

The Organisation and Culture

Introduction

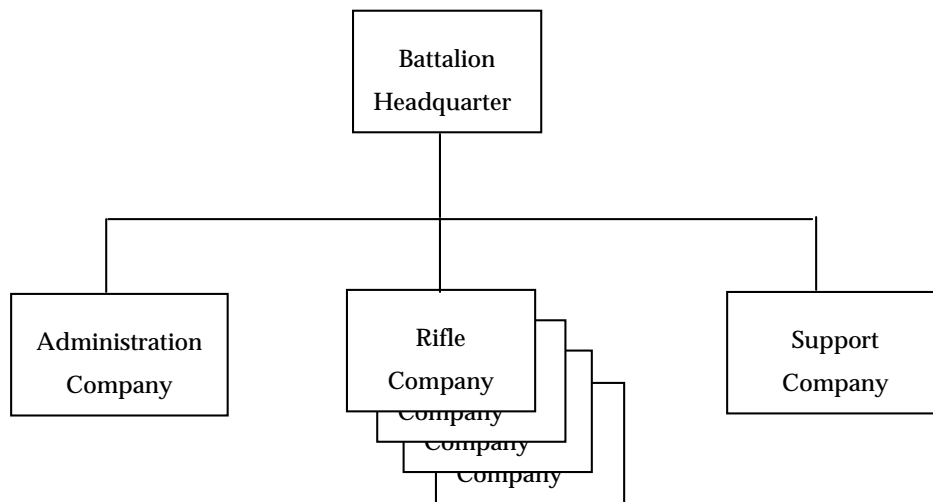
- 2.1 This chapter discusses how army units are organised and how military justice and equity policy is implemented within them. The model used in this discussion will be a generic infantry battalion. 3 RAR differs in minor aspects of its organisation to the model discussed here. However, these differences are not significant, and do not alter how the systems of equity and justice are intended to work.
- 2.2 This chapter is designed to facilitate understanding of discussion within subsequent chapters, which assume some knowledge of the relationship between ranks and appointments within an army unit. It also assumes some familiarity with the military justice and equity system.
- 2.3 The issues covered below include:
- The organisation
 - ⇒ The army battalion
 - ⇒ The chain of command and rank structure
 - ⇒ Key appointments and responsibilities
 - ⇒ The culture
 - The military justice system
 - The equity system

The Organisation

The Army Battalion

2.4 Army battalions are normally referred to as units and can range in size from 300 to 700 personnel. They consist of anywhere from two to six companies. Companies are referred to as sub-units and consist of, on average, 100 to 120 personnel. Figure 2.1 provides a schematic for a generic infantry battalion.¹

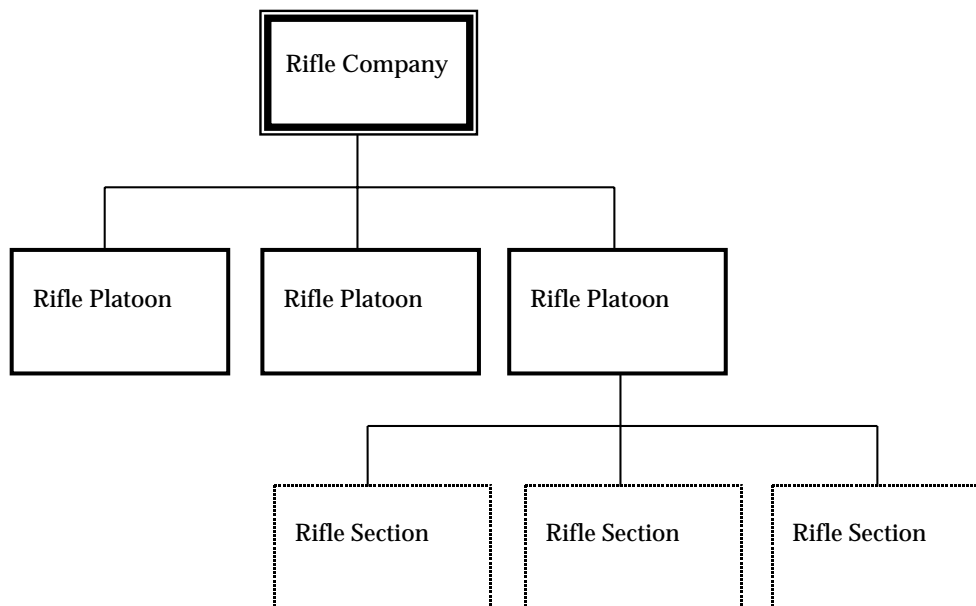
Figure 2.1 The Organisation of the Infantry Battalion



2.5 The rifle company is the element of the battalion which is involved in close quarter physical battle. A company consists of three platoons and a company headquarters. Each platoon consists of approximately 30 soldiers. Each platoon is, in turn, broken into three sections of nine soldiers and a platoon headquarters. This is illustrated in Figure 2.2.

