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**The Inspector General
of the Department of
the Air Force**

Report of Investigation (S9613P)

Maj Gen Christopher E. Finerty

September 2023

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TABLE OF CONTENTS

	Page
I. Introduction.....	1
II. Background.....	2
III. Allegations, Standards, Analysis, and Conclusions	
Allegation 1.....	4
Allegation 2.....	11
Allegation 3.....	18
IV. Summary.....	36
List of Exhibits.....	38

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**INSPECTOR GENERAL SENSITIVE MATERIAL
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REPORT OF INVESTIGATION (Case S9613P¹)

CONCERNING

MAJOR GENERAL CHRISTOPHER E. FINERTY

PREPARED BY

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

September 2023

I. INTRODUCTION

The Inspector General of the Department of the Air Force (SAF/IG) directed this investigation in response to a complaint filed on 25 Jan 2023 that alleged Maj Gen Christopher E. Finerty, former Director, Legislative Liaison, Office of the Secretary of the Air Force (SAF/LL), had unprofessional and inappropriate relationships with multiple women, including an AF enlisted member, a married Department of Defense (DoD) civilian employee, two [REDACTED] staff members, a [REDACTED]

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

The Investigating Officer (IO) prepared an Investigation Plan (IP) and presented it to the SAF/IGS Director on 27 Feb 2023. The IO interviewed 14 witnesses and Maj Gen Finerty between 27 Feb 2023 and 4 May 2023. In a letter dated 24 Apr 2023, Maj Gen Finerty was notified of the specific allegations included in this investigation. (Ex 33)

On 28 Jun 2023, Maj Gen Finerty was provided a tentative conclusion letter (TCL) that included a preliminary Report of Investigation (ROI). (Ex 44) The redacted ROI set forth the analysis and tentative conclusion that substantiated the three allegations investigated. Maj Gen Finerty provided a response to SAF/IGS on 21 Jul 2023. SAF/IGS assessed his response and incorporated elements in this final ROI. However, the information in his response did not change the conclusion that the three allegations were substantiated. Maj Gen Finerty's full response is included as Exhibit 43.

During this investigation, the following individuals provided sworn testimony regarding the allegations covered in this report:²

- Maj Gen Christopher E. Finerty, former Director, SAF/LL, Pentagon

¹ The Department of Defense Inspector General DCATS case # is 20230303-083970-CASE-01.

² Identities of the women involved in relationships with Maj Gen Finerty are not provided to protect their privacy, but interviews were conducted with those whose testimony was deemed necessary to validate facts and circumstances relevant to the allegations investigated.

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

II. BACKGROUND

Witness testimony and documentary evidence, including text messages and photos, indicated Maj Gen Finerty engaged in sexual, inappropriate, or unprofessional relationships with five women. The text messages contain explicit sexual content and photos showing an intimate, cyber sexual relationship with an enlisted member.

Issues examined that did not result in a formal allegation:

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

³ Due to the sensitive nature of this investigation and the confirmation from Maj Gen Finerty that the text messages were from the women indicated, the IO made the conscious decision to respect privacy and not contact the (b) (6), (b) (7)(C) for testimony. (b) (6), (b) (7)(C)

(Ex 42)

However, as outlined below, there was insufficient evidence to warrant framing formal allegations on these issues.

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CHRONOLOGY

DATE	EVENT
Jan 2012	Then-Lt Col Finerty is assigned as Division Chief, Legislative Programs, National Guard Bureau (NGB), Pentagon. (Ex 2)
24 May 2012	Lt Col Finerty is promoted to O-6. (Ex 2)
(b) (6), (b) (7)(C)	Enlisted Member (EM) is assigned (b) (6), (b) (7)(C) (Ex 4)

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(b) (6), (b) (7)(C)	Married Civilian (MC) begins (b) (6), (b) (7)(C) (Ex 15:4)
(b) (6), (b) (7)(C)	EM is (b) (6), (b) (7)(C) (Ex 4)
Sep 2015	Col Finerty is assigned as the ANGRV Vice Commander, NGB, JBA. (Ex 2)
(b) (6), (b) (7)(C)	MC first met Col Finerty. (Ex 15:5)
(b) (6), (b) (7)(C)	Col Finerty begins a personal (non-sexual) relationship with MC. (Ex 15:9)
(b) (6), (b) (7)(C)	EM departs (b) (6), (b) (7)(C) for another assignment. (Ex 4)
Dec 2016	Col Finerty leaves his position as the ANGRV/CV and is assigned as Special Assistant to the Chief of the NGB, Pentagon. (Ex 2)
(b) (6), (b) (7)(C)	MC (single during this timeframe) and Col Finerty engage in a physical sexual relationship. (Ex 15:12)
Mar 2017	Col Finerty is assigned as Director, NGB/LL, Pentagon. (Ex 2)
2 Dec 2017	Col Finerty is promoted to O-7. (Ex 2)
(b) (6), (b) (7)(C)	MC marries (b) (6), (b) (7)(C) officer. (Ex 15:4)
(b) (6), (b) (7)(C)	EM is assigned (b) (6), (b) (7)(C) (Ex 4)
Apr 2019	Brig Gen Finerty is assigned as Director, Legislative Liaison Office of the Secretary of the Air Force (SAF/LL), Pentagon. (Ex 2)
27 Feb 2020	Brig Gen Finerty is promoted to O-8. (Ex 2)
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) found out about Maj Gen Finerty's relationship with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) via text messages on his phone. She said Maj Gen Finerty confessed to her that in (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) ⁴ According to (b) (6), (b) (7)(C) he said he went to (b) (6), (b) (7)(C) where they had sex. (Ex 10; Ex 18:35; Ex 19:18)
Nov 2022	MC resumed her sexual relationship with Maj Gen Finerty. She testified she had sex with him at his house approximately seven times between Nov 2022 and Feb 2023. (Ex 15:16, 23)

III. ALLEGATIONS, STANDARDS, ANALYSIS, AND CONCLUSIONS

ALLEGATION 1: That between on or about Aug 2018 and Sep 2020, Maj Gen Christopher E. Finerty knowingly engaged in fraternization with an Air Force enlisted member by exchanging sexually suggestive text messages,⁵ in violation of Article 134, *Fraternization*, UCMJ.

⁴ Maj Gen Finerty testified his relationship with (b) (6), (b) (7)(C) (Ex 30:55)

⁵ In his TCL response, Maj Gen Finerty wrote, "For clarity, I sent only one picture (not inappropriate nor pornographic) and the remainder of the pictures were sent to me by EM including all inappropriate pictures." (Ex 43:14) Original allegation was changed from "sexually suggestive photos and text messages" to "sexually suggestive text messages."

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STANDARDS.

Article 134, *Fraternization*, UCMJ, states:

b. Elements.

- (1) That the accused was a commissioned or warrant officer;
- (2) That the accused fraternized on terms of military equality with one or more certain enlisted member(s) in a certain manner;
- (3) That the accused then knew the person(s) to be (an) enlisted member(s);
- (4) That such fraternization violated the custom of the accused's service that officers shall not fraternize with enlisted members on terms of military equality; and
- (5) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.⁶

c. Explanation.

(1) In general. The gist of this offense is a violation of the custom of the armed forces against fraternization. Not all contact or association between officers and enlisted persons is an offense. Whether the contact or association in question is an offense depends on the surrounding circumstances. Factors to be considered include whether the conduct has compromised the chain of command, resulted in the appearance of partiality, or otherwise undermined good order, discipline, authority, or morale. The acts and circumstances must be such as to lead a reasonable person experienced in the problems of military leadership to conclude that the good order and discipline of the armed forces has been prejudiced by their tendency to compromise the respect of enlisted persons for the professionalism, integrity, and obligations of an officer.

(2) Regulations. Regulations, directives, and orders may also govern conduct between officer and enlisted personnel on both a service-wide and a local basis. Relationships between enlisted persons of different ranks, or between officers of different ranks may be similarly covered. Violations of such regulations, directives, or orders may be punishable under Article 92. (Ex 8:12-13)

There are additional Air Force standards relating to fraternization which emphasize Air Force norms and expectations:

AFI 1-1, *Air Force Standards*, 7 Aug 2012, Incorporating Change 1, 12 Nov 2014

⁶ Article 134, *Fraternization*, UCMJ was updated in 2019. The earlier version, which also applied during the pertinent timeframe, read: "(5) That, under the circumstances, the conduct of the accused 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."

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2.2.3. ...Officers and enlisted members will not form personal relationships with each other on terms of military equality, whether on or off-duty, and regardless of the forum in which such relationships are formed or carried out (e.g., face-to-face, over the telephone, in correspondence, **or in cyberspace**). **Unprofessional relationships conducted via electronic means . . . are no less corrosive to good order and discipline, and abuse by members in these forums shall result in the same degree of accountability.** Indeed, the advent and proliferation of such communications networks only heightens the need for vigilance in avoiding unprofessional relationships. This includes avoiding inappropriate electronic friendships that compromise and degrade the officer/enlisted command and supervisory relationships. (emphasis added)

2.2.4. Fraternalization is a crime under the UCMJ. Fraternalization is an offense committed by an officer, who develops a personal relationship of inappropriate familiarity with an enlisted member...Excessive socialization and undue familiarity, real or perceived, degrades leadership and interferes with command authority and mission effectiveness....

With the proliferation of modern computer and telephonic means of communications (e.g., computer social networks, e-mail, twitter, texting), the task of maintaining professionalism requires a heightened awareness to ensure full compliance regardless of the forums used. If this standard is not strictly adhered to, positions of authority may be weakened; peer group relationships may become jeopardized over concerns of equal, impartial treatment by superiors; job performance may erode; and unit morale and esprit de corps may suffer. (Ex 12)

AFI 36-2909, *Air Force Professional Relationships and Conduct*, 14 Nov 2019

2.3.9. Conduct on social media and other digital mediums. Air Force members interact with individuals through many forms of communication, including face-to-face, telephone, letter, e-mail, text messages, social networking services, social media, and online dating sites. Social networking services include weblogs, message boards, file sharing (e.g., photos, videos, and documents), and social networking sites, (e.g., YouTube, Facebook, Twitter, Snapchat), which are web-based services that provide digital platforms for personal correspondence and file sharing. Regardless of the method of communication used, Air Force standards must be observed at all times, both on and off duty. Air Force members have an obligation to maintain appropriate communication and conduct between officer and enlisted personnel, peers, superiors, and subordinates (to include civilian superiors and subordinates) whether the communication is via a social networking service or other forms of communication, such as e-mail, instant messaging, or texting.

3.1.1. **Fraternalization.** Fraternalization is a unique type of unprofessional relationship between an officer and enlisted member that is specifically criminalized in the Uniform Code of Military Justice under Article 134, *Fraternalization* (Manual for Courts-Martial (2019), Part IV, Paragraph 83) (10 United States Code Section 934). Fraternalization exists when a relationship between an officer and an enlisted member puts the enlisted member on terms of military equality with the officer in such a way that prejudices good order and discipline in the armed forces or is of a nature to bring discredit upon the armed forces.

