

DEPARTMENT OF DEFENSE OFFICE OF THE INSPECTOR GENERAL

REPORT OF INVESTIGATION

CASE NUMBER
H05L94908011

JUL 29 2005



ALLEGED MISCONDUCT:
GENERAL KEVIN P. BYRNES, U.S. ARMY
COMMANDING GENERAL
U.S. ARMY TRAINING AND DOCTRINE COMMAND

Prepared by Directorate for Investigations of Senior Officials
Office of the Deputy Inspector General for Investigations


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I. INTRODUCTION AND SUMMARY

We initiated the investigation to address an allegation that General (GEN) Kevin P. Byrnes, U.S. Army, Commanding General, U.S. Army Training and Doctrine Command (TRADOC), had an adulterous relationship with Ms. A, a married woman. As a result of evidence obtained during our initial work on the matter, we identified additional allegations against GEN Byrnes and expanded our investigation. Accordingly, we addressed allegations that GEN Byrnes:

- Had an adulterous relationship with Ms. A, a married woman. If substantiated such conduct could be characterized as constituting a violation of Uniform Code of Military Justice (UCMJ), Article 134, "Adultery."¹
- Willfully disobeyed the command of GEN Peter J. Schoemaker, U.S. Army, Chief of Staff of the U.S. Army, to cease contact with Ms. A. If substantiated, such conduct could be characterized as constituting a violation of UCMJ, Article 90, "Willfully disobeying superior commissioned officer."
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- Engaged in conduct that was unbecoming an officer and gentlemen. If substantiated such conduct could be characterized as constituting a violation of UCMJ, Article 133, "Conduct unbecoming an officer and gentleman," and would violate Army Regulation 600-100, "Army Leadership," dated September 17, 1993, and Title 10, United States Code, Section 3583, "Requirement of exemplary conduct."
- Failed to use the Government-sponsored, contractor-issued travel charge card (Government travel card) for expenses arising from official Government travel. If substantiated, such conduct would violate DoD 7000.14-R, "DoD Financial Management Regulations (FMRs)," and TRADOC Regulation 37-3, "Government Travel Card Program."

¹ Pursuant to Section 8(d) of the Inspector General Act, we reported GEN Byrnes' suspected violations of the UCMJ to the Secretary of the Army, through the Army Inspector General.

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We substantiated allegations that GEN Byrnes had an adulterous relationship with Ms. A, a married woman; willfully disobeyed the command of GEN Schoomaker to cease contact with Ms. A; engaged in conduct that was unbecoming an officer and gentleman; and failed to use the Government travel card for expenses arising from official Government travel. We did not substantiate the allegation [REDACTED]

Specifically, with regard to the substantiated allegations we found that GEN Byrnes engaged in adulterous conduct with Ms. A over a period that spanned [REDACTED] 2003 to [REDACTED] 2005. This adulterous conduct occurred at hotels at which GEN Byrnes stayed while on official Government travel and at Ms. A's hotel rooms in [REDACTED]. We further found that on [REDACTED] 2005, GEN Schoomaker issued a lawful order to GEN Byrnes to cease contact with Ms. A. Yet, we determined that after [REDACTED] 2005, GEN Byrnes engaged in sexual intercourse with Ms. A on four occasions and made 18 telephone calls to her. We determined that GEN Byrnes' adulterous relationship with Ms. A and his willful disobedience of GEN Schoomaker's order were each conduct that was unbecoming an officer and gentleman. Regarding the allegation that GEN Byrnes failed to use the Government travel card for expenses arising from official Government travel, we reviewed GEN Byrnes' travel records and determined that on at least 10 trips GEN Byrnes used his personal credit card to pay for hotels.²

Response to Tentative Conclusions


By letter, dated June 6, 2005, we offered GEN Byrnes an opportunity to comment on the initial results of our investigation in which we substantiated all of the allegations. In a memorandum to this Office, dated July 12, 2005, GEN Byrnes responded (through counsel) to only two of our initial conclusions.³ In his response GEN Byrnes did not comment on our conclusions with regard to his engaging in an adulterous relationship with Ms. A, his disobedience of GEN Schoomaker's order cease contact with Ms. A, and his engaging in conduct unbecoming an officer and gentleman. However, GEN Byrnes stated [REDACTED] and that he was unaware of the requirement to use the Government travel card.

[REDACTED]

² We reviewed GEN Byrnes' travel records for dates which Ms. A alleged she met GEN Byrnes while he was on official travel. We also reviewed all of GEN Byrnes' travel records for travel occurring after [REDACTED], 2005.

³ Gen Byrnes' attorney originally provide a memorandum, dated [REDACTED] 2005, that was nearly identical to the [REDACTED] 2005, memorandum with the exception of correcting the spelling of "Byrnes" and replacing the sentence, [REDACTED]

⁴ The following paragraphs provide what we believe is a reasonable synopsis of GEN Byrnes' response. However, we recognize that any attempt to summarize that response risks oversimplification and omission. Accordingly, we incorporated comments by GEN Byrnes throughout this report where appropriate and provided a copy of his response to the Secretary of the Army, together with this report.



Regarding the other contested allegation, that GEN Byrnes failed to use the Government travel card for expenses arising from official Government travel, GEN Byrnes provided in his response that prior to his aide-de-camp raising the issue to him in 2005, the requirement to use the Government travel card was not brought to his attention. Attached to the response was a memorandum prepared by GEN Byrnes' aide-de-camp in which he stated that GEN Byrnes did not prepare his own travel vouchers and was not provided copies of his travel voucher worksheets that had flagged his failure to use the Government travel card. Further, the aide-de-camp stated that neither GEN Byrnes nor he had ever been contacted by finance office personnel regarding GEN Byrnes' use of his personal credit card. After careful consideration of these matters, reevaluation of the evidence, and conducting additional fieldwork, we stand by our conclusion regarding this matter. As discussed in detail in Section IV. C. of the report, we concluded that GEN Byrnes knew, or should have known, of the requirement to use the Government travel card for expenses arising from official Government travel.

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

II. BACKGROUND

GEN Byrnes assumed his current position as Commanding General, TRADOC, on November 7, 2002. In this position GEN Byrnes is responsible for recruiting, training, and educating the Army's soldiers; developing its leaders; supporting training in units; developing doctrine; establishing standards; and building the future Army. TRADOC is comprised of more than 50,000 soldiers and Department of the Army civilians operating in 33 Army schools across 16 installations. GEN Byrnes is currently stationed at Fort Monroe, Virginia, and previously served as the Director, Army Staff.

