

MINNESOTA ARMY NATIONAL GUARD

LEGAL GUIDE TO PROCESSING INVOLUNTARY
SEPARATION ACTIONS

1 SEPTEMBER 1996

SUMMARY OF CHANGES

This Legal Guide to Processing Involuntary Separation Actions dated 1 September 1996 supersedes the one dated 1 July 1995.

Changes from the previous edition include:

- The Table of Contents has been changed to indicate the new page numbers. Pages 13 through 18 have been renumbered as pages 12 through 17, because the last paragraph on the old page 12 now fits on page 11.
- Chapter 4. This chapter has been shortened to delete reference to a drug rehabilitation option. Administrative boards may still recommend rehabilitation when the board deems it appropriate. The old paragraph 4.3 relating to rehabilitation has been deleted and paragraph 4.4 has been renumbered as paragraph 4.3. This shortening of chapter 4 results in the renumbering of pages 13 through 18 as pages 12 through 17.
- Chapter 5. Additional wording has been added to paragraph 5.1 to clarify a commander's recommendation options.
- Appendices P and Q have been changed to a more convenient fill-in-the-blank format. Additionally, the branch abbreviation for the Judge Advocate General's Corps (JA) has been included in the last signature block to clarify that this consultation is to be provided by a Judge Advocate officer, not merely by the soldier's commanding officer or supervisor. It is important that a soldier be informed of his/her legal rights by an attorney.
- Appendix R has been deleted.
- Appendix S has been deleted.
- The list of appendices has been changed to reflect these deletions.

MNAG-TAG (135-178)

5 June 1995

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Processing Administrative Separations

1. The Minnesota National Guard has experienced a marked increase in the number of involuntary administrative separation actions. This increase has been caused by more restrictive regulations due to downsizing, and a more aggressive drug testing program.
2. In the next year we will see another rise in the number of involuntary separations. The National Guard has traditionally tested between 15 and 20 percent of its M-day soldiers for use of illegal substances. Beginning 1 October 1995 the National Guard has a goal of testing 100 percent of its M-day soldiers for the use of seven different controlled substances.
3. We should be very proud of the fact that tests administered to Minnesota National Guard members indicate the 8th lowest rate of illegal drug use of any state national guard, and the lowest among states with a major metropolitan city. Even with our low drug positive rate, if we test five times as many soldiers next year, we are likely to see five times as many involuntary separation actions.
4. Accompanying this increase in the number of separation actions has been an increase in the time it takes to process a separation action. As a result, the Staff Judge Advocate has developed an easy-to-use, common sense guide to assist Commanders and unit clerks in processing separation actions. The enclosed guide is no substitute for consultation with a judge advocate. Commanders should consult with their Servicing Judge Advocate as early in the process as possible. The enclosed guide should serve as a building block to ensure that separation actions will be processed in a fair and timely manner.

EUGENE R. ANDREOTTI
Major General, MN ANG
The Adjutant General

DISTRIBUTION:

"A"

TABLE OF CONTENTS

		PAGE
CHAPTER 1	INTRODUCTION	3
CHAPTER 2	ACTIONS PRIOR TO INITIATING AN INVOLUNTARY SEPARATION	4
CHAPTER 3	INITIATING THE SEPARATION ACTION	8
CHAPTER 4	THE SOLDIER'S ELECTION OF RIGHTS	10
CHAPTER 5	THE COMMANDING OFFICER'S REPORT	12
CHAPTER 6	THE INTERMEDIATE COMMANDER'S ENDORSEMENT	13
CHAPTER 7	ACTION BY THE ADJUTANT GENERAL'S OFFICE	14
CHAPTER 8	THE BOARD HEARING	15
CHAPTER 9	FINAL ACTION BY THE ADJUTANT GENERAL	16
INDEX TO APPENDIX		17

CHAPTER 1 INTRODUCTION

1. Purpose and Scope

This guide is designed to help commanders and unit clerks process involuntary separation actions for enlisted personnel in a fair and efficient manner, in accordance with AR 135-178, Separation of Enlisted Personnel, 1 September 1994. The guide will focus on separations due to APFT and weight control failure, unsatisfactory performance, minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense (drug abuse). The guide may be helpful in processing other separation actions, but the user should refer to AR 135-178 for particular documentation requirements in other actions.

1.1 Processing Goals

Each chapter in this legal guide contains processing goals. Commanders should expedite the processing of separation actions at all stages in the process. The timely processing of Separation actions is a command priority, and a command responsibility.

1.2 References

AR 15-6, Procedures for Investigating Officers and Board of Officers, 11 May 1988
AR 135-178, Separation of Enlisted Personnel, 1 September 1994

CHAPTER 2

ACTIONS PRIOR TO INITIATING AN INVOLUNTARY SEPARATION

2.1 Legal Advice for Commanders

When a commander is presented with a set of facts which may give rise to an involuntary separation action on a particular soldier, the commander should consult with the unit's Staff Judge Advocate as soon as possible. If you don't know who your Servicing Judge Advocate is, contact the AGR/JA. A list of other points of contact is attached as Appendix A. The Staff Judge Advocate can advise the Commander as to whether there are facts sufficient to support an involuntary separation, whether the commander is required to initiate separation proceedings, and the characterization of the discharge, if necessary.

If the commander decides to initiate separation, a copy of the Notification Letter should be faxed or mailed to the Active Guard/Reserve Judge Advocate ("AGR JA") prior to being served on the soldier. The AGR JA will ensure that all notification letters are in the proper format, provide the name and phone number of a defense counsel, and list the enclosures necessary to provide a legal basis for the separation.

2.2 Determining Whether Initiating Separation is Mandatory or Discretionary

It should be noted that separating a soldier is never required by regulation. However, the regulation requires a commander to initiate a separation action in certain cases. Even when the commander is required to initiate separation, he/she may still recommend that the soldier be retained by the separation authority.

A commander is required to initiate separation in the following cases:

- a. A drug offense has been committed, as evidenced by a urinalysis test or other evidence, by a soldier in the grade of sergeant (E5) or above, or by any soldier with more than 3 years of total military service. See AR 135-178, para. 7-11 (c.1) (1).
- b. A second drug offense has been committed by any soldier. See AR 135-178, para. 7-11 (c.1)(2).
- c. A soldier concealed facts or conditions which, if known when the soldier enlisted, might have resulted in rejection or would have required a waiver to enlist. See AR 135-178, para. 9-13.
- d. Probable cause exists to believe that a soldier should be separated for homosexuality, in accordance with AR 135-178, para. 10-4. See AR 135-178, para. 10-7 (d).
- e. A soldier fails to make satisfactory progress in the weight control program after a period of six (6) months. See AR 135-178, para. 14-2 (b) (1). See Also NGB All States Letter, Log #P-94-0035 (7 July 1994).

f. A soldier fails to maintain body fat control standards during the 12 month period following removal from the weight control program. See AR 135-178, para. 14-2 (b) (2).

g. A soldier fails two (2) consecutive APFT tests and has no medical limitation. AR 135-178, para. 6-3 (e); See Also NGB All States Letter, Log #P-94-0035 (7 July 1994).

h. A soldier is eliminated for cause from Noncommissioned Officer Education System (NCOES) courses, unless the commander chooses to impose a bar to reenlistment pursuant to NGR 600-200. See AR 135-178, para. 6-3 (e).

i. An M-day soldier has a locally imposed bar to reenlistment, and the commander does not lift the bar after the second six-month review. An AGR soldier has his or her bar reviewed upon the second three month review. See AR 135-178, para. 1-36 (a); NGR 600-200, para. 7-21j.

The above stated criteria is not meant to be an exhaustive list, but it covers the majority of situations for which commanders are required to initiate separation.

If a commander is not required to initiate separation, the regulation provides several factors to consider in determining whether separation is appropriate:

- a. The seriousness of the circumstances forming the basis for initiation of separation proceedings.
- b. The effect of the soldier's continued retention on military discipline, good order, and morale.
- c. The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.
- d. The likelihood that the soldier will be a disruptive or undesirable influence in present or future duty assignments.
- e. The ability of the soldier to perform duties effectively in the present and in the future, including potential for advancement or leadership.
- f. The soldier's rehabilitative potential.
- g. The soldier's entire military record.

See AR 135-178, para. 1-14 (c).

Even if the commander is required to initiate separation, the above factors should be considered by the commander when making his/her recommendation on separation or retention.

2.3 The Role of Counseling and Rehabilitation

In order to successfully process certain separation actions, a counseling statement is an absolute requirement. Counseling is required in the following most common types of separation actions:

- a. Unsatisfactory Performance (including APFT failure)
- b. Minor Disciplinary Infractions
- c. A Pattern of Misconduct
- d. Weight Control Failure

See AR 135-178, para. 1-12 (a).

**Note: Counseling is not required in order to separate a soldier for commission of a serious offense. If in doubt as to what constitutes a serious offense, contact your Servicing Judge Advocate..*

Counseling statements must be in writing, they must inform the soldier of the reason for the counseling, and that if such conduct continues the soldier may be involuntarily separated from the National Guard. The soldier should also be informed of the characterization of discharge he/she could receive, and the effect of that characterization on his/her veterans benefits. Samples of the two (2) most common types of counseling statements are enclosed as Appendices C and D.

