



**JUDGE ADVOCATE GENERAL**

**DEFENCE FORCE  
DISCIPLINE ACT 1982**

*Report for the period  
1 January to 31 December 2023*

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DEFENCE  
CANBERRA ACT 2600**

**JUDGE ADVOCATE GENERAL**

The Hon. Richard Marles,  
Deputy Prime Minister  
Minister for Defence  
Parliament House  
CANBERRA ACT 2600

Dear Deputy Prime Minister

I submit herewith my report covering the period from 1 January to 31 December 2023. The report is furnished pursuant to the requirements of section 196A(1) of the *Defence Force Discipline Act 1982*.

Yours faithfully

**Rear Admiral John T Rush, AO, RFD, KC, RAN**  
Judge Advocate General  
Australian Defence Force

26 August 2024

Enc.

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**JUDGE ADVOCATE GENERAL  
AUSTRALIAN DEFENCE FORCE**

**REPORT FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2023**

**PREAMBLE**

1. Section 196A(1) of the *Defence Force Discipline Act 1982* (DFDA) obliges the Judge Advocate General of the Australian Defence Force (JAG), to prepare and furnish to the Minister for Defence a report as soon as practicable after 31 December each year.

2. This Report is for the 12-month period to 31 December 2023.

3. The Office of the JAG (OJAG) is created by s 179 of the DFDA. The holder of the office must be, or have been, a judge of a Federal Court or State Supreme Court. The appointment is made by the Governor-General in Executive Council. The Minister may appoint a person to act as JAG or Deputy Judge Advocate General (DJAG) for a period not greater than twelve months.<sup>1</sup>

4. Since 1985 there have been eight holders of the office of JAG.<sup>2</sup>

5. I was appointed JAG on 30 July 2021. I have been appointed for a five-year term. I satisfy the statutory qualification for appointment by virtue of having formerly served as a judge of the Supreme Court of Victoria. I am currently a barrister. Prior to my appointment as JAG I served as Deputy Judge Advocate General – Navy (DJAG-Navy) from 10 March 2014.

6. The functions of the JAG are prescribed by the DFDA and may be summarised as follows:

a. reporting annually to Parliament on:

- (i) the operation of the DFDA, the regulations, the rules of procedure; and
- (ii) the operation of any other law of the Commonwealth or of the Australian Capital Territory (ACT) insofar as that law relates to the discipline of the Defence Force.<sup>3</sup>

b. making procedural rules for service tribunals, being:

- (i) Court Martial and Defence Force Magistrate Rules; and
- (ii) Summary Authority Rules.

c. appointing the Chief Judge Advocate (CJA) and Deputy Chief Judge Advocate (DCJA);<sup>4</sup>

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<sup>1</sup> DFDA, s 188.

<sup>2</sup> The names and dates of the former office holders are set out in Annexure A.

<sup>3</sup> DFDA, s 196A.

<sup>4</sup> DFDA, s 188A and 188EC.

- d. nominating the judge advocate (JA) for a court martial<sup>5</sup> and Defence Force magistrates (DFMs);<sup>6</sup>
- e. nominating to the Chief of the Defence Force (CDF) or to a service chief, legal officers to be members of the panel of JAs;<sup>7</sup>
- f. appointing DFMs from officers appointed as members of the panel of JAs;<sup>8</sup>
- g. nominating to CDF legal officers to be appointed for the purposes of DFDA s 154(1)(a); and
- h. if requested, providing a final and binding legal report in connection with the internal review of proceedings before service tribunals.

7. The position and functions of JAG and OJAG underscore the legislature's desire for appropriate civilian judicial oversight of the operation of the DFDA and related legislation.

8. Each JAG has been a two-star officer from the reserve service category. Previous JAG Reports have noted that the JAG holds two-star rank and additionally holds or in my case has held the office of a superior court judge. This background means the JAG has a most important leadership role among both permanent and reserve legal officers.

9. The command, technical control and administrative responsibility for legal officers appearing before service tribunals remains with the Chief Counsel, the Director General - Military Legal Service (DGMLS) and the single service heads of corps/category/community. I maintain regular contact with the Chief Counsel and DGMLS.

10. The JAG also plays significant roles in promoting the jurisprudential welfare of the ADF and in promoting wider understanding of the operation of the ADF discipline system, both internally and externally to Defence.

11. I share the opinion held by all previous holders of this office that the JAG should not act as general legal adviser to the ADF nor Government; that would be inconsistent with judicial office and independence of the role.

12. Funding for OJAG for the period of this Report was provided by the Associate Secretary Group of Defence.

## **SIGNIFICANT APPOINTMENTS**

### **Chief Judge Advocate**

13. Major General Michael Cowen, AM, KC continued during the reporting period as the CJA. In the 2023 King's Birthday Honours list, I am pleased to say he was appointed as a Member of the Order of Australia in the Military Division as an

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<sup>5</sup> DFDA, s 129B.

<sup>6</sup> DFDA, s 129C.

<sup>7</sup> DFDA, s 196.

<sup>8</sup> DFDA, s 127.

exceptional leader who has displayed outstanding legal and judicial capacity in his most demanding role as the Chief Judge Advocate of the Australian Defence Force. He brings enormous experience and value to the role of CJA. Prior to his appointment as CJA in 2017 Major General Cowen practiced in criminal law in both the United Kingdom and Australia. At the time of his appointment he was a Queen's Counsel prosecutor in Queensland appearing in major criminal trials. Major General Cowen also has significant military experience. He served in Afghanistan with the British Army in 2002 as part of Operation Enduring Freedom. He joined the Australian Army Reserve in 2008.

14. As CJA, Major General Cowen continues to make a significant contribution to ensuring the proper, fair and efficient delivery of military justice in the ADF. His support to me to enable me to fill my functions as JAG has been invaluable.

15. Group Captain Scott Geeves continued his important role as DCJA supporting the CJA, acting as CJA in the absence of Major General Cowen and maintaining a heavy trial schedule.

### **Deputy Judge Advocates General**

16. Section 179 of the DFDA provides for the appointment of Deputy Judge Advocate General(s) (DJAG). The practice since commencement of the DFDA has been to have three DJAGs, with one from each of the services. The DJAGs during the reporting period were:

- a. Commodore James Renwick, AM, CSC, SC, RAN;
- b. Brigadier His Honour Judge Paul Smith; and
- c. Air Commodore Her Honour Justice Melissa Perry.

