



JUDGE ADVOCATE GENERAL

**DEFENCE FORCE
DISCIPLINE ACT 1982**

*Report for the period
1 January to 31 December 2022*

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JUDGE ADVOCATE GENERAL

**HEADQUARTERS AUSTRALIAN DEFENCE FORCE
DEFENCE
CANBERRA ACT 2600**

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 2022. 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

29 August 2023

Enc.

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**JUDGE ADVOCATE GENERAL
AUSTRALIAN DEFENCE FORCE**

REPORT FOR THE PERIOD 1 JANUARY TO 31 DECEMBER 2022

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 2022.
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.¹
4. Since 1985 there have been eight holders of the office of JAG.²
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 ACT insofar as that law relates to the discipline of the Defence Force.³
 - 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);⁴

¹ DFDA, s 188.

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

³ DFDA, s 196A.

⁴ DFDA, ss 188A and 188EC.

- d. nominating the judge advocate (JA) for a court martial⁵ and Defence Force magistrates (DFMs);⁶
- 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;⁷
- f. appointing DFMs from officers appointed as members of the panel of JAs;⁸
- g. nominating to the CDF legal officers 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, Director General - Military Legal Service (DGMLS) and the single service heads of corps/category/community. I maintain regular contact with both.

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 the 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. During the reporting period I reappointed Brigadier Michael Cowen, KC as CJA for a further five-year period.⁹ Upon reappointment Brigadier Cowen was promoted to Major General. He brings enormous experience and value to the role of CJA. Prior to

⁵ DFDA, s 129B.

⁶ DFDA, s 129C.

⁷ DFDA, s 196.

⁸ DFDA, s 127.

⁹ DFDA, s 188A(3). A CJA cannot hold office for more than ten years.

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. Major General Cowen in his role as CJA has made a highly 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 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, CSC, SC, RAN;
- b. Brigadier His Honour Judge Paul Smith; and
- c. Air Commodore His Honour Judge Gordon Lerve.

17. I formally record my gratitude to all 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. During the reporting period the term of DJAG-Air Force Air Commodore His Honour Judge Gordon Lerve expired. Due to a Federal election and exigencies of Government as at 31 December 2022 the position remained vacant.

Reserve Judge Advocates

19. There were two reserve JA/DFMs in 2021. 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 of 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. Late in the reporting period Lieutenant Colonel Caroline Coombs concluded her appointment as Deputy Registrar Military Justice (DRMJ). I thank her for her able work in this position. Commander Jane Proctor, RAN has now been appointed as DRMJ.

Staff Officer

22. The position of Staff Officer to the JAG and to CJA was filled until late in the reporting period by Flight Lieutenant Jarrad Salmon. I thank him for his enthusiastic support provided to both myself and the CJA. Captain Nicholas Rheinberger has now taken over this position.

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 Lynise Reid.

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 2024;
- d. DJAG-Air Force, Air Commodore Lerve, expiry date 17 May 2022;
- 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 Will Alstergren, AO, RAN;
- b. Lieutenant Commander Her Honour Catherine Traill, RAN;
- c. Lieutenant Colonel Emma Shaw;
- d. Major Michael Antrum;

- e. Major Michelle Barnes;
- f. Major Chris Gunson SC;
- g. Air Commodore His Honour Michael Burnett, AM;
- h. Group Captain Magistrate James Gibson;
- i. Group Captain His Honour Gregory Lynham;
- j. Wing Commander Her Honour 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 2022. During the reporting period, I have held initial 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.¹⁰ Air Commodore Ian Henderson AM continued in the role of DMP in 2022 after his appointment in 2021. The DMP reports separately as required by DFDA.¹¹

32. The Director of Defence Counsel Services (DDCS) is appointed under the *Defence Act 1903*. During the reporting period Colonel Damien Copeland continued to serve in 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.

MILITARY JUSTICE ENTITIES

Military Justice Steering Group

34. The Military Justice Steering Group (MJSG) chaired by the Head of People Capability (HPC) Major General Wade Stothart, DSC, AM, CSC continued to oversee matters pertaining to the discipline system of the ADF. I reported last year that after a review of all outstanding recommendations in previous JAG reports dating back to

¹⁰ DFDA, s 188GF.

¹¹ DFDA, s 196B.

