

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 7 March 2025

DOCKET NUMBER: AR20240007282

APPLICANT REQUESTS:

- an upgrade of his character of service from under honorable conditions (General)
- an amendment of his separation authority, separation code, and narrative reason for separation
- removal of DA Forms 4833 (Commander's Report of Disciplinary or Administrative Action) and allied documents from record

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

- DD Form 149 (Application for Correction of Military Record), 3-May-2024
- Counsel Brief, 2 May 2024
- Enclosure 1 – Administrative Separation Board Findings and Recommendations
- Enclosure 2 – two DA Forms 4833 (Commander's Report of Disciplinary or Administrative Action)
- Enclosure 3 – Background Investigation Results, 23 August 2022
- Enclosure 4 – Army Review Boards Agency (ARBA) Docket Number AR20210011772, 7 January 2022
- Enclosure 5 – DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), 8 May 2019
- Enclosure 6 – Immediate Commander's notification for separation, 15 January 2020
- Enclosure 7 – Administrative Separation Board Summarized Transcript
- Response to Additional Documents pertaining to the applicant's petition for discharge upgrade and removal of unfavorable information, 2 October 2024

FACTS:

1. The applicant states he is the victim of intimate partner violence which contributed to the misconduct however, the misconduct found at the board was not a "serious offense" as defined by the regulation nor did it warrant separation. Additionally, subsequent documentation of the disposition, the DA Form 4833 (Commander's Report of Disciplinary or Administrative Action), incorrectly alleges he was separated for misconduct which the board found not to be supported by the evidence.

2. The applicant's counsel submits a 7-page legal brief, for the Board's review in its entirety. Below is a summary of the legal brief:

a. Counsel requests an upgrade of the applicant's characterization of discharge from under honorable conditions (General) to honorable because the applicant is the victim of intimate partner violence which contributed to his misconduct, the misconduct the board found was not a serious offense as defined by the regulation nor did it warrant separation. Additionally, counsel is requesting upgrade of the separation authority, separation code, and narrative reason to correct the error or injustice, as well as removal of the DA Forms 4833 that incorrectly allege the applicant was separated for misconduct which the board found not to be supported by the evidence.

b. Counsel argues the facts and analysis of the administrative separation board, which found the applicant failed to obey a lawful order from a commissioned officer to have his M4 secure in his patrol car and that the applicant made a false official statement to a commissioned officer, to wit "He was not in contact with Private First Class (PFC) A____." The board found the applicant did not commit domestic violence and that he did not commit an assault consummated by a battery. The applicant's company commander submitted two DA Forms 4833 stating the applicant was separated for domestic violence and assault, which has caused the applicant to be denied for civilian employment on the basis he was disciplined by the U.S. Army Quantico for assault and domestic violence.

c. Counsel asserts the applicant was incorrectly given an Article 15 and wrongfully separated to the same misconduct because the order was not punitive, it was not an offense that warranted separation, and was not a commission of a serious offense because a punitive discharge would have not have been authorized under the Manual for Courts-Martial (MCM). Counsel argues the applicant was found guilty of failing to obey a lawful order from a commissioned officer to secure his M4 in his patrol car and submitting a false official statement, however the administrative separation board discussed at length the evidence to support the finding of said misconduct. Counsel argues the applicant's separation under serious offense is an error or injustice and cites multiple reasons and regulations on why the applicant's separation under serious offense was an error or injustice.

d. Counsel states the applicant is a victim of intimate partner violence and protected by the Military Protective Order he was accused of violating and that his submitted false statement was born of anxiety and stress of being a victim of intimate partner violence. Counsel references the applicant's false statement, his being blackmailed and threatened by PFC A____, his ex-girlfriend, and her false assault report. Counsel states the applicant's actions are of a victim of intimate partner violence, not only was he stuck in a situation where he was being assaulted, burglarized, and blackmailed, but he was then told by his abuser that he needed to lie about their contact and things would be

okay, the applicant's anxiety and abuse were a main contributing factor for his misconduct.

