

**AIR FORCE DISCHARGE REVIEW BOARD HEARING RECORD**

<b>NAME OF SERVICE MEMBER (LAST, FIRST MIDDLE INITIAL)</b> [REDACTED]	<b>GRADE</b>	<b>AFSN/SSAN</b> [REDACTED]
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<b>TYPE HON</b>	<b>PERSONAL APPEARANCE</b>	<b>X</b>	<b>RECORD REVIEW</b>
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<b>NAME OF COUNSEL AND OR ORGANIZATION</b>	<b>ADDRESS AND OR ORGANIZATION OF COUNSEL</b>				
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:5%;"><b>YES</b></td> <td style="width:10%;"><b>No</b></td> </tr> <tr> <td></td> <td align="center"><b>X</b></td> </tr> </table>	<b>YES</b>	<b>No</b>		<b>X</b>	
<b>YES</b>	<b>No</b>				
	<b>X</b>				

<b>MEMBER SITTING</b>	<b>VOICES OF THE BOARD</b>				
	HON	GEN	UOTHC	OTHER	DENY
					X
					X
					X
					X
					X

<b>ISSUES</b> A94.53	<b>INDEX NUMBER</b> A37.00	<b>EXHIBITS SUBMITTED TO THE BOARD</b>
		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 HEARING

<b>HEARING DATE</b> 16 Nov 2010	<b>CASE NUMBER</b> FD-2009-00137
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**REPORT ON THE ISSUE AND THE BOARD'S DECISION FOR AFFIDAVIT OF DISCHARGE (USPDS FORM 104) OR FOR DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

Case heard in Washington, D.C.

Advise applicant of the decision of the Board 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.

<b>TO:</b> SAF/MRBR 550 C STREET WEST, SUITE 40 RANDOLPH AFB, TX 78150-4742	<b>FROM:</b> SECRETARY OF THE AIR FORCE PERSONNEL COUNCIL AIR FORCE DISCHARGE REVIEW BOARD 1535 COMMAND DR, EE WING, 3RD FLOOR ANDREWS AFB, MD 20762-7001
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**AIR FORCE DISCHARGE REVIEW BOARD DECISIONAL RATIONALE**

CASE NUMBER

**FD-2009-00137**

**GENERAL:** The applicant appeals to change the reason and authority for the discharge and to change the reenlistment code.

The attached brief contains available pertinent data on the applicant and the factors leading to the discharge.

The applicant was scheduled for a personal appearance before the Discharge Review Board at Andrews Air Force Base, Maryland on 16 Nov 2010, but failed to appear before the board. As this was the applicant's second failure to appear on the date he was scheduled for a PA, he forfeited his right to a PA and his record was reviewed as an NPA records review.

**FINDING:** The Board denies the request for change of reason and authority for discharge and the request for change of reenlistment code.

The Board finds the applicant submitted no issues contesting the equity or propriety of the discharge, and after a thorough review of the record, the Board was unable to identify any that would justify a change of discharge.

The applicant was discharged IAW AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, paragraph 3.22, *Discharge in the Interest of National Security*. Applicant refused to submit required security clearance paperwork, SF 86, *Questionnaire for National Security Positions*. Applicant received an honorable discharge. The 104 FW/JA legal review noted that the applicant stated he refused "to sign a peice [sic] of paper I do not agree with and the service should have informed me of when I enlisted and failed to do so."

In his submission to the DRB, the applicant contends that he had an active security clearance in the system and requested to speak to counsel via the JAG or the IG office. He stated that after he submitted the SF 86, his commander stated that he would still be discharged. The applicant subsequently submitted a conditional waiver of his right to a discharge board on the condition he received an honorable discharge, even though he had a total of nearly 18 years of active and inactive service. The Board reviewed the entire record and found no evidence of impropriety or inequity to warrant an upgrade of the discharge.

**CONCLUSION:** 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 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 change of reason and authority for discharge and to change the reenlistment code and determines the discharge should remain unchanged.

Attachment:  
Examiner's Brief

FD 2009-00137

APPLICATION FOR THE REVIEW OF DISCHARGE OR DISMISSAL FROM THE ARMED FORCES OF THE UNITED STATES

(Please read attached instructions before completing this form.)

Form Approved OMB No. 0704-0004 Expires Nov 30, 2003

The public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Department of Defense, Washington Headquarters Services, Directorate for Information Operations and Reports (0704-0004), 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553; E.O. 9397.

