

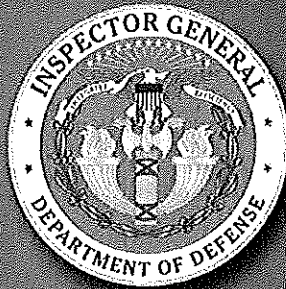
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Report No. H10L113678016

May 24, 2011

Inspector General

United States
Department of Defense



ALLEGED MISCONDUCT:

MAJOR GENERAL ROBERT B. NEWMAN, U.S. AIR FORCE
FORMERLY THE ADJUTANT GENERAL, VIRGINIA NATIONAL GUARD
AND
BRIGADIER GENERAL STEPHEN L. HUXTABLE, U.S. ARMY
FORMERLY THE ASSISTANT ADJUTANT GENERAL, ARMY,
VIRGINIA ARMY NATIONAL GUARD

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I. INTRODUCTION AND SUMMARY

We initiated an investigation to address allegations that:

- Maj Gen Newman and BG Huxtable improperly used official Government transportation.

- [REDACTED]

We substantiated the first allegation. We conclude that Maj Gen Newman and BG Huxtable improperly used official Government transportation in violation of DoD Directive 4500.56, "DoD Policy on the Use of Government Aircraft and Air Travel"; DoD Regulation 4515.13-R, "Air Transportation Eligibility"; Army Regulation 95-1, "Flight Regulations"; and National Guard Pamphlet 95-5, "Use of Army National Guard Aircraft." We found that Maj Gen Newman [REDACTED] flew on five missions without proper approval. DoD Regulation 4515.13-R requires State governors or, in their absence, lieutenant governors, on a case-by-case basis, to personally approve family member use of air transportation.

We also found Maj Gen Newman used an Army National Guard (ARNG) aircraft on one occasion to attend a meeting with a non-profit organization with no official Federal or State affiliation. Further, we found Maj Gen Newman and BG Huxtable each used an ARNG aircraft on separate occasions when the use of ground transportation would not have had a significant adverse impact on the accomplishment of the mission. DoD Directive 4500.56, Army Regulation 95-1, and National Guard Pamphlet 95-5 require an official purpose and direct that air transportation will only be used when it is the most economical mode of transportation, or when the use of ground transportation would have a significant adverse impact on the ability to effectively accomplish the purpose of the official travel.

We conclude that [REDACTED] He allegedly travelled to a leave location in conjunction with temporary duty (TDY) and received payment to return to Richmond, his permanent duty station, after the TDY was canceled. We found BG Huxtable entered a TDY travel status from a leave location in South Carolina. He reported to the Charlotte International Airport to fly to his TDY location, but the airline bumped him from the flight and could not reschedule him in time to complete the purpose of the TDY. The Government subsequently paid travel and transportation allowances to return BG Huxtable

¹ The complaint contained additional allegations that we determined did not require further investigation. We discuss those allegations in Section III of this report.

from Charlotte to Richmond. We determined the Joint Federal Travel Regulations (JFTR) specifically authorized these plans and actions, including the payment of travel and transportation allowances to return a traveler from the point of TDY cancellation to the traveler's permanent duty station, even when the point of TDY cancellation is a leave location.

By letter dated March 28, 2011, we provided Maj Gen Newman an opportunity to comment on the results of our investigation. In his response, dated April 8, 2011, Maj Gen Newman asserted that he relied on the experience and judgment of the officers and non-commissioned officers who were familiar with the flight approval process to prepare the flight requests. He stated he was unaware of the gubernatorial authorization required for (b)(6), (b)(7)(C) to use air transportation. He stressed the benefit to the Virginia National Guard (VANG) of his participation in the meeting of the non-profit organization. Finally, he stated he believed one of the flights we cited in support of our conclusion did not take place.² After considering the information in Maj Gen Newman's response, and verifying the questioned flight did take place, we stand by our conclusion that Maj Gen Newman improperly used official Government transportation.

By letter dated March 28, 2011, we provided BG Huxtable an opportunity to comment on the results of our investigation. In his undated response, BG Huxtable accepted the results of the investigation, recognized his responsibility in ensuring compliance with all rules and regulations, and asserted that any misuse of the aircraft was not intentional.³

This report sets forth our findings and conclusion based on a preponderance of the evidence.

II. BACKGROUND

Maj Gen Newman served as The Adjutant General (TAG) of the Virginia National Guard from January 14, 2006, to July 13, 2010. A 1973 graduate of the Virginia Military Institute (VMI), Maj Gen Newman held a variety of staff and command positions while on active duty in the U.S. Air Force. As TAG, Maj Gen Newman was responsible for the combat readiness of units, and the administration and training of more than 8,200 Virginia Army and Air National Guard personnel. Although appointed TAG by the Governor, Maj Gen Newman reported directly to the Secretary of Public Safety for the Commonwealth of Virginia. On July 14, 2010, the Governor of Virginia appointed Major General Daniel E. Long, Jr., U.S. Army, as TAG.⁴

² While we have included what we believe is a reasonable synopsis of the response provided by Maj Gen Newman, we recognize that any attempt to summarize risks oversimplification and omission. Accordingly, we incorporated comments by Maj Gen Newman where appropriate throughout this report and included a copy of the full response with this report.

³ While we have included what we believe is a reasonable synopsis of the response provided by BG Huxtable, we recognize that any attempt to summarize risks oversimplification and omission. Accordingly, we incorporated comments by BG Huxtable where appropriate throughout this report and included a copy of the full response with this report.

⁴ Maj Gen Newman is not retired, but was transferred to the Inactive Reserve in July 2010.

BG Huxtable served as the Assistant Adjutant General-Army (AAG-Army), Virginia Army National Guard (VAARNG) from April 5, 2009, until his retirement on October 2, 2010. As the AAG-Army, BG Huxtable served as the principal assistant to the TAG and provided policy guidance, oversight, and supervision of all training, logistics, and personnel matters for all VAARNG organizations. Prior to becoming the AAG-Army, BG Huxtable served as the full-time Chief of Staff (CofS), VAARNG. In August 2007, BG Huxtable left full-time employment with the VAARNG to become the Director of Personnel and Administration (DPA) for the Virginia Department of Military Affairs (DMVA), a full-time State position. He remained in the DPA position while he served as AAG-Army, a traditional Guardsman billet. Following his Army retirement, he continued to work as DPA, overseeing legislative, policy, procedural, and human resources issues for over 300 State employees that support the VANG.

The UH-60 "Blackhawk" helicopters of the VAARNG belong to the 224th Aviation (AVN) Battalion (BN) (Assault), located at the Army Aviation Support Facility (AASF) in Sandston, VA. The State Army Aviation Officer (SAAO) is responsible for the aviation functional area oversight within the VAARNG, which includes aviation assets, operations, personnel, logistics, training, and resource management. As with many states, the SAAO for the VAARNG is also dual-hatted as the AASF Commander and oversees the day-to-day operations of the AASF. As TAG, Maj Gen Newman exercised peacetime operational control of the aircraft.

III. SCOPE

We interviewed Maj Gen Newman, BG Huxtable, and 11 current and former members of the VANG with knowledge of the matters under investigation. We examined relevant documents and standards that govern the issues under investigation. Specifically, we examined aviation mission requests, mission schedule/briefs, passenger manifests, flight records, invitational travel orders, travel vouchers, State time and attendance records, State leave requests, and active duty/travel/Temporary Duty (TDY) orders. During the investigation, we found evidence of potential impropriety regarding flights in addition to those mentioned in the complaint, including evidence that Maj Gen Newman improperly allowed (b)(6), (b)(7)(C) to use military air (MilAir) transportation.

During our preliminary inquiry we concluded that the following allegations in the anonymous complaints did not warrant further investigation. We consider them not substantiated.

VANG general officers wasted Government resources by using MilAir for a 6-mile trip.

