

FOR OFFICIAL USE ONLY
~~Sensitive Material~~



The Inspector General
of the Air Force

Report of Investigation (S8180P)

Brig Gen (Ret.) Juan J. Medina-Lamela

August 2015

DO NOT OPEN COVER WITHOUT A NEED TO KNOW--
PROTECTED COMMUNICATION TO IG

~~Sensitive Material~~
FOR OFFICIAL USE ONLY

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

TABLE OF CONTENTS

	Page
I. Introduction.....	1
II. Scope and Authority.....	2
III. Background.....	3
IV. Allegations, Standards, Analysis and Conclusions	
Allegation 1.....	3
Allegation 2.....	8
V. Summary.....	12
List of Exhibits.....	13

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

REPORT OF INVESTIGATION (Case S8180P)

CONCERNING

BRIGADIER GENERAL (Ret.) JUAN J. MEDINA-LAMELA¹

PREPARED BY

August 2015

I. INTRODUCTION

This investigation was directed in response to a referral from the Department of Army Inspector General's (DAIG) office forwarded to the Secretary of the Air Force Inspector General, Senior Official Inquiries (SAF/IGS) for action on 20 Feb 15. During the course of their investigation against senior officials in the Puerto Rico National Guard (PRNG), DAIG uncovered a potential issue that Brig Gen Medina may have improperly selected [REDACTED] [REDACTED] for an Active Guard Reserve (AGR) position over three better-qualified applicants, in violation of National Guard Regulation (NGR) Army Regulation (AR) 600-5, *The AGR Program Title 32, Full-Time National Guard Duty (FTNGD)*, 20 Feb 90, Chapter 2, paragraph 2.5h. (Ex 1:4; 3:11-12)

The following individuals were interviewed:

- [REDACTED], witness, [REDACTED] PRNG [REDACTED] San Juan PR. (Ex 4)
- [REDACTED], witness, [REDACTED], PRNG, San Juan PR. [REDACTED] served as the [REDACTED] [REDACTED] and [REDACTED]. (Ex 8)
- Brig Gen (Ret.) Juan J. Medina-Lamela, former Adjutant General, PRNG, San Juan PR. (Ex 9)

The IO had a telephone conversation with [REDACTED] [REDACTED] in the PRNG- [REDACTED] (Ex 5:2) The IO corresponded via email with [REDACTED] [REDACTED] of [REDACTED], PRNG-HRO. (Ex 5:3-7) The IO

¹ Brig Gen Medina was promoted to the rank of O-7 in the PRANG without federal recognition. He retired as a Colonel. For the purpose of brevity we will refer to him as Brig Gen Medina throughout this report. (Ex 2:4)

² For the purpose of brevity we will refer to him as [REDACTED] throughout this report.

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

corresponded via email with [REDACTED] and with [REDACTED] with the NGB/ARNG Human Resource Office (ARNG/HRH). (Ex 3:1-5) The IO also corresponded with [REDACTED] PRNG-HRO. (Ex 10)

At no time prior to or during the subject interview did the IO suspect that Brig Gen Medina committed an offense under the UCMJ. Therefore, the IO treated him as a subject, not a suspect, and he was not provided a rights advisement.

II. SCOPE AND AUTHORITY

The Secretary of the Air Force has sole responsibility for the function of The Inspector General of the Air Force.³ When directed by the Secretary of the Air Force or the Chief of Staff of the Air Force, The Inspector General has the authority to inquire into and report on the discipline, efficiency, and economy of the Air Force and perform any other duties prescribed by the Secretary or the Chief of Staff.⁴ The Inspector General must cooperate fully with The Inspector General of the Department of Defense.⁵ Pursuant to Air Force Instruction (AFI) 90-301, *Inspector General Complaints Resolution*, 23 Aug 11, paragraph 1.13.4, The Inspector General has oversight authority over all IG investigations conducted at the level of the Secretary of the Air Force. (Ex11:2)

Pursuant to AFI 90-301, paragraph 1.13.3.1, the Director, Senior Official Inquiries Directorate (SAF/IGS), is responsible for performing special investigations directed by the Secretary, the Chief of Staff, or The Inspector General and all investigations of senior officials. AFI 90-301 defines senior official as any active or retired Regular Air Force, Air Force Reserve, or Air National Guard military officer in grades O-7 (brigadier general) select and above, and Air National Guard Colonels with a Certificate of Eligibility (COE). Current or former members of the Senior Executive Service (SES) or equivalent and current and former Air Force civilian Presidential appointees are also considered senior officials. (Ex 11:2)

One of several missions of The Inspector General of the Air Force is to maintain a credible inspector general system by ensuring the existence of responsive complaint investigations characterized by objectivity, integrity, and impartiality. The Inspector General ensures the concerns of all complainants and subjects, along with the best interests of the Air Force, are addressed through objective fact-finding.

