

AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD

NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL) <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	GRADE AMN	AFSN/SSAN <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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TYPE GEN	PERSONAL APPEARANCE	X	RECORD REVIEW
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COUNSEL	NAME OF COUNSEL AND OR ORGANIZATION	ADDRESS AND OR ORGANIZATION OF COUNSEL
YES	No	
	X	

MEMBER SITTING	VOTE OF THE BOARD				
	HON	GEN	UOHC	OTHER	DENY
<div style="border: 1px dashed black; height: 40px; width: 100%;"></div>					X
<div style="border: 1px dashed black; height: 40px; width: 100%;"></div>					X
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ISSUES A95.00 A93.01 A01.00	INDEX NUMBER A67.10	EXHIBITS SUBMITTED TO THE BOARD
		1 ORDER APPOINTING THE BOARD
		2 APPLICATION FOR REVIEW OF DISCHARGE
		3 LETTER OF NOTIFICATION
		4 BRIEF OF PERSONNEL FILE
		COUNSEL'S RELEASE TO THE BOARD
		ADDITIONAL EXHIBITS SUBMITTED AT TIME OF PERSONAL APPEARANCE
		TAPE RECORDING OF PERSONAL APPEARANCE HE

HEARING DATE 14 Sep 2006	CASE NUMBER FD-2006-00017	
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APPLICANT'S ISSUE AND THE BOARD'S DECISIONAL RATIONALE ARE DISCUSSED ON THE ATTACHED AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

Case heard in Washington, D.C.

Advise applicant of the decision of the Board, the right to a personal appearance with/without counsel, and the right to submit an application to the AFBCMR

Names and votes will be made available to the applicant at the applicant's request.

SIGNATURE OF RECORDER <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>	SIGNATURE OF BOARD PRESIDENT <div style="border: 1px dashed black; height: 20px; width: 100%;"></div>
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INDORSEMENT	DATE: 9/18/2006
TO: SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	FROM: SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7002

AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE

CASE NUMBER

FD-2006-00017

GENERAL: The applicant appeals for upgrade of discharge to honorable.

The applicant was offered a personal appearance before the Discharge Review Board (DRB) but declined to exercise this right. The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

FINDINGS: Upgrade of discharge is denied.

The Board finds that neither the evidence of record nor that provided by the applicant substantiates an inequity or impropriety that would justify a change of discharge.

ISSUE:

Issue 1. Applicant realizes his conduct while in the Air Force was not acceptable. The records indicated the applicant received two Article 15's, a Vacation, five Letters of Reprimand, and three Letters of Counseling for misconduct. The first Article 15 was for failure to pay debt to the Military Star Program. The applicant received a suspended reduction to airman and fourteen days of extra duty. The Vacation action and second Article 15 were for abuse of his Bank of America government travel card resulting in a reduction in grade to airman and finally to airman basic with 30 days of extra duty. The applicant also received multiple infractions for financial irresponsibility, failure to go, failure to obey a lawful order from an NCO and disrespect to a commissioned officer and NCO. The DRB opined that through these administrative actions, the applicant had ample opportunities to change his negative behavior. The Board concluded the misconduct was a significant departure from conduct expected of all military members. The characterization of the discharge received by the applicant was found to be appropriate.

Issue 2. The applicant cited his desire to receive the G.I. Bill benefits as justification for upgrade. The DRB noted that when the applicant applied for these benefits, he signed a statement (DD Form 2366, on November 29, 1999) that he understood he must receive an Honorable discharge to receive future educational entitlements. The Board was sympathetic to the impact the loss of these benefits was having on the applicant, but this is not a matter of inequity or impropriety which would warrant an upgrade.

Issue 3. Although not explicitly stated, applicant contends that he should not be penalized indefinitely for mistakes he made when young. The DRB recognized the applicant was 23 years of age when the discharge took place. However, there is no evidence he was immature or did not know right from wrong. The Board opined the applicant was older than the vast majority of first-term members who properly adhere to the Air Force's standards of conduct. The DRB concluded that the characterization of the applicant's discharge was appropriate due to the misconduct.