**Note: Standard language is typed on the counseling form; the commander or other leader may hand write the relevant information.*

Rehabilitation in the form of a transfer to another unit is required prior to separation for unsatisfactory performance, minor disciplinary infractions or patterns of misconduct. See AR 135-178, para. 1-12 (c). However, this requirement may be waived by the separation authority if a rehabilitative reassignment: a) would create serious disciplinary problems, b) cause a hazard to the military mission, c) would not produce the quality soldier desired by the National Guard, or d) be inappropriate because the soldier is resisting all rehabilitative attempts. A request for a waiver, if necessary, would normally be included in the commanding officer's report, a sample of which is attached as Appendix T.

Obviously the commander should allow for a reasonable period of time for the soldier to improve following an adverse counseling statement. A six (6) month period is envisioned prior to initiating separation for overweight. A two month period is envisioned to allow a soldier to improve his/her duty performance. A shorter time period may be appropriate if a soldier continues to engage in misconduct.

2.4 Drug Cases - Notification by MILPO

The laboratory which processes urinalysis tests for the Minnesota National Guard notifies the MPMO of any positive test results. Within two duty days of receiving the notification from the laboratory, the MPMO will send a letter to the Unit commander notifying him/her that a soldier in this unit tested positive for an illegal substance. A sample letter is attached as Appendix B. The letter will include the name and telephone number of respondent's counsel, the name and telephone number of the Servicing Judge Advocate, and require the commander to forward (via mail, fax, or interoffice distribution) a copy of a notification letter to the AGR/JA within 30 days.

CHAPTER 3

INITIATING THE SEPARATION ACTION

3.1 The Notification Letter

The notification letter is a fairly standard document prepared for the commander's signature. Prior to serving the notification letter on the soldier, the commander must send a draft copy of the letter to the Active Guard/Reserve Judge Advocate ("AGR JA") for review, by facsimile, mail or interoffice distribution. The AGR JA's phone number and facsimile number are listed in Appendix A.

The notification letter varies depending on the type of separation involved and whether or not the soldier is entitled to request a hearing before a separation board. A soldier is entitled to a hearing before a separation board if he/she has more than six (6) years of total federal service (any combination of Active, Guard, or Reserve time), or if the commander recommends that the soldier receive a discharge under other than honorable conditions. For this reason, if a soldier has less than six (6) years of total federal service, commanders rarely recommend that the soldier be issued a discharge under other than honorable conditions.

Several sample notification letters are attached as Appendices E-L. There are some differences between these sample letters and the samples provided in AR 135-178. For example, the enclosed sample letters require the commander to provide the soldier with the name and address of a judge advocate for consultation. The enclosed sample letters also require the commander to list, as enclosures to the notification letter, every document which forms the basis for the separation action. Listing the enclosures is the simplest way to document that the soldier has received everything, and has the opportunity to comment on all the documents when responding to the notification letter. If additional documentation becomes available after the action has been initiated, that information should be provided to the soldier as soon as possible.

These and other changes in the sample letters represent an attempt to expedite and clarify the separation process contained in AR 135-178.

3.2 Enclosures to the Notification Letter (i.e. the Separation Packet)

Determining what documents should be enclosed with the notification letter is largely a matter of common sense. Because the soldier's overall duty performance must be considered in determining separation or retention, a copy of the soldier's DA Form 2-1 (personnel qualification record) should always be enclosed, as well as a copy of any counseling statements (favorable or unfavorable) which the soldier received over the course of a reasonable period of time. If the action is for unsatisfactory performance and the soldier is an NCO, previous NCOERs would be relevant. Of course, the actual basis for the action must be enclosed. If the action is for misconduct, a copy of the nonjudicial punishment issued pursuant to Minn. Stat. § 192A.085, counseling, AR 15-6 investigation, civilian conviction, or other evidence of the misconduct should be included. If the action is for two consecutive PT test failures, at a minimum, a copy of the score card should be included. In addition, other relevant documentation should be included such as prior PT scores, etc. If there are any questions regarding

what should or should not be provided to the soldier with the notification letter, the commander should consult the Servicing Judge Advocate.

3.3 The Commander's Recommendation

In the notification letter the appropriate commander should inform the soldier whether he/she will recommend separation or retention and, if appropriate, the characterization of discharge which will be recommended. The factors to be considered in determining separation or retention are listed in paragraph 2.2 above.

As for the characterization of discharge, in some cases the commander has no discretion. The characterization of discharge is required to be honorable when separated for weight control failure. See AR 135-178, para. 6-20. Separation for unsatisfactory performance may only be characterized as honorable or general under honorable conditions. See AR 135-178, para. 6-20. Separation for misconduct will normally be characterized as under other than honorable conditions. See AR 135-178, para 7-3 (a). For the practical reasons discussed above, it would be rare for a commander to recommend an other than honorable conditions discharge for soldiers with less than 6 years of total federal service.

Unless a specific characterization is required, the commander should consider the following factors when making a recommendation on the characterization of discharge:

- a. The quality of the soldier's service to the National Guard.
- b. The soldier's conduct in the civilian community, to the extent that it is of a nature to bring discredit on the military service or is prejudicial to good order and discipline.
- c. The reasons for separation, including the specific circumstances that form the basis for the separation.
- d. A soldier's age, length in service, grade, aptitude, physical and mental condition, and the standards of acceptable conduct and performance of duty.

See AR 135-178, para 1-18 (a).

3.4 How to Accomplish Notification

Normally the commander will personally deliver the notification letter to the soldier during a regularly scheduled drill. The unit First Sergeant, or other NCO may personally deliver the letter to the soldier in the commander's absence. Whoever delivers the letter must ensure that the soldier acknowledges receipt of the letter, and knows that he/she has thirty (30) days to provide a response. A sample acknowledgment is enclosed as Appendix M.

If a soldier fails to attend the regularly scheduled drill, the commander may deliver the notification letter via registered or certified mail at the last known address on file with the unit. When

notification is accomplished in this manner, whoever mails the letter must sign an affidavit of service, a sample of which is enclosed as Appendix O. See AR 135-178, para. 2-26.

CHAPTER 4

THE SOLDIER'S ELECTION OF RIGHTS

4.1 Soldiers with less than six (6) years of total federal service

Unless a soldier with less than six (6) years of total federal service has been notified that the commander recommends an other than honorable conditions discharge certificate, the soldier's options are fairly limited. The soldier can submit a statement from himself, and enclose copies of documents or statements from others, or he can waive his right to submit statements. The soldier has a right to consult with a judge advocate concerning any statements he/she may want to submit. The soldier may request an extension to the thirty (30) day suspense for submitting a statement, and that request should not be unreasonably denied by the commander. The soldier's response can be personally delivered to the unit. If it is mailed to the unit, the soldier accepts the consequences if the statement is "lost" in the mail. Hence soldiers should ensure a current mailing address is kept on file at the unit.

4.2 Soldiers with more than six (6) years of total federal service

A soldier with more than six (6) years of total federal service, or any soldier if the commander has recommended a discharge under other than honorable conditions, has a number of options:

- a) Waive a right to submit statements and a right to a board;
- b) Submit statements but waive a right to a board;
- c) Submit a conditional waiver of the board and submit statements;
- d) Submit a conditional waiver of the board but waive right to submit statements;
- e) Request a board and submit statements;
- f) Request a board but waive right to submit statements at this time.

The soldier will discuss each of these options with a judge advocate, indicate his/her elections on the form attached as Appendix P or Appendix Q, and return the Election of Rights Memorandum to the unit commander within thirty (30) days of receiving the notification letter. Again, the soldier can request an extension to the thirty (30) day suspense from the commander, and such a request should not be unreasonably denied. The soldier's response can be personally delivered to the unit. If it is mailed, the soldier accepts the consequences if the statement is lost in the mail.

The first and last options listed above are the most common. Some soldiers believe that they will eventually be separated, and they do not want to go through with a separation board hearing. The most common, however, is the last option where the soldier requests a hearing before the board. The soldier can always submit statements at the board. Sometimes, if the soldier knows the command will

support a recommendation for retention, a soldier might benefit from requesting a board, and also submit statements asking the separation authority to retain him/her without a board hearing. This situation usually arises when the regulation requires the commander to initiate separation, but the commander believes retention is appropriate.

Conditional waivers, where a soldier agrees to waive his/her right to a board conditioned upon receiving a certain characterization of discharge, can be submitted any time during the separation process. The best opportunity of obtaining a conditional waiver approved is when it is requested by the soldier as early in the process as possible. As a practical matter, the conditional waiver can be submitted at any time prior to the board making its findings and recommendations. See AR 135-178, para. 2-11 (b.1). It can also be withdrawn by the soldier at any time before the Adjutant General takes final action.

4.3 Processing Goals

The soldier must respond to the notification letter within thirty (30) days of receiving the letter. The commander may grant reasonable extensions to this suspense, in writing, if requested by the soldier.

CHAPTER 5 THE COMMANDING OFFICER'S REPORT

5.1 The Final Recommendation

Once the soldier returns the Election of Rights Memorandum, the commander must complete the "Commanding Officer's Report." The contents of this report are required by AR 135-178, para. 6-10 for soldiers being separated for unsatisfactory performance. The identical contents are required by AR 135-178, para. 7-12 for soldiers being separated under Chapter 7, and the same contents should be included for soldiers being separated under any other chapter.