An anonymous complaint alleged that general officers within the Commonwealth of Virginia used Blackhawk helicopters to fly from the helipad at the Virginia Commonwealth University's Medical College of Virginia (MCV), located in downtown Richmond, to the VAARNG's AASF located in Sandston, VA, next to the Richmond International Airport, a distance of six miles. Several witnesses testified that they had heard of the allegation and identified individuals who they believed had firsthand knowledge of the matter. However, those individuals testified that they had no knowledge of such flights. Our review of flight records

dating back to April 2009 revealed no record of such flights. The current and former SAAOs, Maj Gen Newman and BG Huxtable, testified that such use of aviation assets was not authorized and would not be allowed.

(b)(6), (b)(7)(C)

At the request of the Chief of the Joint Staff, VANG, the United States Property and Fiscal Officer (USP&FO) for the VANG audited BG Huxtable's time and attendance records to determine if he took leave from his state job as DPA when he performed official military duties as the AAG-Army. The USP&FO's Internal Review Office published its report on February 3, 2010. The Commonwealth's Internal Auditor also conducted a special review and published its report on May 26, 2010. Since State funds, not DoD funds, were the issue, we examined the matter as a potential violation of the ethical standards required of all Army leaders, including the Army value of integrity. If there was a pattern of abuse, or evidence that BG Huxtable intentionally failed to take leave in order to receive compensation to which he was not entitled, it would call BG Huxtable's integrity into question.

The USP&FO found that in fiscal 2009, there were 28 weekdays during which BG Huxtable was on military orders. He correctly submitted for leave from his state job for 26 of those days. The State paid him for a total of 11 hours of work for the two times he did not submit a leave form. The Commonwealth's Internal Auditor expanded the review to cover the period March 14, 2008, to March 23, 2010, and found one other instance, for an additional 8 hours. We found this evidence did not establish a pattern of abuse. BG Huxtable acknowledged the errors and was adamant about correcting his leave and pay records and reimbursing the State. We found no evidence of dishonesty by BG Huxtable, or any intention to defraud the State. Having determined that the appropriate State authorities would make adjustments to BG Huxtable's civilian leave and pay accounts and that the DMVA had strengthened its internal controls, we found that the allegation did not warrant further investigation.

Maj Gen Newman used State resources for purposes not related to the National Guard.

An anonymous complaint stated Maj Gen Newman was on VMI's Board of Visitors, and that he "had his car taken out to Lexington and he has flown out on a Blackhawk to the meeting." The complaint further alleged Maj Gen Newman's involvement with the Board was not related to the National Guard. We present our findings and analysis regarding Maj Gen Newman's use of aircraft in Section IV of this report. In this section we will address the use of a State vehicle and driver to facilitate attendance of the Board of Visitors' meeting.

We found that Maj Gen Newman's (b)(6), (b)(7)(C) r, drove Maj Gen Newman's State-owned vehicle from Richmond to VMI during duty hours on May 1, 2009.⁵ Earlier that day, Maj Gen Newman and (b)(6), (b)(7)(C) flew from Fort Pickett, VA, to Lexington, VA, to attend a building dedication ceremony at VMI. After he dropped off the car, (b)(6), (b)(7)(C) returned to Richmond aboard the aircraft Maj Gen Newman used to travel from Fort Pickett to Lexington. Maj Gen Newman attended the VMI Board of Visitors meeting the following day, and then drove himself and (b)(6), (b)(7)(C) back to Richmond.

Maj Gen Newman served on the Board of Visitors in an *ex officio* capacity because of his State duties as TAG.⁶ The Board defines VMI's mission, develops its strategic plan, and oversees the plan's execution. We found Maj Gen Newman's use of the vehicle to travel home from the meeting was not inappropriate because the TAG's involvement in the supervision of VMI has a direct impact on the VANG. VMI is the VANG's largest source of commissioned officers. Approximately half of VMI's cadets receive Army, Air Force, or Navy commissions. In addition, the National Guard offers scholarships to VMI cadets, and some cadets participate simultaneously in the Army National Guard and the Reserve Officers Training Corps (ROTC) Program. We found Maj Gen Newman's use of his (b)(6), (b)(7)(C) to drive his State-owned vehicle on May 1, 2009, was not inappropriate. (b)(6), (b)(7)(C) served under State control. When he drove the vehicle in conjunction with the Board of Visitors meeting, he was performing duties related to the administering, recruiting, instructing, or training members of VANG units. Finally, while the use of (b)(6), (b)(7)(C) did not violate a standard, we question the efficiency of using a (b)(6), (b)(7)(C) to pre-position a vehicle.

IV. FINDINGS AND ANALYSIS

A. Did Maj Gen Newman and BG Huxtable improperly use official Government transportation?

Standards

DoD 5500.7-R, "Joint Ethics Regulation (JER)," dated August 30, 1993

Chapter 1 of the JER, "Ethical Conduct," paragraph 1-211e, defines a DoD employee as any Reserve or National Guard member while performing official duties or functions under the authority of either Title 10 or Title 32, United States Code, or while engaged in any activity related to the performance of such duties or functions, including any time the member uses his Reserve or National Guard of the United States title or position, or any authority derived therefrom.

⁵ A Title 32 AGR (or Active Guard Reserve) is an Army or Air National Guard Soldier/Airman serving on Full-Time National Guard Duty under the provisions of section 502(f), Title 32, United States Code, for the purpose of organizing, administering, recruiting, instructing, or training the National Guard units within their respective State. In accordance with Title 32 U.S.C., § 101, they are entitled to pay from the United States, and in accordance with Army Regulation 135-18, The AGR Program, Table 2-1, they are under State control.

⁶ By virtue of office or official position.

Department of Defense Directive 4500.56, "DoD Policy on the Use of Government Aircraft and Air Travel," dated April 14, 2009

This directive applies to all DoD Components. Paragraph 4a states, in part:

Government aircraft transportation is a premium mode of travel involving high costs and limited resources. All DoD employees at any level including commanders and airlift authorizing officials shall restrict travel based on considerations such as purpose of the trip, method of transportation required, and priority of travel. Every effort shall be made to minimize travel cost. In that regard, the type of aircraft used shall be based on the minimum cost and size necessary to satisfy the requirement. Except as provided for in this Directive, DoD Components shall not schedule training missions to accommodate the travel of DoD senior officials. It is essential that managers and commanders at all levels prevent misuse of transportation resources as well as the perception of their misuse.

Paragraph 4j states:

Organic airlift, that is airlift provided by government aircraft, the primary mission of which is other than carrying passengers, but that have the capacity to carry passengers, are not to be used for passenger travel. Aircraft not designed or normally configured for passenger (non-aircrew personnel) carrying capability, such as, but not limited to, fighter aircraft, are not to be used for passenger travel. Besides scheduled government and commercial airlift services, the Department of Defense controls a large number of utility and transport aircraft for support of military operations. Travel is not permitted on those cargo or utility aircraft unless all the following conditions are met:

- (1) The aircraft is already scheduled for an official purpose.
- (2) Travel is on a non-interference basis.
- (3) The noninterference travel use does not require a larger aircraft than needed for the official purpose.
- (4) Already scheduled official travelers or cargo are not displaced.

(5) The travel results in negligible additional cost to the Government. Such travel is funded by the aircraft operator's organization or the Transportation Working Capital Fund (TWCF).

Paragraph 4k states, in part:

Rotary-wing aircraft will be used only when the use of ground transportation would have a significant adverse impact on the ability of a senior official to effectively accomplish the purpose of the official travel. This policy applies to all officers and employees of the Department of Defense.

Paragraph E3, "Other Official Travel," states:

Other official travel is normally accomplished using commercial transportation and is for the conduct of DoD official business. Other official travel may include travel to address matters such as giving speeches, attending conferences or meetings, making site visits to facilities, and permanent change of station.