3. On his DD Form 149, the applicant annotates sexual assault/harassment is related to his request.

4. The applicant enlisted in the Regular Army on 13 August 2012. He reenlisted on 23 May 2016.

5. On 8 May 2019, the applicant accepted nonjudicial punishment under the provisions of Article 15 of the UCMJ for failing to obey a lawful order on or about 23 January 2019 by not securing his M4 in the locking mechanism in the trunk of the patrol car, out of public view. His punishment imposed was reduction to specialist/E-4, extra duty for 14 days, and an oral reprimand.

6. The applicant was notified by his immediate commander of the intent to initiate him for separation dated 15 January 2020, under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) Chapter 14-12c (Commission of a Serious Offense). The commander's reasoning for the proposed action was the applicant made a false official statement, he failed to obey an order from a commissioned officer, he unlawfully grabbed PFC A___ and pushed her to the ground with both hands on or about 1 June 2019, and he unlawfully grabbed PFC A___ on her arms and pushed her to the ground with both hands on or about 4 August 2019.

7. On 9 March 2020 he was notified for administrative separation under the provisions of AR 635-200, Chapter 14-12c (Commission of a Serious Offense). The commander reviewed the administrative separation proceedings, to include the conditional waiver dated 28 January 2020. The conditional waiver was denied, and a board of members was appointed to determine whether the applicant should be separated from the United States Army.

8. The separation authority reviewed the findings of the administrative separation board proceedings and directed the applicant's separation under AR 635-200, Chapter 14-12c with issuance of an under honorable conditions (General) discharge.

9. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 12 May 2020, under the provisions of AR 635-200, paragraph 14-12c for misconduct, serious offense. He received an under honorable conditions (General) characterization of service, with separation code JKQ, and reentry code 3. He completed 7 years and 9 months of active service with service in an imminent danger pay area, Cuba, from 8 June 2013 to 4 March 2014. He was awarded the following decorations, medals, badges, citations, and campaign ribbons:

- Army Achievement Medal
- Army Good Conduct Medal (2nd award)
- National Defense Service Medal
- Global War on Terrorism Expeditionary Medal
- Global War on Terrorism Service Medal
- Non-Commissioned Officer Professional Development Ribbon
- Army Service Ribbon
- Overseas Service Ribbon (2nd award)
- Military Outstanding Volunteer Service Medal

10. The applicant and counsel additionally provide:

a. The administrative separation board findings and recommendation (enclosure 1), showing the following:

(1) The board considered the evidence of the allegation of the applicant making a false official statement to a commissioned officer, to wit: "I was not in contact with PFC A_____" or words to that effect", on or about on 13 September 2019, the notification of proposed separation was supported by a preponderance of the evidence. The finding did warrant the applicant's separation.

(2) The board considered the allegation of the applicant failing to obey an order from a commissioned officer to have his M4 rifle secure in his patrol car on or about 23 January 2019, the notification of proposed separation was supported by a preponderance of the evidence. The finding did warrant the applicant's separation.

(3) The board considered the allegation of the applicant unlawfully grabbing PFC A__ and pushing her to the ground with his hands on or about 1 June 2019 and found the proposed separation was not supported by a preponderance of the evidence and the findings did not warrant the applicant's separation.

(4) The board considered the allegation of the applicant unlawfully grabbing PFC A__ on her arms and pushing her to the ground with both hands on or about 4 August 2019 and found the proposed separation was not supported by a preponderance of the evidence and the finding did not warrant the applicant's separation.

b. Two DA Forms 4833 (Commander's Report of Disciplinary or Administrative Action) (enclosure 2) showing the applicant's referral information for domestic violence and assault consummated by a battery on 12 September 2019.

c. An e-mail from the Security Investigations Service Center (enclosure 3), dated 23 August 2022, showing the applicant did not meet the security requirements of the position and was adjudicated unfavorable based on the applicant being disciplined by

the US Army Quantico for “assault, domestic violence” on 15 August 2019 and 13 September 2019.

d. The ADRB decision document dated 7 January 2022 (enclosure 4), showing the ADRB denied the applicant’s request for change of characterization of service and/or narrative reason.

e. His DA Form 2627 (enclosure 5) showing his article 15 for not securing his M4 in the locking mechanism in the trunk of the patrol car on or about 23 January 2019.

