

House Armed Services Committee
Military Personnel Subcommittee
Hearing on Service Review Agencies,
Boards for Correction of Military Records/Discharge Review Boards

Air Force Witness:

Mr. Mark S. Teskey

Director, Air Force Review Boards Agency

Hearing Date: 2 Mar 2017

GOOD MORNING CHAIRMAN COFFMAN, RANKING MEMBER SPEIER. ON BEHALF OF THE MEN AND WOMEN OF THE AIR FORCE REVIEW BOARDS AGENCY, THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY.

AS DIRECTOR OF THE AIR FORCE REVIEW BOARDS AGENCY, I AM RESPONSIBLE FOR THE ADMINISTRATION, OVERSIGHT, AND LEADERSHIP OF TEN APPELLATE LEVEL ADMINISTRATIVE REVIEW BOARDS, EIGHT ON BEHALF OF THE SECRETARY OF THE AIR FORCE AND TWO ON BEHALF OF THE SECRETARY OF DEFENSE. OUR AGENCY RECEIVES APPROXIMATELY 15,000 CASES ANNUALLY FROM ACTIVELY SERVING AIRMEN (REGULAR AIR FORCE, AIR NATIONAL GUARD, AIR FORCE RESERVE, and CIVILIAN EMPLOYEES), VETERANS, AND THEIR FAMILIES. OUR NON-STATUTORY AIR FORCE BOARDS ADJUDICATE A WIDE VARIETY OF DECISIONS ON BEHALF OF THE SECRETARY OF THE AIR FORCE AND INCLUDE THE PERSONNEL BOARD, THE DECORATIONS BOARD, AND THE REMISSIONS BOARD. THIS LAST BOARD CONSIDERS THE REMISSION OF SERVICE MEMBER DEBTS. THE CLEMENCY AND PAROLE BOARD ASSISTS THE SECRETARY IN EXECUTING PAROLE, CLEMENCY, AND RETURN TO DUTY AUTHORITIES ESTABLISHED BY LAW. THE PERSONNEL SECURITY APPEAL BOARD, DIRECTED BY EXECUTIVE ORDER, ADJUDICATES APPEALS OF SECURITY ELIGIBILITY/CLEARANCE WITHDRAWALS.

TWO OF OUR MOST PROMINENT BOARDS, THE DISCHARGE REVIEW BOARD AND THE AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS ARE REQUIRED AND GOVERNED BY STATUTE. THE DISCHARGE REVIEW BOARD REVIEWS AN APPLICANT'S DISCHARGE AND MAY CHANGE THE CHARACTERIZATION OF SERVICE AND/OR THE REASON FOR THE DISCHARGE. THE AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS, A STATUTORY BOARD OF CIVILIANS, PROVIDES THE HIGHEST LEVEL OF ADMINISTRATIVE REVIEW AND HAS BROAD AUTHORITY TO CORRECT MILITARY RECORDS TO REMEDY AN ERROR OR INJUSTICE. FINALLY, WE MANAGE AND OVERSEE THE AIR FORCE CIVILIAN APPELLATE REVIEW OFFICE WHICH PROCESSES AND ADJUDICATES APPROXIMATELY A THOUSAND DISCRIMINATION COMPLAINTS PER YEAR FILED BY CIVILIAN EMPLOYEES AGAINST THE AIR FORCE.

THE DEPARTMENT OF DEFENSE PHYSICAL DISABILITY BOARD OF REVIEW AND THE DEPARTMENT OF DEFENSE CIVIL MILITARY SERVICE REVIEW BOARD SERVE ALL SERVICE MEMBERS: SOLDIERS, MARINES, SAILORS, AIRMEN, AND COAST GUARDSMEN. BOTH DOD BOARDS PROVIDE AN ADDITIONAL LEVEL OF REVIEW BEYOND THE SERVICE LEVEL. THE PHYSICAL DISABILITY BOARD OF REVIEW ENSURES FAIRNESS AND ACCURACY IN DISABILITY CASES WHERE THE SERVICE MEMBER RECEIVED A COMBINED DISABILITY RATING OF 20% OR LESS AND WAS DISCHARGED BETWEEN SEPTEMBER 11, 2001 AND DECEMBER 31, 2009.