This custom of the service recognizes that officers will not form personal relationships with enlisted members on terms of military equality, whether on or off duty.

3.1.1.1. Whether the contact or association constitutes fraternization depends on the surrounding circumstances. Factors to be considered include whether the conduct has compromised the chain of command, resulted in the appearance of partiality, or otherwise undermined good order, discipline, authority, or morale. The prohibition on fraternization extends beyond organizational and chain of command lines to include members of different services or different Air Force components. In short, it extends to all officer and enlisted relationships.

3.1.1.2. When fraternization occurs, the officer will be held primarily responsible, and is the only member subject to disciplinary action for fraternization.

3.2.3. **Officers will not date or engage in sexual relations with enlisted members.** (emphasis in original) Dating as set out here includes not only traditional, prearranged, social engagements between two members, but also includes contemporary social activities that may reasonably be perceived as a substitute to traditional dating. (Ex 6:10-14)

DISCUSSION AND ANALYSIS.

While serving as the Division Chief for the NGB Legislative Programs (NGB/LL), then-Col Finerty directly supervised EM, (b) (6), (b) (7)(C) ⁷ (Ex 4:2) There is no evidence of an inappropriate relationship during the time Maj Gen Finerty supervised EM. (b) (6), (b) (7)(C) while Maj Gen Finerty was working at NGB. (Ex 4:2) EM stated that upon her return she and Maj Gen Finerty ran into each other at (b) (6), (b) (7)(C), and they began to have a more personal relationship that “mutually happened.” (Ex 16:25)

Documentary evidence from Sep 2020 revealed the following text exchange between Maj Gen Finerty and EM, who were in different organizations:⁸

Maj Gen Finerty: Ready to fight Tonight

EM: Lmao

Maj Gen Finerty: You are welcome. You sexy bitch.

EM: You like talking to me like that because Im the only one you can do that too ...lol

Maj Gen Finerty: You maybe the only one that get me humor.

⁷ Maj Gen Finerty rated EM on her (b) (6), (b) (7)(C) Enlisted Performance Report (EPR). (Ex 31; Ex 32)

⁸ The exchanges included in this report are shown as originally written, including misspellings, grammatical errors, and other shorthand common to texting.

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EM: Its kinda sexy. Its arrogant...but I know youre actually a softy

Maj Gen Finerty: [EM]...you are sexy. (You may be right. Don't tell anyone) (Ex 36)

Documentary evidence also consisted of a collage photograph that contained five images of EM wearing only (b) (6), (b) (7)(C)

There is one image of Maj Gen Finerty, shirtless and smiling into the camera. Other images include the following memes: "It's a joke. Not a dick. Don't take it so hard" and "Try the new anus pounder" under a McDonald's sign. (Ex 37)

EM was initially reluctant to answer the IO's questions for this investigation but eventually confirmed her relationship with Maj Gen Finerty. She testified the text exchanges between them were "periodic" and started after she returned in (b) (6), (b) (7)(C), ending in 2020. (Ex 16:19, 22) Asked whether she felt comfortable receiving texts from Maj Gen Finerty, she said, "They were mutual communications," and when asked whether they had any type of in-person, physically intimate or sexual relationship, she responded, "No." (Ex 16:20) EM said she did not believe Maj Gen Finerty took advantage of her based on his rank and position. (Ex 16:23) She testified both decided their personal relationship "couldn't progress because of the rank," meaning her being an enlisted member and he an officer. (Ex 16:26)

EM said they sent each other photos twice and exchanged texts on "seven or eight occasions," explaining "the text streams never lasted more than – not usually more than a day." (Ex 16:27-28) Describing the texts as starting out about how they were doing, the texts "progressed from there . . . exactly the evidence you guys have," describing the text streams as having "a sexual connotation" and "banter." (Ex 16:28)

Maj Gen Finerty's Response

Maj Gen Finerty admitted to exchanging sexually suggestive texts and one photo of himself (as described above) with EM, stating they were "fantasy banter" happening in "cyberspace," but he never intended to or had a physical sexual relationship with her, "despite the fact that there was endless opportunity to actually do something . . . actually physically . . . it never happened."⁹ (Ex 30:6-7; 13-14)

Maj Gen Finerty described the texts and photos as "intimate exchanges . . . clearly meant for . . . one person. Obviously, it wasn't on Facebook, it wasn't on any social media . . . it was a private text between two people . . . that I am – I am very confident no

⁹ Maj Gen Finerty testified that evidence provided to SAF/IGS regarding the three allegations in this investigation were retrieved from a computer hard drive that was obtained without his permission (b) (6), (b) (7)(C)

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

one else knew about.”¹⁰ (Ex 30:12) Asked whether he exchanged text streams on seven to eight different occasions, Maj Gen Finerty stated, “I have no reason to disagree with that, I think.” (Ex 30:14-15)

Regarding the appropriateness of exchanging texts and photos of this nature between an officer and enlisted member, Maj Gen Finerty said he knew he was “close to a line,” and “a red line for me is anything physical.” (Ex 30:16-17) He stated there was “never physical contact,” and “we never saw each other in any work environment nor social environment.” (Ex 43:3) Asked whether he believed his conduct constituted fraternization, Maj Gen Finerty testified, “I don’t,” explaining there was no impact to good order and discipline, since “someone would have had to have known about it.” (Ex 30:19) On whether his conduct was of a nature to bring discredit upon the armed forces, he stated, “if it were more widespread” and if “the public had access to, like Facebook, right?” (Ex 30:19) When asked to comment on whether his conduct is what should be expected of a commissioned officer, he replied, “No. Well, no.” (Ex 30:19) Maj Gen Finerty testified “while I knew I was close to a line, I never crossed a line in my mind,” emphasizing “there was no negative impact on the mission.” (Ex 30:21-22)

Findings

Fraternization is a UCMJ offense against the officer when a relationship puts an enlisted member on terms of military equality in such a way that prejudices good order and discipline or is of a nature to bring discredit upon the armed forces. IAW AFI 1-1 and AFI 36-2909, such personal relationships are prohibited whether on or off-duty, and regardless of the forum. Unprofessional relationships conducted via electronic means are no less corrosive to good order and discipline.

The preponderance of the evidence supports the following: Maj Gen Finerty, a commissioned officer, knew EM was an enlisted member based on his and EM’s testimony and the fact that he previously directly supervised her when they were on the NGB staff. Maj Gen Finerty engaged in text streams about sex with EM (sexting) on at least seven to eight occasions between 2018 and 2020, receiving sexually intimate pictures of EM and exchanging one of himself without a shirt on. Such behavior supports they had a personal relationship of inappropriate familiarity, violating the Air Force custom that officers shall not fraternize with enlisted members on terms of military equality, whether on or off-duty.

There was no evidence Maj Gen Finerty’s sexting with EM directly prejudiced good order and discipline, given the two were in different organizations at the time. However, the preponderance of the evidence supports Maj Gen Finerty’s conduct was of a nature to discredit

the armed forces.¹¹ That the sexting was private is but one factor; Article 134 makes punishable conduct that has the tendency to bring the service into disrepute or lower it in public esteem. A two-star general exchanging sexually explicit texts and calling an enlisted member a “sexy bitch” reasonably constitutes such conduct. Given the extreme rank disparity and the sexually charged nature of his communications with an enlisted member, Maj Gen Finerty’s conduct reasonably lowers the public esteem of the Air Force officer corps. His conduct also compromises the respect of enlisted members for the professionalism, integrity, and obligations of officers, particularly those of Maj Gen Finerty’s rank and stature. Based on the totality of the facts and circumstances, his fraternization with EM was of a nature to bring discredit upon the armed forces, breaching service customs established in AFI 1-1 and AFI 36-2909, and in violation of Article 134, UCMJ.

Maj Gen Finerty’s TCL Response

The ROI was edited for clarity in some places based on Maj Gen Finerty’s feedback, but he did not provide new information to change the substantiation of Allegation 1. Maj Gen Finerty’s Area Defense Counsel (ADC) provided a list of factors that the IO “must consider” to determine whether the UCMJ prohibition against fraternization was violated; these factors included “the texting was between two consenting adults, EM initiated the texting, and they were both senior and experienced military members,” among others. (Ex 43:25) Even with those factors taken into account, the weight of the evidence supports the sexual nature of the multiple texts between a two-star general and an enlisted member is the type of behavior that would tend to bring the service into disrepute or lower it in public esteem. By his own admission, Maj Gen Finerty had “intimate exchanges” with EM. This was not a one-time incident. Further, Maj Gen Finerty’s ADC states wholly private behavior can only be found to be service discrediting when it is truly egregious. (Ex 43:25) This is incorrect. There is no requirement in cited case law that the private behavior be “truly egregious.”

CONCLUSION.

The preponderance of the evidence supports Maj Gen Finerty engaged in sexually suggestive discussions on multiple occasions with an enlisted member via text between 2018 and 2020, including sexually intimate pictures of EM. Such behavior supports they had a personal relationship of inappropriate familiarity, violating the well-established custom of the Air Force that prohibits officers from fraternizing with enlisted members on terms of military equality, whether on or off-duty, and regardless of the forum used. Maj Gen Finerty’s conduct was of a nature to bring discredit upon the armed forces, tending to lower the public esteem of the Air Force and its officer corps.

¹¹ Article 134, *General Article*, UCMJ, para c(3) provides the following: “‘Discredit’ means to injure the reputation of. This clause of Article 134 makes punishable conduct which has a tendency to bring the service into disrepute or which tends to lower it in public esteem.”

By a preponderance of the evidence, the allegation that between on or about Aug 2018 and Sep 2020, Maj Gen Christopher E. Finerty knowingly engaged in fraternization with an Air Force enlisted member by exchanging sexually suggestive text messages, in violation of Article 134, *Fraternization*, UCMJ, is **SUBSTANTIATED**.

ALLEGATION 2: That on divers occasions between on or about Nov 2022 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in extramarital conduct with a DoD civilian employee, a person he knew was married to someone else, in violation of Article 134, *Extramarital Sexual Conduct*, UCMJ.

STANDARDS.

