



Data Sheet, January 2013

Law Enforcement upon IDF Soldiers in the Territories

Figures for 2012

A

240 complaints submitted, 103 investigations opened – one indictment served

In 2012, 240 complaints and other reports (“notifications”) were submitted to the Military Police Criminal Investigations Division (MPCID) regarding suspected criminal offenses allegedly committed against Palestinians and their property in the West Bank and Gaza Strip by IDF soldiers.¹ This figure is five percent lower than that for 2011, when 252 notifications were submitted to the MPCID.

The MPCID opened a criminal investigation in 78 of the 240 notifications it received in 2012.² The MPCID also opened 25 investigation files in 2012 relating to notifications submitted in 2011. In total, the MPCID opened 103 criminal investigations over the course of the year.

While the number of notifications was only slightly smaller in 2012 than in 2011, a sharper fall can be seen in the number of criminal investigations opened. In 2011, criminal investigations were opened following approximately 60 percent of the notifications received (this figure is consistent with the long-term ratio of investigations to notifications).³ In 2012, by contrast, the number of investigations opened is only

1 The source of the data presented in this data sheet regarding notifications submitted and investigations opened in 2012 is information forwarded to Yesh Din by the IDF Spokesperson in a letter dated January 23, 2013. The information was provided at Yesh Din’s request. The source of the data regarding indictments and rulings is Yesh Din’s own research, based on copies of indictment sheets and rulings forwarded to Yesh Din by the IDF Spokesperson at our request.

2 A criminal investigation is not opened following every “notification” received by the MPCID from the victim of an offense or from another body. In some cases, the Military Advocate General’s Corps orders a “clarification” procedure before deciding whether to open a criminal investigation. For further discussion of this policy, see Yesh Din’s Report “Alleged Investigation: The failure of investigations into offenses committed by IDF soldiers against Palestinians” (August 2011) (hereinafter “Alleged Investigation,”) 23-25, 32-44.

3 Yesh Din’s research shows that in the period 2000-2011 criminal investigations were opened following 62 percent of the notifications submitted. See Tables 1 and 2 below.

some 40 percent of the number of notifications submitted.⁴

Of the investigations opened in 2012, 15 were opened following the death of Palestinians: six cases in the West Bank and nine in the Gaza Strip. A further 66 investigations were opened following incidents involving violence and injuries (55 in the West Bank and 11 in the Gaza Strip). The remaining files – all relating to incidents in the West Bank – were opened on suspicion of the offenses of looting (one file) and vandalism (five files). A further 16 criminal investigations were opened following what was described in the information provided to Yesh Din as “inappropriate conduct.”⁵

Since there is no MPCID base in the West Bank, Palestinians must almost always requested the assistance of mediating bodies if they wish to complain about a criminal offense allegedly committed by IDF soldiers against their person or property.⁶ Of the 240 notifications submitted to the MPCID in 2012, just six were presented directly by Palestinian civilians. The majority of the notifications were submitted by the complainants through Israeli policemen stationed at the District Coordination Offices in the West Bank and through human rights organizations that contacted the MPCID or the Military Advocate General’s Corps directly.⁷

As of the end of 2012, none of the investigations opened by the MPCID over the course of the year has resulted in the filing of an indictment in the Courts-Martial. The military law enforcement system works slowly, and accordingly it is possible that some of the investigative files opened in 2012 may yield indictments over the coming years.

In 2012, just a single indictment was filed against an IDF soldier accused of injuring a Palestinian; the indictment relates to an investigation opened in 2011. In General Staff District Court-Martial file 255/12, a soldier from the Military Police Corps was accused of abuse and inappropriate conduct. The soldier was accused of kicking and threatening a Palestinian detainee at a military detention facility in November 2010 (part of the assault took place while the detainee was handcuffed). The file was closed and a ruling was granted during 2012.⁸ This was also the only ruling granted in 2012

4 The rate of investigations opened in 2012 relating to notifications submitted in that year is even lower: just 32 percent.