On 28 May 15, The Inspector General approved a recommendation that SAF/IGS conduct an investigation into allegations of misconduct by Brig Gen Medina. The case was assigned to

³ Title 10, United States Code, Section 8014

⁴ These authorities are outlined in Title 10, United States Code, Section 8020

⁵ Title 10, United States Code, Section 8020(d)

[REDACTED] who holds a SAF/IG appointment letter dated 14 Aug 2014, and the investigation started on 29 May 15.

III. BACKGROUND

Brig Gen Juan J. Medina initially retired from the PRANG as a Colonel in Dec 12, but was nominated as The Adjutant General of Puerto Rico National Guard (TAG-PRNG) on 2 Jan 13 and came out of retirement. (Ex 2:1) He served as TAG-PRNG from Jan 13 – Oct 14. (Ex 2:1-3) He retired again from the PRNG effective 10 Oct 14. (Ex 2:4) Brig Gen Medina is the subject in this case.

IV. ALLEGATIONS, FINDINGS, STANDARDS, ANALYSIS AND CONCLUSIONS

ALLEGATION 1. That on or about 26 September 2013, Brig Gen Juan J. Medina-Lamela violated Army National Guard Regulation 600-5, *The Active Guard/Reserve (AGR) Program Title 32, Full-Time National Guard Duty (FTNGD)*, dated 2 Feb 90, by failing to select the applicant found best qualified by the selection board to fill vacancy announcement [REDACTED] with the HHD 292nd CSB MEB, Fort Allen, Juana Diaz, Puerto Rico.

STANDARDS.

NGR (AR) 600-5, *AGR Program Title 32, FTNGD*, 20 Feb 90, Chapter 2, is applicable to this issue. It states, in pertinent part:

2-5. Selection boards

The purpose of convening a selection board is to create a nonpartisan panel to fairly and thoroughly examine applicant's credentials irrespective of race, color, religion, gender, or national origin. The selection board is required to determine the "best qualified" applicant for an AGR authorized vacancy when AGR soldiers are not available within the AGR force. In addition to the provisions of AR 135-18 paragraph 2-7 the following requirements apply:

- a. The Adjutant General or a member of his primary staff (as defined in this regulation) will direct the appointing of the selection board at the O6 (Colonel) or higher command level, commensurate with the positions being boarded, provide administrative guidance to the board president, and approve or disapprove the proceedings of the board.
- ...
- g. The selection board will select the best qualified soldier to fill each vacant authorized AGR position.

3

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

- h. The selection board will provide the Adjutant General with an order of merit listing (OML) ranking those soldiers found best qualified from the highest to the lowest. This OML will be used to select an applicant if the best qualified soldier becomes disqualified. If used, the OML is limited to five soldiers.

3-1. Career management

The SPMO will develop and Career Management Program AGR soldiers that includes lowing (sic) provisions:

- b. Adjutants General have the option of filling vacant AGR requirements by selecting the best qualified assigned AGR soldier, the best qualified member of the FTS program, or the best qualified member of the Army National Guard.
- e. Vacant, authorized AGR positions not selected for career management fill will be advertised. Selection procedures in paragraph 2-5 will be followed. (Ex 3:11-13)

ANALYSIS.

The PRNG selection board convened on 24 Sep 13 to review applicants for AGR Vacancy Announcement [REDACTED] HHD 292nd CSB, Fort Allen Juana Diaz, PR. (Ex 1:7) The board reviewed 15 applicants for the VA and rank ordered them on an OML. (Ex 1:10) Based on the OML, the number one or "best qualified" applicant was determined by the board to be [REDACTED] was ranked [REDACTED] by the board. (Ex 1:10)