Paragraph E5, "Family Member Travel," states in part:

As a general rule, a family member may not accompany his or her DoD sponsor who is traveling on official business. A family member's travel may be approved...where there is an unquestionably official function in which the family member is to participate in an official capacity, or such travel is in the U.S. interest because of a diplomatic or public relations benefit to the United States. Such participation is normally limited to spouses and is representational in nature. As such, travel is allowed on a mission noninterference basis only and must be supported with an ITA (Invitational Travel Authorization).

DoD 4515.13-R, "Air Transportation Eligibility," dated November 1994

Paragraph C2.2 listed categories of eligible passengers. Subparagraph C2.2.3.3.2 states:

A family member of a State governor, lieutenant governor, or adjutant general when travel is for official duty connected with National Guard activities. Travel may be in and between the CONUS, Puerto Rico, the Virgin Islands, or the States of Alaska and Hawaii. The traveler must be accompanied by the official and there must be an unquestionably official function in which the family member is actually to participate in an official capacity, or such travel must be deemed in the interest of the National Guard.

Such participation is normally limited to spouses. State governors, or in their absence, lieutenant governors, shall personally sign approvals on a case-by-case basis for a family member to travel.

Army Regulation 95-1, "Flight Regulations," dated November 12, 2008

The regulation applies to the Army National Guard and to persons involved in the operation, aviation training, standardization, and maintenance of such aircraft and systems, and to aircraft on loan, lease, and bailment to the Army National Guard.

Paragraph 3-1, "Use of Army Aircraft - General," states in part:

...air travel must be the most economical mode of transportation consistent with the accomplishment of the military mission, and the particular aircraft to be utilized must be the least costly one available that is capable of satisfying the transportation requirement. Travel by military aircraft that is mission essential, regardless of cost or availability of commercial service, will require complete documentation signed by the senior passenger. This authority cannot be delegated.

Paragraph 3-4, "Special Mission Use," states in part:

Army aircraft may be used for travel, to events such as memorial services, retirements, graduations, public ceremonies, field demonstrations, patient visitation, or parades for military personnel who are participating or representing the Army or DOD in an official capacity only.

Paragraph 3-5, "Other Official Travel," states in part:

Administrative travel, also called "other official travel," includes travel to give speeches; attend conferences, meetings or training courses; make routine site visits; and other similar uses...Justification for the use of rotary-wing aircraft for administrative travel usually involves showing that MILAIR is essential versus ground transportation, unless commercial air transportation is also available between the general departure and destination locations.

Army Directive 2007-1, "Policy for Travel by Department of the Army Officials," dated January 25, 2007

Paragraph 6a states that "Rotary-Wing MilAir may be used for official travel only when it is cost favorable as compared to ground transportation, or when the use of ground transportation would have a significant adverse impact on the ability of the senior official to effectively accomplish the purpose of the travel."

National Guard Pamphlet 95-5, "Use of Army National Guard Aircraft," dated June 30, 1997

Paragraph 1-4, "Scope," states that:

- ARNG aircraft are for official use only in direct support of the military mission (Federal or State).
- Travel time saved by itself, is not justification for using ARNG aircraft.

Paragraph 2-1, "Federal status," states in part that ARNG aircraft may be used in Federal status for the support to non-Federal governmental organizations (i.e., State, County), and support to non-governmental organizations when approved by DoD through the Chief, National Guard Bureau.

Paragraph 2-2b states that support of State agencies on a normal day-to-day basis not connected with a State declared emergency or disaster, and domestic action missions to conduct State official business are not authorized.

Paragraph 2-7, "Community relations," states that generally, ARNG aircraft may be used to support local community relations activities for civic-sponsored public ceremonies for Armed Forces Day, Memorial Day, Independence Day, and Veteran's Day, or when the participation is directly connected to the ARNG recruiting effort and is not in competition with commercial enterprise.

Paragraph 3-2b(1) states that space required transportation on ARNG aircraft is only for State National Guard officials including State governors, lieutenant governors, adjutants general, and assistant adjutants general when travel is for official duty connected with National Guard activities.

Paragraph 3-2b(2) states that the TAG may authorize employees of the State Military Department to be transported on ARNG aircraft when the travel is directly connected with NG activities.

Facts

The anonymous complaint alleged that Maj Gen Newman, as a member of the Board of Visitors for VMI, used a Blackhawk helicopter to attend a personal meeting of the VMI Board of Visitors that had nothing to do with the National Guard. During the course of the investigation, we identified additional instances of potential misuse of MilAir by Maj Gen Newman, as well as BG Huxtable. In this section we first examine evidence regarding the process Maj Gen Newman and BG Huxtable used to obtain MilAir in support of their transportation requirements, then evidence regarding VMI's relationship with the VANG, followed by evidence regarding each potentially improper flight.

MilAir Requirements, Requests, and Approvals

Maj Gen Newman testified that on a weekly basis he reviewed his schedule with (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) and determined whether the use of aircraft was the most efficient means of travel.⁷ Scheduling, length of the flight, weather conditions, and crew rest were some determining factors on whether he used air or ground transportation. "The flights were always in the best interest of scheduling and efficiency." Regarding the use of MilAir, he assumed "that all of the hoops are gone through, appropriate questions are answered." Although he was not familiar with the exact process, he believed it was his travel coordinator who actually submitted the requests to the SAAO.

Maj Gen Newman's (b)(6) explained that she prepared and submitted the MilAir requests. If she had any concerns, she would consult with the Public Affairs Officer or servicing Judge Advocate, but that "Army Aviation" reviewed the requests to ensure that they complied with regulations.⁸ It was Maj Gen Newman's understanding that as long as the flight was within the Commonwealth of Virginia, and as long as there were training hours available for the crews, it was authorized. Maj Gen Newman's (b)(6), (b)(7)(C) testified that as the travel authorizing official for the State, Maj Gen Newman approved his own travel. Maj Gen Newman testified the same approval process and rules were used to adjudicate flight requests in support of both Federal and State missions. "Everything that I did was trusting in my staff."

Maj Gen Newman testified every flight he requested was actually a training flight, that training dollars paid for all of them, and there was no funding allocated specifically to TAG airlift requirements. (b)(6), (b)(7)(C) confirmed that "Army Aviation" would verify if there were any training flights that could support the request.

BG Huxtable testified that although he was not familiar with the exact regulations governing the use of MilAir, he knew that requests for MilAir had to specify some federal interest. The exception was when the governor requested and paid for MilAir to support emergency response missions. He stressed that, "I would never consider using it [MilAir] for a State mission." He told his staff that if he can accomplish what he needs to do in a vehicle, then

⁷ (b)(6), (b)(7)(C) was the travel coordinator to whom Maj Gen Newman referred in his testimony.

⁸ "Army Aviation" was the SAAO and his staff.

he'd do it in a vehicle. However, time was a factor. "If I can't get there to make that mission work, that's when the request goes in." He could not do half the things he does if it were not for the use of MilAir.

When BG Huxtable did require MilAir support, he submitted his request to his CofS or his Deputy CofS. He asserted that, "I don't use the helicopter for display. I don't use it for anything other than to get out to the event, and it's always a military event. I can honestly tell you, and you guys know it, every mission I've done was for the military. Every mission I did was for Soldiers, going to see an event or going for recruiting." However, he left determinations regarding the propriety of the use of MilAir up to the (b)(6), (b)(7)(C) and his staff.

(b)(6), (b)(7)(C) testified that if the requirement included passengers, he required the requestor to submit a DD Form 2768, "Military Air Passenger Cargo Request." The AASF Operations Officer reviewed each request, checked resource availability, and determined whether they could support the request incidental to other training already scheduled. They evaluated "whether it's a VFR [Visual Flight Rules] official flight rules point-to-point training, or a personnel or, on occasion, we'll do an instrument flight plan in conjunction with that so we're doing it incidental to training." The (b)(6), (b)(7)(C) testified that prior to receiving the mission request, the Joint Operations Center (JOC) first reviewed it and "they'll deem whether our assets can take care of that."