17. I formally record my gratitude to each of the DJAGs for their support and counsel. They all have decades of experience in the ADF discipline system. As well as writing regular reports under DFDA s 154(3) and 155(3), their current experience in civilian criminal courts is an invaluable resource for OJAG in shaping its rules and procedures. I thank them for their service to the ADF, much of which is voluntary and is given in addition to their other demanding professional duties as judges or counsel.

18. I congratulate Commodore Renwick for being appointed a Member of the Order of Australia in the general division in the 2023 King's Birthday Honours list recognising his contribution to the law and to national security.

### **Reserve Judge Advocates**

19. There were two reserve JA/DFMs in 2023. They were:

- a. Commander Greg Sirtes, SC, RAN; and
- b. Wing Commander Sophie Callan, SC.

### **Registrar of Military Justice**

20. Group Captain April-Leigh Rose continued in the role of Registrar of Military Justice (RMJ) after her appointment in October 2021. She has brought a practical efficiency, both to trial management and reviews, which has been directly responsible



for maintaining timelines of the superior service tribunal proceedings. I wish to acknowledge her support of both myself and CJA in the discharge of our respective offices.

21. Commander Jane Proctor, RAN continued in the role of as Deputy Registrar of Military Justice and has ably assisted the RMJ as acting RMJ in addition to her normal duties.

#### **Staff Officer**

22. Captain Nicholas Rheinberger continued in the position of Staff Officer to the JAG and CJA and I thank him for his enthusiastic support.

#### **Office Judge Advocate General**

23. I acknowledge the dedicated support of our staff, Senior Trial Administrator, Jenny Cameron, and Trial Administrators, Jo Mazlin, Iryna Law and Natalie Byrne.

#### **Expiration of statutory appointments**

24. The current position for the expiration of statutory appointments within my office is as follows:

- a. JAG, Rear Admiral Rush, RAN, expiry date 29 July 2026;
- b. DJAG-Navy, Commodore Renwick, RAN, expiry date 29 July 2026;
- c. DJAG-Army, Brigadier Smith, expiry date 9 March 2027;
- d. DJAG-Air Force, Air Commodore Perry, expiry date 09 February 2028;
- e. CJA, Major General Cowen, expiry date 21 September 2027;
- f. DCJA, Group Captain Geeves, expiry date 29 March 2025; and
- g. RMJ, Group Captain Rose, expiry date 30 Oct 2026.

#### **Section 154 reporting officers**

25. Section 154 of the DFDA requires that reviewing authorities obtain a report from a legal officer prior to commencing a review of a service conviction. For a conviction by a court martial or DFM, or a direction given under DFDA s 145(2) or (5), the legal report must be provided by a legal officer appointed by CDF (or a service chief) on the recommendation of the JAG: DFDA s 154(1)(a).

26. The experiences and perspectives gained by these officers through the provision of legal opinions pursuant to the DFDA s 154 are unique and afford a special opportunity to observe how the DFDA operates.

27. The s 154(1)(a) legal reporting officers during the reporting period were:

- a. Lieutenant Commander His Honour Chief Justice Will Alstergren, AO, RAN;
- b. Lieutenant Commander Her Honour Judge Catherine Traill, RAN;
- c. Lieutenant Colonel Emma Shaw;

- d. Major Magistrate Michael Antrum;
- e. Major Michelle Barnes;
- f. Major Chris Gunson, SC;
- g. Air Commodore His Honour Judge Michael Burnett, AM;
- h. Group Captain Magistrate James Gibson;
- i. Group Captain His Honour Judge Gregory Lynham;
- j. Wing Commander Her Honour Judge Joana Fuller;
- k. Wing Commander Magistrate Glenn Theakston; and
- l. Squadron Leader Magistrate James Lawton.

28. I thank all s 154 officers for their service to the ADF, which is given in addition to their other busy civilian professional duties as judges, magistrates or senior legal practitioners.

### **Related appointments**

29. Mr Adrian D'Amico continued in his role as Chief Counsel in 2023. During the reporting period, I have had consultations with Mr D'Amico about the development of the ADF discipline system and in promoting both legislative and managerial improvements.

30. Air Commodore Patrick Keane, AM, CSC continued in the role of DGMLS throughout the reporting period. I acknowledge his astute stewardship over the reporting period.

31. The Director of Military Prosecutions is appointed under the DFDA.<sup>9</sup> Air Commodore Ian Henderson, AM continued in the role of DMP and reports separately as required by DFDA.<sup>10</sup>

32. The Director of Defence Counsel Services (DDCS) is appointed under the *Defence Act 1903*. During the reporting period Colonel Joshua Clifford was appointed to this position.

33. The Inspector General of the ADF (IGADF) is appointed under the Defence Act. The position of IGADF continued to be filled during the reporting period by Mr Jim Gaynor, CSC. I continued to meet with IGADF during the reporting period.

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<sup>9</sup> DFDA, s 188GF.

<sup>10</sup> DFDA, s 196B.

## **MILITARY JUSTICE ENTITIES**

### **Military Justice – change of command**

34. During the reporting period, *Joint Directive 10/2023 Reorganisation of the Defence People System and Establishment of the Chief of Personnel* was signed by the Chief of Defence Force and Secretary for Defence. The responsibility for oversight of the military justice system and military justice policy transferred from the Vice Chief of the Defence Force to the newly created Office of the Chief of Personnel, commanded by the Chief of Personnel (CPERS), Lieutenant General Natasha Fox, AO, CSC. Both CJA and I met with CPERS late in the reporting period to discuss these changes.

### **Military Justice Steering Group**

35. The Military Justice Steering Group (MJSG) chaired by the Head Military Personnel (HMP) Major General Wade Stothart, DSC, AM, CSC continued to oversee matters pertaining to the discipline system of the ADF. A number of recommendations (over recent years) from the JAG Report have been referred to MJSG. These recommendations have included; the proper management of mental health concerns for persons facing charges, JA involvement in sentencing, dismissal of a JA, five-year term appointment for s 154 reporting officers, court martial President discretionary powers under the DFDA s 140, 148 and 148A-D, pre-trial arraignment before a JA, pre-trial submissions by prosecution, enabling absence of accused from procedural hearings and disclosure obligations including expert reports. I recognise that addressing these matters requires legislative amendment and such amendments being fitted into a busy government legislative agenda.

## **MILITARY JUSTICE ISSUES**

### **Summary discipline system**

36. In last year's Report I noted that the impact of changes brought about by the revised *Summary Authority Rules 2019* and the changes to the DFDA brought about by the *Defence Legislation Amendment (Discipline Reform) Act 2021* remained to be seen. I also observed that access to reliable data would be essential to enable me to consider the overall effectiveness of the summary discipline system including the changes to the Discipline Officer Scheme that took effect late in the reporting period. I look forward to taking this matter up with IGADF who arranges audits at unit level of the summary discipline system.