PRINCIPAL PURPOSE(S): To apply for a change in the type of military discharge issued to an individual.

ROUTINE USE(S): None.

DISCLOSURE: Voluntary; however, failure to provide identifying information may impede processing of this application. The request for Social Security Number is strictly to assure proper identification of the individual and appropriate records.

REQUESTING COPIES OF MILITARY RECORDS

Prior to applying for discharge review, potential applicants or their designated representatives may obtain copies of their military personnel records by submitting a Standard Form (SF) 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, MO 63132-5200.

1. DATA PERTAINING TO INDIVIDUAL (APPLICANT) TO BE REVIEWED

Form section 1 containing fields for: a. NAME, b. SOCIAL SECURITY NUMBER, c. ADDRESS (street, city, state, zip), d. SERVICE NUMBER, e. TELEPHONE NUMBER, f. E-MAIL ADDRESS, g. BRANCH OF ARMED SERVICE, h. DISCHARGE RECEIVED, i. DATE OF DISCHARGE.

2. APPEAL FILED IN BEHALF OF INDIVIDUAL TO BE REVIEWED (If the reviewee is deceased or incompetent, complete this section. Appropriate evidence, e.g., death certificate, medical statement of incompetency, must accompany this form.)

Form section 3 containing fields for: 3. BOARD ACTION REQUESTED (Change discharge to honorable, general/under honorable conditions, etc.)

Form section 2 sub-fields: a. RELATIONSHIP OF INDIVIDUAL SUBMITTING THIS APPLICATION TO APPLICANT, b. NAME

Form section 4 containing fields for: 4. TYPE OF REVIEW REQUESTED (I AND/OR counsel/representative wish to appear at a hearing at no expense to the government before the board in the Washington National Capital Region, etc.)

Form section 5 containing fields for: 5. I HAVE ARRANGED TO BE REPRESENTED BY AND AUTHORIZE THE RELEASE OF RECORDS TO (Complete if applicable) a. NAME OF COUNSEL/REPRESENTATIVE, b. ORGANIZATION, c. TELEPHONE NUMBER, d. ADDRESS

Form section 6 containing field for: 6. WAIVER OF COUNSEL (I HAVE READ ITEM 6 OF THE INSTRUCTIONS PERTAINING TO THE AVAILABILITY OF COUNSEL AND ELECT NOT TO BE REPRESENTED BY COUNSEL/REPRESENTATIVE)

**7. SUPPORTING DOCUMENTS (X as applicable) (Please print name and Social Security Number on each document.)**

<input checked="" type="checkbox"/>	WILL NOT BE SUBMITTED. PLEASE COMPLETE REVIEW BASED ON AVAILABLE SERVICE RECORDS.
	ARE LISTED BELOW AND ARE ATTACHED TO THIS APPLICATION: (Continue on a plain sheet of paper if more space is needed.)

- a. DOCUMENT 1:  
SF 86 security clearance
- b. DOCUMENT 2:  
NGB 22 Discharge certificate on file with USAF
- c. DOCUMENT 3:  
Current security clearance

**8. ISSUES**  
The Board will consider any issue submitted by you prior to closing the case for deliberation. The Board will also review the case to determine whether there are any issues that provide a basis for upgrading your discharge. However, the Board is not required to respond in writing to issues of concern to you unless those issues are listed or incorporated by specific reference below. Carefully read the instructions that pertain to Block 8 prior to completing this part of the application. If you need more space, submit additional issues on an attachment.

I Was discharged from Massachusetts Air National Guard 104fw services flight on 31 December 2008 for failing to submit a SF86 to obtain a security clearance. I during that time of the previous year had a active security clearance in the system and requested to speak to legal counsel VIA JAG or the Ig office. On the UTA of May 2008 I was unlawfully ordered to file a SF 86 by the services flight commander and the section chief of the services flight of the 104th. I had requested the order in writing and requested to see legal counsel and at that time was ordered to return to the kitchen for KP, after not filing a sf 86 at that time. (See enclosure)

On october of that year during that UTA I was ordered to the 102 FW on cape cod ma 190 miles away from the 104th to speaking to legal counsel. I at that time was told It does not matter if I submit the SF86 I am being discharged regardless. IAW USAF regulations I did submit the SF 86 as theregulations dictate, and after finally speaking to leagl counsel. I submitted the SF 86 3 times to the 104th Fw and lits was summarily ignored.