Article 134, *Extramarital sexual conduct*, UCMJ

...

b. *Elements.*

(1) That the accused wrongfully engaged in extramarital conduct as described in subparagraph c.(2) with a certain person;

(2) That, at the time, the accused knew that the accused or the other person was married to someone else; and

(3) That, under the circumstances, the conduct of the accused was either: (i) to the prejudice of good order and discipline in the armed forces; (ii) was of a nature to bring discredit upon the armed forces; or (iii) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *Conduct prejudicial to good order and discipline or of a nature to bring discredit upon the armed forces.* To constitute an offense under the UCMJ, the extramarital conduct must either be directly prejudicial to good order and discipline or service discrediting or both. **Extramarital conduct that is directly prejudicial to good order and discipline 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 or stature of or respect toward a Servicemember, or both.** Extramarital conduct may be Service discrediting, even though the conduct is only indirectly or remotely prejudicial to good order and discipline. “Discredit” means to injure the reputation of the armed forces and includes extramarital conduct that has a tendency, because of its open or notorious nature, to bring the Service into disrepute, make it subject to public ridicule, or lower it in public esteem. **While extramarital conduct that is private and discreet in nature may not be service discrediting by this standard, under the circumstances, it may be determined to be conduct prejudicial to good order and discipline.** Commanders should consider all relevant circumstances, including but not limited to the following factors, when determining whether extramarital conduct is prejudicial to good order and discipline or is of a nature to bring discredit upon the armed forces, or both:

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11

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(a) **The accused's marital status, military rank, grade, or position**

(b) **The co-actor's marital status, military rank, grade, and position, or relationship to the armed forces**

(c) **The military status of the accused's spouse or the spouse of the co-actor, or their relationship to the armed forces;**

(d) The impact, if any, of the extramarital conduct on the ability of the accused, the co-actor, or the spouse of either to perform their duties in support of the armed forces;

(e) The misuse, if any, of Government time and resources to facilitate the commission of the conduct;

(f) Whether the conduct persisted despite counseling or orders to desist; the flagrancy of the conduct, such as whether any notoriety ensued; and whether the extramarital conduct was accompanied by other violations of the UCMJ;

(g) The negative impact of the conduct on the units or organizations of the accused, the co-actor or the spouse of either of them, such as a detrimental effect on unit or organization morale, teamwork, and efficiency;

(h) **Whether the accused's or co-actor's marriage was pending legal dissolution, which is defined as an action with a view towards divorce proceedings, such as the filing of a petition for divorce; and**

(i) **Whether the extramarital conduct involves an ongoing or recent relationship or is remote in time.**

(2) *Extramarital conduct.* The conduct covered under this paragraph means any of the following acts engaged in by persons of the same or opposite sex:

(a) genital to genital sexual intercourse;

(b) oral to genital sexual intercourse;

(c) anal to genital sexual intercourse; and

(d) oral to anal sexual intercourse.

(3) **Marriage.** A marriage exists until it is dissolved in accordance with the laws of a competent state or foreign jurisdiction.

(4) **Legal Separation.** It is an affirmative defense to the offense of Extramarital sexual conduct that the accused, co-actor, or both were legally separated by order of a court of competent jurisdiction. The affirmative defense does not apply unless all parties to the conduct are either legally separated or unmarried at the time of the conduct.

(5) **Mistake of fact: A defense of mistake of fact exists if the accused had an honest and reasonable belief either that the accused and the co-actor were both unmarried or legally separated, or that they were lawfully married to each other. If this defense is raised by the evidence, then the burden of proof is upon the United States to establish that the accused's belief was unreasonable or not honest. (Ex 8:10-12) (emphasis added)**

DISCUSSION AND ANALYSIS.

Then-Col Finerty met MC in Oct 2015, a month after he became the ANGR/ CV [REDACTED] [REDACTED].¹² (Ex 15:5) [REDACTED] MC said she spoke to him daily, “normal salutations.” (Ex 15:6) According to MC, she struck up a personal friendship with Maj Gen Finerty [REDACTED] when her divorce [REDACTED] finalized, and they began talking about the situation, with Maj Gen Finerty telling her, “keep your chin up; it gets better . . . just a support system for each other, just as friends . . . he noticed my demeanor was a little blue . . . a little – a little sad” because a large part of her life was ending, “and he was very supportive because he had gone through it, prior.” (Ex 15:10) Maj Gen Finerty testified he did not recall being aware of MC going through a divorce during that period or being supportive, only knowing she was divorced. (Ex 30:40)

MC said while she did not date Maj Gen Finerty, they had a sexual relationship that began in [REDACTED] while both were single, after “we just started texting . . . we were attracted to each other.” (Ex 15:12) At the time, Maj Gen Finerty served as the Special Assistant to the National Guard Bureau Chief, and in Mar 2017, he became the Director, Office of Legislative Liaison, NGB. (Ex 2:2) [REDACTED] (Ex 15:4, 14) MC described their sexual relationship culminated in [REDACTED], after she informed him, “I was getting married [REDACTED] . . . he said, okay. He said good luck and congratulations,” but “we remained friends.” (Ex 15:22) Maj Gen Finerty confirmed he had a brief romantic and intimate relationship with MC [REDACTED], and he confirmed he knew MC married [REDACTED]. (Ex 30:28)

[REDACTED], MC married [REDACTED] officer whom she said Maj Gen Finerty knew “in passing.” (Ex 15:20) Maj Gen Finerty said he really didn’t know MC’s husband and would only see the two of them having lunch together [REDACTED]. (Ex 30:32-33) [REDACTED]

Documentary evidence shows between 2 Mar 2021 and 9 Oct 2021, Maj Gen Finerty and MC exchanged 114 pages of texts.¹³ (Ex 14) Maj Gen Finerty acknowledged resuming a texting relationship with MC during this timeframe, describing the nature of the texts as “I’m sure they were flirty.” (Ex 30:31)

On 8 Jun 2021, MC texted Maj Gen Finerty, [REDACTED] and “I can’t wait to kiss your beautiful lips,” to which Maj Gen Finerty replied, “That’s it?” The text series continues:

MC: And of course so much more . . . [REDACTED]

What do you want?

¹² MC was [REDACTED] and Maj Gen Finerty was not in her rating chain. (Ex 15:7)

¹³ The texts include graphic description of sexual acts between MC and Maj Gen Finerty.

Maj Gen Finerty: That
Same
Thing (Ex 14:40-41)

MC then asked, “Do you still want me?” to which Maj Gen Finerty replied, “yes, I do.”
(Ex 14:42)

MC said she and Maj Gen Finerty resumed their sexual relationship in or around Nov 2022, engaging in seven to eight sexual encounters at his house, with the last time she had sex with him occurring in Feb 2023. (Ex 15:16, 18) Of note, the IO found MC to be honest and forthright in response to questions about her relationship with Maj Gen Finerty. The IO further found MC’s testimony credible, considering she was unaware of the nature of the investigation prior to her witness interview, but clearly aware of the potential risk to herself by testifying.

Article 134, Extramarital Sexual Conduct

Did Maj Gen Finerty engage in extramarital sexual conduct with MC?

(b) (6), (b) (7)(C) MC has been married to (b) (6), (b) (7)(C) officer.
(Ex 15:3) MC said she and Maj Gen Finerty resumed their sexual relationship in Nov 2022 and had “about seven to eight, at the most” sexual encounters at his residence between Nov 2022 and Feb 2023. (Ex 15:18) For his part, Maj Gen Finerty testified he had sexual intercourse with MC “a handful” of times at his residence during this period. (Ex 30:33, 38)

Did Maj Gen Finerty, at the time, know MC was married to someone else?

As noted above, (b) (6), (b) (7)(C), MC informed him she was getting married, and Maj Gen Finerty congratulated her. (Ex 15:22) Documentary evidence also shows on 2 Mar 21, Maj Gen Finerty and MC exchanged texts about past and possibly future sexual relations, with Maj Gen Finerty himself expressing knowledge of her marital status:

MC: Yes so I could look straight at you and see your eyes

Maj Gen Finerty: You'd love that.

MC: I would love that...wouldn't you

Maj Gen Finerty: Yep

MC: Want to do it again?

Maj Gen Finerty: It would be awesome. But...

MC: What...

Maj Gen Finerty: **You are married.**¹⁴

MC: **Yes...I know.... And I would never do anything to cause you any issues.**

Maj Gen Finerty: **And I wouldn't cause you issues.** (Ex 14:7) (emphasis added)

Further, when asked whether Maj Gen Finerty knew she was still married, MC testified that in approximately Mar or Apr 2022 "I told him. In a text message. Mm-hmm. He asked me if I was and -- he said, 'You're still married?' And I said yes." (Ex 15:26-27) MC explained their relationship in these terms: "There were times that we were just friends. And I was single at the time that we became sexually involved, [REDACTED]. . . . And then we stopped, again, [REDACTED], after I had become engaged to my current husband. And then we had a friendship, for a while, and it started again in 2022." (Ex 15:29)

Maj Gen Finerty testified to the belief that MC was either separated or possibly divorced from her husband:

And she had been back [REDACTED] I think at that point when we had lunch for a while, so there was opportunity if -- if we wanted to do something, there was opportunity. But I you know, I took her for -- I took her at her word that she would never do anything uh -- to put me in -- to put me in a bad light. So, uh -- we had lunch. And there's a couple of things I noticed at lunch. Nothing earth shattering, nothing that -- that -- that uh -- uh -- that was -- was -- I -- I noted it, and that's about it. So, first, no wedding band. Not that that's unusual. A lot of people don't wear wedding bands if they're married. Not unusual at all. Uh -- but I noted it, that she wasn't wearing a wedding band. Second, uh -- she -- she said that [her husband], who I know to be the person that she married, [MC husband's name] [REDACTED] Not "we're" going [REDACTED] not hey, "we're" moving I don't know the nature of the relationship and I -- I'm not going to pry. . . . And then the last thing uh -- as I review this in my head, uh -- the last thing was uh -- [REDACTED] -- and you know, when those -- when those folks leave, it gets really quiet around here because I end up, you know, all by myself. . . .

...

Uh -- and then we had a phone call, I was talking to her a couple or several weeks later, months later maybe . . . she mentioned again that -- that, you know [REDACTED] -- it gets quiet around here because I'm the only one and that was the second time she said that. This next one is the one that -- that -- that is I think important. Uh -- during that conversation uh -- she said, "yeah and -- and [MC

¹⁴ Of this text exchange, Maj Gen Finerty stated in his TCL response, "despite MC (while married) propositioning Maj Gen Finerty to start a sexual relationship, Maj Gen Finerty clearly indicated that he would not allow any physical sexual contact because she was married." (Ex 43:15)

husband's name] been living someplace else." So, uh – they weren't li – uh – so that to me is, we're not living together, right? He's living someplace else.

...

Clearly, uh – and she could have been divorced. I didn't press, right? I didn't ask because she wasn't saying it in a way to say, in looking for a response, it was just in – as part of the conversation, yeah, [MC husband's name] been living someplace else. And – and it seemed to me, the way she said it, in the context in which she said it, it had been a while, right? That he'd been living someplace else. I didn't ask. Now, should I have? Yeah. You know, looking back on it, as uncomfortable, as awkward, I guess, as it would have been to say, "wait a second, wait a second, let me pry into your personal life here and find out what's going on." Uh – I didn't ask and – and looking back on it to avoid something like this, I probably should've. But, in my mind, there was no question that she wasn't married. (Ex 30:25-27)

During a follow-up interview, MC refuted Maj Gen Finerty's testimony. MC said at no time did she ever give Maj Gen Finerty reason to believe her husband was not living with her. According to MC, her husband was only away from their residence when at work or [REDACTED]. When pressed on whether she could have ever given Maj Gen Finerty the misconception she and her husband were separated, she said she never had any in-depth discussion about her husband or her marital relationship. MC stated she and Maj Gen Finerty were having an "affair," so they rarely discussed her marriage. (Ex 39)

Did Maj Gen Finerty's have an honest and reasonable belief MC was legally separated or not married?