### **JAG quarterly lecture series**

37. OJAG continued a series of lectures to the Defence Legal workforce, which were made available in person or via virtual means. The lectures included internal and external guest speakers on legal topics. A highlight was the lecture delivered by the Chief Justice of the ACT Her Honour Chief Justice Lucy McCallum, who together with Justice Belinda Baker delivered a lecture on the law of tendency evidence.

### **Sexual Offences and consent laws in the ACT applicable in the military discipline system**

38. Sexual offence consent laws in the ACT continue to develop as this year the ACT legislature enacted further amendments. As the superior tribunal system applies the criminal law of the ACT, the CJA has updated the Court Martial and Defence Force

Magistrate Bench Book to ensure the significant changes to mistake of fact as to consent and the relevance of intoxication to offences are available to practitioners and defence members.

39. I continue to hold the view that the superior tribunal system provides a fair efficient system capable of dealing with sex offences as well as all other offences. A complainant has all of the safeguards and special measures available to a complainant in the civilian system (bar one below) and the laws of evidence applicable in the ACT Supreme Court are strictly applied as if the superior tribunal was a court in the Jervis Bay Territory exercising its criminal jurisdiction (s 146 DFDA).

### **Upgrade to Court Martial Facility IT system**

40. The Court Martial Facility in Fyshwick had a major IT upgrade in 2023 which saw the replacement of analogue TV screens and cameras with the latest digital screens and HD cameras. This ensures the facilities available to the jurisdiction are of the highest standard for remote evidence and the recording of it. The facilities and technology are now on a par with the best available in civil criminal courts.

### **Representation of members**

41. There is no tension in my view of uniformed officers representing the member on trial. Their duties are first to the court, and then the client. The representation is free of charge and drawn from a cohort of reserve legal officers experienced in criminal and discipline law. The duties of the legal representative mirror those in any civilian court. These observations are subject to those of my predecessor RADM His Honour Justice Slattery, AM, AM(Mil), RAN raised in the JAG report of 2019 concerning the changing profile of the ADF legal reserve.<sup>11</sup>

### **Representation of witnesses**

42. The military justice system through the DGMLS and the MJSG has embraced the idea of a member's rights and expectations of privacy being enhanced in appropriate cases, by separate legal representation of witnesses where issues of privacy arise. This is particularly relevant in sexual offence proceedings in relation to stored digital data about which there would be a reasonable expectation of privacy (i.e. phones, iPads and the like) and the issue of a summons for such material, or as outlined in last year's Report concerning protected confidence material. During the reporting period, in a sexual offence proceeding a complainant was separately represented by counsel funded by Defence Counsel Services in relation to a summons raised for access to voluminous protected confidence material. The process of separate representation enabled the matter to be dealt with expeditiously and fairly.

### **Tri-Service court martial panelling policy**

43. Most matters before the superior tribunal are dealt with by DFMs. Courts martial are convened in a small number of cases per year. During the reporting period, after consultation with Command, the RMJ began drawing court martial panels from all three services. Previously, court martial panels were drawn only from the service of the accused for mainly historical reasons. The CDF and Service Chiefs were supportive of this initiative and from September 2023, court martial panels may consist of members from all three services. While panel members are drawn from a tri-service pool, there

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<sup>11</sup> JAG report 2019 para 131-140.

is no guarantee as to the final Service makeup of the panel, because the identification process is both random and service agnostic. The RMJ publishes the panelling policy to all ADF members on the JAG intranet site.

## RECOMMENDATIONS OF PRIOR JAG REPORTS

44. In addition to matters raised in paragraph 35 above, last year's Report made recommendations for legislative change which have not been advanced.

- a. **Court martial panels imposing sentence.** Australia is now the only Five Eyes military retaining the historic system of a court martial panel determining guilt and determining penalty without providing reasons. The practice is anachronistic and contrary to fundamental principles of open justice and fairness. Further, reasons for sentence are crucial to appropriate accountability and contemporary confidence in the military discipline system. This is a matter which has been raised in JAG Reports for at least ten years:
  - (i) court martial sentencing was raised in the 2013 JAG Report by the then JAG, the late Major General the Honourable Justice RRS Tracey, AM, QC, RFD;<sup>12</sup>
  - (ii) explicitly raised as part of proposed superior tribunal procedural reform in the 2017 JAG Report by the previous JAG, Rear Admiral the Honourable Justice MJ Slattery, AM, AM(Mil), RAN;<sup>13</sup> and
  - (iii) raised or mentioned in the 2018,<sup>14</sup> 2019,<sup>15</sup> 2020,<sup>16</sup> 2021<sup>17</sup> and 2022<sup>18</sup> JAG Reports.
- b. The Australian system of a court martial panel imposing sentence alone for the reasons set out above is in urgent need of attention.
- c. **Reporting service convictions to civilian authorities.** There has been no progress in this regard in the reporting period. The DFDA should reflect consequences of criminal behaviour, and in my view the recording of a conviction should be one of them, particularly for 'territory offences'. The scope of the jurisdiction has changed since the original drafting of the DFDA. The High Court has made it clear<sup>19</sup> subject to limitations imposed by consent requirements in s63 DFDA (consent required by the Commonwealth DPP to charge certain offences occurring within Australia) the scope of charges before the superior tribunal is not limited by a service connection. Offences which are crimes in the ACT are routinely heard by

<sup>12</sup> 2013 JAG Report at [46] – [48].

<sup>13</sup> 2017 JAG Report at [84].

<sup>14</sup> 2018 JAG Report at [47] – [57].

<sup>15</sup> 2019 JAG Report, Annex J at [6].

<sup>16</sup> 2020 JAG Report at [74].

<sup>17</sup> 2021 JAG Report, Annex B at [13].

<sup>18</sup> 2022 JAG Report at [40] – [44].

<sup>19</sup> *Private R v Cowen* (2020) 271 CLR 316.

the superior tribunal. Section 190A DFDA states that if such a conviction is reported to civilian authorities it must expressly refer to it as a service offence. Not only is the section not used, but to classify a crime as a service offence may be apt to mislead. This whole section is in need of revision. A conviction for a 'territory offence' before a superior tribunal should carry with it the same consequences of a recorded conviction for a Commonwealth offence in a state or territory criminal court.

