



UNITED STATES
AIR FORCE ACADEMY

MILITARY JUSTICE TRANSPARENCY BULLETIN

August 2024 — September 2024

Approved by the Staff Judge Advocate

The information in this bulletin is intended to provide USAFA personnel a concise summary of discipline across USAFA and should not be interpreted as directing commanders or supervisors to take any particular action in future cases, as all cases are unique. This edition covers cases completed in June and July 2024. The bulletin will be published bi-monthly and specifically include all disciplinary actions involving allegations of sexual misconduct in accordance with new DAF guidance. This information will also be accessible at: <https://www.usafa.edu/transparency-bulletin/>

Due to Privacy Act protections, names are only included for courts-martial resulting in a guilty verdict since courts are public hearings.

If you have questions or suggestions for improvement, please direct them to your chain of command.

Sincerely,

Colonel Christopher Morgan
USAF Academy Staff Judge Advocate

TRAINING / TRENDS

Recent updates to Air Force Cadet Wing Instruction (AFCWI) 36-3501 establish a new responsibility for cadets to exercise due diligence prior to any otherwise lawful use of any electronic vape device, or other drug and tobacco paraphernalia, such as a bong, rolled cigarette, or bubbler, to ensure the device or paraphernalia does not contain marijuana, THC, hemp derivatives, or other illicit substances. Failure to exercise due diligence resulting in the ingestion of an illicit substance now represents a failure to comply with this general regulation and may lead to disciplinary action under Article 92 of the Uniform Code of Military Justice (UCMJ).

Separate from potential disciplinary action under the UCMJ, current Air Force regulations require commanders to initiate discharge processing for drug abuse. Mandatory processing does not mean mandatory separation. All cadets facing mandatory separation processing are entitled to due process. A cadet can argue for retention when addressing drug-related misconduct; however, they bear the burden of proving they meet all retention criteria (departure from usual behavior, result of experimentation, no desire to engage in future use, offense did not involve distribution and retention is in the interests of the Air Force).

These updates underscore the critical nature of compliance with Air Force standards and the significant consequences associated with drug use.

UPCOMING COURTS-MARTIAL

As a reminder, an accused is innocent of all charges unless and until proven guilty beyond a reasonable doubt. All courts-martial are held in the USAFA Courtroom (2nd Floor, Harmon Hall) and are open to the public. If the courtroom is full, individuals may view the proceeding from an overflow room.

CASE NAME	CHARGES	DATE
<i>United States v. AMN D.F.</i>	Article 117a, Wrongfully Broadcast or Distribution of Intimate Visual Images, Abusive Sexual Contact, Assault and Domestic Violence	Trial: 18-22 Nov 2024
<i>For more information about upcoming cases across the Air Force, visit the AF JAG Corps Public Docket: https://legalassistance.law.af.mil/AMJAMS/PublicDocket/docket.html</i>		

COURTS-MARTIAL RESULTS

No courts-martial occurred during August and September 2024

DISCHARGE BOARD RESULTS

Although many discharges/disenrollments may occur via written notification and response, in some cases a discharge board is warranted. The additional due process measures of a board is required in cases involving non-probationary officers, NCOs, Airmen with > 6 years of service, or when seeking a service characterization of Under Other Than Honorable (UOTHC). An UOTHC characterization is reserved for serious misconduct and typically results in a loss of most military/VA benefits. A Board of Inquiry/Discharge Board provides additional procedural standards, to include an impartial panel (similar to a jury), a neutral legal advisor, and the presence of counsel for the government, victim, and respondent.

No discharge boards or Boards of Inquiry occurred during August and September 2024.

NONJUDICIAL PUNISHMENT

Nonjudicial punishment (NJP) is a tool through which a commander offers an accused the opportunity to have their case decided by the commander or to demand a trial by court-martial. If the individual chooses to accept the NJP, it is not an admission of guilt, but rather a decision to have the commander decide guilt and, if appropriate, punishment. The punishment options in NJP are more limited than at a court-martial and depend on the rank of the commander and the accused. For cadets and officers, punishment is limited to forfeiture of pay, reprimand, and restriction. For enlisted, punishment may also include reduction in rank and/or extra duty. Punishments may also be suspended, which essentially acts as a probationary period in which the punishment will be removed after a period of time if the individual complies with the terms of the suspension.

Failure to Obey a Lawful General Order or Regulation, False Official Statement:

An enlisted member received nonjudicial punishment for unlawfully failing to follow an order to not discuss an ongoing investigation, and when confronted by AFOSI about whether they had violated the order, the enlisted member knowingly made a false official statement of denial. The punishment consisted of a suspended reduction to the grade of Airman, a forfeiture of \$1,130.00 pay for one month, and a reprimand.

Attempted Larceny, Dereliction of Duty: A cadet received nonjudicial punishment for attempting to steal a small item from a retail store. The cadet was also derelict in their duties by failing to follow proper sign out procedures. The punishment consisted of restriction to the limits of the Air Force Academy for 30 days, and a reprimand.

Absent without Leave: A cadet received nonjudicial punishment for absenting themselves from their appointed place of duty without authority. The punishment consisted of a restriction to the limits of the Air Force Academy for 20 days, and a reprimand.