Appendix T, as a sample report, requires the commander to take into account any statements submitted by the soldier. The report allows the commander to change his/her mind on separation or retention, and if applicable, the appropriate characterization of discharge. In essence, the report is the unit commander's final recommendation.

In making the final recommendation, the commander should not merely conclude that the soldier should be retained or that he/she should receive a particular type and characterization of discharge. The commander should take the opportunity to explain his/her basis for making the recommendation. The commander should consider how he/she would explain the recommendation in a one-on-one meeting with the Adjutant General, and reduce that to writing. The more detailed and well-reasoned the explanation, the more likely it is that the commander's recommendation will be followed by the chain of command.

If the action is for minor disciplinary infractions, a pattern of misconduct, or unsatisfactory performance, the commander should add a paragraph requesting that the rehabilitative reassignment requirement be waived, assuming the soldier has not had a rehabilitative reassignment.

5.2 Drug Cases

If the separation action is based on the use of an illegal substance, then as soon as the Commander receives a request for a hearing before a separation board, the Commander should notify MPMO that a litigation packet should be ordered from the drug lab. The Commander should contact the same person from MPMO who initially notified him or her of the test result.

5.3 Processing Goals

The regulation contains no time requirement for this report. However, the commander should attempt to accomplish this step quickly, at least within five (5) working days of receiving the soldier's Election of Rights Memorandum.

CHAPTER 6

THE INTERMEDIATE COMMANDER'S ENDORSEMENT

6.1 The Intermediate Commander's Endorsement

Depending on the nature of the organization, it may be necessary for one or two intermediate commanders to make recommendations on a separation action. Such recommendations are more than just lining through and initialing the recommending officer's report. Each intermediate commander should prepare a separate endorsement, recommending separation or retention, and if necessary the characterization of the discharge. A sample intermediate commander's endorsement is in Appendix U. If the action is not mandatory, any intermediate commander has the authority to stop the action and retain the soldier at this point. Otherwise, an endorsement should be prepared and forwarded up the chain of command.

If the rehabilitative reassignment is required and the commander has recommended waiving that requirement, each intermediate commander should also comment as to whether that requirement should be waived.

6.2 Processing Goals

As with the commanding officer's report, there is no time requirement for submitting recommendations by the intermediate commander. However, a goal of five (5) working days for action by each intermediate commander should be adhered to.

CHAPTER 7

ACTION BY THE ADJUTANT GENERAL'S OFFICE

7.1 The Legal Review

The separation action, plus two copies, to the Adjutant General's Office, ATTN: MNAG-PER-MPS, for action by the Adjutant General . The Active Guard/Reserve Judge Advocate ("AGR JA") will review the action for legal sufficiency and prepare a memorandum to the Adjutant General which explains the available options. A sample legal review is enclosed as Appendix V.

One of the Adjutant General's options, of course, is to retain the soldier. If the Adjutant General chooses that option, the AGR JA will prepare a memorandum for the Adjutant General's signature closing the separation action and retaining the soldier. A sample of such a memorandum is enclosed in Appendix W.

If the soldier has less than six (6) years total federal service, the Adjutant General may order the soldier's discharge, and determine the characterization of discharge.

7.2 Notice of the Board Hearing

If the Adjutant General decides to refer the action to a separation board, he/she will sign an appointment letter, a sample of which is attached as Appendix X. Within thirty days of the date of the appointment letter, the Board President, Legal Advisor, Recorder and Defense Counsel will meet for a pre-hearing conference. The names of witnesses will be discussed, and the Legal Advisor will make decisions on the admissibility of certain evidence. A board hearing date will be scheduled for the month following the pre-hearing conference.

7.3 Processing Goals

The goal for processing all actions required by the Adjutant General's Office is five (5) working days, though this is not required by regulation.

CHAPTER 8 THE BOARD HEARING

8.1 Making Witnesses Available

The most important and final contribution which commanders can make to ensure the separation board is completed in a timely manner is to make witnesses available to appear at the hearing. The soldier has a right to have witnesses appear on his/her behalf, so long as they are reasonably available. Every soldier has pressing military duties to perform, and has precious little time to perform all of his/her duties when given only one weekend per month. However, the commander should have a very strong reason for denying any potential witness the opportunity to provide testimony at any separation board hearing. The sooner all the witnesses can appear at a separation board hearing, the sooner the action can be completed.

8.2 Processing Goals

The goal is to have two standing separation boards, each meeting every other month to hear cases. One separation board will convene regularly at Camp Ripley, and the other separation board will convene at Rosemount. Variations may be made by the board president. After the pre-hearing conference is held, the board hearing will normally take place the following month.

CHAPTER 9

FINAL ACTION BY THE ADJUTANT GENERAL

9.1 The Summarized Transcript

Upon completion of the board hearing, the board reporter, usually a 71E court reporter, will prepare a summarized transcript of the board proceedings. The summarized transcript will be prepared in a timely manner and provided, with the board's findings and recommendations, to the Office of the Adjutant General, ATTN: MNAG-SJA.

9.2 Final Action

The Active Guard/Reserve Judge Advocate will make a final legal review of the board proceeding and prepare a memorandum for the Adjutant General's signature. The AGR JA will address any legal issues raised by the soldier's defense counsel after the hearing. A sample legal review is attached as Appendix Y. A sample memorandum for the Adjutant General's signature is enclosed as Appendix Z.

9.3 Processing Goals

The goal for preparing a summarized transcript of the proceeding is five (5) working days. This time will vary depending on the nature and complexity of the board hearing. The final legal review and final action by the Adjutant General should be completed within five (5) working days.

INDEX TO APPENDIX

A	Staff Judge Advocate Assignments and Unit Telephone Numbers
B	Sample Letter from MILPO to Unit Commander
C	Sample Counseling Form - Unsatisfactory Performance or Misconduct
D	Sample Counseling Form - Overweight
E	Sample Notification Letter - Misconduct (Less than six (6) years total service)
F	Sample Notification Letter - Misconduct (More than six (6) years total service)
G	Sample Notification Letter - Minor Disciplinary Infractions or Patterns of Misconduct (Less than six (6) years total service)
H	Sample Notification Letter - Minor Disciplinary Infractions or Patterns of Misconduct (More than six (6) years total service)
I	Sample Notification Letter - Unsatisfactory Performance (Less than six (6) years total service)
J	Sample Notification Letter - Unsatisfactory Performance (More than six (6) years total service)
K	Sample Notification Letter - Weight Control Failure (Less than six (6) years total service)
L	Sample Notification Letter - Weight Control Failure (More than six (6) years total service)
M	Sample Acknowledgment of the Notification Letter
N	Sample Data Privacy Statement
O	Sample Affidavit of Service
P	Soldier's Election of Rights
Q	Soldier's Request for a Conditional Waiver
R	Deleted
S	Deleted
T	Sample Commanding Officer's Report
U	Sample Intermediate Commander's Endorsement
V	Sample Legal Review by Active Guard/Reserve Judge Advocate
W	Sample Retention Letter signed by the Adjutant General

X	Sample Board Appointment Memorandum
Y	Sample Legal Review of Board Proceedings
Z	Sample Final Action by Adjutant General

INFORMATION NUMBERS

ORGANIZATION	POINT OF CONTACT	TELEPHONE
Adjutant General's Office and State Area Regional Command	Active Guard & Reserve Judge Advocate	(651) 282-4683
	STARC SJA (drill week-ends)	DSN 825-4683
	Legal Clerk	(651) 282-4612 DSN 825-4612
Military Personnel Office	Facsimile machine (FAX)	(651) 282-4493 DSN 825-4493
	Military Personnel Specialist	(651) 282-4667 DSN 825-4667

ARMY NATIONAL GUARD

34th Infantry Division	Division G-1	(651) 282-4946 DSN 825-4946
	Division SJA Office (full time)	(651) 282-4946 DSN 825-4946
	Division SJA Office (drill week-ends)	(651) 282-4653 DSN 825-4653
	Troop Command Administrative Officer/G-1	(651) 296-4140/4027

STATE OF MINNESOTA, DEPARTMENT OF MILITARY AFFAIRS
MINNESOTA ARMY NATIONAL GUARD
HEADQUARTERS DETACHMENT STATE AREA COMMAND (STARC)(-)
600 Cedar Street
Saint Paul, Minnesota 55101-2597

S: 15 May 1995

MNAG-PER-MPS (600-85d)

15 April 1995

MEMORANDUM FOR Commander, F Company, 147th Aviation Regiment, St. Paul, MN
55102

SUBJECT: Urinalysis Test for SGT Frosty T. Snowman, 474-82-6390

1. Enclosed please find a letter from Northwest Toxicology, Inc., which indicates that SGT Frosty T. Snowman, 474-82-6390, has used cocaine.
2. If the soldier has more than three (3) years of total federal service, or is in the pay grade of E-5 or above, National Guard regulations require that you initiate a separation action in accordance with AR 135-178, para. 7-11(c). If a soldier has less than three (3) years of total federal service and is in the pay grade of E-4 or below, a separation action is discretionary.
3. You should consult with your unit's servicing judge advocate, CPT Hard Charger, concerning whether you should recommend separation or retention, and the characterization of the discharge if necessary. His home phone number is (507) 555-1212, and his work phone number is (507) 336-6912.
4. If you initiate a separation action, you must fax a draft copy of the Notification Letter which initiates the action to the Active Guard/Reserve Judge Advocate ("AGR JA") for review prior to serving it on the soldier. The AGR JA is CPT Always Here. His work phone number is (612) 282-4683, and his fax number is (612) 282-4493. The draft Notification Letter should reach the AGR JA no later than the suspense date indicated above.

