



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC, 20370-5100

HD:hd  
Docket No: 00156-01  
17 September 2001

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: LCDR [REDACTED], USN, [REDACTED]  
REVIEW OF NAVAL RECORD (RECONSIDERATION)

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Subject's recon req dtd 29 Dec 00 w/enclosures  
(2) Pertinent documents from BCNR file  
on Subject's prior case, docket no 5695-99  
(3) PERS-61 memo dtd 5 Apr 01  
(4) PERS-311 memo dtd 26 Jun 01  
(5) PERS-85 memo dtd 8 Aug 01  
(6) Subject's ltrs dtd 15 Jul w/encls and 29 Aug 01  
(7) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board seeking reconsideration of her case. As indicated in enclosure (2), on 28 September 2000, the Board denied her original application, to remove the fitness reports for 1 November 1995 to 31 October 1996 and 1 November 1996 to 8 August 1997 (copies at Tabs A and B, respectively), strike her failures by the Fiscal Year (FY) 00 and 01 Staff Commander Selection Boards, and grant her consideration by a special selection board. She has also failed of selection by the FY 02 Staff Commander Selection Board. Because of the failures of selection for promotion, she is scheduled to be involuntarily retired on 1 October 2001.

2. The Board, consisting of Messrs. Geisler, Morgan and Taylor, reviewed Petitioner's allegations of error and injustice on 13 September 2001, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. The contested fitness reports were submitted at the same assignment, Commander, Fleet Activities (COMFLEACTS), Sasebo, Japan, but by different reporting seniors. Both evaluated Petitioner's performance, in her current grade of lieutenant commander, of duty as the Navy Exchange Officer.

d. The first contested report, for 1 November 1995 to 31 October 1996 (Tab A), was submitted as a periodic regular report. The marks assigned consisted of one "5.0" (best, in block 37 (mission accomplishment and initiative)); five "4.0" (second best, in blocks 33 (professional expertise), 34 (equal opportunity), 35 (military bearing/character), 36 (teamwork) and 38 (leadership)); and one "not observed" (block 39 (tactical performance)). Block 40 (career recommendations) was marked "DEPT HD [department head] AFLOAT" and "JOINT DUTY." In promotion recommendation, Petitioner was marked "Must Promote" (second best), with one other lieutenant commander compared with her, who was marked above her as "Early Promote" (best). The narrative was entirely favorable. This report was signed by the reporting senior, [REDACTED] on 4 November 1996. Petitioner signed on 6 November 1996, indicating that she intended to submit a statement, but no statement is on file in her record.

e. The second contested report, for 1 November 1996 to 8 August 1997 (Tab B), was submitted by the Chief of Staff, Commander, Naval Forces Japan (COMNAVFORJAPAN), [REDACTED] s immediate superior in command (ISIC). It is a detachment of reporting senior regular report. The marks assigned consisted of two "5.0" (blocks 33 and 37), one "4.0" (block 35), three "3.0" (blocks 34, 36 and 38) and one "not observed" (block 39). Block 40 was marked "AFLOAT DEPT HD" and "JOINT DUTY." In promotion recommendation, Petitioner was marked with one other lieutenant commander as "Must Promote." The narrative began as follows: "ISIC has assumed reporting senior authority as directed by CINCPACFLT [Commander in Chief Pacific Fleet] due to the regular reporting senior being under investigation. Accordingly, the basis for observation this reporting period is infrequent." The remainder of the narrative spoke favorably of Petitioner's performance. This report was signed by the ISIC on 17 September 1997. Petitioner submitted a statement, and the ISIC provided an endorsement, both of which are in Petitioner's record with the report.

f. In her original application, Petitioner contended that her first fitness report from [REDACTED] was an accurate portrayal of her performance. She asserted she was not satisfied with the second report he gave her, but senior officers told her not to make a statement. She alleged that she became aware that [REDACTED] was discriminating against her, and therefore she filed an equal opportunity complaint against him. She said at least two other complaints were filed against him, as she was questioned in connection with them; and that during the period of the contested fitness report he submitted, he questioned her about the initiation of at least one of those investigations, though she had not initiated any of them. She reported that CINCPACFLT substantiated her complaint in part and directed