Mistake of fact is a defense to Article 134, *Extramarital sexual conduct*, UCMJ. If Maj Gen Finerty had "an honest and reasonable belief" MC was legally separated or not married at the time he had sexual intercourse with her, then he did not violate Article 134. Despite MC informing Maj Gen Finerty she was still married in Mar/Apr 2022, Maj Gen Finerty testified that in late summer 2022, "it was very clear to me that [MC] was at least separated, uh – possibly divorced based on all those indicators and what she said that last time about [MC husband's name] living someplace else." (Ex 30:37)

The preponderance of the evidence does not support that Maj Gen Finerty had a reasonable and honest belief MC was separated or divorced when they had sex beginning in Nov 2022. Maj Gen Finerty formed his belief based on thin observation, such as she was not wearing her ring, which he acknowledged was not unusual; she stated her husband was [REDACTED]; she was lonely when family left; and MC's husband lived separately, which MC disputes she told him. The totality of his observations does not reasonably lead to the conclusion she was legally separated or divorced. MC made him aware of her marital status on several

occasions, and MC credibly testified she never told Maj Gen Finerty she and her husband were legally separated or divorced.

Moreover, documentary evidence in the form of text messages from 2 Mar 2021 to 19 Oct 2021 show Maj Gen Finerty and MC exchanging sexually explicit messages over the course of 48 separate days. On 2 Mar 2021, the two exchanged a text thread of 72 separate texts over the course of four hours with topics ranging from past sexual exploits, the potential for future sexual encounters, and MC's current marital status, as excerpted above. (Ex 14:1-8) These text threads show Maj Gen Finerty carried on a sexting relationship with a woman he knew to be married for a significant period of time, with both sides having a continuing desire to engage in sex.

Further, Maj Gen Finerty's statement that "he did not press" MC on her current marital status was knowingly irresponsible considering the facts and circumstances of their relationship. As an AF active duty O-8, Maj Gen Finerty had the responsibility to confirm whether MC was still married (b) (6), (b) (7)(C), prior to engaging in sex with her. The preponderance of the evidence supports Maj Gen Finerty made a conscious decision to either not confirm or to conflate her current marital status based on his own personal interests. The preponderance of the evidence supports Maj Gen Finerty **did not** have an honest or reasonable belief MC was legally separated or not married.

Was Maj Gen Finerty's conduct to the prejudice of good order and discipline in the armed forces; or of a nature to bring discredit upon the armed forces; or both?

As noted in the Standards section, Extramarital Sexual Conduct is prejudicial to good order and discipline in two ways: there is an obvious and measurably divisive effect on unit or organization discipline, morale, or cohesion; or the conduct is clearly detrimental to the authority or stature of or respect toward a servicemember. Either one is sufficient to substantiate a violation of Extramarital Sexual Conduct, Article 134, UCMJ. Here, Maj Gen Finerty had an affair with a woman married to a (b) (6), (b) (7)(C) officer, exchanging sexually explicit texts with her over months and then engaging in sexual intercourse with her on "a handful" of occasions at his residence. It is reasonable to conclude Airmen and Guardians lose respect for a two-star officer who engages in such conduct. The preponderance of the evidence supports Maj Gen Finerty's misconduct undermines his authority and stature and raises questions about his character and integrity. As such, the preponderance of the evidence supports Maj Gen Finerty's extramarital sexual affair with MC was detrimental to his authority or stature and was prejudicial to good order and discipline.

Maj Gen Finerty's TCL Response

The ROI was edited for clarity in some places based on Maj Gen Finerty's feedback, but he did not provide new information to change the substantiation of Allegation 2.

17

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**IG SENSITIVE MATERIAL
CONTROLLED UNCLASSIFIED INFORMATION (CUI-PRIG)**

Maj Gen Finerty reiterated his belief MC was “legally separated (or possibly divorced)” based on her not wearing a wedding ring, with MC reportedly telling him the following: her house was empty/lonely when guests departed, her husband was (b) (6), (b) (7)(C), and he was living somewhere else (which, as noted above, MC disputed). (Ex 43:15-16) These indications do not reasonably lead to MC being “legally separated” or divorced as required under the UCMJ; an official court filing and an ensuing court order is a requirement for legal separation status, and there is no evidence MC ever discussed such matters, nor did Maj Gen Finerty ever inquire.

Maj Gen Finerty’s ADC stated the ROI did not weigh the factors to consider whether extramarital sexual conduct was prejudicial to good order and discipline. The UCMJ lists nine relevant circumstances to take into consideration when determining whether extramarital conduct is prejudicial to good order and discipline. This investigation gave weight to five of those factors: Maj Gen Finerty’s military rank and grade; MC’s status as a DoD civilian employee; MC’s marriage to a (b) (6), (b) (7)(C) officer; there was no pending legal dissolution of the marriage; and the extramarital conduct involved an ongoing or recent relationship. The sexual intercourse was ongoing and ceased only when Maj Gen Finerty was notified of this investigation. The military nexus consisted of Maj Gen Finerty being a two-star general having sex with a woman married to (b) (6), (b) (7)(C) officer. There was no evidence of impact to an Air Force organization or mission, but the UCMJ does not require such an impact if the conduct diminished Maj Gen Finerty’s authority or stature or respect thereto.

CONCLUSION.

The preponderance of the evidence supports Maj Gen Finerty had sexual intercourse on multiple occasions with a woman he knew to be married to (b) (6), (b) (7)(C) officer between Nov 2022 to Feb 2023, which conduct clearly undermined his stature as an officer and was prejudicial to good order and discipline.

By a preponderance of the evidence, the allegation that on divers occasions between on or about Nov 2022 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in extramarital conduct with a DoD civilian employee, a person he knew was married to someone else, in violation of Article 134, *Extramarital Sexual Conduct*, UCMJ, is **SUBSTANTIATED**.

ALLEGATION 3: That between on or about Aug 2018 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in inappropriate relationships with multiple individuals, which conduct compromised his standing as an officer, in violation of Article 133, *Conduct unbecoming an officer and a gentleman*, UCMJ.

STANDARDS.

Article 133, *Conduct unbecoming an officer and a gentleman*, UCMJ

b. *Elements.*

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18

**IG SENSITIVE MATERIAL
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- (1) That the accused did or omitted to do a certain act;
- (2) That, under the circumstances, the act or omission constituted conduct unbecoming an officer and gentleman.

c. Explanation.

(1) *Gentleman.* As used in this article, gentleman includes both male and female commissioned officers, cadets, and midshipmen. The term “gentleman” connotes failings in an officer’s personal character, regardless of gender.

(2) *Nature of offense.* Conduct violative 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.** There are certain moral attributes common to the ideal officer and the perfect gentleman, a lack of which is **indicated by acts of dishonesty, unfair dealing, indecency, indecorum, lawlessness, injustice, or cruelty. 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, cadet, or midshipman cannot fall without seriously compromising the person’s standing as an officer, cadet, or midshipman or the person’s character as a gentleman.** (Ex 7) (emphasis added)

AFI 1-1, *Air Force Standards*, 7 Aug 2012, Incorporating Change 1, 12 Nov 14

1.3. Core Values. The Air Force Core Values are Integrity First, Service Before Self, and Excellence In All We Do. **Integrity is a character trait. It is the willingness to do what is right even when no one is looking. It is the “moral compass”—the inner voice; the voice of self-control; the basis for the trust that is essential in today’s military. Service Before Self tells us that professional duties take precedence over personal desires.** Excellence In All We Do directs us to develop a sustained passion for the continuous improvement and innovation that will propel the Air Force into a long-term, upward vector of accomplishment and performance. Our core values define our standards of conduct. Our standards of conduct define how Airmen should behave when interacting with others and when confronting challenges in the environment in which we live and work. (United States Air Force Core Values, 1 January 1997). (Ex 12:4)

...

2.1. Overview. The Air Force has a very important national defense mission; and you, as a member of the Air Force, have serious responsibilities for carrying out that mission. You are responsible for following orders, performing specific daily tasks related to your duties, and living up to the high standards of the Air Force. Maintaining good order and discipline is paramount for mission accomplishment. Our core values demand that Airmen treat others with genuine dignity, fairness, and respect at all times. Each Airman is entitled to fair, scrupulous, and unbiased treatment, and each Airman has the obligation to care for, teach, and lead others. **We must also maintain loyalty to the Air Force’s core values**

and standards and maintain professionalism and respect for others regardless of race, color, religion, gender, national origin, age, disability, or sexual orientation. This respect for others not only involves personal interaction, but also extends to communications and interactions in social media and cyberspace. **You must never degrade the public's trust and confidence in the United States Air Force and in you.** (Ex 12:12) (emphasis added)

DISCUSSION AND ANALYSIS.

Article 133, Element 1 – Maj Gen Finerty's acts

Fraternization with EM

Witness and documentary evidence support Maj Gen Finerty engaged in fraternization with an enlisted member, as discussed in Allegation 1.

Extramarital Sexual Conduct with MC

Witness and documentary evidence support Maj Gen Finerty knowingly engaged in extramarital sexual conduct with a married woman, as discussed in Allegation 2.

Sexing with (b) (6), (b) (7)(C)

Electronic evidence shows between May 2021 and Oct 2021, Maj Gen Finerty sexted two (b) (6), (b) (7)(C) sporadically over the course of the ten months.¹⁵ During that same period, he engaged in texting and sexting with a (b) (6), (b) (7)(C) on a nearly daily basis. In each case, the sexting included dialogue on the sexual acts he would perform on them and acts he would like them to perform on him. With one (b) (6), (b) (7)(C) the sexting included an exchange of pornographic images.

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

Documentary evidence from Jun 2021 provides an example of a text exchange between Maj Gen Finerty and (b) (6), (b) (7)(C). The exchange reflected (b) (6), (b) (7)(C) paid Maj Gen Finerty a visit at his office:

(b) (6), (b) (7)(C) I admit... I was feeling bitter when I left your office

(b) (6), (b) (7)(C) But I recovered quickly bc I know you're a busy guy :

(b) (6), (b) (7)(C) CAN'T WAIT for you to make it up

Maj Gen Finerty: Make it up how? Tell Me

¹⁵ This is the period for which the investigation was able to obtain evidence relevant to these relationships. It is unknown when the sexting started and for how long it continued.

(b) (6), (b) (7)(C) Well I'd want to start with a better hug-full body, not the like lame shoulder/back pat we did today

Maj Gen Finerty: (b) (6), (b) (7)(C)

Maj Gen Finerty: You seemed disinterested.

Maj Gen Finerty: Maybe a little (b) (6), (b) (7)(C) ?

(b) (6), (b) (7)(C) Not at all!!! It's not you I'm worried about, it was your admin assistant-don't want to get people talking!

(b) (6), (b) (7)(C) Gossip about closed door meetings...