5. If you initiate a separation action, the soldier may consult with CPT Perry Mason concerning his rights. CPT Mason's home phone number is (612) 698-5676, and his work number is (612) 296-3617.

6. For all soldiers who test positive for the use of illegal substances, it is your responsibility as commander to initiate suspension of favorable personnel actions and refer soldiers for counseling and/or rehabilitation in accordance with NGR 600-85, paragraph 3-4.

MNAG-PER-MPS

SUBJECT: Urinalysis Test for SGT Frosty T. Snowman, 474-82-6390

7. If you are not required to initiate separation and decide not to initiate separation, please notify the AGR JA of that decision prior to the suspense date above.

FOR THE ADJUTANT GENERAL:

Encl
as

JOE WORDPROCESSOR
CW3, ARNGUS
Military Personnel Specialist

CF:
MNAG-SJA
RBAA-PER
RBAA-SJA
Cdr, 147th AVN Reg

GENERAL COUNSELING FORM

FOR USE OF THIS FORM, SEE ar 635-200; THE PROPONENT AGENCY IS milpercen

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, 10 USC 3012(G). PRINCIPAL PURPOSE: To record counseling data pertaining to service members.
 ROUTINE USES: Prerequisite counseling under paragraphs 5-8, 5-13, chapters 11, 13 or section III, chapter 14, AR 635-200. May also be used to document failures of rehabilitation efforts in administrative discharge proceedings.
 DISCLOSURE: Disclosure is voluntary, but failure to provide the information may result in recording of a negative counseling session indicative of the subordinate's lack of a desire to solve his or her problems.

PART I - BASIC DATA

1. NAME (Last, First, MI) <i>Cyborg, Dennis</i>	2. SOCIAL SECURITY NO. <i>474-63-7291</i>	3. GRADE <i>SPC/E-4</i>	4. SEX <i>M</i>
5. UNIT <i>F Co., 147th AVN</i>	FOR TRAINING UNITS ONLY		
	6. WEEK OF TRAINING	7. TRAINING SCORES HIGH _____ MED _____ LOW _____	

PART II - OBSERVATIONS

8. DATE AND CIRCUMSTANCES

On the evening of 7 May 1995, while on Annual Training, you were loud and obnoxious toward your fellow servicemembers, refusing to turn down your video games, and prevent others from getting a good night's sleep. The next morning you overslept and were late to formation.

9. DATE AND SUMMARY OF COUNSELING

Disorderly conduct will not be tolerated. You must learn to get along with your peers, and be respectful of their need for quiet time. I also cannot have soldiers showing up late to formation. For the remainder of AT, you must show up in my office at least 15 minutes prior to each morning formation.

If behavior of this nature continues, you may be separated from the National Guard for Unsatisfactory Performance or Misconduct. If separated under those chapters, your discharge certificate could be characterized as General, under honorable conditions. If separated for misconduct, your discharge could be characterized as under other than honorable conditions. Either characterization of discharge could adversely effect your veterans benefits and your ability to reenlist in the future.

DISPOSITION INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfere), separation at ETS, or upon retirement.

PART III - AUTHENTICATION

10. NAME, GRADE, SIGNATURE OF COUNSELOR 1SG Ben N. Longtime <i>Ben N. Longtime</i>	DATE <i>5 May 1995</i>
--	---------------------------

11. I acknowledge having been counseled by the above individual and understand the reason for this counseling session. I concur / nonconcur that the information above accurately reflects this counseling session. I nonconcur for the following reasons:

You're right 1SG. Thanks for letting me know what could happen to me if I continue to behave this way.

12. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED SPC Dennis Cyborg <i>Dennis Cyborg</i>	DATE <i>5 May 1995</i>
---	---------------------------

13. IF COUNSELED INDIVIDUAL REFUSES TO SIGN COUNSELING NOTES, COUNSELOR WILL INITIAL THIS BLOCK.

PART IV - REHABILITATION

14. REHABILITATION RESULTS/COMMENTS

15. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED	DATE
16. NAME, GRADE, SIGNATURE OF COUNSELOR	DATE

PART V - UNIT COMMANDER INTERVIEW

17. INTERVIEW RESULTS AND RECOMMENDATION

18. NAME, GRADE, SIGNATURE OF UNIT COMMANDER	DATE
--	------

GENERAL COUNSELING FORM

FOR USE OF THIS FORM, SEE ar 635-200; THE PROPONENT AGENCY IS milpercen

DATA REQUIRED BY THE PRIVACY ACT OF 1974

AUTHORITY: 5 USC 301, 10 USC 3012(G). PRINCIPAL PURPOSE: To record counseling data pertaining to service members.
 ROUTINE USES: Prerequisite counseling under paragraphs 5-8, 5-13, chapters 11, 13 or section III, chapter 14, AR 635-200. May also be used to document failures of rehabilitation efforts in administrative discharge proceedings.
 DISCLOSURE: Disclosure is voluntary, but failure to provide the information may result in recording of a negative counseling session indicative of the subordinate's lack of a desire to solve his or her problems.

PART I - BASIC DATA

1. NAME (Last, First, MI) <i>Beefstake, Charlie</i>	2. SOCIAL SECURITY NO. <i>474-12-3456</i>	3. GRADE <i>SSG/E-6</i>	4. SEX <i>M</i>
5. UNIT <i>F Co., 147th AVN</i>	FOR TRAINING UNITS ONLY		
	6. WEEK OF TRAINING	7. TRAINING SCORES HIGH _____ MED _____ LOW _____	

PART II - OBSERVATIONS

8. DATE AND CIRCUMSTANCES

Today, 5 May 1995, you were found to exceed the National Guard's body fat standards, according to AR 600-9.

Your current height is 5' 10", and your current weight is 346 lbs.

Your current body fat percentage is 32 percent.

9. DATE AND SUMMARY OF COUNSELING

You have been flagged under the provisions of AR 600-31 and entered in the weight control program.

You must make satisfactory progress in the weight control program over the next six months or you could be involuntarily separated from the Minnesota National Guard. "Satisfactory progress" is defined as the loss of 3-8 pounds per month while you are in the weight control program.

If you are removed from the weight control program in the future, you could be involuntarily separated if you again exceed the body fat standard within 12 months of being removed from the weight control program.

DISPOSITION INSTRUCTIONS

This form will be destroyed upon: reassignment (other than rehabilitative transfere), separation at ETS, or upon retirement.

PART III - AUTHENTICATION

10. NAME, GRADE, SIGNATURE OF COUNSELOR

1SG Ben N. Longtime *Ben N. Longtime*

DATE

5 May 1995

11. I acknowledge having been counseled by the above individual and understand the reason for this counseling session. I concur / nonconcur that the information above accurately reflects this counseling session. I nonconcur for the following reasons:

I'm sure I can lose the weight before AT is over. No problem! Thanks for bringing the problem to my attention 1SG.

12. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED

SSG Charlie Beefstake *Charlie Beefstake*

DATE

5 May 1995

13. IF COUNSELED INDIVIDUAL REFUSES TO SIGN COUNSELING NOTES, COUNSELOR WILL INITIAL THIS BLOCK.

PART IV - REHABILITATION

14. REHABILITATION RESULTS/COMMENTS

15. NAME, GRADE, SIGNATURE OF INDIVIDUAL COUNSELED

DATE

16. NAME, GRADE, SIGNATURE OF COUNSELOR

DATE

PART V - UNIT COMMANDER INTERVIEW

17. INTERVIEW RESULTS AND RECOMMENDATION

18. NAME, GRADE, SIGNATURE OF UNIT COMMANDER

DATE

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Private First Class Frosty T. Snowman, 474-82-6390,
F Company, 147th Aviation Regiment, St. Paul,
Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious Offense

1. Under the provisions of AR 135-178, para. 7-11(c), I am initiating an action to separate you from the Army National Guard for commission of a serious offense. This action is based on the fact that a urinalysis sample you provided during a random urinalysis test administered on 8 April 1995 indicated that you had recently used cocaine, which is a controlled substance.
2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as general under honorable conditions.
3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. If an intermediate commander, or the Adjutant General, believes that a discharge under other than honorable conditions is warranted, you will be notified of your right to request a hearing before an administrative separation board. Otherwise, your discharge can only be characterized as honorable or general under honorable conditions.
4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.
5. You have the right to submit statements on your behalf within thirty (30) days of your receipt of this letter. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.
6. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious Offense

7. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

8. You must sign the enclosed acknowledgment indicating that you received a copy of this letter today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action. If you desire to waive either or both of these rights, you should so indicate on the enclosed acknowledgment.

9. Again, any statements you desire to submit for consideration must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this letter. Failure to respond within thirty (30) calendar days constitutes a waiver of your rights mentioned above.