III. SCOPE

As part of our investigation, we interviewed witnesses with knowledge of the matters at issue, to include Ms. A, GEN Schoemaker, GEN Cody, and current and former members of GEN Byrnes' staff. We reviewed documentation and voice recordings related to the matters and collected physical evidence, including clothing and a towel alleged to contain GEN Byrnes' semen. Because evidence provided reasonable grounds to suspect that GEN Byrnes' conduct could be characterized as violations of the UCMJ, we provided him a DA Form 3881, "Rights Warning Procedure/Waiver Certificate," along with our request to interview him. GEN Byrnes declined to be interviewed.

IV. FINDINGS AND ANALYSIS

A. Did GEN Byrnes have an adulterous relationship with Ms. A, a married woman?

Standards

UCMJ, Article 134, "Adultery"

The elements of the offense of adultery are:

- that the Service member wrongfully had sexual intercourse with a certain person;
- that, at the time, the Service member or the other person was married to someone else; and
- that, under the circumstances, the Service member's conduct was to the prejudice of good order and discipline in the Armed Forces or was of a nature to bring discredit upon the Armed Forces.

Regarding the final element of the offense of adultery, to constitute an offense under Article 134, the adulterous conduct must either be directly prejudicial to good order and discipline or Service discrediting. "Directly prejudicial" conduct includes conduct that has an obvious and measurably divisive effect on unit or organization discipline, morale, or cohesion, or is clearly detrimental to the authority, stature of, or respect toward a Service member. "Service discrediting" conduct includes that which is open and notorious in nature and tends to bring the Service into disrepute, make it subject to public ridicule, or lower it in public esteem. Adulterous conduct that is private and discrete in nature may not be Service discrediting, but, under the circumstances, may be determined to be conduct directly prejudicial to good order and discipline.

The Manual for Courts-Martial directs commanders to consider all relevant circumstances when determining whether adulterous acts are directly prejudicial to good order and discipline or Service discrediting. Specific factors to consider include:

- the accused's marital status, military rank, grade, or position;
- the coactor's marital status and relationship to the armed forces;
- the military status of the spouse of the coactor;
- the misuse, if any, of Government time and resources to facilitate the commission of the conduct;
- whether the adulterous misconduct involves an ongoing or recent relationship or is remote in time; and

- the impact of the adulterous relationship on the ability of the accused to perform his duties in support of the Armed Forces.

Facts

On [REDACTED] 2005, an anonymous person (who we later learned was Ms. A) sent by facsimile letters to the attention of the Honorable Donald Rumsfeld, Secretary of Defense, and GEN Schoomaker. In these letters Ms. A alleged GEN Byrnes had engaged in an adulterous relationship with her for over a year. In the letter to Secretary Rumsfeld, Ms. A stated,

[REDACTED]

Ms. A further provided in the letter that she [REDACTED] and alleged to have

[REDACTED]
Ms. A added,

[REDACTED]
Ms. A stated,

On [REDACTED] 2005, from his office, GEN Schoomaker called GEN Byrnes by telephone. Present in GEN Schoomaker's office were Major General Michael Marchand, U.S. Army, Assistant Judge Advocate General of the Army, and [REDACTED] U.S. Army, Chief of General Officer Management. GEN Schoomaker testified that during this telephone conversation he notified GEN Byrnes of the general nature of the allegation against him that was made in the anonymous letter and of his intent to refer the allegation to this Office. Further, GEN Schoomaker said he directed GEN Byrnes not to approach or call the woman who made the allegation if, in fact, there was any substance to the allegation.

In [REDACTED] 2005, investigators from this Office interviewed current and former members of GEN Byrnes' staff. All the witnesses provided testimony that tended to refute the allegation that many of the liaisons occurred while GEN Byrnes was on official travel. Some of the witnesses, including a former executive officer and former aide-de-camp, traveled extensively with GEN Byrnes and testified they observed nothing to indicate GEN Byrnes engaged in any type of romantic relationship with a woman who was not his wife. Each of the witnesses considered the allegation not credible.

The former aide-de-camp testified he was often with GEN Byrnes until the evening hours and would regularly meet him in the hotel workout facility early in the morning, at about 5:30 a.m. He stated, [REDACTED]

The former aide-de-camp also testified he would go from the workout facility, between 6:00 and 7:00 a.m., to GEN Byrnes' hotel room to synchronize GEN Byrnes' laptop computer and send

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his emails. He stated he never saw any indication that another person had been in GEN Byrnes' room.

On [REDACTED] 2005, GEN Schoomaker's office received a facsimile addressed to GEN Schoomaker in which the anonymous author (who we learned later was Ms. A) stated that she had previously written to GEN Schoomaker about her affair with GEN Byrnes and had asked that [REDACTED]. In her second letter, Ms. A stated that it appeared GEN Byrnes had not been directed to stop contacting her since he continued to call her. Ms. A wrote that GEN Byrnes had wanted her to come to his room during the [REDACTED]. Ms. A stated, [REDACTED]. She added, [REDACTED].

On [REDACTED] 2005, Ms. A contacted GEN Schoomaker's office by telephone. She was advised to contact our Office. Upon making telephone contact with us, Ms. A consented to an interview under oath. During our interview Ms. A stated that she was married and had engaged in an adulterous relationship with GEN Byrnes for about one and one-half years. She provided specific details of their relationship including when she first met GEN Byrnes, when GEN Byrnes first had sexual intercourse with her, and where and when she and GEN Byrnes subsequently met and engaged in sexual intercourse. Ms. A also provided significant personal information about GEN Byrnes and agreed to contact members of this Office with additional information.

On [REDACTED] 2005, Ms. A faxed to us a chronology of dates she alleged she met with GEN Byrnes. [REDACTED]. In her chronology Ms. A listed room numbers of the Government-funded hotel rooms in which she alleged GEN Byrnes stayed while on official travel and had sexual intercourse with her. She also provided dates on which she was in the [REDACTED] and had sexual intercourse with GEN Byrnes in her hotel room. The information in this chronology was consistent with, and more detailed than, what Ms. A had reported in her earlier telephone interview. In her chronology Ms. A alleged:

⁶ Ms. A provided us with the event and location at which she and GEN Byrnes met. We confirmed that GEN Byrnes was present at the event as Ms. A alleged. To protect Ms. A's privacy, we did not identify the event.

⁷ Ms. A faxed a copy of the front side of GEN Byrnes' business card and the back side of a business card with "[REDACTED]" handwritten that she alleged was his business card. We confirmed this was GEN Byrnes' old cell phone number. Ms. A provided GEN Byrnes' new cell phone number as "[REDACTED]" for which he told her the contract will expire in [REDACTED] 2005.