5 It seems unlikely that this term refers to criminal investigations on suspicion of the offense of “inappropriate conduct” as defined in Article 130 of the Military Jurisdiction Law, which serves as a military “catch all” for disciplinary offenses (though these may be heard as a criminal offense in a Court-Martial). Yesh Din has requested further clarification on this matter from the IDF Spokesperson.

6 For a review of the ramifications of this situation on the quality of the investigations, see Alleged Investigation, Chapter 3.

7 See Table 4 below.

8 As of the time of writing, the IDF Spokesperson has not yet forwarded a copy of the ruling to Yesh Din.

relating to offenses against Palestinians.

As of the end of 2012, the Courts-Martial were continuing to hear two cases in which soldiers were accused of injuring Palestinians. In one case, Sergeant E.G. was indicted in 2009 for his part in beating passersby in the Palestinian village of Qaddum.⁹ The Court-Martial of Appeals accepted the defendant's appeal against the ruling and returned the case to the district court. The second case involved Staff Sergeant Y.N. from the Home Front Command's Search and Rescue Unit. In an indictment filed in 2011 relating to an incident in 2008, Y.N. is accused, together with another soldier, of humiliating a 14-year-old Palestinian minor they detained at a checkpoint.¹⁰

B

Since 2000: Only five percent of MPCID investigations lead to indictments

An examination of the full data regarding the number of criminal investigations undertaken by the MPCID in alleged offenses committed by soldiers against Palestinians and their property since the beginning of the second intifada in September 2000 shows that the Military Advocate General's Corp has filed indictments in just five percent of the investigations it has opened: 117 files out of a total of 2,207.¹¹ A total of 196 soldiers and officers were prosecuted within the framework of these indictments

The figures for recent years show a significant fall in the rate of indictment following investigations, by comparison to earlier years. The statistics for 2009-2011 show that 14 of the 534 investigation files opened over these three years resulted in indictment – just 2.62 percent.¹²

9 Court-Martial file in the Central Jurisdiction District 206/09, Military Prosecutor v Sergeant E.G.; Court-Martial of Appeals file A/148/10 Sergeant E.G. v Chief Military Prosecutor.

10 Court-Martial file in the Home Front Command Jurisdiction District 32/11, Military Prosecutor v Staff Sergeant Y.N. Y.N.'s partner was also indicted and convicted in 2011: Court-Martial file in the Home Front Command Jurisdiction District 12/11, Military Prosecutor v Staff Sergeant Y.A.A.

11 If we offset the figures for investigations opened in 2012 (some of which may result in indictments in 2013 or thereafter), the indictment rate is six percent of investigations. Unlike the Israel Police, however, the MPCID and the MAG's Corps do not state the grounds for closure of the file as detailed in Article 62 of the Criminal Law Proceedings Law (Combined Version), 5742-1982. Accordingly, we cannot calculate the proportion of files closed for reasons relating to the failure of the investigation to identify offenders in an offense that was indeed found to have been committed, or the failure of the investigators to collect sufficient evidence for prosecution (the grounds of "insufficient evidence" and "offender unknown;" the latter ground originates not from the Criminal Law Proceedings Law but from the Police Regulations [National Headquarters Regulation 14.01.01 – Processing of a Complaint and an Investigative File]) or for grounds that do not indicate failure on the part of the investigative bodies – the grounds of "absence of criminal culpability" and "absence of public interest." Nevertheless, a comprehensive study undertaken by Yesh Din, in part through an examination of the investigative files themselves, found systemic failures in MPCID investigations into alleged offenses by soldiers against Palestinians and their property. See the Yesh Din report Alleged Investigation.

