



Work-Product

UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02992

Work-Product

COUNSEL: NONE

HEARING REQUESTED: YES

APPLICANT'S REQUEST

1. The Letter of Reprimand (LOR) received on 12 October 2021 be downgraded to a Letter of Counseling (LOC).
2. Removal of any adverse information regarding the LOR received on 12 October 2021 from his records.
3. Reinstatement into the United States Space Force (USSF).
4. His referral Officer Performance Report (OPR) rendered for the period 24 March 2021 thru 25 March 2022 be rewritten by his commander and the adverse information not be included.
5. His Promotion Recommendation Form (PRF) for the F0422A Major (O-4) promotion board be corrected to reflect a "Promote" recommendation.
6. A Special Selection Board (SSB) be allowed to consider his record for consideration by the F0422A Major (O-4) promotion board.
7. By amendment, in addition to the above, the applicant requests the following documents be added to his record and he be granted an SSB:
 - a. A Supplemental Training Report (TR) rendered for the period 27 March 2019 thru 25 March 2021, noting the completion of the Air Force Institute of Technology (AFIT) degree program and receiving his master's degree in electrical engineering be considered by an SSB.
 - b. His referral OPR for the period of 24 March 2021 thru 25 March 2022 issued as an annual report be replaced with a Directed by Commander (DBC) referral OPR rendered for the period 24 March 2021 thru 26 October 2021 and he be issued a subsequent report that can be considered by the O-4 promotion board.

APPLICANT'S CONTENTIONS

He was issued an LOR on 12 October 2021 for inappropriate use of a government system, which was his first and only instance of misconduct in his entire 17-year military career. This adverse administrative action should be considered unjust due to its violation of DAFI 36-3907[sic], *Adverse Administrative Actions*, which states an LOR should be issued "when other, less severe methods have failed to correct the behavior." Furthermore, this LOR led directly to his separation from the USSF on 31 August 2023.

AFBCMR Docket Number BC-2023-02992

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Controlled by: SAF/MRB

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Limited Dissemination Control: N/A

POC: SAF.MRBC.Workflow@us.af.mil

In more detail the applicant provided a letter to the Board and explained in June 2021, a concerned party reported a comment posted on Reddit under the username “spaceforcer1” that read as follows: “Hottest rape story I have ever read! ... cuz yeah, that was textbook rape. Glad she enjoyed it, though!” An investigation ensued through his duty station at the time, and it was discovered he was the person utilizing the username “spaceforcer1,” he used this username while accessing sexually explicit posts and stories on Reddit from a government computer during duty hours, and he made comments on a couple of those stories, one of those being the aforementioned comment regarding sexual assault. He was interviewed as part of the investigation on 24 August 2021, admitted his actions and accepted responsibility for the poor judgment he exhibited in performing these activities. On 11 October 2021, he was informed that he would receive an LOR for the tactless comment and his inappropriate use of a government computer system. The LOR necessitated the creation of an Unfavorable Information File (UIF), and a “Do Not Promote” (DNP) recommendation for the 2021 United States Space Force (USSF) Major Promotion Board, which convened on 13 October 2021. The DNP recommendation led to his non-selection for promotion for that cycle. In March 2022, he received a referral OPR for the period of 24 March 2021 thru 25 March 2022, in which the evaluation was referred solely based on his receipt of the LOR. In August 2022, he was again given a DNP recommendation, this time for the 2022 USSF Major Promotion Board; the DNP was again based solely upon the actions that resulted in his LOR. He finds his actions to be abhorrent, inexcusable, and unacceptable. He has spent three years as a Sexual Assault Prevention and Response (SAPR) representative and volunteer victim advocate, so he has personally dealt with rape victims and has in-depth knowledge of the trauma induced in such situations. His three years in the SAPR program, and 15 years of attending annual SAPR briefings, should have taught him that sexual assault is not a joking matter, in any form or fashion, and therefore he should not have had any expectation that his comment would be taken as anything other than an expression of support for an incredibly vile act. While his online activity and comment were both offensive and unwise, this misconduct could have been easily addressed with an LOC or Letter of Admonishment (LOA). The adverse actions constitute an error and injustice that negatively impacted his career.

The applicant’s complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is an honorably discharged United States Space Force (USSF) captain (O-3).

On 10 May 2021, AF Form 475, *Education/Training Report*, issued for the period of 27 March 2019 through 25 March 2021 was signed by the AFIT Dean of Students and indicates the applicant completed his classwork for a Master of Science in Electrical Engineering Degree, but had not yet completed the thesis.