According to [REDACTED], who served as the [REDACTED] for this particular AGR VA selection, the applicants were rank ordered based upon board scores given by the board members. (Ex 4:6) [REDACTED] testified that the board was held IAW NGR (AR) 600-5, and [REDACTED] believed the board members made a fair and accurate assessment of the candidates when rank ordering them. (Ex 4:6-7) Once the board was complete, the board package and OML was prepared and all four board members signed the package. [REDACTED] also signed the OML as the board recorder. (Ex 1:7-10; Ex 4:7) The package was then taken to the [REDACTED], to gain TAG's approval. (Ex 4:7) When the package was returned to the HRO, the TAG had written [REDACTED] initials by the [REDACTED] candidate on the OML, [REDACTED], and the TAG had signed an endorsement indicating [REDACTED] approval. (Ex 1:10-11) According to [REDACTED], Brig Gen Medina's initials by [REDACTED]' name indicated that [REDACTED] was selected for the position. (Ex 4:7-8) [REDACTED] further testified that [REDACTED] brought it to the attention of [REDACTED] and [REDACTED], [REDACTED] that TAG's selection of the [REDACTED] better qualified candidates was in violation of NGR (AR) 600-5. (Ex 4:9) [REDACTED] stated in [REDACTED] testimony that [REDACTED] believed [REDACTED] spoke to TAG about the package and the fact

that the regulation states that the number one or "best qualified" applicant must be selected. (Ex 4:9) The IO contacted [REDACTED] by telephone on 28 Apr 15. [REDACTED] stated that [REDACTED] was the [REDACTED] for PRNG during the time frame of this hiring action, but denied any recollection of the specifics of this particular AGR hiring action. [REDACTED] said that [REDACTED] handled the Army AGR hiring action, while [REDACTED] focused more on the Air AGR hiring actions. (Ex 5:2) [REDACTED] did not recall having a discussion with Brig Gen Medina regarding this hiring action. (Ex 5:2) [REDACTED] also recalled that [REDACTED] took the package back to the [REDACTED], and asked that TAG approve the selection of the best qualified applicant. (Ex 4:10) The package was returned to the HRO with no change. [REDACTED] recalled that the response from [REDACTED] was that this was TAG's decision. (Ex 4:9-10) It is of note that although there is a place on the package for the [REDACTED] to coordinate, there are no initials for [REDACTED] on the package. (Ex 1:7)

[REDACTED] stated in [REDACTED] testimony that TAG was the approval authority for this AGR hiring action and that [REDACTED] believed it was not done properly because TAG did not select the best qualified soldier which was required by NGR (AR) 600-5. (Ex 4:8) When asked if the best qualified soldier had become disqualified or withdrew [REDACTED] application at any point, [REDACTED] responded, [REDACTED] (Ex 4:8-9)

The IO corresponded with [REDACTED], an [REDACTED] in the [REDACTED] [REDACTED] via email and asked if TAG had the authority to disapprove the proceedings of the board and select someone else listed on the OML. [REDACTED] response was, [REDACTED] is required to select the #1 soldier if the soldier [is] available; if not [REDACTED] would select #2." When asked if TAG's selection of the [REDACTED] soldier on the OML was in conflict with NGR (AR) 600-5, para 2g and 2h, [REDACTED] responded, [REDACTED] The IO then asked [REDACTED] if TAG disapproves the results of the board, does it have to be re-boarded or can [REDACTED] select from the OML? [REDACTED] response was that the TAG can disapprove the board results and re-board; however if TAG disapproves the board results, [REDACTED] is not authorized to select any soldiers from the discarded board. (Ex 3:4-5)

The IO interviewed [REDACTED] on 24 Jun 15. [REDACTED] served as the [REDACTED] [REDACTED] during the time of this AGR hiring action. (Ex 8:2) [REDACTED] did not (6) recall this particular hiring action, and stated that [REDACTED] did not coordinate on it when it came through the office because [REDACTED] initials were not on the package. (Ex 8:6&9) [REDACTED] was able to explain the typical process for these types of hiring actions when they come up to the TAG for approval. (Ex 8:4)

[REDACTED] ...[T]hose are pretty much, uh, standard operating procedure for the HRO office, uh, for, um, not only the, the AGR Selection Boards, but the Technicians, uh, select, selection. Uh, if, if the selection was, the TAG selection was other than what was recommended by either the supervisor in the case of the full time technician or the board in the case of AGR the TAG would initial next to the name of the person [REDACTED]

wanted to be selected for the position. So, uh, you know, in the case of the, the OML or the AGR Selection Boards you will see an initial next to the name, the, the name of the TAG wanted, the person to be selected for that position, and the, and the, the technician the full time technician, uh, in the selection package, uh, you will see the candidates that would interview for the position, you will see, uh, whether "S" or "NS" the super, um, the supervisor recommended select or not selection and you will see an initial next to the name to, to validate the, the initials of the TAG next to the name to validate whether the TAG concurred with the recommendations of the selecting official, uh, or if he wanted to change that selection, [REDACTED] would initial next to the name and it would be returned to the human resource office for final processing. In this case, um, being an AGR board the TAG would initial next to the, the name on the OML and we returned that to the HRO office...that was the, the process, uh, for selection.

