

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 13 June 2025

DOCKET NUMBER: AR20240006058

APPLICANT REQUESTS: removal of the general officer memorandum of reprimand (GOMOR), 22 November 2022, and the DA Form 67-10-1 (Company Grade Plate (O1-O3; WO1-CW2) Officer Evaluation Report (OER)) covering the period 19 July 2021 through 14 June 2022 from her Army Military Human Resource Record (AMHRR).

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record), 23 February 2024
- Self-authored memorandum (Applicant's request for Removal of OER and GOMOR from AMHRR), 23 February 2024
- 200th Military Police Command Memorandum (Notification of Positive Urinalysis Result for Unit Member), 6 June 2022
- DD Form 2624 (Specimen Custody Document), 28 February 2022
- U.S. Army Criminal Investigation Division (CID) Memorandum (Report of Investigation (ROI) – Final), 4 June 2022
- DA Form 67-10-1, covering the period 19 July 2021 through 14 June 2022
- 200th Military Police Command Memorandum (Applicant's Request for Commander's Inquiry), 11 October 2022
- 200th Military Police Command Memorandum (GOMOR), 22 November 2022
- 200th Military Police Command Memorandum (Rebuttal to GOMOR), 28 November 2022
- 200th Military Police Command Memorandum (Reprimand Filing Determination – Applicant), 7 December 2022
- Headquarters U.S. Army Reserve Command Memorandum (Final Action, Army Regulation (AR) 623-3, Commander's inquiry Report), undated
- 99th Readiness Division Memorandum (Report of Commander's Inquiry into OER), 15 December 2022
- Email (Subject: Tentative Offer for Trial Attorney with Federal Maritime Commission), 29 November 2022
- Applicant's Pay stub, covering the period from 14 January 2024 to 27 January 2024
- Harris Mountain Investigations letter, 13 February 2024

FACTS:

1. The applicant states in November 2016, she was sexually assaulted by an unknown individual during the first phase of basic training. Following the assault, she experienced shame, self-blame, and chose not to report the incident, attempting instead to suppress the trauma and continue training. Over time, she developed symptoms consistent with post-traumatic stress disorder (PTSD), including insomnia, mood swings, depression, and irritability. She was prescribed sleep medication and occasionally used alcohol to cope, though both exacerbated her condition. Eventually, she found more effective relief through hiking and participating in a women's group at her church.

a. In late 2021, a difficult relationship with her supervisor triggered a resurgence of her PTSD symptoms. Despite adopting healthy coping mechanisms such as meditation, breathing exercises, and journaling, her condition worsened under compounding stressors at work and home. She began experiencing nightmares and flashbacks, which forced her to confront the unresolved trauma of the assault. By January 2022, she was suffering from severe insomnia and constant anxiety. In a state of distress, she self-medicated with tetrahydrocannabinol drops prescribed to a family member.

b. In June 2022, she was informed that she had tested positive on a urinalysis conducted in February 2022. Shortly afterward, she disclosed her sexual assault to authorities. The Army CID conducted an investigation and found probable cause to believe she had been a victim of sexual assault.

c. Subsequently, she requested a Commander's Inquiry into a contested OER, covering the period 19 July 2021 through 14 June 2022. She also submitted a rebuttal to a GOMOR, 22 November 2022, in which she took responsibility for her actions, explained the context behind them, and outlined the steps she had taken to prevent recurrence.

d. In June 2023, the results of the Commander's Inquiry were released. While the inquiry found the OER to be fair and objective, it also revealed that the OER had been incorrectly processed and should have been held administratively due to the context of minor collateral misconduct resulting from a sexual assault. Therefore, she believes the OER is unjust and should be removed from her AMHRR.

2. She was appointed as a Reserve commissioned officer of the Army on 14 September 2016.

3. U.S. Army Human Resources Command, Orders: R-07-904592, 30 July 2019, ordered her to active duty in an Active Guard Reserve status for a period of 3 years with a reporting date of 12 August 2019 to 200 Military Police Command, Headquarters and Headquarters Detachment, Fort Meade, MD.

