

SSCLCA Public Interest Immunity Hearing – 31 January 2014

Question On Notice No. 1 – Senate Order 10 (Harradine)

Senator Carr asked on 31 January 2014, Hansard Page 27:

Is it your intention for the Defence department to comply with Senate Order No. 10?

Response:

Yes.

SSCLCA Public Interest Immunity Hearing – 31 January 14

Question On Notice No. 2 – Directives

Senator Ludwig asked on 31 January 2014, Hansard Page 36:

Senator LUDWIG: General David Hurley, can you provide a copy—or take it on notice if you want—of the directives that you have provided to Lieutenant General Campbell about his role and responsibility in relation to Operation Sovereign Borders?

Gen. Hurley: I will take it on notice.

Senator LUDWIG: And, of course, the one that you may have provided to Rear Admiral Noonan.

Gen. Hurley: I do not directly provide one to Rear Admiral Noonan, but I will find what document might suit your needs.

Senator LUDWIG: I thought it may not have been you who provided the directive.

Gen. Hurley: But I will take them both on notice and come back.

Response:

Attached are the directives from CDF to the Commander of the Joint Agency Task Force Operation Sovereign Borders and from Commander Joint Operations (CJOPS) to Commander Border Protection Command with personal information redacted for privacy reasons.



CDF Directive No 28/2013

**CHIEF OF DEFENCE FORCE DIRECTIVE
TO
8244722 LIEUTENANT GENERAL A.J. CAMPBELL
COMMANDER, JOINT AGENCY TASK FORCE
OPERATION SOVEREIGN BORDERS**

INTRODUCTION

1. Government has directed the creation of a Joint Agency Task Force (JATF) to lead OPERATION SOVEREIGN BORDERS (OSB), the whole-of-government effort to combat unauthorised maritime arrivals (UMA) and people smuggling (PS), and to provide greater border protection through a multi-dimensional campaign approach.
2. You have been appointed to the position of Commander, JATF OSB.

PURPOSE

3. The purpose of this Directive is to assign you for duty and second you to the Department of Immigration and Border Protection (DIBP) as Commander, JATF OSB.

BACKGROUND

4. The principal task of the JATF will be to manage and coordinate counter UMA/PS activities across all Government Agencies. It is anticipated that this will principally be undertaken through the establishment of discrete Task Groups (TGs) led by DIBP and Australian Federal Police.
5. A Headquarters (HQ) comprised of staff seconded from parent Agencies to DIBP for duty in HQ JATF OSB will be created to support Commander, JATF OSB. The JATF HQ will be part of DIBP. The Department of Defence will assign for duty and second an agreed number of ADF and APS personnel to DIBP for duty within the JATF HQ.

ROLE

6. You are assigned for duty and seconded to DIBP for appointment as Commander, JATF OSB. You remain in the ADF for the duration of your secondment and under my command.
7. Your appointment as Commander, JATF OSB will be to provide command oversight (including prioritisation, synchronisation and coordination) of whole-of-government counter

UMA/PS activities through the development and execution of a multi-dimensional campaign plan supported by an appropriate policy framework. The development of this plan will be your key initial deliverable to the Minister for Immigration and Border Protection. The detailed role of the JATF will be set out in interagency arrangements between participating Agencies.

8. You are accountable to the Minister for Immigration and Border Protection (MIBP) with respect to the operation of JATF OSB. The nature of the relationship between Commander, JATF OSB and the Secretary of DIBP will be determined by interagency arrangements. You are directed to comply with the lawful and reasonable directions of the Minister for Immigration and Border Protection. If interagency arrangements require you to be accountable to the Secretary of DIBP for certain aspects of the operation of JATF OSB then you are to comply with the lawful and reasonable directions of the Secretary of DIBP regarding those aspects.

9. You remain accountable to me and the Secretary of the Department of Defence respectively for the behaviour, work, health and safety of ADF members and Defence APS personnel seconded for duty to your headquarters. The Single Service Chiefs and the Secretary are responsible for the administration of the ADF members and Defence APS personnel assigned for duty to your headquarters.

RESPONSIBILITIES

10. You have the following responsibilities:

- a. plan and implement the whole-of-government efforts to combat UMA and PS activities;
- b. lead the interagency planning for the establishment of the JATF and its HQ;
- c. develop the whole-of-government campaign plan for prosecution of the stated mission;
- d. exercise operational control over ADF personnel assigned for duty and seconded to the JATF HQ;
- e. exercise supervision over Defence APS personnel assigned for duty and seconded to the JATF HQ;
- f. ensure that reporting chains are established to provide annual reports and other necessary reports on ADF and Defence APS personnel assigned for duty and seconded to JATF HQ;
- g. comply with all obligations under the *Work, Health and Safety Act 2011* that apply to you in your position as Commander, JATF OSB;
- h. provide advice to me through HMSC on significant issues of strategic importance concerning the JATF likely to affect Defence;
- i. provide to me, through HMSC, copies of all interagency arrangement proposals that have a consequence for Defence and in particular matters that relate to the command and control of the ADF and Defence APS personnel.

AUTHORISATIONS

11. Your authority over other Commonwealth agency personnel in the JATF HQ and within the JATF more broadly will be set out in arrangements between the participating Commonwealth agencies. You may expect however, that you will have appropriate authority to direct the day to day activities and tasks of staff seconded to the JATF HQ. With respect to the JATF TGs, you may expect that JATF TG Heads will continue to oversee the operational activities of their respective TGs and operate under extant parent agency arrangements. However, it is anticipated that TG Heads will be responsible to the Commander, JATF OSB for executing tasks assigned to them within agreed boundaries. TG Heads will remain accountable to their Agency heads for the administration of their TG and the operations of that TG in accordance with the legislative and regulatory authorities granted to their portfolio Minister or Department and any other applicable interagency arrangements.
12. I have determined that ADF personnel assigned for duty and seconded to JATF HQ are acting together for the purposes of regulation 4 of the *Defence Force Regulations 1952 (Cth)* (DFR 4) and will be subject to your lawful orders for the purposes of the *Defence Force Discipline Act 1982* (DFDA). An instrument for the purposes of DFR 4 is at enclosure 1.
13. You have been appointed as a Superior Authority for the purposes of the DFDA. An instrument of appointment is at enclosure 2.
14. You may communicate directly with Commonwealth agencies and senior officials as required to perform your duties as Commander, JATF OSB. Distinct from any international engagement you may be authorised to conduct by MIBP/DIBP on behalf of the whole-of-government, you are authorised to conduct international engagement on behalf of the Department of Defence, acting on the advice of First Assistant Secretary International Policy.
15. You are authorised to liaise directly with Commander Joint Operations for supplementary planning support when required.
16. You are appointed as an Awarding Authority for the purpose of Silver and Bronze commendations in accordance with Defence Instruction General (Personnel) 32-1 *Commendations for Service*.

REPORTING

17. Unless otherwise provided for in the Commonwealth inter-agency arrangements establishing the JATF, your day to day reporting is to the MIBP. You are to provide reports to me by exception only (through HMSC), on issues relating to Defence participation in the JATF. Your experience and judgment will dictate when it is appropriate for you to contact me directly.

ADMINISTRATION

18. Administrative details (accommodation, communications, finance etc) relating to the establishment and operation of the JATF will be set out in arrangements between the participating Commonwealth Agencies.

AMENDMENT AUTHORITY

19. COS to CDF is the point of contact for amendment to this Directive. This Directive will be cancelled on completion of your secondment and post activity report.

ACKNOWLEDGEMENT

20. This Directive is effective upon receipt. You are to acknowledge receipt of the directive by returning Annex A to my Staff Officer (Administration).

D.J. HURLEY, AC, DSC
General
Chief of the Defence Force

19 September 2013

Distribution:

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**ANNEX A to
CDF DIRECTIVE 28/2013
Dated 19 September 13**

Acknowledgement

I acknowledge receipt of CDF directive to Commander, Joint Agency Task Force Operation Sovereign Borders dated 19 September 2013 and will comply with the directions contained within.