I was told by the 104th wing commanders JAG legal representative I will be given a honorable discharge on my NGB22 and will be free to enlist anywhere I like. the infomation that was ommitted to me was the RE enlistment codes and the Narrative in the discharge paper work.

I did indeed enlist in the Rhode Iland National Guard without prejudice and am serving the country and that state honorably since that time.

However I had filed the SF 86 IAW MANG and USAF regulations, ( albeit it was ignored) because I had and have a active security clearance that NO ONE at the 104th FW bothered to look for, Futhermore I am Currently Drilling at a National guard unit.

I submit to this board that the discharge deposition and the RE code posted on my current NGB 22 hold no Merit and thus I respectfully request this board change the RE code to a RE 1 and a narrative more fitting of my 18 years of honorable loyal service to this county

with Great Respect,  
Sergent [REDACTED]

	I HAVE LISTED ADDITIONAL ISSUES AS AN ATTACHMENT TO THIS APPLICATION.
<input checked="" type="checkbox"/>	I PREVIOUSLY SUBMITTED AN APPLICATION ON (Enter date) 08DEC2008 to 104fwAN AND AM COMPLETING THIS FORM IN ORDER TO SUBMIT ADDITIONAL ISSUES.
	THE ABOVE ISSUES SUPERSEDE ALL PREVIOUSLY SUBMITTED.

**9. CERTIFICATION**  
I make the foregoing statements as part of my application with full knowledge of the penalties involved for willfully making a false statement. (U.S. Code, Title 18, Section 1001, provides that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)

a. DATE (YYYYMMDD) 2009 02 23	b. SIGNATURE [REDACTED]
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UPON COMPLETION, MAIL THIS APPLICATION TO APPLICABLE ADDRESS BELOW

ARMY	NAVY & MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency Support Division, St. Louis ATTN: SFMR-RBR-SL 9700 Page Avenue St. Louis, MO 63132-5200 (See <a href="http://arba.army.pentagon.mil">http://arba.army.pentagon.mil</a> )	Naval Council of Personnel Boards 720 Kennon Street, S.E. Rm. 309 (NDRB) Washington Navy Yard, DC 20374-5023	SAF/MIBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Commandant (G-WPM) 2100 Second Street, S.W. Washington, DC 20593-0001

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

AFDRB BRIEF					
NAME (Last, First, MI): [REDACTED]		SSN: [REDACTED]		DOCKET # FD2009-00137	COMPONENT: ANG
TYPE OF DISCHARGE: HONORABLE	DISCHARGE FROM: MASSACHUSETTS ANG	DISCHARGE DATE: 29 DEC 08		APPEALS FOR: NARRATIVE REASON	
DOB/ ENLMT AGE : 28 DEC 69 UNK	DISCH AGE: 39	FORMER: SSGT	HGH: UNK	B. CURRENT DOR: 15 DEC 04	C. TIME LOST : UNKNOWN
AFSC: 9T000- BASIC ENLISTED AIRMAN		DEP DT: UNKNOWN		ASVAB SCORES: A: 61 E: 81 G: 68 M: 91	
D. ART 15: UNKNOWN	D. LOR, LOA, RIC, LOC: UNKNOWN	E. SPCM / GCM: UNKNOWN		ADDITIONAL: (IE. CIVIL CONV, CDC) UNKNOWN	
F. RECORD OF SERVICE (EPR/ OPR, PAST TO PRESENT) : UNKNOWN					
G. AWARDS & DECS: UNKNOWN					
EAD: UNKNOWN	DAS: UNKNOWN	H. TMS: 17 YRS, 9 MOS, 8 DAS		TAMS: 14 YRS, 1 MOS, 3 DAS	
APPLN (DD FORM 293) DTD: 23 FEB 09	DT/ INITIALS: 27OCT09/ TS	NPA: NO		PA: YES	
RECORDS :	MPR: X	ARMS: X	STR: X	ISSUES: YES	ATTACHMENTS: NO
AUTH FOR DISCHARGE : AFI 36-3209, PARA 3.22 (DISCHARGE IN THE INTEREST OF NATIONAL SECURITY)					
ART 15; SPMC; GCM; ADDITIONAL:					
EXAMINER'S NOTE: 3 MAY 08- REFUSED TO COOPERATE WITH SECURITY PROCESSING BY REFUSING TO COMPLETE SF86 QUESTIONNAIRE FOR NATIONAL SECURITY POSITIONS.					