4. The 200th Military Police Command Memorandum (Notification of Positive Urinalysis Result for Unit Member), 6 June 2022, shows her commander was notified of the applicant's positive urinalysis test for tetrahydrocannabinol, during a unit administered drug test collected on 6 February 2022.

5. The U.S. Army Criminal Investigation Division Memorandum (Report of Investigation (ROI) – Final), 4 June 2022, names the applicant as a victim of abusive sexual assault on 9 November 2015. The investigative summary states:

a. This office, was notified by Ms. (Redacted), Response Coordinator, 200th Military Police Command, Fort Meade, MD, that the applicant was touched inappropriately at Fort Benning, GA.

b. The applicant was interviewed and stated in November 2016, while at a bar located on Fort Benning, GA, an unknown male named (redacted), forcibly kissed her and inappropriately touched her without her consent. The applicant was unable to provide any further identifying details regarding the unknown male.

c. On 2 August 22, Major (Redacted) Deputy Staff Judge Advocate, Office of the Staff Judge Advocate, opined probable cause exists to believe an unknown subject committed a sexual act in violation of Article 120(b), Uniform Code of Military Justice.

6. She was given the contested OER covering the period 19 July 2021 through 14 June 2022 (11 rated months), which addressed her duty performance as the Assistant Staff Judge Advocate in Charge. Her rater was Colonel E\_\_\_\_ J. F\_\_\_\_, Staff Judge Advocate, and her senior rater was Major General J\_\_\_\_ F. H\_\_\_\_, Commander. Her rater and senior rater digitally signed the OER on 23 August 2022 and 27 August 2022. She signed the OER on 26 May 2020. The OER shows in:

a. Part I (Administrative), block i (Reason for Submission), the entry, "Change of Rater".

b. Part II (Authentication), block d (This is a Referred Report, Do You Wish to Make Comments?), a checkmark was placed in the appropriate block, signifying to her that she was receiving a referred report. In that same block, a checkmark was placed in the "Yes" block, indicating she wished to make comments.

c. Part IV (Performance Evaluation – Professionalism, Competencies, and Attributes):

(1) Block b (This Officer's Overall Performance is Rated as), her rater rated her performance as "Capable" and entered the following comments: "A superb action officer and gifted counsel, [applicant] provided senior field-grade level judge advocate support

throughout the rated period. Leading from the front, she coordinated the activities of senior brigade judge advocates and other majors within the Office of the Staff Judge Advocate without hesitation. Indefatigable, without her steady hand to fill the breach during a period of significant personnel transition, the Office of the Staff Judge Advocate would have been in danger of mission failure."

(2) Block c1 (Character), her rater entered the following comments: " While [Applicant] actively supported the Army's Equal Opportunity, Equal Employment Opportunity, and Sexual Harassment/Assault Response and Prevention programs, during the rating period, while serving as a legal advisor to the command on military justice\_ matters recommending disposition of drug offenses, she failed to uphold the legal standard by testing positive for marijuana, an illegal substance."

(3) Block c2 (Presence), her rater entered the following comments: "[Applicant] assumed the role of acting deputy staff judge advocate during the rated period. Her interactions with senior leaders in and outside of the command were flawless. She confidently provided legal counsel and ensured commanders were advised of legal considerations regarding the disposition of criminal and adverse actions."

(4) Block c3 (Intellect), his rater entered the following comments: "[Applicant] displayed her keen intellect in the full scope and breadth of the legal actions she processed. Possessing or carefully researching the necessary information to dispose of cases across legal disciplines, her legal opinions and advice were on point and without error.

(5) block c4 (Leads), her rater entered the following comments: "[Applicant] tactfully and professionally directed the efforts of judge advocates who were senior to her by grade and position. Extending her sphere of influence throughout the command, she routinely provided mentorship and counsel to general and special staff as well as company and battalion commanders."

(6) block c5 (Develops), her rater entered the following comments: "[Applicant] displayed a unique talent to mentor junior paralegals. Charismatic and approachable, she easily established rapport with subordinates, peers and senior leaders. She used the access granted to her as a member of the personal staff to lift up, support and encourage her teammates professionally and personally."