A.J. CAMPBELL
LTGEN
COM JATF OSB

September 2013



CHIEF OF JOINT OPERATIONS
HEADQUARTERS JOINT OPERATIONS COMMAND

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See distribution

CJOPS DIRECTIVE 02/14 CHIEF OF JOINT OPERATIONS DIRECTIVE TO REAR ADMIRAL M.J. NOONAN AM, RAN – COMMANDER JOINT TASK FORCE 639 FOR OPERATION RESOLUTE

References:

- A. Interdepartmental Arrangement between the Australian Customs and Border Protection Service and the Department of Defence on the Roles, Responsibilities and Resourcing of Border Protection Command of 13 Jul 12.
- B. CJOPS Directive 16/2012 to COMNORCOM of 17 May 12.
- C. CJOPS OPORD 01/2012 – *Operation RESOLUTE* of 24 Aug 12.
- D. *Concept for Improved Integration of OP RESOLUTE C2 while retaining HQNORCOM* (AM192759) of 15 Jan 10.
- E. DI(G) OPS 47-1- *Australian Defence Force Search and Rescue Operations Command and Control Arrangements* of 30 Jun 11.
- F. CDF ROEAUTH – *Standing Rules of Engagement Serial Four* of 26 Aug 08, or subsequent serials.
- G. *Declaration under the Australian Operational Service Medal Regulation 2012* of 18 Jul 12.
- H. ADF Commendations – *CJTF 639 Authorisations to Approve* of 26 Mar 10.
- I. DI(G) ADMIN 45-2 – *The reporting and management of notifiable incidents* of 26 Mar 10.
- J. DI(G) ADMIN 67-2 – *Quick Assessment* of 07 Aug 07.
- K. CDF Directive 04/2010 – *Interim Arrangements Quick Assessments and Administrative Inquiries* dated 23 Apr 10.
- L. CDF Directive 12/2006 – *Interim Arrangements for CDF Commissions of Inquiry into ADF Suicides and Deaths in Service* dated 30 May 06.
- M. CJOPS Directive 63/2013 – *Joint Operations Command: Reporting and Management of Sensitive Issues* of 20 Nov 13.
- N. CJOPS Directive 111/2011 – *Work Health and Safety on Joint Operations* of 20 Dec 11.
- O. CJOPS General TASKORD 001/2012 – *Work Health and Safety Reporting on Operations* of 251006Z Jan 12.
- P. DI(G) ADMIN 08-1 – *Public comment and dissemination of official information by Defence personnel* dated 05 Oct 07.
- Q. DI(G) PERS 35-6 – *Formal Warnings and Censures in the ADF*.
- R. CDF ROEAUTH OP RESOLUTE, Serial 1 dated 13 Dec 13.

Appointment

- 1. **Commander Border Protection Command.** CDF and CEO Australian Customs and Border Protection Service (ACBPS) have appointed you as Commander Border Protection Command (COMBPC). Border Protection Command (BPC) is the Governments directed

multi-agency authority responsible for managing significant civil maritime security threats in Australia's offshore maritime domain. BPC is the lead for the Detection, Interception and Transfer Task Group of the Operation Sovereign Borders Joint Agency Task Force (OSB JATF).

2. As described in reference A, COMBPC commands Border Protection Command, a multi-agency operational authority structured as a standing multi-agency task force (MATF) that provides centralised multi-agency command and control capability for the planning, coordination and execution of surveillance and response operations against a range of non-military security threats in Australia's maritime domain.

3. **Commander Joint Task Force 639.** Operation RESOLUTE (OP RESOLUTE) is the codename allocated to the ADF contribution in support of the enduring whole of government civil maritime security operation. For consistency with internal Defence command and control mechanisms, this ADF contribution is referred to as Joint Task Force 639 (JTF 639), and I appoint you Commander Joint Task Force 639 (CJTF 639). You are responsible to CDF, through me, for the employment of JTF 639 within the whole of government operation. You are to exercise operational authorities and national command responsibilities in accordance with this Directive.

4. **Scope of this Directive.** Recognising that the BPC MATF seeks to integrate the capabilities contributed by multiple government departments, and as such must be responsive to the requirements of, and limitations imposed by, those Departments, this Directive will be limited to my requirements regarding the employment of ADF assets and personnel under your command and control (C2). This is primarily JTF 639, including those posted to HQNORCOM when it is under your OPCON as HQJTF 639 (reference B), but also applies to ADF personnel posted to HQBPC. This directive will seek to avoid reiterating direction existing in my operational direction expressed in reference C, but rather provide my guidance on implementing those directions.

5. **Effective Date.** This Directive is effective upon your acknowledgement and supersedes any directives to COMBPC and/or CJTF 639 previously developed by Defence authorities. This directive is not to be cancelled or altered without my authorisation or that of my successors. Until reissued, this directive will remain in force for your and my successors.

Situation

6. The military strategic guidance, my mission, intent and approved tasks for the ADF contribution to civil maritime security operations are contained in my OP RESOLUTE Operations Order (reference C).

Mission

7. In fulfilling the mission at reference C, you are to promote the integration of assets force assigned to JTF 639 with those provided to the BPC MATF from other government agencies. While it is important to recognise the unique nature of ADF service, the scarcity of resources relative to the size of the BPC MATF task requires an integrated organisation generating an integrated outcome.

8. In seeking to promote the integrated nature of the BPC MATF, you are however, to be cognisant of the limitations detailed in reference B and C, in particular the requirement to maintain HQNORCOM in Darwin as a fully functioning multi-agency headquarters.

Responsibilities**9. Tasks.** As directed at reference C, you are to:

- a. Employ assigned ADF assets within directed rates of effort and IAW the BPC MATF plans to detect and deter threats to national security.
- b. Develop and maintain tactical maritime awareness, prevention, detection, response and recovery plans and procedures, synchronised with HQJOC plans and procedures, to counter threats to Australia's national interests within the Area of Operations (AO).
- c. Exercise the assigned degree of command authority for ADF assets assigned to JTF 639 as an integrated part of the BPC MATF and liaise, as authorised by CDF and CEO ACBPS, with ACBPS and OGA assets to coordinate surveillance and response planning and execution.
- d. Maintain a multi-agency headquarters and be prepared to command joint and whole-of-government operations in Australia's maritime domain and within assigned AO as directed by me.
- e. Coordinate and contribute to Australian Government maritime policy and higher level operational matters with OGA.
- f. Provide advice to me, my J3 and CDF (through me and HMSC) on significant issues of strategic or national interest pertaining to OP RESOLUTE, such as:
 - (1) operational matters with national implications;
 - (2) developments in planning for matters of importance to Australia's national interests; and
 - (3) any issue, no matter how tactical in nature, which may attract significant Parliamentary or media interest.
- g. Develop and maintain contingency plans to fulfil responsibilities for maritime counter-terrorism response and recovery IAW the National Counter-Terrorism Plan and associated procedures.
- h. Execute a program of offshore facility security patrols.
- i. Develop a program for land based surveillance of the key littoral areas of the AO and submit it to me annually to enable FA of appropriate assets.
- j. Review reference C as circumstances change and recommend amendments to me through J3 HQJOC.
- k. Ensure that JTF 639 FE reports all safety incidents and near misses via single service channels, ensuring that copies of AC563 are sent to COMCARE.
- l. Be the central capture point and custodian for OP RESOLUTE information; ensure information flow is managed; and that a complete record is maintained. This should include OGA inputs when possible.

- m. Produce intelligence, counterintelligence and geospatial intelligence concerning the environment and maritime security threats IAW the Intelligence Support Plan (ISP) detailed in reference C and the BPC – Intelligence Centre's ISP to shape and inform OP RESOLUTE planning and the conduct of maritime surveillance and response operations.
 - n. Monitor the performance of the administrative and logistic support arrangements outlined in reference C.
 - o. Contribute to the review of force level stock holding policy in conjunction with HQJOC.
 - p. Provide office accommodation for multi-agency and WoG representatives within your command centre.
 - q. Be my principal point-of-contact (advised by International Policy Division and the Department of Foreign Affairs and Trade) on international civil maritime security matters.
 - r. Maintain the safety and well-being of all Australian personnel assigned to the BPC MATF.
 - s. Provide force protection, communications and sustainment to OGA assigned to the operation.
 - t. Ensure all ADF members assigned to the operation comply with Australia's legal obligations and national policy requirements, in particular reference F and reference R.
 - u. Lead your staff, create a good working environment, keep your staff safe, ensure good order, discipline and governance of your Headquarters and support the priorities of the CDF and the Secretary for the Department of Defence and the CEO for ACBPS.
 - v. Although I expect all personnel FA to you to act, particularly during overseas visits, in a manner conducive to enhancing the ADF reputation, you are to ensure Commanders and personnel under your command are aware that unlawful behaviour in Singapore will potentially be handled through their justice system with host nation consequences.
10. You are to be prepared to:
- a. fulfil responsibilities IAW the National Counter-Terrorism Plan through the release of assets as required to conduct higher priority tasking (e.g. SAR, onshore CT Operations);
 - b. execute operational branches to OP RESOLUTE, promulgated through FRAGO and TASKORD to reference C;
 - c. be appointed as a SAR Commander for maritime SAR activities in accordance with reference E;

- d. provide platforms to support operation-specific, pre-embarkation training for Transit Security Elements (TSE) when Chief of Navy (CN) cannot provide the required platform; and
 - e. act as the ADF's public affairs spokesperson and the releasing authority for agreed ADF public information relating to civil maritime security operations, including OP RESOLUTE.
11. You are not to:
- a. commit ADF capabilities beyond those assigned to you, or
 - b. make undertakings or promises of further ADF support.