CONCLUSIONS: The Discharge Review Board concludes that the discharge was consistent with the procedural and substantive requirements of the discharge regulation and was within the discretion of the discharge authority and that the applicant was provided full administrative due process. In view of the foregoing findings, the Board further concludes that there exists no legal or equitable basis for upgrade of discharge, thus the applicant's discharge should not be changed.

Attachment:
Examiner's Brief

DEPARTMENT OF THE AIR FORCE
AIR FORCE DISCHARGE REVIEW BOARD
ANDREWS AFB, MD

(Former AMN) (HGH A1C)

1. **MATTER UNDER REVIEW:** Appl rec'd a GEN Disch fr USAF Hurlburt Field, FL on 4 Mar 04 UP AFI 36-3208, para 5.49 (Misconduct - Minor Disciplinary Infractions). Appeals for Honorable Discharge.

2. **BACKGROUND:**

a. DOB: 10 Aug 80. Enlmt Age: 19 9/12. Disch Age: 23 7/12. Educ: HS DIPL. AFQT: N/A. A-70, E-50, G-64, M-53. PAFSC: 1N651 - Electronic Systems Security Assessment Journeyman. DAS: 10 Apr 00.

b. Prior Sv: None.

3. **SERVICE UNDER REVIEW:**

a. Enlisted as AB 17 Nov 99 for 6 yrs. Svd: 04 Yrs 03 Mo 18 Das, all AMS.

b. Grade Status: Amn - 17 Mar 03
AB - 07 Aug 02 (Article 15, 07 Aug 02)
Amn - 21 Mar 02 (Vacation of Article 15, 25 Jul 02)
A1C - 31 Dec 99

c. Time Lost: None.

- d. Art 15's: (1) 07 Aug 02, Hurlburt Field, FL - Article 92. You, who knew of your duties, on or about 7 Apr 02 and on or about 15 Apr 02, were derelict in the performance of those duties in that you willfully failed to refrain from using your Bank of America government travel charge card for cash advances rather than for government travel expenses only, as it was your duty to do. Reduction to AB, and 30 days extra duty. (No appeal) (No mitigation)
- (2) 25 Jul 02, Vacation, Hurlburt Field, FL - Article 92. You, who knew of your duties, between on or about 7 Apr 02 and on or about 15 Apr 02, were derelict in the performance of those duties in that you willfully failed to refrain from using your Bank of America government travel card for cash advances rather than for government travel expenses only, as it was your duty to do. Reduction to Airman. (No appeal) (No mitigation)
- (3) 21 Mar 02, Hurlburt Field, FL - Article 134. You, being indebted to the Military Star Program in the sum of \$88.39, for transaction made against your account, which amount because due and payable on 15 Feb 02, did,

between on or about 15 Feb 02 to on or about 8 Mar 02, dishonorably fail to pay said debt. Suspended reduction to Airman. Fourteen days extra duty. (No appeal) (No mitigation)

- e. Additional: (Examiner's Note: The following documents are missing from file. Information was extracted from the Legal Review)

LOR, 21 JAN 04 - Financial irresponsibility.
 LOR, 08 SEP 03 - Failure to go.
 LOC, 22 FEB 02 - Disrespect to a Commissioned Officer and NCO.
 LOR, 05 NOV 01 - Financial irresponsibility.
 LOR, 21 AUG 01 - Failed to obey a lawful order from an NCO.
 LOR, 21 AUG 01 - Financial irresponsibility.
 LOC, 18 JUN 01 - Financial irresponsibility.
 LOC, 14 FEB 01 - Failure to go.

- f. CM: None.

- g. Record of SV: 17 Nov 99 - 16 Jul 01 Hurlburt Field 4 (Initial)
 17 Jul 01 - 16 Jul 02 Hurlburt Field 1 (Annual)REF
 16 Jul 02 - 18 Feb 03 Hurlburt Field 3 (Cmdr Dir)

- h. Awards & Decs: AFTR, NDSM, AFLSAR, AFOUA W/VALOR W/1 OLC.