COMNAVFORJAPAN to assume reporting senior responsibility from the reporting senior for all officers in grades of lieutenant commander and above. She said [REDACTED] had a change of command ceremony on 8 August 1997, and that the Chief of Staff, COMNAVFORJAPAN, the ISIC, prepared the second contested fitness report in connection with [REDACTED]'s detachment. She believed the ISIC report inaccurately reported her performance and reflected bias against her for having filed the equal opportunity complaint. Her reasons for that belief were that she never met the ISIC, and that no input for the fitness report was sought either from the Navy Exchange Officer, Japan District, or the chief staff officer at COMFLEACTS, Sasebo, Japan, both of whom had closely observed her performance. She believed the ISIC report was based on input from [REDACTED], the detached reporting senior who knew her equal opportunity complaint against him had been substantiated. Finally, she believed that her failures of selection for promotion were the direct result of the inaccurate evaluation of her performance, based on improper bias, by the detached reporting senior and the ISIC.

g. In Petitioner's prior case, two sets of advisory opinions were obtained from PERS-311, 61 and 85, the Navy Personnel Command (NPC) offices having cognizance over fitness reports, equal opportunity matters and active duty officer promotions, respectively. Initially, PERS-311 recommended disapproving Petitioner's request to remove the fitness reports. However, they stated that should her allegation of discrimination be found to have merit, they would have no objection to removal of the reports as requested. PERS-61 initially stated they did not believe the two fitness reports in question were discriminatory or retaliatory; that it should be noted that the contested fitness report signed by [REDACTED] was the first he gave Petitioner under a new fitness report system, which has considerably different grading scales; that most officers and sailors receiving their first evaluation or fitness report under the revised system were disappointed in their marks; and that although CINCPACFLT substantiated a perception of gender bias and favoritism, they did not believe the fitness reports to be biased. Since no correction of Petitioner's fitness report record had been recommended by PERS-311 or 61, PERS-85 recommended against removing her failures of selection for promotion or granting her a special selection board.

h. In Petitioner's response to the first set of advisory opinions, she disagreed with them in every respect. She provided letters from the Navy Exchange Officer, Japan District and the chief staff officer at COMFLEACTS, Sasebo, Japan, dated 20 October and 22 December 1999, respectively, which commented favorably on her performance during the periods in question. She asked that new advisory opinions be solicited in light of these letters.

i. In view of the two new supporting letters, the second set of advisory opinions was obtained. PERS-311 did not change their recommendation; however, the PERS-61 position did change in their revised opinion of 15 June 2000. They concluded they still did not believe the first fitness report in question was discriminatory or retaliatory, and that retaliation is hard to prove, especially if the ISIC has been designated as the reporting senior authority; but they stated they did have to wonder why Petitioner received the mark of "3.0" in equal opportunity, if she had been designated the command's equal opportunity officer.

They stated the marks in the second report do show a significant decline, although they understood it was from an entirely different reporting senior. In light of the information in the record of complaint enclosed with the opinion (from the chief staff officer) they recommended that the fitness report signed by the ISIC be removed. They stated there appear to be hints of bias in the marks, although the report is not adverse. PERS-85 stood by their recommendation of disapproval even with the PERS-61 recommendation that the ISIC fitness report be removed; they felt that even if this report were removed, such corrective action does not substantially improve Petitioner's record.

j. In Petitioner's response to the second set of advisory opinions, she urged the Board to agree with PERS-61 that the ISIC report must be removed, but she argued that his report was written in violation of 10 U.S.C. 1034 as a reprisal against her as a result of her communications to the chain of command about [REDACTED]. She maintained that the investigations by COMNAVFORJAPAN confirmed his bias against women; that her contested fitness report from him reflects this bias; and that both contested reports, while perhaps not technically adverse, are clearly adverse in the highly competitive world of commander selections, and are the reasons she was not selected for commander.

k. The Board gave the following explanation for denying Petitioner's request to remove the contested fitness reports:

In finding that the contested fitness report for 1 November 1995 to 31 October 1996 should stand, the Board particularly noted that your first input to the investigating officials was in January 1997, while the report at issue had been submitted on 4 November 1996, so it could not have been in reprisal. Despite the findings that led to the decision to have [REDACTED]'s immediate superior in command (ISIC) act as your reporting senior on your report for 1 November 1996 to 8 August 1997, the Board was unable to find [REDACTED] was biased against women or fostered an environment hostile to women. In this regard, they particularly noted that he submitted the uncontested report for 2 June to 31 October 1995, in which you were recommended for "early" promotion (best possible).

Notwithstanding the recommendation, in the PERS-61 advisory opinion dated 15 June 2000, to remove the contested fitness report for 1 November 1996 to 8 August 1997, the Board found this report should stand as well. They were unable to find the ISIC did, in fact, take input from [REDACTED], or if he did, that such input influenced his evaluation of your performance. They noted that the officer who gave the supporting statement dated 22 December 1999 did not say the ISIC did not obtain her input regarding your performance. In any event, the Board was unable to find the ISIC lacked sufficient reliable information to evaluate you properly, noting that his observation did not have to be direct, and that he had you as a source of input. They were unable to find the ISIC would have retaliated against you in reprisal for your actions against [REDACTED]. Your low marks in this report, including the "3.0" (third

best) in "Equal Opportunity," did not convince them you were the victim of reprisal or discrimination, regardless of your assigned duties as an equal opportunity officer.

The Board could not find you deserved more favorable reports for the pertinent periods. In this connection, they noted that your uncontested report from a new reporting senior at the same station, for 9 August to 17 September 1997, marked you "Must Promote" (second best), the same promotion recommendation you received in the contested reports.

As the Board found no defect in Petitioner's fitness report record, they had no grounds to remove her failures of selection for promotion or afford her consideration by a special selection board.

l. In support of her request for reconsideration, Petitioner submitted new information showing that the Naval Inspector General had found to be substantiated the allegations of another female officer who had served under ██████████ at COMFLEACTS, Sasebo, Japan that he was biased against female staff members. Petitioner again requested removal of both contested fitness reports.

m. In correspondence attached as enclosure (3), PERS-61 recommended that the fitness report for 1 November 1995 to 31 October 1996 be removed from Petitioner's record in light of the new information she had provided. They stated that the "preponderance of evidence" showed a climate of gender bias and perhaps discrimination existed under the officer who submitted this report. However, they recommended that the ISIC report for 1 November 1996 to 8 August 1997, which their opinion of 15 June 2000 had recommended removing, be retained. Concerning the declining marks in this report, they stated that such a decline often occurs in the case of a new reporting senior.

n. In correspondence attached as enclosure (4), PERS-311 stated they now have no objection to the removal of the fitness reports in question. Noting that the earlier PERS-61 opinion had recommended removing the ISIC report, and that their latest opinion recommended removing ██████████ report, PERS-311 concluded that Petitioner had proven the reports to be unjust or in error.

o. In correspondence attached as enclosure (5), PERS-85 commented to the effect that removal of the report for 1 November 1995 to 31 October 1996 would not appreciably improve the competitiveness of Petitioner's record among her peers enough for promotion to commander. Accordingly, they still recommended against removing her failures of selection for promotion or granting her a special selection board, although they did recommend removing the report for 1 November 1995 to 31 October 1996.

p. Enclosure (6) comprises two letters from Petitioner. In the first, she asked the Under Secretary of Defense (Personnel and Readiness) for "Whistleblower" protection. The

second was her response to the latest NPC advisory opinions, at enclosures (3) through (5). She noted that PERS-61, in different opinions, had recommended removing both contested fitness reports, and that PERS-311 had no objection to removing both reports. She urged the Board to err on the side of caution and remove both reports to ensure elimination of bias and unfairness in the fitness reporting system. She reiterated her belief that both reports inaccurately evaluated her performance and constituted retaliation against her in violation of the "Whistleblower" protection laws; and she again requested removal of her failures of selection for promotion on the basis that these reports had caused those failures.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, the Board now finds an injustice warranting full approval of Petitioner's application, except her request for a special selection board.

