DATA SHEET, FEBRUARY 2010

IDF Investigations of IDF offenses against Palestinians:
figures for 2000-2009

Background

The report "Exceptions: prosecution of IDF soldiers during and after the second Intifada, 2000-2007" (hereinafter: "Exceptions"), published by Yesh Din at the end of 2008, provided complete data about the success and failure rate of the Military Police Criminal Investigations Division (MPCID) investigations into suspicions that IDF soldiers and commanders committed criminal offenses against Palestinian civilians and their property in the occupied territories.

The findings of the report, which relied on figures provided to Yesh Din by the IDF about the opening of investigations, and an examination of all of the indictments filed at the military Courts-Martial and judgments given there during the period in question (copies of which the IDF provided to Yesh Din after a prolonged procedure), showed that only a fraction of the investigations opened in the relevant period produced evidence that allowed indictments to be served against the soldiers. The figures in the report showed that during more than seven years 1,246 investigation files were opened, but only 76 of them produced indictments. That is, only 6% of the criminal investigations opened from the beginning of the second intifada until the end of 2007 culminated in the investigators’ success in assembling sufficient evidence to serve indictments against the soldiers and officers suspected of committing criminal offenses against Palestinians.

This datasheet updates the figures published in "Exceptions." The datasheet provides up-to-date data about the investigations since the beginning of the second intifada, including data on the results of the investigation files that opened in the years 2008 and 2009. As we will show below, the figures showed that even after publishing the serious data about the failure rate of the military legal system to protect the population of the occupied territories from crimes committed by members of the security forces, as required by the provisions both of international and Israeli law, there doesn’t seem to have been any improvement in the rate of investigations that produce sufficient evidence to serve indictments against suspects.
Investigations and indictments, 2000-2009

Official figures collected by Yesh Din, as well as the organization’s monitoring of indictments submitted and their results, show that from the beginning of the second intifada until the end of 2009, 1805 criminal investigations were opened by the MPCID on suspicions that soldiers committed offenses against Palestinian civilians and their property. These investigations deal with suspicions of serious criminal offenses of different kinds: Unlawful shooting, some of which caused the killing and injury of civilians (see below), violent assaults on Palestinians, looting and property damage, taking bribes and other offenses.

By the end of 2009, 105 of the aforementioned 1805 investigation files led to indictments being served against suspects. In other words, in only 5.8% of the investigation files did the MPCID investigators manage to find sufficient evidence to serve indictments against one or more defendants. This figure on the rate of failed MPCID investigations is identical to the level of failed investigations we found in the figures published in “Exceptions,” which dealt with investigation files opened by the end of 2007.

Opening investigations and submitting indictments from the beginning of the second intifada until the end of 2009

<table>
<thead>
<tr>
<th>Year</th>
<th>Investigations opened by MPCID</th>
<th>Indictments served following the investigations</th>
<th>Investigation files that produced indictments</th>
<th>As percentage of investigations</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>236</td>
<td>4</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>323</td>
<td>19</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>2007</td>
<td>351</td>
<td>10</td>
<td>3%</td>
<td></td>
</tr>
<tr>
<td>2006</td>
<td>152</td>
<td>8</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>2005</td>
<td>155</td>
<td>5</td>
<td>3%</td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>189</td>
<td>12</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>2003</td>
<td>146</td>
<td>16</td>
<td>11%</td>
<td></td>
</tr>
<tr>
<td>2002</td>
<td>155</td>
<td>23</td>
<td>15%</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>82</td>
<td>7</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>2000 (from September 29)</td>
<td>16</td>
<td>1</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1805</strong></td>
<td><strong>105</strong></td>
<td><strong>6%</strong></td>
<td></td>
</tr>
</tbody>
</table>

Figures for 2008-2009

About 30% of the total investigation files in the period in question were opened in the last two years: 559 investigations out of 1805. Despite the establishment in October 2007 of the Office of the Military Advocate for Operational Affairs, which according to the IDF was intended to “concentrate treatment of complaints and investigations into the behavior of IDF soldiers towards [Palestinian] residents and improve the enforcement and treatment of those matters,” no increase has been seen so far in the rate of investigation files that are ultimately translated into indictments. Only 23 of the investigation files opened in the last two years produced indictments against defendants: that is 4%.5
Convictions, acquittals and cancellation of indictments

Since the outbreak of the second intifada, the Military Advocate General Corps filed 105 indictments against 180 defendants. Proceedings regarding 5 defendants are still underway, and Yesh Din has details of the outcome of the legal proceedings regarding 161 defendants.6

The proceedings regarding the 161 defendants in the following manner:

- 143 defendants were convicted of various offenses, many of them as part of plea bargains that reduced the crimes they were charged with and mitigated their punishments.7 These are 89% of the defendants that Yesh Din has details of the outcome of their trials.
- Eight defendants (5%) were acquitted of all charges.
- The indictments against 10 (6%) other defendants were dropped by the prosecution after they were served.