- d. **Warrant Officers sitting on panels.** There has been no progress in this regard in the reporting period.
- e. **Elections – s 111B.** I have previously recommended the abolition of the right in s 111B DFDA which allows for senior officers to elect to have matters which would normally be dealt with by a summary authority (including a CO) heard by DFM or court martial (the choice of which presently remains with the DMP).<sup>20</sup> Differential rights of this sort can no longer be justified on the basis simply of senior rank.
- f. **Video evidence in chief for complainants in sex offence proceedings.** There has been no progress in this regard in the reporting period.
- g. **Abolition of DMP's right to unilaterally decide the mode of trial.** In my last Report I stated:

*"[55] I have already addressed the issue of election as it concerns rank. There is a further anomaly in the election process. An example of this is that whilst a member has (limited) rights of election on most offences, that election does not allow the member to choose a trial before a DFM or a court-martial. The type of tribunal to be convened is entirely the choice of the DMP. The DMP chooses whether the matter will go before a DFM, restricted court-martial or general court martial. In most criminal justice systems, it is the prosecution who determine the charge(s). There is no comparative civilian system in Australia whereby the prosecution unilaterally determines the venue for trial. In most common law jurisdictions, of course, an accused has the right to choose a trial by jury (except where the legislature has made the offence summary only).*

*[56] Even if the offence allows for an election, it is the DMP who unilaterally decides whether the matter goes before a DFM or court-martial. Other comparative jurisdictions have a more transparent election system. In the UK, any member may elect a court-martial on any offence. In Canada, the maximum penalty of the offence and a right of election will determine the venue. The interests of transparency, openness and fairness of the military discipline system require a change to the election regime which would remove the choice of venue from the DMP.*

- h. I remain of this view. An accused member, particularly in cases of more serious offending, has a high interest in the mode of trial. Thus I consider the parliament should give consideration to amending the DFDA so there is a statutory presumption for trial by General Court Martial (GCM) for more

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<sup>20</sup>

JAG Report for period to 31 December 2022 [49].

serious offences to be determined by the term of imprisonment capable of being imposed.<sup>21</sup>

- i. Less serious offences, again to be determined by penalty, the equivalent of summary offences in the civilian jurisdiction heard by magistrates to be heard by a DFM with no right of election.
- j. In other matters, the accused could consent to a hearing before a DFM or have the right to apply for trial by court martial. Such application could be determined by a member of the JA panel sitting as a DFM taking into account submissions for the accused, submissions for the DMP and any practice note promulgated by the JAG going to matters relevant to the exercise of the DFM's discretion. Such application could be heard quickly and in some cases on the papers so the trial process would not be delayed.

## THE DISCIPLINE SYSTEM AND CHANGE

### Structure of Tribunals – Courts martial and Defence Force magistrates

45. It is to be remembered the military discipline system exists to ensure maintenance of good order and discipline in the ADF. The High Court has confirmed the validity of the current DFDA structure as *'the Act can reasonably be seen to conduce to the efficiency of the defence forces of the nation and so to conduce to the defence of the nation. It is a wholly valid exercise of the defence power.'*<sup>22</sup> In the exercise of this power it is of the highest importance that the superior discipline system meets standards of fairness and is of such quality that it maintains the confidence of the entire ADF and the Australian community. This requires all those engaged in the military discipline system to meet high standards so as to ensure fairness, efficiency and maintenance of that confidence in the system of discipline.

46. The officers who act judicially within the system sit as either JAs (courts martial) or DFMs. The procedure and criteria for appointment of JAs (including the CJA and DCJA who are appointed by the JAG) are published by way of notifiable instrument on the Federal Register of Legislation. Those officers must be legal officers in the ADF and are senior legal practitioners who invariably must be experts in the field of criminal and discipline law. A DFM must be appointed to the JA panel by the CDF on nomination by the JAG, and the JAG appoints DFMs. The judicial officers undergo continuing professional development; for example in the reporting period the CJA undertook continuing judicial training organised by the National Judicial College of Australia, and attended a Commonwealth Magistrates and Judges Association conference.

47. The DFDA allows for two types of hearings at the superior level; by DFM or by court martial. Two levels of courts martial are provided for; a GCM and a Restricted Court Martial (RCM). A GCM consists of at least five members and may impose the maximum penalty known to law. An RCM consists of at least three members and has the same sentencing powers as a DFM, being a maximum of six months imprisonment. Aside from the time when the Australian Military Court was created and subsequently struck down as unconstitutional, the structure of the DFDA has not been significantly reviewed or varied since 1982.

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<sup>21</sup> For example, DFDA offences carrying five or more years imprisonment.

<sup>22</sup> *Private R v Cowen* (2020) 271 CLR 316 at [78] per Kiefel CJ, Bell J and Keane J.

**Sentencing powers of a DFM**

48. DFMs can impose a maximum punishment of six months imprisonment. In the States and Territories, magistrates have a significantly greater sentencing discretion for imposing terms of imprisonment. Many offences under the DFDA, and certain 'territory offences', have maximum sentences well beyond six months.

49. It is timely for parliament to consider increasing the sentencing powers of DFMs. Increasing sentencing powers would be consistent with contemporary standards and promote efficiency and flexibility in a rapidly changing strategic environment for the ADF.

**Conclusion**

50. Made more urgent by a changing strategic environment facing the country, this Report respectfully requests that Parliament address these suggested changes through legislation so as to maintain confidence in the ADF's superior and summary military discipline system.

51. As stated, the military discipline system remains fair and efficient, and the initiatives of representation of witnesses in matters of privacy, and a tri service panelling policy will enhance effectiveness. But the DFDA has not been substantially reformed since 1982 and recommendations made in successive JAG reports have not been implemented. Legislative reform to the DFDA is still required for it to fully reflect comparable civilian standards for the administration of justice applied in a military context.