Administration and Logistics

12. **Administration and Logistics Arrangements of Assigned Forces.** Administration and logistic arrangements for ADF assets assigned to you are detailed in reference C. Additionally, Commander Joint Logistics Command is responsible for the provision of Humanitarian Assistance (HA) and TSE stores. ACBPS is responsible for the provision of logistic support to ACBPS assets and, together with the Department of Immigration and Border Protection, is responsible for the provision of logistic support for processing illegal maritime arrivals (IMA). Notwithstanding these responsibilities, you are to maintain a staff function that permits you to effectively interface with those supporting Groups.

13. **Personnel.** Any significant welfare, morale and discipline matters that involve JTF 639 personnel are to be brought to my attention in a timely manner.

14. **Discipline.** CDF has appointed you as a Superior Authority, a Superior Summary Authority and a Reviewing Authority pursuant to sections 5A, 105 and 150 respectively, of the *Defence Force Discipline Act 1982* (DFDA). The instruments effecting this appointment are at enclosure 1. CDF has also appointed you as an Authorised Officer for the purposes of the DFDA and the *Defence Force Discipline Regulations 1985*. The instrument effecting this appointment is at enclosure 2.

15. You have Administrative Control of JTF 639 FE. The agreed point of transfer of responsibility of personnel/administrative matters is on return to parent unit/Service. Noting that, reference Q provides specific powers for joint appointments, any request for you to act as an Imposing Authority for Formal Warnings or Censures is to be carefully considered in conjunction with your J06 and, if necessary HQJOC. Any administrative action imposed on a member is to be formally handed over to the member's parent unit, information HQJOC and the appropriate Service HQ, in accordance with the provisions of personnel under posting IAW the reference. HQJTF 639 is to finalise all reporting, including COMTRACK reporting.

16. **Health Services.** Health service support for JTF 639 personnel is detailed in reference C. HA health support will be provided to IMAs and other personnel detained while on operations as required. Additional deployed health assets (such as Medical and Nursing Officers and Medical Assistants) may be sought from me when required.

17. **Aero-Medical Evacuation (AME).** CDF has appointed CAF as the Capability Manager for Strategic AME. CN, CA and CAF are Capability Managers for tactical AME for their respective Services. While your staff are to coordinate tactical AME within your AO, your

expectation should be that the tools for managing strategic AME and AME risk will be provided to you by CAF through HQJOC AOC AME.

18. **Finance.** The Defence financial contribution to the BPC MATF will be resourced as a separate line of funding from within HQJOC and you are to provide financial management focus to OP RESOLUTE activities. Reference C provides my instructions in this regard and should be read in the context of the framework established at reference A. The HQNORCOM Business Manager will continue to deliver financial management services to you, ensuring appropriate governance of Defence funding to BPC.

19. **BPC Workforce.** Requests to create, amend or disestablish positions within the Defence contribution to the BPC MATF workforce structure (military or Defence Australian Public Service (APS) employees) are to be developed in consultation with HQJOC Director Workforce Management (DWM) and approved by DCJOPS or me.

20. **Defence APS Employees.** You are a delegate for Defence APS matters in accordance with the Defence Enterprise Collective Agreement (DECA) and the *Public Service Act 1999*. You are to ensure that Defence APS employees at HQBPC and their managers are aware of their rights, entitlements and responsibilities under the DECA.

21. **Personal Assessment.** I will complete your annual Appraisal and Development Report. As the majority of effort from HQNORCOM is devoted to OP RESOLUTE, you are to perform the assessing officer role for COMNORCOM.

22. **Nature and Conditions of Service.** The contribution by JTF 639 to civil maritime security operations has been classified as a peacetime operation. As such, there are no specific Conditions of Service. However, subject to meeting the eligibility conditions established in reference G, ADF personnel and Defence civilians force assigned to OP RESOLUTE may be awarded the Australian Operational Service Medal – Border Protection.

23. **ADF Commendations.** As advised at reference H, you are authorised to approve silver and bronze ADF commendations in accordance with the provisions of DI(G) PERS 31-2 for Defence personnel posted or force assigned to the BPC MATF

24. **Post Deployment.** Contributing Services or Agencies (in the case of Defence civilians) assume administrative control responsibilities for the reconciliation of personnel and pay administration matters post deployment and to complete HQJOC post deployment certification.

Command and Control

25. A standing MATF is not a common organisational structure within Defence or the wider Australian Government, and the following C2 arrangements have been established to meet the requirements and constraints of the government agencies contributing assets to BPC.

- a. ADF forces under my theatre command will be assigned to your OPCON (or the assigned degree of command) in accordance with reference C. Your command chain remains through me to CDF for OP RESOLUTE. If an emergency or urgent issue arises, and I, DCJOPS or J3 HQJOC are uncontactable, you may contact CDF directly, informing me, DCJOPS or J3 HQJOC that you have done so at the first possible opportunity.

- b. **Command Arrangement for an Acting COMBPC.** When you plan to travel overseas, be on leave for periods greater than 72 hours, expect to be incapacitated, etc, you are to delegate command responsibilities via e-mail or minute. This delegation can be performed verbally in extremis, but is to be confirmed in writing as soon as possible thereafter. The general principles in exercising this delegation are:
- (1) You are responsible for generating effects against the previously listed security threats in the Australian maritime domain. The appointment to the position of Acting COMBPC (A/COMBPC) automatically entails appointment to command the BPC MATF but does not automatically authorise the individual to exercise OPCON of ADF assigned assets. Nor does it give the individual the authority to direct the employment of ACBPS assets.
 - (2) Should A/COMBPC be a military officer, that officer will also be the Acting CJTF 639 (A/CJTF 639) and, as such, have OPCON for the employment of ADF assets for the conduct of OP RESOLUTE. The authority to direct the employment of ACBPS assets will remain with the senior ACBPS official (generally Deputy Commander BPC (Operations)). This ACBPS official will be responsive to the military officer appointed as A/COMBPC.
 - (3) When a ACBPS official is appointed A/COMBPC, the position of A/CJTF 639 will be assumed by the BPC MATF's senior military officer (generally DCJTF 639, or the Chief of Staff, if DCJTF 639 is absent). A/CJTF 639 is to be responsive to A/COMBPC for the employment of ADF assets in support of civil maritime security effects, including issuing orders and instructions directly to ADF forces. While responsive to A/COMBPC, A/CJTF 639 will retain a technical control, veto authority should they think that ADF assets are being employed unsafely or outside of their authority, training or certifications.

26. **Technical Control (TECHCON).** The effective management of operational reporting for units force assigned to me is paramount, particularly as it relates to operational incidents. There have been too many instances where unit commanders have made an initial incident report to a JTFHQ and then immediately reported the incident up the TECHCON chain. This is unacceptable, as it creates multiple streams of reporting and significantly increases the risk of misinformation at the strategic level; a risk that is compounded in your environment by the multi-agency nature of forces assigned to the BPC MATF. Strict reporting discipline must be adhered to so as to protect the reputation of both BPC and Defence.

27. **Safety and Professional Standards.** The Service Chiefs are responsible for setting the safety and professional standards for their respective Services. They maintain TECHON of assigned forces. You are to ensure that you direct ADF assets such that their employment does not compromise those standards, technical controls and safety margins. If it becomes operationally necessary to vary from this guidance to achieve your mission, you are to apply a risk management approach IAW ADF policy and, where practicable, seek my agreement to proceed.

28. **International Engagement.** You are authorised to conduct international engagement consistent with your civil maritime security mission. Your actions should enhance relationships with other civil maritime security organisations, particularly those within South

East Asia and the South West Pacific. The activities undertaken should be informed by the intent of International Policy Division and Defence guidance, including the Defence International Engagement Plan, the HQJOC Regional Campaign Plan (RCP) and the ACBPS equivalents.

29. **Direct Liaison.** You are authorised to conduct direct liaison on issues pertaining to civil maritime security operations and OP RESOLUTE with all Commonwealth, State, Territory and local government authorities you deem appropriate, having regard to issues of national security in the maritime domain. Direct liaison is also authorised with Navy, Army and Air Force and appropriate industry stakeholders.

Coordinating Instructions

30. **Legal Basis for BPC Operations.** BPC MATF operations and exercises are to comply with Australian law. Where graduated use of force is required, such force may only be applied IAW reference F or reference R for ADF units, and the CEO ACBPS direction with respect to the use of graduated force for ACBPS units. You may propose changes to reference F or reference R through me. Proposed changes will also be advised to CEO ACBPS for consideration.