We questioned Maj Gen Newman regarding flights that included (b)(6), (b)(7)(C). He explained that although not wholly familiar with travel for non-military passengers, the prospective non-military passengers, including family members, were sent to (b)(6), (b)(7)(C) for review. If there were any issues, (b)(6), (b)(7)(C) would send them back. If (b)(6), (b)(7)(C) thought air travel for non-military passengers was appropriate, he (b)(6), (b)(7)(C) would send the request up to the Public Affairs office at the National Guard Bureau for approval. At that time, an Invitational Travel Order (ITO) was issued. When we pointed out that DoD policy required the governor or lieutenant governor to approve (b)(6), (b)(7)(C) by MilAir, Maj Gen Newman replied that he was told that the governor delegated approval authority to the State secretary for public safety. (b)(6), (b)(7)(C) clarified that the ITO approval authority for Maj Gen Newman's (b)(6), (b)(7)(C) was the governor or lieutenant governor. However, in an e-mail, dated July 7, 2010, (b)(6), (b)(7)(C) stated the Governor's (b)(6), (b)(7)(C) verbally delegated the governor's approval authority to him (the secretary for public safety).

VMI and the VANG

As described in Section III of this report, the VMI Board of Visitors is a supervisory board that meets on a quarterly basis. The Board defines the mission of the Institute, and oversees the development, revision, and implementation of a strategic plan for the accomplishment of that mission. The Board members are appointed by the Governor of the Commonwealth of Virginia. The TAG, VANG, serves *ex officio* in his state capacity. Maj Gen Newman testified that "all the members of the faculty of the Virginia Military Institute are actually under my command. They are members of the Virginia Militia, unorganized. And when they wear the uniforms, they are commissioned by the Adjutant General."

Maj Gen Newman testified that one commissioned and two non-commissioned officers of the VAARNG worked as recruiters at VMI. Unlike the Service academies, which train career professional Soldiers, VMI is historically a "citizen Soldier" institute. A common career path was to obtain a commission, serve on active duty, and return to Virginia to serve in the VANG or in the reserves. The VANG assisted qualifying VMI cadets with tuition, and some cadets served simultaneously in the National Guard. It was a partnership that resulted in the commissioning of a large percentage of graduates into the VAARNG.

Use of MilAir - Maj Gen Newman

Maj Gen Newman used MilAir 27 times between April 1, 2009, to April 30, 2010.⁹ We analyzed pertinent aviation mission requests, mission schedule/briefs, passenger manifests, flight records, ITOs, event documents, and invitations. We also reviewed the testimony of witnesses who had knowledge of the specific flights. Based on the evidence, we determined the following five flights, which included the flight to VMI, potentially violated a standard, and required further analysis.

Mission Date	Locations	Purpose
2009		
April 5	Richmond to Fort Pickett, VA to Richmond	AAG-Army promotion & assumption of command ceremonies
May 1	Richmond to Fort Pickett to Lexington (VMI), VA to Richmond	Howitzer dedication (Fort Pickett) & Marshall Hall dedication (VMI)
July 11	Richmond to Winchester, VA to Richmond	Visit new armory
October 4	Richmond to Winchester to Richmond	Armory dedication
October 14	Richmond to Fort Pickett to Winchester to Fort Pickett to Richmond	EO conference (Fort Pickett), Secure Commonwealth Panel Meeting (Winchester) & VANG Foundation Meeting (Fort Pickett)
2010		
January 8	Richmond to Bedford, VA to Richmond	1/116th IN BN Deployment Ceremony

April 5, 2009 - AAG-Army Promotion and Assumption of Command Ceremonies, Fort Pickett

An Aircraft Mission Briefing reflected that on April 5, 2009, a Blackhawk flew from the Richmond International Airport to the MCV, picked up the TAG, then flew to Blackstone Army Airfield (Fort Pickett), where there was a delay on the ground of 3.5 hours, then back to the MCV, and returning to the airport.¹⁰ The Post Flight De-Brief Checks reflected the aircraft flew a total of 2.1 hours. A DD Form 2131, Passenger Manifest, reflected that Maj Gen Newman, his (b)(6), (b)(7)(C) flew the leg to Fort Pickett. An additional military

⁹ We selected April 1, 2009, as the start date for our records review because that was the month BG Huxtable became AAG-Army, and because flight records prior to that date were not required to be maintained.

¹⁰ The MCV helipad was near the TAG's Richmond office.

member was added on the return flight to Richmond. An Army Aviators Flight Record confirmed that the Blackhawk departed Richmond International Airport at 10:45AM and returned to the airport at 3:43PM.

ITO No. 2-1950, dated April 2, 2009, invited the (b)(6), (b)(7)(C) to travel on or about April 5, 2009, from Richmond to Fort Pickett and return, for the purpose of attending the promotion ceremony. The (b)(6), (b)(7)(C) determined the travel was in the public interest. There were no associated expenses.

Maj Gen Newman confirmed that he flew to Fort Pickett for the promotion and change of command ceremony for BG Huxtable. He used MilAir because he was scheduled to depart to Iraq that evening and was under time constraints.

Maj Gen Newman testified that although (b)(6), (b)(7)(C) had no specific ceremonial role at the event, there were family members at the event and "she fulfilled an official function in representing the families in their roles as supporting [BG] Huxtable and [BG] Stockton, when he relinquished command." The (b)(6), (b)(7)(C) confirmed that Maj Gen Newman's (b)(6), (b)(7)(C) had no specific ceremonial role during the event. However, (b)(6), (b)(7)(C) cited Maj Gen Newman's (b)(6), (b)(7)(C) participation in the VANG Family Readiness Groups' activities as evidence of an official role in VANG business.

May 1, 2009 - Howitzer Dedication, Fort Pickett; Marshall Hall Dedication, VMI; Return to Richmond¹¹

The complaint alleged Maj Gen Newman's use of MilAir to attend a May 1, 2009, meeting of the VMI Board of Visitors was improper. Evidence indicated that Maj Gen Newman and (b)(6), (b)(7)(C) used MilAir on May 1, 2009, to travel from Richmond to Fort Pickett to attend the 111th Field Artillery Regiment's dedication of its new howitzers. They then flew from Fort Pickett to Lexington, where they attended the dedication of a new VMI facility. The aircraft returned from Lexington to Richmond on May 1, 2009. Maj Gen Newman and (b)(6), (b)(7)(C) remained overnight in Lexington, and Maj Gen Newman attended the Board of Visitors' meeting on May 2, 2009. He and (b)(6), (b)(7)(C) then returned to Richmond by car.

An article from the VANG Web site reflected that Soldiers of the 1st BN, 111th Field Artillery Regiment, VAARNG, held a traditional dedication ceremony on May 1, 2009, at the Fort Pickett stadium to dedicate their new howitzers in front of family members and distinguished guests. In an invitation, General J. H. Binford Peay III, U.S. Army, Retired, Superintendent, VMI, and (b)(6), (b)(7)(C) requested Maj Gen Newman and (b)(6), (b)(7)(C) to attend the Marshall Hall Center for Leadership and Ethics dedication ceremony on Friday, May 1, 2009, at 5:00PM.

A Military Air Passenger/Cargo Request reflected that on March 24, 2009, Maj Gen Newman's Aide de Camp requested MilAir support to attend a May 1, 2009, new howitzer dedication at Fort Pickett, followed by the dedication of VMI's Marshall Hall. The

¹¹ A review of pertinent aviation documents established that this particular mission was the only instance when MilAir was used by Maj Gen Newman to go to VMI.

request identified VMI as the largest ROTC commissioning source for the VAARNG. The dedication ceremony of the Marshall Center for Leadership and Ethics highlighted the combined tradition of the National Guard and VMI in producing Citizen Soldiers for service to the state and nation. Maj Gen Newman was the senior passenger, and he was joined by (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C). On March 24, 2009, Maj Gen Newman authorized the travel.