2015 that recommendations requiring further attention had been placed on the forward work plans of MJSG for 2022. These recommendations included; management of mental health concerns, Judge Advocate involvement in sentencing, dismissal of a Judge Advocate, 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 Judge Advocate, pre-trial submissions by prosecution, and enabling absence of accused from procedural hearings. I recognise that addressing these matters requires legislative amendment and such amendments being fitted into a busy government legislative agenda. Nevertheless, it is disappointing that at the end of another year none have been significantly progressed. As identified later in this Report, some of these matters require urgent attention to ensure the DFDA meets expected contemporary standards.

Summary discipline system

35. In last year's Report I noted that the impact of changes brought about by the revised *Summary Authority Rules 2020* 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. In short, the relevant data is still not available to me. I have no way of properly assessing the fairness and efficiency of the summary discipline system, including the changes to the discipline officer scheme that took effect in late in the reporting period.

Advocacy workshop

36. OJAG delivered a four-day advocacy workshop to 16 legal officers in June 2022. This was funded by Joint Capabilities Group and involved one day of formal lectures on advocacy skills; preparing a case, opening, leading evidence, cross examination and closing addresses. The following two days involved advocacy practise in all of the taught skills using a fictitious brief of evidence followed by a day of training on sentencing in the jurisdiction. The workshop was highly successful in adding to capability for legal officers who wish to appear before the superior tribunal and it is intended OJAG will run the workshop once every two years. I express my particular gratitude to CJA, MAJGEN Cowen KC who is the driving force behind this valuable initiative.

JAG quarterly lecture series

37. This year OJAG implemented 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 topics such as the new consent laws in the ACT, sexual offence proceedings before the Tribunal and the ACT intermediary scheme. OJAG intends to continue the lecture series to improve capability in the military discipline system.

New consent laws in the ACT applicable in the military discipline system

38. For offences occurring after 13 May 2022 sexual offence consent laws in the ACT have changed significantly. It is those consent laws which apply in the military discipline system and members should be aware of their obligations under ACT criminal law due to their membership of the ADF.

DFDA AMENDMENTS FOR CONSIDERATION

JAG visit to UK

39. In September 2022 the CJA and I were invited to attend a conference held by Judge Alan Large the UK Judge Advocate General. Also in attendance were JAG counterparts from Canada, USA and New Zealand. It was an invaluable opportunity to look at comparative military justice systems and the similar challenges they are facing to determine best practice. Some of the recommendations in this report flow directly from this experience overseas.

Court Martial Panels imposing sentence

40. My predecessor RADM the Hon Justice Michael Slattery AM AM(Mil), RAN in the 2018 JAG report at paragraphs 47 - 57 highlighted the necessity of amendments to the DFDA concerning sentencing. The JA is not directly involved in the decision-making process. Although instructed on sentencing principles by the JA, it is the court martial panel that upon retiring determines punishment under the DFDA. The court martial panel does not give reasons for the punishment imposed. As pointed out by RADM Slattery, the absence of reasons carries with it the risk of undetected sentencing error, a potential for misunderstanding by the convicted member and the reduction of the aspect of general deterrence through the punishment process.

41. As a consequence of recent legislation in the US, as of 27 December 2023, military judges sitting in general and special courts martial (in all but capital cases) will impose sentence. In the UK and NZ the military judge determines sentence sitting with the court martial panel and the judge provides reasons for sentence. In Canada the military judge sentences in all matters, providing reasons for sentence.

42. Australia is now the only Five Eyes military discipline system retaining the historic system of the court martial panel determining guilt and also determining penalty, and doing so 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 to contemporary confidence in the military discipline system.

43. RADM Slattery noted that the UK model of the panel retiring on sentence with the judge who then pronounces sentence with reasons appeared to work well. I too observed, when visiting the Bulford Military Court Centre in the UK, that the system worked efficiently. Both the judge and panel involved in the trial appeared supportive of the process and the contribution of each other. The model of the JA sentencing alone is also worthy of consideration and correlates to the sentencing process in the civil criminal system.

44. I understand command is considering this issue through the MJSG but despite the issue having been raised in successive JAG reports there has been no legislative change to address this. The Australian system of a court martial panel imposing sentence alone for the reasons set out above is in urgent need of attention.

Reporting service convictions to civilian authorities

45. S 190A DFDA provides for circumstances in which Defence may disclose the fact of a conviction for a service offence to an authority of the Commonwealth or of a State or a Territory. Such disclosure is stated to be for purposes connected with

investigating, prosecuting or keeping records in relation to offences against laws of the Commonwealth, the State or the Territory.