THE CIVIL MILITARY SERVICE REVIEW BOARD DETERMINES IF CIVILIAN SERVICE IN SUPPORT OF THE U.S. ARMED FORCES DURING A PERIOD OF ARMED CONFLICT IS EQUIVALENT TO ACTIVE MILITARY SERVICE FOR VA BENEFITS. IN ALL CASES, I CAN CONFIDENTLY SAY THAT OUR APPELLATE VENUES PROVIDE FAIRNESS, EQUITY, DUE PROCESS AND JUSTICE FOR ALL OUR APPLICANTS.

THE AIR FORCE REVIEW BOARDS AGENCY STRIVES TO QUICKLY AND FAIRLY ADJUDICATE ITS CASES, HOWEVER, WE ARE FALLING BEHIND. OVER THE PAST 10 YEARS PARTS OF OUR BUSINESS MATERIALLY CHANGED. FOUR FACTORS SIGNIFICANTLY IMPACTED THE AIR FORCE REVIEW BOARDS AGENCY IN BOTH POSITIVE AND NEGATIVE WAYS: 1) OUR ORGANIZATIONAL TRANSFORMATION/MODERNIZATION TO SOLIDIFY PROCESSES, ESTABLISH METRICS, AND LEVERAGE TECHNOLOGY; 2) INCREASING CASELOADS/CASE COMPLEXITIES; 3) RESOURCE CONSTRAINTS; AND 4) LEGISLATIVE/REGULATORY CHANGES. IN 2011, THE SECRETARY OF THE AIR FORCE DIRECTED THE AIR FORCE REVIEW BOARDS AGENCY TO BEGIN AN EXTENSIVE TRANSFORMATION EFFORT. WE UPDATED ORGANIZATIONAL STRUCTURE, PROCESSES, AND PROCEDURES FOCUSING ON AN EFFICIENT AND EFFECTIVE ORGANIZATION. EACH OF THE AGENCY'S TEN BOARDS UNDERWENT A THOROUGH BUSINESS PROCESS REVIEW AND RE-ENGINEERING. WE ALSO RESTRUCTURED OUR ORGANIZATION TO CONSOLIDATE MISSION SUPPORT FUNCTIONS AND BETTER LEVERAGE LEGAL AND MEDICAL SUPPORT FOR ALL TEN AGENCY BOARDS THROUGH SHARED SERVICE MODELS. THIS PROVIDES A HIGHER LEVEL OF LEGAL AND MEDICAL EXPERTISE TO ACCOMMODATE ADDITIONAL LEGAL, MEDICAL AND MENTAL HEALTH REVIEWS FOR SPECIFIC CONDITIONS SUCH AS POST TRAUMATIC STRESS, TRAUMATIC BRAIN INJURY, AND SEXUAL ASSAULT. WE DEVELOPED PERFORMANCE ASSESSMENT FRAMEWORKS ACROSS EACH BOARD FUNCTION TO PROVIDE REAL TIME METRICS REPORTING AND TREND ANALYSIS, AND ENSURE TRANSPARENCY. WE ALSO DIGITIZED ALL TEN BOARDS, FROM CASE CREATION THROUGH RATIFICATION AND APPROVAL OF THE BOARDS' DECISIONS.

OUR TRANSFORMATION EFFORTS WERE LONG OVERDUE AND CREATED SIGNIFICANT CHALLENGES, BECAUSE THESE SWEEPING REFORMS WERE IMPLEMENTED WHILE CASE PROCESSING CONTINUED; NOT UNLIKE BUILDING AN AIRPLANE WHILE FLYING IT. THROUGHOUT THIS PERIOD WE DID NOT COMPROMISE QUALITY AND FAIRNESS, BUT IMPLEMENTING THESE PROCESS IMPROVEMENTS TEMPORARILY SACRIFICED PROCESSING TIME IN THE NEAR TERM, WITH THE AIM OF EXPANDING CAPACITY AND SHORTENING PROCESSING TIME, IN THE LONG TERM. WE'VE COMPLETED THIS PHASE OF OUR BUSINESS PROCESS RE-ENGINEERING AND INTEND TO CONTINUE ASSESSING AND RE-LOOK AT OUR PROCESSES WHERE IT MAKES SENSE.

WE QUICKLY REALIZED THE ADDITIONAL CAPACITY GENERATED BY OUR PROCESS IMPROVEMENTS WAS OUTPACED BY AN EVER INCREASING NUMBER OF APPLICATIONS, AND THOSE APPLICATIONS WERE INCREASINGLY COMPLEX.