ITO No. 2-1946, dated March 24, 2009, invited the (b)(6), (b)(7)(C) to travel on or about May 1, 2009, from Richmond to Fort Pickett to Lexington and return, for the purpose of attending the dedication of the Marshall Center at VMI. The (b)(6), (b)(7)(C) determined the travel was in the public interest. There were no associated expenses. An Aircraft Mission Briefing reflected that on May 1, 2009, aircraft # 846 flew the TAG from Richmond to Fort Pickett to VMI, for a total of 3.3 hours. An Army Aviators Flight Record confirmed that the Blackhawk departed Richmond at 11:50AM and landed at Fort Pickett at 12:55PM. The Blackhawk then departed Fort Pickett at 2:25PM, flew to VMI, dropped off Maj Gen Newman and (b)(6), (b)(7)(C) and flew back to Richmond, where it landed at 4:35PM.

Maj Gen Newman testified that the VAARNG had a rich artillery heritage, and the ceremony to dedicate new howitzers was "a big deal." Due to changes in force structure, the VAARNG was now down to a single field artillery battalion. (b)(6), (b)(7)(C)

(b)(6), (b)(7)(C) testified Maj Gen Newman spoke at the event, broke a ceremonial bottle over a howitzer, and pulled its lanyard. The firing battalion had a seat on the stand for Maj Gen Newman's (b)(6), (b)(7)(C). She talked with Soldiers and asked about their families.

Maj Gen Newman's (b)(6), (b)(7)(C) testified they justified the travel to Lexington based on VMI's position as the largest ROTC commissioning source for the VANG and the long-standing relationship between the VANG and VMI. Maj Gen Newman emphasized the importance of VMI to recruiting, and explained that the Marshall Hall dedication was a significant event for the institution. (b)(6), (b)(7)(C) did not have a role to play at VMI, and did not participate in the Marshall Hall dedication.

After the Marshall Hall dedication, Maj Gen Newman remained overnight to attend the VMI Board of Visitors meeting on the following day. The minutes from VMI's Board of Visitors meeting for May 1-2, 2009, reflected that Maj Gen Newman was not present for the Friday, May 1, 2009, two-hour long meeting that started at 8:00AM. He was present when the meeting reconvened on Saturday, May 2, 2009, at 8:00AM. The meeting adjourned at 12:42PM, after which he returned to Richmond by State-owned vehicle.

July 11, 2009 - New Armory Visit, Winchester, VA

A Military Air Passenger/Cargo Request reflected that on May 19, 2009, Maj Gen Newman's (b)(6) requested MilAir support for July 11, 2009, to attend the VAARNG's Winchester Armory dedication. Maj Gen Newman was the senior passenger, and was joined by (b)(6), (b)(7)(C). On May 19, 2009, Maj Gen Newman authorized the travel.

An Aircraft Mission Briefing reflected that on July 11, 2009, a Blackhawk flew the TAG to the Winchester Armory and returned to Richmond. An Army Aviators Flight Record confirmed that a Blackhawk departed Richmond at 10:45AM and returned at 2:00PM.

Maj Gen Newman explained that this trip was for the Winchester Armory's opening. He reiterated that (b)(6), (b)(7)(C) "doesn't go to shop at Dillard's or Target. She goes there. She is with the families."¹²

October 4, 2009 - Armory Dedication, Winchester, VA

A Military Air Passenger/Cargo Request reflected that on September 10, 2009, Maj Gen Newman's (b)(6), (b)(7)(C) requested MilAir support for October 4, 2009, to attend the VAARNG's Winchester Armory dedication. An attached e-mail reflected that two aircraft were needed for the mission, with another aircraft on stand-by as a "running spare," and the VIP list included the governor. An October 4 update reflected that Maj Gen Newman was the senior passenger on the second aircraft. He was joined by (b)(6), (b)(7)(C) for the VAARNG. On September 10, 2009, Maj Gen Newman authorized the travel.

In a letter to the governor's office, dated October 1, 2009, Subject: Request for TAG (b)(6), (b)(7)(C) Travel, Maj Gen Newman's (b)(6), (b)(7)(C) requested approval for the (b)(6), (b)(7)(C) to fly aboard a UH-60 helicopter on October 4, 2009, in order to attend the Winchester Armory dedication. The request stated, "In accordance with DOD 4515.13-R, State governors, and in their absence, lieutenant governors, shall personally sign approvals for spouse travel on a case-by-case basis for a family member to travel." The secretary of public safety approved and signed the request on October 2, 2009.

ITO No. 2-2005, dated October 2, 2009, invited the (b)(6), (b)(7)(C) to travel on October 4, 2009, from Richmond to Winchester and return, for the purpose of accompanying Maj Gen Newman to the Winchester Armory dedication ceremony. The VAARNG G1's representative determined the travel was in the public interest. There were no associated expenses.

An Aircraft Mission Briefing reflected that on October 4, 2009, two Blackhawks flew the governor and TAG to the Winchester Armory for a ceremony and returned to Richmond. An Army Aviators Flight Record reflected that the first Blackhawk departed Richmond at 11:50AM and returned at 3:25PM. Another Army Aviators Flight Record reflected that the second Blackhawk departed Richmond at 12:00PM for Winchester, and returned at 3:33PM.

Maj Gen Newman testified that this mission was for the dedication of the Winchester Armory. The Armory was dedicated to two VAARNG Soldiers who were killed in action. The Soldiers' family members were invited to the dedication, and the governor attended the event. Maj Gen Newman asserted that, as with all events, (b)(6), (b)(7)(C) acted as his ambassador to the families, greeting them, exchanging ideas and thoughts, and consoling the widows.

¹² Maj Gen Newman's (b)(6), (b)(7)(C) was not able to provide an ITO for Maj Gen Newman's (b)(6), (b)(7)(C) for this flight.

October 14, 2009 - Equal Opportunity Conference, Fort Pickett; Commonwealth Panel Meeting, Winchester; VANG Foundation Meeting, Fort Pickett

A Military Air Passenger/Cargo Request reflected that on September 22, 2009, Maj Gen Newman's (b)(6) requested MilAir support for October 14, 2009, to attend an Equal Opportunity Conference at Fort Pickett, followed by the Secure Commonwealth Panel Meeting at the Winchester Armory, followed by a VANG Foundation meeting at Fort Pickett, and ending in a return flight to Richmond. Maj Gen Newman was the senior passenger, and was joined by (b)(6), (b)(7)(C). On September 22, 2009, Maj Gen Newman authorized the travel. Though the request included travel in support of a non-governmental organization, the VANG Foundation, it did not indicate Maj Gen Newman sought National Guard Bureau and DoD approval.

An Aircraft Mission Briefing reflected that on October 14, 2009, a Blackhawk flew the TAG from Richmond to Fort Pickett to Winchester, back to Fort Pickett, and finally back to Richmond. An Army Aviators Flight Record reflected that the Blackhawk departed Richmond at 7:53AM and returned at 3:30PM.

The Virginia Code, section 2.2-306 established the Secure Commonwealth Panel as an advisory board in the executive Branch of the State government. The panel assessed and monitored the implementation of statewide prevention, preparedness, response, and recovery initiatives and would review, evaluate, and make recommendations related to the emergency preparedness of the government at all levels in the Commonwealth. A copy of the Secure Commonwealth Panel agenda for October 14, 2009, in Winchester, reflected that Maj Gen Newman was scheduled to give welcoming remarks to the panel members.

A Commonwealth of Virginia 2009 Charity Profile identified the VANG Foundation as an independent/unaffiliated charity, organized on July 17, 1984. The Foundation provided emergency financial assistance to all employees and associated personnel of the Virginia Department of Military Affairs. There were no fees or charges for their services.