12 These 14 investigation files in which indictments were served constitute 1.6% of the 864



Statistical Tables

Table 1: Opening of MPCID investigations and subsequent indictments, 2000-2012¹³

Year	Investigation files opened by the MPCID	Investigation files resulting in indictment	
		Total	As percent of files opened
2012	103	0	0%
2011	153	2	1%
2010	145	4	3%
2009	236	8	3%
2008	323	20	6%
2007	351	10	3%
2006	153	9	6%
2005	155	5	3%
2004	189	12	6%
2003	146	16	11%
2002	155	23	15%
2001	82	7	9%
2000	16	1	6%
Total	2,207	117	5%

notifications regarding criminal offenses submitted to the MPCID during the same period.

¹³ The data are presented according to the year in which the investigation file was opened, even if the indictment was filed in a later year. The source of the data regarding the number of investigations opened by the MPCID is a letter dated April 17, 2011 from Captain Tal Bernstein, Assistant to the Chief Military Police Officer, to Attorney Yehoshua Gottlieb, secretary of the Public Commission to Examine the Maritime Incident of 31 May 2010 (the letter may be viewed on the commission's website: <http://www.turkel-committee.gov.il/files/wordocs/9482kamtzar.PDF>) (hereinafter: "the Assistant CMPO's Letter;") the IDF Spokesperson's reply to Yesh Din's letters dated October 5, 2011, April 1, 2012, and January 23, 2013; the source of the data regarding investigation files and indictments: Yesh Din's research based on the indictments and rulings forwarded by the IDF Spokesperson.

Table 2: Criminal investigations as a proportion of notifications submitted to the MPCID, 2000-2012¹⁴

Year	Notifications submitted	Investigation files resulting in indictment	Indictments as percent of notifications
2012	240	0	0.0%
2011	252	2	0.8%
2010	197	4	2.0%
2009	415	8	1.9%
2008	432	20	4.6%
2007	477	10	2.1%
2006	323	9	2.8%
2005	292	5	1.7%
2004	469	12	2.6%
2003	236	16	6.8%
2002	194	23	11.9%
2001	90	7	7.8%
2000	21	1	4.8%
Total	3,638	117	3.2%

Table 3: MPCID investigations by group of offenses, 2003-2012¹⁵

Year	Death	Violence / injury	Property / other	Total
2012	15	66	22	103
2011	9	84	60	153
2010	IDF Spokesperson refused to forward data			145
2009	11	153	72	236
2008	17	218	88	323
2007	54	223	74	351
2006	19	96	37	152
2005	15	109	31	155
2004	22	104	63	189
2003	17	75	54	146

14 The source of the data regarding the number of notifications submitted to the MPCID: the Assistant CMPO's Letter; IDF Spokesperson's reply to Yesh Din's letters dated October 5, 2011, April 1, 2012, and January 23, 2013; the source of the data regarding investigation files and indictments: Yesh Din's research based on the indictments and rulings forwarded by the IDF Spokesperson.

15 Source of data: the IDF Spokesperson's replies dated January 9, 2008, April 26, 2010, April 4, 2012, and January 23, 2013 to Yesh Din's letters. The IDF Spokesperson refused to provide data regarding the division into the types of offenses for 2010 (letter dated March 10, 2011). The division into the categories shown here (death, violence [including injury], and property [including looting]) is that used by the IDF Spokesperson. The figures for 2012 include 16 files defined as "inappropriate conduct" in the property offenses category. Yesh Din has asked the IDF Spokesperson to clarify this sub-category.

Table 4: Notifications submitted and investigations opened, by body submitting notification to the MPCID, 2012¹⁶

Body submitting notification to the MPCID	Investigations Notifications	Investigations
Palestinian civilian	6	2
Military units	4	2
Israel Police	45	7
Human rights organizations	42	18
Military Advocate General's Corps	90	33
ICRC	8	8
Palestinian Police	1	1
Detention facility	36	2
Ombudsman for Interrogees' Complaints (ISA)	1	0
Press	3	3
Attorney	2	1
Israeli civilian	1	1
Animal rights organization	1	0
Total	240	78

16

Source of data: The IDF Spokesperson's reply dated January 23, 2013 to Yesh Din's letter.