(7) Block c6 (Achieves), her rater entered the following comments: "[Applicant] provided superb support to the staff and downtrace commands. Indispensable to the planning and execution of all Office of the Staff Judge Advocate activities, she was the main architect of the command's inaugural collective legal training event and reduced a significant backlog of military justice and administrative law actions. She expertly multitasked and consistently executed mission above standard."

d. Part VI (Senior Rater), block a (Potential Compared with Officers Senior Rated in Same Grade), her senior rater rated his potential as "Qualified".

e. Part VI, block c (Comments on Potential), her senior rater entered the following comments: " Superb technical performance from a dedicated officer who easily provided legal support at the field grade level. Her counsel was timely, accurate, and sound. [Applicant's] poor personal choices negatively impacted her leadership role within the Headquarters and Headquarters Company in addition to mission accomplishment. Her lapse of judgement calls into question her potential for future service."

7. On 11 October 2022, the applicant submitted a request for a commander's inquiry concerning her referred OER covering the period 19 July 2021 through 14 June 2022. She argued that that Army Directive 2022-10 (Safe-to-report for Victims of Sexual Assault), 6 July 2022, states that victims of sexual assault will not be subject to adverse action for minor collateral misconduct and that the "Safe to Report" policy should apply and that the OER should not be referred.

8. On 22 November 2022, the Commanding General, 200th Military Police Command, issued the applicant a GOMOR for testing positive for tetrahydrocannabinol on or about 6 February 2022.

9. On the same day, the applicant acknowledged receipt of the GOMOR and elected to submit written matters in her own behalf.

10. On 28 November 2022, the applicant submitted a response to the GOMOR wherein she stated she accepted full responsibility for her use of tetrahydrocannabinol (THC) drops to self-medicate her PTSD symptoms, acknowledging that it was a lapse in judgment inconsistent with Army Values. She expressed deep regret for any discredit brought upon the U.S. Army Reserve and notes her otherwise unblemished six-year career.

a. The misconduct was tied to unaddressed trauma from a sexual assault during her officer basic course, which she initially did not report due to fear and shame. As her mental health deteriorated due to by insomnia, anxiety, and flashbacks, she made a desperate decision to use her mother's prescribed tetrahydrocannabinol for relief.

b. After testing positive in a February 2022 urinalysis and being notified in June 2022, she sought professional behavioral health treatment and has made significant progress. She submitted a request asking that her misconduct be considered minor and linked to the assault.

11. On 7 December 2022, the Commanding General, 200th Military Police Command, after considering the circumstances of the misconduct and all matters submitted by the

applicant in defense, extenuation, or mitigation, directed permanently filing the GOMOR in the applicant's AMHRR

12. The 99th Readiness Division Memorandum (Report of Commander's Inquiry into OER), 15 December 2022, shows the inquiry concluded that the OER in question was fair, properly rendered, and not covered by Army Directive 2022-10 (Safe to Report). While the investigating officer believed the applicant was indeed sexually assaulted and acted sincerely in recounting the event, her positive drug test occurred nearly six years after the assault, which falls outside the policy's intended timeframe. The directive is meant to protect victims who committed minor misconduct at the time of the assault—not years later. Although the applicant is now receiving counseling and has acknowledged her mistake in using tetrahydrocannabinol to self-medicate for PTSD, the OER should remain referred and filed in her iPERMS as a valid OER, with her comments and the inquiry results included.

13. On an unspecified date, the approval authority approved the findings of the commander's inquiry report into the referred OER, covering the period 19 July 2021 through 14 June 2022, with the exception of finding 1 within paragraph 4a(1) of the report. The approval authority noted:

a. "I modify the finding as follows: The rating chain properly processed the referred OER until prematurely filing the report in [Applicant's] Army Military Human Resources Record (AMHRR) with knowledge of her request for an AR 623-3 inquiry. The rating chain should have placed an administrative hold on the processing of the referred OER pending the outcome of the inquiry."

b. "I modify the recommendation as follows: In accordance with AR 623-3 (Evaluation Reporting System), paragraph 4-5j, I am filing this report locally and forwarding a copy to [Applicant]. The referred OER will remain filed in [Applicant's] AMHRR, subject to her exercise of her appeal rights under AR 623-3, Chapter 4."