IO: Okay.

[REDACTED]: But the TAG had the final word in other, in other words, the final word on the, on the selection of applicants for either AGR or Technician positions.

IO: Okay. So the, the Adjutant General, Gen Medina was the approval authority for this hiring action?

[REDACTED]: [REDACTED] (Ex 8:4)

IO: ... Did it happen often that he selected somebody other than who the, the, either the, the AGR board or the Technician hiring, uh, selection official selected or recommended?

[REDACTED]: ... you know the regulation requires that the, the AGR office to, to keep a copy of the record for 2 years so, but the, the, difference of the, uh, AGR selection process for that time period, um, we, we're talking dated all the way back to 2012, Fiscal Year 2012, um, with twenty-one AGR vacancies were, were announced during that fiscal year. Out of those, and, and I'm talking not specifically Gen Medina, I'm talking the process the regular AGR process, um, of the twenty-one positions that were announced in 2012, uh, ten of those were the number one candidate, uh, recommended by the, by the board was actually the person selected or 48 percent; uh, eleven of the, of the eleven positions were other people that were not number one. That was in 2012. In 2013, there were ten positions that were, uh, announced and, and, and selected as AGRs and out of those there was a fifty-fifty, uh, five candidates that were the number one were selected and five of the, of the candidates weren't or 50 percent. In 2014 a total of twenty-one positions, uh, were, were published and selected and out of those seventeen, no four were the number one and seventeen were the other, uh, candidates that were not number one. In the current fiscal year there's only been five positions and, and out of those five, five have been the number one, so...

6

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

IO: Okay.

██████████: ... that's, that's the trend for the past, you know, three years, for three years and the current year there have only been five positions and the five positions that have been published the number one candidate was selected, so it's pretty common to see the TAG, you know, make a selection, um, you know other than the candidate recommended by the board.⁶ (Ex 8:5)

██████████ further testified that ██████ believed the selection in this AGR hiring action was done IAW NGR (AR) 600-5. (Ex 8:10) When asked why ██████ thought that, ██████ responded that the TAG had the option of filling the position with the best qualified member from the OML that was provided. (Ex 8:10) It is noteworthy that as ██████ for the PRARNG ██████ was Brig Gen Medina's ██████.

It was clear based on Brig Gen Medina's testimony that he [Brig Gen Medina] believed that he had the option to select the individual he believed was best qualified off the OML, "But when we, in the Guard, when you go to decision making, it goes to TAG. If not, why send the position to the TAG if the decision would have been made by a Board? We see a lot of things that they're not maybe in the Reg. I wish it would be more specific, even though it's specific on that portion." (Ex 9:9) NGR AR600-5, para. 3-1 b. states, "Adjutants General have the option of filling vacant AGR requirements by selecting the best qualified assigned AGR soldier, the best qualified member of the Fulltime support (FTS) program, or the best qualified member of the Army National Guard." (Ex 3:13) However, this applies when the position is management directed, not when it is advertised. It is possible that Brig Gen Medina and ██████ misunderstood TAG's authority in AGR hiring selections, when they are advertised.

CONCLUSION.

Brig Gen Medina was the hiring authority for AGR VA 13-26, and he selected the ██████ candidate, ██████, in conflict with the guidance provided in NGR (AR) 600-5, para 2g and 2h. (Ex 3:12) When looking at this selection, the IO felt that it was important to consider the consistency of Brig Gen Medina's actions in similar hiring actions during the time frame. Based on the evidence, TAG-PRNG consistently selected someone other than the number one candidate in at least half the selections for FY12, FY13 and FY14. Despite ██████ assertions that someone told the ██████ and TAG that the selection was incorrect, the IO found no evidence or testimony that this occurred.

