

Military Justice System Time Standards

The table below sets out the time standards applicable to every phase of the military justice system (MJS) to continue to assure the maintenance of discipline, efficiency, and morale of the Canadian Armed Forces (CAF). These time standards have been published in order to satisfy the recommendation made by the Office of the Auditor General (OAG) in its report on the Administration of Justice in the CAF, tabled before Parliament on 29 May 2018, that “the Canadian Armed Forces should define and communicate time standards for every phase of the military justice process and ensure there is a process for tracking and enforcing them.”

Following the coming into force of Bill C-77 in June 2022, the time standards have been updated to accurately reflect the changes in the MJS. The Chief of the Defence Staff (CDS) announced the publication of the amended time standards by CANFORGEN 055/24 SJS 001/24 and ordered that all CAF members must be aware of the time standards.

The following military justice stakeholders were consulted in the establishment of time standards which were not specified by legislation, regulation, or policy:

- Vice Chief of the Defence Staff – representing the CAF Chain of Command;
- Canadian Forces Provost Marshal;
- Director of Military Prosecutions;
- Director of Defence Counsel Services;
- CAF Discipline Advisory Council;
- Office of the Chief Military Judge;
- Office of the Judge Advocate General

MILITARY JUSTICE SYSTEM TIME STANDARDS¹

The table below sets out the time standards applicable to every phase of the military justice system.

ID	Phase of the Military Justice System	Time Starts (Date of:)	Time Ends (Date of:)	Time Standard ²	Reference / In consultation with
Pre-Trial Detention					
1	Delivery of Report of Custody	Arrest	Delivery of Report of Custody	As soon as practicable but within 24 hours	NDA s 158.1(1)
2	Review of Report of Custody	Arrest	Custody Review Officer Decision	As soon as practicable but within 48 hours	NDA s 158.2(1)
3	Review of Decision to Retain Member in Custody when no charge laid within 72 hours after the arrest	72 Hours after the arrest (if no charge laid)	Custody Review Officer determines why no charge has been laid and reconsiders whether it remains necessary to retain the person in custody	As soon as practicable but within 24 hours	NDA s 158.5
4	Military Judge Review of Custody ³	Custody Review Officer Decision to keep member in custody	Appearance Before Military Judge	As soon as practicable	NDA s 159(1)
5	Military Judge 90-Day Review of Custody when Trial has not started ³	90 days since last Appearance Before Military Judge	Appearance Before Military Judge	As soon as practicable	NDA s 159.8
Investigative Process					

¹ Where legislation, regulation or policy did not specify a time standard, the applicable time standard was established following review and consultation with military justice system stakeholders.

² The time standard is the maximum amount of time in calendar days that may be used to complete the task (except where indicated), but each task should be completed as expeditiously as the circumstances permit. The publication of these time standards further allows their incorporation into the Justice Administration and Information Management System (JAIMS), a system that electronically tracks discipline files from the time a complaint is received to the time a file is closed, to further facilitate their tracking and enforcement. JAIMS will require decision makers at various stages to provide justifications should they not meet time standards, which will assist in identifying and resolving the causes of delays.

³ The Office of the Chief Military Judge is not subject to Time Standards. At weekly coordinating or pre-trial conferences held with counsel, military judges manage trial issues and promote fairness and efficiency of Courts Martial. The duties and functions of the Court Martial Administrator are specified in the *National Defence Act* (NDA) and the *Queen's Regulations and Orders* (QR&O) to support the administration of Courts Martial.