Maj Gen Finerty: You are probably right

Maj Gen Finerty: :)

(b) (6), (b) (7)(C) Yes, start with a hug
(b) (6), (b) (7)(C)

Maj Gen Finerty: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Yes!!

The texts continued with (b) (6), (b) (7)(C) and Maj Gen Finerty trading explicit texts describing sexual acts. (Ex 34:11-14)

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

Documentary evidence from Jun 2021 provides an example of a text exchange between Maj Gen Finerty and a second current (b) (6), (b) (7)(C)

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

Maj Gen Finerty: I was distracted by you being distracted.

To answer your cut drill question....top 5 things to protect if possible.

- F35
- Modernization
- NGAD
- JADC2/ABMS
- 3DELRR (pretty sure this is a radar) F15EX

(b) (6), (b) (7)(C) What distraction?

(b) (6), (b) (7)(C) What distraction?

(b) (6), (b) (7)(C) If I was (b) (6), (b) (7)(C) would it be distracting?

(b) (6), (b) (7)(C) (Pornographic Picture)

(b) (6), (b) (7)(C) If I was (b) (6), (b) (7)(C) would it be distracting?

(b) (6), (b) (7)(C) Or this?

(b) (6), (b) (7)(C) And I'd like this song playing in the background please

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

(b) (6), (b) (7)(C) (Pornographic Picture)

(b) (6), (b) (7)(C) (Pornographic Picture)

Maj Gen Finerty: This whole no more sexting didn't last long huh?

(b) (6), (b) (7)(C) I thought we clarified this last night.

(b) (6), (b) (7)(C) Do you want me to stop?

Maj Gen Finerty: We did. We are in a loooooong pause

(b) (6), (b) (7)(C) I'm confused - I thought the sexting was back on.

Maj Gen Finerty: It is

Maj Gen Finerty: Pause on no sexting. (Ex 35:1-3)

Maj Gen Finerty's Response to Relationships with (b) (6), (b) (7)(C)

Referring to the beginning portion of the text exchange with (b) (6), (b) (7)(C) relating to official Air Force matters, Maj Gen Finerty said it is not "in anyway unusual," because "those weren't Chris Finerty's personal interest items. Those were the five things that were in the President's Budget that we're charged to go up there and ensure that we get across the finish line in some semblance of - of - of intact . . . I wasn't saying hey, do me a personal favor and protect these five things. It was, these are the five things that the Air Force has in the President's Budget that we're trying to do that we need your help with." (Ex 30:61) Maj Gen Finerty explained he has known both (b) (6), (b) (7)(C) for (b) (6), (b) (7)(C):

I have a personal relationship outside of the text exchanges, I have a personal relationship with both of them. As an example, I got a call from – from [REDACTED] last week . . . when she said “hey, uh – I didn’t see you at [REDACTED].” I said well, I’m not in the position anymore, I’m kind of hopefully sliding into retirement here soon. And uh – she said you know, I’ve been a bad friend, I haven’t kept up with you . . . so that is a personal relationship that in no way detracts from a professional relationship on the Hill. Uh – and I would submit that that’s the same for – for [REDACTED] (Ex 30:51-52)

In response to how his relationships with both [REDACTED] should be viewed by DAF leadership or the public, Maj Gen Finerty said:

I don’t think they should view it in a negative light at all. Um, you know, again, I go back -- I go back to if the public should view relationships -- any kind of personal relationships between anybody in DoD and Congress, whether they’re senior or not, as negative, there’d be a lot of problems. There would be a lot of negative -- negative publicity and press because those relationships are there. I’m not aware of anything that prohibits those sorts of relationships at all. I mean, we obviously have rules like -- like marriage, and things like that, which none of those lines were crossed in any three of these situations. But I’m not aware of anything that says thou shalt not have a personal relationship between the Executive Branch and the Legislative Branch regardless of -- of position. Now, I am conscious of -- and not because of these relationships, but I am conscious of senior leaders, just [REDACTED] Generals, senior staffers, having more of a spotlight on them by the nature of their position (Ex 30:92)

[REDACTED] (b) (6), (b) (7)(C)

Maj Gen Finerty texted the [REDACTED] daily between Jan 2021 and Oct 2021,¹⁶ with only a handful of days during the ten months without some exchange as to what the other was doing professionally for the day, interspersed with sexting and requests for information on Congressional actions related to the DAF. (Ex 13) [REDACTED] (b) (6), (b) (7)(C)

Documentary evidence from Jan 2021 to Mar 2021 supplies examples of typical text communications between Maj Gen Finerty and the [REDACTED]. This specific thread references their attendance at a [REDACTED] official event with [REDACTED] attendance, after which according to Maj Gen Finerty, “obviously led into something more than – than just friends.” (Ex 30:54) After recalling the official event where they met, Maj Gen Finerty states:

Maj Gen Finerty: Will NEVER forget it

[REDACTED] Good memories.

Maj Gen Finerty: Ever

¹⁶ As with the previous footnote, this is just the period for which the investigation received documentary evidence.

Maj Gen Finerty: Stop stealing my thoughts!!!

(b) (6), (b) (7)(C) I'm just borrowing them.

Maj Gen Finerty: (b) (6), (b) (7)(C). (Ex 13:27-28)

On (b) (6), (b) (7)(C), Maj Gen Finerty texted the (b) (6), (b) (7)(C) about upcoming travel plans and the potential for future (b) (6), (b) (7)(C):

(b) (6), (b) (7)(C) I've boarded for DC! Should be departing soon....

Maj Gen Finerty: Ok! I'm on the case!!

Maj Gen Finerty: Where are you?

(b) (6), (b) (7)(C) In my (b) (6), (b) (7)(C)

Maj Gen Finerty: Approved.

(b) (6), (b) (7)(C) Good day?

Maj Gen Finerty: (b) (6), (b) (7)(C) You? You sexy thing!

(b) (6), (b) (7)(C) It was. You know, important work in the (b) (6), (b) (7)(C)....

(b) (6), (b) (7)(C) Sexier thing.

Maj Gen Finerty: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) No

Maj Gen Finerty: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Wanted to get away from there! <rolling on the floor laughing>

Maj Gen Finerty: Me too

(b) (6), (b) (7)(C) Yes, darn it. I heard. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) I hope we can get back on a (b) (6), (b) (7)(C) rotation soon. We have so many (b) (6), (b) (7)(C) troops overseas.

Maj Gen Finerty: What if i go along?

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

(b) (6), (b) (7)(C) No one would think it was odd. We could share a room. (b) (6), (b) (7)(C) always looking for ways to save federal government dollars.

(b) (6), (b) (7)(C) I'm always looking for ways

Maj Gen Finerty: Me too

(b) (6), (b) (7)(C) We're very good citizens.

Maj Gen Finerty: We sure are

Maj Gen Finerty: Share a bed to save more money

(b) (6), (b) (7)(C) Of course. So simple.

Maj Gen Finerty: (b) (6), (b) (7)(C)

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

Maj Gen Finerty: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Chris <face blowing a kiss>

(b) (6), (b) (7)(C) I would REALLY look forward to (b) (6), (b) (7)(C).

Maj Gen Finerty: Me too

Maj Gen Finerty: Your beautiful face.

(b) (6), (b) (7)(C) You're so sweet. (Ex 13:164-167)

Maj Gen Finerty's Response to Relationship with (b) (6), (b) (7)(C)

Maj Gen Finerty denied he did anything wrong with having a relationship with the (b) (6), (b) (7)(C). He stated, "Did my relationship with (b) (6), (b) (7)(C) ever impact my ability to do my job? Did it ever impact my standing as an officer? Did it ever impact the – the – the view or the image uh – of the Air Force because of it? The answer is unequivocally no." (Ex 30:56) He also added, "Did my -- did my standing as an officer get . . . get diminished at all because I had a relationship with a (b) (6), (b) (7)(C)? No. Did my . . . standing get diminished at all or that of the Air Force get diminished because I had a relationship with (b) (6), (b) (7)(C) or either one of these two (b) (6), (b) (7)(C)? No. I don't think so at all." (Ex 30:70)

Maj Gen Finerty's Overall Response to Relationships with (b) (6), (b) (7)(C)

In sum, Maj Gen Finerty said this about his conduct with the two (b) (6), (b) (7)(C):

25

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“Not in anyone’s chain of command. All . . . private relationships. Nothing public. And even if they were . . . we’re not in the same branch of government, uh – everybody was single. There was . . . no adultery going on.”¹⁷ (Ex 30:42) He also testified:

[T]hese are of a personal nature, right? None of these were done in a professional setting. None of these were done in public. None of this was done other than between two people regardless of position, right? If the idea is that you cannot have a -- a relationship with someone on Capitol Hill that involves anything -- anything, um, sexual in text, um, I don’t know that I agree with that, right?

Would it be different if there was something -- if -- if -- if -- if General Finerty, or Chris Finerty and [REDACTED] were having this exchange on Facebook where a lot of other people, yeah. But, I think, that would be -- I think that would be inappropriate for someone that worked at -- at Amazon, a senior leader at Amazon too. That never happened. These were point to point exchanges, uh, between consenting adults that -- that -- that were never intended to, and never were, public. Um, they were private conversations. (Ex 30:94)

When questioned on whether these texting relationships were appropriate for the Director of SAF/LL, Maj Gen Finerty testified:

[W]ith all three of these, including the [REDACTED], if the idea that on its face, a relationship between the Director of SAF LL, right, or anybody in DoD with members on the Hill isn’t appropriate, I don’t know -- that -- that part I don’t see. And, frankly, in my -- in my uneducated, nonlawyer-like, uh, research of this, um, it doesn’t look like it is. I think what we’re dealing with here is impressions. Um, is there -- could there be a negative impression if -- if -- if someone in LL had a relationship with someone on the Hill, and I think the answer is no. Is there a negative impression if someone had a relationship with someone on the Hill [REDACTED]? I still think the answer is no....” (Ex 30:88-89)

Potential Impact of Maj Gen Finerty’s Relationships with [REDACTED] as Conveyed by Current and Former Members of SAF/LL, NGB/LL, and SAF/FML

As the Director of SAF/LL, Maj Gen Finerty is responsible for overseeing all matters pertaining to Air Force legislative affairs and Congressional relations and advising the SecAF and all other principal civilian and military officials of the DAF. Of note, except for appropriation matters, SAF/LL provides guidance, direction, and oversight for all matters pertaining to the formulation, review, and execution of plans, policies, programs, and budgets relative to the Air Force legislative program. The responsibility of facilitating communications

¹⁷ With the intent to provide “context,” Maj Gen Finerty testified his external hard drive containing personal information and “every backup of every phone I’ve ever had” was “stolen” [REDACTED]. (Ex 30:95-96) Maj Gen Finerty [REDACTED] said the disclosure of his information “was done intentionally for maximum damage at the end of my career.” (Ex 30:98) [REDACTED].

between DAF leadership and congressional defense appropriation members and committees falls under the preview of the Deputy Assistant Secretary for Congressional Budget and Appropriations Liaison, SAF/FML. (Ex 11:5) In Maj Gen Finerty's role as the face of DAF on legislative matters, the IO asked questions of witnesses¹⁸ who worked in the legislative arena, with knowledge of the SAF/LL role and its interaction with Congress, to determine what impact, if any, his personal relationships with the (b) (6), (b) (7)(C) had on his standing as an officer and on the Air Force.