Maj Gen Newman testified that the use of the aircraft was beneficial because he was able to attend all three meetings in one day. He explained that the Secure Commonwealth Panel was related to homeland security. He added that the VANG Foundation was a 501(c)(3) organization formed to benefit members, past and present, of the VANG, and had no State or Federal affiliation. He told us that by virtue of his office, *ex officio*, he was a board member. The panel met at Fort Pickett and raised and administered money for the benefit of VANG Soldiers who needed financial assistance. The VANG Foundation had also given to the unit Family Programs.

January 8, 2010 - 1/116th Infantry Battalion Deployment Ceremony, Bedford

A Military Air Passenger/Cargo Request reflected that on December 28, 2009, (b)(6), (b)(7)(C) requested MilAir support for January 8, 2010, to attend the 1/116th Infantry Battalion departure ceremony. Maj Gen Newman was the senior passenger and was

joined by (b)(6), (b)(7)(C) the secretary of public health, the governor, and two members of the Governor's Executive Protective Unit. On December 28, 2009, Maj Gen Newman authorized the travel.

An e-mail, dated January 4, 2010, Subject: MilAir Request - January 8, 2010, reflected that the venue for the departure ceremony had changed to Liberty University, Lynchburg, VA. The passengers included Maj Gen Newman; BG Huxtable; the Director of the Joint Staff; the Commander, 116th Brigade Combat Team; (b)(6), (b)(7)(C), VAARNG; (b)(6), (b)(7)(C), VAARNG; and (b)(6), (b)(7)(C).

ITO No. 2-2013, dated January 6, 2010, invited the (b)(6), (b)(7)(C) to travel on January 8, 2010, from Sandston, VA, to Lynchburg, VA, and return, for the purpose of accompanying Maj Gen Newman to the 1/116th Infantry Battalion's departure ceremony. The VAARNG G1's representative determined the travel was in the public interest. There were no associated expenses.

An Aircraft Mission Briefing reflected that on January 8, 2010, a Blackhawk flew the TAG to Lynchburg. The aircraft would wait 3 hours at Lynchburg and return to Richmond.

Maj Gen Newman confirmed he attended the ceremony. He testified that he flew because Bedford was a three-hour drive from downtown Richmond, and they had a full aircraft, "so you save guys a lot of transportation issues, get them off the road, get them back so you have another duty day." (b)(6), (b)(7)(C) attended as family support. (b)(6), (b)(7)(C) Maj Gen Newman's (b)(6) added that the Family Program was there, and that she (Maj Gen Newman (b)(6), (b)(7)(C)) talked to the spouses and family of the Soldiers who were deploying.

Use of MilAir – BG Huxtable

BG Huxtable requested 16 missions during the period April 1, 2009, to April 30, 2010. As with Maj Gen Newman, we analyzed relevant flight documentation and found evidence to indicate three flights potentially violated a standard. BG Huxtable then testified that two of the three flights did not occur, and we corroborated BG Huxtable's testimony through additional field work.

Regarding the remaining flight, the Montvale Elementary School, Montvale, VA, requested the VANG provide a Color Guard, and that the TAG or AAG-Army be guest speakers in support of a May 21, 2009, "Run for the Wall" event in honor of veterans and currently deployed Soldiers.¹³ The organizers did not request a helicopter for use as a static display. "Run for the Wall" was a 501(c)(3) non-profit organization that promoted healing among all veterans and their families and friends, called for an accounting of all Prisoners of War and those Missing in Action (POW/MIA), honored the memory of those killed in action from all wars, and supported military personnel all over the world. The organization rode motorcycles from California to Arlington, VA, in order to participate in "Rolling Thunder," a motorcycle rally for veterans and POW/MIAs held each year during the Memorial Day weekend.

¹³ The "Wall" meant the Vietnam Veterans Memorial in Washington, DC.

A Military Air Passenger/Cargo Request reflected that on May 20, 2009, BG Huxtable's (b)(6), (b)(7)(C) requested MilAir support for the "Run for the Wall" event at Montvale Elementary School. BG Huxtable was the only passenger. On May 20, 2009, Maj Gen Newman authorized the travel.

An Aircraft Mission Briefing reflected that on May 21, 2009, a Blackhawk flew the AAG-Army to Montvale, VA. The accompanying Army Aviators Flight Record confirmed that the Blackhawk departed Richmond at 12:00PM, landed at Roanoke at 1:30PM, and returned to Richmond at 4:15PM.

BG Huxtable testified he was a guest speaker representing the TAG and the VANG at the "Run for the Wall" event, which honored Soldiers and wounded warriors, and celebrated their military service. The event was similar to "Rolling Thunder." He could not recall why he could not take ground transportation to the event. BG Huxtable's Microsoft Outlook calendar for May 21, 2009, indicated "Conf call - (b)(6), (b)(7)(C) from 9:00AM to 9:30AM and "Run for the Wall" from 11:00AM to 2:00PM. There were no other entries for that date.

Discussion

We conclude that Maj Gen Newman and BG Huxtable improperly used official transportation. To support this conclusion we first present an analysis of the applicable standards. We then evaluate the factual evidence against the standards, to make the determinations that led to our conclusion.

Standards

National Guard policy authorized Maj Gen Newman and BG Huxtable to travel "space required" on ARNG aircraft, when travel was for official duty connected to National Guard activities. They were also authorized the use of ARNG aircraft to support ARNG recruiting efforts and "local community relations activities" such as public ceremonies associated with patriotic holidays, as well as non-governmental organizations when approved by DoD through the Chief, National Guard Bureau. Army policy also allowed the use of Army aircraft for "special missions" that were ceremonial in nature, and for "administrative travel" in support of activities such as giving speeches, making site visits, and attending meetings. Army and DoD policy directed that every effort would be made to minimize travel cost. The use of rotary wing aircraft was authorized only when air travel was the most economical mode of transportation consistent with the accomplishment of the military mission, and when the use of ground transportation would have a significant adverse impact on the ability to effectively accomplish the purpose of the official travel. National Guard policy stated that time saved, by itself, was not sufficient justification for using ARNG aircraft.

DoD policy allowed (b)(6), (b)(7)(C) to accompany Maj Gen Newman on official business if there was an unquestionably official function in which she participated in an official capacity, if there was a diplomatic or public relations benefit to the United States, or if the travel was

“deemed in the interest of the National Guard.” Maj Gen Newman had to accompany her, she was required to have an ITO, and the governor had to personally sign each approval on a case-by-case basis. The lieutenant governor could sign if the governor was not available.

The standards meant Maj Gen Newman and BG Huxtable could schedule and route aircraft to support their travel needs as long as the purpose of the travel was consistent with the authorized uses of aircraft, the use of ground transportation had a significant adverse impact on the ability to accomplish the purpose of the official travel, and the governor or lieutenant governor personally approved any travel for Maj Gen Newman’s (b)(6), (b)(7)(C). The requirement that “State governors, or in their absence, lieutenant governors, personally sign approvals on a case-by-case basis for a family member to travel” indicated the approval authority was not delegable. It also ensured that the proper authority determined family member travel was consistent with policy, and that such travel was the exception and not the rule.

Maj Gen Newman’s travel

We found that regardless of the role Maj Gen Newman’s (b)(6), (b)(7)(C) did or did not play in the five events she attended with Maj Gen Newman, there was no written approval from the governor or lieutenant governor that authorized Maj Gen Newman’s (b)(6), (b)(7)(C) to fly on a military aircraft for any of the trips. We determined this violated DoD 4515.13-R, “Air Transportation Eligibility,” which required the governor or lieutenant governor to personally sign such approvals on a case-by-case basis. The e-mail from the former secretary for public safety, which stated the Governor’s CofS verbally delegated the authority to the secretary for public safety, was not sufficient because the approval authority is not delegable. We note that evidence indicated the only travel for which Maj Gen Newman’s staff actually attempted to obtain the governor’s approval was to the event the governor himself was to attend, the Winchester Armory Dedication in October 2009, and that the governor or lieutenant governor did not personally approve that travel as required.

