

JUL 24 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-00285

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

The Enlisted Performance Report (EPR) rendered for the period 29 May 1996 through 28 May 1997 be declared void and removed from his records.

APPLICANT CONTENDS THAT:

1. He believes the indorser had strong animosity due to the fact that he initiated a complaint with Social Actions concerning an incident with the indorser, who used derogatory comments and profanity during a fire alarm response at the entire fire department at Duke Field, which including him (the applicant) being on duty.
2. He received positive feedback from his rater during the reporting period.
3. The indorser from the contested report did not have first-hand knowledge of his duty performance and was, therefore, unable to render a proper evaluation of his duty performance.
4. His indorser was away on temporary duty (TDY) for a six-month period during the reporting period.
5. The contested EPR is inconsistent with his previous duty performance.

In support of the appeal, applicant submits a personal statement and statements from individuals outside the rating chain.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving in the Regular Air Force in the grade of technical sergeant.

The applicant filed a similar appeal under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which the Evaluation Report Appeal Board (ERAB) declined to consider.

EPR profile since 1991 reflects the following:

<u>PERIOD ENDING</u>	<u>EVALUATION OF POTENTIAL</u>
2 Feb 91	4
2 Feb 92	5
2 Feb 93	5
1 Nov 93	5
28 May 94	5
28 May 95	5
28 May 96	5
*28 May 97	3
28 May 98	4

*Contested report

AIR FORCE EVALUATION:

The Chief, BCMR and SSB Section, AFPC/DPPP, reviewed this application and states that they suggest the applicant file a complaint with the base Inspector General (IG), requesting they specifically investigate his allegation against the indorser from the report, to determine if the OPR was rendered to the applicant in reprisal for his initiating a social actions complaint. They also state, apparently, the indorser from the report had higher expectations and standards of duty performance than did the applicant's rater. Further, a positive feedback session does not guarantee a firewalled EPR. In reference to the applicant stating that the indorser from the contested report did not have first-hand knowledge of his duty performance and was, therefore, unable to render a proper evaluation of his duty performance; they state that the fact the indorser was not physically located at his duty station is not an issue. Subsequent evaluators are not required to have first-hand knowledge of the ratee—if they feel their knowledge is insufficient, they may obtain information from other reliable sources. They also point out the number of days the indorser was away TDY before the close-out date of the report is not an issue. There is no provision for an indorser to have a certain amount of days before he can render a performance report. In fact, Air Force policy allows evaluators other than the rater to be assigned after the EPR's closeout date. Also, it is not feasible to compare one report covering a certain period of time with another report covering a different period of time. The EPR was designed to provide a rating for a specific period of time based on the performance and conduct noted during that period, not based on previous performance/conduct. They also

note that the applicant was involved in some sort of disciplinary action during the reporting period as documented on the EPR in the last line of Section IV. They state apparently, the situation was resolved. They indicate that the applicant failed to provide anything to convince them he was rendered an evaluation report due to reprisal. Therefore, they recommend denial of applicant's request.

A complete copy of the evaluation is attached at Exhibit C.

The Chief, Inquiries/AFBCMR Section, AFPC/DPPAB, also reviewed this application and states that should the Board void the contested report in its entirety, upgrade the overall rating, or make any other significant change, providing the applicant is otherwise eligible, the applicant will be entitled to supplemental promotion consideration commencing with cycle 98E7.

A complete copy of their evaluation is attached at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

Copies of the Air Force evaluations were forwarded to applicant on 9 March 1998 for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing laws or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing the evidence of record, we are persuaded that—the contested report is not an adequate assessment of applicant's performance during the period in question. In this respect, we note that the rater on the contested report noted applicant's involvement in a disciplinary incident and that this issue had been resolved. The rater, with complete knowledge of the incident, gave the applicant a "5" promotion recommendation. Based on the evidence of record, we find that the downgrading of the report by the indorser was unjust. Therefore, we recommend the contested report be declared void and removed from applicant's records. In addition, we recommend his corrected record be provided supplemental promotion consideration by all appropriate cycles. As a matter of information, if the applicant believes that the indorser rendered the report in reprisal, he should contact the base Inspector General.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 29 May 1996 through 28 May 1997, be declared void and removed from his records.

It is further recommended that applicant be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 98E7.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application, that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the board for a final determination on the individual's qualification for the promotion.

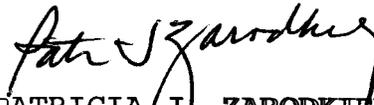
If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.