f. The administrative separation board notification dated 15 January 2020 (enclosure 6) showing the applicant’s immediate commander was initiating separation for the applicant, commission of a serious offense. The commander’s reasoning for the proposed action was the applicant made a false official statement, he failed to obey an order from a commissioned officer, he unlawfully grabbed PFC A___ and pushed her to the ground with both hands on or about 1 June 2019, and he unlawfully grabbed PFC A___ on her arms and pushed her to the ground with both hands on or about 4 August 2019.

g. The administrative separation board summarized record of testimony for the applicant (enclosure 7) showing the applicant’s allegations of making a false official statement to a commissioned officer and his failure to obey an order from a commissioned officer to have his M4 rifle secure in his patrol car warranted the separation of the applicant. However, the allegations of unlawfully grabbing PFC A___ and unlawfully grabbing PFC A___ did not warrant the separation of the applicant.

11. Counsel received a copy of the applicant’s law enforcement reports which included the Commanders Report of Disciplinary or Administrative Action and the final law enforcement report. Counsel responded to reports and stated the administrative separation board considered the information, as well as the information was incomplete, and counsel enclosed the full report to include copies of sworn statements. Additionally, counsel asserts the DA Form 4833 are misleading because they show the applicant was separated for assault and domestic violence, when in fact he was separated for failure to obey a lawful order and making a false official statement.

12. Docket Number AR20210011772, considered the applicant's request for upgrade of his discharge requested on 25 March 2021. After careful review of the application, military records, and all other available evidence, the Board determined he was properly and equitably discharged and denied his request for a change in his characterization of service and/or narrative reason.

13. Regulatory guidance provides when an individual is discharged under the provisions of AR 635-200, Chapter 14, the separation authority may direct a general

discharge if such is merited by the Soldier's overall record. Characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be inappropriate.

14. In reaching its determination, the Board can consider the applicant's petition, service record, and statements in light of the published guidance on equity, injustice, or clemency.

15. MEDICAL REVIEW:

a. Background: The applicant is requesting reconsideration of his prior request of an upgrade of his under honorable conditions (General) character of service, as well as amendment of his separation authority, separation code, and narrative reason for separation. In addition, he requests removal of DA Forms 4833 (Commander's Report of Disciplinary or Administrative Action) and allied documents from his record. He contends intimate partner violence (IPV) and other mental health condition as related to his request.

b. 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:

- The applicant enlisted in the Regular Army on 13 August 2012. He reenlisted on 23 May 2016.
- On 8 May 2019, the applicant accepted nonjudicial punishment under the provisions of Article 15 of the UCMJ for failing to obey a lawful order on or about 23 January 2019 by not securing his M4 in the locking mechanism in the trunk of the patrol car, out of public view.
- Two DA Forms 4833 (Commander's Report of Disciplinary or Administrative Action) (enclosure 2) showing the applicant's referral information for domestic violence and assault consummated by a battery on 12 September 2019.
- Applicant was notified by his immediate commander of the intent to initiate him for separation dated 15 January 2020, under the provisions of Army Regulation (AR) 635-200 (Active Duty Enlisted Administrative Separations) Chapter 14-12c (Commission of a Serious Offense). The commander's reasoning for the proposed action was the applicant made a false official statement, he failed to obey an order from a commissioned officer, he unlawfully grabbed PFC A____ and pushed her to the ground with both hands on or about 1 June 2019, and he unlawfully grabbed PFC A____ on her arms and pushed her to the ground with both hands on or about 4 August 2019.
- His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he was discharged on 12 May 2020, under the provisions of AR 635-200, paragraph 14-12c for misconduct, serious offense, in the grade of E-4. He

received an under honorable conditions (General) characterization of service, with separation code JKQ, and reentry code 3.