46. It is my understanding the section has never been utilised. I understand no policy or procedure exists to facilitate its utilisation. In practice this may mean members who are convicted of 'Territory offences' (offences contrary to ACT criminal law prosecuted under s 61 DFDA), may transition to civilian life after serving the sentence with no recorded civilian conviction.

47. Defence should develop a policy to ensure this section is utilised. In the long-term, consideration should be given to whether the section is fit for purpose in reflecting contemporary standards for the reporting and recording of offences. The superior discipline system often deals with 'Territory offences' such as Act of indecency without consent or Intimate image abuse (*Crimes Act 1900*, ACT). Members convicted of such offences should face the same consequences as civilians insofar as it concerns the recording of convictions.

Warrant Officers sitting on panels

48. Other comparative jurisdictions allow for court martial panel members to include the rank of Warrant Officer to try members who are of inferior rank. Allowing Warrant Officers to sit on court martial panels for ranks below them will add significant benefit to the system. Warrant Officers of the three services are the most senior of the NCOs and generally have service experience that could be expected to enhance the court martial process.

Elections – s 111B

49. There is inequity in the DFDA concerning the right to elect trial before a superior tribunal. Under s 111B an accused member has no right of election from a summary authority if the offence is one listed in Schedule 1A DFDA unless they are of a rank below Rear Admiral, Major General or Air Vice Marshall, but above the rank of Lieutenant Commander, Major or Squadron Leader. Essentially this means any officer of Commander (or equivalent) and above is able to elect a trial be heard by a court martial or Defence Force magistrate. Apart from tradition there appears to be no other justification for this discrepancy which should be rectified. An election brings with it the right to provision of free legal representation and full rules of evidence. I consider a member should have the same rights irrespective of rank. The UK system for example has unfettered rights of election for all members regardless of rank.

Legal representation of complainants

50. I recommend steps be taken to provide for legal representation for complainants in sexual offence matters before a superior tribunal. The US JAG Corps now provide this service. It has a great deal of merit in that legal submissions can assist the tribunal in areas such as protected confidence material or applications to close the court or non-publication orders. The US system does not involve separate rights of audience at trial but aims to provide a complainant with greater legal assistance independent of the prosecution agency. Sometimes the interests of a prosecution agency do not align with the interests of an individual. For example, where a summons is raised for access to a member's medical history, which may include mental health records, a member would be better served by legal representation on privacy issues independent of command or the prosecution. Some states in Australia are already undertaking this initiative in criminal proceedings of a sexual or domestic violence nature. As an example, Legal Aid Queensland operate a counselling notes protect service.

51. Given the superior tribunal applies the laws of evidence as they apply in the ACT, issues of protected confidence material often arise and complainants would be best served by having separate legal representation. This is something which could occur without any legislative amendment to the DFDA and in my view command should consider such an initiative as a priority to enhance fairness.

Sex offence proceedings before the superior system

52. The rules of evidence which apply in the ACT are applicable in proceedings before the superior tribunal. All but one of the protections and special measures available for witnesses and accused members in sex offence proceedings that exist in proceedings before the Supreme Court of the ACT are available before the superior tribunal.

53. The only procedure currently not available for use in a sex offence proceeding before the tribunal is the use of video recorded evidence in chief. This is where service police record a complainant's account by way of audio visual recording and that recording is played as the evidence in chief. This is because of the definition of a police officer for the purposes of the *Evidence (Miscellaneous Provisions) Act 1991* of the ACT (E(MP)A).

54. I remain satisfied that superior discipline system efficiently and fairly deals with charges of a sexual nature subject to my observations about sentencing by court martial panels. By way of example, in an appropriate case it would be possible for a party to utilise the services of the ACT intermediary service which is legislated by the E(MP)A. Other protective measures such as giving evidence remotely or with a support person, and closure of the court and non-publication orders are routinely utilised. A matter will proceed with greater efficiency before the tribunal than most civilian superior courts and this remains very important in a disciplinary system. Not only does the system allow for members to be tried for matters occurring overseas, but the sentencing powers available are much more suited to maintenance of service discipline. Consideration should urgently however be given to legislative amendment to allow for video recorded evidence in chief to be used in a trial to ensure the system mirrors civilian practise as much as possible.

Right of Election

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 requires a change to the election regime which would remove the choice of venue from the DMP.