2.6 The company organisation was the focus for most of the alleged incidents within 3 RAR. The soldiers alleging brutality were serving within rifle sections under a junior non-commissioned officer or, in one case, he was a junior non-commissioned officer serving as a platoon commander.

1 Manual of Land Warfare, 2-1-1, The Infantry Battalion, 1984.

Figure 2.2 The Organisation of the Rifle Company

The Chain of Command and Rank Structure

- 2.7 Any rank above private, but below Lieutenant, is referred to as a non-commissioned rank. Corporals and Lance Corporals are referred to as Junior Non-Commissioned Officers (JNCO). Sergeants, and Warrant Officers, are referred to as Senior Non-Commissioned Officers (SNCO). All non-officer ranks are sometimes referred to as 'Other Ranks' or OR's.
- 2.8 Within an army unit, personnel are directed in their activities through a defined hierarchical structure. This structure operates organisationally, with platoon headquarters answering to company headquarters and company headquarters answering to battalion headquarters. For military operations, such as an assault on a hill, the command chain operates very formally from the Commanding Officer to the Officer Commanding, to a Platoon Commander, and then down to Section Commanders. SNCO's provide support and advice to this process, and enable it to be executed. However, issues such as resupply of food, day-to-day maintenance and routine matters of military discipline are primarily controlled and operated by SNCO. The executive (Officer) and administrative (SNCO) chains of command are illustrated on Figure 2.3.
- 2.9 In barracks the greatest impact on the day-to-day life of a soldier is the administrative command chain controlled by SNCO. Up to the point that a charge is laid on a soldier, it is the administrative chain of command and

the soldier's superior SNCO that will be most involved. The example shown in Figure 2.3 is a generic structure and will vary between corps.

Figure 2.3 The Battalion Command Chain

| Organisation | Rank/Appointment | | | | |
|------------------------|--------------------|-------------------------|---------------------------|---------------------------|-----|
| | (a) | (b) | © | (d) | (e) |
| | Commissioned Ranks | | Other Ranks | | |
| | Rank | Appointment | Rank | Appointment | |
| Battalion Headquarters | Lieutenant Colonel | Commanding Officer (CO) | Warrant Officer Class One | Regimental Sergeant Major | |
| | Major | Second-in-Command | | | |
| Company Headquarters | Major | Officer Commanding (OC) | Warrant Officer Class Two | Company Sergeant Major | |
| | Captain | Second-in-Command | | | |
| Platoon Headquarters | Lieutenant | Platoon Commander | Sergeant | Platoon Sergeant | |
| Section 'Headquarters' | | | Corporal | Section Commander | |
| | | | Lance Corporal | Second-in-Command | |
| Section Members | | | Private | Rifleman/Scout | |

Note: The executive (↑) and the administrative (⤴) command chains.

Key Appointments and Responsibilities

2.10 A number of key appointments are pertinent to the alleged incidents within 3 RAR as their positions have responsibilities which are vital to the successful administration of military justice and equity. The appointments with vital responsibilities include:

- The Commanding Officer (CO)
- The Regimental Sergeant Major (RSM)
- The Adjutant

- The Company Commander (OC)
- The Company Sergeant Major (CSM).

The Commanding Officer

2.11 The CO is ultimately responsible for the operation of the battalion, and all authority within it is derived from him. By virtue of his appointment, he is designated as a summary authority for the hearing of military charges under the Defence Force Discipline Act (DFDA). He exercises his command authority through:

... direct contact and a close relationship with his subordinate commanders. [ie: the company commanders]²

As will be discussed later, the whole process of military law rests on the integrity and competence of the commanding officer. Battalions 'take their mood' from their CO. What he says, and does not say, is carefully noted.

The Regimental Sergeant Major

2.12 The RSM is the senior soldier within the battalion. His responsibilities in barracks, amongst other things, include:

- Advising the CO on all matters affecting soldiers, including military discipline.
- Traditionally, controlling the regimental police.

The RSM carries out many of his duties through the CSMs. This may include development of the in-barracks guard roster, preparation for parades and ceremonial occasions and processing of charges to go before the CO.