c. Review of Available Records: The Army Review Board Agency's (ARBA) Behavioral Health Advisor reviewed the supporting documents contained in the applicant's file. The applicant's counsel states, the applicant was found guilty of failing to obey a lawful order from a commissioned officer to secure his M4 in his patrol car and submitting a false official statement, however the administrative separation board discussed at length the evidence to support the finding of said misconduct. Counsel argues the applicant's separation under serious offense is an error or injustice and cites multiple reasons and regulations on why the applicant's separation under serious offense was an error/ injustice. Counsel states the applicant is a victim of intimate partner violence and protected by the Military Protective Order he was accused of violating and that his submitted false statement was born of anxiety and stress of being a victim of intimate partner violence. Counsel references the applicant's false statement, his being blackmailed and threatened by PFC A____, his ex-girlfriend, and her false assault report. Counsel states the applicant's actions are of a victim of intimate partner violence, not only was he stuck in a situation where he was being assaulted, burglarized, and blackmailed, but he was then told by his abuser that he needed to lie about their contact and things would be okay, the applicant's anxiety and abuse were a main contributing factor for his misconduct.

d. Overall, the active-duty electronic medical records available for review show a substantial disciplinary history that was not captured in his discharge processing and includes a prior SHARP incident, a romantic relationship with a subordinate, disregard toward authority, poor attitude, performance issues, and a bar from re-enlistment. On 12 September 2013 the applicant self-referred for behavioral health services due to issues with focusing. He reported "low motivation" and feeling depressed, irritable, and having constant worries. He shared being accused of sexual assault in his previous unit, and now felt like the members of his new unit judged him. He stated feeling like people stare at him and think "he's a rapist" whenever he is seen talking to a girl. The applicant further reported difficulty getting along with his peers and his team leader; he had received nine counseling's for "disrespecting an NCO and having a poor attitude". He was not diagnosed with any BH condition but was provided stress management techniques and a follow-up session on 18 September 2013 focusing on anger management. On 28 July 2014, the applicant was referred for an assessment due to work-related stressors and multiple counseling statements. He agreed to participate in counseling and completed an intake session on 31 July 2014. During his intake session, he reported a history of aggression and treatment via medication for ADHD prior to military service. He was provided with five supportive counseling sessions between August to December 2014. During an encounter on 9 December 2014, he reported being promoted and then demoted and would be getting an Article 15 for

posting pictures online with tasers. Two years later, on 20 October 2016, the applicant self-referred to behavioral health due to issues with sleep, he was diagnosed with Sleep Disorder. He was provided a psychiatric assessment the following day which diagnosed him with Insomnia and recommended over-the-counter Benadryl for his symptoms. On 13 December 2016, he was assessed following his poor performance before a promotion board and was once again diagnosed with Sleep Disorder. On 5 June 2017, while stationed in Germany, he presented to behavioral health and reported being given the option by command to self-refer or be command referred due to his negative attitude. During that encounter he was diagnosed with Adjustment Disorder. The applicant was assessed on 25 July 2017 and participated in in-depth psychological testing. On 26 July 2017, the psychologist working with the applicant noted his substantial behavioral and disciplinary history and in a meeting with his Commander, the psychologist expressed concerns about the applicant going to the Arms Room, or even carrying a sidearm, since he was prone to emotional outbursts. In addition, there was concern his alcohol consumption was greater than admitted, given his previous "alcohol-related incidents". On 31 July 2017, the psychologist met with his Commander and First Sergeant to discuss the results of his psychological testing. The psychologist reported that although the applicant's risk was higher than average and he could be expected to have emotional issues that presented in the form of verbal outbursts, he was not especially at risk of physically harming others. However, he was likely to annoy others (especially supervisors), not take feedback well, and have issues with focus and energy on mundane tasks. He was provided with feedback regarding his psychological testing on 3 August 2017 and participated in four follow-up sessions where he vented about issues in his unit. The clinician noted the applicant having personality disordered features. From June to September 2018, the applicant participated in four supportive counseling sessions focused on work-related stressors. On 22 March 2019, the applicant presented to behavioral health and reported stress over being in a relationship that would result in a dishonorable discharge if discovered by Command. During an encounter on 27 March 2019, the applicant shared his paramour was only 18 years old, and in a position to create problems for him, even after he leaves the Army, if she gets angry at him. On 6 June 2019, the applicant reported he received an Article 15 with loss of rank, and thereafter, he announced his romantic relationship with another MP. This relationship would have resulted in a possible dishonorable discharge prior to his demotion but was now allowed. He further reported he was barred from re-enlistment. He continued to receive ongoing supportive therapy with a focus on relationship issues and his poor decision-making and possible impact on his long-term goals. On 29 October 2019, the applicant participated in a mental status evaluation for the purpose of separation. The applicant was not diagnosed with any BH condition and was cleared for any administrative action deemed appropriate by Command. An integrated assessment dated 5 November 2019 notes the applicant's "problems appear more situational and self-sabotaging". The clinician further noted, "he lacked insight and accepted no

responsibility for his actions frequently blaming others, including his COC, for not being fair or for holding him accountable to the standards”.