Conclusion

57. This Report raises various important issues which require legislative reform of the DFDA consistent with previous JAG reports. Legislative reform to the DFDA is urgently required for it to reflect comparable civilian standards in the administration of justice in a military context. This Report respectfully requests that Parliament addresses these required changes through legislation that will maintain confidence in the ADF's superior and summary military discipline system. Such legislation would justly merit the praise of the many ADF members and other Australians directly and indirectly affected by the daily operations of the DFDA. It would also ensure the DFDA remains fit for purpose in enabling the ADF to meet the nation's security challenges in a changing strategic environment.

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 3–10
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 35–39
Operational Problems	Paragraphs 40–57
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.

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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 Act 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's 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's panel. A DFM sits alone when trying a matter and has the same jurisdiction and powers as a restricted court martial.

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NAVY
JANUARY-DECEMBER 2022

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	0	0	0	0	2	1	0	1	0	0	0	0
February	0	0	0	0	3	4	0	0	4	4	0	0
March	0	0	0	0	3	4	0	0	13	18	1	0
April	0	0	0	0	2	10	0	0	5	5	1	0
May	0	0	0	0	8	9	4	0	8	8	0	0
June	1	1	0	0	11	21	0	0	3	2	0	1
July	0	0	0	0	6	19	0	1	6	9	0	1
August	1	1	0	0	13	21	1	0	7	9	0	0
September	0	0	0	0	5	16	0	0	5	6	0	0
October	0	0	0	0	6	11	2	1	3	2	1	0
November	0	0	0	0	8	14	2	0	14	16	1	0
December	0	0	0	0	4	8	0	0	4	3	1	1
TOTAL	2	2	0	0	71	138	9	3	72	82	5	3

ARMY
JANUARY-DECEMBER 2022

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	0	0	0	0	1	3	0	0	3	3	0	0
February	0	0	0	0	2	2	0	0	14	17	0	0
March	0	0	0	0	3	4	0	1	14	13	0	1
April	0	0	0	0	4	4	0	0	8	9	0	0
May	0	0	0	0	6	7	0	0	34	35	0	1
June	2	2	0	0	5	5	1	0	25	28	0	3
July	1	1	0	0	5	7	0	2	20	25	0	1
August	1	1	0	0	19	24	1	2	38	44	1	2
September	0	0	0	0	13	15	0	1	29	31	0	2
October	1	1	0	0	17	25	0	0	21	23	0	0
November	0	0	0	0	18	26	0	2	35	42	2	2
December	0	0	0	0	9	12	0	1	13	14	0	1
TOTAL	5	5	0	0	102	134	2	9	254	284	3	13

AIR FORCE
JANUARY-DECEMBER 2022

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	0	0	0	0	0	0	0	0	0	0	0	0
February	0	0	0	0	2	1	0	1	1	1	0	0
March	0	0	0	0	2	6	0	1	2	2	0	0
April	0	0	0	0	1	1	0	0	1	1	0	0
May	0	0	0	0	0	0	0	0	9	8	2	0
June	2	2	0	0	1	1	0	0	0	0	0	0
July	0	0	0	0	0	0	0	0	1	1	0	0
August	0	0	0	0	0	0	0	0	4	4	0	0
September	0	0	0	0	2	2	0	0	0	0	0	0
October	0	0	0	0	2	2	0	0	0	0	0	0
November	0	0	0	0	4	5	0	0	2	3	0	0
December	0	0	0	0	2	2	0	0	2	3	0	1
TOTAL	2	2	0	0	16	20	0	2	22	23	2	1

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	0	0	0	0	3	4	0	1	3	3	0	0
February	0	0	0	0	7	7	0	1	19	22	0	0
March	0	0	0	0	8	14	0	2	29	33	1	1
April	0	0	0	0	7	15	0	0	14	15	1	0
May	0	0	0	0	14	16	4	0	51	51	2	1
June	5	5	0	0	17	27	1	0	28	30	0	4
July	1	1	0	0	11	26	0	3	27	35	0	2
August	2	2	0	0	32	45	2	2	49	57	1	2
September	0	0	0	0	20	33	0	1	34	37	0	2
October	1	1	0	0	25	38	2	1	24	25	1	0
November	0	0	0	0	30	45	2	2	51	61	3	2
December	0	0	0	0	15	22	0	1	19	20	1	3
TOTAL	9	9	0	0	189	292	11	14	348	389	10	17

