יש דין
Yesh Din يش دين
Volunteers for Human Rights

Exceptions

Prosecution of IDF soldiers
during and after the Second Intifada, 2000-2007

September 2008

Research and writing: Lior Yavne

Editor: Michael Sfard, Attorney
Assistant Editor: Natalie Rosen, Attorney

English Translation: Shoshana London Sappir
English Editing: Emily Schaeffer

The Board: Shulamit Aloni, Michael Ben Yair, Shlomo Gazit, Rut Dayan, Michal Smoira-Cohn, Shlomo Lahat, Paul Kedar, Yair Rotlevy

Yesh Din Volunteers: Hanna Aviram, Yehudit Elkana, Rachel Afek, Maya Bailey, Ruth Ben Shaul, Hanna Barag, Dina Goor, Tami Gross, Nadav Greenberg, Mooky Dagan, Corin Degani, Avner Harari, Tair Zvulun, Rohaleh Hayut, Judy Lotz, Aryeh Magal, Menucha Moravitz, Prof. Joseph Morin, Racheli Merhav, Avichai Stolar, Anat Sela, Niva Inbar, Eran Ereli, Yvonne Fatal, Rina Plesser, Mark Chais, Ruth Kedar, Edna Kaldor, Maya Rothschild, Dr. Nura Resh, Hadas Shintel, Ilana Meki Shapiro, Dr. Tzvia Shapira

General Director: Roi Maor
Volunteer Coordinator: Yudit Avi Dor
Palestinian Field Contacts and Coordinators: Azmi Bdeir, Muhannad Anati, Atty. Mohammad Shuqier
Coordinator of Land Project: Dror Etkes

Legal Counsel: Michael Sfard, Law Office
Strategic Consulting, Information Systems, Research, Press and Government Relations: Ben Or Consulting Ltd.

Yesh Din's activity in 2008 was made possible thanks to the support of the Dutch Government, the European Union, the New Israel Fund, the Moriah Fund, the Mark Rich Foundation, the Naomi and Nehemiah Cohen Foundation, Irish Aid, Oxfam Novib, the German Federal Foreign Office and the Institute of Foreign Cultural Relations, the Foundation Open Society Institute, the Foreign and Commonwealth Office – United Kingdom, and private donors.

This report has been produced with the financial assistance of the European Union. The contents of this report are the sole responsibility of Yesh Din and can under no circumstances be regarded as reflecting the position of the European Union.

Yesh Din – Volunteers for Human Rights
11 Rothschild Blvd
Tel Aviv, 66881
Telefax: 03-516-8563
info@yesh-din.org
www.yesh-din.org

Table of Contents

SUMMARY **7**

INTRODUCTION **10**

PART ONE **14**

CHAPTER 1: COMPLAINTS, NOTICES AND MPCID INVESTIGATIONS **15**

NOTICES 15
Who notifies the MPCID? 15
Commanders' reports to the MPCID of suspected crimes by their subordinates 16
OPENING INVESTIGATION FILES AND SERVING INDICTMENTS 17

CHAPTER 2: INVESTIGATION AND CONVICTION IN SHOOTING INCIDENTS **19**

INVESTIGATION OF SHOOTING INCIDENTS AND THE CONVICTION OF SOLDIERS FOR KILLING CIVILIANS 19
THE ROLE OF THE OPERATIONAL DEBRIEFING IN THE DECISION TO OPEN AN INVESTIGATION 21
THE CREDIBILITY OF THE FINDINGS OF THE OPERATIONAL DEBRIEFING 24

CHAPTER 3: THE INVESTIGATION OF CRIMES IN THE OT: "LIKE SCORING A GOAL FROM YOUR PENALTY BOX" **26**

CRITIQUE BY THE COURTS-MARTIAL OF MPCID INVESTIGATIONS 27
PAYING COMPENSATION TO PALESTINIAN VICTIMS: THE INHERENT CONFLICT OF INTERESTS IN MPCID INVESTIGATIONS 29

CHAPTER 4: THE CONVICTION AND SENTENCING OF DEFENDANTS **33**

CONVICTIONS AND ACQUITTALS 33
PLEA BARGAINS AND THEIR RESULTS 34
LEVEL OF SENTENCING ACCORDING TO CHARGES 36
Shooting and violence offenses 37
Property and looting offenses 41
"Basket offenses" 43
INVOLVED PARTIES WHO WERE NOT PROSECUTED 46

PART TWO **48**

CHAPTER 1: SHOOTING INCIDENTS **49**

KILLING INCIDENTS 49
January 7, 2001: the killing of Fatma Abu Jeesh, age 24 49
August 19, 2001, Nablus area: the killing of Muein Abu Lawi, age 38 50
March 1, 2002: the killing of Mahmoud Hassan Ahmad A-Talalkah, 7 51
June 21, 2002: the killing of Jamil Yousef Ghazawi, age 6, Sujud Ahmad Turki Shawahnah, age 8, Ahmad Yousef Ghazawi, age 9 and Hilal Shita, age 60, and the wounding of five others 53
October 4, 2002: the killing of Mohamed Ali Najeeb Saeed Zeid, 16 54
December 3, 2002: the killing of Fatma Obeidi, age 95, and the wounding of another woman by shooting at the van in which they were traveling 55

March 4, 2003: the killing of Abdullah Abu al-Ashhab, age 75 56
April 11, 2003: the killing of Thomas Hurndall, age 24 57
June 8, 2003: the killing of Nabil Ahmad Yousef Jaradat, age 47 58
July 25, 2003: the killing of Mahmoud Jawdat Sharif Kabha, age 3 59
November 28, 2003: the killing of Sayed Abu Safra, a Palestinian intelligence officer, in the northern Gaza Strip 60
June 5, 2004: the killing of Arafat Yacoub in the Qalandiya refugee camp 61
INJURY INCIDENTS 62
October 13, 2000: the injury of Ibrahim Abu Turki, age 38 62
March 1, 2003: the injury of three Palestinians by gunfire at a checkpoint between the village of Sara and Nablus 63
July 25, 2004: the injury by gunshot and beating of the student Mohammed Kanaan at the Beit Iba Checkpoint 64
December 19, 2005: the injury of a boy in the head by gunfire next to the village of Tuqu' 65
July 26, 2007: the abduction of a taxi driver and injury of a Palestinian resident of the town of Dahariya 65
OTHER SHOOTING CASES 67
September 13, 2001: shooting at vehicles at a checkpoint under Highway 443 67
October 3, 2001: shooting at a Jeep in which a foreign press photographer was sitting 68
March 16, 2002: shooting the ground next to a detained suspect in the village of Silwad 69
October 19, 2003: shooting an unarmed Palestinian while he was fixing an antenna on the roof of a house in Rafah 70
October 5, 2004: the performance of a "confirmation of killing" on the body of Iman al-Hams, age 13 71
March 31, 2006: shooting into the air during confrontations between settlers and Palestinians and Israelis 72

CHAPTER 2: ABUSE AND VIOLENCE 73

May 28, 2001: the beating of Mustafa Alayan at the Bethlehem Checkpoint 73
July 21, 2001: the abuse of taxi passengers by soldiers of the "Samson" Battalion 74
July 23, 2001: the beating of a 13-year-old boy in Hebron 78
January 15, 2002: the assault of a bound minor in Hebron and the theft of his calling card 79
March-April 2002: attaching shock grenades to the bodies of Palestinians, assaulting a minor and a series of other offenses 80
April 2002: the beating of a mentally handicapped minor with a billy club 81
April 17-18, 2002: the abuse of a Palestinian and the use of a foreign national as a "human shield" by a reserve battalion commander 81
April 28, 2002: threatening to rape a detainee by a military police officer 83
August 7, 2002: the beating of detainees by two military policemen and four Nachal soldiers 84

October 16, 2002: assault of Palestinian detainees by soldiers from the Lavie Battalion 86
April 29, 2003: abuse of minor detainees by two military policemen 87
October 1, 2003: abuse of bound detainees by Paratrooper Brigade soldiers 89
January-February 2004: beating Palestinians and damaging vehicles at the Hawara Checkpoint 90
February 15, 2004: reserve soldier attack on Palestinian shepherds 91
February 27, 2005: Golani officer threatens to cut a detainee's penis and beats him 91
April 14 2005: the beating of a bound detainee to the point of injury 92
June 28, 2005: the beating of bound detainees at the Qalandia Checkpoint 93
August 16, 2005: the beating of a detainee at the Qalandia Checkpoint 94
April 4, 2006: the abuse of detainees on the way to the Salem Military Court 94
May 7, 2006: the beating of a bound detainee 95
May 28, 2006: Soldier from the Duchifat Battalion beats a bound detainee 95
August 26, 2006: soldiers from the Haruv Battalion beat two Palestinians 95
November 26, 2007: the beating of two bound and blindfolded detainees at the Samaria Brigade base 96

CHAPTER 3: LOOTING AND PROPERTY DAMAGE 98

PROPERTY DAMAGE 98
January 23, 2002: the intentional crushing of a car by a tank in Ramallah 98
October 20, 2004: damaging a car windshield with a gun and threatening a Palestinian driver 99
LOOTING AND THEFT 99
December 31, 2001: looting bodies at an IDF outpost 99
March-April 2002: looting computer equipment from the Palestinian Interior Ministry in Qalqiliya 100
March-April 2002: looting electronic equipment from a family home in Ramallah 100
March-April 2002: looting money from a home in Ramallah 101
March-April 2002: looting a computer hard drive from the PIB bank in Ramallah 101
March-April 2002: looting stores in Ramallah and theft from a Palestinian detainee 102
March-April 2002: taking forged money from the Muqataa building in Ramallah 102
April 2002: looting a wallet containing NIS 100 and 3 CDs from a store in Ramallah 103
March-May 2002: looting property in Ramallah 103
April 8, 2002: looting of cell phones in Nablus 104
April 15-17 2002: looting in the Palestinian Economic Ministry and a private home in Ramallah 104
April 20, 2002: looting NIS 1500 from a Palestinian civilian at Checkpoint 109 105
April-May 2002: stealing a cell phone from the detainee deposit in the Judea Brigade 105
May 2002-January 2003: the looting of property and jewelry on various occasions 106
July 12, 2002: looting a grocery store and stealing a radio tape from a vehicle in Nablus 106
August 2002: looting NIS 300 and cell phones from a residential home in the village of Zawata 108

October 31, 2002: looting NIS 1,300 during a search in a home 108
December 25, 2002, January 5, 2003: looting money and property in Nablus 109
April 23, 2003: stealing a wallet from a Palestinian taxi 110
February-March 2004: stealing money and property from cars inspected at the Gitit Checkpoint 110
August 2006: looting furniture from the Palestinian airport in the Gaza Strip 111
April 10, 2007: taking a lighter from a family's home in Ramallah 111
June 10, 2007: stealing a wallet containing NIS 800 at the Bekaot Checkpoint 112
August 3, 2007: theft of NIS 100 from a family's home in the Gaza Strip 112
October 2007: theft of NIS 200 from a car at the Hawara Checkpoint 113

CHAPTER 4: OTHER OFFENSES 114

February 10, 2003: forcing a Palestinian woman to drink a chemical liquid at gunpoint 114
June 2003: use of Palestinians to move suspicious objects 114
May 2004: the abduction of a clergyman as punishment by a Paratroops officer 115
January 2003 – January 2004: accepting bribes at the Qalandia Checkpoint 116
January 2004: accepting bribes at Checkpoint 700 120
April 24, 2006: the killing of a Palestinian woman and injury of another six people in a traffic accident 121

Tables

TABLE 1: THE RATIO BETWEEN THE NUMBER OF NOTICES PROVIDED TO THE MPCID AND THE NUMBER OF INVESTIGATION FILES OPENED AND INDICTMENTS SERVED AS A RESULT OF THEM, 2005-2007 15
TABLE 2: PROVIDERS OF NOTICES THAT LED TO THE OPENING OF MPCID INVESTIGATIONS, 2006-2007 16
TABLE 3: INVESTIGATION FILES OPENED BY MPCID AND INDICTMENTS SERVED AS A RESULT OF THEM, 2000-2007 17
TABLE 4: COMPENSATION CLAIMS BY PALESTINIAN CIVILIANS THAT RESULTED IN AWARDING COMPENSATION (BY COURT JUDGMENT OR SETTLEMENT), 2004-2008 32

Summary

The report "Exceptions" reveals for the first time full data on how the Israeli military law enforcement agencies (the Military Police Criminal Investigation Division (MPCID), the Military Prosecution and the Courts-Martial) process cases in which IDF soldiers commit offenses against Palestinians and their property. The report offers the first opportunity to examine the quality of the military criminal system's operations in relation to offenses by soldiers against Palestinian civilians, and it includes the details of each case heard by the Courts-Martial on offenses committed from the outbreak of the second Intifada on September 29, 2000 through the end of 2007.

When criminal offenses committed by IDF soldiers against Palestinians are exposed to the public and draw a public response, the IDF leadership and heads of the Israeli political system are quick to label such actions as "exceptional incidents," and to promise to hold the perpetrators fully accountable. Israel's official spokespeople go to great lengths to persuade the Israeli public and international community that such incidents are rare and that they are treated aggressively. But this report shows that the "exceptions" are actually those cases in which soldiers and officers who commit crimes against Palestinian civilians are investigated and prosecuted. Even more exceptional are the cases in which heavy sentences are imposed on the perpetrators for their crimes.

The figures presented in the report were derived, among other sources, from the indictments and judgments of the Courts-Martial during the seven years of the second Intifada. These materials were provided to Yesh Din by the IDF at the end of a prolonged process lasting a year and a half. A review of these documents allows us for the first time to present the magnitude of the IDF's failure to fulfill its duty to protect the population of the Occupied Territories (OT) from the crimes of its soldiers, a duty set forth in the provisions of international law regarding the management of occupied territories.

The first part of the report focuses on the criminal investigations conducted by the MPCID into offenses by IDF soldiers and officers against civilians in the OT. The report reveals that only in rare cases do Palestinian civilians file complaints directly to the MPCID, due greatly to the fact that the MPCID has no investigation base in the OT. In even fewer cases do commanders fulfill their duty to inform the MPCID of a suspicion that their soldiers have committed criminal offenses against Palestinians. The figures show that only in 40% of the complaints and notices that ultimately reached the MPCID in the last two years (usually through human rights

organizations, the Military Prosecution or directly from the plaintiffs) were criminal investigations opened.

In the seven years between the outbreak of the second Intifada and the end of 2007, only 1,246 MPCID investigations were opened into suspected offenses by soldiers against Palestinian civilians, slightly less than the number of investigations opened in only three years of the first Intifada. Only 78 investigations – six percent of all investigations opened in the period covered by the report – led to the filing of indictments.

Figures collected by human rights organizations operating in the OT show that more than 2000 Palestinian civilians not involved in combat were killed during that period. However, from the beginning of the second Intifada to the end of 2007 only 13 investigation files led to indictments charging soldiers with responsibility for the killing of civilians. Until the publication of this report the Courts-Martial had convicted five soldiers for the deaths of only four civilians: three Palestinians and one British citizen. The first part of the report presents, among other things, one reason for the small number of investigations opened into shootings of Palestinian civilians: the use of the "operational debriefing" as a tool to evade criminal investigation.

The report also presents figures about the realization of the Palestinians' right to compensation for damage to body and property during recent years, and it shows an inherent conflict of interests in MPCID investigations, whose intention – as stated explicitly by the Chief Military Police Officer himself – is not only to uncover criminal offenses and bring those responsible to justice, but also to spare the State of Israel the payment of compensation to Palestinian civilians harmed by the actions of its soldiers.

The second part of the report presents for the first time the results of the legal proceedings in each of the 78 investigation files that produced indictments. Those indictments were served against 135 soldiers and officers, and the percentage of convictions of defendants in those cases is high: of 135 defendants thus far 113 have been convicted, mostly by means of plea bargains. Only four defendants were acquitted at the end of the legal proceedings from all of the offenses for which they were charged, and the indictments against eight defendants were canceled (some of which were replaced by disciplinary – rather than criminal – proceedings). Proceedings against ten other defendants are still pending. This part of the report details the results of the second Intifada trials, categorized by type of offense: illegal use of firearms (including shooting that led to the death or injury of Palestinians as well as shooting that did not cause bodily harm), offenses of abuse and violence,

property and looting offenses, and other offenses. The figures presented in this report demonstrate the sizeable gap between the level of maximum punishment set forth by Israeli law for the offenses of which the soldiers were convicted and the sentences they were actually granted in these cases.

Introduction

Immediately after the media broadcast a short video clip of a soldier shooting a rubber bullet at extremely close range at a bound detainee, Defense Minister Ehud Barak announced: "The incident revealed yesterday afternoon […] is an exceptional and unacceptable incident that does not represent the IDF and its values. The IDF will investigate the incident and bring those responsible to justice."[1] The defense minister's announcement followed a regular pattern of official reactions to the disclosure of incidents in which IDF soldiers commit criminal offenses against Palestinian civilians and their property: treatment of the incident as an exception along with assurances that the criminals will be held accountable.

In testimony by the Commander of the Paratroopers Brigade, Colonel Yossi Bechar, in the trial of one of his soldiers charged with abusing a bound detainee, the officer remarked:

> These incidents are not so rare in number, but there is simply a silence surrounding some of them, and some of them are done in a more sophisticated and criminal way… these cases of Palestinian detainees being beaten by soldiers and police are incidents that unfortunately occur from time to time. In many cases no complaint is made, and there are various conspiracies of silence surrounding them, so that sometimes we only know about them years later, and furthermore, through anonymous messages by [the organization] Breaking the Silence and others, through the media or through other means.[2]

An internal investigation by the IDF also found that about one quarter of IDF soldiers who served at checkpoints had personally engaged in the abuse of Palestinians, taken bribes or committed acts of humiliation and other forbidden acts, witnessed them or heard about them from their colleagues. Following the results of the investigation, an anonymous "senior officer" was quoted by Yedioth Achronoth as saying "we knew there was a problem, but we did not expect it to be so serious."[3]

---

[1] Meirav David, Barak: The shooting at Na'alin was an exceptional and unacceptable incident. **NRG**, July 21, 2008.

[2] From the testimony of Colonel Bechar in the trial of one of his subordinates who was charged with abusing a Palestinian detainee. Center/472/05 **Military Prosecutor v. Sergeant Nir Haimovitz**. Minutes of hearing from April 11, 2006.

[3] Yossi Yehoshua, Abuses Revealed. **Yedioth Achronoth,** December 16, 2007.

The laws of occupation (also called the laws of belligerent occupation), a branch of international humanitarian law, require IDF forces to respect the lives, dignity and property of the residents of the OT.[4] That duty is expressed both by the "negative" duty, according to which it is incumbent upon the IDF and its soldiers to avoid harming the lives, dignity and property of the residents of the OT, and the "positive" duty requiring the IDF to take substantial measures to protect the population of the OT. The fulfillment of that positive duty plays a key role in enforcing the law upon IDF soldiers who commit criminal offenses against the population of the OT.[5]

However, it previously was not possible to assess the extent to which the IDF fulfilled that duty. Full and accurate data about the scope of MPCID investigations into criminal offenses by IDF soldiers against Palestinians and their property was simply not published, nor was full information about their results. Since the vast majority of judgments in those offenses were not made public (nor were they uploaded to the various legal data bases), it was impossible to ascertain to what extent the IDF "held those responsible accountable" as it promised to do in the periodic statements by the heads of the defense system. The purpose of this report is to present those figures to its readers.

From the beginning of the second Intifada on September 29, 2000, until the end of 2007, 135 soldiers and officers were accused of offenses against civilians in the OT, by and large against Palestinians.[6]. In a process that lasted nearly a year and a half, from March 2007 (when Yesh Din first submitted its request for copies of judgments and indictments to the IDF Spokesperson) until August 2008, the IDF located the indictments served and judgments delivered in the cases of the soldiers and provided Yesh Din with copies, after they had been checked and access to them approved by the IDF information security department.[7]

---

[4] See for instance: regulations 43 and 46 of regulations annexed to the **Hague Convention respecting the Laws and Customs of War on Land** (1907); article 27 of the **Geneva Convention IV relative to the Protection of Civilians During Times of War** (1949).

[5] For a review of the main points of international ruling regarding the existence of effective enforcement mechanisms of investigation and prosecution as part of upholding the positive duty of a state to protect human rights, see section 42 of the petition submitted by B'Tselem and the Association for Civil Rights in Israel in HCJ 9594/03 **B'Tselem et al. v. Military Advocate General.** The petition (Hebrew) is available for download at the Yesh Din website.

[6] Two of the defendants were charged with involvement in killing a British citizen.

[7] On April 15, 2008 the IDF Spokesperson told Yesh Din that from the beginning of the second Intifada until that time indictments had been served against 140 defendants suspected of committing offenses against Palestinians and their property in the OT. An examination of the indictments and the judgments given to Yesh Din found that the matter of three of the defendants concerned offenses committed in Israeli territory and not in the OT: two defendants in Center/408/01 **Chief Military Attorney Prosecutor v. Sgt. Nachum Bundak et al.** were accused of assaulting a civilian at the "Bank

In conjunction with the publication of this report, the Yesh Din website provides the full court judgments in the aforementioned cases, as provided to the organization by the IDF Spokesperson.

This report, which deals with the response of the military law enforcement system to offenses committed by IDF soldiers, does not refer to offenses by members of other security forces who operate in the OT – mainly the Israel Police and Border Police Units. Yesh Din will address their activities in a separate report.

The first part of this report discusses the small number of indictments served against soldiers for offenses committed against Palestinians. This section briefly discusses the manner in which MPCID investigations are opened into offenses by IDF soldiers against Palestinians and their property. Additionally, it presents figures on the number of investigations and defendants charged as a result of these investigations, as well as details about the sentencing of IDF soldiers according to the charges under which they were convicted. The first section of the report also provides data about the realization by Palestinian victims of such offenses of the right to file complaints based on the offenses committed against them and to receive compensation for the harm done to them.

The second part of the report details the results of the prosecution of all soldiers charged with committing criminal offenses against Palestinians and their property during the second Intifada until the end of 2007. The figures are divided into firearm offenses (including shooting that led to the death and injury of Palestinians as well as shooting that did not cause bodily harm), offenses of abuse and violence, property and looting offenses, and other offenses.

Although the first part of the report addresses, among other things, the failures in MPCID investigations and the obstacles facing MPCID investigators, the report does not attempt to present a full picture of the reasons that the vast majority of investigations conducted into offenses by soldiers against Palestinians and their property are closed. A separate report by Yesh Din will be devoted to that subject.

Intersection" in the Talpiot neighborhood of Jerusalem, and another defendant in Center/167/02 **Chief Military Prosecutor v. Cpl. Arieh Zakbach** were charged with injuring an Israeli civilian by gunfire at the Yizrael Junction. The indictments regarding three other defendants, all charged as part of one incident of abusing Palestinian detainees, were served before April 15, 2008 (Center/106/08) but the offense of which they were charged was committed in 2008, and therefore their case is not included in this report, as it deals with offenses committed by the end of 2007.

The term “exceptions” has become synonymous in Israeli discourse to grave offenses committed by members of the security forces against Palestinians. This report shows that it would be more accurate to describe as “exceptions” the cases in which soldiers who commit such offenses are investigated, charged and held accountable for their actions. The processing of the officer and the soldier charged in the shooting of the bound detainee, an event mentioned at the beginning of this introduction, is no different: despite the ceremonious promise by the defense minister to hold them accountable, the two were charged with the minor offense of “inappropriate behavior.”[8]

[8] As of this report's publication, the High Court of Justice is still reviewing a petition (HCJ 7195/08) filed by the shootings' victim and four human rights organizations, including Yesh Din, against the Military Advocate General for refraining from indicting the officer and the soldier for more serious offenses.

Part One

Chapter 1: Complaints, notices and MPCID investigations

Notices

The Military Police Criminal Investigation Division (MPCID), charged with conducting criminal investigations against IDF soldiers, opens investigation files following the receipt of "notices." These "notices" may be received in the form of complaints by civilians or soldiers, or as information from the Military Prosecution, the Israel Police, human rights organizations or other parties. After the MPCID reviews the notice it decides whether to open an investigation.

Figures provided to the Public Committee against Torture in Israel showed that 40% of the notices provided to the MPCID in the years 2005-2007 of offenses committed by IDF soldiers against Palestinian civilians and their property did not lead to the opening of investigation files. Those figures, taken together with the Yesh Din figures on serving indictments (see below), reveal that less than 2% of notices submitted ultimately lead to serving indictments.

Table 1: The ratio between the number of notices provided to the MPCID and the number of investigation files opened and indictments served as a result of them, 2005-2007[9]

	2005	2006	2007	**Total**
Notices provided to the MPCID	292	323	477	**1,092**
Investigation files opened	155 (53%)	152 (47%)	351 (74%)	**658 (60%)**
Investigation files that led to serving indictments	5 (1.71%)	8 (2.48%)	6 (1.26%)	**19 (1.74%)**

Who notifies the MPCID?

An examination of the identity of the parties who provided notices that led to the opening of investigation files shows that on one hand Palestinian civilians rarely submit complaints directly to the MPCID, and on another, the commanders of soldiers suspected of committing crimes against Palestinians and their property rarely report their suspicions to the MPCID.

[9] The figures denote indictments served on the basis of investigation files actually opened that year (even if the indictment was served later). The source of the figures about notices: a reply by the IDF Spokesperson to a query by the Public Committee against Torture in Israel, May 1, 2008. The source of the data on investigations and indictments: Yesh Din research.

There is no MPCID base in the occupied territories designated for receiving complaints from Palestinians, and the MPCID investigators in charge of investigating crimes against them operate out of their bases in Jerusalem and the Netanya area. Thus, Palestinians who wish to file complaints over offenses by soldiers against them or against their property usually have to go to Israel Police stations or police officers stationed at the District Coordination Offices (DCO). Of the 503 investigation files opened by the MPCID in the years 2006 and 2007, only 37 investigations (7%) originated with notices by Palestinian civilians given directly to the MPCID, and 144 investigations (29%) were opened as a result of notices given to the Israel Police and conveyed by it to the MPCID.

A parallel track that allows Palestinian civilians to file their complaints is to turn to human rights organizations. The organizations then transfer the complaints directly to the MPCID (10% of the notices that led to opening investigation files in the last two years) or to the Military Prosecution. When the latter learns about events from the findings of military debriefings (see below), requests by diplomatic parties or complaints made through human rights organizations, it gives the MPCID instructions to open investigations into those events.

Commanders' reports to the MPCID of suspected crimes by their subordinates

Section 62 of General Staff Order 33.0304 titled "MPCID inquiries and investigations" provides that when there is a suspicion that one of the offenses detailed in the section was committed (including abuse, looting, illegal use of weapons and any offense in the Penal Code that does not have an equivalent in military jurisdiction law), suspects must not undergo disciplinary proceedings within their units, but rather the incident must be reported by a notice to the MPCID. However, the figures the IDF Spokesperson provided Yesh Din show that only a minority of investigation files were opened as a result of notices provided to the MPCID by parties in military units: only 8% of the investigation files opened in the last two years were the result of reports by commanders or other parties in military units.

Table 2: Providers of notices that led to the opening of MPCID investigations, 2006-2007[10]

Providers of the notice	2006		2007	
	Number of notices	Percentage of investigations	Number of notices	Percentage of investigations
Palestinian civilians	14	9%	23	7%

[10] The source of the figures: IDF Spokesperson reply to Yesh Din questions, April 15, 2008.

Human rights organizations	10	7%	39	11%
Israel Police	40	26%	104	30%
Military units	14	9%	26	7%
Military Prosecution	74	49%	158	45%
Defense Ministry	-	-	1	0%
Total	152	100%	351	100%

Opening investigation files and serving indictments

From the beginning of the "second Intifada" on September 29, 2000 to the end of 2007 the MPCID opened 1,246 investigations on suspicions that soldiers committed offenses against Palestinian civilians.[11] Only 78 of the investigation files - 6% - produced indictments served against one or more soldiers.

Table 3: Investigation files opened by MPCID and indictments served as a result of them, 2000-2007[12]

Year	Investigation files opened by MPCID	Indictments served as a result of MPCID investigation files	
		Investigation files that produced indictments	Percentage of investigation files
2000[13]	16	1	6%
2001	82	7	9%
2002	155	24	15%
2003	146	15	10%
2004	189	12	6%
2005	155	5	3%
2006	152	8	5%
2007	351	6	2%
Total	**1,246**	**78**	**6%**

[11] In comparison, note that in the first three years of the first Intifada, from December 9, 1987 to December 9, 1990, 1,256 MPCID investigations were opened into offenses committed by IDF soldiers against Palestinians and their property: 10 investigations more than the total number of investigations opened in a little over seven years from the beginning of the second Intifada on September 29, 2000 to the end of 2007. Amnon Strassnov, **Justice under Fire**. 1994: Yedioth Achronoth Press, p. 157 [Hebrew].

[12] The source of the investigation data for the years 2000-2002: Chanan Greenberg, IDF 2004: Leap in number of crimes in OT. **Ynet,** January 10, 2005. The source of the investigation data for the years 2003-2007: IDF Spokesperson's answer to Yesh Din's request, April 15, 2008. The source of the data on the indictments served: indictments and judgments provided by the IDF Spokesperson to Yesh Din. The data does not include investigation files open and indictments served in 2008. The data denotes the indictments served on the basis of investigation files that were actually opened in each of the years (even if the indictment was served later).

[13] After September 29, 2000.

The disparity between the number of investigation files managed by the MPCID and the number of them that produced indictments filed in the Courts-Martial is sizeable. In this context the IDF Spokesperson stated that "the investigation files are examined by the Military Prosecution professionally and substantively according to the standards set forth by the law, namely, whether the evidentiary material shows that a criminal offense was committed and whether it establishes a reasonable chance of conviction. Indictments are served accordingly [...]."[14] Nobody disputes that explanation.

However, the IDF Spokesperson's answers to questions presented by Yesh Din show that neither the Military Prosecution nor the MPCID collect data regarding the grounds for closure of investigation files.[15] Therefore it is impossible to assess how many of the investigation files were closed because the investigative material showed that no criminal offense was committed at all, and how many of them were closed because of the failure of MPCID investigators to locate suspects of committing the offenses and collect sufficient evidence to prosecute them. It appears that since these data are not collected it will be hard for the IDF to detect recurrent failures in MPCID investigations in the OT and correct them.

[14] IDF Spokesperson's answer to Yesh Din's questions, April 15, 2008.

[15] IDF Spokesperson's answer to Yesh Din's questions, January 9, 2008; IDF Spokesperson's answer to Yesh Din's questions, February 26, 2008.