4 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. Litigation Packet

JOE CLEAN CUT
CPT, AV, MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Sergeant Frosty T. Snowman, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious
Offense

1. Under the provisions of AR 135-178, para. 7-11(c), I am initiating an action to separate you from the Army National Guard for commission of a serious offense. This action is based on the fact that a urinalysis sample you provided during a random urinalysis test administered on 8 April 1995 indicated that you had recently used cocaine, which is a controlled substance.
2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as under other than honorable conditions.
3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may direct that your service be characterized as honorable, general under honorable conditions, or under other than honorable conditions. However, the Adjutant General may not direct that you be discharged if an administrative separation board recommends that you be retained. Furthermore, the Adjutant General may not direct the issuance of a type of discharge or characterization of service less favorable than that recommended by the board should you request a hearing before an administrative separation board.
4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.
5. You have the right to submit statements on your behalf and/or return the enclosed Election of Rights Memorandum or request for a conditional waiver within thirty (30) days of your receipt of this memorandum. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.
6. Because you have over six years of total federal service, you have a right to request a hearing before an administrative separation board.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious Offense

7. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.

8. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

9. You must sign the enclosed acknowledgment indicating that you received a copy of this memorandum today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action, or to request a hearing before an administrative separation board. If you desire to waive any or all of these rights, you should so indicate on the enclosed acknowledgment.

10. Again, any statements you desire to submit, and/or the Election of Rights Memorandum, must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this memorandum. Failure to respond within thirty (30) days constitutes a waiver of your rights discussed above.

6 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. Election of Rights Memorandum
5. Request for Conditional Waiver
6. Letter from Lab

JOE CLEAN CUT
CPT, AV MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Private First Class Dennis Menace, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(b), A Pattern of Misconduct

1. Under the provisions of AR 135-178, para. 7-11(b), I am initiating an action to separate you from the Army National Guard for a pattern of misconduct. This action is based on the following acts of misconduct:

- a. Late to Drill Formation, 4 June 1994;
- b. Disrespect to a Non-Commissioned Officer, 8 July 1994;
- c. Dereliction of Duty, 4 September 1994;
- d. Disobeying a lawful order, 27 May 1995.

2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as general under honorable conditions.

3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may characterize your discharge as honorable, or general under honorable conditions.

4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.

5. You have the right to submit statements on your behalf within thirty (30) days of your receipt of this letter. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(b), A Pattern of Misconduct

6. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.
7. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.
8. You must sign the enclosed acknowledgment indicating that you received a copy of this letter today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action. If you desire to waive either or both of these rights, you should so indicate on the enclosed acknowledgment.
9. Again, any statements you desire to submit for consideration must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this letter. Failure to respond within thirty (30) calendar days constitutes a waiver of the rights discussed above.

7 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. DA Form 4856 dtd 4 June 1994
5. DA Form 4856 dtd 8 July 1994
6. Nonjudicial Punishment dtd 5 Oct 1994
7. DA Form 4856 dtd 28 May 1995

JOE CLEAN CUT
CPT, AV MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Sergeant Dennis Menace, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(b), A Pattern of Misconduct

1. Under the provisions of AR 135-178, para. 7-11(b), I am initiating an action to separate you from the Army National Guard for a pattern of misconduct. This action is based on the following acts of misconduct:

- a. Late to Drill Formation, 8 January 1994;
- b. Leaving Early from Drill, 9 February 1994;
- c. Disrespect to a superior Non-Commissioned Officer, 10 May 1994;
- d. Absent Without Leave, 10-11 August 1994;
- e. Drinking While on Duty, 12 May 1995.

2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as under other than honorable conditions.

3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may direct that your service be characterized as honorable, general under honorable conditions, or under other than honorable conditions. However, the Adjutant General may not direct that you be discharged if an administrative separation board recommends that you be retained. Furthermore, the Adjutant General may not direct the issuance of a type of discharge or characterization of service less favorable than that recommended by the board should you request a hearing before an administrative separation board.

4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(b), A Pattern of Misconduct

5. You have the right to submit statements on your behalf, and/or return the enclosed election of rights memorandum or request for a conditional waiver within thirty (30) days of your receipt of this memorandum. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.

6. Because you have over six years of total federal service, you have a right to request a hearing before an administrative separation board.

7. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.

8. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

9. You must sign the enclosed acknowledgment indicating that you received a copy of this memorandum today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action, or to request a hearing before an administrative separation board. If you desire to waive any or all of these rights, you should so indicate on the enclosed acknowledgment.

10. Again, any statements you desire to submit, and/or the Election of Rights Memorandum, must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this memorandum. Failure to respond within thirty (30) calendar days constitutes a waiver of your rights discussed above.

10 Encls

1. DA Form 2-1
2. Acknowledgment
3. Data Privacy Statement
4. Election of Rights Memorandum
5. Request for Conditional Waiver
6. DA Form 4856 dtd 8 January 1994
7. DA Form 4856 dtd 10 February 1994
8. DA Form 4856 dtd 10 May 1994
9. Nonjudicial punishment dtd 12 Sep 1994
10. DA Form 4856 dtd 12 May 1995

JOE CLEAN CUT
CPT, AV MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Private First Class James F. Garfield, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 6, para. 6-3, Unsatisfactory Performance

1. Under the provisions of AR 135-178, para. 6-3, I am initiating an action to separate you from the Army National Guard for a unsatisfactory performance. This action is based on the following:

- a. numerous counseling statements for poor performance;
- b. PT test failure, 10 May 1994.

2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as general under honorable conditions.

3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may characterize your discharge as honorable, or general under honorable conditions.

4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.

5. You have the right to submit statements on your behalf within thirty (30) days of your receipt of this letter. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.

6. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.

7. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 6, para. 6-3, Unsatisfactory Performance

8. You must sign the enclosed acknowledgment indicating that you received a copy of this letter today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action. If you desire to waive either or both of these rights, you should so indicate on the enclosed acknowledgment.

9. Again, any statements you desire to submit for consideration must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this letter. Failure to respond within thirty (30) calendar days constitutes a waiver of your rights discussed above.

17 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. DA Form 4856 dtd 12 January 1994
5. DA Form 4856 dtd 8 February 1994
6. DA Form 4856 dtd 10 March 1994
7. DA Form 4856 dtd 4 April 1994
8. DA Form 4856 dtd 10 May 1994
9. PT Scorecard dtd 10 May 1994
10. DA Form 4856 dtd 16 May 1994
11. DA Form 4856 dtd 22 May 1994
12. DA Form 4856 dtd 16 June 1994
13. DA Form 4856 dtd 8 July 1994
14. DA Form 4856 dtd 12 November 1994
15. DA Form 4856 dtd 12 January 1995
16. DA Form 4856 dtd 8 April 1995
17. DA Form 4856 dtd 14 May 1995

JOE CLEAN CUT
CPT, AV MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Sergeant James F. Garfield, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 6, para. 6-3, Unsatisfactory Performance

1. Under the provisions of AR 135-178, para. 6-3, I am initiating an action to separate you from the Army National Guard for unsatisfactory performance. This action is based on the following:
 - a. numerous counseling statements for poor performance;
 - b. PT test failure, 10 May 1994;
2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be characterized as general under honorable conditions.
3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may direct that your service be characterized as honorable or general under honorable conditions. However, the Adjutant General may not direct that you be discharged if an administrative separation board recommends that you be retained. Furthermore, the Adjutant General may not direct the issuance of a type of discharge or characterization of service less favorable than that recommended by the board should you request a hearing before an administrative separation board.
4. If my recommendation is approved, the proposed separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.
5. You have the right to submit statements on your behalf, and/or return the enclosed Election of Rights Memorandum or request for a conditional waiver within thirty (30) days of your receipt of this memorandum. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.
6. Because you have over six years of total federal service, you have a right to request a hearing before an administrative separation board.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 6, para. 6-3, Unsatisfactory Performance

7. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.
8. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.
9. You must sign the enclosed acknowledgment indicating that you received a copy of this memorandum today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action, or to request a hearing before an administrative separation board. If you desire to waive any or all of these rights, you should so indicate on the enclosed acknowledgment.
10. Again, any statements you desire to submit, and/or the rights election memorandum, must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this memorandum. Failure to respond within thirty (30) calendar days constitutes a waiver of your rights discussed above.

16 Encls

1. DA Form 2-1
2. Acknowledgment
3. Data Privacy Statement
4. Election of Rights Memorandum
5. Request for Conditional Waiver
6. DA Form 4856 dtd 10 March 1994
7. DA Form 4856 dtd 4 April 1994
8. DA Form 4856 dtd 10 May 1994
9. PT Scorecard dtd 10 May 1994
10. DA Form 4856 dtd 16 May 1994
11. DA Form 4856 dtd 22 May 1994
12. DA Form 4856 dtd 16 June 1994
13. DA Form 4856 dtd 8 July 1994
14. DA Form 4856 dtd 12 November 1994
15. DA Form 4856 dtd 12 January 1995
16. DA Form 4856 dtd 8 April 1995

JOE CLEAN CUT
CPT, AV MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Private First Class Terry Forster, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 14, para. 14-2(b)(1), Weight Control Failure

1. Under the provisions of AR 135-178, para. 14-2(b)(1), I am initiating an action to separate you from the Army National Guard for weight control failure. This action is based on your failure to make satisfactory progress in the weight control program after a period of six (6) months.
2. I am recommending that you be discharged from the Army National Guard. I am further recommending that your discharge be suspended for a period of six months to give you additional time to come into compliance with the body fat control standards. Should the Adjutant General decide to discharge you immediately, rather than suspend your discharge, your discharge will be characterized as honorable, in accordance with AR 135-178, para. 14-4(c).
3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. The Adjutant General may direct your discharge, or he may direct your discharge but suspend it for up to six months. Either way, your discharge must be characterized as honorable.
4. If the Adjutant General directs your immediate discharge, you could be discharged from the Army National Guard and as a Reserve of the Army, or discharged from the Army National Guard and transferred to the Individual Ready Reserve, or released from the custody and control of the Army.
5. You have the right to submit statements on your behalf within thirty (30) days of your receipt of this letter. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.
6. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.
7. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 14, para. 14-2(b)(1), Weight Control Failure

8. You must sign the enclosed acknowledgment indicating that you received a copy of this letter today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action. If you desire to waive either or both of these rights, you should so indicate on the enclosed acknowledgment.