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**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
Sect 23	0	0	0	0	0	0	0	0	33	0
24	2	0	0	0	0	2	1	0	35	1
25	0	0	0	0	0	0	0	0	0	0
26	0	0	0	0	0	1	0	0	2	0
27	0	2	0	0	0	0	1	0	10	1
28	0	0	0	0	0	0	0	0	0	0
29	4	5	0	1	0	1	8	0	39	0
30	0	0	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0	0	0
32	0	0	0	0	0	0	0	0	3	0
33(a)	0	0	0	0	0	1	1	0	2	0
33(b)	0	0	0	0	0	0	0	0	1	0
33(c)	0	0	0	0	0	0	0	0	0	0
33(d)	0	0	0	0	0	0	2	0	0	0
33A	0	0	0	0	0	0	0	0	0	0
34	0	0	0	0	0	2	0	0	0	0
35	0	0	0	0	0	0	0	0	0	0
36	0	0	0	0	0	0	0	0	0	0
36A	0	0	0	0	0	0	0	0	0	0
36B	0	0	0	0	0	0	0	0	0	0
37	0	0	0	0	0	0	0	0	0	0
38	0	0	0	0	0	0	0	0	1	0
40	0	0	0	0	0	0	0	0	0	0
40A	0	0	0	0	0	0	1	0	1	0
40B	0	0	0	0	0	0	0	0	0	0
40C	0	0	0	0	0	0	0	0	0	0
40D	0	0	0	0	0	0	0	0	2	0
41	0	0	0	0	0	0	0	0	0	0
42	0	0	0	0	0	0	0	0	0	0
43	0	0	0	0	0	0	0	0	2	0
44	0	0	0	0	0	0	0	0	0	0
45	0	0	0	0	0	0	0	0	0	0
46	0	0	0	0	0	0	0	0	1	0
47C	0	0	0	0	0	0	0	0	2	0
47P	0	0	0	0	0	0	0	0	0	0
47Q	0	0	0	0	0	0	0	0	16	0
48	0	0	0	0	0	0	0	0	0	0
49	0	0	0	0	0	0	0	0	0	0
50	0	0	0	0	0	0	0	0	0	0
51	0	0	0	0	0	0	0	0	0	0
53	0	0	0	0	0	0	0	0	0	0
54	0	0	0	0	0	0	0	0	0	0
54A	0	0	0	0	0	0	0	0	0	0
55	0	1	0	0	0	0	0	0	0	0
56	0	0	0	0	0	0	0	0	0	0
57	0	0	0	0	0	0	0	0	0	0
58	0	0	0	0	0	0	0	0	0	0
59	0	0	0	0	0	0	0	0	1	0
60	4	1	0	2	0	3	2	0	17	0
61	0	0	0	0	0	0	2	0	2	0
TOTAL	10	9	0	3	0	10	18	0	170	2

**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 23	0	0	0	0	0	0	0	0	0	0	8
24	1	1	0	0	0	0	5	0	0	0	51
25	0	0	0	0	0	2	0	0	0	0	1
26	1	1	0	0	0	0	1	1	0	0	13
27	1	3	0	0	0	1	2	1	0	0	22
28	0	0	0	0	0	0	0	0	0	0	1
29	6	9	0	1	0	3	21	3	0	0	62
30	0	0	0	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0	0	0	0
32	0	0	0	0	0	0	0	0	0	0	0
33(a)	0	0	0	0	0	0	0	0	0	0	4
33(b)	0	0	0	0	0	0	0	0	0	0	2
33(c)	0	0	0	0	0	1	0	0	0	0	0
33(d)	0	0	0	0	0	0	2	0	0	0	0
33A	0	0	0	0	0	0	0	0	0	0	0
34	0	0	0	0	0	0	0	2	0	0	0
35	1	0	0	1	0	3	0	1	0	0	0
36	0	0	0	0	0	0	0	0	0	0	0
36A	0	0	0	0	0	1	0	0	0	0	7
36B	4	3	0	0	0	1	4	6	0	0	69
37	0	0	0	0	0	0	0	0	0	0	1
38	0	0	0	0	0	0	0	0	0	0	0
40	0	0	0	0	0	0	0	0	0	0	2
40A	0	0	0	0	0	0	0	0	0	0	2
40B	0	0	0	0	0	0	0	0	0	0	0
40C	0	0	0	0	0	0	0	0	0	0	1
40D	0	0	0	0	0	0	1	1	0	0	4
41	0	0	0	0	0	0	0	0	0	0	0
42	0	0	0	0	0	0	0	0	0	0	0
43	0	0	0	1	0	0	0	0	0	0	3
44	0	0	0	0	0	0	0	0	0	0	1
45	0	0	0	0	0	0	0	1	0	0	2
46	0	0	0	0	0	0	0	0	0	0	1
47C	0	0	0	0	0	0	0	0	0	0	5
47P	0	0	0	0	0	0	0	0	0	0	0
47Q	0	0	0	0	0	0	0	0	0	0	0
48	0	0	0	0	0	0	0	0	0	0	0
49	0	0	0	0	0	0	0	0	0	0	0
50	0	0	0	0	0	0	0	0	0	0	0
51	0	0	0	0	0	0	0	0	0	0	0
53	0	0	0	0	0	0	0	0	0	0	0
54	0	0	0	0	0	0	0	0	0	0	0
54A	0	0	0	0	0	0	0	0	0	0	0
55	0	0	0	0	0	2	1	0	0	0	2
56	0	0	0	0	0	0	0	0	0	0	0
57	0	0	0	0	0	0	0	0	0	0	0
58	0	0	0	0	0	0	0	0	0	0	0
59	0	0	0	0	0	0	0	0	0	0	0
60	4	5	0	2	0	4	3	0	0	0	39
61	0	0	0	0	0	0	0	0	0	0	1
TOTAL	18	22	0	5	0	18	40	16	0	0	304