THE NUMBER OF CASES IS INCREASING. CASES ARE ALSO INCREASING IN COMPLEXITY BECAUSE THE DOCUMENTATION SUBMITTED IS GROWING TREMENDOUSLY AND THE APPLICANTS OFTEN USE COMPOUNDED CONTENTIONS AND ALTERNATIVE ARGUMENTS. DUE TO THE EVER-EXPANDING TECHNICAL SAVVY OF OUR AIRMEN, APPLICANTS HAVE ACCESS TO A VAST ARRAY OF RESOURCES VIA THE INTERNET WHICH THEY OFTEN SUBMIT AS EVIDENCE IN THEIR CASE. EACH EXHIBIT AND EACH CONTENTION SUBMITTED REQUIRES METICULOUS

RESEARCH AND EXAMINATION BY THE STAFF WHICH SLOWS CASE PREPARATION. WHILE COGNIZANT OF THE FACT THAT OUR THOROUGH PROCESSES AND PROCEDURES ADD TO THE OVERALL PROCESSING TIME, WE ARE UNWILLING TO COMPROMISE THE THOROUGH EXAMINATION OF EACH EXHIBIT SUBMITTED OR EACH COMPLEX CONTENTION TO SIMPLY HURRY THEM TO CONCLUSION.

WE REQUESTED AN AIR FORCE MANPOWER ASSESSMENT IN 2013 TO DETERMINE IF SUFFICIENT RESOURCES WERE AVAILABLE TO PERFORM THE DUTIES REQUIRED OF OUR TEN BOARDS. THE ASSESSMENT REVEALED SIGNIFICANT HUMAN RESOURCE SHORTFALLS. IN THE AIR FORCE'S PROPOSED BUDGET FOR FISCAL YEAR 2018, WE INCLUDED 18 ADDITIONAL MILITARY ENLISTED BILLETS TO INCREASE STAFFING LEVELS. WE CONTINUE TO WORK ON IMPROVING OUR PROCESSES AND COORDINATING WITH AIR FORCE LEADERSHIP TO BALANCE OUR REQUIREMENTS WITH OTHER CRITICAL RESOURCE DEMANDS LIKE READINESS, TRAINING, SUSTAINMENT, AND MODERNIZATION.

WITH GROWING CASELOADS, INCREASED CASE COMPLEXITIES, AND LIMITED PROCESSING CAPACITY, OUR BOARDS EXPERIENCED SIGNIFICANT BACKLOGS WHICH FURTHER EXTENDED CASE ADJUDICATION TIMELINES. AS A RESULT, THE AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS HAS BEEN UNABLE TO COMPLY WITH CONGRESSIONALLY DIRECTED TIMELINES AS REQUIRED BY 10 U.S.C. §1557 FOR THE LAST THREE YEARS. THE SECRETARY HAS, AND WILL ONCE AGAIN, REPORT OUR NON-COMPLIANCE TO YOUR COMMITTEE IN JUNE. ACKNOWLEDGING THAT JUSTICE DELAYED IS JUSTICE DENIED, WE CONTINUE TO PURSUE WAYS TO MORE EFFICIENTLY REVIEW AND PROCESS THESE CASES SO THAT OUR APPLICANTS CAN RECEIVE TIMELY AND EQUITABLE RESULTS.

DURING THIS TURBULENT TIME, RECENT LEGISLATIVE AND REGULATORY CHANGES HAVE ALSO LEVIED ADDITIONAL RESPONSIBILITIES ON THE BOARDS. A PERFECT EXAMPLE IS CONGRESSIONAL EMPHASIS AND ACTION ON POST TRAUMATIC STRESS, TRAUMATIC BRAIN INJURY AND SEXUAL ASSAULT AND SIMILAR INJURIES. RECENT LEGISLATION REQUIRED THE DISCHARGE REVIEW BOARDS AND BOARDS FOR CORRECTION OF MILITARY RECORDS TO REVIEW AND CONSIDER UPGRADING THE DISCHARGE CHARACTERIZATION OF VETERANS WHO EXPERIENCED THESE CONDITIONS AND WERE SUBSEQUENTLY DISCHARGED WITH OTHER THAN HONORABLE DISCHARGES.