- On [REDACTED] 2003, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at her room at about 4:00 p.m.
- On [REDACTED] 2003, GEN Byrnes stayed at the Marriott Hotel near the [REDACTED] Ms. A spent the night with GEN Byrnes in his room where he engaged in sexual intercourse with her.⁸
- On [REDACTED] 2003, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her.
- On [REDACTED] 2003, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes had recently traveled to [REDACTED] and brought back [REDACTED] and presented it to Ms. A as a gift.⁹
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] GEN Byrnes had a day off and arrived early in the morning. GEN Byrnes and Ms. A spent the day together and went for a drive in his [REDACTED] GEN Byrnes told Ms. A that his [REDACTED] GEN Byrnes said [REDACTED] 2004.¹⁰ At some point during the day he engaged in sexual intercourse with Ms. A in her hotel room.
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at about 7:30 p.m.
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at about 7:30 p.m.
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at about 7:30 a.m.
- On [REDACTED] 2004, GEN Byrnes was at the Renaissance Hotel in [REDACTED] Ms. A wrote, [REDACTED]

⁸ GEN Byrnes' travel voucher and hotel receipt confirmed he was on official travel and stayed at the Marriott Residence Inn, [REDACTED] on [REDACTED] 2003. The hotel is within [REDACTED]

⁹ Testimony from a member of GEN Byrnes' staff confirmed that GEN Byrnes purchased [REDACTED] during an official visit to [REDACTED] 2003.

¹⁰ Testimony confirmed GEN Byrnes' [REDACTED] drove a [REDACTED] and she [REDACTED]

[REDACTED] GEN Byrnes and Ms. A met in the parking lot to which she had directed him. GEN Byrnes parked his car and traveled with Ms. A in her car to dine at a Mexican restaurant. The two of them returned to the parking lot where GEN Byrnes picked up his car and returned to the Renaissance Hotel. Ms. A went to GEN Byrnes' room where he engaged in sexual intercourse with her. Ms. A reported GEN Byrnes stayed in room [REDACTED]¹²

- On [REDACTED] 2004, GEN Byrnes was at the Hyatt Hotel in [REDACTED]. Ms. A met GEN Byrnes in his hotel room where he engaged in sexual intercourse with her. Ms. A reported GEN Byrnes stayed in room [REDACTED]¹³
- On [REDACTED] 2004, GEN Byrnes flew to [REDACTED] and stayed overnight before traveling to [REDACTED] 2004.¹⁴ While at [REDACTED] GEN Byrnes met with [REDACTED] an entertainer. [REDACTED] gave him [REDACTED] which GEN Byrnes subsequently gave to Ms. A as a gift.¹⁵
- On [REDACTED] 2004, GEN Byrnes flew from [REDACTED] to the [REDACTED] Airport, [REDACTED].¹⁶ Ms. A met GEN Byrnes at the [REDACTED] Airport and drove him to [REDACTED]. GEN Byrnes flew from [REDACTED] back to [REDACTED]. Ms. A stated during an interview with our investigators that his flight from [REDACTED] departed at 1:55 p.m. from gate 72.¹⁷

¹¹ Testimony confirmed that on [REDACTED] 2004, while staying at the Renaissance Hotel in [REDACTED] GEN Byrnes told his aide-de-camp that he was meeting friends for dinner and GEN Byrnes took a Government-funded rental car for his use.

¹² GEN Byrnes' travel voucher and hotel receipt confirmed he was on official travel to [REDACTED] and stayed at the Renaissance Hotels and Resorts, [REDACTED] in room [REDACTED].

¹³ GEN Byrnes' travel voucher confirmed he was on official travel to [REDACTED] 2004. GEN Byrnes' office did not have a copy of his hotel receipt for this trip and we were unable to confirm he stayed in room [REDACTED].

¹⁴ GEN Byrnes' travel voucher confirmed he was in leave status from [REDACTED] 2004, at [REDACTED] and from [REDACTED] 2004, at [REDACTED].

¹⁵ Ms. A provided us with a copy of a photograph of [REDACTED] given to her by GEN Byrnes.

¹⁶ Testimony from a member of GEN Byrnes' staff confirmed he flew from [REDACTED] 2004, and returned to [REDACTED] 2004.

¹⁷ GEN Byrnes' itinerary confirmed he had a reserved seat on United Airlines Flight [REDACTED] which departed from [REDACTED] 2004, at 1:55 p.m. from Terminal 7. We confirmed that Gate 72 is in Terminal 7.

- On [REDACTED] 2004, GEN Byrnes traveled to [REDACTED] on official business.¹⁸
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes also [REDACTED]
- On [REDACTED] 2004, GEN Byrnes was in [REDACTED] to attend an event at the [REDACTED] Hotel. GEN Byrnes stayed at the Renaissance [REDACTED] Hotel. Ms. A met GEN Byrnes in his hotel room where he engaged in sexual intercourse with her. Ms. A reported GEN Byrnes stayed in room [REDACTED].¹⁹
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at her room at about 3:00 p.m. and stayed until about 10:30 p.m.
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at her room at about 6:00 p.m. and stayed until about 10:00 p.m.
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes arrived at her room at about 6:00 p.m. and stayed until about 10:00 p.m. [REDACTED]
- On [REDACTED] 2004, [REDACTED]
- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes spent the night and departed the next morning.²⁰
- On [REDACTED] 2004, GEN Byrnes was in [REDACTED] GEN Byrnes stayed at the Marriott [REDACTED] Hotel.²¹ Ms. A met GEN Byrnes in his hotel room where he engaged in sexual intercourse with her.

¹⁸ GEN Byrnes' official calendar confirmed he was in [REDACTED] on official duty from [REDACTED] 2004.

¹⁹ GEN Byrnes' travel voucher and hotel receipt confirmed he was on official travel to [REDACTED] and stayed at the Renaissance [REDACTED] Hotel on [REDACTED] 2004, in room [REDACTED].

²⁰ GEN Byrnes' official calendar confirmed his last scheduled appointment on [REDACTED] 2004, ended at 5:00 p.m. and that GEN Byrnes [REDACTED] 2004, in [REDACTED].

²¹ GEN Byrnes' travel voucher and hotel receipt confirmed he was on official travel to [REDACTED] and stayed at the Marriott [REDACTED] Hotel on [REDACTED].

- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] at the Renaissance Hotel where he engaged in sexual intercourse with her.²² Ms. A [REDACTED]
- On [REDACTED] 2004, GEN Byrnes was in [REDACTED] at the Renaissance Hotel. Ms. A met GEN Byrnes in his hotel room where he engaged in sexual intercourse with her. Ms. A reported GEN Byrnes stayed in room [REDACTED]²³. She stated the room was a suite and in order to get to the bedroom one had to walk through the living room area.²⁴
- On [REDACTED] 2004, GEN Byrnes stayed at the Marriott in [REDACTED]. GEN Byrnes had dinner with [REDACTED] and several other people.²⁵
- In [REDACTED] 2005 GEN Byrnes traveled to [REDACTED] in leave status. GEN Byrnes was joined by [REDACTED] and personal friends.
- On [REDACTED] 2005, GEN Byrnes was in [REDACTED] to attend the [REDACTED]. GEN Byrnes stayed at the Hyatt [REDACTED]. Ms. A met GEN Byrnes in his hotel room where he engaged in sexual intercourse with her. Ms. A reported GEN Byrnes stayed in room [REDACTED] when coming off the elevator.²⁶

On [REDACTED] 2005, Ms. A contacted our Office and played five recorded voice mail messages she alleged were from GEN Byrnes. Two of these messages were date stamped. These date stamps were [REDACTED] 2005.

On [REDACTED] 2005, we met with Ms. A and interviewed her under oath for approximately three hours.²⁷ Ms. A provided detailed information regarding her allegation. Additionally, Ms. A [REDACTED]

²² GEN Byrnes' travel voucher confirmed he was on official travel to [REDACTED] 2004.

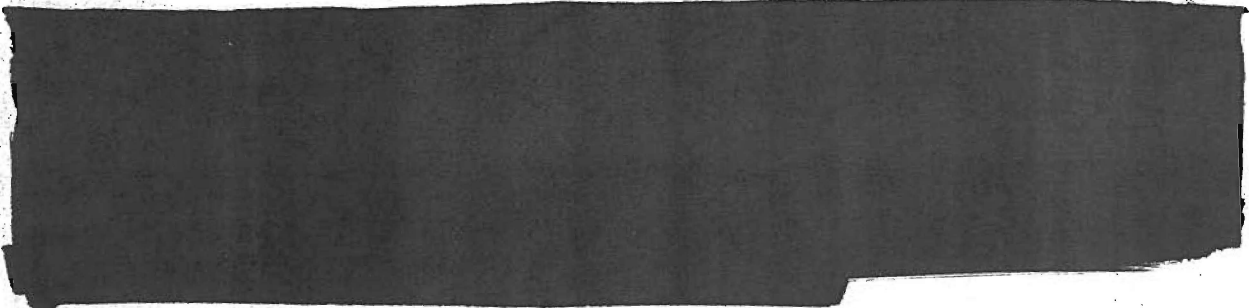
²³ GEN Byrnes' travel voucher confirmed he was on official travel to [REDACTED] 2004. GEN Byrnes' aide-de-camp confirmed GEN Byrnes stayed in room [REDACTED].

²⁴ Testimony from a member of GEN Byrnes' staff confirmed GEN Byrnes stayed in a suite and in order to get to the bedroom one had to walk through the living room.

²⁵ GEN Byrnes' travel voucher confirmed he was on official travel to [REDACTED] 2004. A member of GEN Byrnes' staff confirmed he ate dinner with [REDACTED] that evening.

²⁶ GEN Byrnes' travel voucher confirmed he was on official travel to [REDACTED] 2005. Hotel staff confirmed GEN Byrnes was in room [REDACTED] and a witness confirmed it was the last door on the right when coming off the elevator.

²⁷ Ms. A did not consent to a recorded interview.



Ms. A permitted us to record three voice mail messages, date stamped [redacted] and [redacted] 2005, from her cell phone.²⁹ In a meeting with members of this Office on May 2, 2005, GEN Cody identified the recorded voice as belonging to GEN Byrnes. GEN Cody noted that he had known GEN Byrnes for years and GEN Byrnes served as his deputy in one assignment. Ms. A also [redacted]

Ms. A said [redacted]

Ms. A also showed our investigators her cell phone display which listed 18 calls from GEN Byrnes to her cell phone that were received or missed. These calls, detailed in the table below, were made between [redacted] 2005.

Received Calls

Missed Calls

<u>Date</u>	<u>Time</u>	<u>Date</u>	<u>Time</u>
[redacted]	7:01 p.m.	[redacted]	6:30 p.m.
[redacted]	7:00 p.m.	[redacted]	8:35 p.m.
[redacted]	11:52 p.m.	[redacted]	7:18 p.m.
[redacted]	5:22 p.m.	[redacted]	6:30 p.m.
[redacted]	6:40 p.m.		
[redacted]	7:13 p.m.		
[redacted]	7:43 p.m.		
[redacted]	4:15 p.m.		
[redacted]	2:00 p.m.		
[redacted]	12:42 p.m.		
[redacted]	6:12 p.m.		
[redacted]	6:23 p.m.		
[redacted]	5:17 p.m.		
[redacted]	8:58 p.m.		

In addition to providing physical evidence to the investigators, Ms. A discussed her meetings with GEN Byrnes. She stated that she met GEN Byrnes while he was traveling and engaged in sexual intercourse in his or her hotel rooms. She said she went to GEN Byrnes' room at night, usually past 10:00 p.m. Ms. A said GEN Byrnes called her and told her his room

²⁸ [redacted]

²⁹ The [redacted] 2005, voice mail messages are the same messages Ms. A provided on [redacted] 2005.

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number, when to go to his room, and where his room was in relation to the elevator. She said GEN Byrnes left his door ajar and she entered the room without knocking. She testified she would leave GEN Byrnes' room very early, before 5:00 a.m., because his aide would be coming by in the morning.

Ms. A discussed one instance on [REDACTED] 2004, when GEN Byrnes was on a trip to the [REDACTED] and he told her that someone from his party was in the room directly across from his room.³⁰ She said GEN Byrnes was especially careful on that occasion, directing her to leave her clothes in the bathroom and requiring that she share with him a single glass from which to drink wine. She stated that in the morning she saw GEN Byrnes make the bed so that it looked as if only one person had slept in it.

Ms. A also discussed that GEN Byrnes visited her in her hotel rooms when she was at [REDACTED]. She stated she called GEN Byrnes and told him her hotel and room number, the type of rental car she was driving, and where the rental car was parked. Ms. A said she did not lock the rental car and left a room key card in the car. She said GEN Byrnes got the room key card from her rental car and went directly up to her room. Ms. A provided us with a room key card which she said might contain GEN Byrnes' fingerprints. Ms. A stated GEN Byrnes always wore a baseball cap when he came to visit her in her hotel room.³¹ She also said that when she and GEN Byrnes ate while they were together the two of them usually had pizza. She said GEN Byrnes often brought red wine to her hotel room which he said he received as gifts.

