



UNITED STATES  
AIR FORCE ACADEMY

# MILITARY JUSTICE TRANSPARENCY BULLETIN

OCTOBER 2023 — NOVEMBER 2023

*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 JA has recently identified across USAFA concerns a substantial increase in the number of DUI incidents this year. This includes on and off-base DUIs involving military members. Over the last 10 years, USAFA has averaged **4 DUIs per year involving military members. Year-to-date, USAFA has had 11 DUIs involving military members.** The majority of those DUIs have involved cadets (average of 2.5 per year historically, compared to 7 this year). The legal and career consequences of a DUI can be substantial, to include the possibility of: criminal conviction, jail time, nonjudicial punishment, loss of pay/rank, fines, legal/ attorney fees (for off-base), loss of driving privileges, increased auto insurance premiums, etc. Moreover, driving while intoxicated threatens the safety of the driver and everyone else on the road. Sadly, last year, an officer assigned to USAFA was killed in an auto accident involving a drunk driver, which demonstrates the deadly consequences of driving while intoxicated. We encourage all USAFA personnel, especially during the holiday season, to be responsible and have a plan before drinking.

2. Effective for covered offenses committed on or after 27 December 2023, the Office of Special Trial Counsel (OSTC) will make all decisions concerning whether to prosecute instances of sexual misconduct and cases involving interpersonal violence. The OSTC operates independent of the chain of command and is comprised of specially trained attorneys and paralegals with expertise in sexual misconduct and interpersonal violence cases. If OSTC determines a court-martial is appropriate, the command is bound by that decision. If OSTC determines a court-martial is not appropriate, the case will be returned to command to take appropriate action concerning the offense and any collateral misconduct.

## 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 T.H.</i>	Article 120, Sexual Assault Article	8-12 January 2024
<i>United States v. TSgt J.H.</i>	120, Abusive Sexual Contact	11-14 March 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 Misukanis:*** On 26 October 2023, a special court-martial was convened, at which Cadet Seth Misukanis pleaded guilty to one specification of Article 112a for wrongful use of psilocybin (aka "mushrooms") and one specification of Article 104a for fraudulent appointment, pursuant to a plea agreement with the Convening Authority (Commandant of Cadets). He was sentenced to a reprimand. In accordance with the terms of his plea agreement, he departed USAFA following the court-martial.

## 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.*

**No Discharge Boards or Boards of Inquiry were held in Oct or Nov 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 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.*

**DUI/Underage Drinking:** A Cadet Candidate (E-1) received nonjudicial punishment for driving under the influence (Article 113), for failing to obey a Security Forces patrolman and drinking underage (Article 92). The punishment consisted of forfeiture of \$958, 2 days extra duty, and a reprimand.

**Reckless Driving:** A Cadet received nonjudicial punishment for storing alcohol in their privately owned vehicle (Article 92) and reckless driving (Article 113). The punishment consisted of restriction to USAFA for 17 days and a reprimand.

**Leaving Scene of Accident:** A Cadet received nonjudicial punishment for leaving the scene of an accident without making their identity known. The punishment consisted of restriction to USAFA for 10 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 during this reporting period.

**Physical Fitness:** A Cadet was disenrolled for athletic deficiency. The cadet resigned in lieu of an involuntary disenrollment. The cadet received an Honorable and 2 (recommend as average) rating.

**Misconduct:**

**DUI & Reckless Driving:** A Cadet was disenrolled for reckless driving and being in control of a vehicle while intoxicated. The cadet received an Honorable characterization and rating of 3 (weigh the needs of the service) and was recommended for enlisted service to fulfill their service commitment.

**200+ Career Demerits:** A Cadet was disenrolled for exceeding 200 career demerits. The Cadet received an Honorable characterization and rating of 3 (weight the needs of the service).

## DISCHARGE / DISENROLLMENTS (Cont.)

### Misconduct (continued):

**Sexual Harassment:** A Cadet was disenrolled for sexual harassment for knowingly making sexual advances and engaging in conduct of a sexual nature toward another cadet when such conduct was unwelcome, undesired, and unrequited. The basis for disenrollment also included violating the intimate behavior policy. The cadet received an Honorable discharge characterization, 5-rating (definitely not recommended for future commissioning), and recommendation for monetary recoupment of active duty service commitment.

**Unprofessional Relationship & Disrespectful Comments:** A Cadet was disenrolled for having an unprofessional relationship with a C4C and for making disrespectful and inappropriate comments about rape during a squadron dinner. The Cadet received an Honorable discharge characterization and a 5 rating (definitely not recommended for future commissioning).

**Probation Failure:** A Cadet was disenrolled for failing the terms of their conduct and aptitude probation. While on conduct and aptitude probation, the Cadet missed several mandatory formations and was in the improper uniform. The Cadet was disenrolled with an Honorable discharge characterization and a 3 rating (weigh the needs of the service).

# 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:** N/A

**Nonjudicial Punishment:** N/A

**Administrative Actions:**

**Article 134, UCMJ (Sexual Harassment):** An unrestricted report of sexual harassment was made against a Cadet. After investigation, input from the victim, and consultation with the legal office, the Cadet was issued a Letter of Reprimand and then disenrolled for sexual harassment (Article 134) for knowingly making sexual advances and engaging in conduct of a sexual nature toward another cadet when such conduct was unwelcome, undesired, and unrequited. The basis for disenrollment also included violating the intimate behavior policy. The Cadet received an Honorable discharge characterization, 5-rating ("Definitely not recommended for future commissioning), and recommendation for monetary recoupment of active duty service commitment.