Conviction of soldiers involved in the death of civilians

According to figures published by the government of Israel, in the years 2002-2008 the MPCID opened 162 criminal investigations into suspicions that Palestinian civilians were killed by IDF soldiers. Those 162 cases are 11% of the total investigations opened by the MPCID in the said period regarding soldier offenses against Palestinians.8

In "Exceptions" we presented the results of the investigations into the killing of Palestinians: only 13 investigation files opened since September 2000 into events in which Palestinian civilians were killed led to indictments against 18 soldiers charged with offenses related to the death of 16 Palestinian and foreign civilians in the occupied territories.9

The figures that we published in our report "Exceptions" are still true today, more than a year later. From the beginning of the second intifada until the end of 2009, Courts-Martial convicted soldiers of offenses connected with the deaths of only four civilians: three Palestinians and one British national. One soldier was convicted of manslaughter, and he was the only one convicted of an offense of causing death. Four other soldiers were convicted of offenses of negligence.

1. The figures on indictments served in 2007, presented in “Exceptions,” relied on information the IDF provided Yesh Din by the end of writing the report in September 2008. After the report was published, the IDF provided Yesh Din with additional indictments served on the basis of four investigation files. The data detailed in the table below updates the 2007 figures we published before: the rate of investigations that produced indictments in 2007 rose from 2% to 3%.

2. Of course, not every investigation file that closes without serving an indictment means the investigation was a failure. However, the answers the IDF spokesperson gave to questions addressed to it by Yesh Din indicate that neither the MPCID nor the military prosecution collect data about the reasons for the closure of investigation files. Therefore, it is impossible to know how many of the investigation s closed because the investigation mate-
rials showed that no criminal offense had been committed at all, and how many investigation files were closed because the investigators failed to find the suspected perpetrators and to collect sufficient evidence to prosecute them. Yesh Din’s close monitoring of many dozens of MPCID investigation files shows that the vast majority of investigation files closed because of insufficient evidence to prosecute.

3. The figures denote the indictments submitted on the basis of the investigation files that were actually opened in each of the specified years (even if the indictment was served after that year). The source for the investigation data from 2009: State of Israel, Gaza Operation Investigations: an Update. January 2010. p.19, para. 68; the source for the investigation data from 2008: State of Israel, The Operation in Gaza: Factual and Legal Aspects. July 2009. p. 110, para. 295; the source for the investigation data for the years 2003-2007: the IDF spokesperson’s answer to Yesh Din’s inquiry, April 15, 2008; the source of the investigation data for 2000-2002: Hanan Greenberg, IDF 2004: A Leap in the Number of Crimes in the Territories, Ynet, January 10, 2005. The source of the data on indictments served: indictments and judgments the IDF spokesperson provided to Yesh Din.

4. Ynet reporter, 6% of MPCID investigations in the territories end with indictments, Ynet, November 26, 2008. The quote comes from the response of the IDF spokesperson quoted in the story. On failures in the functioning of the Operational Affairs Squad, see: Yesh Din, Investigating IDF Offenses Against Palestinians: Yesh Din’s Monitoring of MAOA Squad (Data sheet, October 2009).

5. Further indictments concerning some of the investigation files opened in 2009 can be expected to be submitted during 2010, but as illustrated by the table, even if we ignore the figures for 2009, the rate of investigations that produced indictments in 2008 remained almost identical to the perennial average: an only 6.44% success rate. Also, regarding the 2009 figures: a report published by the government of Israel in January 2010 (Gaza Operation Investigations: an Update, see footnote 3 above) said that in 2009 indictments were served against 4 defendants. Copies of the indictments in our possession show that four of the aforementioned indictments were served following investigation files that opened in 2009, whereas the rest were served on the basis of investigation files that were opened in 2008.

6. The trials of 10 other defendants are concluded, but details of the judgments were not yet provided to Yesh Din. The current status of proceedings of 4 more defendants is not known to Yesh Din.

7. On this issue, see Exceptions, pp. 30-32.


9. Exceptions, pp. 19-20. See therein complete data about the results of the indictments served in connection with the involvement of IDF soldiers in the deaths of Palestinian and foreign civilians in the occupied territories.