- i. Stmt of Sv: TMS: (04) Yrs (03) Mos (18) Das
 TAMS: (04) Yrs (03) Mos (18) Das

4. **BASIS ADVANCED FOR REVIEW:** Appln (DD Fm 293) dtd 02 Jan 06.
 (Change Discharge to Honorable)

Issue 1: I want my discharge to be upgraded to Honorable. I realized what I had done was wrong and completely respect my Commanding Officer for discharging me for reasons he believed were correct. I would like to use all the benefits that are out there for veterans especially the Montgomery GI. Bill to better myself for the future. I am twenty five years old now and have two children and one more on the way. I would like to look them in the eye and tell them that I served the United States the best I could.

ATCH
 None.

22FEB06/ia



DEPARTMENT OF THE AIR FORCE
16th SPECIAL OPERATIONS WING (AFSOC)
HURLBURT FIELD FLORIDA

FEB 20 2004

MEMORANDUM FOR 16 SOW/CC

FROM: 16 SOW/JA

SUBJECT: Legal Review, Administrative Discharge, Amn: [REDACTED],
25 IOS

1. **Authority for Action:** We have reviewed the attached administrative discharge package in accordance with AFD 36-32 and AFI 36-3208 and find that it is legally sufficient to support a finding that the respondent, Amn: [REDACTED] is subject to discharge for misconduct, more specifically, minor disciplinary infractions, under AFI 36-3208, chapter 5, section H, paragraph 5.49.
2. **Background:** The respondent was notified of the discharge action on 9 Feb 04. He acknowledged receipt of the Notification Memorandum and his right to consult counsel. Due to the member's security clearance, the squadron had to wait approximately six months for permission from their program functional manager to proceed with a discharge.
3. **Basis for Action:** During the current enlistment:
 - a. On 5 Jan 04, an investigation revealed that Amn: [REDACTED] dishonorably failed to pay his Military Star Card debt, for which he was given a Letter of reprimand (LOR), dated 21 Jan 04, which was filed in his Personnel Information File (PIF).
 - b. On 8 Sep 03, Amn: [REDACTED] failed to go at the time prescribed to his appointed place of duty, for which he received an LOR, dated 8 Sep 03, which was filed in his PIF.
 - c. On or about 7 Apr 02, Amn: [REDACTED] willfully failed to refrain from using his Bank of America government travel card for cash advances rather than for government travel expenses only, for which he was given Nonjudicial Punishment, under Article 15, UCMJ, dated 7 Aug 02, which was filed in his Unfavorable Information File (UIF).
 - d. Between on or about 7 Apr 02 and on or about 15 Apr 02, Amn: [REDACTED] willfully failed to refrain from using his Bank of America government travel charge card for cash advances rather than for government travel expenses only, for which he was given a Vacation of Suspended Nonjudicial Punishment, dated 25 Jul 02, which was filed in his UIF.
 - e. Between on or about 15 Feb 02 and on or about 8 Mar 02, Amn: [REDACTED] dishonorably failed to pay his Military Star Card debt, for which he was given Nonjudicial Punishment, under Article 15, UCMJ, dated 22 Mar 02, which was filed in his UIF.

Received Time Feb. 6. 4:04PM *Any Time ... Any Place*

f. On 21 Feb 02, Amn: [REDACTED] was disrespectful to a commissioned officer and an NCO, for which he received a Letter of Counseling (LOC), dated 22 Feb 02, which was filed in his PIF.

g. On 16 Oct 01, Amn: [REDACTED] failed to pay his Military Star Card debt, for which he received an LOR, dated 5 Nov 01, which was filed in his PIF.

h. On 9 Aug 01, Amn: [REDACTED] willfully failed to obey a lawful order given to him by Staff Sergeant [REDACTED] for which he was given an LOR, dated 21 Aug 01, which was filed in his PIF.

i. Between on or about 1 Jul 01 and on or about 15 Jul 01, Amn: [REDACTED] wrote two checks to [REDACTED], but failed to maintain sufficient funds to pay such checks, for which he was given an LOR, dated 21 Aug 01, which was filed in his PIF.

j. On 14 Jun 01, the First Sergeant was notified that Amn: [REDACTED] failed to pay his Military Star Card in a timely manner, for which he was given an LOC, dated 18 Jun 01, which was filed in his PIF.

k. On 14 Feb 01, Amn: [REDACTED] failed to attend a mandatory formation, for which he received an LOC, dated 14 Feb 01, which was filed in his PIF.

