



UNITED STATES
AIR FORCE ACADEMY

MILITARY JUSTICE TRANSPARENCY BULLETIN

DECEMBER 2023 — JANUARY 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 October and November 2023. Beginning this month, 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 on 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

1. One concerning trend that USAFA/JA has recently identified across USAFA concerns a substantial increase in the number of THC-8 and THC-9 use incidents (*tetrahydrocannabinol*). THC-9 use most often is a result of marijuana use or a marijuana byproduct. THC-8 is an isomer of THC-9, the molecule better known as the source of marijuana's high, exists naturally in the cannabis plant only at exceptionally low levels and can be produced through synthetic conversion of hemp-derived CBD. Both THC-9 and THC-8 can be commonly found in vape devices and THC is legal in the state of Colorado but are illegal for use by military members. In 2023, USAFA had 6 drug use cases and in 2024 there are already 2 new drug use case involving military members at USAFA. The legal and career consequences of drug use can be substantial, to include the possibility of: criminal conviction, jail time, nonjudicial punishment, loss of pay/rank, Moreover, drug use is not compatible with service in the United States Air Force. We encourage all USAFA personnel, to be responsible and know what they put into their body.

UPCOMING COURTS-MARTIAL

As a reminder, an accused is innocent of all charges 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. TSgt J.H.</i>	Article 120, Abusive Sexual Contact	11-14 March 2024
<i>United States v. AFC E.S.</i>	Article 120 , Sexual Assault & Abusive Sexual Contact	13-20 May 2024

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>

COURTS-MARTIAL RESULTS

United States v. Air Force Cadet: On 8 January 2024, a general court-martial was convened, at which a Cadet was found not guilty by a military judge for one charge of Article 120, Sexual Assault on 12 January 2024. The charge involved an alleged act of penetrative sexual assault at USAFA without the other servicemember's consent.

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). A UOTHC characterization is reserved for serious misconduct and results in a loss of most military/VA benefits. A Board of Inquiry/Discharge Board provides additional due process, to include an impartial panel (similar to a jury), a neutral legal advisor, and the presence of counsel for the government, victim, and respondent.

One board of inquiry (BOI) for sexual assault was held in January 2024 for allegations that a servicemember committed penetrative sexual assault against two other servicemembers while at USAFA, without the other servicemembers' consent. The BOI determined that the servicemember did not commit the offenses under the preponderance of the evidence standard, and he was retained.

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.

Dereliction of Duty and False official Statement: An enlisted member received nonjudicial punishment for failing to follow protocol and making a false official statement related to the protocol breach. The punishment consisted of a reduction in rank and a reprimand.

Failure to Go: An enlisted member received nonjudicial punishment for failing to be at their assigned place of duty on multiple occasions. The punishment consisted of a reduction in rank and a reprimand.

AWOL and False Official Statement: Two cadets received nonjudicial punishment for being absent without leave and making a false official statement in relation to being absent. The punishment consisted of a restriction to USAFA for 30 days and a reprimand.

Dereliction of Duty and False Official Statement: A Cadet received nonjudicial punishment for failing to follow protocol and making a false official statement related to the protocol breach. the punishment consisted of a restriction to USAFA for 30 days 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.

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.

Academics: No academic disenrollments this reporting period.

Physical Fitness: No Physical Fitness disenrollments this period.

Misconduct:

DUI & Probation Failure: A Cadet was disenrolled for driving a motor vehicle while under the influence of alcohol and failing terms of their conduct and aptitude probations. The Cadet was disenrolled with a General discharge characterization and a 5 rating.

Fraudulent Appointment & Wrongful Use of Controlled Substance:

Following a previous Special Court-Martial, a Cadet was disenrolled for fraudulent appointment as a USAFA cadet for their failure to disclose prior use of psilocybin, a Schedule I controlled substance, on the Air Force Form 2030 and for their wrongful use of psilocybin while a USAFA cadet. The Cadet was disenrolled with a General discharge characterization and a 5 rating.

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 disciplinary 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: *United States v. Air Force Cadet:* On 8 January 2024, a general court-martial was convened, at which a Cadet was found not guilty, and acquitted by a military judge for one charge of Article 120, Sexual Assault on 12 January 2024. The charge involved an alleged act of penetrative sexual assault at USAFA without the other servicemember's consent.

Nonjudicial Punishment: N/A

Administrative Actions: A board of inquiry (BOI) for sexual assault was held in January 2024 for allegations that a servicemember committed penetrative sexual assault against two other servicemembers while at USAFA, without the other servicemembers' consent. The BOI determined that the servicemember did not commit the offenses under the preponderance of the evidence standard, and he was retained.