14. The DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings), 17 May 2023, shows a PEB convened at Joint Base San Antonio, TX, on 17 May 2023 to determine her medical fitness for continued service in the Army. The PEB determined she was physically unfit and recommended a disability rating of 20 percent and separation with severance pay.

15. On 25 June 2023, she was honorably discharged in the rank/grade of captain/O-3 by reason of disability, severance pay, non combat related. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) shows she completed 3 years, 10 months, and 14 days of net active service during this period.

16. The applicant provides:

- a. Email correspondence, 29 November 2022, showing she was offered a tentative job offer with as a trial attorney with the U.S. Government.
- b. Her employee pay stub for the period covering 14 January 2024 to 27 January 2024.
- c. A letter from Harris Mountain Investigation, showing a criminal records check revealed the applicant had no criminal arrests or convictions.

17. MEDICAL REVIEW:

a. The applicant is applying to the ABCMR requesting a removal of the GOMOR dated 22 November 2022 and the DA Form 67-10-1 (Company Grade Plate Officer Evaluation Report (OER) covering the period 19 July 2021 through 14 June 2022 from her Army Military Human Resource Record (AMHRR). On her DD Form 149, the applicant contends sexual assault/harassment is related to her request. More specifically, she contends that she self-medicated with THC as a result of Military Sexual Trauma (MST) and therefore the GOMOR and referred OER violates Army Policy. The specific facts and circumstances of the case can be found in the ABCMR Record of Proceedings (ROP). Pertinent to this advisory are the following: 1) the applicant was appointed as a Reserve commissioned officer on 14 September 2016. She was ordered to active duty in an AGR status for a period of three years with a report date of 12 August 2019, 2) on 06 June 2022, the applicant's commander was notified that she tested positive for tetrahydrocannabinol during a unit administered drug test collected on 6 February 2022, 3) a U.S. Army Criminal Investigation Division Memorandum dated 4 June 2022 names the applicant as a victim of abusive sexual assault on 9 November 2016, 4) She was given the contested OER covering the period 19 July 2021 through 14 June 2022, which, in part, referenced her positive urinalysis, 5) on 11 October 2022, the applicant submitted a request for a commander's inquiry concerning her referred OER based on Army Directive 2022-10 (Safe-to-report for Victims of Sexual Assault) which states that victims of sexual assault will not be subject to adverse action for minor collateral misconduct and that the "Safe to Report" policy should apply and that the OER should not be referred, 6) on 28 November 2022, the applicant submitted a response to the GOMOR wherein she stated she accepted full responsibility for her use of tetrahydrocannabinol drops to self-medicate her PTSD symptoms, 7) on 7 December 2022, the Commanding General, 200th Military Police Command, directed permanently filing the GOMOR in the applicant's AMHRR, 8) the 99th Readiness Division Memorandum (Report of Commander's Inquiry into OER) dated 15 December 2022, shows the inquiry concluded that the OER in question was fair, properly rendered, and not covered by Army Directive 2022-10 (Safe to Report). While the investigating officer believed the applicant was indeed sexually assaulted and acted sincerely in recounting the event, her positive drug test occurred nearly six years after the assault, which falls outside the policy's intended timeframe, 9) DA Form 199

(Informal Physical Evaluation Board (PEB) Proceedings) shows a PEB convened on 17 May 2023 and determined she was physically unfit and recommended a disability rating of 20 percent and separation with severance pay, 9) On 25 June 2023, she was honorably discharged under the provisions of AR 635-40, paragraph 4-27 C(3), with a reason of disability, severance pay, non-combat related.

b. The Army Review Board Agency (ARBA) Medical Advisor reviewed the ROP and casefiles, supporting documents and the applicant's military service and available medical records. The VA's Joint Legacy Viewer (JLV) was also examined. Lack of citation or discussion in this section should not be interpreted as lack of consideration.