Reporting

31. **Incident Reporting.** Notifiable incidents are to be reported and managed in accordance with reference I. Further detailed incident reporting guidance is provided in reference C and at annex A. The formal reporting detailed is not intended to preclude command-to-command 'heads up' calls by secure telephone or secure email. J3 at HQJOC is to be your default point of contact for routine matters.

32. You may of course call me directly if you consider the situation warrants it. You are to make frequent and timely reports of all incidents or occurrences that are likely to receive parliamentary or media comment. Reporting of such matters is to be quick and frequent to remain ahead of informal reporting mechanisms. You are not to delay reporting to wait for additional information. I would rather receive updates (SITREPS) frequently that amplify and clarify information, than wait for a first and final report.

33. **Quick Assessment (QA) Reports.** I draw your attention to the requirements to provide QA reports in accordance with references J and K. QA reports are not to be released/disclosed (whether redacted/sanitised or not) outside the chain of command without my authority or that of DCJOPS. If you assess it is necessary and appropriate to release/disclose all or part of the information contained in a QA report outside the chain of command, then:

- a. A statement containing that information (cleared by me, DCJOPS or J3) is to be sent as official correspondence to the requesting agency. A copy of the correspondence is to be sent to HQJOC.
- b. The correspondence outside the national chain of command is to clearly state that it contains preliminary information for official use only, and is not for further/general distribution.

34. A copy of the QA Register for HQBPC and JTF 639 is to be provided to me through my MA each month.

35. **Defence Inquiries.** The *Defence Inquiry Regulations 1985* authorise you to appoint administrative inquiries into matters up to an Inquiry Officer's Inquiry. To that end, I draw your attention to current ADF policy for initiating Administrative Inquiries in references L and M.

36. However, it is my expectation that, before appointing an Inquiry Officer to conduct an inquiry into a complex or serious matter, you first consult with me as to whether it would be more appropriate that the matter be referred to me for consideration and appointment of an Inquiry Officer. If you have any doubt as to whether a Routine Inquiry or Inquiry Officer Inquiry should be conducted, I expect you to discuss the issue with me and I will provide guidance on what form of inquiry is appropriate.

37. **Work Health and Safety Reporting.** The *Work Health and Safety Act 2011* (WHS) came into effect 1 Jan 12 and has implications for training, planning and conducting joint operations. At reference M, I explained how risks are identified during the planning phase of every operation and required planners to implement control strategies for the identified risks. These risk assessments and control strategies are to be incorporated in promulgated operational orders.

38. You are responsible for developing and maintaining a WHS Plan for all BPC operations as detailed at reference O. The WHS Plan must include: plans to mitigate WHS hazards and risks; specific roles, responsibilities and accountabilities of safety personnel; and systems and resources that enable identification and control of new or emerging WHS risks. The WHS Plan must be reviewed and updated regularly. You are to ensure that all force assigned personnel receive a location specific WHS brief during their Reception, Staging, Onward Movement and Integration. Mandatory registers of identified WHS risks and hazards, together with control strategies, must be kept by each unit.

39. Reference M also includes reporting requirements for all WHS incidents, exposures and non-conformances that involve any Defence personnel posted to, assigned to or visiting the BPC MATF (ADF, Defence civilians, contractors and approved visitors). These reporting requirements were further detailed in reference O where a weekly report was mandated and a format provided.

40. There is a requirement to report all notifiable incidents under s 38 of the Act. Advice from COMCARE for reporting incidents on operations is that a weekly summary of all notifiable incidents, vice immediate reporting would suffice as an interim solution. Notifiable incidents are defined in s 35 of the Act as death, serious injury or illness and dangerous incident.

41. My TASKORD at reference O provides more guidance on what is a serious injury, illness or dangerous incident for the purposes of your reporting. You are therefore to continue reporting all deaths and serious injuries, or illness to HQJOC JCC and COMCARE. In addition, you are also required to provide a summary of all notifiable incidents within the categories mentioned in s 35 WHS Act in a weekly SITREP.

42. You should also note that, in addition to Defence reasons for preserving a notifiable incident site, s 39 of the WHS Act imposes an obligation on Defence to ensure, so far as reasonably practicable, that a notifiable incident site is preserved until an Inspector arrives at the site or any earlier time that an Inspector directs. When notifying an incident to COMCARE, you must seek their direction on site preservation and conform to those directions.

43. When WHS investigations are conducted by Defence personnel, you must ensure that such personnel are appropriately qualified for the task and that corrective actions identified are actioned by Unit Commanders. You are also responsible for ensuring appropriate governance and assurance activities are undertaken and the outcomes reported to HQJOC WHS Cell (whs.joc@defence.gov.au).

44. **Hot Issues Briefs (HIB).** HIB are informal advice to the Minister for Defence, his junior ministers, their staff and senior Defence leaders regarding (usually unforeseen) matters or incidents that have the potential to attract media interest, are about a sensitive issue, or that require the ministers and their respective staff (particularly media advisers) to be informed immediately. Due to the dual reporting responsibilities of the BPC MATF, the information contained in a HIB should also be communicated to the Minister for Immigration and Border Protection and the senior ACBPS senior leadership. When a notifiable incident or hot issue has been identified at the local level, prompt notification needs to occur through the chain of command.

45. Depending on the circumstances, initial notification by telephone should be made to the JCC Watch Commander, followed up by an emailed HIB. Responsibility for the issue of a HIB outside the operational chain of command rests within CJOPS Executive, and the MA to CJOPS is responsible for the coordination and tracking of HIB issues in consultation with DCJOPS, the J3, J06 and J09 as appropriate. It is imperative that the information provided is always treated in confidence and each issue is assessed on its merits with regard to any further action/notification.

46. The names of individuals involved in any incidents are not to be included in a HIB. It is better to prepare a HIB for consideration rather than wait for it to be requested. Advice on the template and requirements for HIB can be found on the DRN intranet, and a copy is at annex B. A HIB should preempt any Public Affairs Guidance (refer Strategic Communication).

47. **Extension of Reporting and Management Responsibility.** For as long as you have Operational Command of any FE assigned to CJOPS, a reporting requirement exists. In circumstances where the ongoing management and reporting of an event or incident extends beyond the scheduled out-chop date, the ongoing force assignment of the force element will be negotiated with the relevant Service. This may only be changed by formal proposal and agreement between JOC and the relevant Service for that Service to accept the ongoing management of the issue. This COA should be proposed by you through J3 and endorsed by DCJOPS and the relevant Service Deputy Chief.

Strategic Communication

48. The inconsistent nature of managing and subsequent public reporting of sensitive matters has caused adverse media reporting on Defence and its processes. While the ACBPS has responsibility for media engagement and strategic communications in support of the BPC MATF's civil maritime security operations, you are to ensure the execution of that responsibility protects and, where practicable, enhances Defence's reputation. Reference P provides further guidance on my expectations for the management of strategic communication.

49. **Incident Public Affairs Guidance (PAG).** Notwithstanding Customs and Border Protection's responsibility for media engagement and strategic communications – except for IMA which is the responsibility of JATF Operation SOVEREIGN BORDERS, the media may seek comment from the Minister for Defence and senior Defence officials should a critical

incident occur that involves Defence personnel or assets under your control. Incident reporting in the following circumstances are to be supported with a PAG:

- a. any incident involving the death, wounding of or injury to a force assigned ADF member;
- b. any incident onboard an ADF aircraft or vessel under your control involving the death or wounding of a member of a foreign Defence organisation, Australian OGA representative, or contracted civilian;
- c. any incident involving the death or wounding of a civilian while force assigned ADF members are present;
- d. any incident in which force assigned ADF personnel are alleged to have committed an offence;
- e. any incident requiring a QA, Inquiry Officer Report or formal investigation;
- f. any incident known, likely to have been observed by media, or likely to generate media comment/enquiry; and
- g. any incident likely to negatively impact on the reputation of the ADF.

50. The PAG is to be raised and submitted through the J3 for action by J09 within the first hour of an incident in order to provide advice on possible information that is proposed for public release. Updated serials to the PAG providing additional information are to be submitted as details are confirmed. All information in the PAG and any updates should also be provided to the Customs and Border Protection leadership. While the PAG is not authorised for public release, the draft talking points and media release contained within are the products that are proposed for possible public release and these must be cleared. A PAG template and guidance for completion is at annex C.

51. **Proactive PAG.** A PAG is also a vehicle for the dissemination of information to support proactive public information activities. A proactive PAG should be developed for any incident, event or activity, or group of the same, which if exploited in the global information environment will achieve positive shaping effects in accordance with the campaign plan. Where possible a proactive PAG should be supported by cleared imagery.