The following members of the Board considered this application in Executive Session on 25 June 1998, under the provisions of AFI 36-2603:

Ms Patricia J. Zarodkiewicz, Panel Chair
 Mr. Jackson A. Hauslein, Member
 Ms. Dorothy P. Loeb, Member
 Ms. Phyllis L. Spence, Examiner (Without vote)

All members voted to correct the records, as recommended. The following documentary evidence was considered:

Exhibit A. DD Form 149, dated 27 Jan 98, w/atchs.
 Exhibit B. Applicant's Master Personnel Records.
 Exhibit C. Letter, AFPC/DPPP, dated 18 Feb 98.
 Exhibit D. Letter, AFPC/DPPPAB, dated 7 Feb 98.
 Exhibit E. Letter, AFBCMR, dated 9 Mar 98.


 PATRICIA J. ZARODKIEWICZ
 Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

18 FEB 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPP
550 C Street West, Suite 8
Randolph AFB TX 78150-4710

SUBJECT: [REDACTED]

Requested Action. The applicant requests the enlisted performance report that closed out 28 May 97 be removed from his personnel records.

Basis for Request. The applicant contends the indorser from the contested report reprised against him because he filed a Social Actions complaint against the indorser for using foul language and making derogatory comments during a fire alarm response.

Recommendation. Deny.

Facts and Comments.

a. The application is timely. The applicant filed a similar appeal under AFI 36-2401, Correcting Officer and Enlisted Evaluation Reports, which the Evaluation Report Appeal Board (ERAB) declined to consider. A copy of the ERAB decision letter is included in the applicant's appeal package.

b. AFI 36-2403, The Enlisted Evaluation System, 15 Jul 94 is the governing directive.

c. In support of his appeal the applicant includes a personal brief and a copy of the package he submitted to the ERAB.

d. Air Force policy is that an evaluation report is accurate as written when it becomes a matter of record. It takes substantial evidence to the contrary to have a report changed or voided. To effectively challenge an EPR, it is important to hear from all the evaluators on the contested report--not only for support, but for clarification/explanation. The applicant failed to provide support from anyone in the rating chain of the 28 May 97 report. The statements from outside the rating chain are not germane to this case. While the individuals are entitled to their opinions of the applicant, we are provided no reason to believe they were in a better position to assess the applicant's duty performance during the contested rating period than those specifically charged with his evaluation. In the absence of information from the evaluators, official substantiation of error or injustice from the Inspector

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General (IG) or Social Actions is appropriate, but not provided in *this case*. We suggest the applicant file a complaint with the ~~base~~ Inspector General (IG), requesting they specifically investigate ~~his~~ allegation against the indorser ~~from~~ the report, to determine if the OPR was rendered to the applicant in reprisal for his initiating a social actions complaint.

e. The applicant contends he received positive feedback from ~~his~~ rater during the reporting period, and included a copy of the performance feedback worksheet. The purpose of the feedback session is to give the ratee direction and to define performance **expectations** for the rating period in question. Feedback **also** provides the ratee the opportunity to improve **performance**, if necessary, before the EPR is written. The rater who prepares the PFW may use the **PFW as an** aid in preparing the **EPR** and, if applicable, subsequent feedback sessions. The **PFW acts as** a scale on where the ratee stands in relation to the duty performance expectations of the ~~rater~~. **A** PFW with all items marked "needs little or no improvement" means the ratee is meeting the rater's standards. Apparently, the indorser from the report had higher expectations and standards of duty performance **than** did the applicant's ~~rater~~. Further, a positive feedback session does not guarantee **a** firewalled EPR. Also, a ratee who performs current duties in **an** exceptional **manner** could demonstrate only limited potential for the next higher grade. Or, **a ratee** who still **needs** to improve in the performance of current duties could demonstrate great potential for the next higher grade. There is **not a** direct correlation between the **markings** on the **PFW** and the ratings on **an** EPR

f. The applicant asserts the indorser from the contested report did not have first-hand knowledge of his duty performance and **was**, therefore, unable to render a proper evaluation of ~~his~~ duty performance. The Air Force charges evaluators **with** rendering **fair** and accurate EPRs and **ensuring** the **comments** support **the** ratings. The fact the indorser was not physically located at ~~his~~ duty station is not an issue. Subsequent evaluators **are** not required to have "**first-hand knowledge**" of the ratee—if they feel their knowledge is **insufficient**, they may obtain information **from** other reliable sources.