COMPLIANCE INDEX OF REQUIRED INFORMATION  
FOR STATUTORY AUTHORITIES

**(Senate Hansard, 11 November 1982, pp 2261–2262)**

Enabling Legislation	<i>Defence Force Discipline Act 1982</i>
Responsible Minister	Minister for Defence
Powers, functions and objectives	Paragraphs 3–11
Membership and staff	Paragraphs 3, 13–28
Information Officer	Captain Nicholas Rheinberger Staff Officer to the Judge Advocate General and Chief Judge Advocate Defence F-TS-OJAG (PO Box 7906) CANBERRA BC ACT 2610 Telephone: 03 6271 5798
Financial Statement	Paragraph 12
Activities and Reports	Paragraphs 35–42
Operational Problems	Paragraphs 43–50
Subsidiaries	Not applicable

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### **FORMER JUDGE ADVOCATES GENERAL**

1. Former holders of the office of JAG have been:
  - a. 1985–1987 the late Major General the Honourable Justice R Mohr, RFD, ED (of the Supreme Court of South Australia).
  - b. 1987–1992 Air Vice Marshal the Honourable Justice AB Nicholson, AO, RFD (Chief Justice of the Family Court of Australia) — appointed in February 1988 but had been acting since Major General Mohr's retirement on 30 July 1987.
  - c. 1992–1996 the late Rear Admiral the Honourable Justice ARO Rowlands, AO, RFD, RAN (of the Family Court of Australia).
  - d. 1996–2001 Major General the Honourable Justice KP Duggan, AM, RFD (of the Supreme Court of South Australia).
  - e. 2001–2007 Major General the Honourable Justice LW Roberts-Smith, RFD (of the Supreme Court of Western Australia) — appointed in June 2002 but had been acting since Major General Duggan's retirement in 2001.
  - f. 2007–2014 the late Major General the Honourable Justice RRS Tracey, AM, RFD (of the Federal Court of Australia).
  - g. 2014–2021 Rear Admiral the Honourable Justice MJ Slattery, AM, AM (Mil), RAN (of the Supreme Court of New South Wales) — appointed in May 2014 but had been acting since Major General Tracey's retirement in 2014.

## **NATURE AND JURISDICTION OF THE MILITARY DISCIPLINE SYSTEM**

### **SUMMARY AUTHORITIES**

1. There are two levels of summary authorities created under the DFDA:
  - a. superior summary authorities; and
  - b. commanding officers;

#### **Superior summary authorities**

2. Superior summary authorities (SUPSAs) are appointed by instrument by certain senior officers pursuant to the DFDA. SUPSAs are usually themselves senior officers within a command.

#### **Commanding officers**

3. The power of a commanding officer to hear a matter under the DFDA is derived from his/her position in command and there is no separate discipline appointment required, although an officer may be appointed by instrument as a commanding officer for disciplinary purposes.

### **DISCIPLINE OFFICERS**

4. As of December 2022, there are now two classes of discipline officer – Senior Discipline Officer and Discipline Officer. They are able to deal with minor disciplinary infringements by defence members below the rank of Lieutenant in the Navy, Captain in the Army and Flight Lieutenant in the Air Force. Senior Discipline Officers have replaced what used to be the subordinate summary authority jurisdiction now the *Defence Legislation Amendment (Discipline Reform) Act 2021* has come into effect.
5. A commanding officer may appoint an officer or warrant officer to be a discipline officer by instrument under the DFDA. There is no trial before a discipline officer and the member must elect to be dealt with by a discipline officer. The procedure is used where the commission of the infringement is not in dispute and the role of the discipline officer is only to award a punishment.
6. Discipline officers have jurisdiction to deal with a limited number of offences and to award limited punishments under the DFDA.

## **COURTS MARTIAL**

7. A court martial is a service tribunal which is created for the purpose of trying a defence member or a defence civilian on a specific charge or charges, usually of a serious nature. In certain circumstances a court martial may also be convened solely for the purpose of determining punishment in respect of a person who has been convicted by another service tribunal.

### **Jurisdiction of the superior discipline tribunal**

8. Courts martial and DFMs have jurisdiction to hear any charge against any member of the Defence Force or a Defence civilian. Prior to the commencement of the DFDA in 1985, there was no Defence Force magistrate and all higher level matters were tried by a court martial.

9. The DFM jurisdiction was introduced so that matters which had been referred to the higher level of jurisdiction could be tried with less formality than in the case of a court martial. It was also seen to have certain administrative and other advantages. A DFM sits alone whereas courts martial require at least four persons (three members and the judge advocate). A DFM gives reasons for decision both on the determination of guilt or innocence and on sentence; courts martial do not give reasons on either. The DMP decides whether charges will be heard by a DFM or a court martial.

### **Types of court martial**

10. A court martial may be either a general court martial or a restricted court martial. A general court martial comprises a president, who is not below the rank of colonel or equivalent and not less than four other members. A restricted court martial comprises a president, who is not below the rank of lieutenant colonel or equivalent, and not less than two other members. A judge advocate, who is a legal officer who has been appointed to the judge advocate panel and has been enrolled as a legal practitioner for not less than five years, is appointed to assist the court martial with legal matters.

11. A general court martial has wider powers of punishment than a restricted court martial. A general court martial may impose the punishment of life imprisonment in certain cases where that punishment is provided for in the legislation creating the offence or in any other case may impose imprisonment for a fixed period or for any period not exceeding the maximum period provided by the legislation creating the offence. A restricted court martial may impose imprisonment for a period not exceeding six months.

**Defence Force magistrate**

12. DFMs are appointed by the JAG from members of the judge advocate panel. A DFM sits alone when trying a matter and has the same jurisdiction and powers as a restricted court martial.

NAVY  
JANUARY-DECEMBER 2023

STATISTICS OF TRIALS AND OUTCOMES FOR MEMBERS OF THE NAVY BEFORE SUMMARY AUTHORITIES

	SUPERIOR SUMMARY AUTHORITY				COMMANDING OFFICER				SUBORDINATE SUMMARY AUTHORITY			
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED
		GUILTY	N.G.			GUILTY	N.G.			GUILTY	N.G.	
January									1	1		
February				2	2							
March				1	3							
April				3	5							
May				10	15	1						
June				7	12	4						
July				5	9							
August				2	3	1						
September				3	5							
October				3	5	1						
November	1		1	5	2		3					
December				1	1							
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>42</b>	<b>62</b>	<b>7</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>

ARMY  
JANUARY-DECEMBER 2023

STATISTICS OF TRIALS AND OUTCOMES FOR MEMBERS OF THE ARMY BEFORE SUMMARY AUTHORITIES

	SUPERIOR SUMMARY AUTHORITY				COMMANDING OFFICER				SUBORDINATE SUMMARY AUTHORITY			
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED
		GUILTY	N.G.			GUILTY	N.G.			GUILTY	N.G.	
January												
February				10	13	1			3	2		1
March	3	3		12	15		2		2	2		
April				6	13		1					
May				8	15							
June	1	1		16	18	1	1					
July				7	16		1					
August				5	4		2					
September				3	7				2	2		
October				18	24	3						
November				28	23	8	2					
December				9	14							
<b>TOTAL</b>	<b>4</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>122</b>	<b>162</b>	<b>13</b>	<b>9</b>	<b>7</b>	<b>6</b>	<b>0</b>	<b>1</b>



