



Data Sheet, July 2013

MPCID Investigations into the Circumstances surrounding the Death of Palestinians: Convictions and Penalties

According to B'Tselem's statistics some 5,000 Palestinians, including approximately 1,000 minors under the age of 18, have been killed to date by the Israeli security forces in the Occupied Territories since the beginning of the second intifada in September 2000.¹ Many of these Palestinians were killed in circumstances that are considered lawful in accordance with the international law concerning armed conflict. Many others, however, were killed in circumstances that raise suspicion of criminal acts. Due to the policy that was implemented following the beginning of the second intifada and until recently, the Military Police Criminal Investigation Department (MPCID) only opened investigations into a minority of cases in which Palestinians were killed by soldiers.² The figures published in this data sheet show that indictments have only been served in a handful of investigation files relating to the circumstances surrounding the death of Palestinians. The number of instances in which IDF soldiers have been convicted since 2000 of responsibility for the death of Palestinians in the Occupied Territories is infinitesimal.³

1 For the full statistics, see the B'Tselem website: <http://www.btselem.org/english/statistics>

2 For a review of the changes in the investigation policy, see the ruling in HCJ 9594/03 *B'Tselem et al. v Military Advocate General* (unpublished): <http://elyon1.court.gov.il/files/03/940/095/n22/03095940.n22.htm>. See also Chapter Two of Yesh Din's report *Exceptions: Prosecution of IDF Soldiers during and after the Second Intifada, 2000-2007* (December 2008) (hereinafter: "Exceptions;") Yesh Din, *The Duty to Investigate* (April 2011), 6-23.

3 For a review of the recurrent, and in some cases structural, failings in MPCID investigations concerning offenses against Palestinians, see Yesh Din's report *Alleged Investigation: The Failure of Investigations into Offenses Committed by IDF Soldiers against Palestinians* (December 2011).

Statistics on MPCID Investigations concerning the Death of Palestinians

According to figures forwarded to Yesh Din by the IDF Spokesperson, during the period 2003-2012 the MPCID opened **over 179** criminal investigations concerning suspicion of the unlawful killing of Palestinian civilians by IDF soldiers.⁴

Year	Investigation files concerning the death of Palestinians	Of which files yielding indictments
2013	-	1
2012	15	0
2011	9	0
2010	IDF Spokesperson refused to provide statistics	1
2009	11	0
2008	17	0
2007	54	0
2006	19	1
2005	15	0
2004	22	2
2003	17	3
2002	Unknown	2
2001	Unknown	2
2000	Unknown	0

Filing of Indictments following MPCID Investigation Files concerning the Death of Palestinians

Only 16 investigation files opened from September 2000 through mid-2013 regarding incidents in which Palestinians civilians were killed led to indictments. In these indictments, a total of **21 soldiers** were accused of offenses relating to the death of **18** Palestinian civilians and **one** foreign citizen in the Occupied Territories. Some of the defendants were accused of offenses relating to the obstruction of justice rather than to the incident itself.

4 The figures presented in this data sheet relate solely to MPCID investigations and to IDF soldiers who were prosecuted. The statistic for the filing of indictments in 2013 relates to the period through June. The number of investigations opened in 2013 concerning instances of death is unknown. The IDF Spokesperson refused to reveal the number of investigation files opened in 2010 concerning the death of Palestinians. We also do not have figures for the period 2000-2002. It should be clarified that these figures relate to MPCID investigations and to the prosecution of IDF soldiers following MPCID investigations. They do not include investigations by the Israel Police or by the Department of Police Investigations concerning suspicions against police personnel or members of other security forces.

* One of the letters of indictment was submitted regarding the killing of a Palestinian woman in a road accident (see details below in this datasheet). Although Yesh Din generally examines investigation files and indictments relating to the suspected violation of the rules of law and/or abuse of the power invested in soldiers toward the occupied population, and this case does not at first glance fall under this category, we decided to include the case in this datasheet in order to offer a broader picture of the manner in which the army responds to incidents in which it is suspected that the death of Palestinians was caused by the actions of IDF soldiers.

Conviction of Soldiers following the Death of Palestinians in the Territories since September 2000

Legal proceedings have already been completed in all the cases in which indictments were filed following the killing of Palestinians since the beginning of the intifada. The military courts have convicted **seven** soldiers of offenses relating to the death of just **six** civilians: five Palestinians and one British citizen. **Two** additional soldiers were convicted in these proceedings of offenses relating to the attempted obstruction of justice.

