

Courts martial and desertion in the British Army 17th-20th centuries

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1. Introduction

This guide to courts martial and deserters covers:

- different types of courts martial in the 17th, 18th, 19th and 20th centuries and how they were administered
- First World War courts martial
- where to find records of courts martial at The National Archives
- records of deserters held at The National Archives and elsewhere

2. What is a court martial?

A court martial is a court convened to try an offence against military discipline, or against the ordinary law, committed by a person in one of the armed services. Courts martial were also used to try civilians when martial law was in force. Some records relating to individual cases of court martial are closed for 50 or 75 years from the last date on each file.

3. Types of court martial

Various types of court martial existed. They are sometimes listed by initials:

3.1 General court martial (GCM)

This was army's highest tribunal, dealing with commissioned officers and the most serious cases involving other ranks. It could only be convened by the Crown or its deputy (for example, the commander in chief, or governors general). At least 13 commissioned officers had to be present if 'at home' (serving in the British Isles, Ireland, non-British territories or small British possessions), or five if 'overseas' (the British colonies), together with a judge advocate. Decisions were confirmed

by the person who issued the warrant (that is, the Crown or its direct deputy).

3.2 Field general court martial (FGCM)

This type of court martial was often used in wartime. Only three commissioned officers needed to be present. The decision had to be unanimous for the death penalty to be imposed.

3.3 General regimental court martial (GRCM) or district (or garrison) court martial (DCM)

More limited in jurisdiction, these courts could not try commissioned officers or charges carrying the death penalty, transportation, floggings of more than 150 lashes or prison sentences of more than two years. It required seven officers at home or five if overseas. Details of the sentence were sent up to the Judge Advocate General's office. The general regimental court martial was replaced by the district court martial in 1829.

3.4 Regimental court martial (RCM)

The regimental court martial was used for ranks other than commissioned officers who were charged with lesser offences. They may be noted in war diaries, but no records were sent to the Judge Advocate General's Office. Some of the records of these courts may survive among the records preserved by individual regiments.

4. The Judge Advocate General

Almost all the surviving records of army courts martial came to The National Archives via the office of the Judge Advocate General, the legal officer responsible to the Crown for military law. His duties, and those of the judge advocates answerable to him, were to prepare the case, summon courts martial and administer the oath to witnesses. After the hearing the judge advocate would submit a report of the proceedings to the relevant authority for confirmation. Before 1951 soldiers had no right of appeal, although the confirming officer would often reduce the sentence.

The submitted reports on individual courts martial, 1715-1790, are in **WO 71/34-64** for both home and overseas cases. Cases from 1806-1904, to be confirmed at home, are in **WO 91**. There is a joint index to WO 91 and **WO 92**, for 1806-1833, in **WO93/1A**. Other submissions, 1880-1938, are in **WO 209**.

4.1 Miscellaneous records of the Judge Advocate General

Type of record	Dates	Catalogue reference
Statistics	1914-1954	WO 93/49
Particulars of death sentences carried out	1941-1953	WO 93/40
War trials	1944-1969	WO 93/60-68
Changi prisoner of war camp, Malaya	1942-1944	WO 93/46-48

4.2 Judge Advocate General case index system, 1991-1999

The office of the Judge Advocate General has a database with continuing registers of Army and Royal Air Force court martial cases at home and abroad and cases in civilian standing courts for 1991-1999. Browse **LCO 60** to find and download cases from this database. It contains the following details:

- date and type of trial
- defendant's unit
- rank
- service number
- name of the Judge Advocate

- charges brought
- court
- in the case of standing civilian court hearings the relationship of the defendant to service personnel is recorded

5. Registers of courts martial, 1796-1963

The Judge Advocate General's office compiled registers of general and field courts martial, giving name, rank, regiment, place of trial, charge, finding, and sentence. These are in **WO 90** (abroad, 1796-1960 – with a volume for India), and **WO 92** (home, 1666-1704, 1806-1960 – with registers for part of the Boer War). An index for 1806-1833 is in **WO 93/1A**. Later registers for 1909-1963 are in **WO 213**.

6. First World War courts martial

6.1 Death sentences

Death sentences were passed by the British Army in courts martial between 1914 and 1924 for offences such as sleeping on duty, cowardice, desertion, murder, mutiny and treason. Death sentences were passed on over 3,000 British soldiers, members of Dominion, Colonial and foreign forces, and several British and foreign civilians. Over 90% of these sentences were later changed to other punishments, such as hard labour or penal servitude.

For all offences except mutiny, see G Oram and J Putkowski, *Death sentences passed by the military courts of the British Army, 1914-1924*. This gives lists of sentences by date and surname. Each entry gives a reference number. Add WO to the front of this number, and you have the full National Archives reference. Most records of courts martial are in **WO 213**, **WO 92** or **WO 90**.

6.2 Mutinies

Over 2,000 men were charged with mutiny between 1914 and 1922. You may find it useful to consult J Putkowski, *British Army Mutineers, 1914-1922*. This lists mutinies by surname, unit, mutinies at home by date, and mutinies abroad by date.

Each entry gives a full National Archives reference, including the internal page number. When ordering one of these documents, leave out the page number.

Most records of courts martial of mutineers are in **WO 86**, **WO 90**, **WO 92** and **WO 213**.

