



**CUI//SP-MIL/SP-PRVCY**

**UNITED STATES AIR FORCE  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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**RECORD OF PROCEEDINGS**

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2023-00715

*Work-Product*

**COUNSEL:** NONE

**HEARING REQUESTED:** YES

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**APPLICANT'S REQUEST**

1. Her unfavorable information file (UIF) be removed from her records.
2. Her letter of admonishment (LOA) dated 22 Apr 20 be removed from her records.

**APPLICANT'S CONTENTIONS**

The information in the commander directed investigation (CDI) did not support the punishment she received. The LOA was given over a year after the events occurred. Two months after receiving the LOA, she was stratified "#2 of 19 field grade officers" from the group commander (GP/CC) who issued the LOA. Her request in the LOA rebuttal to review the CDI was denied. She believes the anonymous complaint was in retaliation from a lieutenant colonel who she did not select as the squadron deputy.

The applicant's complete submission is at Exhibit A.

**STATEMENT OF FACTS**

The applicant is a colonel (O-6) in the Regular Air Force.

SAF/IG provides the CDI Report of Investigation (ROI) Concerning Failure to Fulfill Commander's Responsibilities, dated 31 Mar 20. The ROI shows an investigating officer (IO) was appointed to investigate the following allegations:

Allegation 1: The applicant on or about 7 Jul 17 to 25 Feb 20 negligently failed to treat members with dignity and respect and not force unwanted touching, as it was her responsibility to do. The IO concluded the applicant had a pattern of disrespectful behavior toward her co-workers. However, because the IO could not conclude she forced unwanted touching, the IO could not substantiate the allegation. **(NOT SUBSTANTIATED)**.

Allegation 2: The applicant from 7 Jul 17 to 25 Feb 20 negligently failed to display exemplary conduct of a commander. The IO concluded favoritism was not widespread or a prevalent behavior of the applicant but it detracted from the morale of the squadron and from her exemplary conduct of a commander. **(SUBSTANTIATED)**.

Allegation 3: The applicant from 7 Jul 17 to 27 Jan 20 negligently failed to deliberately execute the mission and communicate the mission to all members. The IO concluded the applicant

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had a strong mission focus, which enabled her to execute the mission and inspire the majority of her squadron members to do the same. **(NOT SUBSTANTIATED)**.

On 22 Apr 20, the applicant received an LOA from the GP/CC. The LOA stated an investigation disclosed she negligently failed to display exemplary conduct of a commander, as it was her responsibility to do so. The investigation also disclosed she exhibited conduct that detracted from the expected behavior of a commander and negatively impacted the morale of those under her command. The applicant submitted a rebuttal response on 6 May 20 and addressed the events and allegations in the CDI. On 19 May 20, the GP/CC reviewed the response and determined the LOA would remain in effect. The LOA is filed in the applicant's automated records management system (ARMS) record.

The applicant's ARMS record includes an adverse information summary (AIS) Memorandum, Substantiated Investigation Without Written Command Action, dated 13 Dec 22. The AIS states an investigation approved on 7 Jun 22 substantiated the applicant failed to provide documented feedback to an individual she supervised per DAFI 36-2406, *Officer and Enlisted Evaluations Systems*, findings approved on 7 Jun 22. The applicant was verbally counseled to correct the deficiency. The AIS was referred to the applicant for comment before it was filed in her master personnel records group (MPerGP) and officer selection record (OSR) per Department of the Air Force Policy Memorandum (DAFPM) 2020-36-03, *Adverse Information for Total Force Officer Selection Boards*, dated 14 Jan 21. The applicant submitted a response dated 16 Dec 22, which states she holds herself accountable for not providing the member with written feedback. The complaint was filed in retaliation for the nonconcurrence of a retirement decoration. She takes pride in doing right for members; however, if they are not working up to standards, she holds them accountable, which can be unpopular.