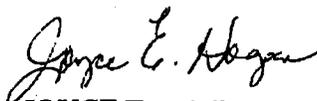
g. The applicant contends ~~his~~ indorser **was** away on temporary duty (TDY) for a six-month period during the reporting period. We would like to point out the number **of** days the indorser was away **TDY** before the closeout **date** of the report is not **an** issue. There is no provision for **an** indorser to have **a** certain amount of days before he can render a performance report. In fact, ~~Air~~ Force policy allows evaluators other **than** the rater to be assigned **after** the EPR's closeout date.

h. The applicant contends the contested EPR is inconsistent with ~~his~~ previous duty **performance**. It is not feasible to compare one report **covering** a **certain** period of time with another **report** covering a different period of time. **This** does not allow for changes in the ratee's performance **and** does not follow **the** intent of the **governing regulation**, AFI 36-2403. The EPR **was** designed to provide a rating for a specific **period** of time based **on** the performance and conduct noted during that period, not based on previous performance/conduct. .

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i. We note the applicant was involved in some sort of disciplinary action during the reporting period as documented on the EPR in the last line of Section IV. Apparently, the situation was resolved.

Summary. The applicant failed to provide anything to convince us he was rendered an evaluation report due to reprisal. Our recommendation of denial is appropriate.



JOYCE E. HOGAN
Chief, BCMR and SSB Section
Dir of Personnel Program Mgt

9800285



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

7 FEB 1998

MEMORANDUM FOR AFPC/DPPPAB
AFBCMR

FROM: HQ AFPC/DPPPWB
550 C Street West, Ste 9
Randolph AFB TX 78150-4711

SUBJECT: Application for Correction of Military Records

Requested Action. The applicant is requesting the AFBCMR void his Enlisted Performance Report (**EPR**) closing **28 May 97**. We will **address** the supplemental promotion consideration issue should the request be approved.

Reason for Request. The applicant believes the contested **report** is **unjust**.

Facts. See AFPC/DPPPAB **ltr.**

Discussion. The first time the contested report **will** be considered in the promotion process is cycle **98E7** to master sergeant (promotions effective Aug **98 - Jul 99**). Should the AFBCMR void **the** report in its entirety, or upgrade the overall rating, providing he is otherwise eligible, the applicant will be entitled to supplemental promotion consideration beginning with cycle **98E7** providing he is not selected during the initial **98E7** cycle. However, if the **EPR** is voided and the favorable results received by 1 May **98**, no supplemental consideration would be required **as** there would be sufficient time to update the promotion file. Promotions for **this** cycle **will** be accomplished during the May/Jun **98** time **frame**.

Recommendation. We defer to the recommendation of AFPC/DPPPAB.


TONY R. MERRITT
Chief, Inquiries/AFBCMR Section
Enlisted Promotion Branch

9800285



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

JUL 24 1998

AFBCMR 98-000285

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED] corrected to show that the Enlisted Performance Report, AF Form 910, rendered for the period 29 May 1996 through 28 May 1997, be, and hereby is, declared void and removed from his records.

It is further directed that applicant be provided supplemental consideration for promotion to the grade of master sergeant for all appropriate cycles beginning with cycle 98E7.

If AFPC discovers any adverse factors during or subsequent to supplemental consideration that are separate and apart, and unrelated to the issues involved in this application, that would have rendered the applicant ineligible for the promotion, such information will be documented and presented to the board for a final determination on the individual's qualification for the promotion.

If supplemental promotion consideration results in the selection for promotion to the higher grade, immediately after such promotion the records shall be corrected to show that applicant was promoted to the higher grade on the date of rank established by the supplemental promotion and that applicant is entitled to all pay, allowances, and benefits of such grade as of that date.


JOE G. LINEBERGER
Director

Air Force Review Boards Agency

JUL 27 1998

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 98-00444

COUNSEL: NONE

HEARING DESIRED: NO

APPLICANT REQUESTS THAT:

He be considered for promotion to the grade of Lieutenant Colonel by Special Selection Board (SSB) for the Calendar Year 1997 (CY97C) Lieutenant Colonel Line Central Selection Board

APPLICANT CONTENDS THAT:

The aeronautical rating on his Officer Selection Brief (OSB) should read, "Command Pilot", not "Senior Pilot."

The applicant states that there was a gap between the effective date of his aeronautical rating and the requested date of the order because of a computer program update. This delay was the most probable cause in not updating his OSB in time for the lieutenant colonel promotion board.