THE AIR FORCE DISCHARGE REVIEW BOARD AFFORDS FORMER AIR FORCE MEMBERS THE OPPORTUNITY TO HAVE THEIR DISCHARGE REVIEWED ON THE BASIS OF PROPRIETY AND EQUITY, WITHIN FIFTEEN YEARS OF DISCHARGE. ALL APPLICATIONS ARE SCREENED AND THOSE WITH QUALIFYING POTENTIAL MENTAL HEALTH CONDITIONS ARE REVIEWED BY ONE OF TWO STAFF PSYCHIATRISTS, IN ACCORDANCE WITH THE 2015 NDAA. THESE PSYCHIATRISTS ALSO SERVE AS VOTING MEMBERS ON THE DISCHARGE REVIEW BOARD FOR EACH CASE THAT HAS A CONFIRMED MENTAL HEALTH DIAGNOSIS DURING A PERIOD OF ACTIVE SERVICE. IN FY 2016, THE DISCHARGE REVIEW BOARD RECEIVED 655 CASES; 142 OF WHICH INCLUDED A MENTAL HEALTH DIAGNOSIS; AND 13 CASES HAD A SPECIFIC DIAGNOSIS OF POST TRAUMATIC STRESS.

DISCHARGE REVIEW BOARD APPLICANTS HAVE A STATUTORY RIGHT TO PERSONALLY APPEAR BEFORE THE BOARD. WE ENCOURAGE AND SEEK TO ENABLE THESE APPEARANCES THROUGH PERSONAL APPEARANCES AT HEADQUARTERS AND REGIONAL VIDEO TELECONFERENCES. IN FY 2016, THE BOARD CONDUCTED 96 PERSONAL APPEARANCE HEARINGS, 18 OF WHICH WERE VIA VIDEO TELECONFERENCE.

THE AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS REVIEWS APPEALS OF DISCHARGE REVIEW BOARD DECISIONS AND TAKES DIRECT APPLICATIONS FROM MILITARY MEMBERS WHO WERE SEPARATED FROM THE AIR FORCE AT LEAST 15 YEARS AGO. WHEN A CASE INVOLVES A MENTAL HEALTH CONDITION, THE APPLICANT OFTEN REQUESTS A DISABILITY RETIREMENT OR DISCHARGE IN LIEU AN ADMINISTRATIVE DISCHARGE. SOME APPLICANTS SEEK RECONSIDERATION OF THEIR UNDER OTHER THAN HONORABLE CONDITIONS DISCHARGE BECAUSE OF A POST TRAUMATIC STRESS OR RELATED DIAGNOSIS. MENTAL HEALTH-RELATED CASES ARE FORWARDED TO OUR STAFF PSYCHIATRIST FOR A COMPLETE RECORD REVIEW. THE PSYCHIATRIST THEN PREPARES A DETAILED WRITTEN ADVISORY FOR THE BOARD'S CONSIDERATION, BASED ON THE INFORMATION AVAILABLE IN THE RECORD. THE ADVISORY OPINION IDENTIFIES AND DISCUSSES ANY NEXUS BETWEEN MENTAL HEALTH DIAGNOSES AND MISCONDUCT, IN ACCORDANCE WITH OSD AND AIR FORCE GUIDANCE ON LIBERAL CONSIDERATION. THIS ADVISORY OPINION AND THE OSD AND AIR FORCE GUIDANCE ARE SERVED ON THE APPLICANT TO GIVE THEM AN OPPORTUNITY TO PROVIDE ADDITIONAL COMMENTS AND/OR EVIDENCE IN SUPPORT OF THEIR CASE. ALL MATERIALS ARE THEN FORWARDED TO THE BOARD FOR ADJUDICATION. THESE IMPORTANT STEPS ENSURE THE APPLICANT HAS THE BEST OPPORTUNITY FOR THE FAIREST OUTCOME – BUT THEY ALSO INCREASE PROCESSING TIMES.