Based upon ██████ testimony, ██████ believed TAG had the authority to select someone other than the number one candidate listed on the OML. Brig Gen Medina also

⁶ The IO contacted ██████ ██████ in the HRO and confirmed the stats provided by ██████. (Ex 10)

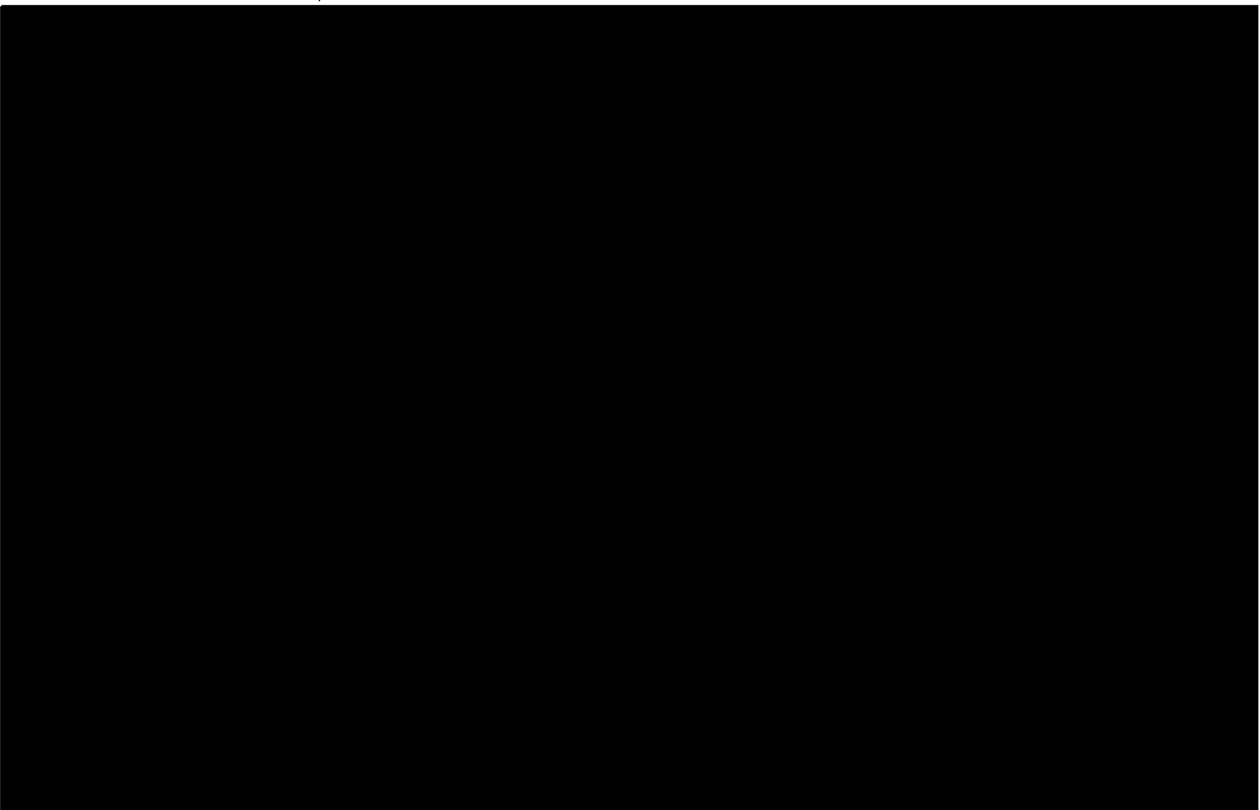
7

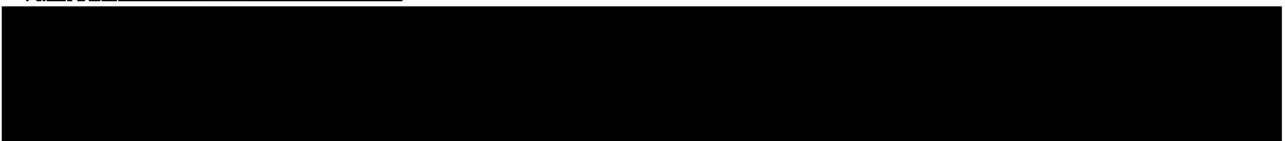
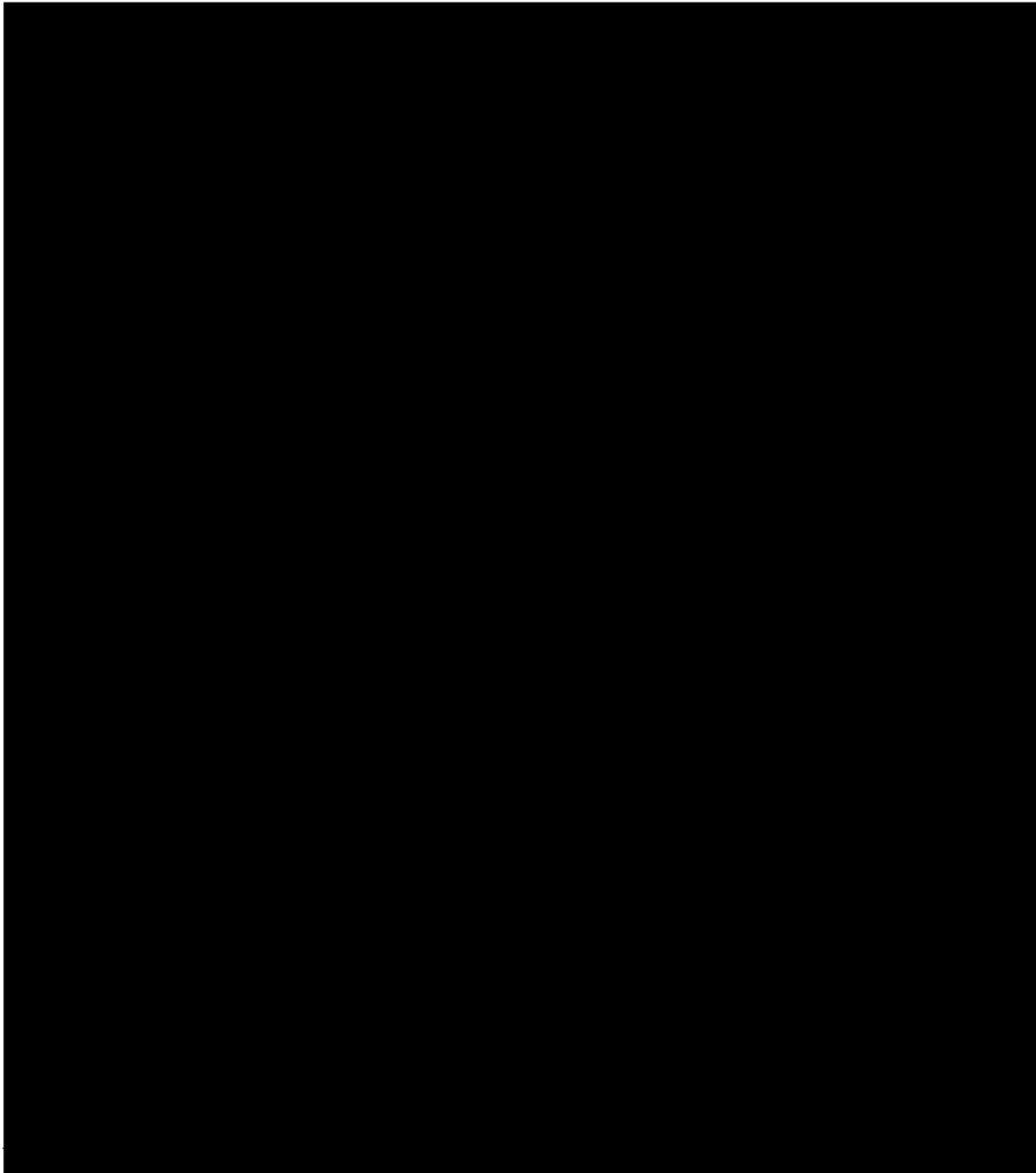
This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (S/F/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

believed he had this authority. Considering what NGR (AR) 600-5 states in para. 3-1 b. regarding TAG having the authority to select the best qualified member of the Army National Guard for management directed moves, it is possible that both Brig Gen Medina and [REDACTED] [REDACTED] misunderstood TAG's authority. The IO felt that based upon his consistent (6) behavior in hiring actions, it was reasonable that Brig Gen Medina may have incorrectly interpreted the meaning of the regulation. NGR (AR) 600-5 does not specifically state that the TAG must concur with the AGR Board's selection, and it is slightly ambiguous as to what the TAG is authorized and required to do with the selection. Although the IO found minimal evidence supporting willful or malicious wrongdoing on the part of Brig Gen Medina, this selection was definitely in violation of the regulation. It also calls to question the other AGR selections for FY12, FY13 and FY14 in which the number one ranked candidate was not selected by TAG. A collateral issue letter to NGB recommending a review the AGR hiring actions for PRARNG is warranted.

