

INSPECTOR-GENERAL OF THE  
AUSTRALIAN DEFENCE FORCE



# PRESENTATION TO NEW ZEALAND DEFENCE FORCE WORKSHOP – TRANSPARENCY AND ACCOUNTABILITY FOR MILITARY OPERATIONS

**James Gaynor, CSC**

Inspector-General of the Australian Defence Force





## SCOPE

- Background to establishment of IGADF
- Broader legal transparency and accountability frameworks in which ADF operates
- Role and functions of IGADF and their contribution to transparency and accountability to the ADF's stakeholders



# ESTABLISHMENT OF THE INSPECTOR-GENERAL OF THE AUSTRALIAN DEFENCE FORCE





## ELEMENTS OF THE MILITARY JUSTICE SYSTEM

Traditionally, military justice is said to encompass:

- disciplinary action and investigations under the *Defence Force Discipline Act* (DFDA)
- Adverse administrative action
- the conduct of administrative inquiries
- the right to make a complaint



## RELEVANT LEGAL FRAMEWORK

Legislation relevant to IGADF functions:

- *Defence Act 1903 part VIIIB*
- *Inspector-General of the Australian Defence Force Regulation 2016*
- *Defence Regulation 2016 part 7*

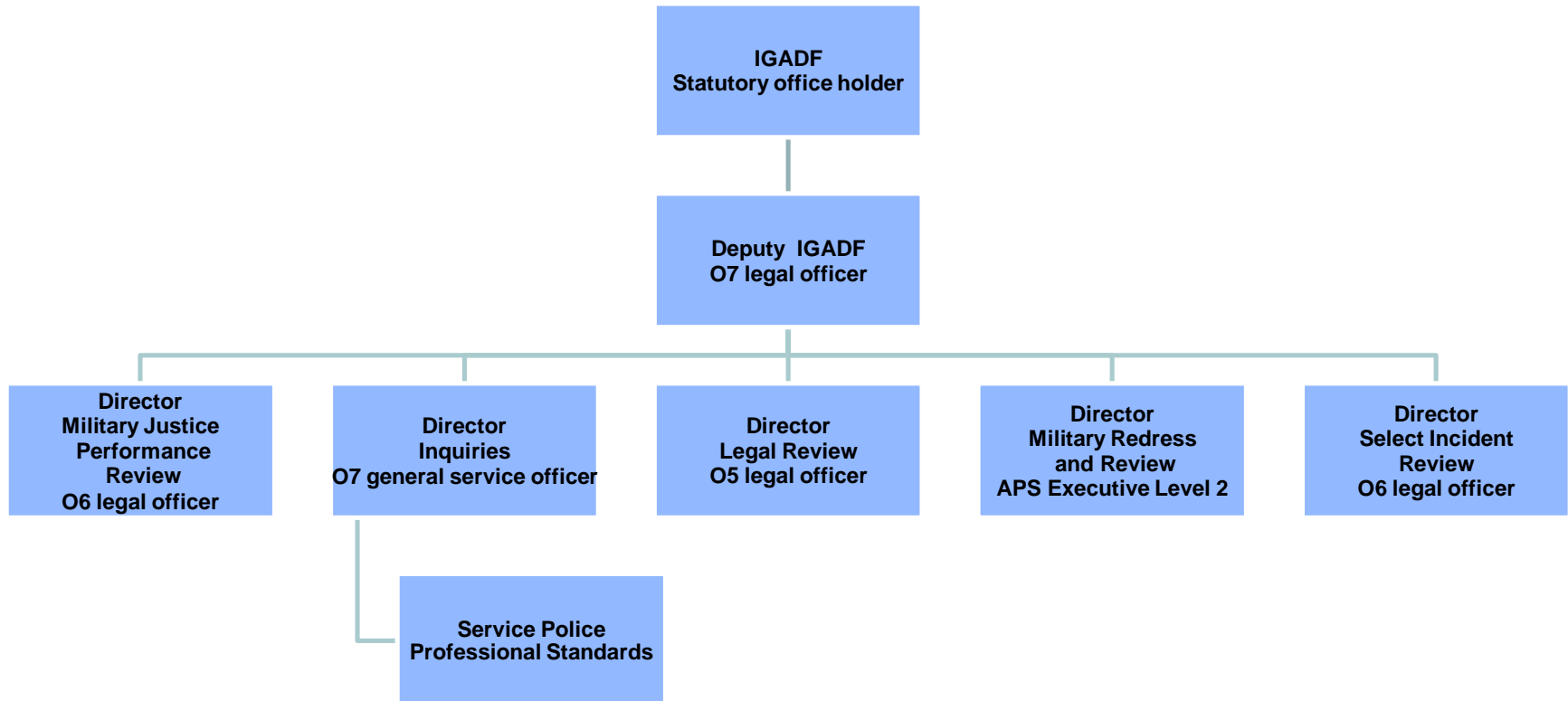
Other relevant laws relating to transparency and accountability:

- *Freedom of Information Act 1982*
- *Privacy Act 1988*
- Procedural fairness rules



## **ROLE AND FUNCTIONS**

- **to provide CDF with a mechanism for internal audit and review of the military justice system independent of the ordinary chain of command**
- **to provide an independent avenue by which failures and flaws of the system, systemic or otherwise, may be exposed and examined so that any cause of any injustice (whether systemic or otherwise) may be remedied**
- **to inquire into deaths of ADF members**
- **to conduct internal reviews of applications for Redress of Grievance**



As required, Directorates are also supported by members of the Navy, Army and Air Force Reserves and select civilians.

# Directorate of Military Justice Performance Review (Audits)

- an original statutory function of the IGADF is performance review of military justice within ADF units
- comprises two main parts:
  - unit audits
  - analysis and standards
- audits focus on disciplinary and administrative arrangements







## MILITARY JUSTICE AUDITS

- conducted in accordance with relevant Australian Standards for Audit and Assurance engagements
- 50 audits per year – emphasis on increasing the number of audits undertaken each year, to coincide with an increase in the number of ADF units
- Average of 2500 focus group participants per annum
- Each individual audit report provided to the commanding officer of the audited unit as well as their Service chief and formation commanders in between.
- Commanding Officers provide feedback on audit outcomes

## Analysis and Standards

- discipline
- redress of grievance/complaints
- unacceptable behaviour
- administrative inquiries
- administrative sanctions
- protection orders
- military justice attitude survey
- military justice catalogue
- IGADF annual report





## DIRECTORATE OF INQUIRIES

- complaints ordinarily need to be linked to the military justice system in some way (or a matter affecting the ADF for Minister- and CDF-directed inquiries)
- inquiry role also includes the Service Police Professional Standards Cell
- Final avenue in the ADF



## DIRECTORATE OF INQUIRIES

### An IGADF inquiry:

- is done at arm's length
- finds the facts but also looks for failures in process (or, in certain cases, into matters affecting the ADF)
- makes findings and recommendations but cannot change decisions



## **DIRECTORATE OF MILITARY REDRESS AND REVIEW**

- final review of grievances within Defence
- members' grievances are still dealt with initially by their chain of command
- IGADF is recommendatory only and not empowered to change decisions
- complainants can still approach the Defence Force Ombudsman



## **New ROG system impacts:**

- Reduced time to process
- Less layers of review
- Quicker resolution/determination



## Directorate of Select Incident Review

- review and inquire into deaths of Defence Force members and other select incidents
- formerly the job of the Chief of the Defence Force Commission of Inquiry cell
- responsibility transferred to the IGADF with effect 01 July 2014
- Greater efficiencies in the conduct of inquiries into Service deaths





## Directorate of Select Incident Review

- notification by Service headquarters formally commences the IGADF inquiry process
- engagement with:
  - family of the deceased
  - Defence personnel, units and agencies
  - external agencies including Federal, State and Territory police, State and Territory coroners, and Comcare
- powers to compel and obtain relevant material
- IGADF reports are provided to the Chief of the Defence Force for consideration of findings and recommendations to improve upon identified systemic problems





# Questions