6.3 Other offences

For courts martial which did not pass a death sentence, try the records described in section 8, or contact the relevant regimental museum.

6.4 Australian and Canadian forces

Name rolls of courts martial, 1915-1919, contain court martial records of the Australian Imperial Force (**WO 93/42**) and the Canadian Expeditionary Force (**WO 93/43**).

7. Trials of commissioned officers, 1668-1993

Commissioned officers could be tried only by general or field general courts martial: these are indexed between 1830 and 1904 in **WO 93/1B**. The records are mostly in **WO 71**, which includes original papers in the case (such as warrants, letters and depositions, sometimes described as 'papers') as well as entry books of the trial proceedings. There are several series of records in WO 71:

Type of record

Dates

Catalogue reference

Papers Papers	1668-1879 1851-1914	WO 71/121 -343 Destroyed by bombing in 1940: look at the registers instead
Proceedings Proceedings	1692-1796 1914-1993	WO 71/13 -64 (3 series) WO 71/387 -1586 (closed for 30-100 years)
Special cases and senior officers: papers	1780-1824, 1879	WO 71/99 -120 and WO 343
Ireland: special returns: papers	1800-1820	WO 71/252 -264
Irish civilians	1916-1921	WO 71/344 -386

8. Trials of non-commissioned officers and other ranks, 1688-1986

Non-commissioned officers and other ranks could be tried by any of the courts martial, so you may have to look in two sets of records. For the most serious offences tried at general and field general courts martial, the records are as described for officers (see section 7). For less serious offences tried at general regimental and district garrison courts martial, consult:

Type of record	Dates	Catalogue reference
Proceedings	1914-1993	WO 71/387 -1586
Registers: home and abroad	1812-1829	WO 89
Registers: home and abroad	1829-1971	WO 86
London area: registers	1865-1875	WO 87
India: registers	1878-1945	WO 88
Registers: field courts martial and military courts	1909-1963	WO 213

Records of minor offences tried at regimental courts martial are not held by The National Archives, but may be held at regimental museums.

9. Other records

Type of record	Dates	Catalogue reference
Correspondence of the secretary at war	1684-1861	WO 4
Judge Advocate General: letters, etc.	1696-1850	WO 72
Judge Advocate General: letter books (indexed)	1715-1962	WO 81
Deputation books, recording deputy judges advocate	1751-1910	WO 85
Judge Advocate General: registers of in-letters	1817-1951	WO 82
Correspondence of the commander in chief	1833-1857	WO 3/541 -568
Judge Advocate General: charge books	1857-1948	WO 84
Documents of the Courts Martial Committee	1938-1940	WO 225
Registers of warrants for holding courts martial	1854-1856	WO 28

10. Deserters

There are registers of deserters, 1811-1852, in **WO 25/2906**-2934. Until 1827 they are kept in three series: cavalry, infantry and militia (the latter up to 1820 only). After 1827 they are arranged by regiment. These registers give descriptions, dates and place of enlistment and desertion, and outcome. There are registers of captured deserters, 1813-1845, in **WO 25/2935**-2951, with indexes up to 1833 in **WO 25/2952**, **WO 25/2953**, and **WO 25/2954**. Deserters who

surrendered themselves under proclamation, 1803-1815, are in **WO 25/2955**. On capture, some deserters were sentenced to imprisonment on the Savoy hulk: there are unindexed registers for the hulk, 1799-1823 (**WO 25/2956**).

Local newspapers and (for 1828 to 1845) the police newspapers *Hue and Cry* and the *Police Gazette* carried details of deserters, giving name, parish and county of birth, regiment, date and place of desertion, a physical description and other relevant information. For deserters in Australia (**HO 75**) consult Fitzmaurice, *Army deserters from HM Service*.

11. Further reading

The following publications are available in **The National Archives' library**. Those with a link can be bought from The National Archives' online bookshop:

Alphabetical guide to War Office and other military records preserved in The Public Record Office (Public Record Office Lists & Indexes: LIII) [covers 1676-1902 and has a large number of entries relating to courts martial procedure. Available at The National Archives]

Barton, B, ***The secret court martial records of the 1916 Easter Rising*** (The History Press, 2008)

Bennet, R W, 'Military Law in 1839', *Journal of the Society for Army Historical Research*, XLVIII (1970), 225-241

Clode, C M, *Military forces of the Crown*, 2 vols (BiblioBazaar, 1869)

Fitzmaurice, Y, *Army deserters from HM Service* (Fitzmaurice, 1988)

Oram, G and Putkowski, J, ***Death sentences passed by the military courts of the British Army, 1914-1924*** (Frances Boutle, 1998)

Putkowski, J, ***British Army mutineers, 1914-1922*** (Frances Boutle, 1998)

Putkowski, J and Sykes, J, ***Shot at dawn*** (Pen & Sword, 1998)

Rubin, G, ***Murder, mutiny and the military: British court martial cases 1940-1966*** (Frances Boutle, 2005)

Stuart-Smith, J, 'Military law; its history, administration and practice', *Law Quarterly Review*, LXXXV (1969), 478-504

Wiener, F B, *Civilians under military justice* (University of Chicago Press, 1967)

Guide reference: *Military Records Information 22*

Downloaded from:

<http://www.nationalarchives.gov.uk/records/research-guides/army-courts-17th-20th.htm>