AIR FORCE  
JANUARY-DECEMBER 2023

STATISTICS OF TRIALS AND OUTCOMES FOR MEMBERS OF THE AIR FORCE BEFORE SUMMARY AUTHORITIES

	SUPERIOR SUMMARY AUTHORITY				COMMANDING OFFICER				SUBORDINATE SUMMARY AUTHORITY			
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED
		GUILTY	N.G.			GUILTY	N.G.			GUILTY	N.G.	
January					1	2						
February					1	1						
March					4	5						
April												
May					3	4	1	1				
June												
July	1	1										
August												
September					1	1						
October												
November												
December					1	2						
<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>15</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

COMBINED STATISTICS OF TRIALS AND OUTCOMES FOR MEMBERS BEFORE SUMMARY AUTHORITIES

	SUPERIOR SUMMARY AUTHORITY				COMMANDING OFFICER				SUBORDINATE SUMMARY AUTHORITY			
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED
		GUILTY	N.G.			GUILTY	N.G.			GUILTY	N.G.	
January					1	2			1	1		
February					13	16	1		3	2		1
March	3	3			17	23		2	2	2		
April					9	18		1				
May					21	34	2	1				
June	1	1			23	30	5	1				
July	1	1			12	25		1				
August					7	7	1	2				
September					7	13			2	2		
October					21	29	4					
November	1		1		33	25	8	5				
December					11	17						
<b>TOTAL</b>	<b>6</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>175</b>	<b>239</b>	<b>21</b>	<b>13</b>	<b>8</b>	<b>7</b>		<b>1</b>

**CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE NAVY  
BEFORE SUMMARY AUTHORITIES**

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
<b>Sect 23</b>	1								2	
<b>24</b>	2					3	1		12	
<b>25</b>									2	
<b>26</b>									2	1
<b>27</b>									2	1
<b>28</b>										
<b>29</b>	1					2	1		9	
<b>30</b>										
<b>31</b>										
<b>32</b>										
<b>33(a)</b>							1			1
<b>33(b)</b>										
<b>33(c)</b>										
<b>33(d)</b>									1	
<b>33A</b>										
<b>34</b>							2		1	
<b>35</b>										
<b>36</b>										
<b>36A</b>										
<b>36B</b>										
<b>37</b>										
<b>38</b>										
<b>40</b>										
<b>40A</b>									2	
<b>40B</b>										
<b>40C</b>									3	
<b>40D</b>									1	
<b>41</b>										
<b>42</b>										
<b>43</b>		1								
<b>44</b>										
<b>45</b>										
<b>46</b>										
<b>47C</b>										
<b>47P</b>										
<b>47Q</b>	1									
<b>48</b>										
<b>49</b>										
<b>50</b>										
<b>51</b>										
<b>53</b>										
<b>54</b>										
<b>54A</b>										
<b>55</b>									2	
<b>56</b>	1									
<b>57</b>										
<b>58</b>										
<b>59</b>										
<b>60</b>									4	
<b>61</b>										
<b>TOTAL</b>	<b>6</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>5</b>	<b>0</b>	<b>43</b>	<b>3</b>

## CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE ARMY

## BEFORE SUMMARY AUTHORITIES

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Sect 22		1								
23		1								3
24	2	2					2			17
25										2
26				1		1				10
27		1					1			11
28										
29	2					2	4	1		10
30										
31										1
32										1
33(a)		1								12
33(b)										3
33(c)										
33(d)										
33A										
34				1		1	2			
35						1				
35A			1							
36										
36A										
36B	1	1					2			3
37										1
38										
40	1									
40A										1
40B										
40C							2			
40D										
41										
42										
43							1			1
44										1
45										
46										1
47C										
47P										
47Q										2
48										
49										
50										
51										
53										
54										
54A										
55	2			1		2	1			3
56										2
57										
58										
59										2
60	3	1				2		5		28
61						1				3
TOTAL	11	7	1	3	0	10	15	6	0	118

## CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE AIR FORCE

## BEFORE SUMMARY AUTHORITIES

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Sect 23							1			
24										1
25										
26				1			1			2
27										1
28										
29										2
30										
31										
32										
33(a)										
33(b)										
33(c)										
33(d)										
33A										
34										
35										
36										
36A										
36B										
37							1			
38										
40										
40A										
40B										
40C										1
40D										1
41										
42										
43										
44										
45										
46										
47C										
47P										
47Q										
48										
49										
50										
51										
53										
54										
54A										
55							1			
56										
57										
58										
59										
60				1						2
61										
TOTAL	0	0	0	2	0	0	4	0	0	10

## PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE NAVY BEFORE SUMMARY AUTHORITIES

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Reprimand	3	1				1	4		5	2
Conditional conviction without punishment									5	
Unconditional conviction without punishment										
Severe reprimand	2						3		3	
Extra duties	3						2		6	
Extra Drill										
Stoppage of leave										
Restriction of privileges									11	
Suspended fine									5	
Fine Less than 14 Days Pay	1					5	2		13	3
Fine More than 14 Days Pay										
Forfeiture of service for purposes of promotion										
Forfeiture of seniority						1	2			
Reduction in rank										1
Restitution/Reparation Order									1	
Detention									6	
<b>TOTAL</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>13</b>	<b>0</b>	<b>55</b>	<b>6</b>

## PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE ARMY BEFORE SUMMARY AUTHORITIES

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Reprimand	1	2		1		2	3	1		8
Conditional conviction without punishment						2				
Unconditional conviction without punishment	1									1
Severe reprimand	5			3		4	5			3
Extra duties	1						1	1		7
Extra drill										
Stoppage of leave		1								3
Restriction of privileges		2								54
Suspended fine										10
Fine Less than 14 Days Pay	5	4	1			4	9	2		43
Fine More than 14 Days Pay	1									1
Forfeiture of service for purposes of promotion										
Forfeiture of seniority						2				
Reduction in rank						1		3		5
Restitution/Reparation Order										1
Detention										8
<b>TOTAL</b>	<b>14</b>	<b>9</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>15</b>	<b>18</b>	<b>7</b>	<b>0</b>	<b>144</b>

**PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE AIR FORCE BEFORE SUMMARY AUTHORITIES**

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Reprimand										1
Conditional conviction without punishment										
Unconditional conviction without punishment										
Severe reprimand				1						2
Extra duties										
Extra drill										
Stoppage of leave										
Restriction of privileges										3
Suspended fine							1			1
Fine Less than 14 Days Pay							4			10
Fine More than 14 Days Pay				1						
Forfeiture of service for purposes of promotion										
Forfeiture of seniority										
Reduction in rank										
Detention										1
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>18</b>