Chapter 2: Investigation and conviction in shooting incidents

Investigation of shooting incidents and the conviction of soldiers for killing civilians

Thousands of Palestinians who did not participate in the hostilities have been killed in the OT by Israeli security forces since the beginning of the second Intifada in September 2000. According to B'Tselem figures, at least 2,219 of the Palestinians who were killed (along with 10 foreign nationals) were not involved in hostilities.[16] According to Palestinian Red Crescent figures, 8,500 Palestinians had been injured by "live" gunfire by the end of 2007.[17]

Partial figures provided by the IDF Spokesperson to Yesh Din reveal that for four years, from 2003 to 2006, the MPCID opened only 73 investigation files into the killing of Palestinians by IDF soldiers.[18] The investigations into the killing of civilians that did lead to serving indictments in Courts-Martial[19] are few (see below); a large portion of the indictments that were filed and that included the offenses of killing or liability for causing death were amended after they were filed such that the defendants were charged with lesser offenses, without reference for the deaths of civilians.

Thus, despite the high number of civilians who were killed by security forces while not taking part in the hostilities, only a handful of soldiers were convicted for their

[16] The total number of Palestinians killed in the OT by security forces from the beginning of the second Intifada until June 30, 2008 is, according to B'Tselem figures, 4,748, including 2,219 of whom were not involved in the hostilities and 871 for whom it is not known whether they were involved in hostilities.

[17] This figure includes Palestinians who were involved in the hostilities. The Palestinian Red Crescent figures: http://www.palestinercs.org/modules/cjaycontent/index.php?id=15.

[18] IDF Spokesperson's answer to Yesh Din's questions, January 9, 2008. Yesh Din was not given figures about the number of investigation files opened based on the deaths of Palestinian civilians during the second Intifada before 2003.

[19] The Israeli Military Courts-Martial are military tribunals in which IDF soldiers and officers (up to the rank of Major) are tried for criminal offenses. The Courts-Martial system is composed of two instances: Courts-Martial of the first instance are called District Courts-Martial, and their jurisdiction is limited to individual IDF Commands: North, Center, South, Ground Forces, Navy etc. Decisions of the District Courts-Martial can be appealed at the second instance: the Court-Martial of Appeals. In addition to the Courts-Martial system, a separate system of military courts was established by the IDF in the Occupied Territories, in which Israeli military officers try Palestinian civilians. On the Military Courts in the OT, see Yesh Din's report **Backyard Proceedings: the implementation of due process rights in the military courts in the Occupied Territories** (December 2007).

responsibility for causing civilians' death, since the beginning of the second Intifada. According to the figures obtained by Yesh Din at the time of publication of this report, the Courts-Martial had convicted soldiers of criminal liability for the deaths of only four (4) civilians.[20]

The convictions involved the deaths of three Palestinians and one British national: Captain Zvi Koretzky was convicted of the negligent manslaughter of Mohamed Ali Najeeb Saeed Zeid, a 16-year-old boy;[21] Sergeant Tayseer Heib was convicted of killing British national Thomas Hurndall in Rafah (in this affair another soldier, Sergeant Emad Atawnah, was convicted of offenses related to the obstruction of the investigation);[22] Staff Sergeant DGA was convicted of the negligent manslaughter of Nabil Ahmad Jaradat (in this case his colleague, St.-Sgt. RA, was also convicted of offenses related to the obstruction of the investigation);[23] and following the death of infant Mahmoud Jawadat, two officers were convicted of negligence.[24] Therefore, five soldiers were found responsible for the death of civilians: four were convicted of offenses of negligence and one of manslaughter (the soldier who killed the British national Thomas Hurndall). Not one Israeli soldier was convicted of manslaughter or murder of a Palestinian civilian during the second Intifada.

From the beginning of the second Intifada until the end of 2007, only 13 investigation files led to indictments that charged the defendants with responsibility for killing civilians. Those indictments were served against 18 defendants, following the killings of 16 Palestinians (some of the defendants were not charged with killing but with offenses related to the obstruction of the investigation). The legal

[20] The figure refers only to the conviction of IDF soldiers and not to the investigation, indictment and conviction of members of other security forces, mainly Border Police officers. At any rate, the involvement of Border Police officers and Israel Police officers in incidents that led to the killing of Palestinians in the OT was much more limited than that of IDF soldiers.

[21] LAC/135/03 **Military Prosecutor v. Captain Zvi Koretzky**; Appeal/64/04 **Captain Zvi Koretzky v. Chief Military Prosecutor**.

[22] South/10/04 **Military Prosecutor v. Sergeant Tayseer Heib**; Appeal/96/05 **Private Tayseer Heib v. Chief Military Prosecutor**; South/7/04 **Military Prosecutor v. Sgt. Emad Atawnah**.

[23] North/450/04 **Military Prosecutor v. Staff Sergeant. DGA**; North/451/04 **Military Prosecutor v. St.-Sgt. RA**; Appeal/154/04 **Chief Military Prosecutor v. St.-Sgt. RA**.

[24] North/186/04 **Military Prosecutor v. Second Lieutenant. Zvi Winik et al**.; Appeal/59/05 **Second Lt. Zvi Winik v. Chief Military Prosecutor**.

procedures regarding two defendants are still underway,[25] and another indictment was canceled after it was served.[26]

The legal proceedings conducted against the defendants regarding the deaths of 13 people have been completed.[27] The Military Prosecution failed to prove the connection between the deaths of nine of the victims and the actions of the soldiers charged with killing them. Those soldiers were either completely acquitted or convicted of minor offenses, usually with an explicit comment by the Courts-Martial that the conviction was not related to the alleged deaths of the Palestinians. As mentioned above, in the cases of only four deaths did the Courts-Martial find a direct link between the criminal actions of the soldiers and the deaths of the victims, and the soldiers were convicted of offenses of negligence, and in one case, manslaughter.

The role of the Operational Debriefing in the decision to open an investigation

The low number of investigations into shooting offenses is the result of a policy that was developed by the Military Prosecution at the breakout of the second Intifada. According to this policy an investigation is not opened into every incident of shooting at civilians until an "Operational Debriefing" is conducted by parties in the involved soldiers' chain of command, and only when an examination of the results of the debriefing by a military prosecutor raises the suspicion of an offense.[28] The policy was explained by claiming that according to the IDF's perception all of the events during the second Intifada came under the definition of "armed conflict" and thus the actions committed by the IDF were all "belligerent operations" and were not, as a whole, "policing operations." One of the assumptions at the root of the policy is that in cases when innocent civilians are hurt during exchanges of fire between

[25] Central/158/03 **Military Prosecutor v. Corporal LI** (killing a woman and wounding another by shooting at a vehicle near the village of Surda on December 3, 2002); Central/186/04 **Military Prosecutor v. SFC GA** (killing a 14-year-old boy and injuring his 19-year-old friend in the area of the Qalandia refugee camp on March 28, 2003).

[26] Central/445/01 **Military Prosecutor v. Sgt. AB**. The indictment that was canceled charged the defendant with the offense of negligent manslaughter following the killing of Fatma Jamil Abu Jish by shooting at the car in which she was riding in the area of Beit Furik on January 7, 2001.

[27] 18 defendants against which indictments were served as the result of 10 investigation files.

[28] That policy, which severely compromises the duty of the occupying power to defend the lives and integrity of the bodies and property of the protected civilians as well as the effectiveness of the investigations (even when the Military Prosecution decides to order any) was challenged in a petition to the High Court of Justice by the Association for Civil Rights in Israel and B'Tselem. The petition, HCJ 9594/03 **B'Tselem et al. v. Chief Military Prosecutor** is still pending. To review the arguments of the petitioners and the State's responses see Yesh Din's website www.yesh-din.org.

soldiers and armed Palestinians, there is no justification for opening a criminal investigation. However, soldiers were not prosecuted for shooting civilians during exchanges of fire with armed Palestinians during the first Intifada, and therefore it cannot be seen as a reason to change the policy.[29]

Another assumption is that IDF soldiers report truthfully in debriefings, because the goal of conducting the debriefing [30] is to derive lessons for use in future activity. For that reason, and in order not to deter soldiers from reporting full and true reports in debriefings, section 539a of the Law of Military Jurisdiction stipulates that a debriefing will enjoy confidentiality and investigatory bodies will not have access to it. The debriefing is essentially a study tool given to commanders in order to draw conclusions about the gap between planning and performance in operational duty and training,[31]and it is not a tool meant to indicate whether criminal offenses were committed.

In December 2004 Military Advocate General (MAG), Brigadier General Avichai Mandelblit, noted that until that time he and his predecessor had reviewed 950 "debriefings or factual clarifications." According to him, until then about 10% of the debriefings or the "factual clarifications" led to the opening of criminal investigations.[32] In a detailed query Yesh Din sent to the IDF Spokesperson on March 15, 2007, the organization requested figures about operational debriefings and the manner in which they are handled: the number of operational debriefings brought to the review of the MAG or the Chief Military Prosecutor; the number of criminal

---

[29] For more on this point, see, for example, what Amnon Strassnov, the Military Advocate General during the first Intifada, wrote on the subject: "We filed indictments to the Courts-Martial only in especially grave and serious cases, when there was a digression from the orders or when soldiers exceeded the boundaries of reasonable behavior to an especially extreme and gross measure. In cases when a soldier used his weapon intentionally against clear orders, and as a result a person was killed, we did not see fit not to put him on trial before a Court-Martial. […] On the other hand, in cases when the digression from the instructions was less significant or the deviation from norms of behavior was not that serious and remained in the "twilight" zone or the "gray" area, we were satisfied with subjecting the soldiers and commanders to disciplinary action or procedure of premature termination of military service. This policy was employed by the Military Prosecution throughout, in a judicious and cautious way, without buckling under pressure or persuasions from either side, with the principle of maintaining the rule of law as our guiding principle. And there are many examples of this." Amnon Strassnov, **Justice under Fire**. 1994: Yedioth Achronoth Press, p. 154 [Hebrew].

[30] In section 539a (a) of the Law of Military Jurisdiction a briefing is defined as "an inquiry conducted inside the Army, according to military orders, regarding an event that took place during training or active duty, or related to them."

[31] Var. Req./42/03 **Sgt. AB v. Military Prosecutor**, sections 27-31.

[32] Military Advocate General, Brigadier General Avichai Mandelblit in **minutes number 342 of session of Knesset Constitution, Law and Justice Committee**, December 6, 2004.

investigations opened as a result of their review; and the number of cases in which the Military Advocate General or the Chief Military Prosecutor ordered the use of disciplinary proceedings – in cases of offenses against Palestinians and their property – as a result of reviewing an operational debriefing . The IDF Spokesperson's Office answer to all of the questions was that they did not have these figures.[33]

Col. (res.) Ilan Katz, who until March 2003 served as the deputy MAG, strongly criticized on a number of occasions the use he said IDF commanders made of operational debriefings in order to prevent criminal investigations. In a meeting of the Israel Bar Association's Military and Security Committee, Col. (res.) Katz stated:

> From the beginning of the uprising and as of August 2004, about 90 MPCID investigations were opened into the injuries and deaths of Palestinians. About 70 investigations were opened in the last year alone. That shows that they saw that the Operational Debriefing did not lead to uncovering the truth and then the MAG gave an order to begin MPCID investigations. I used to be part of the policy that allowed the Army to use the military debriefing, but the Army did not use the Operational Debriefing appropriately because of a failure to comply with regulations and orders. That tool did not prove itself.

In a newspaper interview Col. (res.) Katz added:

> Even if at the end of the operational debriefing the decision is made by the MAG to order the opening of an MPCID investigation, usually at that point investigation is nearly impossible. The reason is that when the commanders conduct an operational debriefing they destroy the scene of the crime, and months later it is difficult to find traces of evidence on the ground. You cannot even check the gun from which the shots were fired because by the time the MPCID investigation begins many more shots have been fired by the same gun, or in some cases the gun changes hands and it is very hard to trace it. The debriefing law has a certain logic because it raises the level of credibility of the operational debriefings, but the way it is exploited by commanders in order to prevent MPCID investigations is not reasonable. It should be determined that in certain cases of killing Palestinians who are not involved in fighting - such as women, elderly and children - the investigation should be automatic and not be postponed until the end of the operational debriefing.[34]

[33] IDF Spokesperson's answer to Yesh Din inquiry, October 28, 2007.

[34] Amir Rappaport, "The MPCID does not know how to do its job". **Maariv,** January 1, 2005.

The credibility of the findings of the Operational Debriefing

Findings that arise from operational debriefings conducted by commanders in their units thus serve the MAG in his decision to open a criminal investigation into an incident that has been examined in such a debriefing. In response to charges about the level of credibility of the military inquiries, MAG Brig.-Gen. Avichai Mandelblit stated: "One of the problems rests with the debriefing. I say there are not many lies in debriefings, but where I see them, and I have the tools to identify them, I open a criminal investigation."[35]

A review of the judgments rendered by Courts-Martial in cases of gunfire shows that in a high percentage of the incidents in connection with which indictments were served, the suspects or their colleagues lied in the operational debriefings conducted in their units in order to conceal their involvement in an illegal shooting. From the beginning of the second Intifada until the end of 2007 only 24 investigations regarding gunfire (whether it caused casualties are not) led to the filing of indictments. The subject of one of those cases involved soldiers on leave shooting into the air, under "civilian circumstances" rather than operational ones,[36] and in five other cases it was not possible to determine at that point whether the suspects lied in the debriefings in order to cover the illegal shooting they committed.[37] However, in about 40% of the other investigations that led to indictments – seven out of 18 – the Military Court-Martial noted that it discovered soldiers had lied in the operational debriefings that were conducted.[38]

---

[35] Brig.-Gen. Avichai Mandelblit, **minutes number 342 of the Knesset Constitution, Law and Justice Committee**, December 6, 2004.

[36] North/266/06 **Military Prosecutor v. Sgt. Aaron Malter et al.**

[37] The matter of the defendants in three incidents is still pending in the Courts-Martial (Central/158/03 **Military Prosecutor v. Cpl. Ll**; Central/186/04 **Military Prosecutor v. Sgt.-Maj. GA**; North/199/08 **Military Prosecutor v. Lt. AS**) and indictments served following two other investigations were canceled (Central/445/01 **Military Prosecutor v. Sgt. AB**; Central/375/02 **Military Prosecutor v. Sec.-Lt. AS**).

[38] South/293/04 **Military Prosecutor v. Sgt. Nur Oudeh et al**. (following the investigation four officers were charged with covering up the incident, except for the two main defendants, but the criminal indictments against three of them were replaced by disciplinary proceedings, and the indictment against another officer was canceled); South/400/04 **Military Prosecutor v. Capt. R**. (in this case the court found soldiers lied in the debriefings in order to incriminate their commander); South/270/03 Military **Prosecutor v. St.-Sgt. Shelly Nitzan et al**.; South/07/10 **Military Prosecutor v. Sgt. Ihab Atawnah** and South/10/04 Military Prosecutor v. Sgt. **Tayseer Heib**; North/450/04 **Military Prosecutor v. St.-Sgt. DGA** and North/451/04 **Military Prosecutor v. St.-Sgt. RA**; Central/558/03 **Military Prosecutor v. Sgt. Yaacov Priserovich**; South/419/07 and South/420/07 **Military Prosecutor v. Lt. Yaacov Gigi**.

Human rights organizations have been warning all along that the problem of the lack of credibility of the debriefings, the fact that the people who conduct the debriefings are usually commanders who are not trained to conduct investigations, and the fact that the goal of the operational debriefing is to draw operational lessons rather than clarify criminal responsibility, all serve to disqualify the use of operational debriefings as a tool to replace criminal investigations or even to assist in decisions about opening such investigations.

Yesh Din's data detailed above support that position. As mentioned previously, in 40% of the trials conducted against IDF soldiers accused of the illegal use of weapons causing damage to life and limb it emerged that the defendants lied in the operational debriefings. In the aforementioned cases the lies were indeed discovered, investigation files were opened and indictments were served. But those are the cases in which MPCID investigations were opened despite the lies. We do not know, and it is impossible to know, in how many cases the lies continued undiscovered and on the basis of the debriefing a decision was made not to open an MPCID investigation at all. And it should be remembered that the cases in question are shooting incidents that caused the death or injury of Palestinian civilians.

Chapter 3: The investigation of crimes in the OT: "Like scoring a goal from your penalty box"

When the then-MAG Major General Menachem Finkelstein explained the basic rationale in changing the policy of opening investigations in cases in which Palestinians were killed by IDF soldier gunfire, he noted that in addition to what he called the "theoretical reason" - the lack of justification to conduct a criminal investigation in cases when innocent civilians are killed during exchanges of fire between soldiers and Palestinian militants (this issue was addressed in the context of opening investigations on the basis of reviewing the findings of operational debriefings, as stated above) - there was also a "practical reason" to change the policy of opening criminal investigations into shooting offenses, and that reason was the difficulty of conducting effective investigations in the OT:

> A criminal investigation means a crime scene. It means receiving a body; it means an autopsy. It means receiving testimony from witnesses who do not exist. It means conducting a very large number of criminal activities which we could do in the Intifada from 1987 to 1993. Today it is very hard to do that. Let me remind you we are talking about thousands of cases.[39]

In a newspaper interview, the then-Commander of the MPCID, Col. Shemi Cohen, said the effectiveness of investigations in the OT into cases of death was impaired among other things by the length of time that passed until the MAG instructed on opening an investigation. Even then, he explained, "you cannot investigate everything":

> Can I say we investigate everything? You cannot investigate everything. I think we investigate at the point at which the criminal circumstances justify an investigation. And you have to remember something else: I enter the incident half a year after it occurred. I have no scene. I am the police and I collect evidence. It is not enough for me to live according to feelings. You have to make the connection between the body and the bullet by conducting ballistic comparisons. If a Palestinian child or woman are shot and are buried three hours later and I don't have a body, there is no use. It does not meet the legal test. I have no bullet, I have no shells or weapon, and criminal investigation is problematic during war.[40]

---

[39] Then-MAG Maj. Gen. Menachem Finkelstein from **minutes number 36 of meeting of Knesset Constitution, Law and Justice Committee,** June 22, 2003.

[40] Ran Har-Nevo, Crime families have begun using IDF soldiers for criminal purposes. **Tel Aviv Newspaper**, June 18, 2004.

Yet, there has been no change in the policy of opening investigations into crimes that do not involve shooting under "operational circumstances." However, even when those crimes are investigated - such as looting or abuse - MPCID investigators face significant difficulties in conducting investigations. Col. Cohen and Brig.-Gen. Micky Barel, then-Chief Military Police Officer, actually admitted their inability to conduct serious criminal investigations into offenses by IDF soldiers against Palestinian civilians and their property in the OT. The two used a metaphor from the world of soccer to explain the difficulty of conducting criminal investigations in the OT:

> "You have to understand what it means to conduct an investigation in the OT. We can't get around freely in Nablus and collect information there. Even when we invite Palestinian witnesses to give testimony against soldiers at the DCO's, they usually don't come, because they are afraid they will be considered collaborators. Therefore, as opposed to other investigations, conducting an investigation in the OT is to a large extent like scoring a goal from your penalty box."[41]

Critique by the Courts-Martial of MPCID investigations

The difficulties in conducting criminal investigations in the OT as enumerated by the senior military police officers provide a partial explanation for the small number of indictments and convictions in offenses involving killings during the years 2000-2007. Those difficulties were noted in the judges' reasonings in some of the judgments and decisions of the Courts-Martial. Those judgments and decisions open a window into various failures and defects in MPCID investigations, which were identified by the judges and were so glaring that the courts chose to make note of them. The following lines will present some of the criticism made by the Courts-Martial of the defects discovered in investigations regarding incidents of killing Palestinian civilians.

Thus, for example, in the sentencing of two officers accused of firing shells in the city of Jenin, from which four civilians were killed (including three children) and five were injured, the Special Court-Martial noted that following the evidence presented and the "difficulties in proving facts the prosecution wished to prove," a mediation was held between the parties, a plea bargain was reached and the original indictment was amended so that it no longer charged the defendants with causing death and injury.[42]

---

[41] Amir Rappaport, "The MPCID does not know how to do its job". **Maariv**, January 1, 2005.
[42] Special/3/04 **Military Prosecutor v. Lt.-Col. Anonymous et al**.

In another case St.-Sgt. AA, who was charged with killing Sayed Abu Safra in the Gaza Strip, was acquitted for reasons including serious defects in the investigation. In its verdict the Court-Martial stressed that "it was not proven that 'trauma' was caused to a person, let alone that such trauma was caused by gunfire by the defendant."[43] The court went on to detail the various defects in the MPCID investigation:

> "This is the place to emphasize that it is our opinion that the investigation of the incident was negligent and unprofessional. [...] The investigators made no effort to try to document an exact reconstruction of events and map the location of those present at the site; the reconstruction at the site was conducted only one year after the incident, at a time when the physical features of the area had changed and by the defendant alone; the damage to the fence and the safety railing was not documented and, worse yet, the questions about the exact location of the gathering and the relative positions of the location of the gathering and the location of the person observed by the lookout falling were not asked. [...] Add to that the disappearance of the tape of the confrontation between the defendant and the driver [...] and the loss of the pictures from the site of the incident, pictures which as opposed to the reconstruction done a year later, were taken in close timing with the incident."[44]

In the matter of a soldier charged with the offense of negligent manslaughter, over the killing of a seven-year-old boy, the court criticized the MPCID investigators' preference not to collect evidence from Palestinian eyewitnesses to the incident, and instead to be satisfied with printouts of testimonies collected by researchers from the human rights organization B'Tselem. The Military Commander explained this decision based on "the security circumstances that existed in the area," but the Court-Martial noted that the witnesses could have been interrogated in a protected location in the Gaza Strip or at the Erez DCO. As opposed to the investigators, who waived the Palestinians' testimonies, the Court-Martial arranged the appearance of the brother of the deceased, who was an eyewitness to the incident, with his mother, as well as a Palestinian pathologist who handled the deceased's body, to testify before the court. These witnesses, the Court-Martial noted, showed both the desire and the willingness to give their testimony in court. After a series of other defects in the investigation - for instance, the prosecutor stated in response to the court's question, that the MPCID investigation into the open fire regulations given to

[43] South/231/04 **Military Prosecutor v. St.-Sgt. AA**.
[44] ibid.

the defendant "did not produce results" and that the MPCID did not check the written open fire regulations for the district - the soldier was acquitted from the charge of negligent manslaughter and instead convicted of the much lesser offense of negligence.[45]

In another case the District Court-Martial judges acquitted a platoon commander from the charge of negligent manslaughter. The officer, who was convicted of the illegal use of a weapon after illegally shooting at minors, in a separate incident, was acquitted of the negligent manslaughter of Arafat Ibrahim Mahmoud Yacoub after the Court-Martial determined that the lack of findings from the site of the incident, the lack of a pathological report, and other evidence rendered it impossible to attribute the cause of the death of the deceased to him. Instead the officer was convicted of another count of illegal use of a weapon.[46]

Paying compensation to Palestinian victims: the inherent conflict of interests in MPCID investigations

Beyond the objective difficulties that face MPCID investigators in investigating crimes by IDF soldiers against Palestinians and their property in the OT, and besides the professional defects in their actions, there also exists an inherent conflict of interests in those investigations.

This conflict of interests was revealed by the Chief Military Police Officer and the commander of the MPCID in the Central Command. They suggested that the goal of an MPCID investigation is also - and perhaps mainly - to gather evidence to deflect damage claims by Palestinians following harm to their bodies or property by IDF soldiers in the OT. This is what the Chief Military Police Officer, Brig.- Gen. Ronnie Benny told a reporter from the military magazine *Bamachaneh* during a visit to the MPCID base "Sharon-Samaria" which was expanded to conduct investigations in the OT:

> "The rationale behind the investment in this place was to save money on future claims against the Defense Ministry," explains Brig.- Gen. Benny, "and

[45] North/497/03 **Military Prosecutor v. St.- Sgt Dan Stein**. As to the non- investigation of eyewitnesses it should be noticed that even Israeli citizens - and not only Palestinians - were not always questioned by MPCID investigators. In the verdict of two soldiers, residents of the Elon Moreh settlement, accused of the illegal use of weapons during a confrontation between a group of settlers and Palestinians and Israeli human rights activists, the Court-Martial noted that the MPCID investigators did not take the testimonies of the other settlers who participated in the incident, except for the two defendants. North/266/06, **Military Prosecutor v. Sgt. Aharon Malter et al**.

[46] North/223/06 **Military Prosecutor v. Sec.-Lt. NK**.

> in half a year the commander will ask me whether the 20 positions invested here paid off, and what will I answer him?"[47]

In the same interview the commander of the MPCID unit in the Central Command added to the words of the Chief Military Police Officer:

> "'We have not managed to name the number that defines savings,' admits commander of the MPCID Central Command, Lieutenant Colonel Erez Raban, 'but it is clear to us that by the very fact that the Palestinians know an MPCID investigation is going to be opened, some of the claims are not made because they know they will be checked. And it is also true for the other side: a soldier knows that if he sticks a blow heater to a Palestinian's face - the next day he will be arrested. It impacts the soldiers' consciousness.'"[48]

Judging by the words of the Chief Military Police Officer and the MPCID Inspector in the Central Command, then, one of the "rationales" behind the expansion of the MPCID base, which is meant to be the central base of investigations into complaints of offenses against Palestinians and their property, is to turn the MPCID investigators and their work into a tool in the campaign to prevent the payment of compensation to the Palestinians. Comments like these from the heads of the military law enforcement system may convey to the junior MPCID investigators a message that a failed investigation, in which those suspected of committing the crimes are not located - nor are any conclusions drawn about the commission of the crime - is not a failure from the point of view of the leadership of the Military Police Corps, but rather a success.[49]

---

[47] Nir Neuman, A day on the road with the chief military police officer. **Bamachaneh** (IDF Weekly), May 30, 2008.

[48] ibid.

[49] The attempt to save Israel expenses in compensating innocent Palestinian victims of actions by the security forces has a long legislative history that began back in 1996, because of the compensation paid to Palestinians who were injured by security force fire during the first Intifada. Section 5 of **The Civil Damage Law (State Liability), 5712-1952** (hereinafter, the Civil Damage Law) from the outset exempted the State from monetary liability for "an action committed during an act of war by the Israel Defense Forces." Due to the damage claims filed by Palestinians during the first Intifada and its aftermath, in 2004 Israel passed Amendment No. 4 of the Civil Damage Law, which expanded the definition of the term "act of war" to include "any act of fighting terror, hostilities or uprising and any action to prevent terror, hostilities or uprising committed in an environment of risk to life or limb." Amendment No. 4 also included a series of procedural restrictions on filing damage claims in those cases. Amendment No. 7 passed in 2005 was intended to address damage claims regarding the period of the second Intifada. That amendment established a series of restrictions on filing damage claims (including, *inter alia*: the obligation to report the incident within a short time, shortening the statute of limitations to two years, authorizing the Minister of Defense to declare large areas as areas where

Obviously, preparing the State of Israel's legal defense against compensation claims is not one of the MPCID's jobs, and any consideration of the civil implications (i.e., regarding compensation claims) of the investigation compromises its professionalism. The MPCID investigation has only one goal: to inquire into whether criminal offenses were committed and to bring soldiers and officers who have violated the law to justice. Any other consideration is ulterior and unacceptable.

Payment of compensation to Palestinians for harm to body and property

Figures provided by the Defense Ministry to the Movement for Freedom of Information in Israel as part of an action taken in accordance with the Freedom of Information Act present the number of compensation claims filed by Palestinians in the last several years for damages they suffered from IDF operations in the OT. As mentioned above, those figures formed the basis for the IDF devoting efforts to increasing the number of investigations in the OT, because one of the byproducts of the investigations was an improvement in the Army's ability to legally confront those claims. It should also be noted that regardless of that motivation, the IDF is obligated to defend civilians from crimes committed by soldiers, including by conducting effective investigations after the fact. It should also be noted, as was expounded above, that the motivation described here creates a highly problematic conflict of interests in the activity of the MPCID.

---

compensation claims cannot be filed regarding harm to body and property caused therein, and more). Amendment No. 7 also linked MPCID investigations and the conviction of members of the security forces with the right of Palestinian victims to demand compensation for damages to body and property caused to them: the amendment established, among other things, that a condition for filing a claim for damage caused by a member of the security forces is that the member of the security forces was convicted of a crime because of the very same action by a conclusive verdict given by a Court-Martial or a civilian court in Israel. To complete the picture it should be noted that regulations established by the Minister of Defense (**Civil Damage Regulations (Liability of the State) (The Committee for Payment Beyond the Letter of the Law – Threshold Terms, Working Procedures and Standards for Payment), 5766-2006**) under the authority of Amendment No. 7 allowed the payment of compensation by a special committee "beyond the letter of the law" and "in special cases," including on the basis of "evidence" of the crime (even if no indictment was filed against the perpetrator of the crime). In a detailed judgment in December 2006 the High Court of Justice (HCJ) nullified part of Amendment No. 7 (HCJ 8276/04 **Adalah et al v. Minister of Defense at al).** Following the HCJ ruling in May 2008 a draft law for an additional amendment (Amendment No. 8) to the Civil Damage Law was submitted. In a position paper published by the human rights organizations who were party to the petition against Amendment No. 7 – Hamoked: Center for the Defense of the Individual, ACRI and Adalah - the latter asserted that the draft law was meant to re-legislate provisions that the HCJ had thrown out in its judgment (Hamoked: Center for the Defense of the Individual, **The Civil Damage Draft Law (State Liability) (Amendment No. 8), 5767-2007: Position Paper.** July 2008). For a collection of the minutes of the meetings of the Knesset Constitution, Law and Justice Committee on Amendment No. 7, see Yesh Din's website, www.yesh-din.org.

From 2004 to March 2008, 5,282 compensation claims for bodily and property damages allegedly caused to Palestinian civilians were filed. According to the Defense Ministry most of the claims for bodily damage were filed following "injuries from shooting and targeted killings" and most of the claims for property damages were filed following "ground clearing."[50]

Table 4: Compensation claims by Palestinian civilians that resulted in awarding compensation (by court judgment or settlement), 2004-2008[51]

Year	Claims filed		Claims paid	
	Bodily damages	Property damages	Bodily damages	Property damages
2004	856	979	66	9
2005	690	385	71	23
2006	543	317	78	18
2007	949	461	53	25
2008[52]	79	23	14	9
Total	3,117	2,165	282	84

The figures show that only a small minority of the claims resulted in awarding compensation to the plaintiffs, whether by an Israeli court ruling or by a compromise reached with the Defense Ministry:[53] only about 7% of all claims (including 9% of the claims regarding bodily damages and 4% of the claims regarding property damages). The total compensation awards paid from 2004 to March 15, 2008 was NIS 50,300,000 for bodily damages (an average of slightly more than NIS 178,000 per claim) and NIS 2,440,000 for property damages (an average of about NIS 29,048 per claim).