c. In-service medical records were available for review via JLV from 04 October 2016 through 31 May 2023. Review of her prescription records shows she was prescribed Ambien (sedative-hypnotic) through her medical provider from 13 December 2017 through 08 May 2020 for treatment of Insomnia. She presented to BH on 17 June 2022 for evaluation and treatment due to a sexual assault which occurred several years prior as she reported experiencing a resurgence of memories which was impacting her mental health. It was noted that she preferred to be treated off-post at the Cohen clinic and as such a referral was submitted. During a medical visit to discuss the MEB referral process on 05 August 2022, a medical provider diagnosed her with Other Specified Anxiety Disorders. She underwent a BH intake on 11 August 2022 noting she was experiencing symptoms related to PTSD due to MST to include nightmares, insomnia, anxiety, and depressed mood. The evaluating provider diagnosed her with PTSD, Anxiety Unspecified, and Depression Unspecified. During a BH follow-up on 06 September 2022, it was documented that she reported experiencing severe stress at work due to bad leadership which triggered nightmares, sleep issues, and depression. It was also documented that she was prescribed Zoloft by her off-post provider which worsened her symptoms. She stated that she used THC drops to help with sleep and reduce her symptoms which resulted in a positive urinalysis. The provider diagnosed her with Other Reactions to Severe Stress and Cannabis Abuse, Uncomplicated. She was cleared for out-processing by BH on 31 May 2023, noting she planned to continue BH treatment upon discharge from the military.

d. A letter authored by a psychiatrist at The [REDACTED] Military Family Clinic at Easterseals dated 20 September 2022 shows that the applicant sought treatment through their center on 05 July 2022 and was diagnosed with PTSD due to MST.

e. Informal PEB Proceedings convened on 17 May 2023 shows the applicant was found physically unfit and recommended a rating of 20% and to be separated with severance pay. The following conditions were found unfit: right anterior cruciate ligament tear-flexion, left knee osteoarthritis-flexion, right anterior cruciate ligament tear-extension, and left knee osteoarthritis-extension.

f. In her self-authored statement to the Board dated 23 February 2024, the applicant stated that she was the victim of sexual assault in November 2016 during phase one of basic training, which led to experiencing problems with insomnia, mood swings, irritability, and periods of sadness/depression. She said that in the fall of 2021, her PTSD symptoms were triggered by issues with a volatile supervisor, noting increased anxiety, insomnia, nightmares, flashbacks, feelings of shame, guilt, and disgust. She contends that she used THC drops to self-medicate.

g. A review of JLV shows the applicant is 100% service-connected through the VA for various conditions, to include 70% for PTSD. She underwent a VA Compensation and Pension (C&P) examination on 12 October 2022 and was diagnosed with PTSD and Unspecified Depressive Disorder with Anxious Distress. The stressor associated with her diagnosis of PTSD was documented as MST that occurred in 2016 during basic training.

h. Based on the available information, it is the opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with PTSD secondary to MST and Unspecified Depressive Disorder with Anxious Distress, which are potentially mitigating condition(s). Her diagnoses of Reaction to Severe Stress, Unspecified Anxiety, and Unspecified Depression are subsumed by her diagnoses of PTSD and Unspecified Depressive Disorder with Anxious Distress. This Advisor would contend that the misconduct that led to her GOMOR and referred OER is mitigated by her diagnosis of PTSD due to MST.

i. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with PTSD due to MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with PTSD due to MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant has been diagnosed with PTSD due to MST. Records show the applicant stated she was the victim of MST in 2016 and made a report to CID in 2022. It is of note that symptoms of PTSD may appear immediately following a traumatic event or have a delayed onset, and that victims of MST often delay reporting. Furthermore, symptoms of PTSD, even with treatment and sufficient amelioration of symptoms, may recur in response to reminders of the trauma. Substance use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous conditions, to include trauma. As there is an association between self-medicating with substances and trauma, there is a nexus

between the applicant's misconduct of THC use and her diagnosis of PTSD due to MST. As such, the misconduct of THC use documented in her GOMOR and referred OER is mitigated by her diagnosis of PTSD due to MST.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive review based on law, policy, and regulation. Upon review of the applicant's petition and military records. The Board determined the GOMOR administered on 22 November 2022 and filed in the applicant's AMHRR, demonstrates an injustice and supports removal.