**NAVY  
JANUARY-DECEMBER 2023**

**DISCIPLINARY INFRINGEMENT STATISTICS**

<b>Infringement</b>	<b>Number</b>
<b>Section 9DA(1)</b>	115
<b>9DA(2)</b>	4
<b>9DB</b>	76
<b>9DC</b>	71
<b>9DD</b>	433
<b>9DE(a)</b>	6
<b>9DE(b)</b>	2
<b>9DE(d)</b>	3
<b>9DF</b>	20
<b>9DG(a)</b>	44
<b>9DG(b)</b>	1
<b>9DH</b>	16
<b>9DI(1)</b>	7
<b>9DI(2)</b>	6
<b>9DJ</b>	4
<b>9DK</b>	2
<b>9DL</b>	1
<b>9DM</b>	3
<b>9DN</b>	1
<b>9DP(1)</b>	2
<b>9DP(2)</b>	3
<b>TOTAL (1)</b>	<b>820</b>

<b>Action Taken</b>	<b>Number</b>
<b>Punishment Imposed</b>	
<b>TOTAL</b>	<b>0</b>

**ARMY  
JANUARY-DECEMBER 2023**

**DISCIPLINARY INFRINGEMENT STATISTICS**

<b>Infringement</b>	<b>Number</b>
Section 9DA(1)	107
9DA(2)	8
9DB	191
9DC	287
9DD	576
9DE(b)	4
9DE(d)	2
9DF	39
9DG(a)	200
9DG(b)	23
9DH	22
9DI(1)	25
9DI(2)	15
9DJ	13
9DK	15
9DL	10
9DM	98
9DN	5
9DO	4
9DP(1)	9
9DP(2)	5
<b>TOTAL</b>	<b>1658</b>

<b>Action Taken</b>	<b>Number</b>
<b>Punishment Imposed</b>	
<b>TOTAL</b>	<b>0</b>

**AIR FORCE  
JANUARY-DECEMBER 2023**

**DISCIPLINARY INFRINGEMENT STATISTICS**

<b>Infringement</b>	<b>Number</b>
<b>Section 9DA(1)</b>	19
<b>9DB</b>	23
<b>9DC</b>	52
<b>9DD</b>	228
<b>9DE(a)</b>	3
<b>9DF</b>	6
<b>9DG(a)</b>	19
<b>9DG(b)</b>	2
<b>9DH</b>	2
<b>9DI(1)</b>	1
<b>9DI(2)</b>	1
<b>9DM</b>	14
<b>9DO</b>	1
<b>9DP(2)</b>	1
<b>TOTAL</b>	<b>372</b>

<b>Action Taken</b>	<b>Number</b>
<b>Punishment Imposed</b>	
<b>TOTAL (1)</b>	<b>0</b>

NAVY

JANUARY - DECEMBER 2023

STATISTICS FOR TRIALS AND OUTCOMES FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES

MONTH	GENERAL COURT MARTIAL				RESTRICTED COURT MARTIAL				DEFENCE FORCE MAGISTRATE						
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD
		GUILTY	N.G.				GUILTY	N.G.				GUILTY	N.G.		
January															
February															
March															
April															
May											1	4			
June					1	2					1	2			
July	1		5								1	1			6
August					1		2								
September					1	1	1	1							
October											1	2			
November															
December															
<b>TOTAL</b>	<b>1</b>		<b>5</b>		<b>3</b>	<b>3</b>	<b>3</b>	<b>1</b>		<b>4</b>	<b>9</b>				<b>6</b>

ARMY

JANUARY - DECEMBER 2023

STATISTICS FOR TRIALS AND OUTCOMES FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES

MONTH	GENERAL COURT MARTIAL				RESTRICTED COURT MARTIAL				DEFENCE FORCE MAGISTRATE						
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD
		GUILTY	N.G.				GUILTY	N.G.				GUILTY	N.G.		
January															
February															
March															
April											2	2			
May					1	2					1	1			3
June	1	6			1	6					1	1			
July															
August	1	1	13	1							2	2			1
September											1		1		
October															
November											1	2			65
December															
<b>TOTAL</b>	<b>2</b>	<b>7</b>	<b>13</b>	<b>1</b>	<b>2</b>	<b>8</b>					<b>8</b>	<b>8</b>	<b>1</b>		<b>69</b>

AIR FORCE

JANUARY - DECEMBER 2023

STATISTICS FOR TRIALS AND OUTCOMES FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES

MONTH	GENERAL COURT MARTIAL				RESTRICTED COURT MARTIAL				DEFENCE FORCE MAGISTRATE						
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD
		GUILTY	N.G.				GUILTY	N.G.				GUILTY	N.G.		
January															
February											2	2			
March															
April															
May											1	2			3
June															
July															
August											1	2			
September															
October											1	1			
November											1	2			2
December															
<b>TOTAL</b>											<b>6</b>	<b>9</b>			<b>5</b>

COMBINED

JANUARY - DECEMBER 2023

STATISTICS FOR TRIALS AND OUTCOMES FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES

MONTH	GENERAL COURT MARTIAL					RESTRICTED COURT MARTIAL				DEFENCE FORCE MAGISTRATE					
	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD	NUMBER OF TRIALS HELD	CHARGES TRIED		QUASHED	WD
		GUILTY	N.G.				GUILTY	N.G.				GUILTY	N.G.		
January															
February										2	2				
March															
April										2	2				
May						1	2				3	7			6
June	1	6				2	8				2	3			
July	1		5								1	1			6
August	1	1	13	1		1		2			3	4			1
September						1	1	1	1		1		1		
October											2	3			
November											2	4			67
December															
<b>TOTAL</b>	<b>3</b>	<b>7</b>	<b>18</b>	<b>1</b>		<b>5</b>	<b>11</b>	<b>3</b>	<b>1</b>		<b>18</b>	<b>26</b>	<b>1</b>		<b>80</b>

**CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE NAVY  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Section	Officer	Officer Cadet	WO	CPO	PO	LS	AB	SMN
23								
24								
25								
26								
27								
28								
29								
30				2				
31								
32								
33(a)								
33(b)								
33(c)								
33(d)								
33A								
34	1			1	1			
35								
36								
36A								
36B								
37								
38								
39								
40								
40A								
40C								
40D								
42								
43								
44								
45								
46								
47C								
47P								
47Q								
48								
49								
50								
51								
53								
54								
55								
56								
57								
58								
59								
60				1	1			
61	4						1	
<b>TOTAL</b>	<b>5</b>			<b>4</b>	<b>2</b>		<b>1</b>	