Ms. A related an instance on [REDACTED] 2004, when GEN Byrnes visited her in her hotel in [REDACTED] and [REDACTED].³² She said that she and GEN Byrnes had spoken previously about [REDACTED]. Ms. A asserted [REDACTED]

Ms. A provided us with a copy of 2004 and 2005 [REDACTED] calendars. She alleged the calendars reflected GEN Byrnes' schedule and were prepared so that she and GEN Byrnes could plan when to meet. Ms. A stated that sometimes GEN Byrnes reviewed his official calendar with

³⁰ GEN Byrnes' former aide-de-camp recalled that GEN Byrnes' and his rooms were on the same floor. The aide could not recall where his room was located in relation to GEN Byrnes' room.

³¹ Ms. A stated GEN Byrnes had many different baseball caps but often wore one which was white or beige.

³² [REDACTED]

³³ [REDACTED]

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her while she and GEN Byrnes were in bed together. She claimed the official calendars were on legal size paper, landscape oriented, and color coded. She added that other times GEN Byrnes would give her his schedule when she and GEN Byrnes spoke by telephone. Ms. A's calendars listed dates and locations of GEN Byrnes' official and personal travel, to include GEN Byrnes' leave. GEN Byrnes' official travel included both overseas and domestic locations. The calendars also noted when GEN Byrnes entertained or dined at his quarters with members of Congress or their staffs, foreign officials, U.S. Army general officers, and his personal acquaintances in the entertainment and sports industries. Ms. A commented that the calendars were prepared looking out to the future and occasionally GEN Byrnes' schedule changed; however, those changes were not noted in the calendars she kept.

We reviewed GEN Byrnes' official daily and monthly calendars for 2004 and 2005. We noted that the monthly calendars were printed on over sized paper, were landscape oriented, and were color coded. Based on our review of the calendars, we concluded GEN Byrnes, in fact, shared details of his calendars with Ms. A in advance of the events' occurrence.

Regarding whether GEN Byrnes had provided Ms. A with his official calendar, we noted that when Ms. A first made contact with us on [REDACTED] 2005, she stated that GEN Byrnes was then in [REDACTED] and was returning the next day. Testimony and GEN Byrnes' official calendar confirmed this information was accurate.

Further, the calendars Ms. A provided us reflected that GEN Byrnes was to travel to [REDACTED] on [REDACTED] on [REDACTED] on [REDACTED] on [REDACTED] and [REDACTED] on [REDACTED] 2004. Testimony confirmed GEN Byrnes traveled to [REDACTED] on these dates, but did not travel to [REDACTED]. However, GEN Byrnes' aide-de-camp stated that in [REDACTED] 2004 GEN Byrnes expressed a desire to travel to either [REDACTED] prior to his arrival in [REDACTED] and plans had been made for this travel. The aide-de-camp also expressed surprise and concern that we had a calendar that listed the locations of GEN Byrnes' overseas travel because this information was "close hold" for Operations Security purposes. The aide-de-camp stated that if a member of GEN Byrnes' staff had provided information to someone without a need to know prior to his travel to a combat zone, "They would probably be moved [out of their position] at a minimum." He also pointed out that GEN Byrnes official calendars often times did not include the locations of his overseas travel for security reasons.³⁴

The calendar Ms. A provided also listed GEN Byrnes as being on leave in [REDACTED] from [REDACTED] 2005, with the notations "[REDACTED]" and "[REDACTED]" to [REDACTED]. A member of GEN Byrnes' staff confirmed that on those days he was on leave in [REDACTED] skiing with [REDACTED]. The staff member also testified GEN Byrnes stayed at his condominium and his [REDACTED] was [REDACTED]. Further, the staff member believed GEN Byrnes' friend, [REDACTED] from [REDACTED] visited GEN Byrnes for some period during that time.

³⁴ GEN Byrnes' official calendar blanked out his location when he traveled to [REDACTED] 2004 and listed his location as "OCONUS" during his trip to [REDACTED] 2005.

Ms. A also alleged that GEN Byrnes talked about having friends in the entertainment field with whom he liked to spend time. She mentioned [REDACTED] and possibly [REDACTED]. Ms. A stated that GEN Byrnes told her that he took [REDACTED] an actress from the television show [REDACTED] and [REDACTED] a personal friend of GEN Byrnes', to the [REDACTED] 2004. She said GEN Byrnes showed her pictures of [REDACTED] in a helicopter. A member of GEN Byrnes' staff confirmed that GEN Byrnes was friendly with [REDACTED] and had arranged for a trip for [REDACTED].

Ms. A also provided numerous factual details that we were able to corroborate. Some of the details included:

- GEN Byrnes' [REDACTED]
- GEN Byrnes sold real estate he owned in [REDACTED]
- GEN Byrnes' friend [REDACTED]
- GEN Byrnes [REDACTED] 2003.
- GEN Byrnes often ate pizza.
- GEN Byrnes' father was a policeman and died about 2 years ago.
- GEN Byrnes had a [REDACTED] who lived in [REDACTED]

On [REDACTED] 2005, Ms. A contacted us by telephone. She followed up this call with a facsimile containing a chronology of additional dates on which she alleged to have met with GEN Byrnes and engaged in sexual intercourse with him. In this chronology Ms. A alleged she met and engaged in sexual intercourse with GEN Byrnes on [REDACTED] 2004, [REDACTED] and [REDACTED] 2005.³⁸ In this chronology Ms. A alleged:

- On [REDACTED] 2004, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. GEN Byrnes departed her [REDACTED]

³⁵ [REDACTED]

³⁶ [REDACTED]

³⁷ A witness testified that [REDACTED]

³⁸ Ms. A had previously alleged staying with GEN Byrnes on [REDACTED] 2005

b6, b7C, b7D

room at about 6:00 a.m. on [REDACTED] 2004. Later that day GEN Byrnes had his

- On [REDACTED] 2005, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her.
- On [REDACTED] 2005, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her.
- On [REDACTED] 2005, GEN Byrnes was in [REDACTED] attending the [REDACTED] GEN Byrnes had pizza delivered to his room and she [REDACTED] GEN Byrnes engaged in sexual intercourse with her.
- On [REDACTED] 2005, GEN Byrnes met Ms. A in her hotel room in [REDACTED] where he engaged in sexual intercourse with her. Ms. A had [REDACTED] Ms. A claimed GEN Byrnes' birthday is [REDACTED]

Finally, on [REDACTED] 2005, GEN Cody issued a second order to GEN Byrnes to cease all contact with Ms. A. Specifically, the no contact order directed GEN Byrnes

[N]ot to initiate any contact or communication with any woman (other than your wife) with whom you have had sexual, intimate, or close personal contact from on or about [REDACTED] 2005 to the present. In particular, this includes any woman with whom you may have had such contact at the [REDACTED]

Additionally, GEN Cody ordered GEN Byrnes to recuse himself from

[T]aking any actions under the UCMJ; participating in any adverse administrative or adverse personnel actions (military or civilian); or directing, appointing, or approving any investigations of misconduct until further notice.