2. The Board noted the applicant's misconduct was for a one-time use of THC drops; she did not have a history of drug use or multiple failures of smoking marijuana. The Board concurred with the medical opinion of the Agency Medical Advisor that there is sufficient evidence that the applicant has been diagnosed with PTSD secondary to MST. The Board concurred with the following Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes, the applicant was diagnosed with PTSD due to MST.

(2) Did the condition exist or experience occur during military service? Yes, the applicant was diagnosed with PTSD due to MST.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The applicant has been diagnosed with PTSD due to MST. Records show the applicant stated she was the victim of MST in 2016 and made a report to CID in 2022. It is of note that symptoms of PTSD may appear immediately following a traumatic event or have a delayed onset, and that victims of MST often delay reporting. Furthermore, symptoms of PTSD, even with treatment and sufficient amelioration of symptoms, may recur in response to reminders of the trauma. Substance use is often a self-medicating behavior, used to avoid and mask symptoms, and this can be associated with the natural history and sequelae of numerous conditions, to include trauma. As there is an association between self-medicating with substances and trauma, there is a nexus between the applicant's misconduct of THC use and her diagnosis of PTSD due to MST. As such, the misconduct of THC use documented in her GOMOR and referred OER is mitigated by her diagnosis of PTSD due to MST.

3. The misconduct of THC use documented in her GOMOR and referred OER is mitigated by her diagnosis of PTSD due to MST. Therefore, the Board concluded,

based on a preponderance of evidence found in the military record, the applicant's claim for removal of the GOMOR is warranted. As it relates to the applicant's request for removal of the OER covering the period 19 July 2021 through 14 June 2022 from the performance folder of her AMHRR, the Board determined the applicant demonstrated by a preponderance of the evidence that an injustice occurred prejudicial to the applicant and supports removal, specifically, comments referring to testing positive for marijuana. Therefore, the Board granted relief.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- removing the DA Form 67-10-2 covering the period 19 July 2021 through 14 June 2022 from her AMHRR, and replacing it with a memorandum of non-rated time
- removing the GOMOR, dated 22 November 2022, with auxiliary documents from her AMHRR

[REDACTED]

[REDACTED]

I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation 15-185 (Army Board for Correction of Military Records) prescribes policies and procedures for correction of military records by the Secretary of the Army acting through the Army Board for Correction of Military Records (ABCMR). Board members will review all applications that are properly before them to determine the existence of an error or injustice and direct or recommend changes in military records to correct the error or injustice, if persuaded that material error or injustice exists and that sufficient evidence exists in the record. The ABCMR will decide cases on the evidence of record; it is not an investigative body. The ABCMR begins its consideration of each case with the presumption of administrative regularity. The applicant has the burden of proving an error or injustice by a preponderance of the evidence.
2. Army Regulation 600-37 (Unfavorable Information), 10 April 2018, sets forth policies and procedures to authorize placement of unfavorable information about Army members in individual official personnel files; ensures that unfavorable information that is unsubstantiated, irrelevant, untimely, or incomplete is not filed in individual official personnel files; and ensures that the best interests of both the Army and the Soldier are served by authorizing unfavorable information to be placed in and, when appropriate, removed from official personnel files.

a. Chapter 3 (Unfavorable Information in Official Personnel Files) states an administrative memorandum of reprimand may be issued by an individual's commander, by superiors in the chain of command, and by any general officer or officer exercising general court-martial jurisdiction over the Soldier. The memorandum must be referred to the recipient and the referral must include and list applicable portions of investigations, reports, or other documents that serve as a basis for the reprimand. Statements or other evidence furnished by the recipient must be reviewed and considered before a filing determination is made.