e. The VA’s Joint Legacy Viewer (JLV) was reviewed and indicates the applicant is 100% service connected, including 70% for Anxiety Disorder.

f. Based on the available information, it is the opinion of the Agency Behavioral Health Advisor that there is sufficient evidence to support the applicant had a mental health condition during military service. However, his BH condition does not mitigate his misconduct.

g. Kurta Questions:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts IPV and OMH as related to his request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is service connected for Anxiety Disorder and the available active-duty electronic medical record indicates he was diagnosed with the following conditions while in service: Sleep Disorder, Insomnia, and Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Overall, the active-duty electronic medical records available for review show a substantial disciplinary history that was not captured in his discharge processing. Contrary to counsel’s statement that the applicant was the victim of intimate partner violence, the medical record indicates he was involved in a tumultuous relationship with a younger subordinate. The available CID report documents three separate incidents where the applicant caused injury to his female romantic partner. In addition, the applicant was discharge due to making a false official statement and failing to obey a lawful order by not securing his M4 in the locking mechanism in the trunk of his patrol car. The applicant provided testimony of his separation board indicating while patrolling he left his M4 (a fully automatic weapon) unattended/unsecure because he went into the barracks to get his Nintendo switch. Both actions were of concern since he was not supposed to play Nintendo while patrolling, nor was he to go into the barracks unless cleared or following proper procedures. The applicant’s BH conditions (Sleep Disorder, Insomnia, Adjustment Disorder, or Anxiety Disorder) would not mitigate making a false official statement or willfully leaving his weapon unattended in order to get his video game while on patrol. None of these acts are part of the history or natural sequelae of the applicant’s BH conditions. The applicant engaged in purposeful, conscious decision-making. Even if anxiety symptoms were present at the time of his misconduct, they do not affect the ability to distinguish right from wrong and act in accordance with the right.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's request, supporting documents, evidence in the records, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement and record of service, the frequency and nature of the applicant's misconduct and the reason for separation. The Board found no error or injustice in the separation proceedings and designated characterization of service assigned during separation. The evidence of records shows the applicant enlisted in the Regular Army on 13 August 2012, reenlisted in 2016, and was discharged on 12 May 2020 under AR 635-200, Chapter 14-12c for misconduct, receiving a general discharge after 7 years and 9 months of service, including a deployment to Cuba. His separation followed nonjudicial punishment and allegations of disobeying orders, making a false official statement, and physically assaulting another Soldier. The Board noted the applicant, through counsel, contends that the law enforcement documentation misrepresents the basis for his separation, asserting he was discharged for disobedience and false statements—not for assault or domestic violence—and that the administrative board relied on incomplete information. However, the Board reviewed and concurred with the medical advisor's review finding the applicant had a mental health condition during service, but found it did not mitigate his misconduct. The Board concluded relief was not warranted to upgrade the applicant's characterization of service, or amendment of his separation authority, separation code, and narrative reason for separation.

2. Based upon the misconduct leading to the applicant's separation and the following recommendation found in the medical review related to the liberal consideration, the Board determined relief was not warranted.

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? Yes. The applicant asserts IPV and OMH as related to his request.