The Board agrees with the current advisory opinions from PERS-61 and PERS-311, enclosures (3) and (4), in finding that the contested fitness report for 1 November 1995 to 31 October 1996 should be removed. They are now convinced that Petitioner's reporting senior for this report was biased against women.

The Board now finds that the contested ISIC fitness report for 1 November 1996 to 8 August 1997 should be removed as well. In this regard, they note that this action is recommended by both the later PERS-61 opinion in Petitioner's prior case and the current opinion from PERS-311. They recognize that the ISIC who submitted this report has not been found to have been biased against women in general or Petitioner in particular, and that the current PERS-61 opinion recommends that this report be retained. However, they are troubled by the marks in this report, which are actually lower than those in the earlier contested report. While they do not consider it absolutely clear that the ISIC report is unfair or inaccurate, they find it more appropriate to remove it, rather than take the chance of failing to correct fully the injustice in Petitioner's case.

The Board finds that Petitioner's failures of selection for promotion should be removed. They are not convinced that her selection to commander would have been definitely unlikely, had the contested reports not been in her record. They further find that removing her failures requires setting aside action to effect her involuntary retirement on the basis of those failures.

Finally, the Board finds that Petitioner's request for a special selection board should be disapproved. They are satisfied that her consideration by the next regularly scheduled promotion board, with a corrected fitness report record and status as not having failed of selection, will provide her adequate relief.

In view of the above, the Board recommends the following limited corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected by removing therefrom the following fitness reports and related material:

Date of Report	Reporting Senior	Period of Report From	Report To
96Nov04	[REDACTED] USN	95Nov01	96Oct31
97Sep17	[REDACTED] USN	96Nov01	97Aug08

b. That there be inserted in Petitioner's naval record ONE memorandum in place of both removed reports containing appropriate identifying data; that the memorandum state that the portion of Petitioner's fitness report record for 1 November 1995 to 8 August 1997 has been removed by order of the Secretary of the Navy in accordance with the provisions of federal law and may not be made available to selection boards and other reviewing authorities; and that such boards may not conjecture or draw any inference as to the nature of the removed material.

c. That Petitioner's record be corrected so that she be considered by the earliest possible selection board convened to consider officers of her category for promotion to commander as an officer who has not failed of selection for promotion to that grade.

d. That any retirement or other action based in any way on Petitioner's failures of selection before the FY 00 through 02 Staff Commander Selection Boards be cancelled and, if necessary, that related documentation be removed from her record.

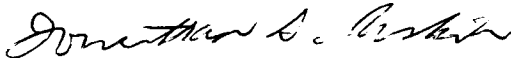
e. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

f. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

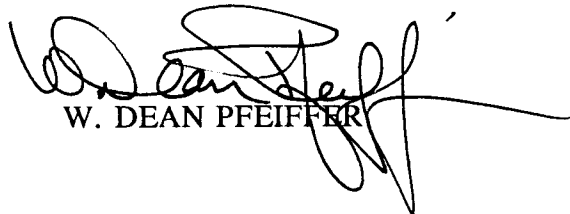
g. That the remainder of Petitioner's request be denied.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

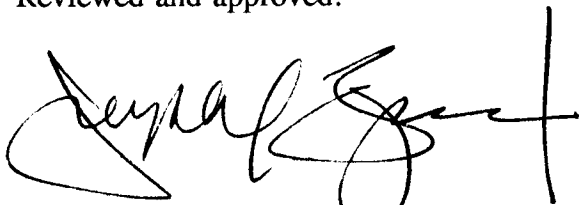
ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER

Reviewed and approved:



**JOSEPH G. LYNCH**  
Assistant General Counsel  
(Manpower And Reserve Affairs)

SEP 26 2001





156-61

DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-61/206  
5 Apr 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION  
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF  
LIEUTENANT COMMANDER [REDACTED], USN,  
[REDACTED]