On 12 October 2021, the applicant received an LOR for deliberately accessing sexually explicit material (stories, pictures, and posts seeking sexual encounters) on multiple occasions between May 2021 and August 2021 on Reddit using his government-issued computer on the NRO Unclassified Management Information System (UMIS) during the duty day, and that, using the username “Spaceforcer1,” he posted a comment to the effect of “Best rape story ever...,” in response to a sexually explicit story on Reddit. When admitting to accessing explicit material in the office during duty hours, he stated that he thought this was acceptable during lunch and other breaks. The commander found this questionable at best and difficult to believe from an airman of 15 years. Even if he had not seen a prohibition against using a government network for such activity before moving to this duty assignment, he signed the NRO Unclassified Account User Agreement which states: “You will limit personal incidental use of NRO-sponsored Internet access,” “You will use discretion in the types of files and sites you access, and the type/content of

replies you make,” and, “You will not access unsafe sites (illegal, hacking, gambling, sexually explicit, etc.).” The commander expected him to follow these requirements – to limit his personal use of government information technology, make wise choices about the content he accessed, and avoid association with anything that could damage either the reputation or the mission of his organization, the USSF or the Department of the Air Force. Additionally, the “rape” comment he posted, insinuating the victim should have liked it (the rape) was in inexcusably poor taste, which discredits the military in its ability to stem sexual assault and create an environment of zero tolerance toward related offenses. The fact his Reddit username would lead a reasonable individual to link him to the USSF leads the commander to believe he is proud of his service and affiliation. However, posting comments on sexually oriented material, particularly material he believed to depict sexual assault (fictional content notwithstanding), under that username demonstrates a lack of perception - both of how the public might interpret the comment, and of the damage this could do to the public image of the USSF. Even if his username had no official connection, he is a representative of the USSF and the Department of Defense 24/7. With so much discoverable information on the internet, it would be easy for someone to connect the dots between his various user profiles and link comments and usernames back to him and his employer.

On 15 October 2021, the applicant provided a written response to the LOR.

On 26 October 2021, according to AF Form 1058, *Unfavorable Information File Action*, the applicant’s commander decided to establish a UIF, but decided not to place the applicant on the control roster.

On 28 February 2022, according to a non-selection for promotion letter, the applicant was informed he was considered, but not selected for promotion by the CY21A USSF Major (F0421A) promotion board.

On 20 May 2022, the applicant’s commander issued the applicant a referral OPR rendered for the period 24 March 2021 thru 25 March 2022. Section III, *Performance Factors*, reflects “Does Not Meet Standards;” Section IV, *Rater Overall Assessment*, reflects “Capt P--- inappropriately used govt computer, received LOR; used next 7 mths well—restoring trust.” Section V, *Additional Rater Overall Assessment* reflects, “I have carefully considered Capt D--- P--- comments to the referral document of 20 May 2022; Section IX, *Performance Factors*, reflect 3. Professional Qualities “Does Not Meet Standards;” Section XI, *Referral Report*, reflects the LOR information.

On 13 June 2022, the CY22A US Space Force (USSF) Major Line of the Space Force – Force Modernization (LSF-F) (F0622A/F0522A/F0422A) Central Selection Boards memorandum was released and indicates that the promotion board convened on 23 August 2022.

On 14 June 2022, the applicant acknowledged receipt of the referral report.

On 29 December 2022, according to a letter titled “*Message to Total Force Airmen and Guardians on Updates to Officer Promotion Records*,” the Secretary of the Air Force repealed the policy that masked advanced degrees from Major and Lieutenant Colonel promotion Boards; however, the new policy that allowed for advanced degrees to be considered did not take effect until 1 January 2023.

On 8 March 2023, according to non-selection for promotion letter, the applicant was informed that he was considered, but not selected for promotion by the CY22A USSF Major (F0422A) promotion board. Furthermore, since this was his second non-selection for promotion, the law required that he be involuntarily separated no later than 31 August 2023.

On 23 August 2023, another AF Form 475, provided by the applicant and issued for the period of 27 March 2019 through 25 March 2021 was signed by the AFIT Dean of Students and indicates that the applicant completed all degree requirements and was awarded a Master of Science in Electrical Engineering Degree in June.

On 31 August 2023, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was honorably discharged from active duty in the grade of captain. He served 2 years, 6 months and 29 days net active this period; 14 years, 5 months and 17 days total prior active service and was credited with 8 months and 28 days total prior inactive service. His narrative reason for separation reflects “Non-Selection, Permanent Promotion.”

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

APPLICABLE AUTHORITY/CASE GUIDANCE

According to AFI 36-2501, *Officer Promotions and Selective Continuation*, Chapter 6, *Special Selection Boards*

6.3. Conditions That May Warrant an SSB. Grant SSBs for promotion to the grade of captain through colonel based on:

6.3.1. Legal, Administrative, and Material Errors. Acting on behalf of the SECAF, HQ AFPC/DPPP and HQ AFPC/DPPPO can direct an SSB for an officer if it is determined:

6.3.1.2. The board did not consider material information that should have been available in compliance with pertinent Air Force directives and policies.