(2) Did the condition exist or experience occur during military service? Yes. The applicant is service connected for Anxiety Disorder and the available active-duty electronic medical record indicates he was diagnosed with the following conditions while in service: Sleep Disorder, Insomnia, and Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? No. Overall, the active-duty electronic medical records available for review show a substantial disciplinary history that was not captured in his discharge processing. Contrary to counsel's statement that the applicant was the victim of intimate partner

violence, the medical record indicates he was involved in a tumultuous relationship with a younger subordinate. The available CID report documents three separate incidents where the applicant caused injury to his female romantic partner. In addition, the applicant was discharge due to making a false official statement and failing to obey a lawful order by not securing his M4 in the locking mechanism in the trunk of his patrol car. The applicant provided testimony of his separation board indicating while patrolling he left his M4 (a fully automatic weapon) unattended/unsecure because he went into the barracks to get his Nintendo switch. Both actions were of concern since he was not supposed to play Nintendo while patrolling, nor was he to go into the barracks unless cleared or following proper procedures. The applicant's BH conditions (Sleep Disorder, Insomnia, Adjustment Disorder, or Anxiety Disorder) would not mitigate making a false official statement or willfully leaving his weapon unattended in order to get his video game while on patrol. None of these acts are part of the history or natural sequelae of the applicant's BH conditions. The applicant engaged in purposeful, conscious decision-making. Even if anxiety symptoms were present at the time of his misconduct, they do not affect the ability to distinguish right from wrong and act in accordance with the right.

3. Upon review of the applicants petition and military records, the Board determined that the applicant did not demonstrate by a preponderance of evidence that procedural error occurred and by a preponderance of evidence that the contents of the DA Forms 4833 and allied documents are incorrect and support removal. Therefore, the Board denied relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

The evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis for correction of the records of the individual concerned.



X

//SIGNED//

CHAIRPERSON

Signed by:

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. Section 1556 of Title 10, USC, requires the Secretary of the Army to ensure that an applicant seeking corrective action by Army Review Boards Agency (ARBA) be provided with a copy of any correspondence and communications (including summaries of verbal communications) to or from the Agency with anyone outside the Agency that directly pertains to or has material effect on the applicant's case, except as authorized by statute. ARBA medical advisory opinions and reviews are authored by ARBA civilian and military medical and behavioral health professionals and are therefore internal agency work product. Accordingly, ARBA does not routinely provide copies of ARBA Medical Office recommendations, opinions (including advisory opinions), and reviews to ABCMR applicants (and/or their counsel) prior to adjudication.

2. Army Regulation 635-5-1 (Personnel Separations – Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the separation codes to be entered on the DD Form 214 (Certificate of Release or Discharge from Active Duty). It states that the separation code "JKQ" is the appropriate code to assign to Soldiers separated under the provisions of Army Regulation 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations), Chapter 14-12c (Acts or Patterns of Misconduct – Commission of a Serious Offense).

3. Army Regulation 635-200 (Personnel Separations – Active Duty Enlisted Administrative Separations) sets forth the basic authority for the separation of enlisted personnel.

a. Paragraph 3-7a provides that an honorable discharge is a separation with honor and entitles the recipient to benefits provided by law. The honorable characterization is appropriate when the quality of the member's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

b. Paragraph 3-7b states a general discharge is a separation from the Army under honorable conditions. When authorized, it is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

c. Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions (a pattern of misconduct consisting solely of minor military disciplinary infractions), a pattern of misconduct (consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline). Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally

appropriate for a Soldier discharged under this chapter; however, the separation authority may direct a general discharge if merited by the Soldier's overall record.

4. On 25 August 2017, the Office of the Undersecretary of Defense for Personnel and Readiness issued clarifying guidance for the Secretary of Defense Directive to Discharge Review Boards (DRB) and Boards for Correction of Military/Naval Records (BCM/NR) when considering requests by Veterans for modification of their discharges due in whole or in part to: mental health conditions, including Post-Traumatic Stress Disorder; traumatic brain injury; sexual assault; or sexual harassment. Standards for review should rightly consider the unique nature of these cases and afford each veteran a reasonable opportunity for relief even if the sexual assault or sexual harassment was unreported, or the mental health condition was not diagnosed until years later. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on those conditions or experiences.

5. On 25 July 2018, the Under Secretary of Defense for Personnel and Readiness issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. BCM/NRs may grant clemency regardless of the type of court-martial. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

a. This guidance does not mandate relief, but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, Boards shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

b. Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

//NOTHING FOLLOWS//