Ref: (a) BCNR PERS-00ZCB memo of 01 Mar 01  
(b) PERS-61/011 memo of 19 Jan 00  
(c) PERS-61/094 memo of 15 Jun 00  
(c) OPNAVINST 5354.1D Navy EO Manual

Encl: (1) BCNR File 05695-99  
(2) PERS-61 Record of Complaint

1. Reference (a) requested an advisory opinion in response to Lieutenant Commander [REDACTED] request to remove fitness reports from her record for the periods 1 November 1995 to 31 October 1996 and 1 November 1996 to 8 August 1997. This is a request for reconsideration of two previous opinions that were provided by this office as indicated in references (b) and (c). Enclosure (1) is returned.

2. Lieutenant Commander [REDACTED] alleges that the two fitness reports are discriminatory and retaliatory in nature and do not accurately reflect her performance. Her Commanding Officer signed the first report, ending 31 October 1996. Lieutenant Commander [REDACTED] submitted an EO complaint, which was forwarded to the ISIC, COMNAVFORJAP, claiming that she was a subject of discrimination. COMNAVFORJAP assigned an Investigating Officer, who had investigated an earlier complaint against the same Commanding Officer. The investigation was unsubstantiated.

3. Lieutenant Commander [REDACTED] appealed the findings to CINCPACFLT, who conducted another investigation and concluded that her Commanding Officer failed to ensure a command climate free from perceptions of gender bias and favoritism. Based on those conclusions, CINCPACFLT administratively censured the Commanding Officer and directed the ISIC, COMNAVFORJAP, fitness reports authority for the report ending 8 August 1997.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF  
LIEUTENANT COMMANDER [REDACTED] USN,  
[REDACTED]

4. In this most recent request for reconsideration, Lieutenant Commander [REDACTED] included a statement by Commander [REDACTED] and a copy of a letter to Commander [REDACTED] from the Naval Inspector General office indicating that her allegations of gender bias against female members by this same reporting senior were substantiated. In addition, the file contains at least one other informal statement by another female officer claiming gender bias and the aforementioned investigation by CINCPACFLT which substantiated Lieutenant Commander [REDACTED] complaint. Therefore, based on this "preponderance of evidence," that a climate of gender bias and perhaps discrimination existed under that reporting senior, I recommend the first fitness report in question (1 November 1995 to 31 October 1996) be removed from Lieutenant Commander [REDACTED] record. Even though this is technically not an adverse report, the substantiated cases above involving this reporting senior cast a long shadow over his evaluation of this officer's performance.

5. The second fitness report (ending 8 August 1997), signed by the COMNAVFORJAP Chief of Staff, does not appear to have these same problems. Even though Lieutenant Commander [REDACTED] alleges she was never asked for input, this is not an adverse report. Further, it is the responsibility of the member, not the reporting senior, to ensure he/she provides input for fitness reports. While the marks of this fitness report may be lower than the previous one, this is often the case with new reporting seniors and these marks can not be further analyzed without looking at that particular reporting senior's overall average. Even then, fitness reports are, as pointed out in the Chief of Staff's statement, not self-assessments.

6. Based on the above, I recommend the fitness report ending 31 October 1996 be removed from her record, but that the fitness report ending 8 August 1997 be retained.

[REDACTED]

Director, Professional  
Relationships Division  
(PERS-61)



DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

1610  
PERS-311  
26 June 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: LCDR [REDACTED], USN

Ref: (a) PERS-61 memo 1610 PERS-61/011 of 19 January 2000  
(b) PERS-61 memo 1610 PERS-61/094 of 15 June 2000  
(c) PERS-61 memo 1610 PERS-61/206 of 5 April 2001  
(d) My memo 1610 PERS-311 of 23 DEC 99

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests reconsideration to remove her original fitness reports for the periods 1 November 1995 to 31 October 1996 and 1 November 1996 to 8 August 1997, removal of failure to select, consideration by a special selection board, and to be considered by the next regularly scheduled Supply Corps Commander Promotion Selection Board as an above-zone officer not previously considered.