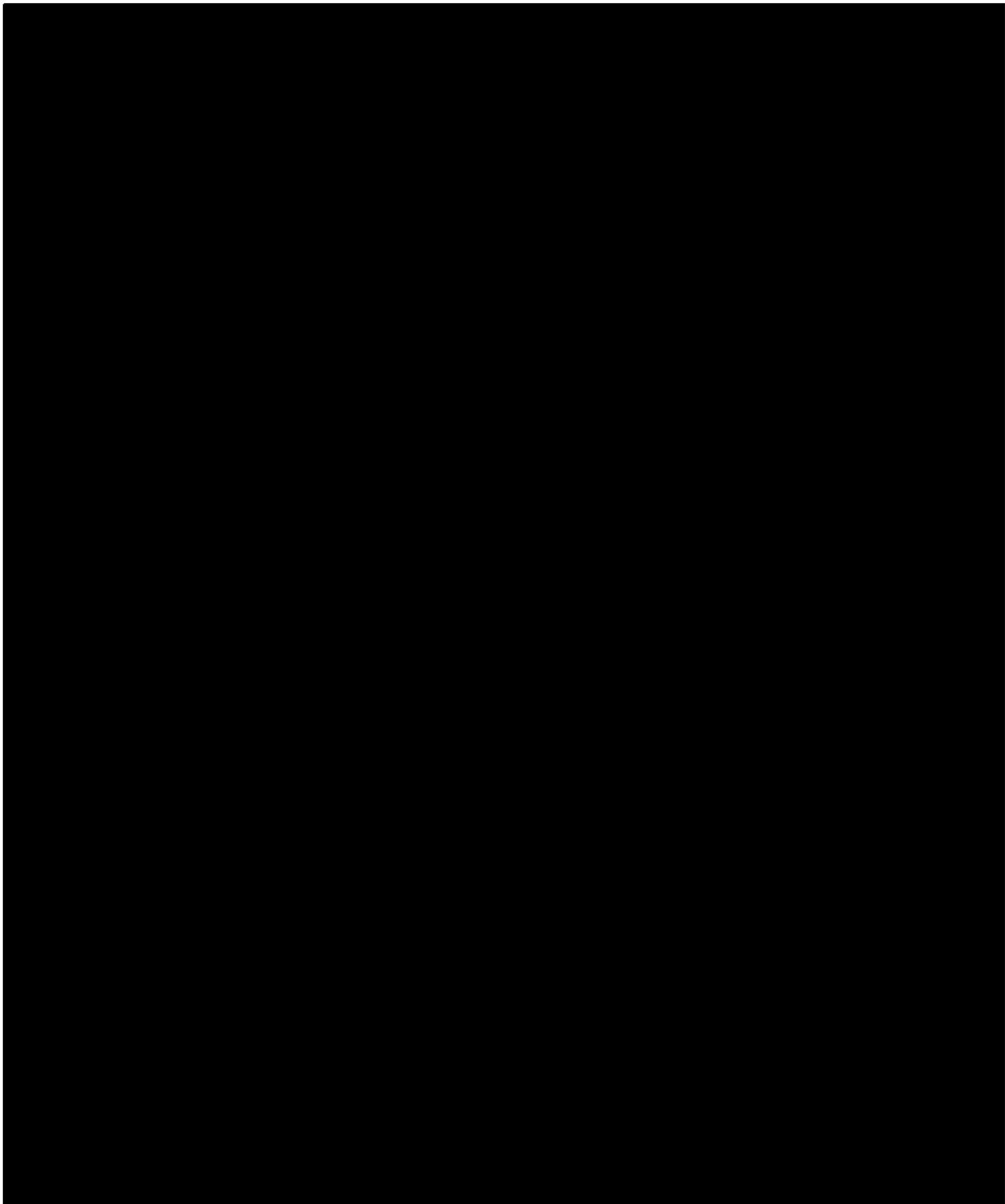
By a preponderance of evidence, the allegation that on or about 26 September 2013, Brig Gen Juan J. Medina-Lamela violated Army National Guard Regulation 600-5, The Active Guard/Reserve (AGR) Program Title 32, Full-Time National Guard Duty (FTNGD), dated 2 Feb 90, by failing to select the applicant found best qualified by the selection board to fill vacancy announcement [REDACTED] with the HHD 292nd CSB MEB, Fort Allen, Juana Diaz, Puerto Rico, was **SUBSTANTIATED**.