9. Again, any statements you desire to submit for consideration must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this letter. Failure to respond within thirty (30) days constitutes a waiver of your rights discussed above.

10 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. DA Form 4856 dtd 2 November 1994
5. DA Form 4856 dtd 8 December 1994
6. DA Form 4856 dtd 6 January 1995
7. DA Form 4856 dtd 8 February 1995
8. DA Form 4856 dtd 9 March 1995
9. DA Form 4856 dtd 10 April 1995
10. DA Form 4856 dtd 12 May 1995

JOE CLEAN CUT
CPT, AV, MNARNG
Commanding

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

1 June 1995

MEMORANDUM FOR Sergeant Terry Forster, 474-82-6390, F Company,
147th Aviation Regiment, St. Paul, Minnesota 55102

SUBJECT: Separation Under AR 135-178, Chapter 14, para. 14-2(b)(1), Weight Control Failure

1. Under the provisions of AR 135-178, para. 14-2(b)(1), I am initiating an action to separate you from the Army National Guard for weight control failure. This action is based on your failure to make satisfactory progress in the weight control program after six (6) months.
2. I am recommending that you be retained in the Army National Guard.
3. My recommendation is not binding on the Adjutant General, who will make the final decision in this case. However, the Adjutant General may not direct that you be discharged if an administrative separation board recommends that you be retained. If an administrative separation board recommends that you be discharged, but that your discharge be suspended for six months, the Adjutant General is not bound by the board's recommendation to suspend the discharge, and he may direct your immediate discharge. If you are discharged for weight control failure, you will receive an honorable discharge certificate, in accordance with AR 135-178, para. 14-4(c).
4. If you are discharged, the separation could result in discharge from the Army National Guard and as a Reserve of the Army, discharge from the Army National Guard and transfer to the Individual Ready Reserve, or release from custody and control of the Army.
5. You have the right to submit statements on your behalf, and/or return the enclosed Election of Rights Memorandum or request for a conditional waiver within thirty (30) days of your receipt of this memorandum. If you would like to discuss this matter with a judge advocate, you may contact CPT Perry Mason, (507) 555-1212 (office number). You may also consult with a civilian attorney of your choice at no expense to the government.
6. Because you have over six years of total federal service, you have a right to request a hearing before an administrative separation board.
7. Copies of any documents which will be sent to the Adjutant General to facilitate his decision in this matter are enclosed.

RBAA-SJA (135-178)

SUBJECT: Separation Under AR 135-178, Chapter 14, para. 14-2(b)(1), Weight Control Failure

8. Any statement you submit in response to this action is, of course, voluntary. The routine uses for such a statement are provided in the enclosed Data Privacy Act statement.

9. You must sign the enclosed acknowledgment indicating that you received a copy of this memorandum today. You may waive your right to submit statements, or to consult with a judge advocate regarding this action, or to request a hearing before an administrative separation board. If you desire to waive any or all of these rights, you should so indicate on the enclosed acknowledgment.

10. Again, any statements you desire to submit, and/or the Election of Rights Memorandum, must be received by the unit no later than the close of business, thirty (30) calendar days from your receipt of this memorandum. Failure to respond within thirty (30) calendar days constitutes a waiver of your rights discussed above.

13 Encls

1. DA Form 2-1
2. Data Privacy Statement
3. Acknowledgment
4. Data Privacy Statement
5. Election of Rights Memorandum
6. Request for Conditional Waiver
7. DA Form 4856 dtd 2 November 1994
8. DA Form 4856 dtd 8 December 1994
9. DA Form 4856 dtd 6 January 1995
10. DA Form 4856 dtd 8 February 1995
11. DA Form 4856 dtd 9 March 1995
12. DA Form 4856 dtd 10 April 1995
13. DA Form 4856 dtd 12 May 1995

JOE CLEAN CUT
CPT, AV, MNARNG
Commanding

RBAA-SJA (RBAA-SJA/1 Jun 95) (135-178) 1st End PFC Snowman/EV/555-2634
SUBJECT: Acknowledgment to Notification of Separation Under AR 135-178, para. 7-11(c),
Commission of a Serious Offense

PFC Frosty T. Snowman, F Company, 147th Aviation Regiment, St. Paul, MN 55102 3
June 1995

FOR Commander, F Company, 147th Aviation Regiment, St. Paul, MN 55102

1. I have received a copy of the memorandum, signed by my commander, notifying me that an action to separate me from the Army National Guard has been initiated.
2. I understand that I have a right to consult with a member of the Judge Advocate General's Corps, or a civilian attorney at no expense to the government. I have been furnished with the name and phone number of a judge advocate to consult with regarding my rights in this action.
3. I have been provided with a copy of all the documents listed as enclosures to the commander's memorandum notifying me of this action.
4. I understand that I have thirty (30) days from today's date to submit statements for consideration by the Adjutant General. If I have more than six years of total federal service, I understand that I have thirty (30) days from today's date to request a hearing by an administrative separation board. I understand that failure to respond within thirty (30) calendar days constitutes a waiver of all my rights in this proceeding.

[Initial the following lines if applicable, otherwise line through]

5. I waive my right to consult with a judge advocate concerning my rights in this action.
6. I waive my right to submit statements on my behalf at this time.
7. If applicable, I waive my right to a hearing before an administrative discharge board.

FROSTY T. SNOWMAN
PFC, MNARNG
474-82-6390

Data Required by the Privacy Act of 1974 (5 USC 522a)

AUTHORITY: Section 301, Title 5, USC, and Section 3013, Title 10, USC.

PURPOSE: Information provided is used by processing activities and the approval authority to determine if the soldier meets the requirements for recommended separation action.

ROUTINE USES: Upon completion of processing actions, the statement is filed in the MPRJ. So long as filed in the MPRJ, this personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information is compatible with the purpose for which the information is collected. Release of any information from this form is subject to the restrictions of 42 USC 290ee-3; 42 USC 290dd-3; and 42 Code of Federal Regulations, Part 2. Under these statutes and regulations, disclosure of information that would identify the client as an abuser of alcohol or other drugs is authorized within the Armed Forces or to those components of the Veterans Affairs furnishing health care to veterans. AR 600-85 further limits disclosure within the Armed Forces to those individuals having an official need to know (for example, the physician or the client's unit commander). All other disclosures require the written consent of the client except disclosures (1) to medical personnel outside the Armed Forces to the extent necessary to meet a bona fide medical emergency; (2) to qualified personnel conducting scientific research, management for financial audits, or program evaluation; or (3) upon the order of a court of competent jurisdiction.

Submission of a statement for consideration is voluntary. If a statement is not submitted, the Army will determine separation or retention based on the available information

Data Required by the Privacy Act of 1974 (5 USC 552a)

AUTHORITY: Section 301, title 5, USC, and section 3012, title 10 USC.

PURPOSE: To be used by the commander exercising separation authority over you to determine approval or disapproval of your request and in case of disapproval to indicate your options as pertain to your rights which are available in contemplated administrative separation cases.

ROUTINE USES: Information provided in the statement is used by processing activities and the approval authority to determine what rights a soldier desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in the MPRJ. This personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information is compatible with the purpose for which the information is collected.

Disclosure is voluntary. If the information is not provided, the Army will complete processing using information available.

Affidavit of Service by Mail

State of (Name)

County of (Name)

(Name of individual who mailed notification), being duly sworn, deposes and says:

I am the *(Job title, e.g., personnel officer)* of *(Unit)*. On the *(Day)* of *(Year)* I mailed the notification letter signed by *(Commander's name)* dated *(Date)*, SUBJECT: Separation Under AR 135-178, a true copy of which is attached hereto, via certified mail, restricted delivery, return receipt requested, to *(Name of member on orders)* at *(Most recent address of member)* that being the last known address given to the *(Unit)* as the one at which official mail would be received by or forwarded to *(Him)(Her)*, by depositing the same in an official depository of the U.S. Postal Service at *(location of postal facility)* in a securely wrapped and sealed U.S. postage-and-fees-prepaid envelope addressed to *(Him)(Her)* at said address.

(Signature and rank of affiant)

Sworn and subscribed before me this *(Day)(Month)(Year)*.