[50] Letter from Attorney Dina Poliak, head of claims and insurance division, logistical operations and property branch, Defense Ministry, to Nofar Stein, Movement for Freedom of Information, March 16, 2008. The letter was provided to Yesh Din by the Movement for Freedom of Information.

[51] ibid.

[52] As of March 2008.

[53] The figures provided do not include a distinction between claims that ended in compromise and claims in which a ruling was given.

Chapter 4: The conviction and sentencing of defendants

Convictions and acquittals

Out of the 1,246 investigations opened between September 2000 and the end of 2007, only 78 lead to indictments. In those indictments 135 soldiers and officers were charged with committing various offenses against Palestinians in the OT. The percentage of convictions of the defendants in those cases is high: of the 135 defendants 113 have been convicted thus far. Only four defendants were acquitted by the end of the legal proceedings of all the violations with which they were charged, and the charges against eight defendants were dropped (the indictments against some of them were changed to disciplinary proceedings). Criminal proceedings against ten other defendants are still pending.

Seven other years: convictions and acquittals in the first Intifada and afterwards

From 1988 to 1994, in the seven years of the first Intifada and just after it, indictments were served against 295 soldiers and officers accused of committing offenses against Palestinians and their property. By March 1995 proceedings regarding 269 of the defendants had been concluded: 248 soldiers and officers were convicted, 18 were acquitted, and the charges against three defendants were dropped. In March 1995, at the time the figures were provided, the trials of 26 other defendants were still pending in the Courts-Martial.[54]

Only 22 defendants of the 135 soldiers and officers charged with offenses since September 2000 underwent full trials.[55] Three of them were acquitted in the District Court-Martial and another defendant, who was convicted in the first instance, was acquitted by the Court-Martial of Appeals. Most of the defendants - 95 - did not undergo full trials and were convicted on the basis of their confessions to the indictments, whether the originals or amended ones.

[54] The source of the figures: a letter from Major Avital Margalit, head of the information department at the IDF Spokesperson Office, to Yael Stein, B'Tselem researcher, March 21, 1995.

[55] In this report, the term "full trial" relates to those cases in which a complete legal proceeding was held in the Court-Martial, including preliminary stages, the examination of evidence and witnesses, etc. This term is used to differentiate such proceedings from proceedings resulting in a plea bargain or with a confession, and without the examination of evidence.

Plea bargains and their results

Seventy three of the 95 defendants who confessed to the charges against them - whether as part of a plea bargain or not - did so after the indictments against them were amended such that they were charged with lesser offenses than they originally had been charged.[56]

Seventy of the defendants confessed as part of plea bargains, in which the prosecution and the defense jointly petitioned for a sentence by consent (an agreement regarding all elements of the sentence or some of them - actual imprisonment, suspended imprisonment and demotion). The other 25 confessed to the amended indictments but without the parties' agreement as to the sentence to be imposed.[57]

In many cases the Military Prosecution justified to the Courts-Martial its willingness to reach plea bargains with the defendants by arguing that evidentiary difficulties hindered proof of the guilt attributed to the defendants in the original indictment. The Courts-Martial generally followed the rule established by the Israeli Supreme Court that "plea bargains are meant to be upheld."[58] However, at times the courts criticized the leniency of the sentence agreed upon in the plea bargains.

So, for example, in the case of a soldier accused of beating handcuffed and blindfolded detainees, the Court-Martial noted that under the grave circumstances of the incident "there was no room to accept the plea bargain" according to which

---

[56] Yesh Din has in its possession the original indictment charges for 38 of the 71 indictments before they were amended. A comparison between the charges appearing in the original and amended indictments shows that the amended indictments are extremely lenient with the defendants. For instance, regarding 27 defendants out of 38, the indictment was amended so that it charged the defendants with charges whose cumulative penalty was half or less of the cumulative punishment for the original charges. In the amended indictments of 21 defendants, charges that appear on a criminal record were dropped, or they were changed to other charges which do not appear on a criminal record.

[57] In recent years Israeli statutory law has granted special status in criminal procedure to the victims of grave violence and sex crimes. The Law of the Rights of the Victims of a Crime and the regulations instituted in its wake allow the victims of the aforementioned crimes to receive information from the prosecutorial authorities and present their position to them. Among other things, this right arises with respect to plea bargains emerging between the prosecution and the defense. However, the law applies only to proceedings resulting from investigations conducted by the Israel Police or the [Justice Ministry's] Police Investigation Department, but not to proceedings following MPCID investigations. Therefore, Palestinian victims of crime have no opportunity to voice their position regarding plea bargains arranged between the Military Prosecution and those accused of harming them.

[58] Criminal Appeal 1958/98 **Anonymous v. State of Israel,** PD 57 (1) 577.

the defense and prosecution jointly petitioned to impose an actual imprisonment of 20 months along with a suspended prison sentence. However, the court ultimately decided to accept the plea bargain out of consideration of the defendant's personal circumstances.[59]

In the case of Corporal Gal Mizrahi the Court-Martial of Appeals strongly criticized the plea bargain reached between the Military Prosecution and Mizrahi's codefendant, Cpl. Erez Saban. Cpl. Saban had confessed as part of the plea bargain that he had assaulted a Palestinian minor in Hebron, beaten him while he was bound, stolen telephone calling cards from him and shared them with Cpl. Mizrahi. The original indictments against him charged him with the offenses of assault and theft. In the plea bargain the charge of assault was changed to a charge of exceeding authority to the point of risking life or health, and the charge of theft was changed to a charge of disgraceful behavior, an indictment charge a conviction of which does not carry a criminal record. On the basis of the parties' agreement, Cpl. Saban confessed to the amended indictment, was convicted of it and was sentenced to one month of active imprisonment, a three-month suspended prison term, and a demotion to the rank of Private.[60] Cpl. Mizrahi, who was charged in connection to his part in stealing the calling cards of the minor who was attacked, was convicted of the charge of theft and sentenced to 14 days in prison and demotion to the rank of Private.[61] At a hearing on the cross-appeals submitted by the defense and the Military Prosecution, the latter announced that the plea bargain reached with Cpl. Saban was erroneous both because it commuted the charge of theft to a charge that did not carry a criminal record and based on the leniency of the agreed upon sentence - and the Court-Martial of Appeals adopted that assertion.[62]

In only three cases did the Courts-Martial diverge from the sentence agreed upon between the prosecution and the defense as part of plea bargains. In one case in which a soldier confessed to the offense of looting, and the parties petitioned for a punishment of two months in prison, the court reduced the soldier's sentence compared to that agreed-upon and sentenced him to one month of active imprisonment along with a suspended prison sentence and a demotion.[63] In two other cases the court rejected the plea bargains and imposed heavier sentences than

[59] Center/500/02 **Military Prosecutor v. Pte. Andre Butitznakov**.
[60] Center/240/02 **Military Prosecutor v. Cpl. Erez Saban**.
[61] Center/241/02 **Military Prosecutor v. Cpl. Gal Mizrahi**.
[62] Appeals/39/03 **Cpl. Gal Mizrahi v. Chief Military Prosecutor**.
[63] Center/187/02 **Military Prosecutor v. Cpl. Sebastian Goldberg**.

the ones agreed upon between the prosecution and the defense.[64] In those two cases the Court-Martial of Appeals canceled the deviation from the plea bargains and sentenced the convicted to the penalties agreed upon in the plea bargains and that were rejected by the District Courts-Martial.[65]

Level of sentencing according to charges

The indictments served in the Courts-Martial may include charges of "military offenses"[66] (namely, the offenses enumerated in the third chapter of the Law of Military Jurisdiction) or nonmilitary offenses[67] (mainly those included in the Israeli Penal Code), or both types at once.[68]

In general, the Courts-Martial are reluctant to impose severe sentences on convicted soldiers and officers, and the sentences handed down to them are far from the maximum level of sentencing set forth in the law. In many cases the reason given for the light sentences and the acceptance of plea bargains with lenient penalties included the defendant's good military service, personal circumstances, the prolongation of proceedings,[69] and more.

The following pages will describe the level of sentencing imposed upon soldiers and officers convicted of offenses against Palestinians, according to the main offense of

[64] Center/50/04 **Military Prosecutor v. Cpl. Yaacov Iskhakov**; North/186a/04 **Military Prosecutor v. Sec.-Lt. Zvi Winik**.

[65] Appeal/60/04 **Cpl. Yaacov Iskhakov v. Chief Military Prosecutor**; Appeals/59/05 **Sec.-Lt. Zvi Winik v. Chief Military Prosecutor**.

[66] Section 13, Law of Military Jurisdiction.

[67] Section 14, Law of Military Jurisdiction.

[68] In many cases defendants are charged with disciplinary offenses derived from the main offenses of which they have been charged and added to them in the indictments, mainly offenses of inappropriate behavior or disgraceful behavior.

[69] In about 20% of the sentences imposed by District Court-Martial judges, the amount of time that had passed since the incident and/or the prolongation of proceedings in the court were mentioned as one of the considerations for mitigating the sentence of a defendant who was convicted or for the acceptance of a lenient penalty agreed upon in a plea bargain, even though proceedings in the Courts-Martial are generally more efficient than their civilian counterparts: verdicts of defendants who confessed to the charges brought against them without conducting full trials were handed down an average of 11.5 months after the incident, and an average of six months after filing the original indictment. In the case of the 29 defendants who conducted full trials (22 of them conducted full evidentiary trials and another seven confessed to amended indictments after evidentiary hearings were held), an average of 22 months passed from the day of the incident and the date of handing down the verdict in their cases.

which they were convicted.[70] As stated above, the Courts-Martial sentences rely in most cases on plea bargains between the prosecution and the defense, in which the parties jointly petition for an agreed upon sentence. It should also be noted that the criminal charges of which soldiers and officers were convicted resulted in many cases from amended and lenient indictments, as compared to the original indictments.

In the vast majority of cases the convicted were sentenced, in addition to active prison sentences (whether by actual imprisonment or through military labor[71]) to a suspended prison sentence of a few months and a rank demotion. In order to facilitate reading, the following section of the report will detail generally the element of actual prison time imposed in these cases without including the additional components of the sentence. The full details of the sentences will be presented in the second part of the report.

Shooting and violence offenses

Manslaughter (section 298 of the Penal Code): following the killing of British national Thomas Hurndall, Sergeant Tayseer Heib was sentenced to seven years in prison after having been convicted of manslaughter (whose maximum penalty is 20 years' imprisonment) as well as an additional year in prison based on his conviction of other offenses.[72] As of the writing of this report, the conviction of Sergeant Heib represents the sole conviction thus far on the charge of manslaughter.[73]

Injury with grave intent (section 329 of the Penal Code): one soldier, St.-Sgt. Nayef Rahal, was convicted of injury with grave intent for shooting at a Palestinian who was fixing an antenna on the roof of his house in Rafah. For that offense, whose maximum penalty is 20 years' imprisonment, and for other offenses of obstructing justice and inappropriate behavior, St.-Sgt. Rahal was sentenced by the District

[70] i.e., the offense for which the level of sentencing set forth in the Law of Military Jurisdiction or the Penal Code is the heaviest of the offenses of which the soldier was convicted.

[71] Section 541(3) of the Law of Military Jurisdiction grants the Court-Martial (following the Penal Code) the authority to order that an active prison sentence of up to six months be served by way of service work (which in this section of the Law of Military Jurisdiction is called "military labor"), instead of active imprisonment.

[72] South/10/04 **Military Prosecutor v. Sgt. Tayseer Heib**. The conviction and sentence were upheld by the Court-Martial of Appeals (Appeal/96/05 Sgt. Tayseer Heib v. Chief Military Prosecutor)

[73] Two other indictments charged defendants with the offense of manslaughter. In one of them (South/270/03 **Military Prosecutor v. St.-Sgt. Shelly Nitzan**) the charge of manslaughter was changed to a charge of illegal use of a weapon as part of an amended indictment. The legal proceedings in the case of another defendant who was charged with manslaughter are still pending (Center/186/04 **Military Prosecutor v. Sergeant First Class GA**).

Court-Martial to 18 months in prison as well as a one-year suspended prison sentence and demotion to the rank of Private. The Court-Martial of Appeals accepted the Military Prosecution's appeal against the leniency of the sentence and increased St.-Sgt. Rahal's prison sentence to two years.[74]

Negligent manslaughter (section 304 of the Penal Code): one soldier and one officer were convicted of this charge, whose maximum sentence is three years' imprisonment. The deputy commander of a battalion was convicted of the negligent manslaughter of a 16-year-old boy and was sentenced by the District Court-Martial to two months in prison and four months of military labor, along with a suspended prison term and a demotion by one rank. The sentence was upheld by the Court-Martial of Appeals.[75] The soldier was convicted of the negligent manslaughter of a person who was traveling in a vehicle that bypassed a checkpoint, as well as giving false information and inappropriate behavior. His sentence was set at four and a half months' imprisonment along with a suspended prison term and the demotion to the rank of Private.[76]

Illegal use of a weapon (section 85 of the Law of Military Jurisdiction): one female soldier was convicted of the illegal use of a weapon based on the beginning of section 85 of the Law of Military Jurisdiction, an offense whose maximum sentence is two years in prison, and was sentenced to six months of military labor, in addition to a suspended prison term.[77]

Nine soldiers were convicted of the illegal use of weapons based on the end of section 85 of the Law of Military Jurisdiction, an offense whose maximum sentence is three years in prison.[78] Some of the soldiers were convicted of more than one count of the offense, and some were convicted of it in addition to other offenses. The harshest sentence was given to an officer found guilty of a series of offenses, among them ordering his subordinate to shoot, causing the injury of a Palestinian

[74] South/293a/04 **Military Prosecutor v. St.-Sgt. Nayef Rahal**. St.-Sgt. Rahal was also sentenced to a six-month suspended prison sentence for obstructing justice; appeals/66/05 **St.-Sgt. Nayef Rahal v. Chief Military Prosecutor**.

[75] LAC/135/03 **Military Prosecutor v. Captain Zvi Koretzky**; Appeal/64/**04 Captain Zvi Koretzky v. Chief Military Prosecutor**.

[76] North/450/04 **Military Prosecutor v. St.-Sgt. DGA**.

[77] South/177/03 **Military Prosecutor v. Pte. Shiri Burtz**.

[78] Section 85 of the Law of Military Jurisdiction establishes different sentences for a soldier who illegally fires from his gun and a person who makes other illegal use of his gun: "A soldier who without authority or without taking appropriate precautions carries a gun, handles it or uses it in another manner is sentenced to two years in prison; operation of his weapon in the aforementioned way bears a sentence of three years in prison."

civilian. As part of a plea bargain the officer - who was also convicted on two counts of exceeding authority to the point of risking life or health (according to section 72 of the Law of Military Jurisdiction), of giving false information (section 108(2) of the Law of Military Jurisdiction) and of inappropriate behavior (section 130 of the Law of Military Jurisdiction) - was sentenced to 15 months in prison, along with a suspended prison sentence and a demotion.[79] A soldier who beat a Palestinian at a checkpoint and injured him by gunfire when the victim tried to flee was sentenced to six and a half months in prison following his conviction of the illegal use of a weapon, in addition to the offense of assault causing real injury (section 380 of the Penal Code, an offense carrying a maximum sentence of three years in prison).[80] In another case a soldier was sentenced to six months in prison (along with a suspended prison sentence and a demotion) following his conviction of illegal use of a weapon and the offenses of exceeding authority and inappropriate behavior, for beating a minor and a series of acts of using weapons to intimidate Palestinian detainees.[81] The six others convicted of the illegal use of weapons were sentenced to much lighter prison sentences, ranging from two months of military labor to suspended prison sentences of three or four months.

Abuse under aggravated circumstances (sections 65(a) and (c) of the Law of Military Jurisdiction): four soldiers were convicted of this offense whose maximum sentence is seven years' imprisonment. They were all sentenced by District Courts-Martial to between three and nine months in prison (the latter for a defendant convicted of two counts of abuse under aggravated circumstances),[82] along with suspended imprisonment and demotion. The Court-Martial of Appeals harshened the punishment of two of the convicted (accused in the same affair), and increased the element of actual imprisonment in their sentences to seven and ten months in prison, respectively.[83]

Abuse (section 65(a) of the Law of Military Jurisdiction): seven soldiers were convicted of the offense of abuse, whose maximum sentence is three years in prison. One of the convicted was sentenced to a suspended prison term of three and a half months, and the six others were sentenced to prison terms ranging from 45 days to four and a half months, along with suspended prison terms and demotions.

---

[79] Central/419/07 **Military Prosecutor v. Lt. Yaacov Gigi**.

[80] Central/372/04 **Military Prosecutor v. Pte. AD**.

[81] Central/272/02 **Military Prosecutor v. St.-Sgt. Kfir Cohen**.

[82] Center/366/03 **Military Prosecutor v. Cpl. Kfir Avraham**.

[83] Appeal/146/03 **Chief Military Prosecutor v. Cpl. Roee Rosner**; Appeal/128/03 **Chief Military Prosecutor v. Cpl. Lior Lieberman**.

Assault under aggravated circumstances (section 382 of the Penal Code): four soldiers were convicted of assault under aggravated circumstances, an offense whose maximum penalty is four years' imprisonment. Two soldiers convicted of one count each were sentenced to 170 days in prison[84] and four and a half months in prison,[85] along with conditional punishments and demotion. Two other soldiers, convicted of two counts each of assault under aggravated circumstances (and another count of inappropriate behavior) as part of one case were sentenced to five and five and a half months in prison, respectively, along with suspended imprisonment and demotions.[86] There were no appeals made of the sentences imposed on those convicted of this offense.

Assault causing real injury (section 380 of the Penal Code): one soldier was convicted of this offense (along with the derivative offense of disgraceful behavior), whose maximum sentence is three years in prison, because of his role in beating bound and blindfolded detainees. The soldier was sentenced to three months in prison and four months of suspended imprisonment.

Assault (section 379 of the Penal Code): nine soldiers were convicted of this offense whose maximum sentence is two years' imprisonment. Two of the four soldiers convicted of the offense of assault (only) were not sentenced to prison in the first instance, but only to suspended imprisonment and demotions.[87] An appeal against the leniency of the penalty of one of the four led to imposing on that defendant a two-month prison sentence.[88] Two other soldiers were sentenced by the District Courts-Martial to terms of 28 and 45 days in prison.[89]

Five of those convicted of the offense of assault were also convicted of other offenses. One soldier, who in addition to assault was convicted of the offenses of causing damage to property and inappropriate behavior, was sentenced to six months in prison along with a suspended prison sentence and a demotion.[90] Three soldiers, convicted in an affair of continuous abuse of a group of Palestinian civilians, were sentenced by the District Court-Martial to brief prison sentences along with imprisonment by way of military labor (45 days of active imprisonment and two and

[84] Center/376/03 **Military Prosecutor v. Cpl. Yevgeny Anoch**.
[85] Center/365/03 **Military Prosecutor v. Cpl. Morris Michael**.
[86] Center/450/06 **Military Prosecutor v. Sgt. Chaim Maman et al**.
[87] Center/261/04 **Military Prosecutor v. Sgt. Major Victor Ladizhanski**; North/176/06 **Military Prosecutor v. Cpl. Zaudo Takeh**.
[88] Appeal/57/05 **Military Prosecutor v. Sgt. Major Victor Ladizhanski**.
[89] Center/93/03 **Military Prosecutor v. Pte. Shalom Malka**; Center/526a/04 **Military Prosecutor v. Cpl. David Barak**.
[90] Center/300/04 **Military Prosecutor v. Cpl. BS**.

a half months of imprisonment by military labor; 14 days' imprisonment and 106 days of military labor; and, 16 days' imprisonment and 104 days of military labor, respectively), as well as suspended prison sentences and demotions.[91] The Court-Martial of Appeals amended the active prison sentences to five[92] and four months.[93] Another soldier who was convicted of assault and the offense of suborning an investigation was sentenced by the District Court-Martial to three months of military labor, a suspended prison sentence, and a demotion. The Court-Martial of Appeals acquitted the soldier of the offense of suborning an investigation and amended the component of active imprisonment to four months.[94]

Property and looting offenses

Looting (section 70 of the Law of Military Jurisdiction): 10 years' imprisonment is the maximum penalty for the offense of looting, of which 15 defendants were convicted. The prison sentences imposed by the District Courts-Martial ranged from 40 days to five months (for a soldier who was also convicted of offenses of disgraceful behavior and inappropriate behavior).[95] The Court-Martial of Appeals increased the sentences of two of the convicted who were each sentenced by the first instance to three months in prison and sentenced them to six[96] and five[97] months, respectively.

Theft (section 384 of the Penal Code): eight soldiers were convicted of theft, whose maximum penalty is three years in prison. Three of those convicted of theft were convicted only of this offense and sentenced to active prison terms ranging from 14 to 75 days, usually along with suspended prison sentences. Five soldiers were convicted of the offense of theft, along with other offenses, and they were sentenced to active prison terms ranging from one to five months. The case of one of those convicted was brought to the Court-Martial of Appeals, which upheld a plea bargain reached between the parties according to which the charge of theft would be changed to the charge of disgraceful behavior (which does not appear on one's

[91] South/260/01 **Military Prosecutor v. Sgt. Avichai Hazan et al**; South/261/01 **Military Prosecutor v. Sgt. Avi Levy**.

[92] Appeal/27/02 **Chief Military Prosecutor v. Sgt. Avichai Hazan et al**; Appeal/38/02 **Chief Military Prosecutor v. Sgt. Avi Levy**.

[93] Appeal/17/02 **Chief Military Prosecutor v. Sgt. Liav Kovalio**.

[94] Center/276/02 **Chief Military Prosecutor v. Cpl. Noam Elbaz**; Appeal/84/04 **Cpl. Noam Elbaz v. Chief Military Prosecutor**.

[95] Center/178/02 **Military Prosecutor v. St.-Sgt. Michael Melamed**.

[96] Appeal/62/03 **Chief Military Prosecutor v. St.-Sgt. Alexander Ilin**.

[97] Appeal/168/03 **Chief Military Prosecutor v. Cpl. Aharon Ben Yishai**.

criminal record), and added to the soldier's sentence of 14 days in prison and demotion to the rank of Private would be a suspended prison term of 60 days.[98]

Unlawful receipt of property (section 412 of the Penal Code): three soldiers were convicted of this offense, which carries a maximum penalty of three years' imprisonment. The soldiers were sentenced to prison terms ranging from 50 to 65 days.

Forging a banknote (section 462(2) of the Penal Code): one soldier was convicted of this offense based on the possession of forged banknotes which he took from the building of the Muqataa in Ramallah. The penalty for this offense is up to three years in prison. The soldier was sentenced to 50 days of military labor.

Malicious sabotage (section 413(e) of the Penal Code): one soldier was convicted of the offense of malicious sabotage, whose maximum sentence is five years in prison, along with the offense of the illegal use of a weapon (according to the preface of section 85 of the Law of Military Jurisdiction), whose maximum penalty is two years in prison. The soldier was sentenced to one month in prison, three months of suspended imprisonment and demotion. The Court-Martial of Appeals rejected the soldier's appeal of the verdict and sentence.[99]

Accepting a bribe (section 290 of the Penal Code): nine soldiers were convicted of the offense of accepting a bribe, whose maximum sentence is seven years in prison. Two of the soldiers were convicted only of that offense and sentenced to four[100] and six months in prison,[101] respectively, along with suspended prison terms and demotions. The Court-Martial of Appeals reduced the sentence of one of them and returned it to the sentencing level agreed upon between the parties as part of a plea bargain which was rejected by the District Court, so that the actual prison component of the soldier's sentence was set at four and a half months.[102]

Seven soldiers were convicted of the offense of accepting a bribe along with other offenses, including theft from a vehicle, exceeding authority to the point of endangering national security and drug crimes. Those convicted were sentenced to prison terms of between six months and one year.

---

[98] Appeal/39/03 **Cpl. Gal Mizrahi v. Chief Military Prosecutor**.

[99] North/536/05 **Military Prosecutor v. Sgt. Ephraim Kadouri**; Appeal/109/06 **Sgt. Ephraim Kadouri v. Chief Military Prosecutor**.

[100] Center/45/04 **Military Prosecutor v. Cpl. Oshrat Valetko**.

[101] Center/58/04 **Military Prosecutor v. Cpl. Yaacov Iskhakov**.

[102] Appeal/60/04 **Cpl. Yaacov Iskhakov v. Chief Military Prosecutor**.

"Basket offenses"

Some 30% of the defendants who were convicted in Courts-Martial - 33 people - were convicted of offenses of a "disciplinary" nature, set forth by the Law of Military Jurisdiction. As opposed to most of the offenses of which soldiers are charged in the Courts-Martial, soldiers can be prosecuted for these offenses - which are called "basket offenses," because they do not refer to a specific action - in a disciplinary proceeding, and conviction of them does not appear on one's criminal record.[103] Being charged with these offenses is usually the result of a plea bargain between the prosecution and the defense, which replaces more serious charges that appeared on the original indictment sheets.

Exceeding authority (section 68 of the Law of Military Jurisdiction): eight soldiers were convicted of the offense of exceeding authority (two of them were convicted of the additional offense of inappropriate behavior), which bears a maximum penalty of one year in prison. Except for one officer, who was sentenced to 14 days' imprisonment for abducting a clergyman, tying him up and abandoning him far from his village,[104] all of the others convicted of this offense were sentenced to imprisonment by way of military labor or suspended prison terms. Thus, two officers and a soldier who were convicted of serious acts of violence were sentenced to between one and two months of military labor, along with suspended prison sentences (the officers were not demoted);[105] three soldiers convicted in a shooting were sentenced to only a few months' suspended imprisonment and demotion;[106] and an officer who ordered Palestinian civilians to be used as "human shields" was sentenced to only a two-month suspended prison term.[107] The Court-Martial of Appeals was petitioned with only one appeal of a conviction of this offense, and the court decided to increase the sentence component of the soldier's demotion.[108]

---

[103] Among those offenses set forth in the **criminal register ordinances (registry details that will not be recorded, or information about which will not be provided, and offenses the conviction of which does not toll the statute of limitations or expunction), 5744-1984**, are exceeding authority (section 68 of the Law of Military Jurisdiction), causing property damage by exceeding authority (section 70 of the Law of Military Jurisdiction), negligence (section 124 of the Law of Military Jurisdiction) disgraceful behavior (section 129 of the Law of Military Jurisdiction), improper behavior (section 130 of the Law of Military Jurisdiction) and other offenses.

[104] Center/454/05 **Military Prosecutor v. Lt. Elizur Azran**.

[105] Staff/46/06 **Military Prosecutor v. Lt. Suleiman Abbas**; Center/291/02 **Military Prosecutor v. Cpl. Itai Ozeri**; Center/435/02 **Military Prosecutor v. Lt. Matan Buchner**.

[106] Appeal/13/03 **Military Prosecutor v. St.-Sgt. Danny Yosef**; South/270/03 **Military Prosecutor v. St.-Sgt. Ran Eliahu**; Center/558/03 **Military Prosecutor v. St. Yaacov Priserovich**.

[107] Center/44/06 **Military Prosecutor v. Capt. Moshe Azulai**.

[108] Appeal/158/04 **Chief Military Prosecutor v. St.-Sgt. Danny Yossef**.

Causing damage to property by exceeding authority (section 70 of the Law of Military Jurisdiction): one soldier was convicted of this offense, whose maximum penalty is two years in prison and which does not appear on the criminal record, for running over a car in the city of Ramallah with the army tank he was driving. The soldier was sentenced to 21 days of military labor along with a suspended sentence and a demotion.[109]

Negligence (section 124 of the Law of Military Jurisdiction): six soldiers and officers put on trial following incidents in which six Palestinians were killed and six others were wounded were convicted of this offense, a conviction of which does not appear on the criminal record and which carries a maximum penalty (for those from the rank of sergeant and up) of two years in prison. The heaviest sentence imposed on those convicted of this offense was levied on two officers who were charged in connection with the death of a Palestinian infant who had been killed by gunfire shot at the car in which he was traveling at the time. One of those convicted was sentenced to one month in prison along with a suspended prison sentence. His colleague was sentenced by the District Court-Martial to four months of military labor (and a four-month suspended prison sentence), but the Court-Martial of Appeals reduced his sentence and changed it to only one month of military labor.[110] The four other defendants convicted of this offense - two officers charged with firing shells at the city of Jenin,[111] an officer who ordered the shooting that caused the injury of a Palestinian civilian in his head,[112] and a tank commander accused of involvement in the death of a seven-year-old boy[113] - were all sentenced to three-month suspended prison sentences. One of the defendants was also sentenced to censure, and two others were demoted by one rank.

Disgraceful behavior and inappropriate behavior (sections 129 and 130 of Law of Military Jurisdiction): the 18 soldiers and officers convicted of these offenses were tried for a broad array of criminal acts, including: theft and looting, abuse of bound detainees, accepting bribes, and more. After being convicted of these offenses,[114] which carry a maximum sentence of one year in prison for each of the two offenses,

---

[109] Center/337/02 **Military Prosecutor v. Sgt. Avraham Rosenfeld**.

[110] North/186/04 **Military Prosecutor v. Sec.-Lt. Zvi Winik et al**; Appeal/59/05 **Sec.-Lt. Zvi Winik v. Chief Military Prosecutor**.

[111] Special/3/04 **Military Prosecutor v. Lt.-Col. Anonymous et al**.

[112] Center/332/01 **Military Prosecutor v. Lt. Assaf Frank**.

[113] North/497/03 **Military Prosecutor v. St.-Sgt. Dan Stein**.

[114] Soldiers can be charged with improper behavior from the rank of sergeant and up, and the ranks of most of those convicted of disgraceful behavior was less than sergeant.

half of those convicted were sentenced to active prison terms of between 14 and 75 days, two were sentenced to imprisonment by military labor for 60 days[115] and 45 days,[116] respectively, and the others were sentenced to 2 to 5 months of suspended imprisonment.