The IO interviewed ten members of SAF/LL, NGB/LL, and SAF/FML, and five knew of Maj Gen Finerty's relationship with a (b) (6), (b) (7)(C)¹⁹ Regardless of previous knowledge of said relationships, when asked for their opinions of Maj Gen Finerty's relationships with the (b) (6), (b) (7)(C) and a (b) (6), (b) (7)(C) several themes emerged. First, most witnesses expressed their respect for Maj Gen Finerty's knowledge of congressional matters. Second, as to the appropriateness of Maj Gen Finerty's relationships with the aforementioned (b) (6), (b) (7)(C), the witnesses considered factors like the consensual nature of the relationships, the marital status of the participants, and the public or private nature of the relationships. Third, the witnesses considered his role as the SAF/LL and the potential perceptions of other (b) (6), (b) (7)(C) and/or other military services. Many of the witnesses also considered whether Maj Gen Finerty kept his personal life from impacting his professional life (conflict of interest).

The overall sentiment of most of the witnesses was the relationships put the DAF in a negative light. Specifically, six witnesses discussed the perception of Maj Gen Finerty giving preferential treatment or favoritism, such as providing information or priority to the (b) (6), (b) (7)(C) over other (b) (6), (b) (7)(C) members based on his personal relationships. (Ex 17:22, Ex 21:19; Ex 22:16; Ex 23:6-7; Ex 28:10, 13; Ex 25:26-27) Although no witness stated they witnessed Maj Gen Finerty giving or receiving preferential treatment, the perception alone could be damaging to the DAF. Witness testimony follows:

(b) (6), (b) (7)(C)
When asked if Maj Gen Finerty's relationships with two (b) (6), (b) (7)(C) assigned to (b) (6), (b) (7)(C) that does business with the DAF is a conflict of interest for the Director of SAF/LL, (b) (6), (b) (7)(C) said Maj Gen Finerty had no conflict of interest with the (b) (6), (b) (7)(C) because he had no professional duties or responsibilities with them; regarding the (b) (6), (b) (7)(C) she stated "all members . . . are tasked with having . . . that professional relationship. So, you know, I guess I could see . . . the potential for, for conflict there," explaining the perception "her (b) (6), (b) (7)(C) would be provided preferential treatment, either in terms of . . . information provided or, um, priorities." (Ex 25:26-27)

¹⁸ AFI 90-301, *Inspector General Complaints Resolution*, 28 Dec 2018, Incorporating Change 1, 30 Sep 2020 defines a witness as "Any individual, civilian or military, who is interviewed, or testifies, during the course of an IG investigation." (Ex 45:163)

¹⁹ These members are subject matter experts with a valuable opinion as to the impact of such relationships on the DAF.

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

She described Maj Gen Finerty as “incredibly competent,” especially with his dealings on Capitol Hill. (Ex 28:3) When asked to describe the potential impacts of Maj Gen Finerty and the (b) (6), (b) (7)(C) personal relationship on the Air Force, (b) (6), (b) (7)(C) said, “that would be high, highly unprofessional and counterproductive to the Air Force’s important engagements and relationships on Capitol Hill with Congress.” She further commented:

It could be viewed in a partisan manner. It could be viewed as the Air Force providing or, or having a venue to provide advanced notice of something to a (b) (6), (b) (7)(C), you know, that others wouldn’t have the same fair warning of, like if it was a basing announcement, something like that, which we take -- we, we handle in a very sensitive, careful manner. I . . . could see perceptions of, of favoritism, perceptions . . . from other members that the (b) (6), (b) (7)(C) was getting some sort of benefit from a relationship it had with the Air Force. (Ex 28:10)

Describing the potential impact to the SAF/LL staff, (b) (6), (b) (7)(C) said:

[I]t would be significantly detrimental . . . LL is a -- is a challenging place to work because of the nature of the job, but we have ethics training. We have, you know, access to, to, to ethics advisors for questions. We have challenges in terms of, you know, how we pay for things and, and how -- and to make sure we’re accounting for (b) (6), (b) (7)(C) and their -- and their spouses in some cases, how they are accounting for, for funds the Air Force spends. It’s a very delicate business that requires a lot of judgment. And folks in LL are hired with that in mind and, and are held frankly with, with those kind of things from, from our leadership, so it would be very detrimental, I believe, you know, would, would be shocked if that was true, but it would be -- it would be detrimental to LL, and it would require a rebaselining. (Ex 28:10-11)

(b) (6), (b) (7)(C) provided further perspective on how the relationship between the Director of SAF/LL and a member of (b) (6), (b) (7)(C) that did regular business with the DAF could be perceived by the other military services, stating it “would certainly be problematic if any services perceived the Air Force as getting an unfair advantage on some Hill conversations, you know, that could be brewing or some decisions coming or some potential sticking points in a -- in a piece of legislation, those, those kind of things, I would think all, all could be detrimental to the Air Force’s relationship with the other services on the Hill, which is very good as of right now or was, that I recall, and, and moving forward.” (Ex 28:13) Finally, when asked if her opinion of Maj Gen Finerty would change if the allegations that he had personal relationships with them proved true, she said, “I would lose respect for him as an officer and as the director of LL entrusted with great responsibility. And I would -- I would wonder and be concerned for any potential damage to the Air Force relationship with Congress.” (Ex 28:19)

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

spoke positively about his experience working for Maj Gen Finerty,

28

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stating, "What I appreciated about Major General Finerty was that he acknowledged that he, throughout his career, he has made probably any mistake that we could ever make on the job, and he never made me feel like a failure whenever I made a wrong decision. It was always 'Let's talk about this. Let me explain to you why this is not a good idea.' He was a mentor in a way to me in this job, in a way that really nobody has mentored me in a job before." (Ex 27:7) (b) (6), (b) (7)(C) confirmed he became aware in Dec 2022 of a rumored relationship between Maj Gen Finerty and the (b) (6), (b) (7)(C) from one of his action officers (b) (6), (b) (7)(C). When asked about the potential impact to the Air Force based on a personal relationship between Maj Gen Finerty and the (b) (6), (b) (7)(C) stated, "I have never witnessed a situation that would give me concern that (b) (6), (b) (7)(C) based on this rumored relationship with Major General Finerty, got any sort of special -- her ... (b) (6), (b) (7)(C) got any sort of favor or on the other side, right, that the Air Force was hurt by it." (Ex 27:23)

When asked about the appropriateness of Maj Gen Finerty, as Director of SAF/LL, engaging in a relationship with a (b) (6), (b) (7)(C) responded:

This is a gray area. That it -- I would be more adamant about my answer about the inappropriateness of this situation if I knew of a clear indication that the Air Force was either positively or negatively impacted, okay, based on their individual actions, okay, as a (b) (6), (b) (7)(C) and as the Director of LL. Okay. That would indicate that they did actions to either benefit the Department of the Air Force or the (b) (6), (b) (7)(C). I would be more 100% adamantly tell you that it is 100% inappropriate. (Ex 27:39)

(b) (6), (b) (7)(C) a SAF/LL member, described Maj Gen Finerty's personal relationship with the (b) (6), (b) (7)(C) as "the worst kept secret in SAF/LL," and "I was asked frequently if I knew about it." (Ex 20:9) Stating he heard about the relationship in Spring 2022, (b) (6), (b) (7)(C) testified about the impact Maj Gen Finerty's relationship with the (b) (6), (b) (7)(C) stating "was there a perception in my office that it was unethical? Yes. Was there a perception that it was a morale thing? I would say likely throughout all of SAF/LL, otherwise people would not be talking about it all the time." (Ex 20:11, 45)

(b) (6), (b) (7)(C) heard rumor from (b) (6), (b) (7)(C) about Maj Gen Finerty's sexual relationship with the (b) (6), (b) (7)(C) and said it "surprised me because of not the individuals but the positions, right, I guess." She further opined on the possible outside perception of the relationship between Maj Gen Finerty and the (b) (6), (b) (7)(C) "the natural thing would be that . . . people could look at that and say, given his position and his access to senior Air Force leadership and (b) (6), (b) (7)(C), that it could lead to . . . favoritism for the Air Force, you know, bias toward the Air Force versus others. But, again, that's where, I think, you know, if they are able to separate the two, then it's not a problem." (Ex 17:12, 22)

(b) (6), (b) (7)(C) When asked about her opinion of Maj Gen Finerty, (b) (6), (b) (7)(C) testified, "My personal opinion of him is not really so good" based on her knowledge of his relationships with (b) (6), (b) (7)(C)

and the (b) (6), (b) (7)(C) (Ex 26:4) commented on how she felt after learning of Maj Gen Finerty's relationship with the (b) (6), (b) (7)(C) stating "I -- I honestly felt sick to my stomach.... Because it just felt so sleazy and inappropriate. He's the head of -- we -- we're legislative liaisons. We liaise with Congress. (b) (6), (b) (7)(C) I -- I just thought it was inappropriate, especially in his position. Again, though, I have this internal turmoil because they both are single adult people and it's none of my business." (Ex 26:41-42)

Multiple witnesses testified to the conflict of interest or perception thereof that would arise out of the Director, SAF/LL taking part in a romantic relationship with (b) (6), (b) (7)(C) who worked (b) (6), (b) (7)(C) Air Force interests. The previous two (b) (6), (b) (7)(C) reported having no knowledge of Maj Gen Finerty's relationship with any (b) (6), (b) (7)(C) and described feeling "shocked" or "stunned" at the suggestion. (Ex 21:17, 20; Ex 23:12) Both MAs thought that if Maj Gen Finerty took part in a romantic or sexual relationship with a (b) (6), (b) (7)(C), it would give the other military services the negative appearance of an Air Force advantage or favored treatment due to the relationship, hence the conflict of interest. (Ex 21:19- 20; Ex 23:6-7) Regarding the relationship with a serving (b) (6), (b) (7)(C) who (b) (6), (b) (7)(C) that does business with the DAF, (b) (6), (b) (7)(C) said, "it would definitely be a conflict of interest," and the impact to the DAF would "depend on if things had been done as a result of . . . this relationship . . . if there was a perception of favoritism; if there was a perception of partisanship." (Ex 23:24-27)

(b) (6), (b) (7)(C) stated he had no previous knowledge of any inappropriate relationships involving Maj Gen Finerty and was "surprised" to become aware of his personal relationships with the two (b) (6), (b) (7)(C). (Ex 29:46) He stated Maj Gen Finerty "is not showing good judgment," raising the question of "is the Department of the Air Force making good decisions about who it's putting into positions of power and authority?" (Ex 29:46) (b) (6), (b) (7)(C)

. When asked to comment on Maj Gen Finerty's relationship with the two (b) (6), (b) (7)(C) testified "multiple relationships with multiple members . . . whether they're (b) (6), (b) (7)(C) or not, I would say are not appropriate . . ." (Ex 29:44) He stated, "I don't think a relationship in and of itself, you know, is a negative piece, but I think that there would be ways to handle that . . . if it were me, and I was single, and I was having a relationship with (b) (6), (b) (7)(C), I would say . . . find a different job, where my role is not to be . . . dealing with Congress . . ." (Ex 29:49-50)

(b) (6), (b) (7)(C) also expressed concern over a conflict of interest and described the potential for the SAF/LL role being used as "leverage or . . . for a favor or in a way that creates a personal gain for somebody, anything where you are mixing relationship with your . . . personal relationship with your duties as a . . . representative of the Department of the Air Force." (Ex 22:6-7) (b) (6), (b) (7)(C) had heard rumor "three months ago" that Maj Gen Finerty was in a personal relationship with the (b) (6), (b) (7)(C) and said he felt "shocked"

and thought it to was “totally unprofessional” because “I think it compromises the integrity of the entire Department of the Air Force...” (Ex 22:13-14) (b) (6), (b) (7)(C) continued, “there could be easily a sense of favoritism or preference given to . . . things that he Air Force is advocating for . . . aircraft divestments, those types of things and you know, if there is a personal relationship involved with (b) (6), (b) (7)(C), to me that’s a conflict of interest...” (Ex 22:16)

Article 133, Element 2: That, under the circumstances, the act or omission constituted conduct unbecoming an officer and gentleman.