(Signature and rank of officer administering oath)

Attachment:
Copy of notification

Data Required by the Privacy Act of 1974 (5 USC 552a)

AUTHORITY: Section 301, title 5 USC and section 3013, title 10 USC.

PURPOSE: To be used by the commander exercising separation authority over you to determine approval or disapproval of your request and in case of disapproval to indicate the soldier's options as pertain to the rights available to him or her in contemplated administrative separation cases.

ROUTINE USES: Information provided in this statement is used by processing activities and the approval authority to determine with rights soldier desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in the MPRJ. So long as filed in the MPRJ, this personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information is compatible with the purpose for which the information is collected.

(Office Symbol)

(Date)

MEMORANDUM FOR Commander, _____

SUBJECT: Separation Under AR 135-178, Chapter ____

1. I have been advised by my consulting counsel of the basis for the contemplated action to separate me for under AR 135-178, chapter ____, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. I understand that if I have 6 years of total active and/or reserve military service at the time of separation, I am entitled to have my case considered by an administrative separation board. I understand that if I have less than 6 years total active and/or reserve service, I am not entitled to have my case heard by an administrative separation board unless I am being considered for a discharge under other than honorable conditions. (I understand that if I am being considered for separation under AR 135-178, Chapter 10 (*Homosexuality*), I am entitled to have my case heard by an administrative separation board.)
2. I (*request*)(*waive*) consideration of my case by an administrative separation board.
3. I have been advised of my right to submit a conditional waiver of my right to have my case considered by an administrative separation board.
4. I (*request*)(*waive*) personal appearance before an administrative separation board.
5. Statements in my own behalf (*are/are not*) submitted herewith (*Enclosures* ____ - ____).
6. I (*request*)(*waive*) representation by (a judge advocate) (_____, if (he) (she) is reasonably available). I understand that instead of military counsel, I may retain civilian counsel at no expense to the Government.
7. I understand that my willful failure to appear before the administrative separation board by absenting myself without leave will constitute a waiver of my rights to personal appearance before the board.
8. I understand that I may expect to encounter substantial prejudice in civilian life if my service is characterized as under honorable conditions or under other than honorable conditions. (I further understand that, as a result of a

SUBJECT: Separation Under AR 135-178, Chapter _____

characterization of service of under other than honorable conditions, I may be ineligible for many or all benefits as a veteran under both Federal and State laws.)

9. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw any waiver and, if authorized, request that an administrative separation board hear my case.

10. I understand that if I am being considered for separation for fraudulent entry my enlistment may be voided under certain circumstances and that all pay and allowances will be suspended immediately upon verification of the fraudulent entry.

11. I understand that there is no automatic upgrading or review by any Government agency of any characterization of service that is less than honorable. After discharge, I may apply to the Army Discharge Review Board or the Army Board for Correction of Military Records if I wish review of my characterization of service. I realize that the act of consideration by either board does not imply that my characterization of service will be upgraded.

12. I have retained a copy of this statement.

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived (*if none, write "NONE"*).

Encl

Having been advised by me of the basis for *(his)(her)* contemplated separation and its effects, the rights available to *(him)(her)* of a waiver of *(his)(her)* rights, _____ personally made the choices indicated in the foregoing statement.

_____, JA, MNARNG
Counsel for Consultation

Data Required by the Privacy Act of 1974 (5 USC 552a)

AUTHORITY: Section 301, title 5 USC and section 3013, title 10 USC.

PURPOSE: To be used by the commander exercising separation authority over you to determine approval or disapproval of your request and in case of disapproval to indicate the soldier's options as pertain to the rights available to him or her in contemplated administrative separation cases.

ROUTINE USES: Information provided in this statement is used by processing activities and the approval authority to determine with rights soldier desires to exercise and the offering of such rights as indicated. Upon completion of processing actions, the statement is filed in the MPRJ. So long as filed in the MPRJ, this personal information may be used by other appropriate Federal agencies and State and local government authorities where the use of the information is compatible with the purpose for which the information is collected.

(Office Symbol)

(Date)

MEMORANDUM FOR Commander, _____

SUBJECT: Request for a Conditional Waiver

1. I have been advised by my consulting counsel of the basis for the contemplated action to separate me under AR 135-178, Chapter ____, and its effects; of the rights available to me; and the effect of any action taken by me in waiving my rights. I understand that I am entitled to have my case considered by an administrative separation board (because I have 6 or more years of Regular and Reserve Service) (because I am being considered for discharge under other than honorable conditions).
2. Prior to completing this form, I have been afforded the opportunity to consult with consulting counsel and to consider whether or not to submit a conditional waiver.
3. I, _____, social security number _____, hereby voluntarily waive consideration of my case by an administrative separation board contingent upon my receiving a characterization of service or description of separation no less favorable than (honorable) (under honorable conditions - otherwise referred to as a "general" discharge).
4. Statements in my own behalf (are) (are not) submitted herewith (Encls ___ - ___).
5. I am making this request of my own free will and have not been subjected to any coercion whatsoever by any person.
6. I understand that I may, up until the date the separation authority orders, directs, or approves my separation, withdraw this waiver and request that an administrative separation board hear my case.

SUBJECT: Request for a Conditional Waiver

7. I understand that if the separation authority refuses to accept this conditional waiver of a hearing before an administrative separation board that my case will be referred to an administrative separation board. In that case:

a. I (**Request**)(**Waive**) consideration of my case by an administrative separation board.

b. I (**Request**)(**Waive**) representation by (a judge advocate) (_____, if (he) (she) is reasonably available). I understand that instead of military counsel, I may retain civilian counsel at no expense to the Government.

c. I understand my willful failure to appear before the administrative separation board will constitute a waiver of my rights to personal appearance before the board.

8. I understand that I may expect to encounter substantial prejudice in civilian life if my service is characterized as under honorable conditions or under other than honorable conditions. (I further understand that, as a result of a characterization of service of under other than honorable conditions, I may be ineligible for many or all benefits as a veteran under both Federal and State laws.) I understand that if I receive a discharge/character of service which is less than honorable, I may make application to the Army Discharge Review Board or the Army Board for Correction of Military Records for upgrading; however, I realize that an act of consideration by either board does not imply that my discharge will be upgraded.

9. I understand that if I am being considered for separation for fraudulent entry, my enlistment may be voided under certain circumstances and that all pay and allowances will be suspended immediately upon verification of the fraudulent entry.

10. I have retained a copy of this statement.

UNDERSTANDING: I have read and understand each of the statements above and understand that they are intended to constitute all promises whatsoever concerning my waiver options. Any other promise, representation, or commitment made to me in connection with my separation is written below in my own handwriting or is hereby waived (*if none, write "NONE"*).

Encl

Having been advised by me of the basis for (**his**)(**her**) contemplated separation and its effects, the rights available to (**him**)(**her**) of a waiver of (**his**)(**her**) rights, _____ personally made the choices indicated in the foregoing statement.

_____, JA, MNARNG
Counsel for Consultation

DEPARTMENT OF THE ARMY
F COMPANY, 147TH AVIATION REGIMENT
ST. PAUL, MINNESOTA 55102

RBAA-SJA (135-178)

8 July 1995

MEMORANDUM THRU

Commander, 147th Aviation Regiment, St. Paul, MN 55102

Commander, 34th Infantry "Red Bull" Division, ATTN: G-1, National Guard Training and
Community Center, 13865 South Robert Trail, Rosemount, MN 55608-3438

FOR The Adjutant General, State of Minnesota, ATTN: MNAG-SJA, Veterans Service
Building, 20th West 12th Street, St. Paul, MN 55155-2098

SUBJECT: Separation of Sergeant Frosty T. Snowman Under AR 135-178, Chapter 7, para. 7-
11(c), Commission of a Serious Offense

1. On 1 June 1995, I notified SGT Frosty T. Snowman that I had initiated an action to separate him from the Army National Guard for Commission of a Serious Offense. The action was based on a urinalysis test administered on 8 April 1995 which indicated that SGT Snowman had recently used cocaine.
2. On 1 July 1995, SGT Snowman returned his Election of Rights Memorandum, indicating that he requests a hearing before an administrative separation board. He also submitted some statements on his behalf.
3. I have reviewed the statements submitted by SGT Snowman, and they do not change my original recommendation that he should be discharged from the Army National Guard, and that his discharge should be characterized as under other than honorable conditions.
4. In making my recommendation, I have considered SGT Snowman's satisfactory duty performance over the course of his 8 year career in the Minnesota National Guard. However, he has been only an average performer, and I do not believe his overall service to the Guard outweighs the severity of the offense. Therefore, I believe a discharge is appropriate.
5. The following information regarding SGT Snowman is provided in accordance with AR 135-178, para. 7-12:

RBAA-SJA (135-178)

SUBJECT: Separation Under SGT Frosty T. Snowman Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious Offense

- a. Name: Frosty T. Snowman
- b. Grade: SGT/E-5
- c. Social Security Number: 474-82-6390
- d. Date of Birth: 5 September 1963
- e. Date of Current Enlistment: 1 June 1993
- f. Length of Current Enlistment: Six (6) years
- g. Total years of Federal Service: Eight (8) years
- h. Armed Forces Qualification Test Score: 110
- i. Aptitude Area scores: 82
- j. Duty Military Occupational Specialty (DMOS): 11C
- k. MOS Evaluation Testing: 80
- l. Records of Counseling: NONE
- m. Rehabilitation Attempts: Not Applicable [If this action was for patterns of misconduct, or some other chapter which required a rehabilitative reassignment, this is where the commander would describe the results of a rehabilitative transfer, or ask for a waiver and provide a reason for why a waiver would be appropriate.]
- n. Records of Other Disciplinary Action: NONE