6.3.2. Pursuant to Formal Appeal. The AFBCMR can grant SSBs when they determine an officer's nonselection for promotion resulted because of an error or injustice in the officer's record.

6.5.2. Consider the records of officers as they would have appeared to the original board had the officers been properly considered. Compare the officers' records with benchmark records from the original boards (paragraph 3.3.3).

AFI 36-2608, *Military Personnel Records Systems*

1.2.3. Electronic Officer Selection Record. This group contains all officer performance reports, citations for decorations, and any required adverse documentation outlined in paragraph 2.2.2.3.

2.2.2. Electronic Officer Selection Record Group (eOSR). This record is kept in electronic media. The Automated Records Management System files the following in the Electronic Officer Selection Record Group.

2.2.2.1. All officer performance reports are arranged chronologically with the most recent report on top. An AF Form 77, *Letter of Evaluation*, may be placed in the record due to missing officer performance reports or gaps in dates according to AFI 36-2406, *Officer and Enlisted Evaluations Systems*.

2.2.2.3. Required Adverse Documents. 2.2.2.3.1. Any substantiated adverse finding(s) or conclusion(s) from an officially documented investigation or inquiry, regardless of whether command action was taken as a result.

2.2.2.3.4. Letter(s) of Reprimand (LORs).

2.2.2.3.7. Letter(s) of Counseling related to substantiated finding or conclusion from an officially documented investigation or inquiry. (T-0).

AFI 36-2406, *Officer and Enlisted Evaluation Systems*, dated 16 Mar 2022:

Table 3.2. When to Prepare OPRs for RegAF and ANG Officers (Lieutenant thru Colonel).

Rule 4. If ratee's performance or conduct is unsatisfactory or marginal and a special evaluation is appropriate and supervision period was 60 calendar days then write evaluation as Directed by Commander....Note 10, for officers on Extended Active Duty and ANG officers, this includes placement on or removal from the control roster.

Rule 9. If an evaluation is prepared to document significant improvement in duty performance and supervision period was 120 calendar days ...Note 15, the commander may direct an evaluation for significant duty improvement only if the previous evaluation was referred due to substandard duty performance.

Table 8.1. Instructions for Completing AF Form 709, Promotion Recommendation Form (for officers in the grade of lieutenant colonel and below).

Note 4e. Consider including comments related to Article 15 action, or Letters of Reprimand, Admonishment, or Counseling. It is strongly recommended that Control Roster action be recorded. It is mandatory to record court-martial results unless actions resulted in acquittal.

Chapter 10, *Correcting Officer and Enlisted Evaluations*,

10.1.4. Retired or separated personnel are not eligible to apply for correction through the Evaluation Report Appeals Board; therefore, they must submit a DD Form 149 to the Air Force Board for Correction of Military Records.

10.2.4. provides "Prohibited Requests" and states the Board will not consider nor approve requests to:

10.2.4.10. Void or correct an evaluation because an action, (i.e. Unfavorable Information File, Control Roster, Article 15, etc.), was removed:

10.2.4.10.1. Early or on the disposition date. Removal does not mean the action did not take place. If the corrective action existed on or before the close-out date of the evaluation, the evaluation is still valid.

10.2.4.10.2. Because the corrective action was "set-aside." If the corrective action (i.e. Article 15) was "set-aside," but the behavior that led to the corrective action is still valid and the behavior existed on or before the close-out date of the report, the evaluation

may still be valid if the report only reflects the behavior and not the corrective action that was “Set Aside.” If the action that was “Set Aside” is mentioned in the evaluation, the Evaluation Report Appeals Board would only remove the reference to it; not the behavior that led to the action.

10.2.4.10.2.3. For the Evaluation Report Appeals Board to decide favorably to void the evaluation, the applicant must prove by a preponderance of the evidence that the behavior did not take place and the corrected action taken was officially set aside and not just removed or expired.

10.2.5. Appeals based on Promotion/Career Opportunity. Although not prohibited, Evaluation Report Appeals Board requests based solely on a willingness by evaluators to change evaluations after non-selection for promotion will not be favorably considered unless proven the evaluation was erroneous or unjust based on content.

AIR FORCE EVALUATION

AFPC/DP3SP recommends denying the application. The applicant was issued an LOR for inappropriate use of government computer system, he acknowledged receipt and understanding of the LOR on 12 October 2021. The applicant was given the requisite three days to respond. The applicant provided a written response 15 October 2021. An Unfavorable Information Folder (UIF) was then established by the issuing authority. Additionally, the LOR was filed in the applicant’s Officer’s Selection Record (OSR) and Master Personnel Record Group in accordance with DAFI 36-2907, *Adverse Administrative Actions*, paragraph 1.2 and applicable sub-paragraphs.