Maj Gen Finerty, as an officer but more so as a General Officer, is held to a greater level of accountability. He is expected to conduct himself professionally and refrain from actions, even in his private capacity, that bring dishonor or disgrace upon himself or the Air Force. Based upon the foregoing, the preponderance of the evidence supports the following:

Maj Gen Finerty fraternized with EM from Aug 2018 to Sep 2020, as detailed in Allegation 1. Evidence supports they were inappropriately familiar with each other by exchanging sexually suggestive texts, violating the Air Force custom that officers shall not fraternize with enlisted members on terms of military equality, whether on or off-duty. In fraternizing with an enlisted member in the manner in which he did, Maj Gen Finerty raises questions about his judgment, integrity, professionalism, and military bearing, seriously compromising his standing as an officer. Given he knew he was close to the line, his decision to engage in cybersex with an enlisted member on seven or eight separate occasions, breaching Air Force custom, was dishonorable and fell short of Air Force officer standards.

As detailed in Allegation 2, Maj Gen Finerty had an affair with MC, a woman married to (b) (6), (b) (7)(C) officer, engaging in sexual intercourse on multiple occasions from approximately Nov 2022 to Feb 2023. Maj Gen Finerty knowingly engaged in this extramarital relationship despite the MC telling him she was still married. Maj Gen Finerty’s conduct raises questions about his judgment, integrity, professionalism, and military bearing, seriously compromising his standing as an officer. Under the circumstances, Maj Gen Finerty’s conduct was dishonorable, falling short of what is expected of Air Force officers, and seriously compromising his standing as an officer.

Finally, documentary evidence consisting of text exchanges and photos support Maj Gen Finerty engaged in a sexting relationship with two (b) (6), (b) (7)(C) from approximately Jan 2020 to Oct 2021, along with a sexting and a personally intimate relationship with a (b) (6), (b) (7)(C). With both (b) (6), (b) (7)(C) he exchanged graphic texts about him having sexual intercourse with them. Maj Gen Finerty and (b) (6), (b) (7)(C) exchanged multiple pornographic pictures of people engaging in sexual acts and intercourse, interspersed with work discussions. Consensual sexting does not violate a standard in and of itself. However, Maj Gen Finerty is a General Officer whose

primary duty was to serve as the face of the Air Force to Congress.²⁰ As such, he had a duty to always maintain professionalism with (b) (6), (b) (7)(C), especially those whose duties directly affect the Air Force mission.²¹ When asked whether as SAF/LL, he had responsibilities to maintain a professional relationship with (b) (6), (b) (7)(C) Maj Gen Finerty responded, “not just me, the whole office. The whole office has a responsibility to maintain a professional relationship with any (b) (6), (b) (7)(C),” caveating “I don’t want the impression that any kind of personal relationship with (b) (6), (b) (7)(C) is somehow unprofessional. I don’t believe that to be true at all.” (Ex 30:51)

Maj Gen Finerty testified his relationships with the (b) (6), (b) (7)(C) were between consenting adults, not in the same organization, and had no impact to the Air Force. He stated personal relationships are key to working with (b) (6), (b) (7)(C). He also emphasized no one knew about the texts until provided as evidence to SAF/IGS. However, (b) (6), (b) (7)(C) stated he learned of Maj Gen Finerty’s relationship with the (b) (6), (b) (7)(C) in Spring 2022, well before any evidence was provided to SAF/IGS, and he testified the relationship was “the worst kept secret in SAF/LL.” Additionally, Maj Gen Finerty’s texts with the (b) (6), (b) (7)(C) included conversations about work matters interspersed with sexual exchanges, and texts show he and the (b) (6), (b) (7)(C) discussed sharing a bed during an Air Force- sponsored (b) (6), (b) (7)(C). Furthermore, the sexually intimate nature of Maj Gen Finerty’s personal relationships with two (b) (6), (b) (7)(C) while serving as the Director of SAF/LL is neither one the Air Force expects its members to nurture, nor condones. Maj Gen Finerty’s interactions with (b) (6), (b) (7)(C) went well beyond what is expected to build and sustain professional relationships with Legislative partners, with witnesses characterizing them as “highly inappropriate,” “counterproductive,” “sleazy,” and “totally unprofessional.” Further, that Maj Finerty’s conduct was done in private is but one factor. Whether an officer’s behavior is in plain view or done in secrecy is not a determinant; the conduct of an officer may be unbecoming even when it is in private.²² There is

²⁰ In his TCL response, Maj Gen Finerty wrote, “The IO does not cite where that enumerated duty is contained in law, instruction, regulation, or policy. This is the IO is substituting (b) (6), (b) (7)(C) personal judgement for law, instruction, regulation, or policy. Additionally, this statement assumes I acted in an ‘unprofessional’ manner but the IO provides zero proof, evidence or analysis to support this.” (Ex 43:19) As stated in Art 133, the nature of the offense is defined as an “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.” Maj Gen Finerty’s interactions with the (b) (6), (b) (7)(C) are not reflective of professional relationships with Legislative partners.

²¹ Although there are several exchanges between Maj Gen Finerty and the women regarding legislative matters, there is no evidence of favors or exchanging of sensitive information by either party.

²² *United States v. Moore*, 38 M.J. 490, 493 (C.M.A. 1994)

no requirement to prove a third party was aware of the conduct.²³ Further, an act or omission does not have to be otherwise criminal to constitute an offense under Article 133.²⁴

Findings

Maj Gen Finerty's decision to engage with the aforementioned women, along with keeping those relationships secret, supports he wanted to maintain privacy but also underscores his lack of judgment and an understanding the relationships – such as with the EM and MC – were unprofessional. Even considering the relationships with the (b) (6), (b) (7)(C) where he felt there was no impact to the Air Force, members of his staff considered his behavior “highly inappropriate,” “counterproductive,” and “totally unprofessional.” Complicating his decision-making is the position he held within the DAF. Half of the witnesses interviewed were aware of Maj Gen Finerty's relationship with the (b) (6), (b) (7)(C) and nearly all witnesses voiced concern with negative optics to the DAF, including perceptions of “favoritism,” “conflict of interest,” and “preferential treatment” that could be attributed to various DAF-Congressional legislation items.

This is not just a case involving consensual relationships or sexting among unmarried adults. In determining whether Maj Gen Finerty's conduct with the (b) (6), (b) (7)(C) was unbecoming an officer, we look at Maj Gen Finerty's rank, position, and duties. Combined, they require him to set an example for Airmen, Guardians, and SAF/LL subordinates to follow. Given the totality of the facts and circumstances, Maj Gen Finerty's conduct exceeds the limit of tolerance based on customs of the service and below which the personal standard of an officer cannot fall without seriously compromising their standing. The custom of the service is enshrined in AFI 1-1, *Air Force Standards*, which required Maj Gen Finerty to “maintain professionalism and respect for others . . .” and tells all Air Force members to “never degrade the public's trust and confidence in the United States Air Force and in you.”

While he had known the (b) (6), (b) (7)(C) for years from his previous legislative liaison assignments, once he became the visible two-star face of the Air Force to Congress as SAF/LL, he had the responsibility to ensure his public and private actions with them were ones that would neither lower him nor the Air Force in public esteem, as required by AFI 1-1. The (b) (6), (b) (7)(C) were individuals with whom the Air Force, as an entity, was required to interact with respect and professionalism. The same requirement goes for Maj Gen Finerty, whose conduct with them in his private capacity raises questions about his judgment, integrity, professionalism, and military bearing, seriously compromising his standing as an officer.

²³ *United States v. Guaglione*, 27 M.J. 268, 272 (C.M.A. 1988) See also *United States v. Norvell*, 26 M.J. 477, 480 (C.M.A. 1988) (“It is, of course, obvious that *someone* must eventually become aware that the conduct has occurred; otherwise, there could be no prosecution for the offense. However, this is no less true for any other crime. Obviously, the knowledge of some third party, which must *necessarily* exist before any crime can be exposed and prosecuted, is not an element of every offense under the Uniform Code; and there is no reason for it to be an element of Article 133.”)

²⁴ *United States v. Norvell*, 26 M.J. 477, 481 (C.M.A. 1988)

The test for a violation of Article 133, UCMJ, is whether the conduct has fallen below the standards established for officers.²⁵ In his unique position as the Secretary of the Air Force's Legislative Liaison, Maj Gen Finerty had the obligation to the Secretary and the Air Force as a whole to be beyond reproach when dealing with (b) (6), (b) (7)(C). Given this, it was indecorous of him to send an extensive number of sexual texts and exchange pornographic pictures with (b) (6), (b) (7)(C) and to engage in an intimate personal relationship with a (b) (6), (b) (7)(C) all of whom have duties with a direct nexus to the Air Force. It would be a different outcome had Maj Gen Finerty not held the position of Director of SAF/LL or had the (b) (6), (b) (7)(C) not had duties directly tied to Air Force interests. Furthermore, Maj Gen Finerty failed to conduct himself in accordance with two of the three Core Values all Air Force members: Integrity First and Service Before Self. As defined in AFI 1-1, Integrity is a character trait. It is the willingness to do what is right even when no one is looking. It is the "moral compass"—the inner voice; the voice of self-control; the basis for the trust that is essential in today's military. Service Before Self tells us that professional duties take precedence over personal desires. In each of the five relationships, Maj Gen Finerty chose his personal desires above the interests of the Air Force. This conduct is not acceptable for any member of the DAF, even more so for an officer of Maj Gen Finerty's rank, position, and stature as the face of the Air Force to Congress.