2.13 The RSM has little formal authority but great influence and respect. As noted by one witness to the committee:

... basically the stigma (sic) attached to the RSM is that he is god. He has the right to pull up anyone short of the CO. Officers ... still pay him respect and they still tread lightly around him ... In most circumstances, when a soldier is in a position where he has either been found guilty or he has been accused of, or there is suspicion, in any way shape or form of any of these kinds of incidents [an offence] he is directed eventually up the chain to the RSM.³

2 *ibid*, pp. 1-4.

3 In camera transcript, 6 October 2000.

The RSM's is the senior soldier in the unit, and his authority stems in large part from his lengthy experience and his position as a close adviser to the CO on all matters relating to soldiers. Charges being brought before the CO are processed by the RSM, with the RSM being the unit expert on the DFDA by virtue of training and experience. The day to day implementation of the CO's policy on discipline is implemented by the RSM to the CSM's and then to the Sergeants and JNCO.

The Adjutant

- 2.14 The adjutant is a senior captain who acts as the CO's personal staff officer. He works closely with the CO and the other staff at the battalion headquarters. His involvement with the personal administration of soldiers, and his position out of the formal command chain means that, in some units, he is appointed as the unit equity officer. Within 3 RAR the adjutant was the equity officer.

The Officer Commanding

- 2.15 OC's are directly subordinate to the CO and are responsible for the effective command of their company. A signed instrument of appointment from the CO provides their formal powers of discipline, which allows them to act as a Subordinate Summary Authority under the DFDA. Once a soldier is charged with an offence the OC will normally hear the charge. He may either hear the charge or refer it to the CO, should the offence warrant a punishment for which he lacks the authority to award, or if he does not have the authority to hear that type of charge.
- 2.16 Amongst his other duties the OC is expected to maintain close personal command of his company by:
- Setting a high standard of leadership by personal example;
 - Visiting his platoons regularly always ensuring however, that he does not unduly restrict them by such visits;
 - Ensuring a high standard of discipline and morale is maintained; and
 - Allotting tasks equally between platoons.⁴

The Company Sergeant Major

- 2.17 The CSM has a significant range of operational and administrative responsibilities on operations. However, in barracks, his role, and his

4 Manual of Land Warfare, 2-1-1, The Infantry Battalion, 1984, p. 1-7.

relationship to the OC, is analogous to that of the RSM and CO. The CSM, will work up to the RSM on issues of military discipline, and down to the platoon sergeants. The CSM administratively manages disciplinary charges that are brought up to the OC. Like the RSM, his promotion courses involve significant training in military law procedures.

The Culture

2.18 It is an obvious truism that the army is a unique organisation, with differing cultural norms from the rest of society, while still a part of it. This is particularly so regarding issues of discipline. For the army, the need to maintain discipline on a battlefield shapes its culture. The extent to which the army can adopt alternate discipline models appears to have limits. One extensive observer of army units in combat noted:

The Army's interior economy and system of relationships are different from those within the civil body from which the Army springs. The Army must continue to maintain the broad lines of distinction or else in time it will deteriorate into an armed mob ... To think otherwise is to agree finally that command decisions should be submitted to arbitration boards ... As a civilian observer I saw these things attempted in the Anarchist "Iron Brigade" during the Spanish Civil War, which tried to operate with fidelity to the principle of the absolute equality of all ranks. In the end all discipline was destroyed and all operating capacity lost.⁵

2.19 Service throughout the Defence Force creates its own pressures, in many cases unique to the role of each unit. Within 3 RAR as a parachute battalion these pressures can result in forms of behaviours which allow individuals to cope:

Parachuting is not for everyone – and that is probably why it has a volunteer status requirement – but the individual must be motivated to throwing himself out of a perfectly serviceable aircraft ... The demands are unique, both physically and mentally, and create a unique bond. The possibility of injuring yourself is all pervading in the battalion. This requires a unique type of soldier who is fearless, resilient and robust. Many battalion members choose to deal with this fear through a heightened level of aggression that ensures that they do not lose confidence or the respect of their mates by exposing weakness.⁶

5 Marshal, S L A, *Men Against Fire*, New York, Fourth Printing 1968, First Published 1947, William Morrow and Company, p. 165.