Exceeding authority to the point of risking life or health (section 72 of the Law of Military Jurisdiction): two soldiers were convicted of this offense, whose maximum penalty is three years in prison, for their involvement in acts of abuse and violence. One of them, who was convicted on two counts for this offense, in addition to being convicted of suborning an investigation (section 245(8) of the Penal Code) and of inappropriate behavior, was sentenced to 45 days in prison along with a suspended prison term and a demotion.[117] The other, who was convicted of this offense, along with disgraceful behavior, was sentenced to one month in prison along with a suspended prison term and a demotion.[118]

False information (section 108(2) of the Law of Military Jurisdiction): two soldiers were convicted of providing false information, along with the derivative offense of inappropriate behavior, based on their part in covering up their colleagues' liability for a fatal shooting. One of them was sentenced to five months in prison along with a suspended prison term and a demotion.[119] The other was sentenced by the District Court-Martial to 30 days in prison by way of military labor, along with a suspended prison sentence and a demotion. The Court-Martial of Appeals accepted the prosecution's appeal against the leniency of the sentence and increased the soldier's imprisonment component to 75 days of active imprisonment.[120]

Payment of compensation to the victims of soldiers convicted by Courts-Martial

Section 35 of the Law of Military Jurisdiction authorizes the Court-Martial to require a defendant who is convicted to pay compensation to the victim of the crime, at the level of "up to ten times the basic monthly salary of a Private in

[115] Special/1/02 **Military Prosecutor v. Lt.-Col. Geva Sagi**.
[116] Center/517/02 **Military Prosecutor v. Cpl. Nimrod Babavi**.
[117] Center/127/02 **Military Prosecutor v. Sgt. Tzahi Bronstein**.
[118] Center/240/02 **Military Prosecutor v. Cpl. Erez Saban**.
[119] South/7/04 **Military Prosecutor v. Sgt. Emad Atawnah**.
[120] North/451/04 **Military Prosecutor v. St.-Sgt. RA**; Appeal/154/04 **Chief Military Prosecutor v. St.-Sgt. RA**.

regular service."[121] Nonetheless, the Courts-Martial did not require any of the soldiers or officers who were convicted of crimes against Palestinians to pay compensation to the victims.

In the sentence of a soldier who was convicted of charges including causing damage to a car belonging to a Palestinian civilian, the Court-Martial said that "considering the absence of evidence of actual damage and considering the possibility that the plaintiff was already indemnified by others, such as an ensuring body, we will refrain from imposing a financial compensation remedy in this case."[122] In all the rulings given in the matter of soldiers convicted of offenses against Palestinians and their property, the above is the only mention of the consideration of a compensatory component in the offender's sentence.

Involved parties who were not prosecuted

In a hearing on the appeal of a soldier for extending his detention until the end of proceedings, the Court-Martial judge strongly criticized the MPCID for refraining from investigating other suspects for involvement in the actions of the soldier, who was charged with a long series of acts of abuse of Palestinians who wished to pass through the checkpoint under his command:

> It is not clear whether the defense attorney's claim is true that the appellant's commanders, some or any of them, knew about his actions and intentionally turned a blind eye. However, this case raises a number of questions: [...] Why wasn't testimony collected from the platoon commander before he went abroad? Why weren't other commanders, except for the company commander, investigated, among other things about the question of whether they knew about the appellant's actions? Did the appellant's commanders supervise him adequately so that such things would not happen? Could such a series of actions have been committed without the knowledge of the appeallant's direct commanders, or at least without them turning a blind eye? Why was the company commander investigated under warning? Should measures not have been taken against any of the commanders, whether disciplinary proceedings or other or by their commanders? [...] Does the IDF do **everything in its capacity** to eradicate the

[121] Section 36 of the Law of Military Jurisdiction clarifies that the requirement to pay compensation to the victim according to section 35 does not exempt the defendant from liability for damages according to any other law, i.e., payment of compensation decided by a Court-Martial does not preclude the victim's filing of a civil damage claim against whomever is responsible for harming him.
[122] North/53605 **Military Commander v. Ephraim Kadouri**.

> blight of the illegal behavior of some of the soldiers who serve in the territories?[123]

Similar criticism of the investigation and prosecution bodies was made in some of the judgments in which the Courts-Martial dealt with the question of the failure to prosecute additional soldiers and officers except for those specifically accused in those cases. For example, in a verdict in which a soldier was acquitted of the charge of killing a Palestinian in the Gaza Strip, the Court-Martial wondered why his commander, who gave the soldier illegal orders to open fire, was not indicted;[124] in the matter of another defendant the Court-Martial commented, regarding the vagueness surrounding the briefings the defendant was given about the open fire regulations, that "the defendant's acquittal from the serious offense and his conviction for a very minor offense do not fully clarify liability for the death of the deceased, as far as the commanding ranks above the tank crew are concerned."[125] Similar comments appear in other rulings regarding the failure to take measures against other soldiers and commanders who were involved in the incidents that led to serving indictments.[126]

[123] Detention Appeal/28/04 **St.-Sgt. BS v. Chief Military Prosecutor**. Emphasis in the original.

[124] South/231/04 **Military Prosecutor v. St.-Sgt. AA**.

[125] North/497/03 **Military Prosecutor v. St.-Sgt. Dan Stein**.

[126] For example: Center/332/01 **Military Prosecutor v. Lt. Assaf Frank**; Center/229/02 **Military Prosecutor v. Sec. Lt. Yoad Kroshnivsky**; Center/376/03 **Military Prosecutor v. Cpl. Yevgeni Anoch**.

Part Two

Chapter 1: Shooting incidents

Few and far between are the cases in which MPCID investigations are opened into criminal offenses committed by soldiers in the OT. Even fewer are the investigations that ultimately lead to the serving of indictments against suspects. This part of the report follows the results of all of the indictments served by the Military Prosecution over the same seven-year time period. These indictments were based on 78 MPCID investigations, out of the total 1,246 investigations conducted during that period.

The facts presented in this part of the report are taken from Court-Martial judgments and indictments to which suspects admitted guilt. Where we saw fit to complete missing information from other sources, such was noted in the footnotes.

During the more than seven years from the start of the second Intifada to the end of 2007, the investigations of only 24 shooting incidents led to serving indictments.

Thirty-five defendants were charged with offenses connected to those incidents. The trials of three defendants in three separate cases are still pending. Indictments against six of the defendants were canceled (in the case of some of the defendants the indictment was changed to a disciplinary proceeding); three defendants were acquitted, and the rest - 23 defendants - were convicted of various offenses.

Killing incidents

January 7, 2001: the killing of Fatma Abu Jeesh, age 24

Central District Court-Martial Case 445/01

On January 7, 2001 Fatma Jamal Jalal Abu Jeesh, a resident of the village of Beit Jan, who worked as a secretary in the hospital in Nablus, was returning from Nablus to her village. Abu Jeesh was traveling with her sister in a car driven by her brother-in-law, Mahmoud Abu Jeesh. As it passed the village of Beit Fouriq, the car, along with a group of other cars, was driving around an IDF checkpoint when a bullet entered it, hit Abu Jeesh and killed her on the spot. That night the IDF Spokesperson issued a statement based on a report given by the soldiers on the ground, according to which the deceased was shot during an exchange of fire at the site. Only later did Sgt. AB admit to his commanders that he had shot at the car because it had driven around the checkpoint.[127]

[127] Amos Harel, IDF debriefing: Soldier shot dead a Palestinian woman who was not endangering any lives. **Ha'aretz**, January 10, 2002.

On December 12, 2001 Sgt. AB was charged by the Military Prosecution of the negligent manslaughter of Abu Jeesh. According to the indictment, which was the first indictment for the killing of a Palestinian by a member of the security forces during the second Intifada, Sgt. AB fired bullets from his gun at the Fiat in which the deceased was riding. At the time Sgt. AB was on assignment at the checkpoint and fired towards the car's wheels - against the open fire regulations - after he had defined it as a suspicious vehicle for the purpose of conducting an "arrest of suspect procedure," despite the fact that there was no basis for the procedure. The indictment said the shooting was done "without authority, against the open fire regulations that applied to the sector at that time and without taking the appropriate precautions."

Information provided by the IDF Spokesperson to Yesh Din on January 9, 2008 shows that the charges were dropped by the prosecution after the indictment was served.[128]

August 19, 2001, Nablus area: the killing of Muein Abu Lawi, age 38

Central District Court-Martial Case 229/02; Court-Martial of Appeals Case Appeal/191/03

On Sunday, August 19, 2001 Muein Subhi Saeed Abu Lawi, age 38, from the village of Salfit, was killed while bypassing by foot an IDF checkpoint along with a group of residents of the area who were trying to reach the city of Nablus, which at the time was under full blockade. Abu Lawi, a store owner, told one of the others walking with him that he wished to exchange defective goods he had bought in Nablus for his store.[129] While the group was walking, a burst of gunfire was shot from an IDF outpost 500 meters away, hitting and killing Abu Lawi. According to an eyewitness, three IDF soldiers who appeared on the scene prevented him and other residents from approaching Abu Lawi's body by throwing a shock grenade at the site. Later the eyewitness learned that shortly before Abu Lawi's killing another two Palestinians were shot and injured in the same area, one in the hip and the other in the ear.

---

[128] Yesh Din is not aware of the reasons the indictment was canceled, nor the time of its cancellation. However, it is known that on May 5, 2004, two and a half years after serving the indictment, the Court-Martial of Appeals (Var. Req./42/03) ruled on the defendant's request to reveal the operational debriefing to him as part of ongoing proceedings in the case.

[129] Testimony of Isam Yousef Mahmoud Ali Ahmad in B'Tselem report, **Trigger Happy. Unjustified Shooting and Violation of the Open-Fire Regulations during the al-Aqsa Intifada** (March 2002), pp. 16-17.

On May 22, 2002, around nine months after Abu Lawi's killing, the Military Prosecution filed indictments in the Central Command's District Court against a platoon commander from the Haruv Battalion, Second Lieutenant Yoad Kroshnivski. The indictment included a charge of negligent manslaughter - the death of Abu Lawi - and two charges regarding the illegal use of a weapon in separate incidents on the same day. The judges decided to acquit the defendant of the offense of 'negligent manslaughter,' for reasons including that the prosecution had not proven that "as a result of this illegal shooting someone was hurt," and instead convicted him of the offense of illegal use of a weapon. Kroshnivski was convicted of one of the other charges of illegal use of a weapon and acquitted of another. It is impossible to know the full reasons for these decisions because the court forbade any publication of the verdict and transcripts of the hearings, on the basis of an opinion submitted by the IDF intelligence branch. Publication of the type of weapon used in the incident was also forbidden.

Sec-Lt. Kroshnivski, who was meanwhile discharged from his military service, was sentenced on October 7, 2003, following a full trial, to 90 days in prison as well as delaying his rank promotion by two years (Center/229/02. Verdict: September 24, 2003. Sentence: October 7, 2003).

After both the prosecution and defense submitted appeals to the Court-Martial of Appeals, the parties reached a plea bargain which was adopted by the court. According to the plea bargain, Sec-Lt. Kroshnivski confessed to two counts of illegal use of a weapon, with the parties agreeing that in the case of one of the incidents of shooting "a person was injured whose identity was not clear." The parties also agreed on a sentence by which Kroshnivski would serve 30 days of military labor, in addition to the suspended prison sentence he was given by the District Court (Appeal/191/03. Ruling: February 20, 2006).

March 1, 2002: the killing of Mahmoud Hassan Ahmad A-Talalkah, 7

Northern District Court-Martial Case 497/03

On July 28, 2003, St.-Sgt. Dan Stein, a tank commander in Battalion 53, was charged at the Northern Command District Court-Martial with negligent manslaughter. In the "details of the offense" sheet that appeared in the indictment it was stated that St.-Sgt. Stein "ordered St.-Sgt. AG, a gunner in a Merkava Mark III tank in Battalion 53, to fire a MAG machine gun near a group of civilians including children, against the open fire regulations, without authority and/or without taking adequate precautions to prevent the risk to human life. Accordingly shooting took place resulting in the killing of the child Mahmoud Hassan A-Talalkah, a resident of Beit Hanoun."

In its verdict the court strongly criticized the conduct of the investigation and prosecution bodies. Among other things, it noted that the MPCID investigators decided not to collect testimony from Palestinian eyewitnesses, and instead were satisfied with the testimonies given to B'Tselem researchers, and furthermore that the responsibility of officers ranked higher than tank commander St.-Sgt. Dan Stein was not investigated.

According to the testimony given in court, St.-Sgt. Stein ordered the tank gunner to fire warning shots in order to deter a group of children walking towards the tank, within an area declared as a "special security area." According to orders in the sector, Palestinians were forbidden from entering such areas and any person who entered them was considered a "suspect." In accordance with the defendant's order, the gunner shot a first round of gunfire with the MAG machine gun to a point 50 meters to the left of the group of children; another round was fired to a point at a similar distance to the right of the group, and finally a third round was fired at a sand dune located between the tank and the group. The court determined that the first two rounds of fire, aimed to the right and to the left of the group, were legal and in accordance with the open fire regulations that applied to the sector, but that the third round was fired against the orders, and the defendant should have anticipated that that shooting could harm the children. However, the court asserted, "no causal link can be established between the defendant's behavior and the result, namely, it is doubtful that the third shooting is what injured the deceased and caused his death." Likewise, the court failed to establish whether the defendant ordered the gunner to execute the third shooting or whether the gunner fired without the defendant having instructed him to do so. As a result, and on the basis of the assertion that "the evidentiary material related to the presentation of the events at the time of the shooting was very thin," St.-Sgt. Stein was acquitted for reasonable doubt of the offense of "negligent manslaughter," and instead was convicted of the offense of "negligence."

In the sentence the judges repeated their assertion that "the defendant is not criminally liable for the death of the deceased. His conviction is limited to committing negligent and dangerous shooting. Those are the only elements of the crime we must consider for sentencing, despite the grave feeling stemming from the fact that the firing by the tank is what led to the death of the deceased." The sentence imposed on St.-Sgt. Stein was a three-month suspended prison term and a demotion by one rank to the rank of sergeant.

One of the considerations in sentencing, the court made clear, was the fact that St.-Sgt. AG, the tank gunner who committed the shooting, was not put on trial:

"It cannot be established with certainty that the defendant gave the order to shoot from the front. This means that there is a possibility that St.-Sgt. [AG] did not commit the third shooting on the basis of an explicit order by the defendant. It may have been done with the knowledge and implicit approval of the defendant, but the fact that no explicit order was given sheds a different light on the liability of St.-Sgt. [AG] for the shooting, and does not necessarily lead to the conclusion there was no place to take any measures against him for committing the third shooting."

(North/497/03. Verdict: July 12, 2005. Sentence: September 7, 2005.)

June 21, 2002: the killing of Jamil Yousef Ghazawi, age 6, Sujud Ahmad Turki Shawahnah, age 8, Ahmad Yousef Ghazawi, age 9 and Hilal Shita, age 60, and the wounding of five others

Special Court-Martial Case 3/04

On June 21, 2002 the city of Jenin was under curfew. For some reason some of the residents of the city believed that the curfew had been lifted and many of them went out to shop in the market.[130] During that time a special military force was operating in the city, secured by an Armored Corps force consisting of three tanks from Battalion 77. The commander of the Armored Corps force on the ground was a deputy company commander bearing the rank of lieutenant. The sentence said that after the special force's soldiers operating in the city surprisingly encountered the movement of people and cars on the street, the battalion commander ordered the deputy company commander to shoot deterrence shots from the tanks in order to disperse the residents and enforce the curfew. The Armored Corps force fired "more than ten shells into Jenin" as well as firing from machine guns. As a result of the shooting four civilians were killed (three of them children between ages 6-9), and five others were wounded.

An indictment was served against the battalion commander, a Lieutenant Colonel, and against the deputy company commander. Publication of the defendants' names was prohibited by a court order. During the hearings in the trial of the two, testimony was heard and evidence was submitted, but it was difficult for the prosecution to prove a connection between the actions of the battalion commander and the deputy company commander and the death of the four residents of Jenin and the injury of five others. Following a plea bargain the indictment was amended

[130] B'Tselem report, **Lethal Curfew: The Use of Live Ammunition to Enforce Curfew** (October 2002), p. 14.

such that the defendants were no longer charged with criminal liability for the killing or injury of the residents of Jenin.

The defendants were convicted of the offense of negligence and both sentenced to suspended prison terms of three months. The deputy company commander was demoted from his rank of lieutenant by one rank to second lieutenant (Special/3/04. sentence: December 28, 2006). Publication of the verdict in this case was prohibited and thus it was not provided to Yesh Din.

The MPCID investigation of the incident found that the battalion commander's order to the deputy company commander to fire shells in an attempt to enforce the curfew was in fact an order given to him by by his commander in the sector, then-Golani Brigade Cmdr. Col. MT. The Military Prosecution decided not to criminally prosecute the brigade commander and instead to try Col. MT for disciplinary violations before the then-Navy Cmdr. Maj.-Gen. Yedidia Yaari. Col. MT was acquitted by the Maj. Gen. in the disciplinary proceeding.[131]

October 4, 2002: the killing of Mohamed Ali Najeeb Saeed Zeid, 16

Ground Forces Command District Court-Martial File 135/03; Court-Martial of Appeals Case Appeal/64/04

On Friday, October 10, 2002 relatives Mohamed Ali Zeid and Mohamed Samir Zeid, both 16 years old, met at Mohamed Samir's house in the village of Nazlat Zeid in order to study for a mathematics exam. In testimony he gave B'Tselem, Zeid said, among other things: "We saw the soldier sitting next to the driver open the right-hand door and stick part of his body out of the Jeep door with a gun in his hand. The Jeep was about 10 meters from the house. The soldier pointed his gun in our direction but did not talk to us. Mohamed and I turned backwards, and suddenly I heard the sound of shooting very close by. Mohamed jumped back a step or two and fell on the ground. I thought he was kidding but he told me he was injured. I looked at him and he put his hands on the place of his injury." The injured Zeid was rushed to the hospital in his relatives' car but died.

After an MPCID investigation, Capt. Zvi Koretzky, the deputy commander of Battalion 411 in the Armored Corps was put on trial. The factual sequence described in the verdict stated, among other things, that on October 4, 2002, Capt. Koretzky entered

[131] Hanan Greenberg, Officers fired a lethal shell in enforcing a curfew and will not be jailed. **Ynet**, January 15, 2007; Amos Harel, Censure and suspended prison term for a battalion commander whose soldiers killed four civilians in Jenin. **Haaretz**, January 16, 2007. Col. MT was promoted and currently holds a senior position in the IDF with the rank of brigadier general.

the village of Nazlat Zeid in an armored Jeep with two other soldiers on a patrol following a warning of a car bomb. After the Jeep entered the village it was pelted with stones, and Capt. Koretzky announced through the Jeep's loudspeaker system that a curfew was in effect. After a group of residents of the village threw more stones at the Jeep, the Jeep stopped and Capt. Koretzky shot one bullet toward a "stop butt" - the wall of a nearby house. As a result of the shooting Mohamed Zeid, 16, who at the time was looking out the window with his friend, was killed. The court stressed that during the entire incident neither Capt. Koretzky nor his soldiers were in mortal danger.

Following a full trial the defendant was convicted and sentenced to 12 months in prison, six active and six suspended. The court decided that only two months of the active sentence would be served in prison and the other four by way of military labor. Capt. Koretzky was also demoted to the rank of lieutenant (GFC/135/03. Verdict: February 29, 2004. Sentence: May 3, 2004).

Capt. Koretzky appealed the entire verdict and, in the alternative, the severity of the sentence. The appeal was rejected, and the Court-Martial of Appeals judges upheld the conviction of Capt. Koretzky of negligent manslaughter, asserting that "considering the grave negligence on the part of the appellant and its deadly results, the District Court-Martial was not severe enough with the appellant. To the contrary, by deciding that most of the active prison term would be served by way of military labor, the District Court-Martial went beyond the letter of the law to be lenient with the appellant" (Appeal/64/04. Ruling: November 15, 2004).

December 3, 2002: the killing of Fatma Obeidi, age 95, and the wounding of another woman by shooting at the van in which they were traveling

Central District Court-Martial Case 158/03

The indictment against Cpl. LI from Battalion 202 of the Paratroopers Brigade charged him with the offenses of negligent manslaughter and the illegal use of a weapon. Cpl. LI was accused of firing 17 shots at a van on December 3, 2002, during a patrol next to the Surda bend. As a result of the shooting, Fatma Obeidi, 95, was hit with a bullet in her back. Another woman traveling in the car was wounded by a bullet that hit her in the leg.

The indictment was submitted on March 31, 2003 and the defendant's trial is still underway.

March 4, 2003: the killing of Abdullah Abu al-Ashhab, age 75

Southern District Court-Martial Case 270/03

On March 4, 2003 Cpl. Shelley Nitzan and Sgt. Ran Eliahu, soldiers in the Tzabar Battalion of the Givati Brigade were at a position, known as "Tahab 11," near the settlement of Netzarim in the Gaza Strip when they noticed a man on a donkey. The two suspected that the man, who did not seem to be armed, entered an area defined as a "special security area" into which Palestinians were forbidden to enter. Cpl. Nitzan asked the headquarters for permission to execute a "warning shot" in order to expel the man from the area, and Sgt. Eliahu did in fact fire ten shots toward a "stop butt" of his choice, some 50 meters from the man, who was lying on the ground at the time. After the shooting, the man rose to hit feet, collected his possessions and turned back. Then Sgt. Eliahu ordered Cpl. Nitzan to fire "another warning shot," without permission and against the open fire regulations. Cpl. Nitzan was convicted - by plea bargain - of having fired three of the eight bullets without using his gun's sight, nor having checked what he had hit and what had become of the man. When an officer arrived to the position following the shooting, Sgt. Eliahu ordered Cpl. Nitzan to "shut your mouth and say we fired into the air."

According to B'Tselem figures, that day in the area of Netzarim, Abdallah Abu al-Ashhab, 75, was killed by a bullet shot in his neck.[132]

In the original indictment, Cpl. Nitzan (who in the meantime was promoted to the rank of St.-Sgt.) was charged with manslaughter. After the prosecution failed to connect the person at whom the shots were fired and the late Abdullah al-Ashhab, the charge of manslaughter was commuted as part of a plea bargain to an offense of illegal use of a weapon, and in the amended indictment the lines referring to an "elderly Palestinian" who was shot in the neck and killed were deleted.[133] St.-Sgt. Shelley Nitzan was sentenced to a four-month suspended prison term and demoted to the rank of corporal (South/270/03. Verdict and sentence: January 6, 2005).

St.-Sgt. Ran Eliahu, who at first opted for a full trial, eventually also reached a plea bargain, in which the original charges against him were altered from offenses of the illegal use of a weapon and obstructing trial proceedings, to the offense of exceeding

[132] List of Palestinians killed by Israeli security forces gunfire (March 2003), on B'Tselem website.

[133] Hanan Greenberg, Elderly Palestinian killed, soldier charged with illegal use of a weapon. **Ynet**, January 7, 2005; original indictment in Southern District Military Court File 270/03.

authority, for which he was convicted and sentenced to a four-month suspended prison term and demotion to the rank of corporal (South/270/03b. Verdict and sentence: September 15, 2005).

April 11, 2003: the killing of Thomas Hurndall, age 24

Southern District Court-Martial Case 10/04; Military Appeal Court Case Appeal/96/05

On April 11, 2003 Thomas (Tom) Hurndall, a British citizen and a volunteer in the International Solidarity Movement (ISM), was staying in Rafah in the Gaza Strip. According to the testimony of another volunteer, Joseph Carr, having heard the sounds of shooting in the area, the two were attempting to keep Palestinian children clear of the streets.

At that time Sgt. Tayseer Heib and Sgt. Emad Atawnah of the Desert Patrol Battalion were in a "pillbox" position called "Star 2," which was located on the Philadelphi Route in Rafah. Sgt. Heib fired one shot through a telescopic sight (Heib claimed he aimed the shot next to Hurndall's head but the latter moved his head) and shot Hurndall in the head. Immediately after the incident Heib falsified his account of events such that he had fired at an armed militant, and then ordered Sgt. Atawnah, who was on the lower level of the pillbox at the time of the shooting and not an eyewitness to it, to support his story. Only months after the event did Sgt. Atawnah admit that he lied in his testimony that Heib had shot at an armed militant. In Sgt. Heib's confession to the MPCID on December 29, 2003 Heib said among other things: "I shot because he was impervious and did not show us respect."

Hurndall was hospitalized in a vegetative state for nine months and died of his wounds on January 13, 2004, one day after Sgt. Heib was indicted. After Hurndall's death the charge against Heib was changed from "injury with grave intent" to a charge of manslaughter.

On June 27, 2005 the Court-Martial convicted of Sgt. Heib of manslaughter. Following the conviction Heib was sentenced to seven years in prison and a three year suspended term. Heib was also sentenced for the offenses of obstructing trial proceedings and providing false information to an additional year in prison and a six-month suspended prison sentence. Heib was demoted to the rank of Private (South/10/04. Verdict: June 27, 2005. Sentence: August 11, 2005).

While Sgt. Heib appealed the verdict and the severity of the sentence, the Military Prosecution appealed against the leniency of the sentence. The Court-Martial of Appeals rejected both appeals and upheld the verdict and the sentence handed down in the first instance (Appeal/96/05. Ruling: August 10, 2006).

Southern District Court-Martial Case 07/04

Sgt. Emad Atawnah was convicted as part of a plea bargain of providing false information and of inappropriate behavior. As part of the agreement, the prosecution and defense jointly requested that Sgt. Atawnah be sentenced to five and a half months in prison, a "substantial" suspended prison term and demotion to the rank of Private. The Court-Martial accepted the sentence proposed in the agreement and decided on a suspended prison term of six months.

June 8, 2003: the killing of Nabil Ahmad Yousef Jaradat, age 47

Northern District Court-Martial Case 450/04

On June 8, 2003, four Golani Brigade soldiers were stationed at a checkpoint at the entrance to the Palestinian village of Al-Yamoun. At a certain point, while two of the four were sleeping inside their APC (Army Personnel Carrier), the commander of the checkpoint, St.-Sgt. DGA, and another soldier, St.-Sgt. RA, noticed a Palestinian vehicle bypassing the checkpoint at a distance of 300-400 meters from them. St.-Sgt. DGA proceeded to take St.-Sgt. RA's gun and fire one shot at the car. He claimed he was aiming at the car's wheels.

The bullet St.-Sgt. DGA fired injured Nabil Ahmad Yousef Jaradat, a resident of Jenin, age 47, who was traveling in the car. A week later Jaradat died of his injuries.

After the shooting St.-Sgt. DGA and St.-Sgt. RA coordinated a story between them according to which they had only fired a number of bullets into the air. The two presented that version of events in the debriefing by the battalion commander after news of the shooting of Jaradat was reported by the media, and they also repeated it in their first MPCID investigation. Only months later, during another MPCID investigation, did St.-Sgt. DGA confess his actions to the investigators, after which St.-Sgt. RA admitted to his lies.

St.-Sgt. DGA was convicted of negligent manslaughter, providing false information and inappropriate behavior. He was sentenced as part of a plea bargain to four and a half months in prison and an identical suspended prison sentence, as well as being demoted to the rank of Private (North/450/04. Verdict: January 13, 2005. Sentence: February 21, 2005).

Northern District Court-Martial Case 451/04; Court-Martial of Appeals Case Appeal/04/154

St.-Sgt. RA was convicted based on his confession to giving false information and to inappropriate behavior. He was sentenced to 30 days of military labor in an "open" base, a three-month suspended prison term, and a demotion to the rank of Private (North/451/04. Verdict: November 8, 2004. Sentence: November 25, 2004).

The Military Prosecution appealed the leniency of St.-Sgt. RA's sentence. Following the appeal the thirty days imprisonment by means of military labor were converted to 75 days of actual imprisonment. The other components of the sentence – the suspended prison term and the demotion – remained as they were (Appeal/154/04. Ruling: November 25, 2004).

July 25, 2003: the killing of Mahmoud Jawdat Sharif Kabha, age 3

Northern District Court-Martial Case 106/04; Court-Martial of Appeals Case Appeal/59/05

On July 25, 2003 a burst of fire from an MAG machine gun placed on an APC at the "Baz 1" Checkpoint near the village of Bartaa hit a Palestinian car as it crossed the checkpoint. The shooting killed Mahmoud Kabha, a three-year-old child who was sitting in the car on his grandfather's lap. The toddler's two sisters were also injured by the gunfire.

Two IDF officers from the Artillery Corps' Battalion 405, Sec-Lt. Zvi Winik and Sec-Lt. David Glazel, were accused of responsibility for the shooting. In the original charge sheet the two were charged with negligent manslaughter. The defendants denied the charges and therefore an evidentiary phase of the trial began, in which the case for the prosecution was heard in full and the case for the defense commenced. At that point a plea bargain was reached and the amended indictment charged the defendants with the offense of negligence instead of the original offense.

In its verdict the District Court-Martial detailed the amended indictment, according to which the shooting occurred after a soldier left the safety catch of the MAG on "automatic shooting" mode, and another soldier bumped into the MAG's trigger with his own gun. The amended indictment enumerated a series of defects - those in the behavior of the defendants and the behavior of other officers in the battalion: the battery commander,[134] Captain IL (who was sentenced in a disciplinary

[134] Equivalent to a company commander in the infantry.

proceeding to a seven-day suspended term), and the battalion commander, Lieutenant Colonel AR, and his deputy Captain BW (who had "commander comments" entered in their records).

The Court-Martial honored the plea bargain in to the case of Sec.-Lt. Glazel and sentenced him to 30 days of military labor as well as a four-month suspended prison term. The court rejected the plea bargain in relation to Sec.-Lt. Winik and sentenced him to four months of military labor and a four-month suspended prison term (North/186/04. Verdict: April 14, 2005. Sentence: May 3, 2005).

Sec.-Lt. Winik appealed against the severity of the sentence imposed in a digression from the plea bargain, and the Military Prosecution joined his appeal. The Court-Martial of Appeals decided that even though the sentence agreed upon in the plea bargain "[was] significantly lenient," the plea bargain must be honored, among other reasons, in consideration of the "very minor commanding measures" taken against the other parties involved in the incident - the battery commander, the battalion commander and his deputy. Sec.-Lt. Winik's sentence was reduced to one month of military labor, in addition to the suspended prison term to which he was sentenced by the first instance (Appeal/59/05. Ruling: July 25, 2005).

November 28, 2003: the killing of Sayed Abu Safra, a Palestinian intelligence officer, in the northern Gaza Strip

Southern District Court-Martial Case 231/04

On November 28, 2003, Sayed Saleh Salem Abu Safra, a 35-year-old officer in the Palestinian security services, was killed by IDF gunfire. Newspapers reported shortly after the event that the IDF had apologized for killing Abu Safra. An IDF spokesperson's statement included among other things that "the IDF regrets hurting innocents and is handling this incident with severity."[135] Palestinian sources quoted by Haaretz said the officer who was shot had come to the site in order to remove a mentally ill Palestinian from the border fence.[136]

The indictment against St.-Sgt. AA, a sharpshooter for Battalion 92 ("Samson" Battalion), charged him with causing grave injury in aggravated circumstances, and alternatively, with the illegal use of a weapon. According to the indictment, on November 28, 2003, as part of a patrol near the border fence surrounding the

[135] Ali Waked and Efrath Weiss, IDF suspended three soldiers who killed a Palestinian officer. **Ynet**, November 29, 2003.

