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New Zealand Defence Force

Serious offending in the context of modern military operations



OVERVIEW

- Brief overview of the military justice system
- Approach to serious offending within the Defence Force
- Current oversight mechanisms

DEFENCE LEGAL SERVICES



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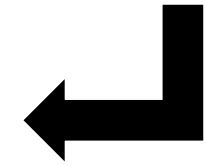
Additional Protocol I, Article 82 – Legal advisers in the armed forces

The High Contracting Parties at all times, and Parties to the conflict in time of armed conflict, shall ensure that legal advisers are available, when necessary, to advise military commanders at the appropriate level on the application of the Conventions and this Protocol and on the appropriate instruction to be given to the armed forces on this subject.

MILITARY JUSTICE SYSTEM



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MILITARY JUSTICE SYSTEM

1. Allegation
2. Preliminary Inquiry
3. Commanding Officer – section 102 “well founded”
4. Summary Trial
5. Director of Military Prosecutions
6. Court Martial of New Zealand
7. Finding / Punishment
8. Appeals

SERIOUS OFFENDING

- Categories of Offending
- Extra-territorial jurisdiction
- ‘Serious Offending’
 - Offences under the International Crimes and Criminal Court Act 2000
 - Offence of ‘grave breach’ under the Geneva Conventions Act 1958
 - Those offences under the Crimes Act 1961, such as murder.

SERIOUS OFFENDING

- Section 102 entry point to all allegations made under the Armed Forces Discipline Act 1971
- Concurrent jurisdiction for many offences with the New Zealand Police

CURRENT OVERSIGHT MECHANISMS

- Legal advisers – Additional Protocol I, article 82.
- Director of Military Prosecutions
- Judge Advocate General/Chief Judge of the Court Martial of New Zealand
- Ministry of Defence
- Auditor General
- Ombudsman
- International Criminal Court
- United Nations
- International Committee of the Red Cross
- Other organisations



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QUESTIONS?



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