6	Pre-Investigation Legal Advice Request ⁴ (when required)	Reporting of Incident	Advice Requested	3 days	CAFDAC ⁵
7	Investigation Initiated ⁶	Reporting of Incident or Pre-Investigation Legal Advice Received, as applicable	Investigator Assigned	3 days	CAFDAC
8	Unit Investigation (Regular Force)	Investigator Assigned	Investigation Report Submitted	15 days	CAFDAC
9	Unit Investigation (Reserve Force)	Investigator Assigned	Investigation Report Submitted	30 days	CAFDAC
Charge Laying Process – Service Offences and Service Infractions					
10	Charge Layer Assigned	Investigation Report Submitted	Charge Layer Assigned	3 days	CAFDAC
11	Charge Laying Decision - Legal Advice Requested (when required)	Charge Layer Assigned	Legal Advice Requested	3 days	CAFDAC
12	Charge Laying Decision -Legal Advice not Required or Provided (Regular Force)	Charge Layer Assigned or Legal Advice Provided	Charge Laying Decision	7 days	CAFDAC & VCDS
13	Charge Laying Decision -Legal Advice not Required or Provided (Reserve Force)	Charge Layer Assigned or Legal Advice Provided	Charge Laying Decision	14 days	CAFDAC
14	Provision of Charge Report and QR&O 102.10(2) Information Obtained (Regular Force)	Charge(s) Laid	Charge Report and All Information Referred to in QR&O 102.10(2) Provided	3 says	CAFDAC & VCDS
15	Provision of Charge Report and QR&O 102.10(2) Information Obtained (Reserve Force)	Charge(s) Laid	Charge Report and All Information Referred to in QR&O 102.10(2) Provided	7 days	CAFDAC

⁴ Pre-investigation legal advice is required when the appropriate authority in the military justice system receiving the complaint believes that a service offence or service infraction was committed against a person or that a person may have suffered physical or emotional harm, property damage or economic loss as a result of the alleged commission of the offence or infraction. If pre-investigation legal advice is not required, the investigator must abide by the applicable time standard regarding the investigative process.

⁵ The Canadian Armed Forces Discipline Advisory Council (CAFDAC) is mandated to discuss and provide input on matters pertaining to the maintenance of discipline and policies related to the continued effective functioning of the Code of Service Discipline. It is co-chaired by the Canadian Armed Forces Chief Warrant Officer and the Judge Advocate General Chief Warrant Officer, and its membership includes the most senior non-commissioned members from each command and from other key organizations within the Canadian Armed Forces.

⁶ Time Standards relating to Military Police investigations are governed by Canadian Forces Provost Marshal (CFPM) policies. In case of discrepancy between this table and any timeline that may be included in a CFPM Directives and Orders, the latest direction issued by the CFPM on the timeline in question governs.

16	Notice of Decision Not to Lay Charges	Charge Laying Decision	Stakeholders Notified	3 days	CAFDAC
Legal Advice					
17	Pre-Investigation Legal Advice Provided	Pre-Investigation Legal Advice Requested	Legal Advice Provided	3 days	JAG policy
18	Pre-Charge Legal Advice – Service Infraction	Legal Advice Requested	Legal Advice Provided	14 days	JAG policy
19	Pre-Charge Legal Advice – Prosecution Advice Required	Determination by unit legal advisor that a charge is likely to be for a service offence	Request Sent to Regional Military Prosecutor	5 days	JAG policy
20	Prosecution Pre-Charge Legal Advice	Request Sent to Regional Military Prosecutor	Regional Military Prosecutor Advice Provided	30 days	DMP Policy Directive 002/00, paras 43 to 46 ⁷
21	Pre-Charge Legal Advice – With Prosecution Input	Regional Military Prosecutor Advice Provided	Legal Advice Provided	7 days	JAG Policy
22	Post-Charge Legal Advice	Legal Advice Requested	Legal Advice Provided	7 days	JAG Policy
Pre-Hearing – Summary Hearing					
23	Referral to CO (Regular Force)	Charge(s) Laid	Charge Report and information delivered, and all information referred to in QR&O 102.10(2) provided to CO	3 days	CAFDAC
24	Referral to CO (Reserve Force)	Charge(s) Laid	Charge Report and Information Delivered, and All Information Referred to in QR&O 102.10(2) Provided to CO	7 days	CAFDAC
25	Post Charge Legal Advice Request (when required)	Receipt of Charge Report – Service Infraction by a CO	Legal Advice Requested	3 days	CAFDAC
26	Assisting Member Appointment (when required) (Regular Force)	Receipt of Charge Report – Service Infraction by a CO	Assisting Member Appointed	3 days	CAFDAC

⁷ Time Standards relating to Military Prosecutors are solely established by the Director of Military Prosecutions (DMP) and are published in his Policies. All Time Standards relating to Military Prosecutors are subject to change at any time. In case of discrepancy between this table and any timeline that may be included in a DMP Policy Directive, the latest direction issued by the DMP on the timeline in question governs.

