

ARIZONA Department of Emergency and Military Affairs POLICY	NO. 10.09	
	DATE: 01 Oct 21	OPR: AZNG-SJA
SUBJECT: Arizona National Guard Notification and Disciplinary Action Withholding Policy	REGULAR POLICY LETTER DISTRIBUTION (POLICY LETTER 10.01)	
<p>1. APPLICABILITY: This Policy applies to all subordinate commands, units, detachments, and military personnel assigned or attached to the Arizona National Guard. This Policy supersedes Policy Letter 10.09 dated 01 November 2018, and remains in effect until rescinded or superseded by the undersigned authority.</p> <p>2. PURPOSE: To ensure senior-level visibility and consistency in the application of disciplinary actions, this Policy furnishes guidance and establishes responsibilities for the administration of military justice and related administrative actions within the Arizona National Guard. Commanders shall communicate directly with their servicing judge advocate in matters relating to the administration of military justice and/or adverse actions against military members. Commanders should consult with their senior enlisted advisor regarding discipline of enlisted service members.</p> <p>3. POLICY:</p> <p>3.1. Notification: Within 72 hours after discovery of any misconduct listed in subparagraphs 3.1a-3.1c, the chain of command will report the allegations using a Commander's Critical Incident Report (CCIR) format. The CCIR will be sent to the individuals in the appropriate chain of command IAW subparagraphs 3.1d-3.1e:</p> <ul style="list-style-type: none"> a. any allegations of misconduct committed by a service member in the grade of E-7 or above. b. any allegations of misconduct committed by service members of any grade that constitutes a sex offense¹ or sexual harassment². c. any allegations of misconduct by service members of any grade that, if proven, would constitute a felony³ under state or federal law. d. Army: TAG, DAG, LCC, JTF-CC, Command Chief of Staff (CCoS), Senior Enlisted Leader (SEL) and State Command Sergeant Major for matters involving enlisted personnel, the State Judge Advocate Office, and the Army-Office of the Staff Judge Advocate (Army-OSJA). e. Air: TAG, DAG, ACC, JTF-CC, Command Chief of Staff (CCoS), Senior Enlisted Leader (SEL) and State Command Sergeant Major for matters involving enlisted personnel, the State Judge Advocate Office, and the Air-Office of the Staff Judge Advocate (Air-OSJA). 		

¹ For purposes of this Policy, "sex offense" is defined as conduct that would constitute a violation of Article 120 of the Uniform code of Military Justice (UCMJ) (2019 Edition); or any conduct that would constitute a violation of an applicable Arizona Revised Statute that is tantamount to a violation of Article 120 UCMJ (2019 Edition). This provision is unaffected by any charging decisions and/or the outcome, if known

² For purposes of this Policy, "sexual harassment" is defined by applicable component regulations.

³ For purposes of this Policy, the requirement to report is unaffected by any charging decisions and/or the outcome, if known

3.2. Withholding: I hereby withhold, to the appropriate Component Commander, the authority to investigate (beyond simple fact finding) and dispose of allegations of misconduct involving the subjects listed above in subparagraphs 3.1b and 3.1c. The appropriate Component Commander may delegate this authority with respect to allegations of misconduct involving the subjects listed above in subparagraph 3.1c on a case by case basis, in writing. Subordinate commanders may make recommendations as to the initial disposition of withheld cases prior to action by the appropriate Component Commander. Subordinate commanders may take disciplinary action on a withheld case only when final disposition authority has been delegated, in writing, to their level by the appropriate Component Commander. All other offenses arising from, or related to, the same incident(s) are also withheld to the Component Commander and are subject to the same delegation authorities and restrictions described herein, including offenses committed by any alleged victims. In no event, however, may an allegation involving a sex offense be delegated.

3.3. Investigations: Investigations into allegations of any misconduct identified above in subparagraphs 3.1a, 3.1b, and 3.1c, both AR 15-6 and Command Directed Investigations (CDIs), will be tracked by the respective component OSJA from initiation of the investigation through closure. All other investigations will be tracked at the Brigade (BDE) / Direct Reporting Unit (DRU) or Wing level. Actual investigation and disciplinary materials will be maintained in accordance with applicable document retention regulations. Upon completion of any misconduct investigation, at a minimum, the following information will be forwarded to the respective component OSJA: (a) name of the individual who appointed the investigation; (b) date the investigation was initiated; (c) name of the investigator; (d) nature of the allegation(s) and person(s) being investigated, if applicable; (e) BDE/DRU/Wing/Unit of the persons involved; and (f) a brief summary of the findings and recommendations.

3.4. Timeline: In order to properly administer military discipline, investigations must be completed in a timely manner. Although timelines are ultimately dictated by the circumstances of each particular case, misconduct investigations should be completed within 30 days of appointment of investigation.

4. REFERENCES: Army Regulation (AR) 27.10, Military Justice dated 20 November 2020; Army Regulation (AR) 600-20, Command Policy, dated 24 July 2020; Air Force Instruction 9AFI) 51-201, Administration of Military Justice, dated 17 January 2019; Arizona Manual for Courts- Martial; Uniform Code of Military Justice, 2019.

5. REQUESTS FOR INFORMATION: Direct all questions to the Office of the State Judge Advocate at 602-267-2753.



KERRY L. MUEHLENBECK
Major General, AZ ANG
The Adjutant General

This Policy supersedes Policy Letter 10.09 dated 01 November 2018

Note: This policy does not create a contract for employment between any employee and the Department of Emergency and Military Affairs (DEMA). Nothing in this policy changes the fact that all uncovered employees of the State are at-will employees and serve at the pleasure of the appointing authority. This policy supersedes all previous policy letters addressing this subject.