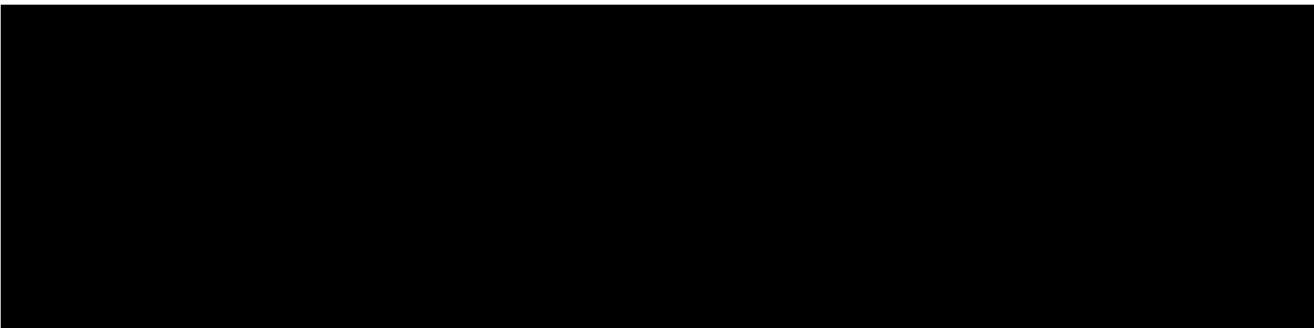
This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (S. F/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)



This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAP/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)



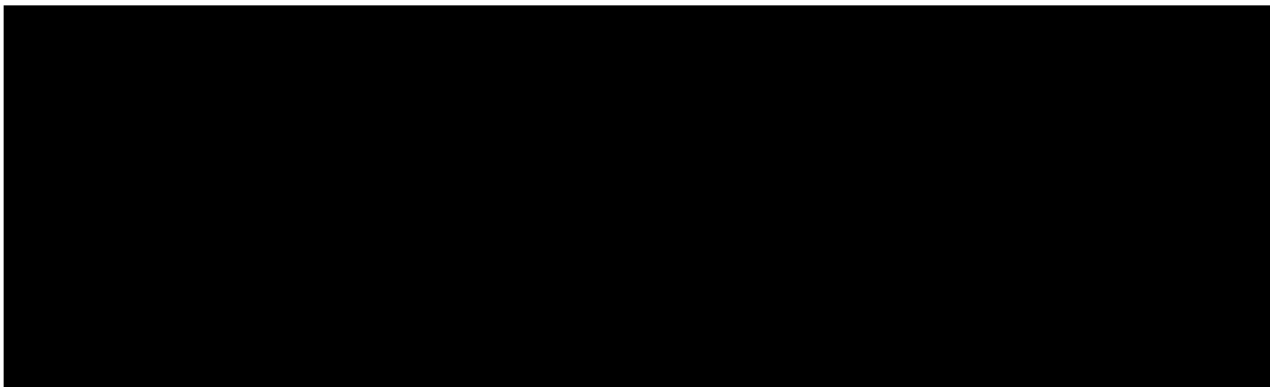
This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (S. F/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)

V. SUMMARY

ALLEGATION 1, That on or about 26 September 2013, Brig Gen Juan J. Medina-Lamela violated Army National Guard Regulation 600-5, The Active Guard/Reserve (AGR) Program Title 32, Full-Time National Guard Duty (FTNGD), dated 2 Feb 90, by failing to select the applicant found best qualified by the selection board to fill vacancy announcement [REDACTED] with the HHD 292nd CSB MEB, Fort Allen, Juana Diaz, Puerto Rico, was **SUBSTANTIATED**.

Although the IO found insufficient evidence of willful misconduct on the part of Brig Gen Medina when he selected [REDACTED] for the AGR position, the preponderance of evidence showed that Brig Gen Medina violated ARNG Regulation 600-5 when he made this selection. In addition, the IO has drafted a collateral issue letter to be forwarded the NGB-HRH.



[REDACTED]

[REDACTED] USAF
Investigating Officer
Directorate of Senior Official Inquiries

I have reviewed this Report of Investigation and the accompanying legal review and I concur with their findings.

GREGORY A. BISCONE
Lieutenant General, USAF
The Inspector General

This is a protected document. It will not be released (in whole or in part), reproduced, or given additional dissemination (in whole or in part) outside of the inspector general channels without prior approval of The Inspector General (SAF/IG) or designee.

FOR OFFICIAL USE ONLY (FOUO)