2. Based on our review of the material provided, we find the following:

a. We have reconsidered the member's petition based on the new material presented.

b. Lieutenant Commander [REDACTED] provided two very impressive letters of support in her petition, including her immediate supervisor during the reporting period and the Chief Staff Officer. However, these individuals were not responsible for evaluating her performance. While their comments add insight and reflect favorably on the member's performance they do not show that the fitness reports were in error.

c. Reference (a) indicated CINCPACFLT substantiated a perception of gender bias and favoritism, however, they recommended the fitness reports in question remain in her record. Reference (b) stated there appears to be a hint of bias and recommended the fitness report for the period 1 November 1996 to 8 August 1997 be removed from the member's record. Reference (c) states that based on the "preponderance of evidence" that a climate of gender bias and perhaps discrimination existed under the reporting senior, recommend the fitness report for the period 1 November 1995 to 31 October 1996 be removed from the member's record.

d. The member proves the report to be unjust or in error.

3. Request cancel reference (d). In view of the above we now have no objection to the removal of the fitness reports in question.



Performance  
Evaluation Branch



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

156-01

5420  
PERS-85  
8 Aug 01

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED]

Ref: (a) PERS-61 memo of 5 April 2001  
(b) PERS-311 memo of 26 June 2001

Encl: (1) BCNR File

1. Enclosure (1) is returned, concurring with the findings of ref (a) and (b) and recommending disapproval of LCDR [REDACTED] request for removal of failures of selection and a special board.
2. The issue becomes a matter of whether the removal of the 01NOV95-31OCT96 fitness report would have made enough of a material difference to the FY-00, FY-01 or FY-02 Active Duty Commander Supply Corps Selection Promotion Board for LCDR [REDACTED] be selected to Commander. Based on a review of the member's record, this action would not appreciably improve the competitiveness of her record amongst her peers enough for promotion to the higher grade.
3. Recommend that the 01NOV95-31OCT96 fitness report be removed from LCDR [REDACTED] record, but that she receive no relief from her failures of selection or a special board.

[REDACTED]

BCNR Liaison, Officer Promotions  
and Enlisted Advancements Division



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

136-01

1610  
PERS-61/206  
5 Apr 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION  
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF  
LIEUTENANT COMMANDER [REDACTED], USN,  
[REDACTED]

Ref: (a) BCNR PERS-00ZCB memo of 01 Mar 01  
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Encl: (1) BCNR File 05695-99  
(2) PERS-61 Record of Complaint

1. Reference (a) requested an advisory opinion in response to Lieutenant Commander [REDACTED] request to remove fitness reports from her record for the periods 1 November 1995 to 31 October 1996 and 1 November 1996 to 8 August 1997. This is a request for reconsideration of two previous opinions that were provided by this office as indicated in references (b) and (c). Enclosure (1) is returned.

2. Lieutenant Commander [REDACTED] alleges that the two fitness reports are discriminatory and retaliatory in nature and do not accurately reflect her performance. Her Commanding Officer signed the first report, ending 31 October 1996. Lieutenant Commander [REDACTED] submitted an EO complaint, which was forwarded to the ISIC, COMNAVFORJAP, claiming that she was a subject of discrimination. COMNAVFORJAP assigned an Investigating Officer, who had investigated an earlier complaint against the same Commanding Officer. The investigation was unsubstantiated.

3. Lieutenant Commander [REDACTED] appealed the findings to CINCPACFLT, who conducted another investigation and concluded that her Commanding Officer failed to ensure a command climate free from perceptions of gender bias and favoritism. Based on those conclusions, CINCPACFLT administratively censured the Commanding Officer and directed the ISIC, COMNAVFORJAP, fitness reports authority for the report ending 8 August 1997.