<b>Details of Quashed Convictions</b>			
<b>DFDA Sect</b>	<b>Rank</b>	<b>Short Summary of Offence</b>	<b>Reason for quashing</b>
34	LCDR	Assault a subordinate	Panel should have entertained a reasonable doubt - evidence cannot support the conviction, making it unreasonable

**CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE ARMY  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Section	Officer	Officer Cadet	WO1	WO2	SSGT	SGT	CPL	LCPL	PTE
23									
24									
25									
26									
27									
28									
29									
30									
31									
32									
33(a)									
33(b)									1
33(c)									
33(d)									
33A									
34						2			
35									
36									
36A									
36B									
37									
38									
39									
40									
40A									
40C									
40D									
42									
43									
44									
45									
46									
47C	2								
47P									
47Q									
48									
49									
50									
51									
53									
54									
55					1				
56									
57									
58									
59									
60	6				1			4	1
61					2			2	1
<b>TOTAL</b>	<b>8</b>			<b>4</b>		<b>2</b>		<b>6</b>	<b>3</b>

<b>Details of Quashed Convictions</b>			
<b>DFDA Sect</b>	<b>Rank</b>	<b>Short Summary of Offence</b>	<b>Reason for quashing</b>
60	PTE	Prejudicial Conduct - act likely to prejudice discipline of the ADF	Unsafe or unsatisfactory - remote circumstances to s60, illogical verdict given all other verdicts of NG, see <i>MacKenzie v The Queen</i> (1996) 190 CLR 438 at 365

**CONVICTIONS FOR OFFENCES COMMITTED BY RANK FOR MEMBERS OF THE AIR FORCE  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Section	Officer	Officer Cadet	WOFF	FSGT	SGT	CPL	LAC	AC
23								
24								
25								
26								
27								
28								
29								
30								
31								
32								
33(a)								1
33(b)								
33(c)								
33(d)								
33A								1
34					1			
35								
36								
36A								
36B								
37								
38								
39								
40								
40A								
40C								
40D								
42								
43								
44								
45								
46								
47C								
47P								
47Q								
48								
49								
50								
51								
53								
54								
55								
56								
57								
58								
59								2
60								
61					1			3
TOTAL					2			7

<b>Details of Quashed Convictions</b>			
<b>DFDA Sect</b>	<b>Rank</b>	<b>Short Summary of Offence</b>	<b>Reason for quashing</b>

**PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE NAVY  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Punishment	Officer	Officer Cadet	WO	CPO	PO	LS	AB	SMN
Reprimand				1				
Conditional conviction without punishment				1				
Unconditional conviction without punishment								
Severe reprimand	1			2				
Suspended fine	1			1				
Fine Less than 14 Days Pay				2				
Fine More than 14 Days Pay								
Forfeiture of service for purposes of promotion								
Forfeiture of seniority								
Reduction in rank					2			
Suspended detention							1	
Committed detention							1	
Dismissal	4							
Imprisonment								
<b>TOTAL</b>	<b>6</b>			<b>7</b>	<b>2</b>		<b>2</b>	

**PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE ARMY  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Punishment	Officer	Officer Cadet	WO1	WO2	SSGT	SGT	CPL	LCPL	PTE
Reprimand									
Conditional conviction without punishment									
Unconditional conviction without punishment									
Severe reprimand				1					
Suspended fine									
Fine Less than 14 Days Pay									1
Fine More than 14 Days Pay									
Forfeiture of service for purposes of promotion									
Forfeiture of seniority									
Reduction in rank	6			3		2		5	
Suspended detention									2
Committed detention									2
Dismissal	4							5	
Imprisonment								2	
<b>TOTAL</b>	<b>10</b>			<b>4</b>		<b>2</b>		<b>12</b>	<b>5</b>

**PUNISHMENTS IMPOSED BY RANK ON MEMBERS OF THE AIR FORCE  
FOR COURTS MARTIAL AND DEFENCE FORCE MAGISTRATES**

Punishment	Officer	Officer Cadet	WOFF	FSGT	SGT	CPL	LAC	AC
Reprimand								
Conditional conviction without punishment								
Unconditional conviction without punishment								
Severe reprimand								
Suspended fine								
Fine Less than 14 Days Pay								
Fine More than 14 Days Pay								
Forfeiture of service for purposes of promotion								
Forfeiture of seniority								
Reduction in rank					2			
Suspended detention								3
Committed detention								5
Dismissal from ADF								1
Imprisonment								
<b>TOTAL</b>					<b>2</b>			<b>9</b>



## DEFENCE FORCE DISCIPLINE ACT

### LIST OF SECTIONS USED IN STATISTICS

<b>Section Number</b>	<b>Description</b>
23	Absence from duty
24	Absence without leave
25	Assaulting a superior officer
26	Insubordinate conduct
27	Disobeying a lawful command
28	Failing to comply with a direction in relation to a ship, aircraft or vehicle
29	Failing to comply with a general order
30	Assaulting a guard
31	Obstructing or refusing to assist a police member
32	Offences while on guard or watch
33(a)	Assault on another person
33(b)	Creating a disturbance
33(c)	Obscene conduct
33(d)	Insulting or provocative words to another person
33A	Assault occasioning actual bodily harm
34	Assaulting a subordinate
35	Negligent performance of duty
35A	Failure to perform duty or carry out activity
36	Dangerous conduct
36A	Unauthorised discharge of weapon
36B	Negligent discharge of weapon
37	Intoxicated while on duty etc
38	Malingering
39	Causing loss, stranding or hazarding of a Service ship
40	Driving while intoxicated
40A	Dangerous driving
40C	Driving a Service vehicle for unauthorised purpose
40D	Driving without due care or attention etc
41	Flying a Service aircraft below the minimum height
42	Giving inaccurate certification
43	Destroying or damaging Service property
44	Losing Service property
45	Unlawful possession of Service property
46	Possession of property suspected of having been unlawfully obtained

<b>Section Number</b>	<b>Description</b>
47C	Theft
47P	Receiving
47Q	Unauthorised use of a Commonwealth credit card
48	Looting
48A	Cyber-bullying
48B	Failure to comply with removal order
49	Refusing to submit to arrest
49A	Assault against arresting person
50	Delaying or denying justice
51	Escape from custody
52	Giving false evidence
53	Contempt of Service tribunal
54	Unlawful release etc of person in custody
55	Falsifying Service documents
56	False statement in relation to application for a benefit
57	False statement in relation to appointment or enlistment
58	Unauthorised disclosure of information
59	Dealing or possession of narcotic goods
60	Prejudicial conduct
61	Offences based on Territory offences
62	Commanding or ordering a Service offence to be committed