52. **Management of Critical Incidents Likely to Attract Media Attention within 24 Hours.** It should be noted that CDF will plan to provide a statement to the media in the form of a media release or media alert within six hours of a critical incident occurring. Commanders are to ensure that confirmed information is provided to HQJOC as soon as it is available through the operational reporting chain.

HQJOC Staff Situational Understanding

53. I encourage you to include as much information as possible in your regular reporting and to share information with my HQJOC staff. However, you have direct access to my senior staff, as required, in order to raise sensitive matters. In such instances, please make a brief comment in your regular reporting that a sensitive matter has been raised with HQJOC staff.

54. Your points of contact in HQJOC are:

- a. HQJOC Watch Supervisor: ph DRN email:
- b. HQJOC Watch Commander: ph DRN email:
- c. HQJOC Domestic & Regional Ops Watch-keeper: ph DRN email:
- d. HQJOC JCC Secterra Wire Line Terminal :
- e. HQJOC, J33, ph: DRN email:
- f. HQJOC, J3, : ph mobile ph
-1, DRN
- g. HQJOC, J09, ph DRN email:
- h. HQJOC, J35, : ph , DRN email
- i. HQJOC, J06, : ph , mob
DRN email:

Acknowledgement

55. You are to acknowledge receipt of this directive in writing (format at annex D).

B.A. POWER
Lieutenant General
Chief of Joint Operations

31 January 14

Annexes:

- A. Incident Reporting
- B. Hot Issues Brief – Template and Advice on Requirement
- C. Public Affairs Guidance – Template and Guidance
- D. Acknowledgment of CJOPS Directive

Enclosures:

- 1. DFDA 1982 Appointment of Superior Summary Authorities, Appointment of Superior Authorities and Appointment of Reviewing Authorities.
- 2. DFDA 1982 Appointment of Authorised Officers
- 3. CDF Order Declaring that Australian Defence Members are Acting Together – Joint Operations Command of 25 Feb 09

Distribution:
COMBPC

For Information:

CDF

VCDF

CN

CA

CAF

COMJATF OSB

DEPSEC Strategy

DEPSEC I&S

SOCAUST

COMD 1 Div

COMNORCOM / DCJTF639

HQJOC PSOs

CEO

(Australian Customs and Border Protection Service)

DCEO(BE)

(Australian Customs and Border Protection Service)

INCIDENT REPORTING**Introduction**

1. It is inevitable that an event will occur during the conduct of an operation that requires reporting up the chain of command as an 'incident'. The reality is that these incidents are multi-dimensional and can vary in importance, urgency and span of control. More importantly, there may also be a political/media/ADHQ dimension to the event and, in these circumstances, reporting could be considered 'important and urgent'. The added complication is that some seemingly benign events can quickly take on a political and media dimension so your judgement and experience is crucial to assess the likelihood of this occurrence.

2. On top of the tactical imperatives, commanders must view an incident from a political-strategic perspective when deciding on the precedence of information flow (i.e. MINDEF/CDF door-stop interview). At times, an incorrect balance has been struck between compilation of a highly accurate and complete incident report and the requirement for timely reporting. Not only must commanders be alert to a possible political/strategic perspective, it is important that this philosophy and balance also be uppermost in all staff members who process and act as the conduit for incident reports.

Execution

3. To this end, the following refinements should be made to the incident reporting procedures already detailed in the references relevant to your tasking and potential future operations:

- a. Make an immediate determination as to whether an incident has urgent rather than normal precedence.
- b. **Urgent (Verbal) Reporting.** An urgent report is to be used for those incidents with a political/media/ADHQ dimension. The incident must be reported immediately by the most expedient means possible (normally verbal) direct to the JCC Watch Commander (or me if necessary). Urgent incidents might include, but are not be limited to, casualties, significant engagements, loss or significant damage to a platform, etc. Commander's Critical Information Requirements are detailed at sub-para 3.e. You should not delay reporting whilst waiting for additional information or staff processing. Report the facts as they are presented and update on an iterative basis. If the facts are not clear, then the appropriate caveats should be detailed. A written incident report which re-states the verbal information is then to be passed to the JCC, followed by appropriate updates until the complete report is constructed.
- c. **Normal Reporting.** Normal reporting is to be used for those incident reports without a political/media/ADHQ dimension and should be advised by a written incident report as soon as possible to the JCC. Appropriate updates should be dispatched until the complete report is constructed.

- d. **Written Incident Reports.** All incident reports are to appear on the JOC Common Operating Picture (COP). The incident report format is at appendix 1. The address 'HQJOC WASP' is to be included as an addressee, and all fields of the incident report are to be completed unless marked optional.
- e. **Commander's Critical Information Requirements.** Guidance on my critical information requirements when making verbal reports for urgent incidents are as follows:
 - (1) **Who:** Who was/is involved in the incident and who reported it?
 - (2) **What:** What occurred, including any additional information such as any personnel killed or injured, ongoing or planned MEDEVAC, damage to significant equipment, detainees or ROE issues?
 - (3) **When:** When did the incident take place, is it still ongoing?
 - (4) **Where:** What is the location of the incident?
 - (5) **Why:** What caused the incident (e.g. aircraft unserviceability forced aircraft to divert to airfield XXXX)?
 - (6) **What:** What action has been taken or is required to be taken, i.e. what the commander has done, what is higher authority doing?
 - (7) Who else has been told or needs to be told, including NOTICAS?
 - (8) Any evacuation of personnel required?
 - (9) Any reinforcement requests?
 - (10) Any collateral damage – personnel, facilities, equipment etc?
 - (11) Any known media involvement (as distinct from potential media interest)?

Conclusion

4. There is no doubt that urgent incident reporting increases the risk of inaccurate information being passed up the chain of command. However, commanders and their staff must ensure that this risk is mitigated to the greatest extent possible (e.g. use of caveats) and that the correct balance of timeliness and completeness is struck. In this way, the ADF's decision cycle is tighter than that of external agencies while accurate enough to support the needs of our senior leadership. This formal reporting is not intended to preclude command-to-command 'heads up' calls by secure telephone or secure email.

Appendix:

- 1. Incident report format
- [REDACTED]
-

OP RESOLUTE INCIDENT REPORT FORMAT

ACTION:

IAW Schedule

INFO:

IAW Schedule

SUBJ: HQJTF 639 INCIDENT REPORT XXX/13 (Incident Title)

1. BRIEF DESCRIPTION OF INCIDENT:

A. UNIT/PERSONNEL INVOLVED.

B. DTG OF INCIDENT.

C. LOCATION OF INCIDENT.

D. NATURE OF INCIDENT (CONTACT WITH EN, FRATRICIDE, NON-BATTLE CAS, INCIDENT THAT MAY ATTRACT MEDIA ATTENTION)

E. ACTION BEING TAKEN BY UNIT INVOLVED.

2. DETAILS OF AUS PERS:

A. KILLED IN ACTION.

B. WOUNDED IN ACTION.

C. MIA / AWOL.

D. CASEVAC DETAILS.

3. DETAILS OF EF PERS INVOLVED.

4. STATUS OF AUS PLATFORM OR EQUIP INVOLVED (EG MFU, VEH, ACFT, WPN SYSTEMS).

5. FUTURE ACTION TO BE CONDUCTED.

7. MEDIA INTEREST.

8. COMMANDERS ASSESSMENT / COMMENTS.

9. POC XXX.

10. ACK. ACTION ADDRESSEES TO ACK BY SIG



HOT ISSUE BRIEF TEMPLATE

INCIDENT OR ISSUE TITLE

NATURE OF THE INCIDENT OR ISSUE:

For example,

- It is alleged that an ADF member assaulted another ADF colleague

THE DATE AND TIME OF THE INCIDENT OR ISSUE:

For example:

- The incident occurred on the evening of XX XXX 201X at Victoria Barracks, Melbourne.

ACTIONS CURRENTLY UNDERWAY:

For example,

- The Australian Defence Force Investigative Service has commenced investigations.
- The matter has been referred to the state/local Police.
- Command has undertaken the following actions:

RELEVANT BACKGROUND INFORMATION:

Any relevant background information that would assist Ministers and Senior Defence leaders understand the incident or issue, or the management of it.

Contact Officer:		W:	M:
Authorised by:		W:	M:
AS SIM Clearance		W:	M:
Group or Service		W:	M:
Final Clearance			

Date Issued: XX XXXX 201X

PUBLIC AFFAIRS GUIDANCE – TEMPLATE AND GUIDANCE

201XXXXX-HQJTF639 – OP RESOLUTE - PAG 0000 -

DTG	
Location	
Units Involved	
POC Name	
POC Phone Number	
Reference	(Incident report number)
(SECRET/RESTRICTED/UNCLASS) SITUATION (Not for public release)	
(RESTRICTED) <u>External perceptions of this issue</u> • (detail that may cause undue media attention)	
(UNCLAS) <u>Key Messages</u> • Key message 1 (the messages a key spokesperson must give, to tell the story about the activity or incident) • Key message 2 • Key message 3	
<u>Talking Points</u> • Talking points in give a chronological order to detail the incident or activity. • Xxx • Xxx • Xxx • Xxx • Xxx • xxx	
(UNCLAS) <u>Questions and Answers</u> Question? Answer (any details not covered by the talking points, that we may be asked by the media). Question?	

