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OIA-2024-5069

1 August 2024

[REDACTED]

[REDACTED]@nzme.co.nz

Dear [REDACTED]

I refer to your email of 4 July 2024 requesting, under the Official Information Act 1982 (OIA), the following information:

*Since January 2023 how many cases has the Director of Military Proceedings opted not to prosecute?*

*Please provide details for each of those cases - including what happened with the charges i.e which jurisdiction they were dealt with in (summary trial / civil) and the outcome.*

*I would like any notes or reasons from the DMP related to why the various cases were not prosecuted - i.e their rationale.*

In respect of charges referred to the Director of Military Prosecutions (DMP) under the Armed Forces Discipline Act 1971, the DMP may decide whether an accused is to be committed for trial in the Court Martial (s 101F(a)). The DMP may also stay proceedings either permanently or for a specified period (s 101H). A stay can be regarded as a decision not to prosecute.

Since January 2023, the DMP has stayed one proceeding under s 101H of the Armed Forces Discipline Act 1971. The stay followed a hung verdict in the Court Martial and was in the context of the complainant not wanting to go through a retrial.

For completeness, if a disciplinary officer refers a charge to the DMP, the DMP may also decide to refer it back to the disciplinary officer with a direction that the charge is to continue at summary trial (s 117ZH(1)(a)) or be dismissed (s 117ZH(1)(b)). A direction that a disciplinary officer dismiss a charge could also be regarded as a decision not to prosecute. The DMP has not acted under s 117H since January 2023.

You have the right, under section 28(3) of the OIA, to ask an Ombudsman to review this response to your request. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that responses to official information requests are proactively released where possible. This response to your request will be published shortly on the NZDF website, with your personal information removed.

Yours sincerely

**AJ WOODS**

Air Commodore  
Chief of Staff HQNZDF