I MUST EMPHASIZE THAT THE BOARD FOR CORRECTION OF MILITARY RECORDS DOES NOT RESERVE ITS REQUESTS FOR ADVISORY OPINIONS SOLELY FOR DISCHARGE UPGRADES OR MENTAL HEALTH CASES. THE BOARD REQUESTS ADVISORIES IN MORE THAN 95 PERCENT OF THE CASES IT RECEIVES. ADVISORIES ARE OFTEN DRAFTED BY THE OFFICE OF PRIMARY RESPONSIBILITY FOR THE POLICY THAT APPLIES TO THE SPECIFIC ISSUE RAISED BY THE APPLICANT. OUR STAFF GATHERS AS MANY RECORDS AS PRACTICAL FROM PERSONNEL DATABASES, THE NATIONAL PERSONNEL RECORDS CENTER, AND/OR THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION TO ENSURE COMPLETE DOCUMENTATION IS AVAILABLE FOR ADJUDICATION. THE LEAD TIME TO ASSEMBLE THESE DOCUMENTS CERTAINLY ADDS TO THE TIME IT TAKES TO ADJUDICATE THE CASES. OUR PROCESS AFFORDS EACH APPLICANT A MINIMUM OF 30 DAYS TO REVIEW WHAT THE BOARD CONSIDERS AND ALLOWS THE APPLICANT AN OPPORTUNITY TO REBUT THE ADVISORY'S CONTENTS AND SUBMIT ADDITIONAL INFORMATION. THE ENTIRE CASE FILE, ALONG WITH THE APPLICANT'S REBUTTAL, IS SENT TO THE BOARD A WEEK BEFORE THE BOARD MEETS. WE CONSISTENTLY FOLLOW THIS PROCESS TO ADHERE WITH ADMINISTRATIVE LAW PRINCIPLES AND TO CREATE A REGULAR, FAIR, TRANSPARENT PROCESS.

THERE IS NO STATUTORY RIGHT TO APPEAR PERSONALLY BEFORE THE BOARD FOR CORRECTION OF MILITARY RECORDS. REQUESTS TO APPEAR ARE CONSIDERED BY A THREE PERSON PANEL COMPRISED OF SENIOR AIR FORCE CIVILIANS IN THE SENIOR EXECUTIVE SERVICE OR MINIMUM GRADE OF GS-15. OUR CIVILIAN PANEL MEMBERS ARE ALL VOLUNTEERS. THE PANEL MAY PERMIT THE APPLICANT TO APPEAR IN PERSON, WITH OR WITHOUT COUNSEL, IF IT WOULD MATERIALLY ADD TO ITS UNDERSTANDING OF THE ISSUES INVOLVED. PERSONAL APPEARANCES ARE RARELY NECESSARY.

OVER THE PAST 5 YEARS, THE AIR FORCE DISCHARGE REVIEW BOARD HAS RECEIVED MORE THAN 600 CASES ANNUALLY. AS A REMINDER, THIS BOARD LOOKS SOLELY AT DISCHARGE UPGRADES WHERE THE VETERAN AIRMAN RECEIVED A LESS THAN HONORABLE DISCHARGE. THE DISCHARGE REVIEW BOARD REVIEWS THESE CASES WITHIN 15 YEARS OF SEPARATION.

THE AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS RECEIVES WELL OVER 5,000 CASES ANNUALLY PERTAINING TO THE GAMUT OF FORCE MANAGEMENT ISSUES CONFRONTING CURRENT AND FORMER MEMBERS OF OUR REGULAR, GUARD, AND RESERVE COMPONENTS. THE AIR FORCE RESOLVES APPROXIMATELY HALF OF THESE APPLICATIONS ADMINISTRATIVELY THROUGH THE PERSONNEL FUNCTION WITHOUT REFERRAL TO THE BOARD BECAUSE THERE IS AN ERROR IN THE RECORD THAT CAN BE FIXED. THE OTHER HALF OF THE APPLICATIONS ARE FORWARDED FOR ADJUDICATION BY THE FULL BOARD.

I OUTLINED FOUR SPECIFIC EXTERNAL FACTORS THAT IMPACTED OUR ABILITY TO PROCESS CASES IN A TIMELY MANNER. EACH OF THESE FACTORS PLACED INCREASED DEMANDS ON OUR AGENCY AND ITS ABILITY TO PROVIDE PROMPT RELIEF WHEN AND WHERE WARRANTED. WE ARE DOING ALL WE CAN INTERNALLY TO SECURE THE NECESSARY RESOURCES TO MORE EFFECTIVELY PERFORM OUR STATUTORY AND REGULATORY DUTIES. WE ARE ACUTELY AWARE THAT AT THE END OF EVERY ONE OF OUR NEARLY 15,000 CASES EACH YEAR, THERE IS AN AIRMAN, A VETERAN, OR FAMILY MEMBER WHO IS AWAITING A DECISION. WE ARE DEDICATED TO THESE PEOPLE AND STRIVE DAILY TO PROVIDE FAIRNESS, EQUITY, DUE PROCESS AND JUSTICE TO ALL OUR APPLICANTS.

MR. CHAIRMAN, I THANK YOU AGAIN FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE AND LOOK FORWARD TO YOUR QUESTIONS.