Answer.

(UNCLASSIFIED)

Story / Media release

TITLE

Intro sentence – who, what, where, when, how, why

An extra intro sentence.

Indirect quote from a spokesman.

“Direct quote from the spokesman,” RANK Spokesman said.

“Another direct quote.”

More information.

More information

Indirect quote.

“Direct quote from the spokesman,” RANK Spokesman said.

“Direct quote from the spokesman.”

More information as required.

Product components:

Stills: any imagery associated with the activity or incident:

- ie 20121104adf8273058_001.jpg

Release Strategy:

Media release and story to distributed for use by (ie):

- Defence web pages: Defence and Navy websites
- National release: Defence Media Release
- Service newspapers: Navy News
- Facebook: Navy and JTF639

Release instructions:

- Proactive, HQJOC MPA please provide copy of PAG to DDM for imagery distribution

Release priority date: <ul style="list-style-type: none"> • ASAP

Drafted	Name	Appointment	Date and Time
Drafted/updated by:			
Tactical/Operational Clearance			
OPSEC (<i>at source</i>):			
Fact (<i>subject-matter expert</i>)			
HQ JOC			
Strategic Clearance			
Policy (SP/IP etc)			
MSC Branch			
DGStratCom(or delegate)			
O/CDF			
ASCAM (or delegate)			
Minister			
Ministerial Action: (To be completed by ASCAM)			
Forward to/Cleared by			


D-1

**ANNEX D TO
CJOPS DIRECTIVE 02/14
DATED JAN 14**

ACKNOWLEDGMENT OF CJOPS DIRECTIVE

I acknowledgment receipt of this CJOPS Directive 2/14, dated January 2014 I understand and will comply with the instructions detailed within.

M.J. NOONAN, AM
Rear Admiral, RAN
Commander Border Protection Command

Jan 14



ENCLOSURE 1 TO
CJOPS DIRECTIVE 02/14
DATED JAN 14

Defence Force Discipline Act 1982

APPOINTMENT OF SUPERIOR SUMMARY AUTHORITIES

Pursuant to section 105(1) of the *Defence Force Discipline Act 1982* (the Act), I Air Chief Marshal Allan Grant Houston, AC, AFC, Chief of the Defence Force, hereby revoke all previous appointments of Superior Summary Authorities made by the Chief of the Defence Force at any time and appoint the person performing the duties of the positions specified in the Schedule to be Superior Summary Authorities and to exercise the powers and functions that are conferred upon Superior Summary Authorities under the Act and the Regulations under the Act.

Dated this 22nd day of September 2009

A.G. HOUSTON, AC AFC
Air Chief Marshal
Chief of the Defence Force

Defence Force Discipline Act 1982

APPOINTMENT OF SUPERIOR AUTHORITIES

Pursuant to section 5A of the *Defence Force Discipline Act 1982* (the Act), I, Air Chief Marshal Allan Grant Houston, AC, AFC, Chief of the Defence Force, hereby revoke all previous appointments of Superior Authorities made by the Chief of the Defence Force at any time and appoint the person performing the duties of the positions specified in the Schedule to be Superior Authorities and to exercise the powers and functions that are conferred upon Superior Authorities under the Act and the Regulations under the Act.

Dated this 22nd day of September 2000

A.G. HOUSTON, AC, AFC
Air Chief Marshal
Chief of the Defence Force

SCHEDULE

Vice Chief of the Defence Force
Chief of Joint Operations
Chief of Staff/Deputy Chief of Joint Operations
Commander Joint Logistics Command
Commander Border Protection Command
Commander Joint Education Training and Warfare
Head Military Strategic Commitments
Commander of a Combined Task Force of or above the rank of Brigadier (equivalent)
Commander of an Australian Contingent or a Joint Task Force of or above the rank of Brigadier (equivalent)

Officers, not below the rank of Colonel (equivalent), holding or performing the duties of the following appointments or offices:

Commandant/Commander of a Defence Force College, Academy or Training Centre
Commandant Australian Defence Force Warfare Centre
Commander Northern Command
Commander Defence National Storage and Distribution Centre
Commander Joint Logistics Unit (Victoria)
Commander of a Combined Task Force
Commander of an Australian Contingent or a Joint Task Force
First Assistant Secretary Regional Engagements
Chief of Staff to the Chief of the Defence Force
Chief of Staff to the Vice Chief of the Defence Force
Deputy/Assistant Commander of a Combined Task Force
Deputy/Assistant Commander of an Australian Contingent or a Joint Task Force
Chief of Staff of an Australian Contingent or a Joint Task Force
Chief of Staff/Deputy Commander Northern Command
An officer holding an appointment as a Director General, Headquarters Joint Operations Command
An officer holding an appointment as a Director General, Joint Logistics Command
Director General Material Systems Branch

Defence Force Discipline Act 1982

APPOINTMENT OF REVIEWING AUTHORITIES

Pursuant to section 150 of the *Defence Force Discipline Act 1982* (the Act), I Air Chief Marshal Allan Grant Houston, AC, AFC, Chief of the Defence Force, hereby revoke all previous appointments of Reviewing Authorities made by the Chief of the Defence Force at any time and appoint the person performing the duties of the positions specified in the Schedule to be Reviewing Authorities and to exercise the powers and functions that are conferred upon Reviewing Authorities under the Act and the Regulations under the Act.

Dated this 22nd day of September 2009

A.G. HOUSTON, AC, AFC
Air Chief Marshal
Chief of the Defence Force

SCHEDULE

Reviewing Authorities for Proceedings before all Service Tribunals

Vice Chief of the Defence Force
Chief of Joint Operations
Chief of Staff/Deputy Chief of Joint Operations
Commander Joint Logistics Command
Commander Border Protection Command
Commander Joint Education Training and Warfare
Head Military Strategic Commitments
Commander of a Combined Task Force of or above the rank of Brigadier (equivalent)
Commander of an Australian Contingent or a Joint Task Force of or above the rank of Brigadier (equivalent)

Reviewing Authorities for Proceedings before all Service Tribunals other than General Courts Martial

Chief of Navy
Chief of Army
Chief of Air Force

Officers, not below the rank of Colonel (equivalent), holding or performing the duties of the following appointments or offices:

Commandant/Commander of a Defence Force College, Academy or Training Centre
Commandant Australian Defence Force Warfare Centre
Commander Northern Command
Commander Defence National Storage and Distribution Centre
Commander Joint Logistics Unit (Victoria)
Commander of a Combined Task Force
Commander of an Australian Contingent or a Joint Task Force
First Assistant Secretary Regional Engagements
Chief of Staff to the Chief of the Defence Force
Chief of Staff to the Vice Chief of the Defence Force
Deputy/Assistant Commander of a Combined Task Force
Deputy/Assistant Commander of an Australian Contingent or a Joint Task Force
Chief of Staff of an Australian Contingent or a Joint Task Force
Chief of Staff/Deputy Commander Northern Command
An officer holding an appointment as a Director General, Headquarters Joint Operations Command
An officer holding an appointment as a Director General, Joint Logistics Command
Director General Material Systems Branch

Reviewing Authorities for Proceedings before Commanding Officers and Subordinate Summary Authorities

Commandant Australian Command and Staff College
Director General Military Strategic Commitments
Deputy Commandant Australian Defence Force Academy
Commander 1st Joint Movements Group
Defence Adviser Malaysia

Reviewing Authorities for Proceedings before Subordinate Summary Authorities

An officer appointed as a Commanding Officer as described in subsection 3(11) of the Act

**ENCLOSURE 2 TO
CJOPS DIRECTIVE 02/14
DATED JAN 14**

Defence Force Discipline Act 1982

APPOINTMENT OF AUTHORIZED OFFICERS

Pursuant to sub-section 3(1) of the *Defence Force Discipline Act 1982* (the Act), I Air Chief Marshal Allan Grant Houston, AC, AFC, Chief of the Defence Force, hereby revoke all previous appointments of authorized officers made by the Chief of the Defence Force at any time and appoint the person performing the duties of the positions specified in the second column of the Table described in the Schedule to this Instrument of Appointment to be authorized officers for the purposes of the provision of the Act or of the *Defence Force Discipline Regulations 1985* specified in the first column of the Table described in the Schedule to this Instrument of Appointment.