We found that on October 14, 2009, Maj Gen Newman flew from Winchester to Fort Pickett to attend a meeting of the VANG Foundation, a private, 501(c)(3) charitable organization with no Federal or State affiliation. We determined that Maj Gen Newman’s use of aircraft to accomplish this travel was inconsistent with National Guard, Army, and DoD policies, which listed the types of missions that justified such use. The meeting was not a local community relations event such as a public ceremony associated with a patriotic holiday, nor was it in support of a non-governmental organization approved by DoD through the Chief, National Guard Bureau. It was not a “special mission” that was ceremonial in nature. Nor did it qualify for “administrative travel” as described in Army policy, because attendance at the meeting did not serve an official Government purpose.

Additionally, we found that on July 11, 2009, Maj Gen Newman flew from Richmond to Winchester to visit the new Armory that he and the governor would dedicate three months later. Unlike the October 4, 2009, flight to Winchester, this flight was not in support of the governor’s office. We did not find that Maj Gen Newman had any pressing schedule conflicts that would have required him to fly, rather than drive, to Winchester on July 11, 2009. We therefore could not determine by a preponderance of the evidence that the use of ground transportation would

have had a significant adverse impact on Maj Gen Newman's ability to accomplish the purpose of the travel. Such a determination was required in order to comply with Army policy. We note that National Guard policy stated that travel time saved was not by itself justification for using ARNG aircraft.

By letter dated March 28, 2011, we provided Maj Gen Newman an opportunity to comment on our conclusion. In his response, dated April 8, 2011, Maj Gen Newman stressed that he relied on the experience and judgment of the officers and non-commissioned officers who were familiar with the flight approval process to prepare the flight requests.

Maj Gen Newman stated that (b)(6), (b)(7)(C) who fulfilled an important role welcoming dignitaries, visiting with family groups, and meeting with families, joined him on occasional flights. He asserted that the delegation of authority from the governor to the secretary for public safety, which allowed (b)(6), (b)(7)(C) to use air transportation, was done without his knowledge. The delegation appeared logical to him, since he reported to the secretary instead of the governor and assumed the process was a holdover from the prior administration.

With regard to the October 14, 2009, flight from Winchester to Fort Pickett to attend the Virginia National Guard Foundation meeting, Maj Gen Newman asserted that although the foundation was a 501(c)(3) organization, as an *ex officio* board member, he felt it was important for him to attend. The foundation was vital to the support of the Virginia Guard Soldiers and Airmen, and its contributions to the Virginia Guard were unparalleled.

Maj Gen Newman also asserted that the July 11, 2009, flight from Richmond to Winchester for the dedication of the new armory was canceled. We disagree. During his interview, Maj Gen Newman testified that the trip to Winchester had been canceled. However, the flight request and supporting documentation established that the trip to Winchester, originally scheduled for May 11, 2009, had been canceled, rescheduled, and executed on July 11, 2009. We showed Maj Gen Newman the documentation and he agreed that the flight occurred.

After considering Maj Gen Newman's response, we stand by our conclusion that Maj Gen Newman improperly used official transportation.

BG Huxtable's travel

We found that on May 21, 2009, BG Huxtable flew to Montvale, VA, and appeared at the Run for the Wall event, held in the lead-up to Memorial Day observances in Arlington, VA, and Washington, DC. We determined that trip served an official purpose, which was consistent with National Guard policy that authorized the use of aircraft to attend "local community relations activities" such as public ceremonies associated with patriotic holidays.

However, we could not determine by a preponderance of evidence that using ground transportation would have had a significant adverse impact on BG Huxtable's ability to accomplish the purpose of the travel. Such a determination was required in order to comply with Army policy. There was no specific requirement to use the helicopter as a static display at the

event, and there was no evidence that BG Huxtable had pressing schedule conflicts that would have prevented him from driving to Montvale. We again note that National Guard policy was specific in that travel time saved was not by itself justification for using ARNG aircraft.

By letter dated March 28, 2011, we provided BG Huxtable an opportunity to comment on our conclusion. In his undated response, BG Huxtable accepted the results of the investigation, but noted that, while on military duty as an ARNG general officer, he had limited time available to attend to military matters. However, he understood it was his responsibility to better understand when and how to use military aircraft, and to ensure compliance with all rules and regulations. He emphasized that any misuse of aircraft was not intentional.

After considering BG Huxtable's response, we stand by our conclusion that BG Huxtable improperly used official transportation.

B. Did BG Huxtable use official travel for primarily personal gain?

Standards

DoD 5500.7-R, "JER," dated August 30, 1993

Section 2635.702, "Use of Public Office for Private Gain," states that employees shall not use their public office for their own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

The Joint Federal Travel Regulations (JFTR), Volume 1, Uniformed Service Members, dated December 1, 2008

Paragraph U2200A, "Importance of Travel Status," states that a member is authorized travel and transportation allowances only while in a "travel status." Travel status exists while performing travel away from the PDS (Permanent Duty Station) on public business under competent travel orders, including necessary delays en route. Travel status begins when the member leaves the residence, office, or other departure point and ends upon return to the residence, office, or other arrival point at the trip conclusion.

Paragraph U3100A4, "Official Travel," states that transportation procured and/or paid for by the Government may be used only for that portion of a trip properly chargeable to the Government. Any additional expense is the traveler's financial responsibility.

Paragraph U3100B, "TDY Travel Involving Non-PDS Location(s)," states that a member on a TDY authorization/order is authorized travel/transportation allowances not to exceed the actual transportation cost for the transportation mode authorized and used not to exceed the constructed transportation cost between the member's PDS and TDY location. When TDY travel is to/from a non-PDS location:

1. The member is responsible for all excess travel/transportation costs; and

2. Constructed costs for each trip leg must be based on the non-capacity-controlled city-pair airfare, if available (not the capacity-controlled city-pair if both airfares are available).

Paragraph U4105G, "Authorization/Order Canceled While the Member is En Route to a TDY Station," states that if a TDY authorization/order is canceled while a member is en route to a TDY station, round trip travel and transportation allowances are authorized from the PDS (or residence, as appropriate) to the point at which the cancellation notification was received (includes a leave point) and return to the PDS, not to exceed the round trip distance from the PDS to the TDY station. Per diem is not authorized for any day on which member was in a leave status.

Facts

The anonymous complaint alleged that BG Huxtable scheduled a trip to conduct National Guard business that took him from Richmond to Charlotte, NC, to Camp Shelby, MS, and back to Richmond. The trip was canceled, but BG Huxtable travelled to Charlotte anyway, where he visited (b)(6), (b)(7)(C). After visiting (b)(6), (b)(7)(C) he returned to Richmond at the Government's expense, filed a travel claim, and received payment for the trip.

BG Huxtable testified that the 266th Military Police (MP) Company, VAARNG, was supposed to return from Iraq on a date after he was scheduled to return from a trip to visit (b)(6), (b)(7)(C). Upon his return to Richmond, he planned to travel to Mississippi to meet the Soldiers as they arrived.

A Military Air Passenger/Cargo Request reflected that on September 8, 2009, the Deputy CofS, VAARNG, requested MilAir support for September 22, 2009, to attend a welcome home event at Camp Shelby, MS, for the 266th MP Company. BG Huxtable would be the senior passenger and be joined by his CofS; the Commander, 91st Troop Command, VAARNG; and the Command Sergeant Major, VAARNG. The first leg of the flight would depart Richmond on September 22, 2009, at 8:00AM and land at Camp Shelby at 10:00AM. The second leg would depart Camp Shelby on September 24, 2009, at 8:00AM and return to Richmond at 10:00AM. On September 8, 2009, Maj Gen Newman authorized the travel. The word, "Cancelled," and the date "September 16, 2009," were handwritten on the request.¹⁴

(b)(6), (b)(7)(C) testified that instead of returning to Camp Shelby, the 266th MP Company would return to Gulfport, MS. A Joint Air Logistics Information System (JALIS) Airlift Request, dated September 18, 2009, reflected that the VAARNG's headquarters staff would fly from Richmond International Airport, VA, to Gulfport-Biloxi International Airport, MS, at a total cost of \$1,999.58.¹⁵

¹⁴ The Programs and Analysis Branch, Operational Support Airlift Agency (OSAA), verified that the mission had not been cancelled; only that the final destination had been changed to Gulfport, MS.