6 In camera transcript, 6 October 2000.

- 2.20 The nature of army service places a premium on trust and dependability amongst small, close knit groups of soldiers. As the survival of each member rests in other members doing their job, personal integrity assumes great importance. For parachute units this trust is required well before entering a battlefield. It commences with the mutual kit checks done before soldiers jump from an aircraft.
- 2.21 The importance of having dependable and trustworthy mates may account for the army's traditional abhorrence of thieves. This is a long standing trait within the military culture and is reflected within leadership manuals. To some extent, the correct use of the military justice system is not simply a matter of providing justice for the individual. It is important for maintaining the shared sense of mutual confidence essential to the fighting cohesion of the unit. The following quote illustrates this:

... The Australian soldier will understand the need for rules and authority, as well as established procedures, but it won't stop him from testing the system, some soldiers more than others ... He will readily accept the rules of the immediate family and receive fair punishment without complaint. However, he will be resentful of collective punishment if all the group was not involved. He will loathe thieves, shirkers ...⁷

Within the environment of an army unit, a failure to apply disciplinary procedures diligently may result in soldiers attempting to restore an environment of mutual confidence and respect:

... and if you as the leader do not take quick and appropriate actions against such culprits, then he and his mates will take action into their own hands, often with serious implications.⁸

- 2.22 In short, the culture of the army is necessarily different from that of society. Service within the parachute regiment in particular generates unique demands which may be compensated for, at the individual level, with a heightened display of confidence and aggression. Within the army generally, and within a parachute battalion in particular, a high premium is placed on mutual trust, dependability and respect. Behaviour such as stealing undermines this trust. In these cases, the military justice system is not simply used to determine individual guilt or innocence. Its diligent operation is necessary to restore an environment of mutual confidence and respect. If this is not done, soldiers fearful of being 'betrayed' at some future time may act on their own initiative.

7 Department of Defence, *Junior Leadership on the Battlefield*, 199x, AGPS, Canberra, Para 4.3.

8 *ibid*, para 4.3.

The Military Justice System

2.23 At the unit level there are three tiers to the justice system. These tiers are represented by:

- The Discipline Officer
- The Subordinate Summary Authority
- The Summary Authority.

Each position is held by an appointed individual, or individuals, and each has increasingly greater powers of punishment. This is explained below.

The Discipline Officer

2.24 The discipline officer system⁹ was recommended by the Defence Force Discipline Legislation Board of Review in order to deal with minor disciplinary matters in an informal manner. In due course the DFDA was amended by insertion of Part IXA – Special Procedures Relating to Minor Disciplinary Infringements. In short, the discipline officer system allows for officers and warrant officers to deal with a Defence member of the rank of private, or equivalent, by way of an infringement notice, which may specify any of the following infringements:

- absence from duty
- disobedience of command
- failure to comply with a general order
- misbehaviour on guard duty or watch
- negligent performance of duty
- prejudicial behaviour, or
- absence without leave for a period not exceeding three hours.

2.25 On being given an infringement notice, the member may elect to be dealt with in relation to the infringement by a discipline officer and on so doing is deemed to have admitted the infringement. The discipline officer may then impose one of the following minor punishments:

- a fine not exceeding one days pay
- restriction of privileges not exceeding two days

9 See Defence Law Manual, ADFP 201, Volume 1, Chapter 13.

- stoppage of leave for a period not exceeding three days
 - extra drill for not more than two sessions of 30 minutes each per day for period not exceeding three days, or
 - a reprimand.
- 2.26 A discipline officer may decide not to impose a penalty for trivial offences and, if he or she thinks that infringement is too serious to deal with at that level, may decline to deal with the matter, at which time the member is charged with a service offence and dealt with by a summary authority. Within a unit the CO may appoint discipline officers. For instance the CSM's and the RSM may be appointed as discipline officers.

Summary Authorities

The Subordinate Summary Authority

- 2.27 Matters that cannot be handled by discipline officers may go to a formal charge. In the first instance, a charge is likely to be heard by a subordinate summary authority. In the case of a battalion this would be a company commander appointed by the CO as a subordinate summary authority. The OC of the company acts as a magistrate. The person charged with a disciplinary offence can arrange a defending officer, or one will be appointed for him. A prosecuting officer is also appointed. The hearing is conducted according to a strict and simple sequence.¹⁰
- 2.28 The subordinate summary authority's powers of punishment are circumscribed by the DFDA. They may be further circumscribed by the CO through the instrument that appoints the subordinate authority. Hence, the subordinate authority has a limited range of charges he can hear and punishments that he can impose. For instance, he cannot impose imprisonment, but he can dock pay by way of a fine. The subordinate authority must assess if he has the authority to hear a charge and that the nature of an alleged offence will allow it to be properly dealt with at his level. For more serious offences the subordinate authority will refer the charge to the CO, who is a summary authority.

