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**TAG POLICY LETTER 24-03**

**7 October 2024**

**SELF-REPORTING BY ALL MILITARY PERSONNEL OF  
ARRESTS AND CRIMINAL CONVICTIONS**

**1. REFERENCES.**

- a. New Jersey Statutes Annotated (NJSA) §38A:7-3, *National Guard, Administration, Discipline and Training*.
- b. Department of Defense Instruction (DoDI) 1332.45, *Retention Determinations for Non-Deployable Service Members*, 30 July 2018, Change 1, 27 April 2021.
- c. DoDI 5200.02, *DoD Personnel Security Program*, 21 March, 2014, Change 3, 24 September 2020.
- d. Security Executive Agent Directive 3, *Reporting Requirements for Personnel with Access to Classified Information or Who Hold a Sensitive Position*, 12 June 2017.
- e. Army Regulation (AR) 600-20, *Army Command Policy*, 24 July 2020.
- f. AR 600-8-2, *Suspension of Favorable Personnel Actions (FLAG)*, 5 April 2021.
- g. AR 135-178, *Enlisted Administrative Separations*, 21 June 2024.
- h. AR 380-67, *Personnel Security Program*, 24 January 2014.
- i. DoDMAN5200.02\_DAFMAN16-1405\_DAFGM2023-01, *Air Force Personnel Security Program*, 29 November 2023.
- j. Department of the Air Force Instruction 36-3211, *Military Separations*, 24 June 2022.
- k. Air Force Instruction (AFI) 1-1, *Air Force Culture*, 18 August 2023.
- l. AFI 36-2909, *Air Force Professional Relationships and Conduct*, 14 November 2019.
- m. National Guard Regulation 635-101, *Efficiency and Physical Fitness Boards*, 15 August 1977.

2. **APPLICABILITY.** This policy is applicable to all Servicemembers of the New Jersey Army and Air National Guard (NJNG) regardless of rank and status. Commanders and supervisors must familiarize themselves with the responsibilities and requirements set out in this policy.

3. **PURPOSE.** This memorandum establishes command policy on arrest and criminal conviction reporting requirements for Servicemembers of the NJNG. Servicemembers are representatives of the U.S. Government, the State of New Jersey, the National Guard, and their respective branches of the military, on duty and off duty. Therefore, in order to monitor and maintain the personnel readiness, welfare, safety, and deployability of Servicemembers, Soldiers and Airmen are required to report arrests and / or convictions of criminal offenses that occur after the date of this policy, regardless of their duty status at the time of the arrest or conviction.

4. **POLICY.**

a. Soldiers and Airmen arrested for, charged with, or convicted of a criminal offense (as defined below) in the State of New Jersey or any other Federal or State jurisdiction, that occur after the date of this policy (“triggering event”) will advise their chain of command, as set forth below. Failure to properly report in accordance with this policy may result in adverse administrative action.

b. Initial reports may be written or verbal, and will identify:

(1) The criminal offense(s) for which the Soldier or Airman was arrested, charged, or convicted;

(2) The date of the arrest, charge, or conviction;

(3) The arresting and / or charging authority;

(4) Any pre-trial conditions of release (to include any no-contact provisions or restrictions from any location);

(5) Whether any temporary or final restraining order was issued (domestic violence, extreme risk protection order, etc.); and

(6) Any pending court dates, to include the venue / location.

c. Active Guard Reserve (AGR) Servicemembers and Servicemembers on Title 32 or State Active-Duty orders for thirty (30) calendar days or more will report the triggering event no later than the next business day to their chain of command or full-time supervisor. Traditional Drilling Guardsmen (TDG) / Drill Status Guardsmen (DSG) will report the triggering event to their chain of command by the next scheduled drill or within thirty (30) calendar days, whichever is sooner. Once notified, the chain of command will report through official correspondence, in the Serious Incident Report (SIR) format, to their respective higher headquarters.

d. Commanders and supervisors will request Soldiers and Airmen provide periodic updates regarding the status of charges that are pending final adjudication (at a minimum, following each scheduled court date). Commanders will not impose any additional self-reporting requirements.

e. Disclosure of an arrest for, or charges of, a criminal offense under this policy is not an admission of guilt and may not be used as such. Additionally, this policy does not impose an obligation on the Soldier or Airman to disclose the underlying facts concerning the basis for the arrest or criminal charge.

f. This policy does not limit existing reporting requirements related to the Soldier or Airman's security clearance in accordance with References (c), (d), (h), and (i). Additionally, in accordance with References (h) and (i), Commanders must submit a report to the appropriate security or information protection office.

g. Army Commanders are reminded of the obligations imposed by Reference (f) for the suspension of favorable personnel actions (Flag) for Soldiers. Air Force Commanders should consider suspension of favorable personnel actions for Airmen (*see* Reference (l), Paragraph 6.2.3).

h. Commanders must also comply with the requirements of References (g), (j), and (m) if the conviction, or the conduct that led to the arrest or charge of a criminal offense, warrants the initiation of an administrative discharge action.

i. Leaders at all levels must ensure that all NJNG personnel are briefed on this policy, and are expected to enforce it within their respective units.

5. **USE.** Information obtained under this policy may be used for administrative and regulatory purposes, including, but not limited to:

a. Security clearance adjudication;

b. Readiness and deployability determinations;

c. Assignments; and/or

d. Initiation of adverse administrative actions based upon either a conviction, or the conduct underlying the arrest or charge of a criminal offense.

## 6. **DEFINITIONS.**


a. **Criminal Offense:** An indictable crime of the first, second, third or fourth degree, or a disorderly persons offense as defined in the New Jersey Code of Criminal Justice (NJSA §2C:1-1, *et seq.*), or an equivalent offense in another Federal or State jurisdiction. Additionally, any arrests, fines, penalties, or convictions for domestic violence, driving while intoxicated or impaired, or traffic offenses involving alcohol and / or controlled dangerous substances, for the purpose of this policy, are defined as a crime, irrespective of whether they were charged as a traffic violation, crime, or offense. For purposes of this policy, minor traffic infractions are not considered criminal offenses. Further, for purposes of this policy, petty disorderly persons offenses not involving domestic violence, as defined in the New Jersey Code of Criminal Justice (NJSA §2C:1-1, *et seq.*), or equivalent offenses in another Federal or State jurisdiction, are specifically excluded from the definition of a criminal offense.

b. **Disorderly Persons Offense:** An offense in which a sentence of imprisonment not to exceed six (6) months is authorized.

c. **Criminal Conviction:** A final adjudication in which the accused is deemed guilty of a crime, as defined in Paragraph 6(a), without regard to whether the adjudication was the result of a trial, a plea, or a plea of *nolo contendere* (plea of no contest - a plea of guilty to the charge(s) without admitting guilt). This definition includes any actions that are tantamount to a finding of guilty, including but not limited to: adjudication withheld, deferred prosecution, entry into a pretrial intervention program, or any other similar disposition of charges.

d. Controlled Dangerous Substance: A drug, substance, or immediate precursor, included in Schedules I through V of New Jersey Controlled Dangerous Substances Law NJSA §24:21-1, *et seq.*, or as defined in an equivalent Federal or State jurisdiction's laws or regulations.

7. The POC for this policy is the NJNG Office of the Staff Judge Advocate at (609) 562-0941.

  
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Distribution: A, B, C