DEPARTMENT OF THE AIR FORCE  
HEADQUARTER 104<sup>th</sup> FIGHTER WING (ANG)  
BARNES AIR NATIONAL GUARD BASE WESTFIELD, MA

14 September 2008

MEMORANDUM FOR SSGT [REDACTED]

FROM: Cap [REDACTED]

SUBJECT: Letter of Notification for Involuntary Separation – Board Hearing

1. This letter serves as notice that I am initiating an action against you which could result in your involuntary separation from the state Massachusetts Air National Guard and the federal United States Air Force Reserve, with the following possible service characterizations: Honorable, Under Honorable Conditions (General), or Under Other Than Honorable Conditions (UOTHC). I am recommending separation with a service characterization of Under Honorable Conditions (General). You are entitled to an administrative discharge board hearing in this matter.

2. The reason for such action is *Discharge in the Interest of National Security* in accordance with paragraph 3.22. of Air Force Instruction 36-3209 *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*. Specifically, in accordance with ANGI 36-2002, *Enlistment and Reenlistment in the Air National Guard and as a Reserve of the Air Force*, chapter 1, Para. 1.11.1.2. A National Agency Check, Local Agency Checks and Credit Check (NACLC), a Single Scope Background Investigation (SSBI) or a Periodic Re-investigation will be initiated on all Prior Service members, and in accordance with AFI 31-501, *Personnel Security Program Management*, chapter 3, Para 3.8. Military Appointment, Enlistment, and Induction, all personnel appointed, enlisted, or inducted to the active or reserve forces of the Air Force must have a favorable personnel security investigation. In accordance with Unit Personnel Manning Document, Services personnel are required a security clearance classification six (6). On or about 3 May 2008 you refused to cooperate with required security processing by refusing to complete an SF86 *Questionnaire for National Security Positions*. Based upon your refusal your retention is clearly inconsistent with the interest of national security. Copies of supporting documents are attached.

3. If you have received advanced educational assistance moneys or special pay or bonuses, you may be required to repay the United States for these moneys under the authority of Title 10 U.S.C., Section 2005.

4. You have the right to consult with military legal counsel. The following military counsel has been assigned to you: Major [REDACTED] Judge Advocate, 102nd Fighter Wing, Otis Air National Guard Base, Massachusetts. Maj [REDACTED] may be reached during the week at his civilian office telephone number: 617-378-6015, or during Sunday of the Sep 08 UTA at 508-968-4336. You may also consult civilian counsel, retained at the your own expense, or request military counsel of your choice if such counsel is serving in an active status in any branch of the armed forces of the US and is reasonably available according to AFI 51-201, Military Justice Guide.

ATTACHMENT 1

You may request specific non-lawyer counsel represent you before the board if you expressly decline appointment of counsel qualified under Article 27(b)(1) of the UCMJ.

5. You have the right, at any time, to submit any statements or documents to be considered in the disposition of the case. A request for a waiver of a board hearing does not affect the right to submit such statements or documents at any time.

6. You may waive their rights contained in paragraphs 4 and 5, as well as the right to an administrative discharge board hearing, after having the opportunity to consult with counsel. Within 15 days after receipt of this Letter of Notification, you must return an attachment (see Attachment 2) showing decisions on each of the rights in paragraphs 4 and 5 and the right to a board hearing.

7. You must execute and return within 24 hours after receipt an attached acknowledgment (Attachment 3) of receipt of the Letter of Notification and attachments. Failure to acknowledge receipt or to respond regarding selection of rights within 30 days after receipt of the Letter of Notification constitutes a waiver of all rights, with the result that the case will be processed based on the information available, and without further notice to you.

8. Within 15 days after receipt of the Letter of Notification, you must return an attachment (see Attachment 2) electing one of the following options:

- a. Request for a board hearing.
- b. Waiver of a board hearing.