³⁹ GEN Byrnes' official calendar confirmed the [REDACTED] was held on [REDACTED] 2004.

⁴⁰ We confirmed GEN Byrnes was born on [REDACTED]

Discussion

We concluded that GEN Byrnes had an adulterous relationship with Ms. A during the period of [REDACTED] 2003 to [REDACTED] 2005. This conduct could be characterized as constituting a violation of UCMI, Article 134, "Adultery."

In reaching our conclusion we determined Ms. A was a credible witness. In addition to her demeanor during interviews and telephone contacts with us, we were able to corroborate facts that convinced us of her veracity. Significantly, she provided us with date stamped voice mail messages of GEN Byrnes' that were from her cell phone. The voice on these voice mail messages was identified by GEN Cody as belonging to GEN Byrnes. We also viewed the log of received and missed calls from GEN Byrnes on Ms. A's cell phone. For the period of [REDACTED] through [REDACTED] 2005, he made 18 calls to Ms. A.

We reviewed GEN Byrnes' travel records for the dates Ms. A alleged to have met him. In the chronology Ms. A sent us on [REDACTED] 2005, she listed 14 dates on which she asserted she met GEN Byrnes in her hotel room and engaged in sexual intercourse. She listed seven dates on which she claimed to have met GEN Byrnes in his Government-funded hotel room and had sexual intercourse while GEN Byrnes was on official travel. We reviewed GEN Byrnes' travel vouchers and confirmed that for each of the seven dates she stated that he was on official travel she was correct. For five dates Ms. A supplied the room numbers of the hotel rooms she claimed GEN Byrnes occupied. We confirmed that GEN Byrnes occupied the rooms that Ms. A said he did for four of those dates.⁴¹ Significantly, Ms. A accurately identified the room in which GEN Byrnes stayed, and in which she said GEN Byrnes engaged in sexual intercourse with her, during the [REDACTED] in [REDACTED] 2005 which was after GEN Schoemaker issued his no contact order to GEN Byrnes. Ms. A informed us that GEN Byrnes [REDACTED] and this was confirmed by GEN Byrnes' [REDACTED]

We also determined that the timing of visits as described by Ms. A (arriving at GEN Byrnes' hotel room after 10:00 p.m. and departing the next morning by 5:00 a.m.) explained how the relationship escaped notice by others in his party. Ms. A also provided us with [REDACTED] provided by GEN Byrnes. We consider Ms. A's providing these articles as reflecting positively on her credibility. Notably, with one minor exception -- a calendar entry about where GEN Byrnes was to spend [REDACTED] 2004 -- we were unable to refute or contradict any information Ms. A provided to us.⁴²

Additionally, two members of GEN Byrnes' staff reviewed the copy of a page from Ms. A's notebook which she stated GEN Byrnes wrote and contained his weightlifting routine as

⁴¹ We were unable to determine what room GEN Byrnes occupied on one trip because the hotel receipts were not retained with GEN Byrnes' travel voucher.

⁴² Ms. A's calendar reflecting GEN Byrnes' schedule indicated he was to spend [REDACTED] with GEN and Mrs. Cody at their home. GEN Cody told us that GEN Byrnes did not spend [REDACTED] at his home, but GEN Byrnes did spend the night sometime prior to [REDACTED] when he was in town for a meeting related to the United Service Organizations.

well as a telephone number written on the back of GEN Byrnes' business card. Both witnesses identified, with 70 percent certainty, the handwriting as belonging to GEN Byrnes.

With regard to the first two elements of the offense of adultery, Ms. A asserted she had engaged in sexual intercourse with GEN Byrnes and that she is married. We noted she was wearing a wedding band when we interviewed her. A Department of Defense Employee Interactive Data System report, dated April 18, 2005, confirmed GEN Byrnes had a spouse,

Regarding the final element of the offense of adultery, to constitute an offense under Article 134, the adulterous conduct must either be directly prejudicial to good order and discipline or Service discrediting. We concluded that GEN Byrnes' adulterous conduct with Ms. A was directly prejudicial to good order and discipline because it was clearly detrimental to his authority, stature, and the respect due him as an Army general officer. In that regard we concluded:

- GEN Byrnes was married at the time and a general serving in a position of significant authority as Commanding General, TRADOC;
- Ms. A was married;
- GEN Byrnes engaged in sexual intercourse with Ms. A in his Government-funded hotel rooms while on official travel on seven occasions;
- GEN Byrnes was ordered by GEN Schoomaker on [REDACTED] 2005, to cease contact with the woman with whom he was alleged to have engaged in an adulterous relationship. Yet, GEN Byrnes engaged in sexual intercourse with Ms. A on [REDACTED] 2005;
- GEN Byrnes' adulterous relationship was ongoing and recent, spanning [REDACTED] 2003 through [REDACTED] 2005;
- GEN Byrnes' conduct was inconsistent with his responsibility as Commanding General, TRADOC, to train and educate, develop Army leaders, and establish standards, and involved a failure to obey the lawful order of GEN Schoomaker. GEN Byrnes' conduct was disreputable and of a nature to lower the Army in public esteem; and
- GEN Byrnes was ordered by GEN Cody on [REDACTED] 2005, to recuse himself from UCMJ actions, adverse administrative and personnel actions (military and civilian), and involvement in misconduct investigations. As such, GEN Byrnes' adulterous relationship had a direct and deleterious impact on his ability to perform his duties in support of the Armed Forces.

b7c, b7d

GEN Byrnes' Response

GEN Byrnes did not comment to our conclusion regarding this allegation. Accordingly, we stand by our conclusion that GEN Byrnes had an adulterous relationship with Ms. A, a married woman.

B. Did GEN Byrnes willfully disobey the command of GEN Schoomaker to cease contact with the woman with whom he was alleged to have engaged in an adulterous relationship?

Standards**UCMJ, Article 90, "Willfully disobeying superior commissioned officer"**

The elements of the offense are:

- that the Service member received a lawful command from a certain commissioned officer,
- that this officer was the superior commissioned officer of the Service member,
- that the Service member knew that this officer was the Service member's superior commissioned officer, and
- that the Service member willfully disobeyed the lawful command.

Facts

In evaluating GEN Byrnes' conduct in light of the cited standard, we reiterate evidence set forth above.