**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	0	0	0	0	0	0	0	0	0	2
24	0	0	0	0	0	0	3	0	0	1
25	0	0	0	0	0	1	0	0	0	0
26	0	0	0	0	0	0	1	0	0	0
27	0	0	0	0	0	0	0	0	0	4
28	0	0	0	0	0	0	0	0	0	0
29	0	3	0	0	0	0	0	0	0	10
30	0	0	0	0	0	0	0	0	0	0
31	0	0	0	0	0	0	0	0	0	0
32	0	0	0	0	0	0	0	0	0	1
33(a)	0	0	0	0	0	0	0	0	0	1
33(b)	0	0	0	0	0	0	0	0	0	0
33(c)	0	0	0	0	0	0	0	0	0	0
33(d)	0	0	0	0	0	0	0	0	0	1
33A	0	0	0	0	0	0	0	0	0	0
34	0	0	0	0	0	0	0	0	0	0
35	0	0	0	0	0	0	0	0	0	0
36	0	0	0	0	0	0	0	0	0	0
36A	0	0	0	0	0	0	0	0	0	0
36B	0	0	0	0	0	0	1	0	0	5
37	0	0	0	0	0	0	0	0	0	0
38	0	0	0	0	0	0	0	0	0	0
40	0	0	0	0	0	0	0	0	0	0
40A	0	0	0	0	0	0	0	0	0	0
40B	0	0	0	0	0	0	0	0	0	0
40C	0	0	0	0	0	0	0	0	0	1
40D	0	0	0	0	0	0	0	0	0	0
41	0	0	0	0	0	0	0	0	0	0
42	0	0	0	0	0	0	0	0	0	0
43	0	0	0	0	0	0	0	0	0	0
44	0	0	0	0	0	0	0	0	0	0
45	0	0	0	0	0	0	0	0	0	0
46	0	0	0	0	0	0	0	0	0	0
47C	0	0	0	0	0	0	0	0	0	0
47P	0	0	0	0	0	0	0	0	0	0
47Q	0	0	0	0	0	0	0	0	0	1
48	0	0	0	0	0	0	0	0	0	0
49	0	0	0	0	0	0	0	0	0	0
50	0	0	0	0	0	0	0	0	0	0
51	0	0	0	0	0	0	0	0	0	0
53	0	0	0	0	0	0	0	0	0	0
54	0	0	0	0	0	0	0	0	0	0
54A	0	0	0	0	0	0	0	0	0	0
55	1	0	0	0	0	0	0	0	0	2
56	0	0	0	0	0	0	1	0	0	1
57	0	0	0	0	0	0	0	0	0	0
58	0	0	0	0	0	0	0	0	0	0
59	0	0	0	0	0	0	0	0	0	0
60	0	0	0	0	0	0	2	0	0	2
61	0	0	0	0	0	0	0	0	0	0
TOTAL	1	3	0	0	0	1	8	0	0	32

