



# ***Headquarters U.S. Air Force***



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*Integrity - Service - Excellence*

## **Board for Correction of Military Records (BCMR) Overview**



Judicial Proceedings Panel (JPP)  
10 Apr 15



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# Overview



- **BCMR Origins**
- **Statutory Authority**
- **Limits of BCMR Authority**
- **Standards of Evidence**
- **Reprisal**
- **Application Process**
- **Service Specific Issues and Information**



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# ***BCMR Origins***



## ■ **First Amendment**

- Guarantees right to petition government for “redress of grievances”
- Congress gives effect to this right via the private bill of relief
- Private bills available in many areas (*e.g.*, immigration)

## ■ **Legislative Reorganization Act of 1946 (60 Stat 812)**

- Prohibited private bills of relief for military records
- Created BCMRs



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# ***Statutory Authority*** ***10 U.S.C., Section 1552***

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***“The Secretary...acting through boards of civilians...may correct any military record...when necessary to correct an error or injustice...”***

***10 U.S.C., Section 1552***



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# ***BCMR Authority***



- **Test 1 for Board action: Is There an Error?**
  - Yes: the Board can correct the record
  - No: the Board cannot correct the record (unless there is injustice; see below)
  
- **Test 2 for Board action: Is There an Injustice?**
  - Yes: go on to next question
    - Is there a fact or facts that, if changed, would provide relief?
  - No: the Board cannot correct the record



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# BCMR



- **Authority to Correct the Record is Broad, but is Limited to Secretary's Authority**
- **Highest Level of *Administrative* Appeal in the Department—Not an Investigative Body\***
- **Boards of Civilians-Panels of Three\***
- **Professional Staff – Case Preparation for Board Adjudication**
- **Hearings are at sole discretion of BCMR**



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# ***BCMR Evidence***

- **Presumption of Regularity – absent contrary evidence, it is presumed that government officials acted in accordance with governing law/policy and in good faith based on available information**
- **“The applicant has the burden of providing sufficient evidence of material error or injustice.”**
  - AFI 36-2603, AFBCMR, paragraph 4.1**
- **Evidence must be sufficient to show it is more likely than not there was an error or injustice-at least a scintilla of evidence**



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# ***BCMR and Reprisal***



- **10 USC 1034 – Whistleblower Protection Act**
- **DoD Directive 7050.06, *Military Whistleblower Protection***
- **When Considering Reprisal Cases, the BCMR May:**
  - Review the report provided by the IG
  - Request the DoD or Military Department IG gather further evidence if needed
  - Receive oral arguments, examine and cross-examine witnesses, take depositions as necessary, and, if appropriate, conduct a hearing.
  - Recommend to Disciplinary Action to Secretary be Taken Against Perpetrators



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# *Application Process*

- **Requires signed DD Form 149 normally submitted within 3 Years of Occurrence or Discovery of Error or Injustice (Board May Waive Timeliness in the Interest of Justice)**
  - Non-Viable Requests Returned
  - Some Requests are Resolved Administratively
- **Reconsideration—Requires Submission of Newly Discovered, Relevant Evidence—processed through the system as though it were a new case**
  - AFBCMR Decisions May be Appealed to Court of Claims



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# Typical Corrections



## ■ Decorations and Awards

- Vietnam Service
- Purple Heart
- Distinguished Flying Cross

## ■ Discharge Related

- Character of Service
- Narrative Reason
- Reenlistment Eligibility Code

## ■ Benefits

- Combat Related Special Compensation
- Disability Rating
- Survivor Benefit Plan (SBP) Election
- Restore Leave
- Reenlistment Bonus



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# *Additional Corrections*



## ■ **Career Related**

- Promotion
- Special Selection Board
- Evaluation Reports
- Date of Rank Adjustments

## ■ **Other**

- Article 15 Action
- Courts-Martial Sentences on Basis of Clemency



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# *Typical Bases for Correction*



- **Genuine Error**
- **Changing Standards**
- **Failure to Counsel**
- **Regulatory Violations**
- **Clemency**
- **Any Circumstance that Creates an Injustice**



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# ***QUESTIONS?***