Absent without Leave, Dereliction of Duty: An enlisted member received nonjudicial punishment for repeatedly absenting themselves from their appointed place of duty without authority. Member was also derelict in their duties by failing to keep their dorm room clean. The punishment consisted of a reduction to the grade of Airman Basic, and a reprimand.

False Official Statement: An enlisted member received nonjudicial punishment for making a false official statement relating to a physical fitness assessment record. Member was also derelict in their duties by failing to keep their dorm room clean. The punishment consisted of a suspended reduction to the grade of Airman First Class, and a reprimand.

Failure to Obey a Lawful General Order: An enlisted member received nonjudicial punishment for failing to obey a lawful general order by wrongfully using a product containing delta-8 THC. The punishment consisted of a reduction to the grade of Airman First Class, a suspended forfeiture of \$1,340.00 pay per month for two months, 15 days of extra duty, and a reprimand.

Dereliction of Duty: An enlisted member received nonjudicial punishment for failing to properly obtain approved leave before leaving their appointed place of duty to engage in off-duty employment. The punishment consisted of a reduction to the grade of Staff Sergeant, and a reprimand.

Failure to Obey a Lawful General Order: A cadet received nonjudicial punishment for failing to obey a lawful general order by wrongfully using a product containing delta-8 THC. The punishment consisted of restriction to the Air Force Academy for 30 days, and a reprimand.

Assault and Battery: A cadet received nonjudicial punishment for unlawfully touching another cadet without their consent. The punishment consisted of restriction to the Air Force Academy for 21 days, and a reprimand.

Failure to Obey a Lawful General Order: An enlisted member had previously suspended punished under nonjudicial punishment vacated for failing to obey a lawful general order by wrongfully failing to verify proper identification for installation access. The vacated punishment consisted of reduction to the grade of Airman, a suspended forfeiture of \$1,130.00 pay per month for two months, 15 days extra duty, and a reprimand.

* Disenrollment/discharge action may be initiated following completion of NJP process. Those actions will be reflected in the next section (Discharges/Disenrollments), but may not appear until the next report due to the time of completion of those actions.

DISCHARGE / DISENROLLMENTS

Airmen and cadets are subject to disenrollment/discharge if they engage in conduct inconsistent with military service. As an analogy to the civilian sector, these decisions are the equivalent of an employer terminating an employee or in the case of cadets, a university removing a student. For non-committed and non-prior enlisted cadets, a disenrollment decision automatically results in discharge from the military. For committed cadets, after disenrollment the SECAF determines whether the cadet will serve their commitment via enlisted service, monetary recoupment, ROTC, or whether the service commitment is waived. All individuals discharged from the military will receive a service characterization of either Entry Level (< 180 days), Honorable, Under Honorable Conditions (General) or Under Other than Honorable Conditions (UOTHC). Cadets also receive a rating between 1 and 5, which is used to determine whether they should be considered for other commissioning programs.

The rating system is as follows:

- 1 – Highly recommend;*
- 2 – Recommend as average;*
- 3 – Should not be considered w/o weighing needs of the service against reasons for disenrollment;*
- 4 – Physical/medical;*
- 5 – Definitely not recommend;*
- 6 – Entry Level/Cadet not at Academy long enough for another rating.*

As of the date of this bulletin, the approximate rate for monetary recoupment is \$55,000 per year of attendance at USAFA.

Academic Deficiency: No Academic Deficiency disenrollments this period.

Physical Fitness: No Physical Fitness disenrollments this period.

Misconduct:

Honor Probation Failure: 1 cadet was disenrolled for honor violations. The cadet failed to meet the terms of honor probation. The cadet was behind or had missing or incomplete assignments on several honor probation and remediation projects. The cadet was disenrolled with an Honorable discharge characterization with a rating of 5, with an ADSC.

Resignation in Lieu of Disenrollment: 1 cadet voluntarily resigned in lieu of (RILO) involuntary disenrollment. The cadet accepted RILO based on the decision to seek involuntary disenrollment for unlawful assault and failure to complete Basic Cadet Training. The cadet was discharged with a General discharge characterization and a rating of 5.

Fraudulent Entry: 1 cadet was disenrolled for fraudulent entry into USAFA based on their failure to disclose pre-service marijuana use on AF Form 2030 and SF 86, Questionnaire for National Security. The cadet was discharged with an Entry-level discharge characterization and a rating of 3.

SEXUAL MISCONDUCT RESULTS

In accordance with DAFI 51-201, Administration of Military Justice, all legal offices are required to publish the results of disciplinary actions taken in response to allegations of sexual misconduct, to include sexual assault and sexual harassment. The following summary includes only UCMJ or Adverse Administrative Actions taken for allegations of sexual misconduct during this period.

The results are also accessible at: <https://www.usafa.edu/transparency-bulletin/>

DISCLAIMER: The information provided is to foster transparency and promote deterrence amongst Airmen and Guardians. It should not be misconstrued as a mechanism to count cases of sexual misconduct, because it could result in double counting data.

Results of Courts-Martial: N/A

Nonjudicial Punishment: N/A

Administrative Actions: N/A