Per the military personnel data system (MilPDS), the applicant does not have a UIF.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

**APPLICABLE AUTHORITY/GUIDANCE**

Per 10 U.S.C. § 615(a)(3), DoDI 1320.14, *DoD Commissioned Officer Promotion Program Procedures*, Department of the Air Force Policy Memorandum (DAFPM) 2020-36-03, *Adverse Information for Total Force Officer Selection Boards*, dated 14 Jan 21. DAFI 36-2907, *Adverse Administrative Actions* and DAFI 36-2501, *Officer Promotions and Selective Continuation*, paragraph A14.2.1. All adverse information an officer receives will be filed in the OSR and be considered by promotion selection, special selection, and selective continuation boards to the grade of O-4 and above (to include processes for O-3 promotions that have "extraordinary adverse information"). Adverse information is any substantiated finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be adverse, the information must be derogatory, unfavorable or of a nature that reflects unacceptable conduct, integrity or judgement on the part of the individual. Adverse information includes but is not limited to any substantiated finding or conclusion from an investigation or inquiry, regardless of whether command action was taken, court-martial findings of guilt, nonjudicial punishment (NJP) pursuant to Article 15, letter of reprimand, letter of admonishment, relief of command for cause, removal from developmental education for cause, and letter of counseling. All adverse information as defined will be permanently placed in the record. Except for set aside of a court-martial or NJP action, removal of adverse information from the records may only be directed by an AFBCMR recommendation.

## **AIR FORCE EVALUATION**

AF/JAJI recommends denial. The standard of proof for issuing an LOA is a preponderance of the evidence per DAFI 36-2907. On 31 Mar 20, the CDI IO submitted a ROI substantiating Allegation 2. While Allegations 1 and 3 were unsubstantiated, based on the interviews, the IO conducted a robust analysis and concluded the preponderance of the evidence showed the applicant negligently failed to display exemplary conduct of a commander, as it was her responsibility to do.

Under the guidelines, there is no evidence of an error or injustice. The applicant has provided no evidence that the underlying misconduct does not meet the standards of an LOA. The IO's conclusion supports the language in the LOA regarding the applicant's negative impact on morale, that is supported by the IO's analysis and the evidence in the ROI. The applicant also alleges the CDI was possibly filed by a subordinate officer in retaliation for her command decision. The alleged and unverified motivations of a subordinate member in her chain of command, even if true, would not cause the GP/CC's LOA to be erroneous.

The complete advisory opinion is at Exhibit D.

## **APPLICANT'S REVIEW OF AIR FORCE EVALUATION**

The Board sent a copy of the advisory opinion to the applicant on 12 Jun 23 for comment (Exhibit E) but has received no response.

## **FINDINGS AND CONCLUSION**

1. The application was timely filed.
2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AF/JAJI and finds a preponderance of the evidence does not substantiate the applicant's contentions. The Board notes the applicant requests removal of her UIF; however, the MilPDS does not reflect the applicant has a UIF. Therefore, there is no action for the Board with respect to the request for removal of the UIF. The applicant's records include an LOA dated 22 Apr 20. The applicant contends the CDI did not support the punishment of an LOA. However, the Board finds it was well within the applicant's commander's authority and discretion per DAFI 36-2907 to issue the applicant an LOA for the substantiated CDI allegation in the ROI dated 31 Mar 20 that she failed to display exemplary conduct and her behavior detracted from the morale of her squadron. The applicant's records also include an AIS Substantiated Investigation Without Written Command Action Memorandum dated 13 Dec 22. The AIS is for a separate CDI finding on 7 Jun 22, which substantiated she failed to provide initial and mid-term feedback to a ratee. Although no command action was taken, the AIS is required to be filed in the applicant's records per 10 U.S.C. § 615(a)(3), DoDI 1320.14, DAFPM 2020-36-03, DAFI 36-2907 and DAFI 36-2501. While the applicant contends the complaint was from a subordinate officer in retaliation for her command decisions, she has provided insufficient evidence to sustain her burden of proof to warrant granting the requested relief. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

**RECOMMENDATION**

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

**CERTIFICATION**

The following quorum of the Board, as defined in Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 2.1, considered Docket Number BC-2023-00715 in Executive Session on 17 Aug 23:

<i>Work-Product</i>	Panel Chair
<i>Work-Product</i>	Panel Member
<i>Work-Product</i>	Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 10 Mar 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: SAF/IG provided CDI ROI, dated 31 Mar 20 (WITHDRAWN).
- Exhibit D: Advisory Opinion, AF/JAJI, dated 8 Jun 23.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 12 Jun 23.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

8/28/2023

*Work-Product*

Board Operations Manager, AFBCMR

*Work-Product*