4. **Respondent's Military Record:** The respondent has been on continuous active duty since 17 Nov 99. He received three Enlisted Performance Reports with the ratings of 3, 1 (referral), and 4. The respondent is entitled to wear the Air Force Outstanding Unit Award, Air Force Longevity Service Award, National Defense Service Medal and the Air Force Training Ribbon.

5. **Respondent's Response:** Amn: [REDACTED] spoke to the defense paralegal, but chose not to consult counsel or submit a statement on his behalf.

6. **Analysis:**

a. **Basis for Discharge:** There is a preponderance of the evidence to establish a basis for discharge under chapter 5, section H, paragraph 5.49 of AFI 36-3208. Under that paragraph, a pattern of minor disciplinary infractions, including failure to comply with nonpunitive regulations or minor offenses under the UCMJ, makes an airman subject to discharge. Infractions of this type result in informal (reduced to writing) or formal counselings (LOCs, LORs), or Article 15 nonjudicial punishments. Amn: [REDACTED] documented misconduct falls into this category of a pattern of minor disciplinary infractions and establishes a legal basis for discharge.

b. **Should Respondent be Discharged?:** In accordance with AFI 36-3208, chapter 6, paragraph 6.1, when a discharge is not mandatory, the member's potential for future useful service must be considered. You should consider the factors listed in paragraph 6.1.1 before making a final decision to discharge Amn: [REDACTED]. These factors include how the respondent's

retention might affect military discipline, good order, and morale; whether the circumstances that are the basis of the discharge action will continue or recur; and the respondent's potential for advancement and leadership. In this case Amn: [redacted] continued misconduct and disregard for military standards and policies reveals a lack of personal discipline that is not conducive to military life. His misconduct is detrimental to the maintenance of good order and discipline in his squadron and the United States Air Force. Therefore, even in light of the factors to be considered in paragraph 6.1.1, Amn Boyer should be discharged.

c. Characterization of Discharge: 25 IOS/CC has recommended a general discharge. AFI 36-3208, chapter 1, Table 1.3 provides that for a misconduct case, the authorized discharges are: (1) an honorable discharge; (2) a general discharge; or (3) a discharge under other than honorable conditions (UOTHC). In order to impose a UOTHC discharge, a member must be given the right to an administrative discharge board. For a case processed using notification procedures, as this one is, only an honorable or a general discharge is authorized. If you believe a UOTHC discharge is appropriate, you have the option of convening an administrative discharge board. However, we do not recommend doing so. Even if you were to conclude that Amn Boyer should be discharged because his conduct has been unacceptable, it was not so extreme as to warrant an UOTHC discharge. An honorable discharge is not warranted either. An honorable discharge should be reserved for those whose service is "so meritorious that any other characterization would be inappropriate," pursuant to AFI 36-3208, section B, paragraph 1.18.1. A general discharge should be imposed when "significant negative aspects of the airman's conduct or performance of duty outweigh the positive aspects of the airman's military record," pursuant to AFI 36-3208, chapter 1, section B, paragraph 1.18.2. We believe a general discharge would be the most appropriate characterization of Amn: [redacted] misconduct and overall military service.

d. Probation and Rehabilitation: The initiating commander does not recommend P&R in this case. AFI 36-3208, chapter 7, section A, paragraph 7.3 directs that P&R should be offered to airmen who have demonstrated a potential to serve satisfactorily, who have the capacity to be rehabilitated for continued military service, and whose retention on active duty in a probationary status is consistent with the maintenance of good order and discipline in the Air Force. Throughout his Air Force career, Amn: [redacted] has not shown the ability to serve satisfactorily, as evidenced by two Article 15s. Over the past four years, Amn: [redacted] has been given numerous opportunities to correct his behavior and fulfill the promise that he showed earlier in his career. The unit has counseled Amn: [redacted] on his misconduct and provided him with opportunities to improve, but he has continually failed to take advantage of those opportunities. AFI 36-3208, paragraph 7.6.4.1 allows for reassignment during a period of P&R only if the circumstances of the case warrant it. Based on the nature of Amn: [redacted] misconduct, P&R is neither warranted nor practicable.