The preponderance of the evidence supports Maj Gen Finerty engaged in dishonorable conduct with multiple women: fraternization with an enlisted AF member; an extramarital sexual relationship with a woman married to a (b) (6), (b) (7)(C) officer, a UCMJ violation that is morally unbecoming; sexting with two (b) (6), (b) (7)(C) whose duties directly affect the Air Force; and a sexting and personally intimate relationship with a (b) (6), (b) (7)(C) whose (b) (6), (b) (7)(C) directly affects the Air Force. Combined and under these circumstances, the preponderance of the evidence supports Maj Gen Finerty's conduct fell well below the expectations of an Air Force General Officer, disgraced him personally, and compromised his standing as both an officer and a gentleman.

Maj Gen Finerty's TCL Response

The ROI was edited for clarity in some places based on Maj Gen Finerty's TCL response, but he did not provide new information to overall change the substantiation of Allegation 3.

Maj Gen Finerty took issue with inclusion of the text messages, stating "these 5 pages are strictly an accounting of the number, scope, and content of text messages, without giving any context as to why they are being highlighted," which Maj Gen Finerty believes "gives the impression they are wrong, inappropriate or somehow a violation of law, instruction, regulation, or policy." (Ex 43:17) However, the text thread is simply provided as minimal examples of the

²⁵ *United States v. Diaz*, 69 M.J. 127, 136 (C.A.A.F. 2010) (quoting *United States v. Taylor*, 23 M.J. 314, 318 (C.M.A. 1987)).

voluminous exchanges between Maj Gen Finerty and the three individuals so the reader can understand the nature of the communications. No context or explanation is necessary, as the texts are unambiguous. The IO gave special consideration to not use more salacious threads.

Maj Gen Finerty stated,

The IO describes the 10 persons interviewed as “witnesses” and “matter experts.” This is wholly inaccurate, misleading, and unsupported... Throughout these pages the IO refers to the relationships with the [REDACTED] and the staff, while speaking with the interviewees, as “inappropriate” with no evidence and no reference to support that label. Where is the analysis and evidence to support the “inappropriate” label? To have the IG, from the very beginning of the report, and without evidence or analysis, assume there is some violation in the underlying act (consensual relationships between unmarried adults) is inaccurate and misleading. The IO then further biases interviewees by labeling the relationships as “inappropriate” interviewing them. (Ex 43:17-19)

AFI 90-301, *Inspector General Complaints Resolution*, 28 Dec 2018, Incorporating Change 1, 30 Sep 2020 defines a witness as "Any individual, civilian or military, who is interviewed, or testifies, during the course of an IG investigation." (Ex 45:163) The ten individuals were interviewed to determine what knowledge, if any, they had of his relationships with the [REDACTED] and two [REDACTED] as well as the impacts, if any, the relationships had on the Air Force, based on their first-hand experience as military professionals engaging with (b) (6), (b) (7)(C) [REDACTED]. These members have informed perspectives not available to anyone without this experience. Furthermore, the witnesses were questioned whether Maj Gen Finerty's relationships with the [REDACTED] and two [REDACTED] were appropriate or not, and if they found the relationships not appropriate, then they were asked why. The IO did not presumptively characterize the relationships as “inappropriate” during the interviews.

Maj Gen Finerty criticized the ROI analysis where it states, “he [Maj Gen Finerty] had the responsibility to ensure his public and private actions with (b) (6), (b) (7)(C) [REDACTED] were ones that would neither lower him nor the Air Force in public esteem,” since he believes it gives the reader the “impression that the underlying act (consensual relationships among unmarried adults) was proven to be a violation or otherwise lowered either me or the Air Force in the public esteem.” He continues, “There was never any proof, evidence or analysis to show this.” (Ex 43:21-22) Maj Gen Finerty and his attorney repeatedly characterize Maj Gen Finerty’s relationships with the (b) (6), (b) (7)(C) [REDACTED] as “consensual relationships between non-married adults” and “single women who happened to work (b) (6), (b) (7)(C) [REDACTED].” (Ex 43:30) However, if that were only so, no investigation on these relationships would have ensued. These individuals play key roles (b) (6), (b) (7)(C) [REDACTED] that make decisions directly affecting DoD and the Air Force, and Maj Gen Finerty was the head of the DAF organization with the primary role of bridging Congressional staffers and leaders with the Air Force. Behavior that breaches the level of trust and professionalism expected of legislative liaisons is a serious matter. As such, there is a heightened requirement that relationships with (b) (6), (b) (7)(C) [REDACTED]

who have duties related to the DoD and DAF remain above reproach and professional at all times. This was not the case with Maj Gen Finerty, given the voluminous sexually explicit communications he had with all three members during the 2021-2022 time period. Maj Gen Finerty provided no new evidence that changes the report's analysis.

CONCLUSION.

The preponderance of the evidence supports Maj Gen Finerty fraternized with an enlisted member by engaging in cybersex on at least seven to eight occasions; had sexual intercourse on multiple occasions with a woman married to a (b) (6), (b) (7)(C) officer; and exchanged pornographic pictures and sexually graphic texts with two (b) (6), (b) (7)(C) whose primary duties affect the Air Force, along with sexting and having a personally intimate relationship with (b) (6), (b) (7)(C). Of the latter three, Maj Gen Finerty interacted with them as SAF/LL, mixing his professional and personal roles, thus creating the perception of a conflict of interest among witnesses who found his conduct "highly inappropriate," "counterproductive," and "totally unprofessional." Under these circumstances, the preponderance of the evidence supports Maj Gen Finerty's conduct fell well below the expectations of an Air Force General Officer, disgraced him personally, and compromised his standing as both an officer and a gentleman.

By a preponderance of the evidence, the allegation that between on or about Aug 2018 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in inappropriate relationships with multiple individuals, which conduct compromised his standing as an officer, in violation of Article 133, Conduct unbecoming an officer and a gentleman, UCMJ, is **SUBSTANTIATED**.

IV. SUMMARY

ALLEGATION 1, that between on or about Aug 2018 and Sep 2020, Maj Gen Christopher E. Finerty knowingly engaged in fraternization with an Air Force enlisted member by exchanging sexually suggestive text messages, in violation of Article 134, *Fraternization*, UCMJ, is **SUBSTANTIATED**.

- The preponderance of the evidence supports Maj Gen Finerty fraternized with an enlisted member by exchanging sexually suggestive texts and engaging in cybersex on at least seven occasions. This relationship violated customs of the Air Force, putting her on terms of military equality with him in such a way that was of a nature to bring discredit upon the armed forces.

ALLEGATION 2, that on divers occasions between on or about Nov 2022 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in extramarital conduct with a DoD civilian employee, a person he knew was married to someone else, in violation of Article 134, *Extramarital Sexual Conduct*, UCMJ, is **SUBSTANTIATED**.

- The preponderance of the evidence supports Maj Gen Finerty engaged in sexual intercourse multiple times with a DoD civilian employee married to a (b) (6), (b) (7)(C) officer. Maj Gen Finerty's conduct, under the circumstances, was prejudicial to good order and discipline.

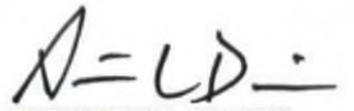
ALLEGATION 3, that between on or about Aug 2018 and Feb 2023, Maj Gen Christopher E. Finerty wrongfully engaged in inappropriate relationships with multiple individuals, which conduct compromised his standing as an officer, in violation of Article 133, Conduct unbecoming an officer and a gentleman, UCMJ, is **SUBSTANTIATED**.

- The preponderance of the evidence supports Maj Gen Finerty fraternized with an enlisted member by engaging in cybersex on at least seven occasions; had sexual intercourse on multiple occasions with a civilian employee married to a (b) (6), (b) (7)(C) officer; and exchanged sexually graphic texts with two (b) (6), (b) (7)(C) whose primary duties affect the Air Force, along with sexting and having a personally intimate relationship with (b) (6), (b) (7)(C) who also had duties tied to the Air Force. Of the latter three, Maj Gen Finerty interacted with them as SAF/LL, mixing his professional and personal roles, thus creating the perception of a conflict of interest among witnesses who found his conduct highly inappropriate, counterproductive, and unprofessional. Under these circumstances, the preponderance of the evidence supports Maj Gen Finerty's conduct fell well below the expectations of an Air Force General Officer, disgraced him personally, and compromised his standing as both an officer and a gentleman.

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

Investigating Officer
Senior Official Inquiries

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


STEPHEN L. DAVIS
Lieutenant General, USAF
The Inspector General

37

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IG SENSITIVE MATERIAL
CONTROLLED UNCLASSIFIED INFORMATION (CUI-PRIG)

LIST OF EXHIBITS

	Exhibit
IO Appointment Letter.....	1
Maj Gen Finerty Bio.....	2
Not Used.....	3
EM Bio.....	4
AF 102.....	5
AFI 36-2909 Professional Relationships.....	6
UCMJ Article 133.....	7
UCMJ Article 134.....	8
Complainant Follow-up MFR.....	9
Complainant Clarification MFR.....	10
HAFMD 1-22 SAF/LL.....	11
AFI 1-1 Air Force Standards.....	12
(b) (6), (b) (7)(C) Texts.....	13
MC Text messages.....	14
Transcript MFM.....	15
Transcript EM.....	16
Transcript (b) (6), (b) (7)(C).....	17
Transcript 1 (b) (6), (b) (7)(C).....	18
Transcript 2 (b) (6), (b) (7)(C).....	19
Transcript (b) (6), (b) (7)(C).....	20
Transcript (b) (6), (b) (7)(C).....	21
Transcript (b) (6), (b) (7)(C).....	22
Transcript (b) (6), (b) (7)(C).....	23
Transcript (b) (6), (b) (7)(C).....	24
Transcript (b) (6), (b) (7)(C).....	25
Transcript (b) (6), (b) (7)(C).....	26
Transcript (b) (6), (b) (7)(C).....	27
Transcript (b) (6), (b) (7)(C).....	28
Transcript (b) (6), (b) (7)(C).....	29
Transcript Finerty.....	30
EM (b) (6), (b) (7)(C) EPR.....	31
EM (b) (6), (b) (7)(C) EPR.....	32
Notification of Formal Allegations.....	33
(b) (6), (b) (7)(C) Texts.....	34
(b) (6), (b) (7)(C) Texts.....	35
EM Texts.....	36
EM Photos.....	37

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**IG SENSITIVE MATERIAL
CONTROLLED UNCLASSIFIED INFORMATION (CUI-PRIG)**

United States v. Moore, 38 M.J. 490 (1994)..... 38

MC Follow-up MFR 19 May 2023..... 39

AFMD 50 ANGRC..... 40

VA Divorce Rules..... 41

CONFIDENTIAL Legal Counsel Privacy Concerns 42

Subject's TCL Response 43

Finerty ROI TCL Version..... 44

AFI 90-301, IG CR, 28 Dec 2018, Incorporation Change 1, 30 Sep 2020 45

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