2 Encls

- 1. Election of Rights
- 2. Notification Letter

JOE CLEAN CUT
CPT, AV, MNARNG
Commanding

RBAACDR (RBAASJA/8 July 1995) (135-178) 1st End/LTC Finished/sjl/555-2364
SUBJECT: Separation of Sergeant Frosty T. Snowman Under AR 135-178, Chapter 7, para. 7-11
(c), Commission of a Serious Offense

Commander, 147th Aviation Regiment, St. Paul, MN 55102

15 July 1995

THRU Commander, 34th Infantry "Red Bull" Division, Attn: G-1, National Guard
Training and Community Center, 13865 South Robert Trail, Rosemount, MN
55608-3438

FOR The Adjutant General, State of Minnesota, ATTN: MNAG-SJA, Veterans Service
Building, 20th West 12th Street, St. Paul, MN 55155-2098

1. I have reviewed the notification letter provided to SGT Snowman on 1 June 1995, and its enclosures. I have also reviewed the statements submitted by SGT Snowman.
2. I concur with the company commander's recommendation. SGT Snowman should be discharged under other than honorable conditions.

I.M. FINISHED
LTC, AV, MNARNG
Commanding

MNAG-SJA (RBAA-SJA/8 Jul 95) (135-178) 2nd End CPT Here/cw/296-2222
SUBJECT: Separation of Sergeant Frosty T. Snowman Under AR 135-178, Chapter 7,
para. 7-11(c), Commission of a Serious Offense

Office of the Adjutant General, ATTN: MNAG-SJA, Veterans Service Building, 20 W. 12th St.,
St. Paul, MN 55155-2098 27 July 1995

FOR The Adjutant General, Veterans Service Building, 20 W. 12th St., St. Paul, MN
55155-2098

1. I have reviewed the enclosed separation packet concerning SGT Frosty T. Snowman. In my opinion, there is a sufficient legal basis to discharge SGT Snowman from the Army National Guard for commission of a serious offense, under AR 135-178, para. 7-11(c).
2. You have two options:
 - a. sign the enclosed memorandum appointing a board of officers to consider SGT Snowman's case; or
 - b. retain SGT Snowman in the Army National Guard.
3. The entire chain of command recommends that you appoint a board. A memorandum appointing a board is enclosed for your signature.
4. If you choose to retain SGT Snowman, I will draft a memorandum to that effect for your signature.

2 Encls
as

ALWAYS HERE
CPT, JA MNARNG
Active Guard/Reserve Judge Advocate

**DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
VETERANS SERVICE BUILDING
20 WEST 12TH STREET
ST. PAUL, MINNESOTA 55155-2098**

MNAG-TAG (135-178)

5 August 1995

MEMORANDUM FOR SGT Frosty T. Snowman, 3862 Rock-N-Roll Blvd., Hastings,
Minnesota 55206

SUBJECT: Separation Under AR 135-179, Chapter 7, para. 7-11(c), Commission of a Serious
Offense

1. I have reviewed the separation packet concerning your involuntary discharge from the Army National Guard for commission of a serious offense. I have taken into account your outstanding contribution to the Minnesota National Guard, and your personal problems during the time when you engaged in the misconduct.
2. I believe the offense you committed is extremely serious. However, when balanced against the other factors stated above, I have decided to retain you in the National Guard.
3. This action is closed. Should you engage in this type of misconduct again in the future, for whatever reason, rest assured I will not support your continued retention in the National Guard.

AL POWERFUL
Major General, MNANG
The Adjutant General

CF:
Cdr, F Co., 147th AVN
G-1, 34th ID

DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
VETERANS SERVICE BUILDING
20 WEST 12TH STREET
ST. PAUL, MINNESOTA 55155-2098

MNAG-TAG (135-178)

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Appointment of Administrative Separation Board

1. A board of officers is hereby appointed pursuant to Chapter 2, Section III, AR 135-178, to determine whether SGT Frosty T. Snowman, 474-82-6390, should be discharged from the Minnesota Army National Guard.
2. A prehearing conference, attended by the Board President, Legal Advisor, Recorder and Defense Counsel will be held within thirty days of the date this memorandum is signed.
3. Appointment as a member or alternate member of an administrative separation board takes priority over all other assigned duties. Board members and alternates will attend the board hearing in lieu of their regularly scheduled drill.
4. The following members are appointed to the board:
 - a. Major Mickey Mantle (President), HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 514 Cottonwood Trail, Rochester, MN 55624; home phone number (507) 555-1234.
 - b. Major Lou Gehrig (Alternate President), HHC, Aviation Brigade, St. Paul, MN 55102; home address, 314 Riviera Road, Fargo, ND 56163.
 - c. CPT Babe Ruth (Member), HHC, 142d Engineer Battalion, Fargo, ND 56163; home address, 219 Jensen Drive, Fargo, ND 56163.
 - d. 1LT Stan Musial (Alternate Member), Co. C, 142d Engineer BN, Camp Ripley, MN 56345; home address, 2 Willow Way, Minnetonka, MN 55147.
 - e. CSM Larry Hisle (Member), HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 222 East West Blvd., Maplewood, MN 55107.

MNAG-TAG

SUBJECT: Appointment of Administrative Separation Board

f. MSG Tony Oliva (Alternate Member), HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 208 Nicollet Ave., Bloomington, MN 55146.

5. The Legal Advisor for the board will be MAJ Lance Ito, HQ, STARC, St. Paul, MN 55155; home address, 346 Hollywood Blvd., Edina, MN 55423; home phone number (612) 266-2348.

6. The Recorder for the board will be CPT Hard Charger, HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 123 Nonsense Road, Ironwood, MN 55632; home phone number (507) 555-1212.

7. The Defense Counsel for the Respondent is CPT Perry Mason, HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 562 St. Paul Ave., St. Paul, MN 55105; home phone number (612) 698-5676.

8. The Reporter for the board will be SGT Writes Fast, HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, #3 Fraternity Row, Minneapolis, MN 55423.

9. The clerk for the board will be CPL Jim L. Orderly, HHC, 34th Infantry "Red Bull" Division, Rosemount, MN 55068; home address, 357 Portland Rd., Richfield, MN 55425.

AL POWERFUL
Major General, MNANG
The Adjutant General

DISTRIBUTION:

Every Individual Concerned

G-1, 34th ID

MEMORANDUM FOR The Adjutant General, Veterans Service Building, 20 W. 12th St.,
St. Paul, MN 55155-2098

SUBJECT: Findings and Recommendations of Administrative Separation Board Concerning SGT
Frosty T. Snowman

1. On 22 September 1995, an administrative separation board was convened to determine whether SGT Frosty T. Snowman should be separated from the Army National Guard for commission of a serious offense. The board's findings and recommendations, and a summarized transcript of the proceeding, are enclosed for your review.
2. I have reviewed the board's findings and recommendations and the summarized transcript of the proceeding. In my opinion, the separation board was conducted in accordance with applicable laws and regulations. The findings and recommendations are supported by the evidence presented at the hearing.
3. There is a legal basis to approve the board's recommendations, that SGT Snowman be separated from the Army National Guard, and that he be issued an under other than honorable conditions discharge certificate.
4. You have the following options:
 - a. direct that SGT Snowman be discharged with an under other than honorable conditions discharge, a general under honorable conditions discharge, or an honorable discharge;
 - b. direct that SGT Snowman be retained in the Army National Guard.
5. I have prepared a memorandum for your signature directing that SGT Snowman be discharged with an under other than honorable conditions discharge certificate. If you choose one of the other options listed above, I will prepare a memorandum accordingly.

3 Encls

1. Board Findings/Recom.
2. Summ. Transcript
3. Final Action Memorandum

ALWAYS HERE

CPT, JA MNARNG

Active Guard/Reserve Judge Advocate

WEB LINK

Here is a link to a web site containing Army Regulations, including AR 135-178, Separation of Enlisted Personnel. The requirements of this regulation have been incorporated in the MNARNG Legal Guide to Processing Involuntary Separation Actions (1 Sep 1996).

<http://books.army.mil/cgi-bin/bookmgr/Shelves>

**DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE ADJUTANT GENERAL
VETERANS SERVICE BUILDING
20 WEST 12TH STREET
ST. PAUL, MINNESOTA 55155-2098**

MNAG-TAG (135-178)

12 October 1995

MEMORANDUM FOR SGT Frosty T. Snowman, 3862 Rock-N-Roll Blvd., Hastings, MN 55206

SUBJECT: Separation Under AR 135-178, Chapter 7, para. 7-11(c), Commission of a Serious Offense

1. I have reviewed the findings and recommendations of the administrative separation board convened on 22 September 1995 concerning your separation for commission of a serious offense.
2. I accept the board's findings and recommendations, and direct that you be discharged from the Army National Guard and be issued an under other than honorable conditions discharge certificate.

AL POWERFUL
Major General, MNARNG
The Adjutant General

CF:
MNAG-PER-MPS
G-1, 34th ID