrepresentation stating that about 10 percent of all investigation files had resulted in indictments being served. The actual figure, **six percent**, is reported here based on Yesh Din's examination of the indictments themselves.

Investigation files opened by the MPCID and indictments served as a result, 2000-2007²

Year	Investigation files opened by MPCID	Indictments served based on investigation files	
		Number of files leading to indictments	Percentage of all investigation files
2000 ³	16	1	6%
2001	82	7	9%
2002	155	24	15%
2003	146	14	10%
2004	189	12	6%
2005	155	5	3%
2006	152	8	5%
2007	351	5	1%
Total	1,246	76	6%

Convictions, acquittals, and cancelled indictments

Based on the 76 investigations launched between the start of the second intifada and the end of 2007, 132 soldiers were indicted:

- 110 of those indicted were convicted of various offences.
- Four of those indicted were acquitted upon completion of the legal process.
- Indictments against eight persons were cancelled.
- Procedures against ten persons are still in progress.

The opening of investigation files following commander reports to MPCID

Section 62 of General Staff Order 33.0304 on MPCID inquiries and investigations requires that when there is suspicion that one of the crimes specified in this section (including abuse, looting, illegal use of weapons, and any violation of the penal code that has no parallel in military justice law) has been committed, information about it must be transmitted to the MPCID for investigation, for its inquiry.

However, the data transmitted to Yesh Din by the IDF spokesperson indicate that very few investigation files were opened by the MPCID after it received information from unit commanders or other sources in military units:⁴ of 152 investigations launched by the MPCID in 2006 on

² Source for 2000-2002 investigation data: Hanan Greenberg, [IDF 2004: Leap in number of crimes in the Occupied Territories](#), *Ynet*, January 10, 2005. Source for 2003-2007 investigation data: April 15, 2008 response by the IDF spokesperson to a Yesh Din request. Source for data on the number of indictments filed: Indictments and judgments sent to Yesh Din by the IDF spokesperson. This data does not include investigation files opened and indictments filed in 2008. The data indicate indictments filed based on all investigation files opened in the years reported (whether or not indictments followed).

³ After September 29, 2000.

⁴ Distinction should be made between information communicated to MPCID directly from commanders in military units and communications made by MAG HQ. The latter is normally a result of inquiries to MAG HQ from human rights NGO, diplomatic missions and others. MAG HQ also directs MPCID, in certain cases, to launch investigations after reviewing

suspicion of crimes committed by IDF soldiers against Palestinians and their property, only 14 (nine percent) stemmed from investigation files launched following reports to the MPCID from military units. In 2007, 26 such reports were received by the MPCID, but given the fact that 351 investigation files were opened that year, these reports accounted for only seven percent of all investigations launched.⁵

Only eight percent of the investigations launched in 2006 and 2007, therefore, resulted from reports by commanders or other sources in military units.

Conclusion

There is a wide gap between the number of investigation files opened by the MPCID and the number of indictments filed on the basis of those files by the Military Advocate General (MAG). As mentioned only six percent of the investigation files led to indictments. In this context, the IDF spokesperson noted that "investigation files are examined in a professional and thorough manner by the Military Advocate General, in accordance with criteria set by law—that is, does the evidence indicate that a crime was committed, and does it provide a sound basis for indictment. Respectively, indictments are filed..."⁶

There is no disagreement over the IDF spokesperson's explanation. Nevertheless, the IDF spokesperson's responses to questions posed by Yesh Din indicate that neither the MAG nor the MPCID gathers data on the grounds on which investigations files were closed with no indictment.⁷ There is no way of knowing, therefore, how many investigation files were closed because the evidence showed that no crime had been committed, and how many were closed because of the failure of MPCID investigators to identify suspects of the crimes and gather sufficient evidence to bring them to justice. Since this data is not collected, it is not clear how investigation failures are corrected, if at all.

Another issue requiring systemic attention is the low number of investigation files launched after information is sent to the MPCID by military units. The Central Command, backed by the MAG and head of the MPCID, must, with determination and urgency, ensure that unit commanders stationed in the occupied territories fully realize their obligation to report to the MPCID any suspected criminal activity by soldiers against Palestinian citizens and their property.

"operational debriefings" provided to MAG by field commanders. In any event, this track of communications does not replace the military commanders' duty to report suspected criminal offences against Palestinian civilians directly to MPCID, as stated at aforementioned General Staff Order.

⁵ April 15, 2008 response by the IDF spokesperson to a request by Yesh Din.

⁶ Ibid.

⁷ January 9, 2008 response by the IDF spokesperson to questions by Yesh Din; February 26, 2008 response by the IDF spokesperson to questions by Yesh Din.