In support of the appeal, applicant submits his Officer Selection Brief (OSB) and aeronautical order/aeronautical rating.

Applicant's complete submission is attached at Exhibit A.

STATEMENT OF FACTS:

The applicant is currently serving on extended active duty in the grade of Major.

He was considered but not selected for promotion to the grade of lieutenant colonel by the CY97C Lieutenant Colonel Line Selection Board.

OER/OPR profile since 1992 reflects the following:

<u>PERIOD ENDING</u>	<u>OVERALL EVALUATION</u>
30 Jan 92	MEETS STANDARDS
8 Jul 92	MEETS STANDARDS
8 Jul 93	MEETS STANDARDS
8 Jul 94	MEETS STANDARDS

8 Jul 95	MEETS STANDARDS
8 Jul 96	MEETS STANDARDS
8 Jul 97	MEETS STANDARDS

AIR FORCE EVALUATION:

The Chief, Officer Promotion Management, Directorate of Personnel Program Management, HQ AFPC/DPPP, reviewed this application and states that if a memorandum from the applicant or the applicant's flight records office was generated and was received by their office, there is no record of such action by their office, the applicant, or the applicant's flight records office. Memorandums for correction of OSB information are considered working documents and are destroyed by their office upon approval of the board report. The aeronautical order does not provide information or evidence that actions were taken prior to the board to correct aeronautical information on his OSB. The applicant assumed the errors were to be corrected but does not indicate whether he ensured the information was updated. It is the applicant's responsibility and not the MPF, flight records office or the Air Force, to ensure his records are correct prior to the board. Therefore, they recommend denial of applicant's request.

A complete copy of the Air Force evaluation is attached at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION:

A copy of the Air Force evaluation was forwarded to applicant on 18 March 1998 for review and response within 30 days. As of this date, no response has been received by this office.

THE BOARD CONCLUDES THAT:

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Sufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. After reviewing the evidence of record, we are persuaded that the aeronautical rating of command pilot, effective 28 June 1997, should have been reflected on the applicant's officer selection brief (OSB) prior to the convening of the CY97C board. In this respect, we note that the applicant was awarded the aeronautical

rating of command pilot, effective 28 June 1997. However, aeronautical orders were not issued until after the CY97C board convened. Therefore, the OSB considered by the CY97C board reflected the aeronautical rating of senior pilot. Since the applicant met the requirements for award of the advanced aeronautical rating of command pilot prior to the CY97C board convening and the delay in the preparation of the aeronautical orders was through no fault of his own, we believe the applicant's records, to include an OSB reflecting the aeronautical rating of command pilot, effective 28 June 1997, should be considered for promotion to the grade of lieutenant colonel by Special Selection Board (SSB) for the CY97C board. Therefore, we recommend his records be corrected to the extent indicated below.

THE BOARD RECOMMENDS THAT:

The pertinent military records of the Department of the Air Force relating to APPLICANT, be corrected to include an Officer Selection Brief reflecting an aeronautical rating of Command Pilot, effective 28 June 1997, be considered for promotion to the grade of lieutenant colonel by Special Selection Board for the Calendar Year 1997C Lieutenant Colonel Line Central Selection Board.

The following members of the Board considered this application in Executive Session on 7 July 1998, under the provisions of AFI 36-2603:

Mrs. Barbara A. Westgate, Panel Chair
 Mr. Frederick R. Beaman III, Member
 Mr. Steve Shaw, Member

All members voted to correct the records, as recommended. The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 28 October 1997, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, HQ AFPC/DPPP, dated 8 March 1998, w/atc.
- Exhibit D. Letter, SAF/MIBR, dated 19 March 1998.


 BARBARA A. WESTGATE
 Panel Chair



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

9 MAR 1998

MEMORANDUM FOR AFBCMR

FROM: 550 C Street West Suite 8
Randolph AFB TX 78150-4710

SUBJECT: Application for Correction of Military Record - [REDACTED]

Requested Action. Applicant requests correction of aeronautical rating on his Officer Selection Brief (OSB). Although applicant does not request reconsideration for promotion by a Special Selection Board (SSB) for this request, he indicates he has a request for SSB using the AF Form 948 appeal process.