27	Assisting Member Appointment (when required) (Reserve Force)	Receipt of Charge Report – Service Infraction by a CO	Assisting Member Appointed	7 days	CAFDAC
Summary Hearing Process					
28	Summary Hearing Commenced	Alleged Infraction	Start of Summary Hearing	6 Months	NDA s 163.4
29	Notice of Decision to Proceed with Summary Hearing ⁸	Decision made by Officer Conducting the Summary Hearing	Stakeholders Notified	3 days	CAFDAC
30	Summary Hearing Commenced (Regular Force)	Charge(s) Laid	Start of Summary Hearing	20 days	CAFDAC
31	Summary Hearing Commenced (Reserve Force)	Charge(s) Laid	Start of Summary Hearing	30 days	CAFDAC
32	Decision and Reasons Not to Proceed with Charges	Decision made by Officer Conducting the Summary Hearing	Reasons Provided	3 days	CAFDAC
33	Summary Hearing Length	Start of Summary Hearing	End of Summary Hearing	3 days	VCDS & CAFDAC
34	Reasons for Findings and Sanctions Provided in Writing	End of Summary Hearing	Reasons Provided	3 days	QR&O 122.09 (4)
35	Post Hearing Administration (Legal Officer Document Review)	Written Reasons with Respect to findings and Sanctions Received (After Review When Applicable)	Copies of Documents Placed on Unit Registry provided to most appropriate Representative of the OJAG	15 days	MJUL Policy, Ch 5, para 5.2.8
Summary Hearing Review					
36	Application for Review	Written Reasons with Respect to Findings and Sanctions Provided	Application for Review Submitted	14 days	QR&O 124.03(1)
37	Officer who Conducted the Summary Hearing's Representations	Application for Review or Written Reasons for Initiating the Review Provided to Officer Who Conducted the Summary Hearing	Officer who Conducted the Summary Hearing's Comments Provided to Review Authority	7 days	MJUL Policy, Ch 4, para. 4.4.8
38	Review Authority's Decision with Reasons	All Responses and/or Representations Provided to Review Authority	Review Authority's Decision	14 days	MJUL Policy, Ch 4, para. 4.4.12

⁸ This time standard refers to the time the Officer conducting the summary hearing (OSCH) has to notify the stakeholders in the summary hearing of his decision to proceed. The decision must be made by the OCSH with due regard of the 20-day time standard imposed between the laying of charge(s) and the commencement of the summary hearing.

Pre-Trial – Court Martial					
39	Referral Package Sent to Director of Military Prosecutions	Charge(s) Laid	Charge report (DND 4814) and complete report of investigation provided to Director of Military Prosecutions	3 days	VCDS & CAFDAC
40	Accused's Representation Wishes Communicated to Defence Counsel Services	Charge(s) Laid	Charge Report (DND 4814) Provided to Defence Counsel Services	3 days	DDCS, VCDS & CAFDAC
41	Witness List Provided ⁷	Disclosure Package Received by the Accused (or counsel)	Prosecutor Informs Accused of Proposed Witnesses	15 days	DMP Policy Directive 017/18, para 7
42	Court Martial Scheduling Discussion ⁷	Disclosure and the List of Witnesses Provided to Accused (or counsel)	Defence Counsel Engaged for Court Martial Scheduling	30 days	DMP Policy Directive 017/18, para 8
Court Martial Process					
43	Court Martial Complete ⁹	Charge(s) Laid	End of Court Martial	Presumptive ceiling of 18 months	R. v. Jordan, 2016 SCC 27, [2016] 1 S.C.R. 631

Date modified: 2024-04-04

⁹ *R. v. Jordan, 2016 SCC 27, [2016] 1 S.C.R. 631* was a decision of the Supreme Court of Canada which rejected the framework traditionally used to determine whether an accused was tried within a reasonable time under section 11(b) of the *Canadian Charter of Rights and Freedoms*. This determination was replaced with the presumptive ceiling of 18 months between the charges and the trial in the provincial court, and 30 months for cases in the superior court (or cases tried in the provincial court after a preliminary inquiry). Delay attributable to or waived by the defence does not count towards the presumptive ceiling. At this time, nor the Court Martial Appeal Court or the Supreme Court of Canada have determined the specific ceiling applicable to Court Martial.