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF  
LIEUTENANT COMMANDER [REDACTED] USN,  
[REDACTED]

4. In this most recent request for reconsideration, Lieutenant  
Commander [REDACTED] has included a statement by Commander [REDACTED]  
[REDACTED] and a copy of a letter to Commander [REDACTED] from the Naval  
Inspector General office indicating that her allegations of  
gender bias against female members by this same reporting senior  
were substantiated. In addition, the file contains at least one  
other informal statement by another female officer claiming  
gender bias and the aforementioned investigation by CINCPACFLT  
which substantiated Lieutenant Commander [REDACTED] complaint.  
Therefore, based on this "preponderance of evidence," that a  
climate of gender bias and perhaps discrimination existed under  
that reporting senior, I recommend the first fitness report in  
question (1 November 1995 to 31 October 1996) be removed from  
Lieutenant Commander [REDACTED] record. Even though this is  
technically not an adverse report, the substantiated cases above  
involving this reporting senior cast a long shadow over his  
evaluation of this officer's performance.

5. The second fitness report (ending 8 August 1997), signed by  
the COMNAVFORJAP Chief of Staff, does not appear to have these  
same problems. Even though Lieutenant Commander [REDACTED] alleges  
she was never asked for input, this is not an adverse report.  
Further, it is the responsibility of the member, not the  
reporting senior, to ensure he/she provides input for fitness  
reports. While the marks of this fitness report may be lower  
than the previous one, this is often the case with new reporting  
seniors and these marks can not be further analyzed without  
looking at that particular reporting senior's overall average.  
Even then, fitness reports are, as pointed out in the Chief of  
Staff's statement, not self-assessments.

6. Based on the above, I recommend the fitness report ending 31  
October 1996 be removed from her record, but that the fitness  
report ending 8 August 1997 be retained.

[REDACTED]

Director, Professional  
Relationships Division  
(PERS-61)



DEPARTMENT OF THE NAVY  
NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

15-6-01

1610  
PERS-311  
26 June 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: LCDR [REDACTED] USN [REDACTED]

- Ref: (a) PERS-61 memo 1610 PERS-61/011 of 19 January 2000  
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Encl: (1) BCNR File

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2. Based on our review of the material provided, we find the following:
  - a. We have reconsidered the member's petition based on the new material presented.
  - b. Lieutenant Commander [REDACTED] provided two very impressive letters of support in her petition, including her immediate supervisor during the reporting period and the Chief Staff Officer. However, these individuals were not responsible for evaluating her performance. While their comments add insight and reflect favorably on the member's performance they do not show that the fitness reports were in error.
  - c. Reference (a) indicated CINCPACFLT substantiated a perception of gender bias and favoritism, however, they recommended the fitness reports in question remain in her record. Reference (b) stated there appears to be a hint of bias and recommended the fitness report for the period 1 November 1996 to 8 August 1997 be removed from the member's record. Reference (c) states that based on the "preponderance of evidence" that a climate of gender bias and perhaps discrimination existed under the reporting senior, recommend the fitness report for the period 1 November 1995 to 31 October 1996 be removed from the member's record.



d. The member proves the report to be unjust or in error.

3. Request cancel reference (d). In view of the above we now have no objection to the removal of the fitness reports in question.



Performance  
Evaluation Branch



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND  
5720 INTEGRITY DRIVE  
MILLINGTON TN 38055-0000

156-01

5420  
PERS-85  
8 Aug 01

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LCDR [REDACTED] USN, [REDACTED]

Ref: (a) PERS-61 memo of 5 April 2001  
(b) PERS-311 memo of 26 June 2001

Encl: (1) BCNR File

1. Enclosure (1) is returned, concurring with the findings of ref (a) and (b) and recommending disapproval of LCDR [REDACTED] request for removal of failures of selection and a special board.
2. The issue becomes a matter of whether the removal of the 01NOV95-31OCT96 fitness report would have made enough of a material difference to the FY-00, FY-01 or FY-02 Active Duty Commander Supply Corps Selection Promotion Board for LCDR [REDACTED] to be selected to Commander. Based on a review of the member's record, this action would not appreciably improve the competitiveness of her record amongst her peers enough for promotion to the higher grade.
3. Recommend that the 01NOV95-31OCT96 fitness report be removed from [REDACTED]'s record, but that she receive no relief from her failures of selection or a special board.

[REDACTED]  
BCNR Liaison, Officer Promotions  
and Enlisted Advancements Division