[136] Amos Harel, IDF apologized for the killing of a Palestinian officer and suspended the shooters. **Haaretz**, November 30, 2003.

settlements of the northern Gaza Strip, the patrol commander ordered the defendant and another soldier to shoot "warning shots" at a 60° angle at a "stop butt" - a sand dune - to the right of a gathering of Palestinians. The indictment charged the defendant with the aforementioned offenses based on having acted against his commander's order in firing a number of shots to the left of the gathering, and according to the indictment, hitting a man who was there and was then seen falling to the ground.

At the beginning of the verdict the Court-Martial noted that "the prosecution failed to present us with admissible evidence that could prove what happened to that Palestinian, and did not prove a connection between the shooting by the defendant and that Palestinian." The court stressed that "the MPCID investigation was negligent and unprofessional." Among other things it pointed out that no effort was made to accurately reconstruct the incident, and that a reconstruction at the site of the incident was made only a year later, after the physical features of the ground had changed and with the sole participation of the defendant. It was also noted that the investigators did not ask the witnesses important questions and did not try to clarify contradictions, and that a recording of a confrontation between the defendant and one of the soldiers in the force disappeared, as did photographs taken close to the time of the event.

The Court-Martial judges acquitted the defendant, St.-Sgt. AA, from the offense of causing grave injury in aggravated circumstances because the prosecution, as they said, failed to prove what happened to the Palestinian who was seen falling to the ground, and because it had not been proven that that Palestinian was hit by the defendant's gunfire. The defendant was also acquitted for reasonable doubt of the alternative offense of illegal use of a weapon (South/231/04. Verdict: February 26, 2007).

No indictment was served against the patrol commander, Sec.-Lt. AT, about whom the Court-Martial said "he exceeded the open fire regulations in almost every possible sense." On the basis of his testimony to the Court-Martial, Sec.-Lt. AT was sentenced in a disciplinary proceeding by his commander to 21 days in prison.

June 5, 2004: the killing of Arafat Yacoub in the Qalandiya refugee camp

Northern District Court-Martial Case 221/06

On June 6, 2004, Arafat Ibrahim Mahmoud Yacoub was shot and killed. Sec.-Lt. NK, a platoon commander in an Engineering Corps battalion, was convicted following a full trial of two counts of the illegal use of a weapon.

In one count of the illegal use of a weapon Sec.-Lt. NK was convicted for shooting his personal gun on the same day at a group of boys fleeing the area of the fence near the Atarot airport and aiming at their legs.

The indictment also charged Sec.-Lt. NK with negligent manslaughter based on another shooting incident he committed later and from which, according to the Military Prosecution, Arafat Yacoub, a cripple who was sitting at a nearby café at the time, was shot in the head and killed. The District Court-Martial said the prosecution had not proven a factual connection between the shooting by Sec.-Lt. NK and the deceased's death. Among other things, the Court-Martial noted that a Palestinian witness who testified in court did not see who shot the deceased and from which direction the shooting came, in addition to the fact that the witness, as the court noted, was an inmate serving a prison term for trading in a gun, "which makes him a potential suspect himself." The court also noted that no evidence was brought from the site of the incident to support the witness's account and that other witnesses who were present were not summoned to give their testimonies. For that and other reasons, the court concluded that no causal-factual connection was proven between the acts of shooting by Sec.-Lt. NK and the death of Yacoub. Sec.-Lt. NK was acquitted from the count of negligent manslaughter and instead convicted of the alternative offense of the illegal use of a weapon.

Following his conviction of two counts of the illegal use of a weapon, Sec.-Lt. NK was sentenced to a three-month suspended prison term and demoted to the rank of Private (North/221/06. Verdict: February, 27 2008. Sentence: March 10, 2008).

Injury incidents

October 13, 2000: the injury of Ibrahim Abu Turki, age 38

Central District Court-Martial Case 332/01

On October 13, 2000, Ibrahim Abu Turki, a 38-year-old farmer from the village of Qilqis in the Hebron area, was riding his donkey on his way to buy flour north of the village. According to Abu Turki's nephew, his uncle had to ride his donkey on an unpaved path since the IDF had blocked the road leading out of the village with an earth bank two days earlier.[137]

[137] The details were given in the testimony of Abu Turki's nephew, Mohamed Khalil Abu Turki, to B'Tselem researcher, Mousa Abu Hashhash on November 2, 2000.

When Abu Turki crossed the bypass road, near the settlement of Beit Haggai, he was noticed by Sgt. DS, a marksman from the military police Sahlav (Orchid) company who reported it to his commanders. After a consultation between Lt. Assaf Frank, a reserve officer in the Infantry Battalion and commander of the sharpshooters squad deployed at the outpost, and Lt. AB, the platoon commander of the Sahlav company who was the other officer at the outpost at the time, Lt. Frank ordered Sgt. DS, with Lt. AB's approval, to fire "warning shots" at the figure, without instructing him how to do so. Sgt. DS, whose gun was not adjusted (but who had not reported that to his commanders), aimed his gun through the sight "a little above the figure" and fired one shot that hit Abu Turki's forehead and gravely injured him.

In the reasoning given for the sentence the Court-Martial noted that based on the briefing Lt. Frank received before the incident, in the case of the movement of a suspected Palestinian in that area during daylight hours, he could have ordered "warning shots" only toward a stop butt, and only after receiving permission and after exhausting other means of ordering the suspect to stop. Despite those instructions, Lt. Frank avoided sending a patrol car to Abu Turki (according to him because he felt he didn't have enough time to do so), and instead he and Lt. AB decided to execute a "warning shot" without receiving clearance to do so and without instructing Sgt. DS, the shooter, how to perform the shooting.

The Court-Martial accepted the plea bargain reached between the parties, convicted Lt. Frank of a charge of negligence with which he was charged in the amended indictment, and sentenced him to a suspended three month prison term (Center/332/01. Verdict and sentence: July 28, 2003).

No indictments were served against Lt. AB and Sgt. DS for their part in the incident.

March 1, 2003: the injury of three Palestinians by gunfire at a checkpoint between the village of Sara and Nablus

Central District Court-Martial Case 558/03

On March 1, 2003 Sgt. Yaacov Priserovich of the "Nachshon" Battalion was positioned at a checkpoint between the village of Sara and the city of Nablus with three of his colleagues. At some point a number of vehicles came to the checkpoint and let off passengers at a point which in the sentence was called "a forbidden place." The commander of the force and another soldier shot into the air as part of the suspect arrest procedure, and Sgt. Priserovich shot five shots at the wheels of the vehicles, against the open fire regulations of which he was briefed, forbidding shooting at vehicles (unless they pose a risk or in "special incidents"). As a result of the shooting the driver of one of the vehicles and two of its passengers were injured.

One of the injured needed an operation and was unable to work for 50 days. In the debriefings conducted in the unit and later in the MPCID investigation Sgt. Priserovich lied and claimed he had shot into the air. Only when confronted by one of his colleagues, to which he had confessed shortly after the incident, did Sgt. Priserovich admit the charges to his investigators.

On October 19, 2003 an indictment was served against Sgt. Priserovich, in which he was charged with exceeding authority to the point of risking life or health (section 72 of the Law of Military Jurisdiction). The legal proceedings were delayed significantly, for reasons including Sgt. Priserovich's long stay abroad after he had been discharged from military service, and following a request by his defense attorney to drop the charges. On March 21, 2005, two years after the incident, an amended indictment was submitted as part of a plea bargain, with a reduced charge of exceeding authority (according to section 68 of the Law of Military Jurisdiction). That day the defendant was convicted on the basis of his confession and sentenced to a four-month suspended prison term and a demotion to the rank of Private (Center/558/03. Verdict and sentence: March 21, 2005).

July 25, 2004: the injury by gunshot and beating of the student Mohammed Kanaan at the Beit Iba Checkpoint

Central District Court-Martial Case 372/04

Mohammad Kanaan, a 23-year-old student at A-Najah University and a resident of the village of Jaba, arrived at the Beit Iba Checkpoint on his way to the university on July 25, 2004, and waited for his turn to pass through the checkpoint. One of the soldiers at the checkpoint, Pte. AD of the Kfir Brigade's Haruv Battalion, forbade Kanaan from passing through. According to the amended indictment submitted against the soldier, Kanaan had earlier complained to the representative of the DCO facility on the site that Pte. AD had earlier let vehicles through the checkpoint in exchange for receiving a cell phone. AD intervened and after an exchange of words between the two, butted Kanaan in the head with his helmet; Kanaan slapped him in return. Then AD punched Kanaan in the face with his fist and knee, and slammed his head into a cement wall. AD continued beating Kanaan even after three other soldiers tried to control him. At that point Kanaan tried to escape.

According to testimony provided by Kanaan to a B'Tselem researcher the day after the incident, while he was beating him the defendant aimed the barrel of his gun at the student's chest, and the student pushed it away from himself; subsequently

another soldier took AD's gun away from him.[138] The amended indictment, on the other hand, said that after AD's colleagues overpowered him, "the defendant managed to free himself from the grip of the soldiers, put down his gun and began chasing after the student." During the chase the defendant grabbed a gun from one of the other soldiers and fired two or three shots at Kanaan, who was injured in his right hand by the gunfire.

Following a plea bargain reached between the parties the defendant was convicted in the amended indictment of assault causing real injury and the illegal use of a weapon. Pte. AD was sentenced to six and a half months imprisonment and a nine-month suspended term (Center/372/04. Verdict and sentence: April 18, 2004).

December 19, 2005: the injury of a boy in the head by gunfire next to the village of Tuqu'

Northern District Court-Martial Case 199/08

According to an amended indictment submitted against Lt. AS, on December 19, 2005, the officer was in command of an IDF force dispersing a disturbance that included stone throwing at soldiers. Even though the stones did not endanger the soldiers' lives, the defendant fired two shots into the air, and then allowed one of his soldiers to also shoot into the air. The indictment goes on to elaborate that after the shooting into the air did not quell the demonstration, and after Lt. AS noticed a boy hiding behind a pile of stones about 50 meters away from him and occasionally throwing stones at the force, Lt. AS fired one shot at the pile of stones, aiming about four or five meters from where he had last seen the boy, against the open fire regulations. The indictment charges the officer with injuring the boy in the head, an injury for which he required surgery and prolonged rehabilitation therapy.

At the time of this writing Lt. AS is still on trial.

July 26, 2007: the abduction of a taxi driver and injury of a Palestinian resident of the town of Dahariya

Central District Court-Martial Cases 419/07, 420/07 (combined)

On July 26, 2007, Lt. Yaacov Gigi, a platoon commander in the Lavie Battalion of the Kfir Brigade, set out with five soldiers from his battalion on an operation in the village of Dahariya.

[138] Testimony of Mohammed Kanaan provided to B'Tselem researcher Salma a-Rabii at Rafidhiya Hospital on July 26, 2004.

The forces landed near the village by helicopter and the soldiers stopped a Palestinian taxi at gunpoint. The passengers were removed from the taxi, and the soldiers tied up the driver, Mohammed Isa Maharza, blindfolded him and put him back inside the taxi. Lt. Gigi drove the taxi with St.-Sgt. DA sitting next to him - both in plainclothes - with the other soldiers of the force squatting in the taxi's back seat so that they would not be visible from the outside. During the ride the tied-up Maharza was beaten with the soldiers' guns and kicked. In their MPCID investigation the soldiers claimed that "the driver was hit by the guns because of the bumps in the road, and the kicking was following the order of [Lt. Gigi] that the driver remain bent so that he would not be seen."[139]

At one point Lt. Gigi drove the taxi to a brick factory in the town, where he and St.-Sgt. DA saw one of the workers, Adham Samamrah. According to Lt. Gigi and his soldiers, they shouted to Samamrah "stop" and "go," but according to the taxi driver and Samamrah himself, the soldiers called out to him "come" and "what's your name." After Lt. Gigi ordered St.-Sgt. DA to remove the Palestinian from the site with his gun, St.-Sgt. DA pushed his gun through the taxi window and shot Samamrah, who was hit in his left shoulder. The verdict stated that St.-Sgt. DA fired the shot "when he felt that the local was making a movement that had a threatening potential." After the shooting, which caused a hemorrhage in Samamrah's left lung, broken ribs and widespread bleeding, the force left the site in the abducted taxi without giving any help to the wounded man, and the soldiers abandoned the taxi, leaving its driver tied up in it. After the incident Lt. Gigi instructed his soldiers to lie about its circumstances and in the inquiry into the matter he himself lied to his commanders.

In the two original indictments submitted against Lt. Gigi he was charged with nine separate counts, including false imprisonment and injury under aggravated circumstances,[140] but in a plea bargain between the Military Prosecution and Gigi's

[139] Arrest Appeal/49/07 **Lt. YG v. Chief Military Prosecutor**, Tak.-Mil. 2007(3), 47.

[140] In one of the two indictments submitted against Lt. Gigi, in Center/420/07, the officer was charged with exceeding authority to the point of risking life or health, according to section 72 of the Law of Military Jurisdiction, 5715 -1955; use of a vehicle without permission, according to section 413a and the preamble of 413c, as well as section 29 of the Penal Code, 5737-1977; false imprisonment, according to section 377 and section 29 of the Penal Code; injury under aggravated circumstances according to sections 33 and 335(a)(1) and section 29 of the Penal Code; and two charges of inappropriate behavior according to section 130 of the Law of Military Jurisdiction, 5715-1955. In a separate indictment submitted against him (in Center/419/07) Lt. Gigi was charged with offenses related to his lies in the debriefings and instructing his soldiers to lie about the circumstances of the incident: persuasion to provide false evidence, according to section 108(2) of the Law of Military

defense attorneys, the indictment counts were reduced to four: exceeding authority to the point of risking life or health; illegal use of a weapon; providing false information; and inappropriate behavior. In the sentence, which included the prison element agreed upon between the prosecution and the defense, Lt. Gigi was sentenced to 15 months of prison and a six-month suspended prison term. Lt. Gigi was also demoted to the rank of Private (Center/419/07, Center/420/07. Verdict: January 27, 2008. Sentence: February 13, 2008).

Even though the Military Prosecution announced its intention to file an indictment against St.-Sgt. DA for his part in the incident,[141] as far as Yesh Din knows an indictment has not yet been submitted against him or against any other soldier who participated in the incident.

Other shooting cases

September 13, 2001: shooting at vehicles at a checkpoint under Highway 443

Northern District Court-Martial Case 710/03

On September 13, 2001 the soldiers of the Armored Corps' Patrol Company, under the command of Lt. Arnon Raznitzky, were on a security mission in the area controlling an underpass under Highway 443, which had been blocked with concrete blocks. Around 06:10 AM the force's soldiers noticed an Isuzu vehicle approaching the obstruction from the direction of Israel. The car made a U-turn and then pushed the concrete blocks with its back fender, thereby letting another car pass through the obstruction. The soldiers of the force woke up Lt. Raznitzky, who was sleeping at the time, and the latter allowed them to open fire at the vehicle that had moved the blocks. The soldiers did fire at the vehicle, but the indictment - and as a result the verdict as well - do not address at all the consequences of the shooting. The Court-Martial judges assumed no damage was done to body or property.

The verdict also stated that a day before the incident there had been a discussion of the open fire regulations in the sector between the representatives of the forces

---

Jurisdiction, 5715-1955 and section 30 of the Penal Code, 5737-1977, a count of providing false information, under section 108(2) of the Law of Military Jurisdiction, 5715-1955 and a count of inappropriate behavior according to section 130 of the law. The details of the offenses in the original indictments submitted against Lt. Gigi before the plea bargain was accepted appear in arrest Appeal/49/07 **Lt. YG v. Chief Military Prosecutor**, Tak.-Mil. 2007 (3), 47.

[141] Yuval Azulai, 15 months in prison for officer who abducted taxi driver in Dahariya. **Haaretz**, February 14, 2008.

acting on the ground and that Lt. Raznitzky has been present for the discussion. The judges noted that the order Raznitzky gave his soldiers - that if a vehicle bypasses the checkpoint the soldiers must open fire to kill - contradicted the orders presented during the discussion. However, even the prosecution agreed that that order Lt. Raznitzky gave the soldiers was grounded in a misunderstanding of the instructions.

As part of a plea bargain reached between the parties Lt. Raznitzky, who has in the meantime ended his military service, confessed to the charge of the illegal use of a weapon and was sentenced to a suspended three-month prison term and demoted by one rank (North/710/03. Verdict and sentence: August 17, 2004).

October 3, 2001: shooting at a Jeep in which a foreign press photographer was sitting

Central District Court-Martial Case 375/02 (the indictment was canceled)

An indictment submitted on August 13, 2003 against Sec.-Lt. AS, a platoon commander in Battalion 202, charged him with the offense of exceeding authority to the point of risking life or health. According to the indictment, Sec.-Lt. AS ordered his soldiers to shoot at a Jeep that was marked as a press vehicle by the letters "TV" and was standing at the T-intersection in Hebron. The indictment said that the shooting at the Jeep, an act in which the officer himself joined, was committed while sitting inside was AP news agency photographer Elizabeth Jimenez, "who posed no risk, and with no justification to fire at her." The photographer was not hit by the gunfire but the Jeep was damaged.

Following the decision to press charges against the officer, officers in the Paratroopers Brigade - Brigade Commander Col. Aviv Kochavi, Battalion 202 Cmdr. Ronnie Numa and his substitute Lt.-Col. Mickey - pressured the Military Advocate General at the time, Maj.-Gen. Menachem Finkelstein, to drop the charges. The then OC Central Command, Moshe Kaplinsky, also told the MAG that the decision to press charges was made in error. Following the pressure campaign, and after a hearing with the officer's attorneys, the MAG decided not to submit the indictment and ordered the officer undergo a disciplinary proceeding instead. In the IDF Spokesperson Office's response to the report by military correspondent Amos Harel on this matter, it was said that the MPCID investigation of the affair showed that the force commander's order to shoot was apparently against the open fire regulations for the operation and for this reason it was initially decided to press charges against the commander for exceeding authority. The response also said that the decision to replace the indictment with a disciplinary proceeding was made "in consideration of the fact that the photographer was not hurt by the shooting, little damage was done

to the vehicle, and the whole incident took place in the middle of a clear military operation."[142]

In the officer's disciplinary proceeding Sec-Lt. AS was given censure.[143]

March 16, 2002: shooting the ground next to a detained suspect in the village of Silwad

Home Front Command District Court-Martial Case 13/03; Court-Martial of Appeals Case Appeal/158/04

On March 16, 2002 a fire bomb was thrown in the village of Silwad at a patrol Jeep driven by St.-Sgt. Danny Yosef, a regular army driver in Battalion 202 of the Paratroopers Brigade. Following a chase the patrol squad caught a boy suspected of throwing the fire bomb. After the suspect stopped running and raised his hands in surrender, St.-Sgt. Yosef fired a few shots on the ground next to the boy. The verdict stated that in the MPCID investigation St.-Sgt. Yosef initially denied the illegal shooting, but confessed to it after being confronted with the testimony of one of the other soldiers who was present.

An indictment with two charges was submitted against St.-Sgt. Yosef, for the illegal use of a weapon and inappropriate behavior. Later those charges were changed to another charge of "exceeding authority," to which the defendant confessed and was convicted. The Military Prosecution asked the court to sentence St.-Sgt. Yosef to an active prison term and to demotion to the rank of Private, but the District Court-Martial judges accepted the position of St.-Sgt. Yosef's defense attorney and sentenced him to a two-month suspended prison term and a demotion by one rank to the rank of sergeant (HF/13/03. Verdict and sentence: November 9, 2004).

Following the sentence in the first instance, the Military Prosecution appealed the leniency of the sentence and asked St.-Sgt. Yosef to be sentenced to an active prison term and demoted to the rank of Private. The parties reached an agreement by which St.-Sgt. Yosef would be demoted to the rank of Private but would not serve active prison time and instead would be sentenced to a two and a half month suspended prison term. The details of the agreement were adopted by the Court-Martial of Appeals (Appeal/158/04. Ruling: March 14, 2005).

---

[142] Amos Harel, MAG drops charges against IDF officer who shot at foreign photographer in Hebron, **Ha'aretz**. April 22, 2003.

[143] Amos Harel, Censure for the officer who ordered to shoot at a vehicle in which a foreign photographer was sitting. **Ha'aretz**, April 27, 2003.

October 19, 2003: shooting an unarmed Palestinian while he was fixing an antenna on the roof of a house in Rafah

Southern District Court-Martial Case 293/04; Court-Martial of Appeals Case Appeal/66/05

On October 19 2003 St.-Sgt. Nayef Rahal (who was a sergeant at the time), Sgt. NU and another soldier were at the "Kochav 1" observation point near Rafah. That afternoon, St.-Sgt. Rahal, the commander of the force, noticed a Palestinian on the roof of one of the houses in Rafah. The Palestinian on the roof, who was not armed, leaned a ladder against one of the antennas on the roof, and climbed up it with his face toward the antenna. According to the verdict, when the Palestinian climbed up the ladder, St.-Sgt. Rahal loaded and cocked his gun, opened the shooting slit in the position and shot the Palestinian through it. The Palestinian was seen grabbing his leg and falling off a ladder. After the shooting St.-Sgt. Rahal reported to headquarters that he had shot an armed Palestinian who had been observing him, which he claimed in his MPCID investigation as well.

St.-Sgt. Rahal was convicted after a full trial of injury with aggravated intent, obstructing justice and inappropriate behavior. The District Court-Martial sentenced him to 18 months of active prison, an 18-month suspended prison term, and a demotion to the rank of Private. The court emphasized that the prosecution had not proven that any person had been hurt by the shooting (South/293a/04. Verdict: May 5, 2005. Sentence: May 18, 2005).

Sgt. NU was charged along with St.-Sgt. Rahal with injury under aggravated intent, threats, obstructing justice and inappropriate behavior, but he was acquitted for reasonable doubt (South/293/04. Verdict: May 5, 2005).

Both the prosecution and the defense appealed St.-Sgt. Rahal's verdict and the sentence imposed. St.-Sgt. Rahal appealed his conviction of causing injury with grave intent and the severity of the sentence. Meanwhile, the Military Prosecution appealed Rahal's conviction of that charge, claiming it had been proven that Rahal had at least hit the Palestinian he shot - because the victim fell off the ladder[144] - and the leniency of the sentence.

[144] St.-Sgt. Rahal was convicted of violating section 329(a)(2) of the Penal Code dealing with anyone who "tries unlawfully to hurt a person with a bullet, a knife or any other dangerous or hurtful weapon." The Military Prosecution appealed to convict the defendant of section 329(a)(1) of the Penal Code, regarding injury under aggravated circumstances by anyone who "injures or seriously wounds a person unlawfully."

The Court-Martial of Appeals rejected both parties' appeals against the verdict and accepted the prosecution's appeal of the leniency of the sentence. The active prison sentence imposed on Sgt. Rahal was increased to two years. The other components of the sentence remained (Appeal/66/05. Ruling: August 7, 2005).

Southern District Court-Martial Cases 297/04, 298/05, 299/04, 300/04 (the indictments were canceled)

In addition to the indictments against St.-Sgt. Rahal and Sgt. Odeh, indictments were also served in this incident against four Desert Patrol Battalion officers who were charged with attempting to "whitewash" the incident by avoiding inquiring into its circumstances after it was brought to their attention and reporting it to their superiors.

The four officers - Lt. SH (South/297/04), Capt. RS (South/298/04), Lt. HH (South/299/04) and Capt. AS (South/300/04) - were charged with the offenses of obstructing judicial procedures, providing false information and inappropriate behavior.

The indictment served against Lt. HH was canceled after it was submitted, and the indictments against the other three officers were commuted to disciplinary proceedings.[145]

October 5, 2004: the performance of a "confirmation of killing" on the body of Iman al-Hams, age 13

Southern District Court-Martial Case 400/04

In the early morning hours of October 5, 2004, Iman al-Hams, age 13, was shot and killed near the "Girit" position in the Rafah area.

Following the death of al-Hams an indictment was served against the commander of the company whose soldiers staff the position, Capt. R. (publication of his name was forbidden by a court decision). Capt. R. was accused of offenses surrounding the performance of a "confirmation of killing" on the body of the girl and obstructing justice - but he was not charged with any offensive regarding the girl's actual killing. In a long verdict the Court-Martial acquitted Capt. R. of all the charges against him,

[145] The information was provided by the IDF Spokesperson in response to Yesh Din's queries on January 9, 2008.

while strongly criticizing the MPCID investigation of the incident. The Military Prosecution did not appeal the verdict (South/400/04. Verdict: November 15, 2005).

Following a petition by the deceased's parents and the Public Committee against Torture in Israel, the HCJ ordered a new MPCID investigation after Capt. R's acquittal into the circumstances of the killing of Iman al-Hams and into the legality of the shooting from which she was killed.[146]

March 31, 2006: shooting into the air during confrontations between settlers and Palestinians and Israelis

Northern District Court-Martial Case 266/06

On March 31, 2006, farmers from the village of Beit Fouriq, set out to cultivate a field to which their access had been prevented in previous years by threats by settlers, residents of the nearby outpost "Skali's Hill." While the farmers were working on the land, with the approval of the Civil Administration and with the accompaniment of Israeli human rights activists, settlers from the area attacked them in an attempt to force them off the land.

Sgt. Aaron Malter and Sgt. Israel Dror, two IDF soldiers on leave and residents of the settlement of Elon Moreh, joined a group of settlers and arrived at the site armed with their military guns. According to the indictment, Sgt. Malter aimed his loaded gun at the group of Palestinians and their Israeli escorts and then fired one shot into the air. Sgt. Dror was also charged with aiming the barrel of his gun at the Palestinians and their escorts until his gun was moved by another person and he fired a shot into the air.

The defendants' pleas of self-defense were rejected by the Court-Martial. The two were convicted after a full trial of the offenses with which they were charged - the illegal use of a weapon and inappropriate behavior - and were both sentenced to four months of military labor and demotion by one rank to the rank of corporal (North/266/06. Verdict: December 25, 2006. Sentence: February 11, 2007).

[146] HCJ 741/05 **Samir al-Hams et al v. IDF - Chief Military Prosecutor et al**. verdict from December 14, 2006. Unpublished.

Chapter 2: abuse and violence

As of June 2007, the Military Prosecution had examined 427 investigations into acts of violence and abuse.[147] Only 22 of these (as well as investigation files opened by the close of the same year) resulted in indictments.

The indictments were served against 45 defendants. One indictment was canceled and commuted to a disciplinary proceeding. The trial of five of the defendants - all charged over the same incident - is still underway. Thirty nine other defendants were convicted of various offenses.

May 28, 2001: the beating of Mustafa Alayan at the Bethlehem Checkpoint

Central District Court-Martial Case 127/02

On May 28, 2001 Mustafa Alayan arrived at the Bethlehem Checkpoint, just south of Jerusalem, and asked to pass through it on his way to a dentist appointment. According to the amended indictment, Sgt. Tzahi Bronstein of Battalion 890 of the Paratroopers Brigade, who was stationed at the checkpoint at the time, declined to allow Alayan through and told him "shut your mouth," or something to that effect. According to the indictment and the verdict, Alayan mumbled in reaction something like "please God let there be an attack" (Alayan himself was not summoned to testify in court and it is impossible to know whether the court relied only on the defendant's testimony). In reaction Sgt. Bronstein beat him, including in the shoulder with his gun, and kicked him. Later Bronstein told one of his colleagues that "if the Arab comes back with the police, say he pushed them." A week or two after that event, Sgt. Bronstein broke the back window of a taxi crossing the checkpoint with his gun. Sgt. Bronstein is also accused of attempting to disrupt the MPCID investigation into his case.

Sgt. Bronstein confessed as part of a plea bargain to two counts of exceeding authority to the point of risking life or health, charges related to beating Alayan and breaking the taxi window, but denied the charges of suborning the investigation and the derivative offense of inappropriate behavior. After a full trial Sgt. Bronstein was convicted of all of the offenses with which he was charged and sentenced to 45 days

[147] IDF Spokesperson's answer to Yesh Din's query, October 28, 2007. It should be noted that this figure refers only to the investigation files transferred to the Military Prosecution at the end of their investigation by the MPCID, and does not include the investigation files closed by the MPCID without being transferred for the Military Prosecution's review.

in prison, a four and a half month suspended prison term, and a demotion to the rank of Private (Center/127/02. Verdict and sentence: November 21, 2002).

July 21, 2001: the abuse of taxi passengers by soldiers of the "Samson" Battalion

In the afternoon hours of July 21, 2001, soldiers of the "Samson" Battalion stopped two Palestinian taxis that were traveling on the Samou-Hebron Road and abused their passengers. Based on testimonies provided by some of the victims, a B'Tselem report summarized the event as follows:[148]

> *On Monday, July 23, 2001, around noon, soldiers from the Shimshon Battalion, permanently stationed in the West Bank, stopped a Palestinian taxi on the Samou-Hebron road, near the village of Karma. The soldiers, who had been riding in two Jeeps, forcibly removed the taxi driver and three passengers from the vehicle while yelling at and beating them. The soldiers then took the Palestinians' identity cards.*
>
> *One of the passengers, Muhammad Sufia, was taken behind a parked army Jeep by one of the soldiers. The soldier beat Sufia with his helmet and the butt of his gun on his head and left ear. Fifteen minutes later, another soldier arrived and beat him over the head with a metal object. Sufia lost consciousness as a result of the blows. Another passenger, Mahmoud Hawamdeh, was also beaten by the soldiers as soon as he stepped out of the taxi. Khaled Rawashdeh, the taxi driver, was ordered at gunpoint to drive his taxi into a rock-strewn clearing in an olive grove. The soldiers ordered an elderly man who had been in the taxi to leave the area.*
>
> *At that point, an additional army Jeep arrived at the scene. The army had stopped another passing taxi. The soldiers, shouting and using physical force, ordered the passengers to get out of the taxi and to give them their identity cards. They ordered the driver of that taxi, Muhammad a-Salamin, to drive his taxi into that same rock-strewn clearing in the olive grove. The soldiers ordered all the passengers to get out of the vehicle. Using course language, they then told the three women and the little girl who had been in the taxi to leave. They ordered the five male passengers and the driver to stand, along with*

[148] B'Tselem, **Broad Daylight: Abuse of Palestinians by IDF soldiers on July 23, 2001** (July 2001).

the three Palestinians from the other taxi, near the wall of a storage room in the olive grove.

After those nine Palestinians were lined up against the wall, the soldiers began to beat them severely. Among other means, the soldiers struck the men with the butts of their guns and their helmets. Meanwhile some of the soldiers went to the two taxis, broke their windows and slashed the seat covers and tires.

The soldiers ordered the Palestinians to beat each other in pairs, while threatening that if they refused to do so they would be killed. When the blows the Palestinians inflicted on one another were too gentle for the soldiers' liking, they forced the Palestinians to use more force. At one point, the soldiers forced Khaled Rawashdeh, the taxi driver, to beat the other eight men as a condition for their release.