9. If you request an administrative discharge board hearing you must return an attachment (see Attachment 2) indicating the following:

- a. Whether you want to make a personal appearance.
- b. Whether you want representation by the military legal counsel made available in paragraph 4. Above.
- c. Whether you want to be represented by military counsel of your choice in which case you must identify such counsel by name, grade, organization, and phone number.
- d. Whether you will be represented by civilian counsel in which case you must identify counsel by name and address.
- e. The names, addresses, and telephone numbers, if known, of any witnesses you want to appear before the board, giving a summary of the expected testimony of the witness on the issue of separation or characterization, and an explanation why written or recorded testimony of the witnesses could not be presented to the board hearing for a fair determination of the case.
- f. Your understanding that failure to appear at a scheduled administrative discharge board hearing, after you have indicated an intent to make a personal appearance at such hearing, will result in the case being heard by an administrative discharge board in your absence.
- g. Your understanding that if you or your counsel need additional time to prepare for or to attend the board hearing, you or your counsel may submit a written request for

delay stating the reasons and how much time you need. Your further understanding that the legal advisor for the board hearing approves or disapproves the request.

10. I or the discharge authority will consider granting an extension of the time to reply if additional time is needed by you or your counsel. You or your counsel must submit a written request for such delay, stating the reasons and how much time is needed. The decision whether to grant the additional time is discretionary with me or the discharge authority.

11. Any matters which you furnish in response to this action are subject to the provisions of 10 United States Code 8012, Privacy Act Statement, and 44 United States Code 3010. (Attachment 4).

  
 Capt, MA ANG  
Commander, 104<sup>th</sup> Services Flight

**Attachments:**

1. Supporting Documents
2. Election of Rights
3. 24 Hour Acknowledgment
4. Privacy Act Statement





DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS 104TH FIGHTER WING (ANG)  
BARNES AIR NATIONAL GUARD BASE, WESTFIELD MA

20 October 2008

MEMORANDUM FOR 104 FW/CC

FROM: 104 FW/JA

SUBJECT: Legal Review of Conditional Waiver Submission, Administrative Discharge  
Action, SSGT [REDACTED]

1. SUMMARY:

a. I have reviewed the subject discharge action and find it legally sufficient. Captain [REDACTED] the Services Flight Commander recommended SSgt [REDACTED] be discharged from the Massachusetts Air National Guard and a Reserve of the Air Force under AFI 36-3209 *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members.*, paragraph 3.22 (Attachment 1). Discharge in the Interest of National Security. The specific reason for such action, as contained in the Letter of Notification dated 14 Sep 08, is interest of National Security, in accordance with ANGI 36-2002, *Enlistment and Reenlistment in the Air National Guard and as a Reserve of the Air Force*, chapter 1, Para. 1.11.1.2. A National Agency Check, Local Agency Checks and Credit Check (NACLIC), a Single Scope Background Investigation (SSBI) or a Periodic Re-investigation will be initiated on all Prior Service members, and in accordance with AFI 31-501, *Personnel Security Program Management*, chapter 3, Para 3.8. Military Appointment, Enlistment, and Induction, all personnel appointed, enlisted, or inducted to the active or reserve forces of the Air Force must have a favorable personnel security investigation. In accordance with Unit Personnel Manning Document, Services personnel are required a security clearance classification six (6).

b. In response to the notification letter, SSgt [REDACTED] submitted a conditional waiver dated 4 Oct 08 (Attachment 2). In his waiver, he agreed to waive his right to a discharge board if he receives no less than an Honorable Discharge. Captain [REDACTED] recommends the 104 FW/CC accept the conditional waiver and approve an Honorable Discharge. This recommendation has been indorsed by the Group Commander, Col [REDACTED] I agree with their recommendations.

2. DISCUSSION:

a. A review of the case file discloses SSgt [REDACTED] refused to cooperate in his required security clearance action by refusing to complete U.S. Office of Personnel Management Standard Form (SF) 86 *Questionnaire for National Security Positions* due to privacy act issues. In an e-mail in which he discussed his refusal, he stated he refused "to sign a peice [sic] of paper I do not morally agree with and the service should have informed me of when I enlisted and failed to do so." As a result of this refusal Capt [REDACTED] notified SSgt [REDACTED] that a

security determination had been made to suspend his access to classified information/unescorted entry into restricted/sensitive areas, and that a Security Information File would be established.