The Summary Authority

- 2.29 The CO can impose significant punishments, depending on the offence. On operations he may imprison a soldier for 14 days. He may also deduct 14 days pay. The nature of elective punishments means that soldiers will

¹⁰ See Defence Law Manual, ADFP 201, Volume 1, Chapter 7.

sometimes incur punishments exceeding 14 days imprisonment or 14 days loss of pay, even when not on operations.¹¹

Other Justice Authorities

- 2.30 The majority of offences within a unit are handled through either discipline officers or summary authorities. However, higher authorities exist out of the unit environment that can hear more serious offences and impose more severe punishments. These authorities include superior summary authorities, defence force magistrates and, ultimately, courts martial.

The Equity System

- 2.31 There has been an official written policy on unacceptable sexual behaviour within the ADF since 1986.¹² Subsequent rewriting of that document broadened the scope to harassment generally, and in 1999, the Defence Equity Organisation produced detailed policy guidance on Managing and Eliminating Unacceptable Behaviour in the Workplace. This document listed workplace and personal harassment as being prohibited.
- 2.32 The current policy prohibits misuse of authority and abuse of power, and states that all personnel have a right to work in an environment free from harassment and discrimination. Commanders are directed to pursue the policy of zero tolerance of unacceptable sexual behaviour. The policy outlines support mechanisms available to complainants of unacceptable behaviour, including harassment contact officers or equal employment officers, and an harassment hotline.
- 2.33 At the unit level, all units within the ADF are required to appoint an equity officer. In the case of 3 RAR it was, and still is, the adjutant. The equity officer can be approached directly by a complainant, or through assistants. The assistant equity officer within 3 RAR was the RSM. In day-to-day operation the equity officer is heavily dependent on the chain of command fostering and implementing the requirements of the ADF policy. As noted by a previous equity officer in 3 RAR:

... One of my responsibilities as equity officer was to brief the leadership of the battalion on equity issues, but certainly the day-

11 Longer sentences are possible if a soldier takes an elective punishment. See Defence Law Manual, ADFP 201, Volume 1, Chapter 7, pp. 7-4 to 7-6.

12 DI(G) Pers 35-1 Management of Sexual Harassment in the ADF Workplace.

to-day management of equity issues was the responsibility of the line leadership of the company staff.¹³

2.34 The equity system attempts to resolve complaints through mediation where possible. An example of this in operation within 3 RAR was provided to the Committee:

... towards the end of 1997 I was approached by two soldiers who were undergoing rehabilitation and, had been for some time, who claimed that they had been harassed by a junior NCO because they were unable to fulfil normal soldierly duties because of their injuries. We investigated that within the unit, found that the junior NCO – and, I believe, one other, from my recollection – had been harassing the two soldiers. That was resolved by virtue of the two junior NCOs being counselled and apologising to the two soldiers, who accepted their apology. That was the only occasion I had experience in the battalion with an equity issue.¹⁴

2.35 The equity officer system, combined with annual formal training in equity, is one of several systems by which a soldier can raise, and have investigated, a grievance. Tabulated below is a list of options available to soldiers wishing to lodge a complaint at the unit level.

Table 2.1 Avenues for Raising Complaints within Units

| Method of Complaint | Mechanism | Source |
|--------------------------------|---|--|
| The Chain of Command | On receipt of a complaint of improper treatment it is up to the immediate supervisor to deal with the issue. If the supervisor cannot resolve the problem it is referred to the next superior up the chain. | All officers and NCO receive training in leadership, management and military law. The issue of illegal punishments is specifically dealt with in one Army Leadership Manual. |
| The Padre | 3 RAR has an assigned padre who provides a means of confidential counselling outside of the traditional chain of command. | Training of chaplains notes the special relationship they have with the commanding officer and their right of direct access to raise problems of concern. ¹⁵ |
| Redress of Grievance Procedure | This procedure, which operates through the chain of command, allows individuals to seek redress for a wrong perceived to have been done. If an issue cannot be resolved at lower levels it may be passed up to the CDF and the Defence Force Ombudsman. | Policy guidance is provided in Defence Instruction (General) – Personnel 34 – 1 |

13 Mr Orchard, Transcript, 6 October 2000, p. 46.

14 Mr Orchard, Transcript, 6 October 2000, p. 46.

15 Manual of Land Warfare MLW Part 2, Vol 1, Pam 1, The Chaplains Handbook, para 507.

Equity
Officers/the
Equity System

A soldier, if he is subject to abuse or discrimination, may contact a unit equity officer. The issue is then handled according to Departmental Equity Policy. A telephone hotline also exists for registering complaints, allowing a soldier to register a complaint outside of the unit.

Policy guidance is provided in Defence Instruction (General) – Personnel 35 – 3
