



UNITED STATES
AIR FORCE ACADEMY

**MILITARY JUSTICE
TRANSPARENCY BULLETIN**

JULY 2023 — SEPTEMBER 2023

Approved by the Staff Judge Advocate

The information in this quarterly 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 between July 2023 and September 2023. Beginning in December, we anticipate this bulletin will be published bimonthly in accordance with new DAF guidance and be available on a USAFA-hosted website.

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. This past year, the legal office (USAFA/JA) had significant leadership turnover. The new Staff Judge Advocate (SJA) is Colonel Chris Morgan, who previously served in roles as the PACAF SJA, Chief Defense Counsel for the AF, and a faculty member in USAFA/DFL. The Deputy SJA is Lt Col (s) Nick Tesmer who previously served as Chief of Military Justice for Space Operations Command (SPOC), Victims' Counsel at USAFA, and Chief of Military Justice at USAFA. Finally, the Command Paralegal Manager is SMSgt Heather Ruhlman, who previously served as the Paralegal Manager for SPOC, and Law Office Superintendent at various bases. Our JA leadership team brings diverse and balanced experience and perspectives to USAFA to ensure that our processes are fair and just and our advice is timely and well-reasoned.

2. In accordance with a Secretary of Defense directive, USAFA/JA is partnering with the Office of Special Trial Counsel (OSTC) and Cadet Wing to educate cadets and CW permanent party on the importance of recent and upcoming military justice reforms. The training will occur in October and consist of a video prepared by USAFA/JA personnel highlighting the establishment of the independent OSTC, an office of legal professionals who will review and make disposition decisions in cases involving sexual misconduct and interpersonal violence. This change removes authority from commanders to make prosecution/non-prosecution decisions in those cases. In addition, the training will highlight the new judge-alone sentencing process and establishment of sentencing parameters. We look forward to the opportunity to educate CW and personnel across USAFA on these exciting military justice reforms.

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. Cadet Heidelberger</i>	Article 120, Sexual Assault	8-12 January 2024
<i>United States v. TSgt Hensley</i>	Article 120, Abusive Sexual Contact	11-14 March 2024

COURTS-MARTIAL RESULTS

United States v. Air Force Cadet: On 25 September 2023, a court-martial was held to consider 1 specification of Abusive Sexual Contact and 1 specification of Sexual Assault (Article 120, UCMJ). At the time of the alleged incident both the subject and victim were cadets at USAFA.

The victim alleged that Subject assaulted her at an off-base party following Ring Dance in 2021. Subject, victim, and multiple witnesses at the party were drinking alcohol. The victim testified that she did not have any memory of consenting to sexual activity with the Subject.

At trial, the Subject requested to have the case heard by a military judge rather than a panel of officers. After 2 1/2 days of trial and presentation of evidence by both sides, the military judge deliberated and found the Subject not guilty of both specifications.

DISCHARGE BOARD RESULTS

Although many discharges/disenrollments may occur via written notification and response, in some cases a discharge board is more appropriate. The additional due process 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.

No Discharge Boards were held from July-September 2023.

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 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: A TSgt received NJP for dereliction of duty for failing to maintain professionalism for members of his unit by making multiple inappropriate comments, to include some that were racist, homophobic, and sexist in a group chat. The punishment consisted of reduction in rank to SSgt, extra duty, and a reprimand.

Fraudulent Use of Credit Card An A1C was issued nonjudicial punishment for using an O-4's credit card without authorization and with intent to defraud to obtain \$473 worth of property. The punishment consisted of reduction in grade to Airman 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 quarter.

DISCHARGE / DISENROLLMENTS

Airmen and cadets are subject to being disenrolled/discharged if they engage in conduct inconsistent with military service. As an analogy to the civilian sector, these decisions are the equivalent to 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: 3 cadets resigned in lieu of disenrollment for academic deficiency. 2 of the cadets were disenrolled with an Honorable and 3 rating; 1 of the cadets was disenrolled with and Honorable and 2 rating.

Physical Fitness: 1 cadet was disenrolled for athletic deficiency. The cadet received an Honorable and 3 rating. In addition, the Superintendent recommended the cadet for enlisted service through the Mentoring, Reevaluation, and Reappointment (MRR) Program.

Misconduct: 1 cadet was disenrolled for misconduct for being in physical control of a vehicle while intoxicated. The cadet received a General characterization and rating of 5. In addition, the cadet was recommended for monetary recoupment (approximately \$230,000).