The applicant states the LOR was unjust, quoting an LOR should be issued “when other, less severe methods have failed to correct behavior.” The applicant states that during his 17-year military career this is his first instance of misconduct. The applicant redacted the beginning of DAFI 36-2907, paragraph 2.3.5 which states “Letter of Reprimand (LOR). Administrative censure for violation of standards which is more severe than a RIC, LOC, and LOA and indicates a stronger degree of official censure.” In other words, LORs are administered as harsher punishments for more severe offenses; the DAFI does not restrict the issuing authority from administering LORs, regardless if there were previous infractions or not. The LOR issuing authority points out in the LOR the applicant was in violation of Air Force Instruction 1-1, *Air Force Standards* 2.20. Personal Use of Social Media. “Airmen are personally responsible for what they say and do, including through any electronic medium and on any social media or similar platform. Regardless of the method or style of communication used, DAF Standards must be observed by airmen at all times, on and off duty.” The issuing authority informed the applicant that as an officer they are called upon to represent the U.S. military, maintain a high standard of conduct and make wise decisions.

Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice. The LOR should not be downgraded as it serves on the basis that indicates a stronger degree of official censure, as deemed appropriate by the issuing authority. The applicant has not sufficiently proven otherwise.

If the Board were to grant the request and downgrade the LOR to an LOC, please note LOCs related to a substantiated finding from an officially documented investigation inquiry are filed in Officer Selection Records; essentially, the LOC will still be considered by promotion selection and special selection boards (Reference DAFI 36-2907, paragraph 1.2 and 1.2.1.7). The applicant may still not be eligible for promotion consideration if he were to be reinstated. If the applicant’s request is granted, the Board will need to request AFPC ARMS (DPMSSM) remove

the LOR and insert suitable LOC replacement or Memorandum for Record to document the LOC, from the applicant's military personnel official record. Subsequently, reinstatement and promotion will be enacted by appropriate authorities.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 1 November 2023 for comment (Exhibit D), and the applicant replied on 29 November 2023 requesting his case be administratively closed (Exhibit E). On 1 December 2023 the applicant's case was administratively closed in accordance with his request (Exhibit F).

On 1 April 2024, the applicant requested his case be reopened. He indicated he believes by issuing an LOC rather than an LOR, the issuing authority could have demonstrated the degree of censure necessary to dissuade himself and others from committing additional such offenses, while avoiding his separation from the USSF. There are two additional issues which require the Board's consideration. First, he was improperly considered for promotion during the 2022 USSF Major's Promotion Board, as his records were not up to date. He successfully completed his Air Force Institute of Technology (AFIT) degree program by March 2022, and he was awarded his master's degree in electrical engineering in June 2022. AFIT should have submitted a supplemental training report (TR) declaring degree completion to AFPC for insertion into his records, so that all future boards would be aware that, though he did not complete his degree while in-residence at AFIT, he did accomplish it later. The second issue he would like to call to attention is the DAFI 36-2406, *Officer and Enlisted Evaluations Systems*, recommends the accomplishment of a Directed by Commander (DBC) officer evaluation when "ratee's performance or conduct is unsatisfactory or marginal and a special evaluation is appropriate." If his conduct at the time was sufficiently unsatisfactory to merit an LOR, then it could be argued that it should also have merited a special DBC evaluation. The exclusion of the supplemental training report, DBC referred performance report, and annual non-referred performance report from his records at the time of the 2022 major promotion board represent a grave error and injustice.

The applicant's complete response is at Exhibit G.

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 AFPC/DP3SP and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant was issued an LOR for inappropriate use of a government computer system. The applicant was in violation of Air Force Instruction 1-1, *Air Force Standards* 2.20 (Personal Use of Social Media), "Airmen are personally responsible for what they say and do, including through any electronic medium and on any social media or similar platform. Regardless of the method or style of communication used, DAF Standards must be observed by airmen at all times, on and off duty." As such, regarding applicant's requests, absent evidence the applicant was denied rights to which he was entitled, appropriate regulations were not followed, the commander abused their discretionary authority, or appropriate standards were not applied, 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-2023-02992 in Executive Session on 11 February 2025:

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Panel Chair

Work-Product

Panel Member

Work-Product

Panel Member

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

- Exhibit A: Application, DD Form 149, w/atchs, dated 10 September 2023.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DPMSSM, w/atchs, dated 30 October 2023.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 November 2023.
- Exhibit E: Applicant's Admin Closure Request, dated 29 November 2023.
- Exhibit F: Notification, SAF/MRBC to Applicant, dated 1 December 2023.
- Exhibit G: Applicant's Request to Reopen Case, dated 12 April 2024.

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.

4/8/2025

X

Attorney-...

Work-Product

Board Operations Manager, AFBCMR

Signed by: Work-Product