Dated this 13th day of October 2009

A.G. HOUSTON, AC, AFC
Air Chief Marshal
Chief of the Defence Force

SCHEDULE

Provision	Appointment or Class of Officers
Defence Force Discipline Act 1982 s.3(1) ('defence civilian')	Vice Chief of the Defence Force Chief of Joint Operations Chief of Staff/Deputy Chief of Joint Operations Commander Joint Logistics Command Commander Border Protection Command Commander Northern Command Commander Joint Education Training and Warfare Head Military Strategic Commitments An officer holding an appointment as a Director General, Headquarters Joint Operations Command An officer holding an appointment as a Director General, Joint Logistics Command
ss.5(1) & (3) (Appointment of commanding officers for disciplinary purposes and restriction on powers of commanding officers)	Head of an Australian Defence Staff Defence Attaché or Adviser An Officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.86A(1) (Administration of oaths and affirmations and persons before whom affidavits may be sworn, for the purposes of Part V of the Act)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.88 (Arrest, summons etc., where accused person not present at hearing before Service tribunal)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.90 (Arrest under warrant)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.94 (Delivery of arrested person to civil detention)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority

Provision	Appointment or Class of Officers
s.95(8) & (9) (Report of delay in dealing with a charge)	Vice Chief of the Defence Force Chief of Joint Operations Chief of Staff/Deputy Chief of Joint Operations Commander Joint Logistics Command Commander Border Protection Command Commander Northern Command Commander Joint Education Training and Warfare Head Military Strategic Commitments An officer holding an appointment as a Director General, Headquarters Joint Operations Command An officer holding an appointment as a Director General, Joint Logistics Command
s.98(1) & (2) (Suspension from duty on suspicion of offence) AND s.99(2) (Suspension from duty pending decision as to termination of service)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.101AA (Administration of oaths and affirmations and persons before whom affidavits may be sworn, for the purposes of Part VI of the Act)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.101L(3), (4) & (5) (Taking of fingerprints, photographs, etc)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.101Q (Medical examinations) AND s.101X (Search warrants) AND s.101Y (Search warrants by telephone)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority

Provision	Appointment or Class of Officers
s.113 (Powers of officers in command of detachment; declaration of detachment)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.170 (Warrants of commitment)	<p>An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority</p> <p>An officer holding an appointment as a Defence Force Magistrate, judge advocate or President of a court martial.</p>
<p>s.175 (Evidence of fine)</p> <p>AND</p> <p>s.178B(3) (Copies of fingerprints, photographs etc, or detainees)</p>	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
s.191 (Evidentiary certificate)	An officer holding an appointment from the Chief of the Defence Force as a Superior Authority, Reviewing Authority or Superior Summary Authority
<p><i>Defence Force Discipline Regulations 1985</i></p> <p>Reg. 5 (Declaration of kind of detention centre)</p> <p>AND</p> <p>Reg. 13 (Appointment of visiting officer)</p> <p>AND</p> <p>Reg. 21(3) (Authorized officer for receiving letters)</p>	<p>Vice Chief of the Defence Force</p> <p>Chief of Joint Operations</p> <p>Chief of Staff/Deputy Chief of Joint Operations</p> <p>Commander Joint Logistics Command</p> <p>Commander Border Protection Command</p> <p>Commander Northern Command</p> <p>Commander Joint Education Training and Warfare</p> <p>Head Military Strategic Commitments</p> <p>Commander of an Australian Contingent or Joint Task Force of or above the rank of Colonel (equivalent)</p> <p>An officer holding an appointment as a Director General, Headquarters Joint Operations Command</p> <p>An officer holding an appointment as Director General, Joint Logistics Command</p>

ENCLOSURE 3 TO
CJOPS DIRECTIVE 02/14
DATED JAN 14



**ORDER DECLARING THAT AUSTRALIAN DEFENCE FORCE
MEMBERS ARE ACTING TOGETHER**

JOINT OPERATIONS COMMAND

I, Air Chief Marshal A.G. Houston, AC, AFC, Chief of the Defence Force, under section 9 of the *Defence Act 1903*, and Regulation 4 of the *Defence Force Regulations 1952*, revoke the following Defence Force Regulation 4 Orders for Joint Operations Command made by the Chief of the Defence Force:

- a. Australian National Headquarters – Middle East Area of Operations dated 4 December 2002;
- b. Middle East Operations dated 14 March 2003;
- c. Joint Operations Command dated 4 July 2006, and
- d. Joint Operations Command (Transitional) dated 29 January 2007;

and declare that when a member or part of the Navy, a member or part of the Army and a member or part of the Air Force are posted to, or attached for duty to, or assigned to the Headquarters, a Component, Direct Command Unit or an Assigned Force of Joint Operations Command, or are placed under the Theatre Command of the Chief of Joint Operations either permanently or temporarily for service with an Operation listed in the attached Schedule, those members or parts are acting together and shall be entitled to exercise command in accordance with Part II of the *Defence Force Regulations 1952*.

Dated this 25th day of February 2009.

A.G. HOUSTON, AC, AFC
Air Chief Marshal
Chief of the Defence Force

SCHEDULE OF OPERATIONS

Operation Anode (Solomon Islands)

Operation Astute (East Timor)

Operation Azure (Sudan)

Operation Catalyst (MEAO - Iraq)

Operation Gateway (Maritime Surveillance of the North Indian Ocean and the South China Sea)

Operation Hedgerow (Darfur)

Operation Mazurka (Sinai Peninsula)

Operation Outreach (Northern Territory)

Operation Paladin (Middle East)

Operation Palate II (Afghanistan)

Operation Resolute (Australia's Offshore Maritime Areas)

Operation Slipper (Afghanistan)

Operation Tower (Timor-Leste)

Operation Valiant (Iraq)

SSCLCA Public Interest Immunity Hearing – 31 January 2014

Question on Notice No. 3 – Operation Sovereign Borders (OSB) Advice

Senator Ludwig provided in writing:

- (1) Have you provided advice to government or OSB concerning the application of OSB?
 - (a) When was this advice provided?
 - (b) In what form did it take?
 - (c) Have you provided advice to government or OSB concerning tow backs?
 - (d) When was this advice provided?
 - (e) In what form did it take
- (2) Why did Defence provide an answer to the senate estimates committee (question 16) that “Defence has not provided any specific policy advice or Cabinet level briefings to the Government on turn back operations or Operation Sovereign Borders. Defence has provided oral updates on Operation Sovereign Borders to the National Security Committee (NSC) of Cabinet meetings held on 15 October and 25 October 2013. Defence has contributed to and commented on advice provided to the Government by other agencies and has provided advice on ancillary matters related to turn back operations and Operation Sovereign Borders, but not specifically on the conduct of turn backs”.
- (3) When did you provide policy advice regarding ‘tow-backs’ for SIEVs?
 - (a) Did the advice received warn of potential international law of the sea, international human rights, and refugee convention breaches, specifically of non-refoulement, that the implementation of this policy would expose Australia to?
 - (b) Did the Defence Force provide advice on this policy direction?
 - (c) If so, what were the details of that advice?
 - (d) Did the advice include safety concerns for navy personnel, SIEV crew and passengers?
 - (e) If no advice was given regarding tow backs, why was it not sought?
- (4) Entry into Indonesian waters – timeline, process, identification, who spoke to who etc.
 - (a) When did these incidents occur and how many were there?
 - (b) How did they occur?
 - (c) How do Australian naval assets gauge their position in the water? Did this mechanism fail? How did it fail? Why did it fail?

- (d) Were Australian naval personnel aware that they were in Indonesian territorial waters?
 - (e) Were Australian Naval assets under engine power when they 'inadvertently' entered Indonesian waters? Or did they drift across the line?
 - (f) Were Australian Naval assets conducting 'tow-backs' at the time they inadvertently entered Indonesian waters?
 - (g) How many times did Australian naval assets cross into Indonesian waters?
- (5) Will the joint review by the CDF and CEO of Customs be released to the public?
 - (6) What was the rationale behind amending the workplace arrangements for navy personnel conduct in on water operations? Why is this necessary?
 - (7) Are there additional conduct guidelines for navy personnel that assist with how to approach and handle people with possible PTSD and/or other trauma related injuries?
 - (8) What are the daily costs involved with the deployment of ADF resources for OSB?
 - (9) Specifically, what is the cost of having two Major Fleet Units in the area on standby for OSB?
 - (10) In light of recent allegations from Asylum Seekers reportedly towed back to Indonesia on the 6th January 2014, how are you ensuring that Navy Personnel are conducting their operations with professionalism and concern for the safety of all persons involved including navy personnel?
 - (11) Lifeboats – use, quantum and cost
 - (a) Are they included in Australia's military expenditure?
 - (12) In response to a question taken on notice (no 16) in the previous Supplementary Budget Estimates, Defence provided a response to a question posed by Senator Ludwig regarding the advice given by the Defence regarding tow-backs - the last paragraph of the response was as follows: Defence has contributed to and commented on advice provided to the Government by other agencies and has provided advice on ancillary matters related to turn back operations and Operation Sovereign Borders, but not specifically on the conduct of turn backs.
 - (a) Can you please outline the contribution and comments on advice that is referred to here please?
 - (b) Can you please outline the advice that was provided by Defence on "ancillary matters related to turn back operations" that are referred to above?