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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	2	0	0	0	3	3	0	21	0
Conditional conviction without punishment	0	0	0	0	0	0	1	0	1	0
Unconditional conviction without punishment	0	1	0	0	0	0	1	0	3	0
Severe reprimand	1	0	0	1	0	2	2	0	8	1
Extra duties	0	0	0	0	0	0	0	0	5	0
Extra drill	0	0	0	0	0	0	0	0	1	0
Stoppage of leave	0	2	0	0	0	0	0	0	17	1
Restriction of privileges	0	2	0	0	0	0	0	0	66	0
Suspended fine	0	0	0	0	0	0	5	0	9	0
Fine Less than 14 Days Pay	7	5	0	2	0	7	7	0	65	0
Fine More than 14 Days Pay	0	0	0	0	0	0	0	0	1	0
Forfeiture of service for purposes of promotion	0	0	0	0	0	0	0	0	0	0
Forfeiture of seniority	0	0	0	0	0	2	1	0	0	0
Reduction in rank	0	0	0	0	0	0	1	0	0	0
Detention	0	0	0	0	0	0	0	0	28	0
TOTAL	11	12	0	3	0	14	21	0	225	2

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	5	3	0	2	0	5	9	3	0	18
Conditional conviction without punishment	0	0	0	0	0	0	0	1	0	1
Unconditional conviction without punishment	2	0	0	0	0	0	0	2	0	5
Severe reprimand	0	0	0	1	0	4	8	1	0	15
Extra duties	0	2	0	0	0	0	0	0	0	17
Extra drill	0	0	0	0	0	0	0	0	0	6
Stoppage of leave	0	7	0	0	0	0	0	0	0	7
Restriction of privileges	0	7	0	0	0	0	0	0	0	164
Suspended fine	0	0	0	0	0	2	3	1	0	3
Fine Less than 14 Days Pay	16	5	0	3	0	12	26	10	0	147
Fine More than 14 Days Pay	0	1	0	0	0	0	0	1	0	3
Forfeiture of service for purposes of promotion	0	0	0	0	0	0	0	0	0	0
Forfeiture of seniority	0	0	0	0	0	1	0	0	0	0
Reduction in rank	0	0	0	0	0	1	2	1	0	1
Detention	0	0	0	0	0	0	0	0	0	13
TOTAL	23	25	0	6	0	25	48	20	0	400

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	0	0	0	0	0	0	7	0	0	8
Conditional conviction without punishment	0	0	0	0	0	0	0	0	0	1
Unconditional conviction without punishment	0	0	0	0	0	0	4	0	0	2
Severe reprimand	0	0	0	0	0	1	1	0	0	3
Extra duties	0	0	0	0	0	0	0	0	0	3
Extra drill	0	0	0	0	0	0	0	0	0	1
Stoppage of leave	0	0	0	0	0	0	0	0	0	0
Restriction of privileges	0	3	0	0	0	0	0	0	0	4
Suspended fine	0	0	0	0	0	0	2	0	0	2
Fine Less than 14 Days Pay	2	1	0	0	0	0	6	0	0	17
Fine More than 14 Days Pay	0	0	0	0	0	0	0	0	0	0
Forfeiture of service for purposes of promotion	0	0	0	0	0	0	0	0	0	0
Forfeiture of seniority	0	0	0	0	0	1	0	0	0	0
Reduction in rank	0	0	0	0	0	0	0	0	0	2
Detention										
TOTAL	2	4	0	0	0	2	20	0	0	43

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NAVY
JANUARY-DECEMBER 2022

DISCIPLINE OFFICER STATISTICS

Infringement	Number
Section 23	163
24	112
27	99
29	617
32(1)	6
35	8
60	54
TOTAL (1)	1059

Action Taken	Number
Punishment Imposed - Fine	178
ROP	197
SOL	115
Extra Duties	109
Extra Drill	13
Reprimand	404
No Punishment Imposed	43
Referred to an Authorised Member	0
TOTAL (1)	1059

ARMY
JANUARY-DECEMBER 2022
DISCIPLINE OFFICER STATISTICS

Infringement	Number
Section 23	144
24	187
27	290
29	586
32(1)	32
35	64
60	213
TOTAL (1)	1516

Action Taken	Number
Punishment Imposed - Fine	219
ROP	452
SOL	253
Extra Duties	214
Extra Drill	167
Reprimand	180
No Punishment Imposed	25
Referred to an Authorised Member	6
TOTAL (1)	1516

**AIR FORCE
JANUARY-DECEMBER 2022
DISCIPLINE OFFICER STATISTICS**

Infringement	Number
Section 23	23
24	10
27	34
29	129
32(1)	1
35	2
60	33
TOTAL (1)	232