b. Paragraph 3-5 (Filing of Nonpunitive Administrative Memoranda of Reprimand, Admonition, or Censure) states nonpunitive administrative letters of reprimand, admonition, or censure in official personnel files, such as a memorandum of reprimand, may be filed in a Soldier's AMHRR only upon the order of a general officer-level authority and is to be filed in the performance folder. The direction for filing is to be contained in an endorsement or addendum to the memorandum. If the reprimand is to be filed in the AMHRR, the recipient's submissions are to be attached. Once filed in the AMHRR, the reprimand and associated documents are permanent unless removed in accordance with chapter 7 (Appeals).

c. Paragraph 7-2 (Policies and Standards) states once an official document has been properly filed in the AMHRR, it is presumed to be administratively correct and to have been filed pursuant to an objective decision by competent authority. Thereafter, the burden of proof rests with the individual concerned to provide evidence of a clear and convincing nature that the document is untrue or unjust, in whole or in part, thereby warranting its alteration or removal from the AMHRR.

3. Army Regulation 600-8-104 (Army Military Human Resource Records Management), 7 May 2014, prescribes policies governing the Army Military Human Resource Records Management Program. The AMHRR includes, but is not limited to, the Official Military Personnel File, finance-related documents, and non-service related documents deemed necessary to store by the Army.

a. Paragraph 3-6 states that once a document is properly filed in the AMHRR, the document will not be removed from the record unless directed by the Army Board for Correction of Military Records or other authorized agency.

b. Appendix B shows letters/memorandums of reprimand, censure, and admonition are filed in the performance folder unless directed otherwise by the Department of the Army Suitability Evaluation Board.

4. Army Regulation 623-3 (Evaluation Reporting System) prescribes the policy and tasks for the Army's Evaluation Reporting System, including officer, noncommissioned

officer, and academic evaluation reports focused on the assessment of performance and potential.

a. Chapter 4 (Evaluation Report Redress Program) states the Evaluation Report Redress Program consists of several elements at various levels of command. The program is both preventive and corrective, in that it is based upon principles structured to prevent, and provide a remedy for, alleged injustices or regulatory violations, as well as to correct them once they have occurred.

b. Paragraph 4-7 (Policies) states evaluation reports accepted for inclusion in the official record of a Soldier are presumed to be administratively correct, to have been prepared by the proper rating officials, and to represent the considered opinion and objective judgment of rating officials at the time of preparation. An appeal will be supported by substantiated evidence. An appeal that alleges an evaluation report is incorrect, inaccurate, or unjust without usable supporting evidence will not be considered. The determination regarding adequacy of evidence may be made by the HQDA Evaluation Appeals Branch. Appeals based on administrative error only will be adjudicated by the HQDA Evaluation Appeals Branch. Alleged bias, prejudice, inaccurate or unjust ratings, or any matter other than administrative error are substantive in nature and will be adjudicated by the Army Special Review Board. These are generally claims of an inaccurate or an unjust evaluation of performance or potential or claims of bias on the part of the rating officials.

c. Paragraph 4-11 (Burden of Proof and Type of Evidence) states to justify deletion or amendment of a report, the applicant must produce evidence that establishes clearly and convincingly that the presumption of regularity should not be applied to the report under consideration or that action was warranted to correct a material error, inaccuracy, or injustice. Clear and convincing evidence must be of a strong and compelling nature, not merely proof of the possibility of administrative error or factual inaccuracy. The burden of proof rests with the applicant.

5. Department of the Army Pamphlet 623-3 (Evaluation Reporting System) provides procedural guidance for completing and submitting evaluation reports and associated support forms to HQDA.

a. Paragraph 2-28 provides that:

(1) If a referred OER is required, the senior rater will place an "X" in the appropriate box in Part IId of the completed OER. The OER will then be given to the rated officer for signature and placement of an "X" in the appropriate box in Part IId.

(2) The rated officer may comment if he or she believes the rating and/or remarks are incorrect. The comments must be factual, concise, and limited to matters

directly related to the evaluation rendered in the OER; rating officials may not rebut rated officer's referral comments.

(3) The rated officer's comments do not constitute an appeal. Appeals are processed separately. Likewise, the rated officer's comments do not constitute a request for a Commander's Inquiry. Such requests must be submitted separately.

//NOTHING FOLLOWS//