- Captain Zvi Koretzky was convicted of **negligent manslaughter** after shooting caused the death of Muhammad Zaid, 16, in October 2002. Koretzky was sentenced to two months' imprisonment, four months' military works, a six month suspended sentence, and demotion by one rank to the rank of lieutenant.⁵
- Sergeant Taysir Heib was convicted of **manslaughter** for the killing of the British citizen Thomas Hurndall in Rafah in April 2003. Sergeant Heib was sentenced to eight years' imprisonment, a three year suspended sentence, and demotion to the rank of private.⁶ Another soldier, Sergeant Imad Atwaneh, was convicted of providing false information and demoted by one rank to the rank of lieutenant.⁷
- Two officers, Second Lieutenant Zvi Winik and Second Lieutenant Dor Glazer, were both convicted of **negligence** following the death of the infant Mahmud Jawadat, who was injured by gunfire while traveling in a vehicle in the Barta'a area in July 2003. Second Lieutenant Winik was sentenced (after appeal) to one month's military works and a four month suspended sentence; Second Lieutenant Glazer was sentenced to 30 days' imprisonment and a four month suspended sentence.⁸
- Sergeant A.H. was convicted of **negligent manslaughter** due to the killing of a Palestinian woman and the injuring of six others in a road accident on Road No. 60 in 2006. Sergeant A.H. was sentenced to six months' imprisonment with military works; a four month suspended sentence; disqualification of his military and civilian driving licenses for five years; three years' suspended disqualification; and demotion to the rank of private.⁹
- Staff Sergeant D.G.A. was convicted of **negligent manslaughter** (as well as offenses of providing false information and unbecoming conduct) relating to the death of

5 GFC/135/03.

6 Heib was also convicted on two counts of obstruction of justice, providing false information, soliciting others to provide false information, and unbecoming conduct (South/10/04 and Appeal Ruling A/96/05).

7 South/7/04.

8 North/186/04 and Appeal Ruling A/59/05.

9 Sergeant A.H. was also convicted of offenses of rash and negligent behavior, failure to meet the obligation of a passerby, and failure to observe binding army orders. Center/185/07.

Nabil Jaradat, 47, in the village of Yamun in July 2008. He was sentenced to four and a half months' imprisonment, a suspended sentence of the same length, and demotion to the rank of private. Another soldier, Staff Sergeant R.A., was convicted of providing false information and unbecoming conduct in this incident.¹⁰

- Staff Sergeant M.M. was convicted of **negligent manslaughter** for his part in the killing of Udai Darwish, who was shot and injured in January 2013 while attempting to cross an opening in the separation barrier on his way to work in Israel. Staff Sergeant M.M. was sentenced to seven months' imprisonment, a five month suspended sentence, and demotion by one rank to the rank of sergeant.¹¹

Of the other defendants, one was convicted of all the offenses of which he was charged.¹² In another case, the indictment filed against a defendant accused of negligent manslaughter was cancelled.¹³

The remaining defendants prosecuted for their part in the incidents in which Palestinians were killed were convicted of various offenses, including the explicit or implicit mention that the conviction does not relate to the death of any person, since the military prosecution failed to prove a causal relationship between the offenses and the killing of civilians.¹⁴

10 North/450/04; North/451/05, and Appeal Ruling A/154/04 in the appeal by Staff Sergeant R.A.

11 HFC/37/13. See also Gili Cohen, "IDF Soldier Convicted of Negligent Manslaughter of Palestinian." *Ha'aretz*, 18 March 2013; Gili Cohen, "Seven Month Sentence for Soldier Whose Negligence Caused Death of Palestinian Present Unlawfully in Israel." *Ha'aretz*, 16 June 2013.

12 Sergeant A.A. was accused of grievous assault and the unlawful use of firearms. He was prosecuted following an incident in which Said Abu Safra, 35, was killed. According to the indictment, the defendant shot and hit a person who was present on the site and who was seen falling to the ground. In its ruling, the military court ruled, inter alia, that "the prosecution has failed to present us with admissible evidence capable of proving what happened to this Palestinian man, and has failed to prove a connection between the shooting undertaken by the defendant and the said Palestinian" (South/231/04; see also *Exceptions*, 3-52).

13 Center/445/01. The defendant, Sergeant A.B. was accused of the negligent manslaughter of Fatima Jamil Abu Jish, 24, who was killed in January 2001 by shots fired at the vehicle in which she was traveling in the Beit Furiq area (Center/445/01; see also *Exceptions*, 4-43).

14 Thus, for example, a tank commander was acquitted of the negligent manslaughter of Mahmud al-Talalqa, 7, and was instead convicted of negligence, after the military court established that "it is not possible to establish a causal relationship between the defendant's conduct and the outcome" (North/497/03. See also *Exceptions*, 6-45). In the case of two officers who were initially accused of offenses relating to the killing of four Palestinians (three of whom were children) and the injuring of five as the result of tank mortar and machine gun fire in the city of Jenin, the parties reached a plea bargain in which the indictment was amended so as not to attribute to the defendants liability for killing or injuring the victims (Center/3/04; see also *Exceptions*, 7-46). An officer convicted of the negligent manslaughter of Arafat Ibrahim Ya'aqub, 31, was acquitted of these offenses and instead convicted of offenses of the unlawful use of weapons, since the prosecution failed to prove a relationship between the shooting and the death of the deceased (North/221/06; see also *Exceptions*, 53). Additional cases in which defendants who were initially accused of offenses relating to the death of civilians in the Occupied Territories were ultimately convicted of various offenses without implicating them in the death of the civilians are: Center/229/02 (and Appeal Ruling A/191/03; see *Exceptions*, 5-44); both defendants in South/270/03 (see also *Exceptions*, 9-48); the defendant in Center/186/04 (for details of the circumstances of this incident, see *Exceptions*, 49); the defendant in Staff/816/10.