7. Errors or Irregularities: There is one irregularity in the discharge package. Paragraph 3 (d) of the Notification Memorandum incorrectly lists dishonorably failing to pay his military Star Card debt between 15 Feb 02 and 8 Mar 02 as the offense for which the vacation of suspended punishment was issued to the respondent on 25 Jul 02. The actual offense listed on the Air Force Form 366 (Vacation of Nonjudicial Punishment) and used to vacate the previously suspended punishment was the respondent's misuse of his government travel for cash advances rather than

for government expenses, not for dishonorably failing to pay a debt. The respondent subsequently was given nonjudicial punishment under Article 15 for his misuse of the government travel card as well. Since both Article 15s and the vacation action are legally sufficient and properly included in the package provided to the respondent, the erroneous statement as to the basis of the vacation action does not affect the legal sufficiency of this discharge action.

8. Options: As the Special Court-Martial Convening Authority, you may:

- a. Direct the respondent's retention in the United States Air Force;
- b. Direct that the respondent be discharged from the Air Force with a general discharge without probation and rehabilitation under AFI 36-3208, chapter 5, section H, paragraph 5.49;
- c. Direct that the respondent be discharged from the Air Force with a general discharge, suspending the discharge and ordering a program of probation and rehabilitation in accordance with AFI 36-3208, chapter 7;
- d. Forward a recommendation for separation under paragraph 5.49 with an honorable discharge to the General Court-Martial Convening Authority, AFSOC/CC (AFI 36-3208, paragraph 5.56.2.1); or
- e. Direct reinitiating the package to convene an administrative discharge board if you believe that a UOTHC discharge is warranted.

9. Recommendation: We recommend that you sign the attached letter at Tab A directing that the respondent be discharged from the United States Air Force with a general discharge without probation and rehabilitation.

[Redacted signature box]

Staff Judge Advocate



DEPARTMENT OF THE AIR FORCE
16th SPECIAL OPERATIONS WING (AFSOC)
HURLBURT FIELD FLORIDA

FEB 09 2004

MEMORANDUM FOR AMN:.....; 25 IOS

FROM: 25 IOS/CC

SUBJECT: Notification Memorandum

1. I am recommending your discharge from the United States Air Force for misconduct, more specifically, minor disciplinary infractions. The authority for this action is AFD 36-32 and AFI 36-3208, chapter 5, section H, paragraph 5.49. If my recommendation for discharge is approved, your service will be characterized as honorable or general. I am recommending your service be characterized as general.

2. My reasons for this action are based on the following:

a. On 5 Jan 04, an investigation revealed that you dishonorably failed to pay your Military Star Card debt, for which you were given a Letter of Reprimand (LOR), dated 31 Jan 04, which was filed in your Personnel Information File (PIF).

b. On 8 Sep 03, you failed to go at the time prescribed to your appointed place of duty, for which you received an LOR, dated 8 Sep 03, which was filed in your PIF.

c. On or about 7 Apr 02, you willfully failed to refrain from using your Bank of America government travel card for cash advances rather than for government travel expenses only, for which you were given Nonjudicial Punishment, under Article 15, UCMJ, dated 7 Aug 02, which was filed in your Unfavorable Information File (UIF).

d. Between on or about 15 Feb 02, and on or about 8 Mar 02, you dishonorably failed to pay your Military Star Card debt, for which you were given a Vacation of Suspended Nonjudicial Punishment, dated 25 Jul 02, which was filed in your UIF.

e. Between on or about 15 Feb 02 and on or about 8 Mar 02, you dishonorably failed to pay your Military Star Card debt, for which you were given Nonjudicial Punishment, under Article 15, UCMJ, dated 22 Mar 02, which was filed in your UIF.

f. On 21 Feb 02, you were disrespectful to a commissioned officer and an NCO, for which you received a Letter of Counseling (LOC), dated 22 Feb 02, which was filed in your PIF.

g. On 16 Oct 01, you failed to pay your Military Star Card debt, for which you received an LOR, dated 5 Nov 01, which was filed in your PIF.