Discussion.

a. Application is timely. Applicant met the CY97C Lieutenant Colonel Line Central Selection Board on 21 Jul 97.

b. The applicant's OSB for the CY97C Lt Col Line board, dated 18 Jul 97, reflects his aeronautical rating as "senior pilot." Applicant provides Aeronautical Order #679, dated 18 Jul 97, reflecting award of "command pilot" effective 28 Jun 97. If a memorandum from the applicant or the applicant's flight records office was generated and was received by this office, there is no record of such action by this office, the applicant, or the applicant's flight records office. Memorandums for correction of OSB information are considered working documents and are destroyed by this office upon approval of the board report. The aeronautical order does not provide information or evidence that actions were taken prior to the board to correct aeronautical information on his OSB.

c. Applicant claims a "gap between the effective date of my aeronautical rating and the requested date of the order was caused because of a computer program update..." and that this "delay was the most probable cause in not updating my AIR FORCE OFFICER SELECTION BRIEF in time for the 9705C Lieutenant Colonel Promotion Board."

d. Applicant claims he was "under the assumption that my aeronautical rating was to be corrected prior to the 9705C Lieutenant Colonel Promotion Board."

Recommendation. Deny applicant's request for correction of aeronautical information. Deny assumed request for reconsideration for promotion by SSB.

Summary.

9800444

a. AFI 36-2501, *Officer Promotions* and *Selective continuation*, para 1.7 states that the eligible officer's responsibilities for promotion consideration are to (1) determine eligibility timing for various promotion zone considerations, (2) review his OPB for accuracy, (3) review his PRF and OPR for accuracy, (4) consider submitting a letter to the board and lastly, (5) report any errors to the Military Personnel Flight (MPF) Promotions. These responsibilities were the same when the applicant was considered for promotion to major and for his considerations below the promotion zone on the last two lieutenant colonel promotion boards. The applicant does not provide any evidence or information to indicate he took action to correct his record. Applicant claims he assumed the errors were to be corrected but does not indicate whether he ensured the information was updated. It is the applicant's responsibility and not the MPF, flight records office or the Air Force, to ensure his records are correct prior to the convening of the board.

b. AFI 36-2501, 1 Mar 96, para 6.3.2.2 and Air Force Regulation 36-89, Promotion of Active Duty List Officers, 17 Apr 92, para 32, specifically states "Do not have an SSB if, by exercising reasonable diligence, the officer should have discovered the error or omission and could have taken corrective action before the originally scheduled board convened." This guidance was applicable to the applicant's '94, '96, and '97 promotion board considerations.

c. MPF Memorandum (MPFM) 97-13, dated 7 Mar 97, Subject: CY97C Lieutenant Colonel (LAF) Central Selection Board, attachment 3, para 12, specifically states procedures to correct aeronautical flying data. These procedures were similar for the applicant's '94 and '96 promotion board considerations. The MPFM states, "For correction, officers should request their HOSM provide them with a correct update of their flying hours. This can then be presented to the board if the officer writes a letter to the board president and attaches the HOSM's update. HOSM/FMO update letters may also be forwarded to DPPPOO for changes to the OSB in lieu of a letter to the board president." While the applicant provides a copy of the aeronautical order changing his aeronautical rating, this order does not show the flight records office or the applicant attempted to communicate with AFPC/DPPPOO in order to have the information corrected of his OSB. Further, there is no evidence the applicant attempted to correspond with the board president in order to bring to the board's attention the recent change in his aeronautical rating.

d. There is no evidence any effort was made by the applicant to correct his record or that the applicant experienced unique circumstances. Granting relief to this applicant will afford him an unfair advantage over the many other officers who made the effort to ensure their records were complete and accurate.

e. Strongly recommend this application for correction and reconsideration for promotion by SSB be denied. We have no recommendation if the Board's decision is to grant relief over our objections.

POC: Mr. Gil Torre, DSN 487-5602.


 DAVID A. SOUTHERLAND, Major, USAF
 Chief, Officer Promotion Management
 Directorate of Personnel Program Mgt



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

Office of the Assistant Secretary

JUL 27 1998

AFBCMR 98-00444

MEMORANDUM FOR THE CHIEF OF STAFF

Having received and considered the recommendation of the Air Force Board for Correction of Military Records and under the authority of Section 1552, Title 10, United States Code (70A Stat 116), it is directed that:

The pertinent military records of the Department of the Air Force relating to [REDACTED], be corrected to include an Officer Selection Brief reflecting an aeronautical rating of Command Pilot, effective 28 June 1997, be considered for promotion to the grade of lieutenant colonel by Special Selection Board for the Calendar Year 1997C Lieutenant Colonel Line Central Selection Board.


JOE G. LINEBERGER
Director
Air Force Review Boards Agency