Discussion

We concluded that GEN Byrnes willfully disobeyed GEN Schoomaker, a superior commissioned officer, by contacting Ms. A after being ordered to cease contact with the woman with whom GEN Byrnes was alleged to have engaged in an adulterous relationship. This conduct could be characterized as constituting a violation of UCMJ, Article 90, "Willfully disobeying superior commissioned officer." Regarding the first element of the offense, Article 90 of the UCMJ requires that a member receive a lawful command. The explanation of the offense in the Manual for Courts-Martial provides that for a command or order to be lawful it must relate to a military duty. A military duty includes "all activities reasonably necessary to . . . promote the morale, discipline, and usefulness of members of a command and directly connected with the maintenance of good order in the service."

In the instant case, on [REDACTED] 2005, GEN Schoomaker ordered GEN Byrnes to refrain from contacting the woman with whom he was alleged to be engaging in an adulterous

relationship (an offense under the UCMJ) and who had complained of his contacting her. It is foreseeable that GEN Byrnes' continued contact with Ms. A to advance his adulterous relationship would negatively impact discipline and maintenance of good order. Accordingly, we concluded the order was lawful.

Regarding the remaining elements of the offense, GEN Schoomaker is the senior officer in the U.S. Army and we assumed GEN Byrnes knew this to be the case.⁴³ Finally, Ms. A provided significant evidence that established that GEN Byrnes violated GEN Schoomaker's order. There were three date stamped voice mail messages that GEN Byrnes left on her cell phone in [REDACTED] 2005. Ms. A's phone log showed GEN Byrnes made 18 calls to her between [REDACTED] 2005. Additionally, Ms. A stated she engaged in sexual intercourse with GEN Byrnes on four occasions after [REDACTED] 2005.

GEN Byrnes' Response

GEN Byrnes did not comment to our conclusion regarding this allegation. Accordingly, we stand by our conclusion that GEN Byrnes willfully disobeyed the command of GEN Schoomaker to cease contact with the woman with whom he was alleged to have engaged in an adulterous relationship.

C. [REDACTED]

Standards

[REDACTED]

⁴³ GEN Schoomaker is the senior officer in the Army by virtue of both his position (Title 10, United States Code, Sections 3031 and 3033) and date of rank.

[REDACTED]

Facts

[REDACTED]

Discussion

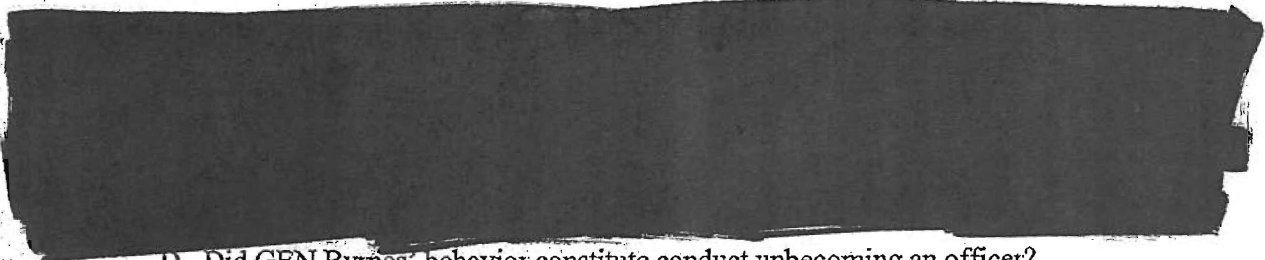
[REDACTED]

GEN Bynes' Response

[REDACTED]

[REDACTED]

b7C



D. Did GEN Byrnes' behavior constitute conduct unbecoming an officer?

Standards

Uniform Code of Military Justice, Article 133, "Conduct unbecoming an officer and a gentleman"

The elements of the offense are:

- the accused did or omitted to do certain acts; and that,
- under the circumstances, these acts or omissions constituted conduct unbecoming an officer and gentleman.

Regarding this offense, the Manual for Courts-martial (MCM) states:

Conduct in violation of this article is action or behavior in an official capacity which, in dishonoring or disgracing the person as an officer, seriously compromises the officer's character as a gentleman, or action or behavior in an unofficial or private capacity which, in dishonoring or disgracing the officer personally, seriously compromises the person's standing as an officer.

Examples of offenses provided in the MCM include indecency, indecorum, committing or attempting to commit a crime involving moral turpitude, and being drunk and disorderly in a public place. The MCM further explains:

Not everyone is or can be expected to meet unrealistically high moral standards, but there is a limit of tolerance based on customs of the service and military necessity below which the personal standards of an officer . . . cannot fall without seriously compromising the person's standing as an officer . . . or the person's character as a gentleman. This article prohibits conduct by a commissioned officer . . . which, taking all the circumstances into consideration, is thus compromising.

Army Regulation 600-100, "Army Leadership," dated September 17, 1993

This regulation sets forth general leadership responsibilities applicable to all general officers and senior civilians in the Army. Of particular relevance in this case are the following

specific responsibilities assigned to senior Army leaders that appear in Section 2.1 a. of the regulation:

- setting and exemplifying the highest professional and ethical standards, and
- building discipline, while stimulating confidence, enthusiasm, and trust.

In addition, Section 2.1 b. of the Regulation states that general officers at the strategic levels of the Army are responsible for "... strengthening the Army's values through their own behaviors." Section 1.8 of the Regulation identifies "duty" and "integrity" as two of the four essential values of the Army's professional ethic. "Duty" is defined as the "legal and moral obligation to do what should be done without being told." "Integrity" is defined in terms of "honesty, uprightness, the avoidance of deception and steadfast adherence to standards of behavior."

Title 10, United States Code, Section 3583, "Requirement of exemplary conduct"

This statute requires all commanding officers and others in authority in the Army to:

- show in themselves a good example of virtue, honor, patriotism, and subordination;
- be vigilant in inspecting the conduct of all persons who are placed under their command;
- guard against and suppress all dissolute and immoral practices, and to correct, according to laws and regulations of the Army, all persons who are guilty of them; and
- take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

Facts

In evaluating GEN Byrnes' conduct in light of the cited standards, we reiterate evidence set forth above.

Discussion

We concluded that GEN Byrnes' adulterous relationship with Ms. A and his willful disobedience of GEN Schoomaker's order seriously compromised his standing as an officer and, therefore, could be characterized as "conduct unbecoming" in violation of Article 133, UCMJ. Additionally, GEN Byrnes' conduct failed to meet the "highest professional and ethical standards" and lacked integrity ("honesty, uprightness, the avoidance of deception and steadfast

adherence to standards of behavior”), thereby violating requirements imposed on Army leaders by Army Regulation 600-100.