b. On the first page of the SF 86 form under the section entitled *Purpose of this Form* it states in relevant part as follows: "Giving us this information is voluntary. If you do not provide each item of requested information, however, we will not be able to complete your investigation, which will adversely affect your eligibility for a national security position ... Withholding, misrepresenting, or falsifying information will have an impact on a security clearance, employment prospects, or job status, up to and including denial or revocation of your security clearance, or your removal and debarment from Federal Service." Further, at the section of the form entitled *Disclosure Information* it states as follows: "The information you give to us is for the purpose of investigating you for a national security position; we will protect it from unauthorized disclosure. The collection, maintenance, and disclosure of background investigative information is governed by the Privacy Act. The agency that requested the investigation and the agency that conducted the investigation have published notices in the Federal Register describing the systems of records in which your records will be maintained. The information on this form, and information collected during an investigation, may be disclosed without your consent by an agency maintaining the information in a system of records as permitted by the Privacy Act [5 U.S.C. 552a(b)], and by routine uses published by the agency in the Federal Register. The office that gave you this form will provide you a copy of its routine uses."

c. AFI 31-501 Personnel Security Program Management provides guidance for personnel security investigations and clearance needs. This AFI is used with Department of Defense regulation 5200.2-R, DoD Personnel Security Program. Paragraph 5.6.4. of AFI 31-501 requires that Chapter 8 of the AFI be used when a member refuses to provide the required information for a personnel security investigation. Chapter 8, entitled Unfavorable Administrative at par. 8.2.1.2. mandates that a Security Information File is established when an individual's activity, conduct or behavior is inconsistent with the security criteria specified in DOD 5200.2-R, para 2-200 and Appendix I. DoD 5200.2-R at Appendix 8, Personal Conduct, states that refusal to cooperate with required security processing or refusal to complete required security forms will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility.

d. A person granted access to classified information enters into a special relationship with the government. The government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. SSgt [REDACTED] refusal to complete the SF 86 supports the application of the provisions of AFI 31-501 and DoD 5200.2-R. SSgt Jenson exercised extremely poor judgment when he refused to cooperate with his security investigation. He apparently decided that his personal preferences were more important than his duty to completely cooperate in the investigation. His conduct raises issues pertaining to his judgment, reliability, and trustworthiness. His refusal to cooperate indicates an unwillingness to follow procedures if it might have an adverse impact on his personal beliefs. Such conduct raises questions about whether he would be willing to follow procedures for safeguarding classified information.

e. Under par. 3.22. of AFI 36-3209, a member may be involuntarily separated when his/her retention is clearly inconsistent with the interest of national security. SSgt [REDACTED] refusal to cooperate and complete the SF 86 is reflective of behavior which is clearly inconsistent with the interest of national security. His refusal to cooperate because he chose to follow his own beliefs rather than disclose information that was relevant to his security background investigation clearly raises doubts about his ability to protect classified information which is a requirement of Services personnel. Therefore, discharge is appropriate.

f. As for the characterization of the discharge, the commander is recommending the 104 FW/CC accept the conditional waiver and approve an Honorable discharge service characterization. I concur in that recommendation. General guidelines for service characterization are found at par. A2.1. Subparagraph A2.1.1. states in relevant part that the characterization of service should be based on the quality of the member's service as reflected in the military record, including personal conduct, performance of duty, and the reason for discharge. Subparagraph A2.1.2. states in relevant part that as a rule, service characterization should be based on a pattern of behavior rather than one isolated incident. Specific guidelines for service characterization are found at attachment 2 to AFI 36-3209. Subparagraph A2.2.1. states that an Honorable characterization is appropriate when the quality of the member's service generally has met USAF standards of acceptable conduct and performance of duty. Under subparagraph A2.2.2. an Under Honorable Conditions (General) characterization is appropriate if a member's service has been honest and faithful but significant negative aspects of conduct or performance outweigh positive aspects of the member's military record. Balancing SSgt [REDACTED] lengthy Reserve and Guard service in light of his refusal to cooperate in his security investigation, I agree with the recommendation that he be given an Honorable discharge certificate in that his service generally met the standards of acceptable conduct and performance of duty.

3. RECOMMENDATION: You recommend approval of SSgt [REDACTED] conditional waiver request and forward through channels to The Adjutant General.

[REDACTED]  
[REDACTED] Lt Col, MA ANG  
Staff Judge Advocate

2 Attachments:

1. LON dtd 14 Sep 08
2. Conditional Waiver submission, dtd 04 Oct 08