Following two hours of abuse, the soldiers finally let the Palestinians leave. They stoned the victims as they were leaving. Four of the victims, including the two taxi drivers, were taken by residents of Karma village for medical treatment.

Indictments were served against four of the soldiers.

Southern District Court-Martial Case 260/01; Court-Martial of Appeals Case Appeal/27/02

Sgt. Avichai Hazan was convicted of slapping the cheeks of one of the passengers, who cried and fell to the ground, at the beginning of the incident. Later, Sgt. Hazan took the same passenger aside and told him "today he would become a martyr." During the incident, Sgt. Hazan demanded that the driver of one of the taxis beat his eight companions. When the driver refused, Sgt. Hazan threatened to turn him and his friends into "martyrs of Hebron." The driver was then forced to beat his friends with his fist, after which Sgt. Avichai Hazan demanded that the driver punch himself with his fist, and the driver did so. Next Sgt. Hazan beat the Palestinians with fists and slaps. After notice was received by radio that there was no reason to detain the taxi drivers and their passengers, Sgt. Hazan and Sgt. Avi Levy ordered the Palestinians to run away, while pelting them with stones and clumps of sand. Sgt. Hazan also slashed three of the tires of one of the taxis. After the incident Sgt. Hazan and his colleagues coordinated their testimonies in order to provide a false account of the events.

Sgt. Hazan was convicted on the basis of his confession to the amended indictment of the offenses of assault, causing damage to property by exceeding authority, providing false information and inappropriate behavior. He was sentenced by the District Court-Martial to an active prison term of four months, of which 45 days were to be served in prison and the rest by military labor at a military base, and a six-month suspended prison term, as well as a demotion to the rank of Private (South/260/01. Sentence: January 31, 2002).

The Military Prosecution's appeal against the leniency of the punishment was accepted, and the prison components were amended by the Court-Martial of Appeals to a five-month active prison term, to be served in prison, and a nine-month suspended prison term (Appeal/27/02. Ruling: February 27, 2002).

Southern District Court-Martial Case 260b/01; Court-Martial of Appeals Case Appeal/17/02

Sgt. Liav Kovalio, who was traveling in the second Jeep that came to the site of the incident, joined his colleagues from the first Jeep who were abusing the Palestinians. He was convicted based on his confession to an amended indictment that at the very beginning of the incident he began to "investigate" one of the Palestinians with various questions and then hit him next to his left ear with a helmet, until his ear bled. Then Sgt. Kovalio passed between the Palestinians who were lined up against the wall and slapped them. Sgt. Kovalio was also convicted of participating in slashing the taxi tires and lying during the battalion commander's debriefing and to the MPCID investigators about the incident.

The District Court-Martial sentenced Sgt. Kovalio to a four-month active prison sentence, including 14 days in prison (which he had already served in "closed" detention prior to his trial) and the rest by military labor, as well as a six-month suspended prison term and a demotion to the rank of Private (South/260b/01. Sentence: January 17, 2002).

The Military Prosecution appealed the leniency of Sgt. Kovalio's sentence. The Court-Martial of Appeals ruled that the prison sentence handed down by the District Court-Martial did not adequately balance gravity with leniency, and that serving most of the prison sentence by way of military labor "does not befit the circumstances of the offenses of which [Sgt. Liav Kovalio] was convicted and their gravity and could send a wrong and unworthy message about the punishment of those who commit such offenses." The Court-Martial of Appeals increased Sgt. Kovalio's sentence to four months to be served in prison, a 10-month suspended term, and a demotion to the rank of Private (Appeal/17/02. Ruling: June 24, 2002).

Southern District Court-Martial Case 261/01; Court-Martial of Appeals Case Appeal/38/02

Sgt. Avi Levy was the commander of the first patrol Jeep that stopped the Palestinian taxis. Sgt. Levy was convicted on the basis of his confession to the charges in the amended indictment that he slapped one of the taxi drivers, that he slapped Palestinians who were standing next to the wall and beat them with his fists, and that at the end of the incident he instructed the Palestinians, along with his subordinate Sgt. Avichai Hazan, to run away while throwing clumps of sand at them. Sgt. Avi Levy was also convicted of cursing the Palestinians and slashing the tires and windshield of one of the taxis. Along with his colleague, Sgt. Levy provided false testimony in the battalion commander's debriefing, and like Sgt. Krimsky gave a false account of events in his MPCID investigation.

The District Court-Martial "ranked" the severity of Sgt. Levy's actions between those of Sgt. Liav Kovalio and those of Sgt. Avichai Hazan. The court sentenced Sgt. Levy to four months in prison, including 16 months in active imprisonment (which he had already served in "closed" detention before his trial), and the rest to be served by way of military labor, as well as a six-month suspended prison term and a demotion to the rank of Private (South/261/01. Verdict: January 28, 2002. Sentence: February 14, 2002).

The Military Prosecution appealed the leniency of the sentence. The Court-Martial of Appeals accepted the appeal and increased Sgt. Levy's sentence to five months of active prison term as well as a nine-month suspended prison term and a demotion to the rank of Private (Appeal/38/02. Ruling: June 24, 2002).

Southern District Court-Martial Case 260a/01

Sgt. Barak Krimsky, the deputy Sgt. Maj. of the company and commander of one of the Jeeps whose soldiers took part in the abuse, was convicted following his confession as part of a plea bargain to an amended indictment. Sgt. Krimsky was convicted of lying in the battalion commander's debriefing after the incident and claiming that the Jeep he commanded did arrive at the scene of the incident but did not stay there. Sgt. Krimsky repeated his false account of the events in his first MPCID investigation, and only after being confronted with the testimonies of two of his colleagues, who had also lied in the battalion commander's debriefing but then admitted the truth during their first MPCID investigation, did he retract that version.

The original charge of disrupting legal proceedings was changed as part of the plea bargain to a count of inappropriate behavior, a charge that does not appear on one's criminal record. Sgt. Barak Krimsky was sentenced to 50 days in prison, a three-month suspended sentence and a demotion to the rank of corporal (South/260a/01. Sentence: July 30, 2002).

July 23, 2001: the beating of a 13-year-old boy in Hebron

Central District Court-Martial Case 276/02; Court-Martial of Appeals Case Appeal/84/04

Cpl. Noam Elbaz, a military police officer in the Sahlav company stationed in Hebron, was convicted after a full trial of assaulting a 13-year-old boy in Hebron: he grabbed him by the shirt, hit him in the nose until he bled, kicked him in the leg several times and continued beating him, even though the boy was crying, until another soldier intervened. The Court-Martial convicted Cpl. Elbaz of assault and suborning the investigation, and sentenced him to three months of military labor, a three-month suspended prison term, and a demotion to the rank of Private.

After the defendant appealed his conviction, his attorney told the Court-Martial of Appeals that two eyewitnesses had been found who supported his account showing that he was innocent. The prosecution agreed to return the matter for hearing before the District Court-Martial, and the Court-Martial of Appeals canceled the conviction and sentence. The District Court-Martial heard the new eyewitnesses, but reconvicted Cpl. Elbaz of assault and suborning the investigation and imposed on him a sentence identical to the original (Center/276/02. Verdict and sentence: July 15, 2004).

The Court-Martial of Appeals partly accepted the defense's appeal of the conviction and acquitted Cpl. Elbaz for reasonable doubt of the charge of suborning the investigation. The court also accepted the prosecution's appeal of the leniency of the sentence and imposed on Cpl. Elbaz a four-month term to be served in prison, instead of the imprisonment by way of military labor as was sentenced by the District Court-Martial. The suspended prison term and demotion remained as sentenced by the first instance (Appeal/84/04. Ruling: January 20, 2005).

January 15, 2002: the assault of a bound minor in Hebron and the theft of his calling card

Central District Court-Martial Cases 240/02, 241/02; Court-Martial of Appeals Case Appeal/39/03

On January 15, 2002, Cpl. Erez Saban and Cpl. Gal Mizrahi, military police officers from the Sahlav company, detained a 16-year-old Palestinian minor named HN in Hebron in order to conduct an inspection. According to Cpl. Saban's confession, after finding "Hamas material" in the boy's possession during the inspection, and after the minor shouted in Arabic and pushed Cpl. Saban, the latter decided to handcuff him. Then, during a full search, Cpl. Saban kicked the boy in the legs, punched him with his fists in the ribs, twisted his arm, slapped him and sat him on the ground. A package of calling cards was found in the boy's bags. Cpl. Saban took one for himself and Cpl. Mizrahi took the rest. After detaining the boy for about an hour Cpl. Saban and Cpl. Mizrahi released him, and the minor filed a complaint with the Israel Police. Cpl. Saban admitted his actions to an Israel Police officer who came to the site and claimed to him that he had taken the cards because he suspected they were stolen.

Cpl. Saban confessed and was convicted as part of a plea bargain of exceeding authority to the point of risking life or health and the offense of disgraceful behavior. Both parties consented to the sentence and the Court-Martial sentenced Cpl. Saban accordingly to a one-month active prison term, a three-month suspended term, and a demotion to the rank of Private (Center/240/02. Verdict and sentence: October 28, 2002).

Cpl. Mizrahi was convicted of theft and sentenced by the District Court-Martial to 14 days in prison and a demotion to the rank of Private (Center/241/02. Verdict: February 18, 2003. Sentence: March 2, 2003).

The Chief Military Prosecution appealed the leniency of Cpl. Mizrahi's sentence, while Cpl. Mizrahi on the other hand appealed the verdict. Finally the parties reached a plea bargain according to which Cpl. Mizrahi would be convicted of disgraceful behavior instead of the offense of theft, of which he was convicted in the District Court, and a 60-day suspended prison term would be added to his sentence. The Court-Martial of Appeals accepted the plea bargain such that Cpl. Mizrahi's punishment was set at 14 days of active prison time, a 60-day suspended sentence, and a demotion to the rank of Private.

During the hearing on Cpl. Mizrahi's appeal the prosecutor stressed that "the Chief Military Prosecution is not happy with the plea bargain originally reached regarding Pte. Saban." The Court-Martial of Appeals added that in its opinion "the plea bargain

[regarding Saban] was fundamentally wrong, both in regard to the kind of offense of which Pte. Saban was convicted and regarding the sentence he was given." (Appeal/39/03. Ruling: May 14, 2003).

March-April 2002: attaching shock grenades to the bodies of Palestinians, assaulting a minor and a series of other offenses

Central District Court-Martial Case 272/02

St.-Sgt. Kfir Cohen, a section commander from the Nachshon Battalion, was on a policing assignment with his soldiers in the area of Qalqiliya during the months of March-April 2002, during "Operation Defensive Shield." As part of a plea bargain, Cpl.Cohen confessed to a series of offenses committed during that period. Among other things Cpl. Cohen was convicted of threatening and attaching shock grenades to the bodies of Palestinians suspected of illegal presence in Israel or attempting to enter Israel without permission.

In one of the cases mentioned in the verdict, Cpl. Cohen attached a shock grenade to the bodies of two Palestinian women and threatened them, saying: "Do you ever want to see your children again?" As a result one of the women fainted. On another occasion, when he and his soldiers were escorting Palestinians caught trying to enter Israel, he threw a shock grenade near them to hurry them up.

In addition, Cpl. Cohen was convicted of cocking his gun on a number of occasions and aiming it at Palestinian civilians as a threat. On another occasion he ordered a subordinate to slash the tires of a Palestinian vehicle he had stopped for a license inspection, and used his gun to threaten the driver, who had fallen to his feet and begged him not to slash the tires.

On another occasion Cpl. Cohen assaulted a mentally handicapped 16-year-old boy, who "behaved in a strange and threatening way," and failed to present his identity card. Cpl. Cohen kicked the door of the Jeep so that it hit the boy in the face, and when the latter tried to escape from the soldier, pinned him down to the floor and attacked him with blows and kicks. Cpl. Cohen was also convicted of standing by and not stopping his subordinate, Cpl. Itai Ozeri, when the latter attacked the boy with a billy club (see below, Central District Court-Martial Case 291/02).

Cpl. Kfir Cohen was convicted as part of a plea bargain of two counts of the illegal use of a weapon, one count of exceeding authority, and of inappropriate behavior. The court adopted the sentence reached by consent between the prosecution and defense, and Cpl. Cohen was sentenced to six months in prison, three months'

suspended sentence, and a demotion to the rank of Private (Center/272/02. Verdict: July 26, 2002. Sentence: July 28, 2002).

April 2002: the beating of a mentally handicapped minor with a billy club

Central District Court-Martial Case Center/291/02

On an unknown date in April 2002, when Cpl. Itai Ozeri was on a patrol near Qalqiliya with his commander Cpl. Kfir Cohen and another two soldiers, the force encountered a 16-year-old Palestinian boy, who subsequently turned out to be mentally handicapped. The boy, who was carrying a Jerry can, failed to produce an identity card and repeatedly shouted "water" while - in the words of the indictment - making "strange and threatening body gestures." The patrol commander was tried and convicted in a separate indictment of offenses connected to assaulting the boy and other offenses (see above, Central District Court-Martial Case 272/02).

According to the amended indictment submitted against Cpl. Ozeri, to which he confessed as part of a plea bargain, Cpl. Ozeri hit the boy a number of times in the legs with a metal billy club. Cpl. Ozeri was convicted of exceeding authority. He was sentenced to one month in prison to be served by military labor, three months of suspended prison and a demotion to the rank of Private (Center/291/02. Verdict: October 27, 2002. Sentence: December 3, 2002).

April 17-18, 2002: the abuse of a Palestinian and the use of a foreign national as a "human shield" by a reserve battalion commander

Special Court-Martial Case 1/02; Court-Martial of Appeals Case Appeal/153/03

Lt.-Col. Geva Sagi, commander of the Engineering Corps' Reserve Battalion 8170, was convicted on the basis of his confession as part of a plea bargain to the charge of "inappropriate behavior" for committing two offenses: one regarding the severe abuse of a Palestinian civilian he was investigating, and the other the use of a citizen of Senegal as a human shield while searching the house in which she was employed ("the neighbor procedure").

Lt.-Col. Sagi was convicted of entering the house of a Palestinian civilian named Hamdan Salbi in the village of Doha with his soldiers during "Operation Defensive Shield" on the night between April 17 and 18, 2002. At the time, Salbi was wanted by the General Security Service (GSS), and the force entered his home to look for weapons. When Lt.-Col. Sagi entered Salbi's home with his soldiers he discovered Salbi not to be home. Lt.-Col. Sagi questioned Salbi's son, Tariq, age 28, about the location of his father and a heavy machine gun that was supposed to be in the

house, according to the GSS coordinator in charge of the village. Throughout the questioning the son repeatedly claimed that his father had escaped with his weapon to the Church of the Nativity in Bethlehem, as many other wanted people had done. During the questioning the battalion commander threatened the son with his weapon and said he would kill him if he did not tell him where his father was and where the gun was hidden. After repeating the threats three times, Lt.-Col. Sagi ordered Tariq Salbi - while aiming his gun at him - to drop his pants. When the latter hesitated to obey the order, he repeated the threat to kill him. After Tariq Salbi dropped his pants, Lt.-Col. Sagi put a burning lighter to the young man's genitals, set a piece of paper on fire and moved it, too, close to his penis, threatening to burn it if he did not answer his questions. Later Lt.-Col. Sagi ordered Tariq Abu Salbi to sit on a beverage bottle brought there upon his request, and when he did not comply, grabbed him with another soldier who served as an interpreter – St.-Sgt. Yiftah Einav - and threatened to force him to sit on the bottle.

As mentioned above, Lt.-Col. Geva Sagi was also convicted of using, a few days before the event described above, Senegalese citizen Jean Louise Sibona as a "human shield," in searching for a wanted man in the home of her employer, in what is called the "neighbor procedure." Lt.-Col. Sagi was convicted of forcing the Senegalese citizen to walk ahead of him during the search of the house, with his gun pointed in the direction she was walking.

The original indictment submitted against Lt.-Col. Sagi charged him, among other things, with two serious offenses: for the abuse of Tariq Salbi, Lt.-Col. Sagi was charged with extortion by threats and one count of inappropriate behavior; for the use of the Senegalese citizen as a "human shield" Lt.-Col. Sagi was charged with exceeding authority to the point of risking life or health and another count of inappropriate behavior.[149] As part of a plea bargain reached between the parties, all of the counts were changed to a single charge of "inappropriate behavior." The Special Court-Martial (that tries officers from the rank of Lieutenant Colonel and up) sentenced Lt.-Col. Sagi to 60 days of military labor, a three-months suspended prison term, and a demotion by one rank to the rank of Major (Special/1/02. Verdict: June 22, 2003. Sentence: July 31, 2003).

In addition to Lt.-Col. Sagi, one of his soldiers, St.-Sgt. Yiftah Einav, was also charged with involvement in the "questioning" of Tariq Salbi. Following his confession to an amended indictment as part of a plea bargain, St.-Sgt. Einav was convicted of helping

[149] Atila Sumfalvi, Reserve battalion commander accused of severe abuse of Palestinian. **Ynet**, July 24, 2003.

Lt.-Col. Sagi "to a limited extent" in the investigation of Tariq Salbi, which was conducted by "unacceptable means," by holding Salbi and "patting him on the head with the interrogee's passport." On the basis of his confession to the charge of inappropriate behavior, St.-Sgt. Einav was sentenced to a 30-day suspended prison sentence (special/1a/02. Verdict and sentence: October 20, 2004).

Both the Military Prosecution and the defense appealed Lt.-Col. Sagi's sentence. The Prosecution appealed the defendant's demotion by only one rank, while the defense appealed the defendant's demotion as well as the component of prison by military labor and asked to sentence Lt.-Col. Sagi to a suspended prison term only. When it emerged that before the appeal was heard Lt.-Col. Sagi had already served the 60 days of military labor, the discussion at the Court-Martial of Appeals focused on the degree of demotion of the defendant's rank. The Court-Martial of Appeals accepted the Military Prosecution's appeal and ordered that Lt.-Col. Sagi be demoted to the rank of lieutenant. The other components of the sentence remained as handed down by the Special Court-Martial (Appeal/153/03. Ruling: August 5, 2004).

April 28, 2002: threatening to rape a detainee by a military police officer

Central District Court-Martial Case 435/02

Sec.-Lt. Matan Buchner served as a company commander in the "Ofer" detention facility for Palestinian detainees near Ramallah. Sec.-Lt. Buchner was convicted of having ordered a Palestinian detainee brought to the detention facility to strip down while conducting a body search on him, on April 28, 2002. When the detainee refused to take off his undergarments Sec.-Lt. Buchner was convicted of threatening that if he did not do as told the former would insert his finger into his anus. Then Sec.-Lt. Buchner put on a rubber glove, spread it with Vaseline and ordered the military police officer who approached to leave. When Sec.-Lt. Buchner put his hand on the detainee's waist, the latter thought that Sec.-Lt. Buchner was going to carry out his threat and butted him in the head. In reaction Sec.-Lt. Buchner pushed the detainee to the floor.

Sec.-Lt. Buchner confessed to counts of exceeding authority and inappropriate behavior as part of a plea bargain, and was sentenced on the basis of agreement between the parties to one month of military labor and a three-month suspended sentence (Center/435/02. Verdict: September 16, 2003. Sentence: October 8, 2003).

August 7, 2002: the beating of detainees by two military policemen and four Nachal soldiers

On the morning of August 7, 2002, around 11 a.m., IDF soldiers detained three Palestinian civilians - Fares Abu Asbi, Hasanein Zghaier and Asmar Malaebi - at the Qalandia Checkpoint. After they were detained two military police officers and soldiers from the Nachal Brigade beat the three detainees inside the area of the checkpoint while lying on the ground with their hands cuffed. Two of the detainees, Abu Asbi and Zghaier, were taken by a military Jeep in which four Nachal Brigade soldiers were sitting, through the Atarot airport and the Ofer camp, until they were handed over to the Israel Police. The latter arrested the three on the basis of the soldiers' claim that the three were identified as having participated in throwing stones at soldiers a day earlier. During the trip to the police station, Abu Asbi and Zghaier were severely beaten.

The next day Abu Asbi, Zghaier and Malaebi were brought to the Jerusalem Magistrate Court on a request to extend their detention. Magistrate Court Justice Dr. Michal Agmon-Gonen noticed the signs of severe beating on the bodies of the three detainees. Given the signs of violence, and after examining the testimonies of the soldiers given to the police and finding many contradictions therein, Judge Agmon-Gonen wrote a harsh judgment in which she ordered the Palestinians released from detention unconditionally:

> Before I discuss the request I must note that the respondents came to the courtroom badly bruised all over their bodies. Respondents 2 [Zghaier] and 3 [Abu Asbi] took off their shirts, and the picture that was revealed was shocking; their backs were covered with bruises and black and blue spots and Respondent 2's back was still bleeding around the shoulder. There were signs of trauma on the hands of Respondent 1 as well. [...] The medical reports by the detention facility's doctor indicate that the picture is much worse, and that all of the respondents have beating marks on their legs as well, and that Respondent 2 also has them on his ribs. As I will describe as follows, there is no explanation in the evidentiary material of what happened to the respondents from 11 a.m., when they were arrested by the soldiers at the Qalandia Checkpoint, until they were brought to be arrested at the Neve Yaacov police station at 7 p.m. The respondents said that during those long hours they were beaten by the soldiers and then taken, blindfolded, to some place (apparently near the Atarot airport) where the soldiers cleaned up the blood stains with alcohol, and then brought them to the police station. I must point out and emphasize that in the respondents' investigations it does not say they were beaten, even though the signs of the beating are glaring, nor

> does it say there are very severe signs of beating on them, and as I said, there is no explanation, nor were they even asked during their investigation, how they reached that condition.[150]

Following Judge Agmon-Gonen's decision, which she asked to convey to the Chief Military Prosecutor, an MPCID investigation was opened, at the end of which indictments were filed against two military police officers and four Nachal Brigade soldiers.

Central District Court-Martial Cases 365/03, 366/03, 376/03, 386/03, 387/03, 454/03

Cpl. Kfir Avraham and Cpl. Morris Michaeli, military police officers who were stationed with the Rama company at the Qalandia Checkpoint, were convicted as part of plea bargains of beating the three detainees in the area of the checkpoint, including slapping them, punching them with their fists and kicking them, while the detainees lay on the ground handcuffed. Cpl. Avraham was also accused of beating one of the detainees in the back of the head with the butt of his gun and pouring water on him.

The two were also convicted in a separate incident that occurred a few months later, on January 12, 2003. During that incident Cpl. Avraham and Cpl. Michaeli attacked Palestinians they arrested on suspicion of trying to enter Israel without a permit, slapped and kicked them. Later they also tripped some of the detainees while they were walking and made them fall.

On the basis of his confession in a plea bargain, Cpl. Kfir Avraham was convicted of two counts of abuse under aggravated circumstances and sentenced to nine months in prison, a four-month suspended prison term and a demotion to the rank of Private (Center/366/03. Verdict and sentence: August 18, 2003).

Cpl. Morris Michaeli was convicted of one count of assault under aggravated circumstances, also on the basis of his confession in a plea bargain, and was sentenced to four and a half months in prison, a four-month suspended term, and a demotion to the rank of Private (Center/365/03. Verdict and sentence: August 20, 2003).

Four soldiers of the Nachal Brigade's Granite Battalion were convicted of beating Abu Asbi and Zghaier while driving them away from the checkpoint through the

[150] Extension of detention hearing (Jerusalem) 5449/02 **State of Israel v. Anonymous (minor)**. Tak-Mag 2002(2), 1589.

Atarot airport and the Ofer camp to the police station. In the sentences of the four it was stated, among other things, that Cpl. Elad Yechezkel, Sgt. David Zamir and Cpl. Yevgeny Anoch beat the detainees, who were handcuffed and blindfolded during the trip, in their heads, backs and stomachs with their fists and elbows and slapped them. At one point their commander, St.-Sgt. Elad Citrin tried to prevent him from continuing the hitting, both by persuasion and by trying to forcibly grab St.-Sgt. Yechezkel and Cpl. Zamir, but the two continued to beat the detainees. The four Nachal Brigade soldiers confessed to an amended indictment and were convicted as part of plea bargains.

St.-Sgt. Elad Yechezkel was convicted of abuse and inappropriate behavior, and sentenced to an active seven-month prison term, four months' suspended imprisonment, and a demotion to the rank of Private (Center/386/03. Verdict and sentence: August 31, 2003).

Cpl. Yevgeny Anoch was convicted of assault under aggravated circumstances and sentenced to 170 days in prison, five months' suspended imprisonment, and a demotion to the rank of Private (Center/376/03. Verdict and sentence: September 7, 2003).

Sgt. Dor Zamir was convicted of abuse and sentenced to four months in prison, a three-month suspended prison term, and a demotion to the rank of Private (Center/387/03. Verdict and sentence: August 3, 2003).

St.-Sgt. Elad Citrin, the commander of Sgt. Zamir and Cpl. Anoch, was convicted of inappropriate behavior for not reporting the abuse of the detainees to his commanders at the beginning of the investigation. St.-Sgt. Citrin was sentenced to four months' suspended imprisonment and a demotion by one rank to the rank of sergeant (Center/454/03. Verdict and sentence: September 13, 2004).

October 16, 2002: assault of Palestinian detainees by soldiers from the Lavie Battalion

Central District Court-Martial Cases 500/02 and 92/03

Pte. Shalom Malka, a soldier in the Lavie Battalion, was convicted on the basis of his confession to kicking a Palestinian detainee, twice, whose hands and legs were tied up and eyes were blindfolded, at his unit base on October 16, 2002. More than two years after the incident, Pte. Malka was convicted of assault and sentenced on the basis of an agreement between the prosecution and the defense, as part of a plea bargain, to 28 days in prison and four months' suspended imprisonment (Center/92/03. Verdict and sentence: November 18, 2004).

As a result of the same investigation, another indictment was served against another soldier from the same battalion, Pte. Andre Butitznakov. According to Pte. Butitznakov's confession, on the same day that Pte. Malka assaulted the detainee as described above, Pte. Butitznakov participated in transporting two detainees – Mahmoud Mahamrah and Taleb Mahamrah - from the unit base to the Etzion Brigade base. During the trip Pte. Butitznakov used his foot to lift up the heads of the detainees, who were lying on the floor in the back part of an "Abir" military vehicle with their eyes blindfolded and their hands and feet tied. Pte. Butitznakov also put his foot on Mahmoud Mahamrah's stomach (and left it there even after another soldier criticized him for it) and yanked Taleb Mahamrah's beard. After the vehicle with the detainees reached the Etzion Brigade base, Pte. Butitznakov threw his helmet hard and hit Mahmoud Mahamrah in the head, while he was still lying on the vehicle's floor, bound.

Pte. Butitznakov was sentenced as part of a plea bargain, after being convicted of disgraceful behavior and assault causing real injury, to three months in prison and a four-month suspended prison sentence (Center/500/02. Verdict and sentence: December 23, 2002).

April 29, 2003: abuse of minor detainees by two military policemen

Central District Court-Martial Case 222/03; Court-Martial of Appeals Cases Appeal/128/03, Appeal/146/03

Two military police officers from the Military Police Sahlav Company, Cpl. Roee Rosner and Cpl. Lior Lieberman, were convicted of abusing brothers Mahmoud and Mohammed A-Rish (15 and 17, respectively), while transporting them from the Beit El Military Court to the Etzion detention facility on April 29, 2003.

After the minors' legal proceedings came to a close, Cpl. Rosner and Cpl. Lieberman forced them between the benches and the wall of an "Abir" military vehicle. The minors were sat down with their backs bent, their eyes blindfolded and their hands cuffed. Cpl. Rosner and Cpl. Lieberman also sat in the back of the vehicle while their commander sat in the separate front cabin.

The two defendants were, in their words, "agitated" because of a riot in the courtroom during the day's hearings, in which a Border Police Officer was injured. First Cpl. Rosner slapped one of the minors, after he began to murmur, and then the two began to beat them. In its stated reasoning for Cpl. Rosner's sentence, the court elaborated:

> [Cpl. Rosner] beat the 17-year-old detainee, Mohammed A-Rish, hard in the back of his head and in the stomach, in his right shoulder and his ribs. When the detainee moved, the defendant strongly pinned him to his seat until he was injured by metal parts in the vehicle. Later he slapped him and when he did not respond he slapped him again. When the detainee fell on him because of the tossing of the vehicle, the defendant hit the detainee in the knee with his helmet. When the detainee moved in his seat and murmured, the defendant hit the detainee hard in the leg with his gun's flash hider. Cpl. Lieberman slapped the detainee in the head and punched him with his fists in the stomach, shoulders and ribs. The two also beat the 15-year-old detainee, Mahmoud A-Rish. The defendant slapped him in the neck, and Cpl. Lieberman hit him with slaps and punches in the stomach, shoulder and ribs. When the detainee fell toward Cpl. Lieberman, he pushed him hard until he was hurt by metal parts in the vehicle. The two did not stop their actions until their commander [...] noticed what they were doing, around the time of their arrival at the detention facility, and ordered them to stop.

The District Court-Martial sentenced Cpl. Lior Lieberman to three months in prison as well as five months' suspended imprisonment and a demotion to the rank of Private (Center/222/03. Verdict and sentence: June 30, 2003).

Another panel of judges in the Court-Martial sentenced Cpl. Roee Rosner to five months' imprisonment, a four-month suspended prison term, and a demotion to the rank of Private (Center/222a/03. Verdict and sentence: July 14, 2003).

The Military Prosecution appealed against the leniency of the sentences of Cpl. Rosner and Cpl. Lieberman, and the appeals were heard together. The Court-Martial of Appeals accepted the prosecution's appeals, and increased the active prison sentences in the two soldiers' punishments.

The prison sentence imposed on Cpl. Rosner by the first instance, which the Court-Martial of Appeals said "completely missed the point of punishment," was changed to ten months of active prison time. Cpl. Lieberman's active prison term was increased to seven months. The other elements of the sentence - the suspended prison terms and demotions - remained as they were (appeal/146/03; Appeal/128/03. Verdict: August 21, 2003).

October 1, 2003: abuse of bound detainees by Paratrooper Brigade soldiers

Central District Court-Martial Case 526/04

The defendants, four Paratrooper Brigade soldiers, were convicted in connection to their involvement in beating five Palestinian detainees they were escorting back and forth from the Samaria Brigade base to the Salem Military Court on October 1, 2003. During the entire trip, on the way to the court and back, the detainees were beaten with slaps and punches, while their hands and feet were bound and their eyes blindfolded.

On return from the Military Court, the vehicle stopped at a base of the Ephraim Brigade near Kedumim, from which two of the detainees were taken for investigation. The other detainees, who remained in the vehicle, were vigorously beaten by Border Police Officers who entered the vehicle during the waiting period. An investigation by the Justice Ministry's Police Investigations Department into the Border Police Officers' involvement in the incident was closed on grounds of "lack of evidence."