Further, we concluded that as a general officer in authority in the Army, GEN Byrnes improperly failed to show in himself a good example of virtue, honor, patriotism, and subordination by failing to guard against and suppress all dissolute and immoral practices. Specifically, GEN Byrnes failed to guard against and suppress his own adulterous relationship in violation of his statutory duty to take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, physical well being, and general welfare of the officers and enlisted persons under his command or charge. Such conduct violated Title 10, United States Code, Section 3583.

GEN Byrnes’ Response

GEN Byrnes did not comment to our conclusion regarding this allegation. Accordingly, we stand by our conclusion that GEN Byrnes’ behavior constituted conduct unbecoming an officer.

E. Did GEN Byrnes fail to use the Government travel card for expenses arising from official Government travel?

Standards

DoD 7000.14-R, “DoD Financial Management Regulations (FMRs)”

Volume 9, Chapter 3, Paragraph 0303, “MANDATORY USE OF THE TRAVEL CARD,” states, “All DoD personnel are required to use the government-sponsored, contractor-issued travel card for all expenses arising from official government travel.”^{45 46}

Volume 9, Chapter 3, Subparagraph 030104, “Compliance,” states, “It is the responsibility of commanders and supervisors at all levels to ensure compliance with this regulation.”⁴⁷

Department of the Army, Office of the Assistant Secretary, Financial Management and Comptroller, “Final Army Guidance on Implementation of the Travel and Transportation Reform Act (TTRA) of 1998,” Memorandum, dated, April 27, 2000

This memorandum provides,

⁴⁵ FMR, Volume 9, Chapter 3, provided that the Government-sponsored, contractor issued travel card shall be used by all DoD personnel to pay for costs incident to official business travel since July 1998.

⁴⁶ While subparagraph 030302 provides exemptions from the requirement that all DoD personnel use the Government travel card, none are applicable in this instance.

⁴⁷ This subparagraph was added on March 1, 2005.

Use of the Travel Card: Section 2(a) of TTRA requires all Federal employees to use the government travel charge card for all payments of expenses for official travel Commanders will ensure that all personnel use the government-sponsored, contractor-issued travel card for all expenses arising from official government travel.

TRADOC Regulation 37-3, "Government Travel Card Program," dated December 22, 2004

Chapter 3, paragraph 3-1 a, "Program management," provides,

The Travel and Transportation Reform Act of 1998 (Public Law 105-264) stipulates that all U.S. Government personnel (civilian and military) will use the government-sponsored, contractor-issued travel card to pay costs incident to official business travel. Unless otherwise exempted, all Department of Defense (DoD) personnel are required to use the government-sponsored travel charge card for authorized TDY [temporary duty] expenses only.

Facts

Witness testimony and GEN Byrnes' travel vouchers established that GEN Byrnes used his personal credit card to pay for hotel rooms while traveling on official duty. We noted that for each travel voucher referenced above GEN Byrnes did not use the Government travel card. Rather, GEN Byrnes used his personal credit card.⁴⁸

In light of the addition of Subparagraph 030104, "Compliance," to the FMRs on March 1, 2005, we also reviewed copies of GEN Byrnes' travel vouchers for official travel on [REDACTED] through [REDACTED].

Each of these vouchers confirmed that GEN Byrnes used his personal credit card for costs incurred in his official travel. GEN Byrnes' current aide-de-camp testified that when he assumed his current duties GEN Byrnes informed him that GEN Byrnes did not use the Government travel card because GEN Byrnes had had problems with it at some time in the past. The aide-de-camp also testified that based upon GEN Byrnes' use of his personal credit card, he too, used his personal credit card for expenses incurred in official travel, including the dates after March 1, 2005, listed immediately above.

Discussion

We concluded that GEN Byrnes failure to use the Government travel card for expenses incurred while on official travel violated the FMRs and the Army Guidance. Further,

⁴⁸ We noted that in preparing GEN Byrnes' travel vouchers his failure to use the Government travel card was flagged and then justified as "prefers to use personal card." However, we reviewed a memorandum prepared by GEN Byrnes' aide-de-camp, and submitted by GEN Byrnes along with his response to our initial conclusions, stating GEN Byrnes' travel vouchers were prepared by members of GEN Byrnes' staff and that he was not aware that his failure to use the Government travel card had been flagged and justified

GEN Byrnes' failure to ensure that his subordinates used the Government travel card for expenses incurred after [REDACTED] 2005, while on official travel also violated Subparagraph 030104 of the FMRs. Finally, GEN Byrnes' failure to use his Government travel card for expenses incurred after [REDACTED] 2004, violated TRADOC Regulation 37-3.

GEN Byrnes' Response

In his response, GEN Byrnes asserted that prior to May 2005, when his aide-de-camp raised the issue of mandatory use the Government travel card with him, this requirement had not been brought to his attention. In support of this assertion GEN Byrnes attached a memorandum from the aide-de-camp, in which the aide-de-camp stated he was not aware of the requirement to use the Government travel prior to May 2005 and that upon learning of the requirement he briefed GEN Byrnes. The aide-de-camp also added that though GEN Byrnes' travel vouchers had been audited in the last year, failure to use the Government travel card was never brought to his or GEN Byrnes' attention.

We stand by our conclusion. We are satisfied that GEN Byrnes was adequately advised of the requirement to use the Government travel card for expenses arising from official Government travel and therefore, knew, or should have known, of this requirement. Specifically, the FMRs have had such a requirement since 1998, the Department of the Army provided clear guidance of the requirement in April 2000, and TRADOC had a regulatory requirement since December 22, 2004.

V. CONCLUSIONS

A. GEN Byrnes had an adulterous relationship with Ms. A, a married woman. As such, GEN Byrnes' conduct could be characterized as constituting a violation of UCMJ, Article 134, "Adultery."

B. GEN Byrnes willfully disobeyed the command of GEN Schoomaker to cease contact with the woman with whom he was alleged to have engaged in an adulterous relationship. As such, GEN Byrnes' conduct could be characterized as constituting a violation of UCMJ, Article 90, "Willfully disobeying superior commissioned officer."

C. [REDACTED]

D. GEN Byrnes' behavior constituted conduct unbecoming an officer. As such, GEN Byrnes' conduct could be characterized as constituting a violation of UCMJ, Article 133, "Conduct unbecoming an officer and gentleman," and violated Army Regulation 600-100, "Army Leadership," and Title 10, United States Code, Section 3583, "Requirement of exemplary conduct."

E. GEN Byrnes failed to use the Government travel card for expenses arising from official Government travel. As such, GEN Byrnes' conduct violated DoD 7000.14-R,

“DoD Financial Management Regulations (FMRs)” and TRADOC Regulation 37-3,
“Government Travel Card Program.”

VI. RECOMMENDATIONS

We recommend that the Secretary of the Army consider appropriate corrective action with respect to GEN Byrnes.