¹⁵ The flight to Gulfport-Biloxi International Airport carried three passengers. The estimated cost per passenger, had BG Huxtable also gone, equaled \$499.90. The scheduled return military flight was "Regretted," or cancelled, and the passengers were required to return on commercial air. The present day return cost from Gulfport-Biloxi

JFHQ-VA Orders 259-372, dated September 16, 2009, reflected that BG Huxtable was placed on Full Time National Guard Duty - Operational Support orders for TDY from Saturday, September 19 to Monday, September 21, 2009, and ordered to report to Camp Shelby to conduct a "Command Staff" visit during the demobilization of the 266th MP Company. Variation in itinerary was authorized, and Government transportation was directed. Any other form of transportation was not reimbursable. JFHQ-VA Orders 260-386, dated September 17, 2009, amended orders 259-372 to reflect TDY from Sunday, September 20, to Monday, September 21, 2009, and authorized commercial transportation and a rental car.

A commercial flight itinerary, dated September 16, 2009, reflected BG Huxtable had reservations on US Airways flight 2555 for September 20, 2009, departing Charlotte at 8:15PM, and arriving at Gulfport at 9:09PM. The fare was \$693.10. Seat check-in was required.

BG Huxtable testified he and (b)(6), (b)(7)(C) visited (b)(6), (b)(7)(C), after which they drove to Charlotte. (b)(6), (b)(7)(C) dropped him off at the airport for his flight to Gulfport and then drove home. After he checked in at the Charlotte airport, he got bumped from his flight. He was still there at midnight trying to get another flight to Gulfport, which would depart at 10:00AM the next day. Since the unit was to arrive at 6:00AM, he could no longer accomplish the purpose of the travel. (b)(6), (b)(7)(C) had dropped him off and driven to Richmond hours earlier, so he was without transportation to return to his home of record.

(b)(6), (b)(7)(C) recalled that BG Huxtable's flight out of Charlotte was delayed, and by the time the next flight left, it would have been too late to receive the returning unit. The United States Property & Fiscal Officer (USP&FO) also recalled that when BG Huxtable arrived at the airport, he (BG Huxtable) did not have an assigned seat. BG Huxtable had reported there was a mechanical issue with the aircraft, after which he got into a "wait-and-see mode."¹⁶

BG Huxtable called the USP&FO, explained the situation, and adjusted his plans. A US Airways Customer Receipt, dated September 21, 2009, reflected the airline refunded the Government \$693.10 for the canceled September 20, 2009, flight (US 2555) to Gulfport. An E-Ticket receipt, dated September 20, 2009, reflected BG Huxtable purchased a US Airways non-refundable ticket for \$635.10, departing Charlotte on September 21, 2009, at 10:53AM and arriving at Richmond at 11:53AM.

BG Huxtable submitted his travel voucher directly to the USP&FO "because he [the USP&FO] had been the one I had called directly and he was the decision man." A DD Form 1351-2, Travel Voucher or Sub Voucher, reflected that on September 28, 2009, BG Huxtable claimed air travel (\$635.10), lodging (\$62.78), taxi fare in Richmond (\$19) and per diem for a September 20-21, 2009, trip from Charlotte, to his home of record in Richmond. The

International Airport to Richmond International Airport, on the Government's contracted carrier (Delta Airlines) is \$478. The estimated roundtrip cost per passenger to support the scheduled mission is \$977.90.

¹⁶ The USP&FO is responsible for the receipt, accountability, and proper use of all Federal funds, property, and real estate used by the Virginia Army and Air National Guard.

Comptroller reviewed the voucher, and the Director, Joint Staff, VANG, approved the voucher on September 28, 2009. An accompanying Travel Voucher Summary, prepared on September 29, 2009, reflected that BG Huxtable was paid his claim totaling \$801.38.

BG Huxtable testified, "If I had thought in all honesty that this was going to be an issue, I would have just bought my own plane ticket. But I did clear it all through the USP&FO."

Discussion

(b)(6), (b)(7)(C) We found by a preponderance of evidence that the following sequence of events occurred in September 2009:

- On September 8, the Deputy CofS, VAARNG, requested fixed wing MilAir transportation for BG Huxtable and a group from the headquarters staff to travel on September 22 from Richmond to Camp Shelby. On September 23 they would welcome home a VAARNG unit that was returning from Iraq. BG Huxtable and the headquarters staff would return to Richmond by MilAir the next day.
- Between September 8 and September 16, the date of the unit's arrival at Camp Shelby changed from September 23 to the morning of September 21. The group would travel from Richmond to its destination by MilAir at a cost of \$1,999.58, but would have to return via commercial transportation (estimated at \$478 per person), because MilAir was not available for the return leg. BG Huxtable's orders, dated September 16 and amended September 17, directed TDY to commence on September 20 and complete on September 21. Variation in itinerary and commercial transportation was authorized.
- BG Huxtable planned to drive with [REDACTED] to Clemson to visit [REDACTED] during the September 19-20 weekend. The change in TDY dates conflicted with his plans and required him to return early from Clemson to Richmond in order to fly MilAir with the other VAARNG personnel on the morning of September 20. He decided he would instead fly via commercial carrier from Charlotte to Gulfport on the evening of September 20, at a cost of \$693.10, as indicated on the flight itinerary dated September 16, 2009.
- On September 20, 2009, the day the VAARNG's headquarters staff were scheduled to depart Richmond via MilAir, BG Huxtable [REDACTED] dropped him off at the airport in Charlotte and drove herself to Richmond. Due to circumstances beyond his control, BG Huxtable was not able to fly to Gulfport and the airline reimbursed the Government for the cost of the ticket from Charlotte to Gulfport. Since he could no longer get to Camp Shelby in time to welcome the VAARNG unit the following morning and was stranded in Charlotte, he contacted the USP&FO, canceled the TDY mission, and purchased a ticket for \$635.10 to fly from Charlotte to Richmond on

September 21. He spent the night of September 20, 2009, in Charlotte. Upon his return to Richmond, he submitted and received reimbursement in the amount of \$801.38 for the cost of the return flight, hotel, taxi, and per diem.

The JER prohibits BG Huxtable from using his office for his own private gain. However, the JFTR allowed for the payment of travel and transportation allowances when TDY travel involved non-PDS locations, as long as the allowances paid did not exceed the constructed transportation cost between the PDS and TDY locations. It also authorized payment of travel and transportation allowances when a TDY order was canceled while a member was enroute to a TDY station. The Government could pay to return the member to the PDS from the point of cancelation, even when such point was a leave location.

We determined the JFTR authorized payment of travel and transportation allowances to return BG Huxtable from Charlotte to Richmond. Under orders that authorized commercial transportation and variation in itinerary, BG Huxtable booked a commercial flight from a non-PDS location (Charlotte) to his TDY location (Gulfport). He was in a travel status while at the airport awaiting transportation, and the airline canceled his flight. When BG Huxtable determined he could no longer fulfill the purpose of his TDY, he canceled his trip to Gulfport. The Government then paid travel and transportation allowances in the amount of \$801.38 to return BG Huxtable from the point of cancelation (Charlotte) to his PDS (Richmond). This amount did not exceed \$977.90, our estimate of the constructed transportation cost between Richmond and Gulfport. (b)(6), (b)(7)(C)

V. CONCLUSIONS

A. Maj Gen Newman and BG Huxtable improperly used official Government transportation.

B. (b)(6), (b)(7)(C)

VI. RECOMMENDATION

We recommend that the Chief, National Guard Bureau consider appropriate corrective action with respect to Maj Gen Newman and BG Huxtable.

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Inspector General
Department of Defense

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