Response:

(1), (a), (b), (c), (d), and (e)

The Department of Defence has provided advice to the Minister for Defence on some aspects of the application of Operation Sovereign Borders.

Advice was provided in the form of written Ministerial advice on the following dates:

19 September 2013

3 October 2013

31 October 2013

14 November 2013

12 December 2013

13 December 2013

19 December 2013.

(2) Defence provided this response because it was an accurate answer to the question asked of Defence.

(3), (a), (b), (c), and (d). See response provided to Defence Senate Estimates Supplementary Question on Notice No. 16 from 20 November 2013 – Policy advice regarding turnbacks.

(3e). Defence cannot answer why advice was not sought from the Department by other agencies. This is a question for the other agencies.

(4), (a), (b), (c), (d), (e), (f), and (g). This question relates to OSB and should be referred to the Joint Agency Task Force (JATF). Defence does not comment on specific Tactics Techniques or Procedures (TTPs) used by Crews within Operations as it may compromise the safety of ADF personnel.

(5). CEO Australian Customs and Border Protection Service (ACBPS) and the Chief of the Defence Force (CDF) are considering the review report, including whether it is suitable to be released publicly.

(6). The Chief of the Defence Force has acted in accordance with his authority under the Work, Health, and Safety (WHS) Act 2011 to issue a declaration of exemption relating to personnel involved in OSB.

In giving effect to Government policy under Operation Sovereign Borders, ADF personnel will be required to operate in a hazardous, uncertain and high-tempo operational environment. This involves having to board vessels and control potentially uncooperative persons. In such circumstances, despite best efforts, it may not always be possible for personnel to fully comply with their individual obligations under the Work Health and Safety Act.

The safety of life at sea is, and will remain, a paramount consideration in the conduct of all ADF operations including those conducted as part of OSB.

The declaration removes the duties for which individuals who are implementing Government policy can be held personally responsible under the WHS Act. This

means they are not subject to criminal and civil penalties for certain breaches of the Act. It does not remove the institutional duty of the Department of Defence or the duties owed by senior Officers of the Department to workers and other persons nor does it remove the obligation of ADF personnel to comply with Defence safety procedures, policies or instructions.

(7). In relation to guidelines for Navy personnel that may be required to assist with Potential Illegal Immigrants (PII) which may have PTSD and/or other trauma related injuries:

- (a) This question relates to OSB and should be referred to the Joint Agency Task Force (JATF). Defence does not comment on specific Tactics Techniques or Procedures (TTPs) used by Crews within operations.

In relation to the potential for PTSD amongst Defence Force personnel within Operation RESOLUTE:

- (a) We recognise that exposure to trauma through deployment increases the risk of mental disorder. However, evidence shows that Defence members, particularly in the younger age groups, may experience mental health problems and exposure to trauma prior to their service, during service and whether or not they have been deployed.
- (b) A mental health support program commenced in 2011 in response to unique stressors associated with Operation Resolute.
- (c) The program comprises a pre-deployment resilience brief, an annual mental health and wellbeing screen and screening interview by a psychologist, specific tailored screening and support in the event of combat or trauma exposure, and referral for further detailed clinical assessment and treatment as required.

(8). The estimated average net additional daily costs involved with the deployment of ADF resources for OSB is \$0.110m.

(9). The estimated average net additional daily cost of operating Major Fleet Units for Operation Sovereign Borders is approximately \$0.014m.

(10). Defence has multiple layers of policy, orders, and instructions to guide the conduct and behaviour of personnel. Defence investigates credible allegations of misconduct or unprofessional behaviour.

(11). Any funding of Lifeboats is not included in Australia's military expenditure.

(12) (a). Defence has contributed to and commented on advice and submissions, such as Cabinet Submissions, prepared by other Departments and Agencies. Defence also developed and provided advice on the JATF organisational structure.

12 (b). See response to Question 1.

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Question On Notice No. Q4 - Further Operation Sovereign Borders (OSB) advice

Senator Ludwig provided in writing:

- (13) How many on water incidents have occurred since the start of OSB in September 2013?
 - (a) Does this number include non-SIEVs? If yes, how many are non-SIEVs?
 - (b) Why is the information about on water incidents restricted to only publically accessible information?
 - (c) Who makes this decision?
- (14) Are there guidelines in place for Australian naval personnel to follow during on water operations? What do these guidelines entail?
- (15) What do 'on water operations' entail?
- (16) How is the Government instructing the navy to deal with people smugglers and traffickers? What policies or guidelines are in place for the effective arrest and prosecution of people smugglers?
- (17) What are the Government's policies regarding on water operations?
- (18) Are SIEVs intercepted inside or outside of Australia's EEZ?
- (19) What are the guidelines and policies that deal with sinking boats? What guidelines or policies are given regarding boarding a foreign vessel in international waters?
- (20) Are there additional conduct guidelines for navy personnel that assist with how to approach and handle people with possible PTSD and/or other trauma related injuries?
- (21) Are there specific conduct guidelines for Navy personnel regarding engaging with minors?
- (22) Are there specific conduct guidelines for Navy personnel regarding engaging with people with disabilities?
- (23) Are there specific conduct guidelines for Navy personnel regarding engaging with people from different cultures?
- (24) What are the policies surrounding how Australia is working with Indonesia to curb people smuggling and trafficking operations?
- (25) Are there any guidelines or policy directions provided to Navy personnel regarding the conduct of tow-backs? If so, what do these guidelines and/or policy directions entail? What are these guidelines and/or policy directions based on? How are navy personnel, SIEV crew members and passengers safety at sea ensured?
- (26) What Customs and Boarder (sic) Protection Department assets are used?
- (27) What are the costs involved with deploying these assets for OSB?
- (28) Have any of these lifeboats been used for on water incidents?
- (29) Have these lifeboats been used to transport IMAs back to Indonesia?
- (30) If so, when did this occur? How many people were transferred to the lifeboat?
- (31) What is the policy regarding the use of these lifeboats?
- (32) When are they deployed and in what circumstances?

- (33) What are the arrangements surrounding the ordering/purchasing of these lifeboats?
- (34) What How (sic) many lifeboats have been purchased?
- (35) How much does each lifeboat cost?
- (36) Under which budgetary heading do the cost of these lifeboats fall under?
- (37) What happens to the lifeboat after it is used to transport the crew and passengers back to Indonesia?
- (38) Are they returned to Australia?
- (39) If so, how are they returned to Australia? Who assists in this endeavour?
- (40) How much does this cost?
- (41) If not, who then 'owns' the lifeboats once they reach Indonesian shores?
- (42) Are they Australian flagged vessels?
- (43) If so, what is the legal justification for the lifeboats to enter Indonesian waters considering that vessels carrying Asylum Seekers are not considered as innocent passage?

Response:

(13), (a), (b), and (c). This question relates to OSB and should be referred to the Joint Agency Task Force (JATF).

(14). Defence has multiple layers of policy, orders, and instructions to guide the conduct and behaviour of personnel.

(15-43) This question relates to OSB and should be referred to the Joint Agency Task Force (JATF). Defence does not comment on specific Tactics Techniques or Procedures (TTPs) used by Crews for operational reasons.

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Question On Notice No. 5 – Breakdown of costings of Op Resolute

Senator Joe Ludwig asked on 3 February 2014:

At Page 126 of the 2013 MYEFO document it states that this year “The Government will provide \$31.6 million to expand Operation Resolute to include activities related to Operation Sovereign Borders. This funding will be used to cover costs associated with an additional major fleet unit, resulting in the permanent assignment of two major fleet units to Operation Resolute, as well as increased personnel and associated support elements, including the use of reservists. Operation Resolute is the Australian Defence Force’s contribution to the whole-of-government effort to protect Australia’s borders and offshore maritime interests”. Can you provide a breakdown of the \$31.6 million expansion to Operation Resolute?

Response:

(1) The breakdown of the budget for Operation Sovereign Borders by component is shown in the table below.

Breakdown of Budget – Operation Sovereign Borders

Component	2013-14 Budget Estimate \$m
Personnel Costs	9.779
Logistic Support	15.850
Sustainment	5.921
Total Operation Sovereign Borders	31.550