Action Taken	Number
Punishment Imposed - Fine	41
ROP	32
SOL	32
Extra Duties	38
Extra Drill	5
Reprimand	75
No Punishment Imposed	4
Referred to an Authorised Member	5
TOTAL (1)	232

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NAVY

JANUARY-DECEMBER 2022

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

	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											2	2			1
April															
May											2	2			1
June															
July											3	4	1		5
August											1	4			
September															
October											1				2
November											2	1	1		1
December						1	1				1		5		
TOTAL	0	0	0	0	0	1	1	0	0	0	12	13	7	0	10

ARMY

JANUARY-DECEMBER 2022

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

	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											2	1	2		
June															
July						1	1			1					
August											3	2	2		
September											1	6			
October											4	9	3		5
November						1	1								
December						1		1			3	2	1		
TOTAL	0	0	0	0	0	3	2	1	0	1	13	20	8	0	5

AIR FORCE
JANUARY-DECEMBER 2022

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

	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															
June										1	3				
July															
August															
September										1	1				
October															
November	1	1			1		7			1	2				
December										1	1				3
TOTAL	1	1	0	0	0	1	0	7	0	0	4	7	0	0	3

COMBINED JANUARY - DECEMBER 2022

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

	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											2	2			1
April															
May											4	3	2		2
June											2	4			
July					1	1				1	2	3	1		
August											4	6	2		
September											2	8			
October											5	9	3		7
November	1	1				2	1	7			3	3	1		1
December						2	1	1			5	3	6		3
TOTAL	1	1	0	0	0	5	3	8	0	1	29	41	15	0	14

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

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Sect 23										
24										
25										
26										
27										
28										
29	1									
30										
31										
32										
33(a)										
33(b)										
33(c)										
33(d)										
33A										
34				2					3	
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	1									
57										
58										
59										
60				6					2	
61				5			1		3	1
TOTAL	2	0	0	13	0	0	1	0	8	1

Details of Quashed Convictions

DFDA Sect	Rank	Short Summary of Offence	Reason for quashing

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

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Sect 23										
24										
25										
26										
27										
28										
29										
30										
31										
32										
33(a)		1								
33(b)										1
33(c)										
33(d)										
33A						1				1
34										
35										
36										
36A										
36B										
37										
38										
39										
40										
40A										
40C										
40D										
42										
43										
44										
45										1
46										1
47C										3
47P										
47Q										
48										
49										
50										
51										
53										
54										
55										
56										
57										
58										
59										
60				1			3			
61						1				2
TOTAL	1	0	0	1	0	2	3	0	0	9

Details of Quashed Convictions

DFDA Sect	Rank	Short Summary of Offence	Reason for quashing

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

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Sect 23										
24										
25										
26										
27										
28										
29										
30										
31										
32										
33(a)							1			
33(b)										
33(c)										
33(d)										
33A										
34	2									
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						2			
61	1									
TOTAL	4	0	0	0	0	0	3	0	0	0

Details of Quashed Convictions

DFDA Sect	Rank	Short Summary of Offence	Reason for quashing

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

	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			1						
Suspended fine										
Fine Less than 14 Days Pay	1			1					1	
Fine More than 14 Days Pay				1						1
Forfeiture of service for purposes of promotion										
Forfeiture of seniority	1			2						
Reduction in rank				2			1		1	
Suspended detention										
Committed detention									1	
Dismissal				2					2	
Imprisonment				1						
TOTAL	3	0	0	10	0	0	1	0	6	1

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

	Officer	Officer Cadet	WO1 WO WOFF	WO2 CPO FSGT	SSGT	SGT PO	CPL LS	LCPL	AB LAC	PTE SMN AC
Reprimand	1			1						1
Conditional conviction without punishment										
Unconditional conviction without punishment										
Severe reprimand										2
Suspended fine										
Fine Less than 14 Days Pay	1									1
Fine More than 14 Days Pay				1						2
Forfeiture of service for purposes of promotion										
Forfeiture of seniority										
Reduction in rank						2	1			
Suspended detention						1				3
Committed detention						1				2
Dismissal										1
Imprisonment										
TOTAL	2	0	0	2	0	4	1	0	0	12

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DEFENCE FORCE DISCIPLINE ACT

LIST OF SECTIONS USED IN STATISTICS

Section Number	Description
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
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
47C	Theft

Section Number	Description
47P	Receiving
47Q	Unauthorised use of a Commonwealth credit card
48	Looting
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