The original indictment served against the four Paratrooper Brigade soldiers charged them all with the offense of abuse. Two of the soldiers, Cpl. Hananel Mussman and Cpl. Amir Mansour, were charged in the original charge sheet with another count of failing to follow an order, because they allowed the Border Police Officers to beat three of the detainees at the Ephraim Brigade base, contrary to the briefing they were given, according to which the detainees must be treated "appropriately." Three of the soldiers confessed as part of plea bargains to amended indictments, in which they were charged with lesser offenses than the abuse with which they were charged in the original indictment.

Sgt. Avi Amar (Battalion 890) was convicted according to his confession to inappropriate behavior, for doing nothing to prevent his colleagues - who were of lower rank than him - from beating the detainees, and for not reporting the incident. Sgt. Amar was sentenced to a two-month suspended prison term (Center/526/04. Verdict and sentence: September 24, 2007).

Cpl. Dor Barak (Battalion 101) was convicted of assault based on his confession to slapping one of the bound detainees. Cpl. Barak was sentenced to 45 days in prison, a six-month suspended term and a demotion to the rank of Private (Center/526a/04. Verdict and sentence: May 25, 2005).

Cpl. Hananel Mussman (Battalion 890) was convicted of disgraceful behavior, also as part of a plea bargain, and sentenced to a two-month suspended prison sentence (Center/526b/04. Verdict and sentence: January 9, 2007).

Cpl. Amir Mansoor (Battalion 101) was the only one of the four defendants who underwent a full trial, at the end of which he was convicted of abuse based on the continuous beating of the detainees during the trip. He was sentenced to a three-month suspended prison term, for reasons including the light sentences imposed on the others involved. The court's verdict, did not mention the other charge against Cpl. Mansoor, failure to follow an order (Center/526c/04. Verdict: July 25, 2007).

January-February 2004: beating Palestinians and damaging vehicles at the Hawara Checkpoint

Central District Court-Martial Case 300/04

St.-Sgt. BS of the Paratroopers Brigade Battalion 202 was commander of the Hawara Checkpoint at the beginning of 2004. An Education Corps film crew that was present documented St.-Sgt. BS beating a bound Palestinian civilian and then taking him to a closed inspection cell, where he continued to beat him. In another incident the filming crew documented the soldier beating a Palestinian man in his face and kicking him in front of the beaten man's wife and young children. After the footage was given to the soldier's commander, an MPCID investigation was opened and St.-Sgt. BS was put on trial.

The original indictment against the soldier included five counts: one count of abuse under aggravated circumstances, two counts of assault, one count of malicious injury and one count of inappropriate behavior. After the evidentiary hearings began in the trial the parties reached a plea bargain, and the indictment was amended so that it included three charges, to which the defendant confessed: assault, causing damage to property by exceeding authority and inappropriate behavior.

Besides the events filmed by the filming crew, St.-Sgt. BS admitted that on two or three other occasions he forced Palestinians, whom he said tried to push him or escape, into the inspection cell and beat them there. The soldier also confessed that he had beaten Palestinians on a number of additional occasions. St.-Sgt. BS admitted that on ten different occasions he had used his gun to break the windshields of Palestinian taxis whose drivers crossed the checkpoint stop line.

The Court-Martial sentenced St.-Sgt. BS to six months imprisonment, a 12-month suspended prison sentence and a demotion to the rank of Private (Center/300/04. Verdict: September 8, 2004. Sentence: September 21, 2004).

February 15, 2004: reserve soldier attack on Palestinian shepherds

Central District Court-Martial Case 261/04; Court-Martial of Appeals Case appeals/57/05

On February 15, 2004, while serving in the reserves, Sergeant First Class Victor Ladzhinski of the 9207 Reserve Battalion took part in a patrol near the settlement of Yakir. When the patrol returned to its base, the soldiers noticed two shepherds herding their flock at a distance from the road. SFC Ladzhinski drove from the base in his private car to the shepherds, brothers Kheiri and Ribhi Mansour, got out and assaulted them both. First he kicked towards Kheiri Mansour's leg and the kick hit the victim in the hand, which he had raised to defend himself. Then he ran to Ribhi Mansour and attempted to hit him in the face with his gun, but the gun hit Mansour's hand, with which he was protecting his face. When the victims tried to run away, SFC Ladzhinski threw stones at them. At this point a military Jeep arrived, and the shepherds ran to it to complain about SFC Ladzhinski's actions. While they were talking the defendant tried to hit Ribhi Mansour in the face.

A full trial was held for Ladzhinski, during which he claimed he had acted in self-defense, and to prevent the shepherds from "gathering intelligence" about the military base 500 meters from the site of the incident. The court rejected all of SFC Ladzhinski's arguments, convicted him of assault and sentenced him to a three-month suspended prison sentence and a demotion to the rank of Private (Center/261/04. Verdict: March 6, 2005. Sentence: May 5, 2005).

The Military Prosecution appealed the leniency of the sentence. The Court-Martial of Appeals accepted the appeal and sentenced SFC Ladzhinski to a two-month active prison term, in addition to the suspended sentence and the demotion sentenced by the first instance (Appeal/57/05. Ruling: September 4, 2005).

February 27, 2005: Golani officer threatens to cut a detainee's penis and beats him

General Staff HQ District Court-Martial Cases 46/06, 47/06

On the night of February 27, 2005, a force from Battalion 13 of the Golani Brigade, under the command of Lt. Sulaiman Abbas, detained four Palestinians in the border area between the Gaza Strip and Egypt ("the Philadelphi Corridor"). The Palestinians, who were suspected of trying to infiltrate and smuggle arms, were transferred by Lt. Abbas and his soldiers to the nearby base.

Lt. Abbas began questioning one of the detainees, Sufyan Abu Jazr, about his actions, and while doing so grabbed his shirt and hit him in the nape of the neck. The deputy commander of the battalion, Maj. MD, was present in the room during that time and did not interfere with Lt. Abbas's actions until he left the room. Later Lt. Abbas ordered his subordinates to strip Abu Jazr's pants off, and even before they had done so he attached a pair of wire cutters to Abu Jazr's penis (over his pants) and threatened that if he did not answer the questions he would cut his penis. At this point Maj. MD returned to the room and commented that he did not think information could be retrieved from the detainee. Maj. MD put guards on the detainee and exited the room again.

Lt. Abbas was convicted based on his confession as part of a plea bargain to the offenses of exceeding authority and inappropriate behavior. He was sentenced to two months of military labor and a four-month suspended prison term (Staff/46/06. Verdict: March 11, 2007. Sentence: March 27, 2007).

An indictment on charges of inappropriate behavior (Staff/47/06) was at first served against Maj. MD as well for not stopping Lt. Abbas's actions, even having witnessed some of them, but later the indictment was canceled and commuted to a disciplinary proceeding.[151]

April 14 2005: the beating of a bound detainee to the point of injury

Central District Court-Martial Case 472/05; Court-Martial of Appeals Case Appeal/63/06

Sgt. Nir Haimovitz of the Paratrooper Brigade's Patrol Battalion was convicted after a full trial of beating a bound Palestinian detainee named Thaer Daoud Suleiman Mansour. According to the verdict, Mansour was arrested on April 14, 2005, and placed in a military vehicle, in which Sgt. Haimovitz was present. When Mansour was put in the car, his hands bound and eyes blindfolded, Sgt. Haimovitz punched Mansour in the face with his fist, then kicked him in the face, pushed him to the ground and made his face bleed. Haimovitz's company commander said in his testimony in court that in the inquiry he conducted Sgt. Haimovitz reported that he beat the detainee with his fist only and did not mention that he had also kicked him.

On the very day of the incident Sgt. Haimovitz was sentenced in a disciplinary proceeding to a 28-day prison term, which he served. A while later the Chief Military

[151] Military Prosecution's website (Hebrew): http://www.aka.idf.il/patzar/klali/default.asp?catId=58094&docId=62132&list=1

Prosecutor ordered that an indictment be submitted against Sgt. Haimovitz, which superseded the disciplinary ruling.

The District Court-Martial convicted Sgt. Haimovitz of charges of abuse and inappropriate behavior, and sentenced him to 45 days in prison (from which the prison time he served following the disciplinary proceeding was deducted). Sgt. Haimovitz was also sentenced to a five-month suspended prison term and a demotion to the rank of Private (Center/472/05. Verdict: April 30, 2006. Sentence: May 11, 2006).

Sgt. Haimovitz appealed to the Court-Martial of Appeals his conviction for abuse and the severity of his sentence. The appeal was rejected (Appeal/63/03. Ruling: June 19, 2007).

June 28, 2005: the beating of bound detainees at the Qalandia Checkpoint

Central District Court-Martial Case 471/05

On June 28, 2005 Cpl. Itamar Kapah of the Engineering Corps Battalion 601 was stationed in the guarding position at the Qalandia Checkpoint when he saw two soldiers leading three Palestinian boys into a caravan on the grounds of the checkpoint. Cpl. Kapah occasionally heard screams coming out of the caravan. A while later Cpl. Kapah was asked to replace the caravan guard, and when he entered he saw that the three had been beaten, and one of their heads was bleeding. A few minutes later Cpl. Kapah also began to beat the three, whose hands were tied behind their backs. He hit the detainee whose head was bleeding hard in the nape of the neck (in the reasoning provided for the sentence it was noted that "the defendant claimed he avoided hitting him in the head because he was bleeding there"), he punched another detainee in the back with his fist and he strongly kicked the buttocks of a third detainee, who was crying. The amended indictment filed against Cpl. Kapah following the beating of the three charged Cpl. Kapah with abuse.

The amended indictment charged Cpl. Kapah with another count of disgraceful behavior, because he slapped a Palestinian in May 2005 after the latter refused to follow his order to sit down.

Cpl. Kapah was convicted of the two charges following his confession and sentenced to three months imprisonment as well as a four-month suspended prison term and demoted to the rank of Private (Center/471/05. Verdict and sentence: April 11, 2007).

A report on the Ynet Israeli news website reported that another soldier was charged along with Cpl. Kapah of beating the three youths,[152] but Yesh Din did not receive any information to that effect from the IDF Spokesperson.

August 16, 2005: the beating of a detainee at the Qalandia Checkpoint

Home Front Command District Court-Martial Case 6/06

On August 16, 2005, when he was stationed at the guard position at the Qalandia Checkpoint, Cpl. Abinat Kabada approached Rami Harizat, a Palestinian detained by Cpl. Kabada's colleagues on suspicion of throwing stones at IDF soldiers, and butted him in the head with the helmet he was wearing. Then Cpl. Kabada slapped Harizat, ordered him to get down on his knees and cursed him until he was removed by his colleagues.

Cpl. Kabada was convicted of disgraceful behavior, according to his confession to an amended indictment, as part of a plea bargain. He was sentenced to 25 days in prison and a two-month suspended prison sentence, a demotion to the rank of Private and a fine of NIS 1000 (HFC/6/06. Verdict and sentence: May 22, 2006).

April 4, 2006: the abuse of detainees on the way to the Salem Military Court

Central District Court-Martial Case 712/07

Five soldiers from the Kfir Brigade's Nachshon Battalion – AM, SS, AB, GR and SC (all with the rank of St.-Sgt.) - were each charged with three counts of abuse under aggravated circumstances (and three of the soldiers were additionally charged with disgraceful behavior) for a series of acts of abuse they committed against Palestinian detainees who were bound and blindfolded while taking them to the Salem Military Court on April 4, 2006.

Among other things the soldiers were accused of beating and cursing the detainees during the trip, force-feeding them food products, leading them - bound and blindfolded - in circles while cursing them, leading them in single file in such a way that they bumped into obstacles on the way and fell, and more.

The indictment against the five was filed on December 17, 2007. As of this report's writing their trial is still ongoing.

[152] Hanan Greenberg, "I came to murder you," said the soldier to the detainees, and attacked. **Ynet**, November 7, 2005.

May 7, 2006: the beating of a bound detainee

Northern District Court-Martial Case 176/07

On May 7, 2006, Cpl. Zaudo Taka of the Engineering Corps dealt one blow to the head of a bound and blindfolded detainee at Cpl. Taka's base.

Cpl. Taka confessed to the count of assault with which he was charged in the indictment. He was sentenced to a three-month suspended prison sentence and a demotion to the rank of Private (North/176/07. Verdict and sentence: September 4, 2007).

May 28, 2006: Soldier from the Duchifat Battalion beats a bound detainee

Central District Court-Martial Case 274/06

On May 28, 2006, Cpl. Michael Wiener of the Kfir Brigade's Duchifat Battalion was driving a military vehicle carrying two Palestinian detainees to the Ofer camp detention facility and to the Russian Compound detention center. During the journey Corporal Wiener stopped the car and took out one of the detainees, Jihad Khaled Moussa Hamed, whose hands were tied behind his back. The two had an altercation, during which the detainee said to Cpl. Wiener (according to the verdict) "may you all burn," after which Cpl. Wiener hit the detainee in the neck with his hand, hit him in the chest with his knee and kicked him in the leg. He stopped hitting the detainee only when the latter fell to the ground.

Cpl. Wiener was convicted of abuse based on his confession to an amended indictment as part of a plea bargain. He was sentenced to 120 days' imprisonment, a three-month suspended prison term, and a demotion to the rank of Private (Center/274/06. Verdict and sentence: August 14, 2006).

August 26, 2006: soldiers from the Haruv Battalion beat two Palestinians

Central District Court-Martial Case 450/06

On Saturday, August 26, 2006, Sgt. Chaim Maman and Sgt. Yitzhak Wahaba of the Kfir Brigade's Haruv Battalion were on a "show of presence" mission between the villages of Deir Sharaf and A-Naqoura when a Palestinian resident named Fares Hashish walked by. When the soldiers searched Hashish's possessions they found a tape with pictures of Hezbollah. In answer to the questions of one of the soldiers of the force, Hashish answered that he did not know what the contents of the tape

were and that it was given to him by another person. Sgt. Maman hit Hashish in the head with a blunt object and then Sgt. Maman and Sgt. Wahaba kicked Hashish a number of times. As a result of the blows Hashish was injured in the head and his body was bruised.

Another Palestinian resident, Thaer Mohsen, who arrived later at the site, was also attacked by Sgt. Maman and Sgt. Wahaba, who hit him with a blunt object in his head and body. Sgt. Wahaba also kicked Mohsen. Mohsen was injured in the head and his body was bruised. When the soldiers of the force were told that Mohsen was not suspected of anything they let him go.

Sgt. Maman and Sgt. Wahaba were each convicted of two counts of assault under aggravated circumstances and one count of inappropriate behavior, according to their confessions to the amended indictment as part of a plea bargain. Sgt. Maman was sentenced to five months in prison, a three-month suspended prison sentence and a demotion to the rank of Private. Sgt. Wahaba was sentenced to five and a half months' imprisonment, a three-month suspended term and a demotion to the rank of Private (Center/450/06. Verdict and sentence: October 16, 2006).

November 26, 2007: the beating of two bound and blindfolded detainees at the Samaria Brigade base

Southern District Court-Martial Cases 08/08, 14/08

On November 26, 2007, 12 Palestinians who had been arrested a short time earlier were brought for GSS investigation to the Samaria Brigade base. A group of soldiers from the Tzabar Battalion guarded the detainees at the base. An MPCID investigation was opened after two of the detainees, Baha Abu Amsha and Ahmad Abu Amsha, complained that during their detention the soldiers beat them, repeatedly spat on their heads and cursed them. At the end of the investigation indictments were filed against two of the soldiers, Cpl. Omer Shalev and Cpl. Basioun Tatruashvili.

Cpl. Shalev was convicted of abuse based on his confession to an amended indictment, according to which when he was asked to take Baha Abu Amsha to a medical exam, he led Abu Amsha, who was handcuffed and blindfolded, at an increasingly accelerated speed, while he and other soldiers mocked the detainee, until Abu Amsha bumped into a metal pole with his head and was injured in his forehead and lips. According to the verdict, on a number of occasions after the incident Cpl. Shalev gave a false account of what had happened, and after the MPCID investigation began he tried to coordinate testimonies with his colleagues. Cpl. Shalev was sentenced to four and a half months in prison, a four-and-a-half-month

suspended prison sentence and a demotion to the rank of Private (South/14/08. Verdict and sentence: January 9, 2008).

Cpl. Tatruashvili was also convicted of abuse, based on kicking Baha Abu Amsha in the back while he was sitting on the floor, handcuffed and blindfolded. As a result of the kick Abu Amsha fell down. Cpl. Tatruashvili was sentenced to 90 days in prison, a suspended prison sentence of 90 days and a demotion to the rank of Private (South/08/08. Verdict and sentence: February 18, 2008).

Chapter 3: looting and property damage

308 investigation files on looting, theft and other property damage were transferred by the MPCID to the Military Prosecution for review by June 2007.[153] Of the investigation files opened by the end of 2007, indictments were filed in 26 of them against 29 defendants.

Most of the indictments were filed following various incidents of looting and theft, whether for personal profit or in order to take "souvenirs." Only two indictments were filed on the basis of damage caused to Palestinian property.

The trial of one of the defendants is still underway. The other 38 defendants were convicted of various offenses.

Property damage

January 23, 2002: the intentional crushing of a car by a tank in Ramallah

Central District Court-Martial Case 337/02

Sgt. Avraham Rosenfeld, a tank driver in Battalion 430 of the Armored Corps' Brigade 500, was convicted of veering from his route while driving his tank in the streets of Ramallah on January 23, 2003, running over a Mitsubishi car and completely wrecking it.

As part of a plea bargain, the charge of intentional sabotage that appeared in the original indictment was changed to a charge of causing damage to property by exceeding authority. Sgt. Rosenfeld, who was ajudicated shortly after the incident in a disciplinary proceeding by his commander and sentenced to 14 days in prison (of which he served seven) was sentenced on the basis of agreement between the prosecution and the defense to 21 days of military labor, a 45-day suspended prison sentence, and a demotion to the rank of Private (Center/337/02. Verdict: December 22, 2002. Sentence: January 8, 2003).

[153] See footnote 147 above.

October 20, 2004: damaging a car windshield with a gun and threatening a Palestinian driver

Northern District Court-Martial Case 536/05; Court-Martial of Appeals Case Appeal/109/06

On October 20, 2004, Sgt. Ephraim Kadouri was driving with civilian Gadi Tene in Tene's car, when they were overtaken by a car driven by Palestinian civilian Zuheir Al-Hars. Later in the drive, near the Tapuach Junction, Tene overtook Al-Hars's car, blocked it and stepped out of his car. According to Sgt. Kadouri, he too got out of the car when he noticed a fight developing between Tene and al-Hars. As to what happened later, Sgt. Kadouri gave several versions during the MPCID investigation into the incident.

After a full trial the Court-Martial judges determined that Sgt. Kadouri had hit al-Hars's car's windshield a number of times with his rifle butt and broken it, and then shouted at al-Hars and aimed his gun at him. As a result Sgt. Kadouri was convicted of intentional sabotage and illegal use of a weapon. Sgt. Kadouri was sentenced to one month in prison, a three-month suspended prison term and a demotion to the rank of Private (North/536/05. Verdict and sentence: September 4).

Sgt. Kadouri appealed his conviction and sentence to the Court-Martial of Appeals. His appeal was rejected (Appeal/109/06. Ruling: June 4, 2007).

Looting and theft

December 31, 2001: looting bodies at an IDF outpost

Southern District Court-Martial Case 178/02

On December 31, 2001 the bodies of three Palestinians who were killed by a "Flachette" shell (a shell containing metal arrows that spread over a large area) shot by an IDF tank a day earlier were brought by APC to the Elei Sinai outpost in the Gaza Strip.

Cpl. Yiftach Adelan approached the bodies that were in the APC and removed from them a wristwatch, eight shekels he found in a wallet and a large-bladed knife. Cpl. Adelan also removed from the body of one of the dead, at the request of his colleagues, metal arrows, one of which he kept as a souvenir. He gave the wristwatch and the knife to two of the soldiers who were involved in killing the Palestinians, as souvenirs.

As part of a plea bargain reached between the parties, Cpl. Adelan confessed to the offense of disgraceful behavior and was sentenced to 50 days in prison, a suspended prison term of four months and a demotion to the rank of Private (South/178/02. Verdict and sentence: May 30, 2002).

March-April 2002: looting computer equipment from the Palestinian Interior Ministry in Qalqiliya

Ground Forces Command District Court-Martial Case 243/02

During "Operation Defensive Shield", Sgt. Hananel Suleimani, the sergeant of the munitions department of the Infantry School, was station at the Palestinian Interior Ministry in Qalqiliya. Sgt. Suleimani dismantled two network cards from one of the computers in the office and gave them to another soldier for safekeeping. Sgt. Suleimani also gave the other soldier, at his request, the computer's hard drive. A few days later the network cards were returned to Sgt. Suleimani, and he installed one of them in his home computer. On another occasion Sgt. Suleimani took from a Palestinian warehouse two barrettes and two sets of Palestinian ranks. In another instance Sgt. Suleimani took for himself out of an APC Palestinian property seized by the IDF, including Palestinian identity cards, two credit cards, a gun magazine full of bullets and more.

Sgt. Suleimani was convicted on the basis of his confession to looting, removing property from the possession of the army and inappropriate behavior. He was sentenced to three and a half months in prison, a suspended prison term of five and a half months, and a demotion to the rank of Private (GFC/243/02. Verdict: September 2, 2002. Sentence: September 5, 2002).

March-April 2002: looting electronic equipment from a family home in Ramallah

Central District Court-Martial Cases 516/02, 517/02

Cpl. Nimrod Babavi and Cpl. Eyal Cavallo, fighters in the Duchifat Battalion, were convicted of looting a DVD (Cpl. Babavi) and a video camera (Cpl. Cavallo) from the home of a Palestinian family in Ramallah during "Operation Defensive Shield". The two concealed the property in a backpack hidden among the bushes at a military base. After the owner of the property complained it was stolen, a "shame roll call" was held in the unit but the property was not returned. Only a while later did other soldiers from the unit give the property to their commander and the two soldiers admitted their actions to him. The soldiers' commander tried them by a disciplinary

proceeding, and they were sentenced for the act to 35 days' confinement to their base.

On another occasion Cpl. Cavallo took NIS 500 in cash from a residential home where he was conducting a search. After the owner of the home complained that the money had disappeared, the money was found in Cpl. Cavallo's possession and returned to its owners.

Cpl. Cavallo was convicted of looting on the basis of his confession to an amended indictment as part of a plea bargain. He was sentenced to 60 days of military labor, a 90-day suspended prison term and a demotion to the rank of Private (Center/516/02. Verdict: 29, 2004. Sentence: April 25, 2004).

Cpl. Babavi was convicted of disgraceful behavior based on his confession to an amended indictment. He was sentenced to 45 days of military labor, a three-month suspended term, and a demotion to the rank of Private (Center/517/02. Verdict: July 28, 2003. Sentence: August 24, 2003).

March-April 2002: looting money from a home in Ramallah

Central District Court-Martial Case 570/02

Sgt. Joseph Freizler of the Duchifat Battalion was convicted on the basis of his admission as part of a plea bargain of a charge of disgraceful behavior. Freizler admitted that during "Operation Defensive Shield" he took hundreds of shekels from a residential home in Ramallah, but changed his mind and returned the money before the act was discovered.

Sgt. Freizler was sentenced to two months of suspended imprisonment, the payment of a NIS 500 fine and a demotion to the rank of Private (Center/570/02. Verdict and sentence: April 7, 2005).

March-April 2002: looting a computer hard drive from the PIB bank in Ramallah

Central District Court-Martial Case 575/02

Sgt. Shmuel Dreinberg of the Duchifat Battalion was convicted, based on his confession, of one count of looting as part of a plea bargain for taking a hard drive from a bank computer while with his unit in the Palestinian Investment Bank in Ramallah,. The hard drive was found among his possessions during a "roll call of shame" conducted by his commander.

On the basis of agreement between the prosecution and the defense in a plea bargain, Sgt. Dreinberg was sentenced to two and a half months' imprisonment, a three-month suspended prison term, and a demotion to the rank of corporal (Center/575/02. Verdict and sentence: December 29, 2003).

March-April 2002: looting stores in Ramallah and theft from a Palestinian detainee

Central District Court-Martial Case 70/03

Sgt. Oleg Lipovski of the Duchifat Battalion was convicted of taking property on various occasions during "Operation Defensive Shield" from different stores in the Manara Square in the city of Ramallah. From one store Sgt. Lipovski took a video camera; from another store he took computer display cards and a disk burner; and from another store he took two bottles of perfume. The property was found during a search by MPCID investigators in his home in February 2002. Sgt. Lipovski was also convicted of taking a cell phone from a Palestinian detainee.

Sgt. Lipovski was convicted based on his confession as part of a plea bargain of one count of looting and one count of inappropriate behavior. He was sentenced to four and a half months in prison, a 90-day suspended prison term, and a demotion to the rank of Private (Center/70/03. Verdict and sentence: March 31, 2003).

March-April 2002: taking forged money from the Muqataa building in Ramallah

Ground Forces Command District Court-Martial Case 263/03

During "Operation Defensive Shield" St.-Sgt. Assaf Sadowski entered the Muqataa building in Ramallah with his unit. In one of its rooms he found a sum of forged money, which he took. The sum was found in St.-Sgt. Sadowski's home more than a year later during a search by the Israel Police, unrelated to this matter.

As part of a plea bargain St.-Sgt. Sadowski confessed to possessing forged banknotes (under section 462(2) of the Penal Code) and the derivative offense of inappropriate behavior. He was sentenced to 50 days of military labor as well as a five-month suspended prison sentence and a demotion to the rank of Private (GFC/263/03. Verdict: December 23, 2004. Sentence: January 2, 2005).

April 2002: looting a wallet containing NIS 100 and 3 CDs from a store in Ramallah

Central District Court-Martial File 187/02

Cpl. Sebastian Goldberg, a soldier in the Nachal Brigade, was convicted of taking a wallet with NIS 100 and three CDs from a CD store during "Operation Defensive Shield". The property was found in his possession – first the CDs and then the wallet – during various searches among soldiers of the battalion to find property they had looted. When the other soldiers of the battalion were given the opportunity to anonymously return looted property, they returned a number of cell phones and their batteries, CDs, sun glasses, knives and more. Cpl. Goldberg claimed when investigated that he did not know taking the CDs was forbidden because it was enemy property, and that he took the wallet to buy cigarettes and other items at the canteen.

Cpl. Goldberg was convicted of the offense of looting on the basis of his confession given as part of a plea bargain. The prosecution and defense agreed to a sentence including an active prison term of two months, but the Court-Martial judges decided (by a majority) to diverge from the plea bargain and sentenced Cpl. Goldberg to a one-month active prison term, in addition to a suspended prison term of two months, and a demotion to the rank of Private (Center/107/02. Verdict and sentence: May 6, 2002).

March-May 2002: looting property in Ramallah

Central District Court-Martial Case 347/02

Sgt. Omer Schreibman, a combat soldier in the Duchifat Battalion, was convicted of looting and inappropriate behavior based on his confession to an amended indictment filed as part of a plea bargain. St.-Sgt. Schreibman was convicted of illegally taking the items detailed in the amended indictment: a radio tape and amplifier from a car; two water pipes taken from a storage room; 23 sets of prayer beads taken from Palestinian civilians; an identity card taken from a Palestinian civilian detained as a suspect; a computer keyboard and mouse, looted by another soldier from a computer company, and more.

The Court-Martial adopted the sentence agreed upon as part of the plea bargain between the prosecution and the defense and Sgt. Schreibman was sentenced to four months in prison, a suspended term of half a year, and a demotion to the rank of Private (Center/347/02. Verdict and sentence: August 19, 2002).

April 8, 2002: looting of cell phones in Nablus

Central District Court-Martial Case 203/02

Sgt. Yevgeny Boroshtein of the Paratroopers Brigade Battalion 890 admitted taking a number of cell phones, batteries and chargers from a store or house in the city of Nablus on April 8, 2002. The equipment was found among Sgt. Boroshtein's possessions after his commander suspected him of looting. Sgt. Boroshtein was sentenced by disciplinary proceeding to 14 days in prison, but he did not serve them because the disciplinary action was superseded by the opening of an MPCID investigation.

Sgt. Boroshtein was convicted of looting and inappropriate behavior and sentenced as part of a plea bargain to 50 days' imprisonment as well as a 90-day suspended prison term, and a demotion to the rank of Private (Center/203/02. Verdict and sentence: June 3, 2002).

April 15-17 2002: looting in the Palestinian Economic Ministry and a private home in Ramallah

Central District Court-Martial Case 178/02

St.-Sgt. Michael Melamed of Brigade 401 Battalion 9 of the Armored Corps was convicted of possessing Palestinian property that he had taken during searches of the Palestinian Ministry of the Economy, a private home and other places in the city of Ramallah. Among other things found in St.-Sgt. Melamed's possession were a metal sword with a gilded sheath, two wooden pipes, 15 items of computer equipment (including six hard drives), four cell phones and seven cell phone chargers. St.-Sgt. Melamed was also convicted of coordinating false testimony with another soldier according to which that soldier had given St.-Sgt. Melamed some of the property.

St.-Sgt. Melamed was convicted of the offenses of looting, disgraceful behavior and inappropriate behavior on the basis of his confession to an amended indictment. The Court-Martial accepted the plea bargain and sentenced St.-Sgt. Melamed to five months in prison, five months of suspended prison time, and a demotion to the rank of Private (Center/178/02. Verdict and sentence: June 3, 2002).

April 20, 2002: looting NIS 1500 from a Palestinian civilian at Checkpoint 109

Central District Court-Martial Cases 185/02, 186/02

St.-Sgt. Shaul Cohen and St.-Sgt. Matan Gefen of the Nachshon Battalion were convicted, together with their colleague St.-Sgt. Itzhak Hachmon, of taking and splitting between them NIS 1,500 from the wallet of a Palestinian civilian they had detained near Checkpoint 109 near Qalqiliya on suspicion of illegal presence in Israel. After the Palestinian civilian complained to the other soldiers, St.-Sgt. Cohen, St.-Sgt. Gefen and St.-Sgt. Hachmon denied they took the money, but later gave back some of it, claiming they had found it lying around.

As part of a plea bargain St.-Sgt. Cohen and St.-Sgt. Gefen confessed to receiving property obtained by a crime and inappropriate behavior, on the basis of an amended indictment.

St.-Sgt. Shaul Cohen was sentenced to 50 days in prison, 50 days' suspended prison time, and a demotion to the rank of Private.

St.-Sgt. Matan Gefen was sentenced to 65 days in prison, 65 days' suspended prison time, and a demotion to the rank of Private (Center/185/02. Verdict and sentence: May 6, 2002).