Received Time Feb. 6. 4:04PM

h. On 9 Aug 01, you willfully failed to obey a lawful order given to you by Staff Sergeant [redacted], for which you were given an LOR, dated 21 Aug 01, which was filed in your PIF.

i. Between on or about 1 Jul 01 and on or about 15 Jul 01, you wrote two checks to [redacted] but failed to maintain sufficient funds to pay such checks, for which you were given an LOR, dated 21 Aug 01, which was filed in your PIF.

j. On 14 Jun 01, the First Sergeant was notified that you failed to pay you Military Star Card in a timely inanner, for which you were given an LOC, dated 18 Jun 01, which was filed in your PIF.

k. On 14 Feb 01, you failed to attend a mandatory formation, for which you received an LOC, dated 14 Feb 01, which was filed in your PIF.

3. Copies of the documents to be forwarded to the separation authority in support of this recommendation are attached. The commander excrcising Special Courts-Martial jurisdiction or a higher authority will decide whether you will be discharged or retained in the Air Force. If you are discharged, you will be ineligible for reenlistment in the Air Force.

4. You have the right to consult counsel. Military legal counsel has been obtained to assist you. I have made an appointment for you to consult the Area Defense Counsel at Hurlburt Field, FL, Bldg 90042, on 11 FEB 04 at 1100 hours. You may consult civilian counsel at your own expense.

5. You have the right to submit statements on your own behalf. Any statements you want the separation authority to consider ~~must reach me within three workdays of your receipt of this memorandum, unless you request and receive an extension for good cause.~~ I will send them to the separation authority.

6. If you fail to consult counsel or to submit statements on your own behalf, your failure will constitute a waiver of your right to do so.

7. You are scheduled for a medical examination and you should report to the Hurlburt Clinic at 0700 hrs on 11 FEB 04 for the examination.

8. Any personal information you furnish in rebuttal is covered by the Privacy Act of 1974. A copy of AFI 36-5208 is available for your use at the unit orderly room.



Commander

Attachments:

1. LOR, dtd 21 Jan 04 (1p.)
2. For Cause Authority, dtd 8 Dec 03 (1p.)
3. LOR, dtd 8 Sep 03 (1p.)
4. AF FM 3070, dtd 7 Aug 02 (4pp.)
5. AF Fm 366, dtd 25 Jul 02 (1p.)
6. AF FM 3070, dtd 22 Mar 02 (4pp.)
7. LOC, dtd 22 Feb 02 (1p.)
8. LOR, dtd 5 Nov 01 (1p.)
9. LOR, dtd 21 Aug 01 (1p.)
10. LOR, dtd 21 Aug 01 (1p.)
11. LOC, dtd 14 Jun 01 (1p.)
12. LOR, dtd 14 Feb 01 (1p.)
13. Documents containing derogatory information--which are not listed on the notification memorandum:
 - a. AF FM 1102, dtd 27 Jun 02 (4pp.)
 - b. AF FM 1168, dtd 26 Jun 02 (2pp.)
 - c. AF FM 1168, dtd 26 Jun 02 (2pp.)
 - d. AF FM 1168, dtd 26 Jun 02 (2pp.)
 - e. Government Travel Card (VISA) Agreement, undated (1p.)
 - f. Bank of America fax, dtd 25 Jun 02 (7pp.)
 - g. Military Star Card Statement, dtd 2 May 02 (1p.)
 - h. ATM receipt, dtd 18 Oct 01 (1p.)
 - i. MFR, MSgt [redacted], dtd 24 Aug 01 (1p.)
 - j. Military Star Card Statement, dtd 10 Jun 01 (1p.)
14. Airman's receipt of notification memorandum

Received Time Feb. 6. 4:04PM