St.-Sgt. Itzhak Hachmon was also convicted as part of a plea bargain of theft and inappropriate behavior. He was sentenced to 100 days in prison, 100 days' suspended prison term, and a demotion to the rank of Private (Center/186/02. Verdict and sentence: May 6, 2002).

April-May 2002: stealing a cell phone from the detainee deposit in the Judea Brigade

Central District Court-Martial Cases 514/02, 515/02

Cpl. Kfir Barak and Pte. Ronen Peretz of the Central Command Military Police Unit were convicted of stealing a cell phone from the deposit of a Palestinian detainee who was held in the detention facility on the grounds of the Judea Regional Brigade (Hebron).

Cpl. Kfir Barak, who took the phone, gave it two weeks later to Pte. Peretz, so that the latter would return it to its owner. Cpl. Barak was convicted based on his admission of theft and sentenced to 30 days in prison (to be served concurrently

with 60 days in prison to which he was sentenced for defecting for 99 days), as well as a three-month suspended prison term, and a demotion to the rank of Private (Center/515/02. Verdict and sentence: June 23, 2003).

Pte. Ronen Peretz, who was in charge of the security detainees at the Judea Brigade detention facility, received the stolen phone from Cpl. Barak, on the pretext that he intended to return it to its owner or give it to his commander, but he instead kept the phone and used it. Pte. Peretz confessed as part of a plea bargain to receiving property obtained by a crime and was sentenced, on the basis of an agreement between the prosecution and defense, to a two-month active prison term and a six-month suspended prison term (Center/514/05. Verdict and sentence: January 20, 2003).

May 2002-January 2003: the looting of property and jewelry on various occasions

Central District Court-Martial Case 27/03

St.-Sgt. Wichisel Yosifov of Battalion 202 of the Paratroopers Brigade was convicted of looting and inappropriate behavior following a number of acts of looting that he committed between May 2002 and January 7, 2003, in various places in the West Bank (houses in Ramallah, Nablus, the Balata refugee camp and a liquor store in Bethlehem). Among other acts, St.-Sgt. Yosifov looted eight different houses for a cumulative sum of NIS 1,500, as well as a watch, three lighters, a golden pen, five bottles of alcohol and three gold rings.

Following his confession to an amended indictment and as part of a plea bargain, St.-Sgt. Yosifov was sentenced to five months in prison, a three-month suspended prison term, and a demotion to the rank of Private (verdict and sentence: March 24, 2003).

July 12, 2002: looting a grocery store and stealing a radio tape from a vehicle in Nablus

Central District Court-Martial Cases 348/02, 349/02 and 357/02

During the night of July 12, 2002, soldiers of Battalion 890's Munitions Platoon were sent to rescue a military oil tank that broke down in Nablus. Cigarettes, money and cans of beverages were looted overnight from a grocery store near the place in which the oil tank got stuck. A radio tape was also stolen from a car that was parked nearby.

Sgt. Nissim Chukadian was convicted on the basis of his admission of two counts of looting as well as one count of inappropriate behavior, as part of an amended indictment reached in a plea bargain. According to his confession, Sgt. Chukadian entered a grocery store with St.-Sgt. Turbinsky and took cigarettes from it. He also admitted taking a radio tape from a Palestinian-owned car parked nearby. Sgt. Chukadian was also convicted of drinking the contents of canned beverages looted from the grocery store. The Court-Martial adopted the sentence proposed in an agreement between the prosecution and the defense, and Sgt. Nissim Chukadian was sentenced to three months in prison, a six-month suspended prison sentence, and a demotion to the rank of Private (Center/349/02. Verdict and sentence: August 19, 2002).

St.-Sgt. Vadim Turbinsky, a noncommissioned officer in the standing army, was convicted at the end of a full trial of looting, for his part in stealing the packs of cigarettes and canned beverages. Following his conviction for looting, St.-Sgt. Turbinsky was also convicted of the charge of inappropriate behavior. St.-Sgt. Turbinsky was acquitted from a charge of breaking and entering, because the prosecution did not prove whether the door of the grocery store was locked, closed or open. St.-Sgt. Turbinsky was also acquitted of another charge of inappropriate behavior when it was determined that it had not been proven he knew the canned beverage whose contents he drank had been looted from the grocery store. St.-Sgt. Vadim Turbinsky was convicted to 66 days in prison, a four-day suspended prison term, and a demotion to the rank of sergeant (Center/348/02. Verdict: January 19, 2003. Sentence: February 11, 2003).

Sec.-Lt. Yevgeny Lalchuk, the Battalion liaison officer on the site, admitted he had done nothing to prevent the looting, and that he had not reported the actions even when he was asked about them by his commander. Sec.-Lt. Lalchuk also admitted drinking from the canned beverages that were looted. Sec.-Lt. Lalchuk was convicted on the basis of his confession of two counts of inappropriate behavior as part of an amended indictment. He was sentenced to 40 days in prison to be served actively and a three-month suspended prison sentence (Center/357/02. Verdict and sentence: March 24, 2003).

August 2002: looting NIS 300 and cell phones from a residential home in the village of Zawata

Central District Court-Martial Cases 57/03, 58/03. Court-Martial of Appeals Case Appeal/168/03

Sgt. Oren Paz and Cpl. Aharon Ben Yishai, both combatants in the Haruv Battalion, were convicted of looting the home of a family in the village of Zawata in the Nablus area.

Sgt. Oren Paz was convicted of taking a cell phone from the home of a family where he was doing a search, and throwing it in the street a day or two later. Sgt. Paz, who confessed to the act on his own initiative to his commander, was convicted based on his admission to the charges of looting and inappropriate behavior, and was sentenced as part of a plea bargain adopted by the Court-Martial to 40 days in prison, a 60-day suspended sentence, and a demotion to the rank of Private (Center/58/03. Verdict and sentence: May 26, 2003).

Cpl. Aharon Ben Yishai was convicted based on confessing to taking the sum of NIS 300 he found in a pants pocket, as well as a cell phone, during a search he conducted with his colleagues of a home in the village of Zawata. When the force left the house, Cpl. Ben Yishai disposed of the cell phone outside and later led its owner to it. With the money he took, Cpl. Ben Yishai bought a meal for himself and his colleagues as well as disks, cigarettes and drinks at pubs. Cpl. Ben Yishai also admitted that a few months earlier, in March 2002, he had taken prayer beads from the glove compartment of a car that went through the checkpoint where he was stationed. Cpl. Aharon Ben Yishai was sentenced to three months of imprisonment, a three-month suspended prison term, and a demotion to the rank of Private (Center/57/03. Verdict and sentence: August 25, 2003).

The Court-Martial of Appeals accepted the Military Prosecution's appeal of the leniency of Cpl. Ben Yishai's sentence and increased the active prison term component to five months, while leaving the other components of the sentence intact (Appeal/168/03. Ruling: November 6, 2003).

October 31, 2002: looting NIS 1,300 during a search in a home

Central District Court-Martial Case 681/02

On October 31, 2002, during a search for materiel in a home in the city of Jenin, Sgt. Nadav Schneider from the Golani Brigade's Battalion 13 found NIS 1,300, which fell out of the home owner’s shirt pocket. Sgt. Schneider put the money in his pocket

and went on with his colleagues to search another house. After the homeowner complained to the company commander that the money had disappeared, the soldiers were told there would be a "roll call of shame." Following the announcement and before the search of the soldiers' belongings began, Sgt. Schneider admitted to his commander that it was he who had taken the money. The money was returned to its owner.

Sgt. Schneider was convicted on the basis of his confession of charges of looting and inappropriate behavior and sentenced to three months in prison, a three-month suspended prison term, and a demotion to the rank of Private (North/681/02. verdict: November 24, 2002. Sentence: November 25, 2002).

December 25, 2002, January 5, 2003: looting money and property in Nablus

Central District Court-Martial Case 28/03; Court-Martial of Appeals Case Appeal/62/03

Sgt. Alexander Ilin, a combatant in the Paratroopers Brigade's Battalion 202, was convicted based on his confession to an amended indictment of charges of looting and inappropriate behavior, following two incidents. In the first, on December 25, 2002, Sgt. Ilin took the sum of NIS 2,350 and a lighter with a knife from a closet in the bedroom of a home where he was conducting a search. In the second incident on January 5, 2003, he took from the offices of the Palestinian police in Nablus the sum of 20 Jordanian dinars and a cell phone, with which he made four calls. Following the complaints of Palestinian civilians, the belongings of the battalions' soldiers were searched and the money Sgt. Ilin took from the family's home was found in his possessions.

Sgt. Ilin was sentenced by the District Court-Martial to three months in prison, a five-month suspended prison term, and a demotion to the rank of Private (Center/28/03. Verdict and sentence: March 10, 2003).

The Court-Martial of Appeals accepted the appeal by the Military Prosecution of the leniency of the sentence. In its ruling the court reviewed the offense of looting and the appropriate penalty for it and commented that the penalty for an offense of looting that occurred more than once "should have been, from the outset, significantly heavier." The Court-Martial of Appeals decided that the sentence by the first instance "completely missed the point of punishment" and increased Sgt. Ilin's punishment to six months in prison and a six-month suspended prison term. Sgt. Ilin's demotion to the rank of Private, as sentenced by the District Court-Martial, remained intact (Appeal/62/03. Ruling: June 15, 2003).

April 23, 2003: stealing a wallet from a Palestinian taxi

Northern District Court-Martial Case 271/03

Sgt. Moshe Sakharov of the Golani Brigade's Battalion 51 was convicted of taking, while conducting a search when stationed at a checkpoint, a wallet from a compartment in the door of a Palestinian taxi and putting it in his pocket. When the taxi driver complained a few minutes later that his wallet had disappeared, Sgt. Sakharov returned it to its owner.

Sgt. Sakharov was convicted on the basis of his confession to a charge of theft and a charge of inappropriate behavior and sentenced to one month in prison, a three-month suspended prison sentence, and a demotion to the rank of Private (North/271/03. Verdict and sentence: May 12, 2003).

February-March 2004: stealing money and property from cars inspected at the Gitit Checkpoint

Central District Court-Martial Cases 128/04, 129/04

Cpl. Aharon Menachem Yaphet and Cpl. Shalom Myers of the Netzach Yehuda Battalion of the Kfir Brigade confessed to a number of incidents of stealing money and property from cars they checked at the Gitit Checkpoint.

Cpl. Yaphet admitted that on a number of occasions when he was stationed at the Gitit Checkpoint he stole property and cash from Palestinian vehicles that were inspected as they went through the checkpoint. On February 23, 2004, Cpl. Yaphet took NIS 50 from a purse that was on the passenger seat of a commercial vehicle and later the same day he took NIS 70 from another car; the next day Cpl. Yaphet took a cell phone from a private car; on February 25 he took NIS 300 from a commercial vehicle and on the same day he took NIS 70 from a private car, NIS 60 from another car and two cell phones from yet another car. On the same day Cpl. Yaphet also took two packages of batteries and tape from another car. On March 2, 2004, Cpl. Yaphet took a cell phone from a truck, NIS 150 from a minibus and another cell phone from another car. For these acts Cpl. Yaphet was convicted of theft. Cpl. Yaphet also admitted that he asked for and was given a gas cylinder by one of the Palestinians who went through the checkpoint. Cpl. Yaphet explained his actions with an economic motive and a hatred of Arabs.

Cpl. Yaphet was convicted based on his confession of charges of theft and disgraceful behavior. A plea bargain reached between the prosecution and the defense was

accepted by the court, and Cpl. Yaphet was sentenced to five months in prison, a four-month suspended sentence, and a demotion to the rank of Private (Center/128/04. Verdict and sentence: April 19, 2004).

Cpl. Shalom Myers, who served at the Gitit Checkpoint with Cpl. Yaphet, was convicted of theft for taking a cell phone out of a car that went through the checkpoint and charges of disgraceful behavior, for receiving some of the money Cpl. Yaphet took, among other things.

The court relied on a plea bargain and sentenced Cpl. Myers to two months in prison, a six-month suspended prison term, and a demotion to the rank of Private (Center/129/04. Verdict and sentence: March 30, 2004).

August 2006: looting furniture from the Palestinian airport in the Gaza Strip

Southern District Court-Martial Case 215/06

Four Signal Corps soldiers, Cpl. AM, Cpl. HN, Cpl. MW and Sgt. NN confessed as part of a plea bargain to an amended indictment charging them with taking two refrigerators and a number of mats from a building in the Palestinian airport in the Gaza Strip, and giving them to their unit's club.

The three corporals were convicted of disgraceful behavior. Sgt. NN was convicted of inappropriate behavior. The court accepted the sentences agreed upon in the plea bargain: Cpl. AM was sentenced to 75 days in prison; Cpl. HN and Sgt. NN were sentenced to 60 days in prison; Cpl. MW was sentenced to 44 days in prison. All of the convicted were also sentenced to 50-day suspended prison sentences and demotions to the rank of Private (South/215/06. Verdict and sentence: September 12, 2006).

April 10, 2007: taking a lighter from a family's home in Ramallah

Northern District Court-Martial Case 838/07

Cpl. Itamar Piransia of the Engineering Corps Battalion 605 was convicted of disgraceful behavior for taking a lighter from a family's home in Ramallah. Cpl. Pirnasia took the lighter, which was shaped like a gun, during a search of the house.

Cpl. Piransia was sentenced to a censure (North/838/07. Verdict and sentence: June 30, 2008).

June 10, 2007: stealing a wallet containing NIS 800 at the Bekaot Checkpoint

Central District Court-Martial Case 733/07

Cpl. David Steinberg was convicted of taking a wallet out of a car that was being inspected while his colleague, Cpl. A, distracted the driver. On June 10, 2007, when he and his colleague were stationed at the Bekaot Checkpoint, Cpl. Steinberg took NIS 800 out of the wallet, of which he gave NIS 100 to his colleague. After the driver discovered his wallet had disappeared, he returned to the site but the soldiers denied they had taken it. The checkpoint commander ordered the two to empty their pockets but Cpl. Steinberg hid the wallet in his pockets and Cpl. A claimed the NIS 100 belonged to him. Later Cpl. Steinberg gave the wallet to Cpl. A, who put it in a random car that went through the checkpoint. Later Cpl. Steinberg admitted his actions to his commander.

Cpl. David Steinberg was convicted of the charge of theft based on his confession as part of a plea bargain. The court adopted the sentence agreed upon between the prosecution and the defense and sentenced him to 74 days in prison, a five-month suspended prison sentence, and a demotion to the rank of Private (Center/733A/07. Verdict and sentence: March 3, 2008).

As of this writing, the proceedings in Cpl. A.'s case are still underway.

August 3, 2007: theft of NIS 100 from a family's home in the Gaza Strip

Northern District Court-Martial Case 797/07

Sgt. Ben Ezra, a combatant in the Golani Brigade's Battalion 51, was convicted on the basis of his confession to an amended indictment that charged him with stealing NIS 100 from a home. On August 3, 2007, a military force took over a Palestinian house in the Gaza Strip. The soldiers ordered the family members to stay on the ground floor of the house. During a break in his shift, Sgt. Ezra searched the house while he was off duty and during the search took NIS 100 from a wallet he found in the bedroom. After the owner screamed that money and cell phones had been stolen from her home, Sgt. Ezra returned the money to the owner through another soldier. Sgt. Ezra admitted to stealing the money to his commanders after he found out that the soldier who gave it back to the owners on his behalf was going to stand a disciplinary proceeding. Sgt. Ezra was tried in a disciplinary proceeding by his commander, who sentenced him to 20 days in prison. The disciplinary proceeding was canceled when an MPCID investigation opened, following which an indictment was filed, after the prison term had been fully served.

Sgt. Ben Ezra was convicted of theft and inappropriate behavior and sentenced to three months' imprisonment and a demotion to the rank of Private (North/797/07. Verdict and sentence: January 29, 2008).

October 2007: theft of NIS 200 from a car at the Hawara Checkpoint

Southern District Court-Martial Case 426/07

Cpl. Asi Golan, a combatant in the Givati Brigade's Tzabar Battalion, was convicted of theft on the basis of his confession to taking NIS 200 out of a car driven by an elderly Palestinian man, while serving as a guard at the Hawara Checkpoint, at the end of October 2007.

Cpl. Golan was sentenced to 75 days in prison, a four-month suspended prison term, and a demotion to the rank of Private (South/426/07. Verdict and sentence: December 26, 2007).

Chapter 4: Other offenses

Among the investigations conducted into offenses that did not necessarily include shooting, property or violence, six investigations yielded indictments against 16 defendants. The indictment against one defendant was canceled, one defendant was acquitted and one defendant is still on trial. The other 13 defendants were convicted of various offenses.

February 10, 2003: forcing a Palestinian woman to drink a chemical liquid at gunpoint

Southern District Court-Martial Case 177/03

Private Shiri Bortz, a checkpoint inspector at the Tufah Checkpoint, was convicted of forcing a Palestinian civilian, at gunpoint, to drink a chemical substance. According to the amended indictment, on February 10, 2003, a Palestinian civilian named Fatima A-Najjar came to the checkpoint with a mineral water bottle in her possession containing a transparent liquid. According to the indictment A-Najjar told Pte. Bortz that the liquid was water, and Pte. Bortz ordered A-Najjar to drink it while aiming her colleague's loaded gun at A-Najjar's body and head from a distance of between five and ten centimeters. A-Najjar sipped from the bottle, which contained a chemical liquid for drying fiberglass, and as a result needed medical care.

The court accepted the defense's argument that according to the instructions given to Pte. Bortz she was to order Palestinians going through the checkpoint with food or drink to taste them in order to ensure they really were food or drink. Pte. Bortz was convicted based on her confession of the illegal use of a weapon because she had threatened A-Najjar with a weapon, and of providing false information for having omitted the information about her threats with the gun in the inquiry by her commander and when investigated by the MPCID.

The Court-Martial accepted the sentence agreed upon between the prosecution and the defense as part of a plea bargain. Pte. Bortz was sentenced on the basis of the plea bargain to six months of military labor and an eight-month suspended prison term (South/177/03. Verdict and sentence: August 13, 2003).

June 2003: use of Palestinians to move suspicious objects

Central District Court-Martial Case 44/06

During June 2003 a force from the Nachal Brigade's Battalion 50 identified a suspicious object in the Casbah of Hebron. Sappers who were called to the site were

delayed and the company commander, Capt. Moshe Azulai, ordered the force commander to randomly choose a Palestinian passerby and order him to move the suspicious object, while the force's soldiers took cover. The force commander did as Capt. Azulai had instructed and began to move the suspicious object together with a Palestinian civilian whom he had chosen at random.

On another occasion, between February 2003 and August 2003, the soldiers noticed a pile of folded fabric that they suspected was a roadside charge. In this case as well the sappers who were summoned were late in arriving on the scene, and Capt. Azulai ordered a random Palestinian passerby to open the folded fabric. When the latter refused Capt. Azulai let him go.

In the arguments for sentencing the court quoted, among other things, Capt. Azulai's words during his MPCID investigation, to the effect that he thought using Palestinians to move suspicious objects was an existing regulation (even though he had not been briefed to do so). Capt. Azulai added that when the sappers were late in arriving he instructed his charges to order Palestinian civilians to move the suspicious objects so as not to endanger his soldiers.

Capt. Azulai confessed to exceeding authority in an amended indictment agreed upon as part of a plea bargain. The Court-Martial adopted the plea bargain and sentenced Capt. Azulai to a two-month suspended prison term (Center/44/06. Verdict and sentence: September 18, 2006).

May 2004: the abduction of a clergyman as punishment by a Paratroops officer

Central District Court-Martial Case 454/05

Around 11 p.m. on one of the nights in May 2004, Capt. Elitzur Azran, a platoon commander in the Paratroopers Brigade Battalion 890, arrived in a Jeep with two of his soldiers to the home of Jamal a-Tamimi, imam of the village of Deir Nidham. Lt. Azran told the imam: "Watch out, stop the public announcements and incitement." When the imam did not give him a clear answer, and when Lt. Azran thought the imam was going to continue with his actions, he handcuffed him with plastic restraints and put him in the military Jeep. Lt. Azran drove the imam to the village of Jamala, 15 kilometers from his home, where he dropped him out of the Jeep and left him handcuffed. He explained his actions by claiming that he thought if the imam was forced to return to his village and get out of the handcuffs by himself it would deter him from "continuing to incite."

The indictment noted, without further elaboration, that two days after that incident a soldier who was subordinate to the defendant, St.-Sgt. S., committed "a similar action."

Lt. Azran was convicted of exceeding authority based on his confession as part of a plea bargain. The Court-Martial sentenced him to 14 days' imprisonment and a four-month suspended prison term (Center/454/05. Verdict and sentence: January 23, 2006).

January 2003 – January 2004: accepting bribes at the Qalandia Checkpoint

Nine soldiers from the Central Command Military Police Rama Company were charged with accepting bribes from people passing through the Qalandia Checkpoint. The indictments charged the nine, who served as crossing inspectors, with crimes committed at different times between January 2003 and January 2004.

Central District Court-Martial Case 45/04

Cpl. Oshrat Walteker was convicted based on her confession of taking a bribe, and was acquitted for reasonable doubt of the offense of exceeding authority to the point of risking state security (after a full trial). Another charge of extortion with threats was stricken by the Military Prosecution.

Cpl. Walteker was convicted of receiving calling cards from two people passing through the checkpoint between January and August 2003, at the frequency of one or two cards a week, packages of cigarettes (at first single cigarettes, then a pack in each shift, and finally 2-3 packs in each shift) as well as food and dolls. In exchange she expedited the passage of the two through the checkpoint. The Court-Martial sentenced Cpl. Walteker to four months in prison, a six-month suspended prison sentence, and a demotion to the rank of Private (Center/45/04. Verdict and sentence: June 28, 2004).

Central District Court-Martial Case 51/04

Cpl. Janet Rothman was convicted on the basis of her confession as part of a plea bargain of charges of taking a bribe and exceeding authority to the point of risking state security, for taking on different occasions from a person who regularly passed through the checkpoint packs of cigarettes, single cigarettes, calling cards and a stuffed animal. In exchange she let him through the checkpoint without standing in line or shortened the length of his wait in line.

Cpl. Rothman was sentenced based on an agreement between the parties in a plea bargain to six months in prison, a six-month suspended prison sentence, and a demotion to the rank of Private (Center/51/04. Verdict and sentence: March 2, 2004).

Central District Court-Martial Case 55/04

Cpl. Adam Yanai was convicted based on his admission in a plea bargain to charges of taking a bribe, possessing a dangerous drug, using a dangerous drug and disgraceful behavior. In the period between February 2003 and September 2003, Cpl. Yanai took cannabis, cigarettes and food in exchange for expediting the passage of people through the checkpoint.

On the basis of an agreement between the parties in a plea bargain Cpl. Yanai was sentenced to 10 days in prison, a six-month suspended sentence (on the condition that he did not commit offenses of accepting bribes), another three- month suspended sentence (on the condition that he did not commit drug offenses), a seven-month suspension of his driving license, and a demotion to the rank of Private (Center/04/55. Verdict and sentence: July 5, 2004).

Central District Court-Martial Case 56/04; Court-Martial of Appeals Case Appeal/62/04

Cpl. Eyal Sheleg admitted that for about a year he received bribes from people passing through the checkpoint, including sums of money, calling cards, lighters, food and more. In exchange he shortened the wait in line for inspection at the checkpoint of those fulfilling the bribes, and he inspected some of them in a manner defined as "insufficient."

Cpl. Sheleg, whose case was described by the Court-Martial as the most serious of those convicted in the affair until that time, was convicted on the basis of his confession of charges of accepting bribes and exceeding authority to the point of risking state security. He was sentenced to one month in prison, six months' suspended sentence, and a demotion to the rank of Private (Center/56/04. Verdict and sentence: May 3, 2006).

An appeal by Cpl. Sheleg against the severity of the sentence was rejected by the Court-Martial of Appeals (Appeal/62/04. Ruling: July 5, 2004).

Central District Court-Martial Case 57/04

Cpl. Liran Aharonoff was convicted based on his confession of accepting bribes and exceeding authority for taking food products, beverages, calling cards and prayer beads from people going through the checkpoint, in exchange for expediting their passage through the checkpoint, as well as taking cigarettes, calling cards and money for other soldiers and ordering them to let the givers through the checkpoint without any inspection or after partial inspection. In another case he allowed a truck of vegetables through the checkpoint even though he was not allowed to do so, and in exchange another soldier received cigarettes or calling cards.

Cpl. Aharonoff was sentenced based on agreement between the parties in a plea bargain to five and a half months in prison, a five-month suspended prison term, and a demotion to the rank of Private (Center/57/04. Verdict and sentence: May 10, 2004).

Central District Court-Martial Case 58/04; Court-Martial of Appeals Case Appeal/60/04

Cpl. Yaacov Iskhakov admitted that between January 2003 and the end of January 2004 he received bribes on a large number of occasions. Among other things he took calling cards, cash and cigarettes in exchange for expediting the passage of people through the checkpoint, not inspecting them at the checkpoint or inspecting them partially.

Cpl. Iskhakov was convicted on the basis of his confession, made as part of a plea bargain, to charges of accepting bribes, exceeding authority and disgraceful behavior. Even though the parties agreed on the sentence, which included a component of four and a half months in prison along with a suspended prison term and demotion, the Court-Martial rejected (by majority opinion) the agreed sentence. The rejection of the agreement was explained by the fact that it did not reflect "the relevant punishing interests and mainly the principle of adequacy, considering the severity of the actions and the interest of deterring others." The District Court-Martial sentenced Cpl. Iskhakov to six months in prison, a six-month suspended sentence, and a demotion to the rank of Private (Center/58/04. Verdict: April 25, 2004. Sentence: May 10, 2004).

Cpl. Iskhakov appealed the severity of his sentnece. In its ruling, accepting the appeal, the Court-Martial of Appeals accepted the plea bargain agreed upon between the parties in the first instance and reduced the active prison term to four

and a half months. The suspended prison term and the demotion remained as decided by the District Court (Appeal/60/04. Ruling: July 5, 2004).

Central District Court-Martial Case 59/04

Based on his confession, Cpl. Idan Edri was convicted of accepting bribes, for receiving cigarettes, calling cards, cans and bottles of beverages, cash and other things from people passing through the checkpoint, in exchange for expediting their passage through it.

The Court-Martial accepted the plea bargain agreed to between the parties and sentenced Cpl. Idan Edri to six months in prison, five months' suspended sentence, and a demotion to the rank of Private (Center/59/04. Verdict and sentence: May 3, 2004).

Central District Court-Martial Case 60/04

Cpl. Yakir Ben Shabbat was convicted, based on his confession, of accepting bribes from passers through the checkpoint in forms including cash, cell phones, calling cards, packs of cigarettes and more. He was also convicted of other charges, including not letting a truck driver through the checkpoint because "he did not feel like doing an inspection"; of telling people going through the checkpoint that he would not let them through unless they gave him cash or benefits; of stealing a pair of speakers from a car confiscated by the Border Police, and more.

Cpl. Ben Shabbat was convicted of the offenses of accepting bribes, exceeding authority, stealing from vehicles and abusing the power of his office. He was sentenced on the basis of a plea bargain reached between the parties to nine and a half months in prison, a six-months suspended prison term, and a demotion to the rank of Private (Center/60/04. Verdict and sentence: May 17, 2004).

Central District Court-Martial Case 62/04; Court-Martial of Appeals Case Appeal/78/04

Cpl. MS was convicted after a full trial by the District Court-Martial of accepting bribes and exceeding authority to the point of risking state security, and was acquitted of another count of exceeding authority to the point of risking state security. The District Court-Martial convicted him among other things of taking cigarettes and calling cards, and of having let pedestrians and drivers through the checkpoint without inspection or without adequate inspection on a number of occasions.

The District Court-Martial sentenced Cpl. MS to six months in prison, a five-month suspended sentence, and a demotion to the rank of Private (Center/62/04. Verdict and sentence: June 9, 2004).

The Military Prosecution appealed to the Court-Martial of Appeals some of the factual assertions by the District Court-Martial as well as the leniency of the sentence. Cpl. MS appealed his conviction. The Court-Martial of Appeals rejected the prosecution's appeal, accepted Cpl. MS's appeal and acquitted him of all the charges, for reasonable doubt (Appeal/78/04. Ruling: March 24, 2005).

Central District Court-Martial Case 241/04

An indictment submitted on May 31, 2004 against Cpl. LL from the Central Command Military Police Unit charged her with accepting bribes, because between October 2002 and April 2003 she took packs of cigarettes at the frequency of twice a week as well as food products from people going through the Qalandia Checkpoint, where she served as a checkpoint inspector.

The indictment against Cpl. LL was canceled on January 13, 2005.

January 2004: accepting bribes at Checkpoint 700

Central District Court-Martial Cases 613/04, 614/04

Pte. Kochava Partosh and St.-Sgt. Stanislav Yozefovski were convicted in two indictments related to accepting bribes from Palestinian civilians at Checkpoint 700 near Tulkarm. Besides the two defendants, other soldiers stood disciplinary proceedings in their unit for receiving various benefits from people going through the checkpoint.

Pte. Partosh, who served as a checkpoint inspector in the Central Command Military Police Unit, was convicted, on the basis of her confession to an amended indictment, of having received 15 packs of cigarettes on various occasions in January 2004 from a Palestinian civilian resident of Tulkarm who passed through the checkpoint. She gave the cigarettes to her colleagues.

Based on the agreement between the parties, the Court-Martial accepted the plea bargain, convicted Pte. Partosh of disgraceful behavior and sentenced her to a fine of NIS 750 and a four-month suspended prison term (Center/613/04. Verdict and sentence: January 3, 2005).

St.-Sgt. Yozefovski, a combatant in the Nachshon Battalion who was the checkpoint commander, admitted that on two different occasions he received food and drink from people going through the checkpoint; that on one occasion he received from a Palestinian peddler, a citizen of Israel, an amplifier that turned out to be broken, and that on another occasion he gave his car to a Palestinian citizen of Israel for him to fix for free.

St.-Sgt. Yozefovski was convicted of inappropriate behavior based on his confession as part of a plea bargain. The Court-Martial adopted the sentence proposed in agreement by the parties and sentenced St.-Sgt. Yozefovski to a NIS 1,000 fine, five months' suspended prison sentence, and a demotion to the rank of Private (Center/614/04. Verdict and sentence: January 3, 2005).

April 24, 2006: the killing of a Palestinian woman and injury of another six people in a traffic accident

Central District Court-Martial Case 185/07

An IDF soldier (about whom Yesh Din has no information) was charged with negligent manslaughter and other offenses, based on his responsibility for a traffic accident during which the vehicle he was driving crashed into a Palestinian taxi, killing a passenger and injuring another six of the taxi's passengers.

An indictment against the soldier was filed on April 15, 2007 and his trial is still under way.