



OFFICE OF THE SECRETARY

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

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

25 Apr 2024

MEMORANDUM FOR THE ADJUTANT GENERAL, CALIFORNIA NATIONAL GUARD
(MAJOR GENERAL MATTHEW P. BEEVERS)

FROM: THE INSPECTOR GENERAL
1140 Air Force Pentagon
Washington DC 20330-1140

SUBJECT: SAF/IG Oversight of CDI on Col Lisa Nemeth (ACTS Case 2021-13023)

Based on your memo to Gen Allvin, I wanted to provide additional information on the findings in the SAF/IG Oversight Report, dated 24 Oct 23, provided to CANG leadership for the case involving Col Lisa Nemeth. I have attached the detailed oversight report, which provides additional details on our findings. I regret not providing this initially and believe reviewing the full oversight report will resolve concerns you expressed in the memo that our review was superficial or that we summarily dismissed the allegations.

I take all complaints against DAF senior officials seriously. SAF/IGS is the sole office authorized to investigate complaints against Senior Officials. At my discretion, I can delegate Senior Official investigations to lower-level IG offices. In these instances, AFI 90-301 requires me to review and approve these delegated investigations to ensure consistency and adherence to Air Force standards. I endeavor to give significant discretion to these delegated investigations; however, substantiated findings in an ROI must be based on an appropriate standard and supported by a preponderance of verifiable and credible evidence. Even after our efforts to resolve the critical deficiencies, the CDI conducted on Col Nemeth did not meet this standard.

The allegation against Col Nemeth was made on 17 Jun 21, and an Investigating Officer for the CDI was appointed two months later on 18 Aug 2021. The IO completed the first version of the report on 10 May 2022. SAF/IGS received the first ROI on 18 Jul 22 and, on 8 Sep 22, notified CANG/IG that the CDI ROI was both administratively and legally insufficient, provided specific feedback regarding the ROI, and directed CANG/IG to correct the identified deficiencies and submit the report for a second review.

SAF/IGS informed CANG/IG the toxic leadership and conduct unbecoming allegations lacked evidentiary support and provided the following shortcomings in Allegations 1, 2, 4, and 8 (the allegations identified as "substantiated" in the May 2022 CDI ROI). SAF/IGS highlighted the following concerns in a 12-page review provided to CANG/IG in Sept 22:

- **Allegation 1:** Whether Col Lisa Nemeth eroded morale, unit cohesion, good order and discipline, and respect for authority of its members in violation Article 134 General Article, UCMJ when she put her personal and political agenda ahead of her professional duties.

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To reach a substantiated finding, evidence and analysis needed to address how the subject's conduct eroded morale, unit cohesion, good order and discipline, and respect for authority. SAF/IGS provided specific examples of the type of evidence needed to substantiate. Specifically, the ROI did not explain what or how the subject pushed a personal or political agenda.

- **Allegation 2:** Whether Col Nemeth engaged in counterproductive and toxic leadership in violation AFI 1-2 and Article 92, UCMJ, during her time as 146 AW/CC against members in the 146 AW and the CA ANG.

SAF/IGS addressed each element of the allegation, including Col Nemeth's involvement in the MAFFS non-voluntary deployment rumor, Col Nemeth retaining the (b) (6), (b) (7)(C) after his DUI, Col Nemeth bringing her dog to work, and Col Nemeth's approach to COVID-19 vaccinations. Specifically, SAF/IGS notified the CANG/IG that more facts were needed to support each area and described what was needed to substantiate toxic leadership. In particular, SAF/IGS noted that documentary evidence in the case clearly demonstrated that Col Nemeth's decision to retain the (b) (6), (b) (7)(C) in his position following his DUI was a State-level command decision, and CANG leadership was fully aware of the decision.

- **Allegation 4:** Whether Col Nemeth unreasonably used military resources for her personal benefit in violation of *Joint Ethics Regulation* (JER) when she allowed subordinates to walk her dog and complete other personal tasks that were not military related.

SAF/IGS notified CANG/IG that the wrong section of the JER was applied, identified the correct sections of the JER, and provided specific additional evidence required to substantiate a JER violation.

- **Allegation 8:** Whether Col Nemeth engaged in conduct that was unbecoming of an officer in violation of Article 133 Conduct Unbecoming an Officer and Gentleman, UCMJ, based on the above actions. By "above actions," the allegation refers to the actions and behavior identified and assessed in Allegations 1 through 7 of the ROI.

SAF/IGS reiterated the toxic leadership and conduct unbecoming allegations do not appear to be supported by enough evidence to substantiate the allegation without more facts and analysis.

Finally, regarding the issue of Col Nemeth bringing her dog to work, SAF/IGS recommended the issue be covered in one allegation and identified other redundancies regarding the dog issue in the ROI.

- **Legal Review:** The initial legal review stated, (b) (6), (b) (7)(C) [REDACTED]
[REDACTED] This statement by itself invalidates the legal review. All findings, whether Substantiated or Not Substantiated, must be supported by a preponderance of the evidence. The Allegations, namely those that were found Not Substantiated, can be said to be not supported by the preponderance of evidence, but the *findings*, whether Substantiated or Not Substantiated, must be supported.

On 17 May 23, the CANG/IG provided SAF/IGS a modified ROI (dated 8 Nov 22). On review, SAF/IGS determined the revised ROI did not adequately address the previously identified deficiencies. Based on the overall investigative and legal insufficiency of the ROI, and because the

ROI had been in work with the state for nearly two years already, I directed SAF/IGS to conduct an in-depth oversight of the ROI, which included a thorough review of all evidence and all witness statements. The attached oversight report provides a detailed analysis of the evidence and rationale for my findings.

Finally, I would like to address some of the key concerns you raised in your 10 Jan 24 memo to the CSAF. Based on several comments in your remarks, it appears that you may not have been provided accurate information regarding this case:

- In paragraph 4, you state, “all of Col Nemeth’s subordinate commanders stated that they felt the presence of Col Nemeth’s dog was detrimental to the mission and a distraction.” This statement is not accurate, not supported by the CDI evidence, and is not a CDI finding.
 - The case evidence includes 39 interviews involving sworn testimony from 33 witnesses (some witnesses were interviewed twice). Of the witnesses interviewed, eight meet the criteria of a subordinate commander. Only the complainant said the subject’s dog presence was detrimental to the mission, but he did not explain or justify this comment further.
 - Two witnesses, the (b) (6), (b) (7)(C) and the (b) (6), (b) (7)(C), indicated they did not agree with bringing pets to work, but they did not directly identify Col Nemeth’s dog as a distraction or a detriment to the mission.
 - The (b) (6), (b) (7)(C) said he felt generally having dogs at work was a distraction. In response to the question, “Do you allow people in the ops group to bring their pets to work?” the (b) (6), (b) (7)(C) responded, “So that’s a – that’s a – that’s a tricky question. Uh, I – I prefer not to have animals, uh, at work. Um, I – I love animals. I have two of my own at home, um, but I think it’s a distraction. Um, we, in the ops group have – have seen people bring dogs into work on occasion, ... I’ve never, uh, mandated the people do not bring the dogs to work. It’s tough to enforce when the boss brings her dog to work. Uh, so, uh, I have not had that policy within the ops group, although I don’t agree with it.” The (b) (6), (b) (7)(C) never stated the dog’s presence was detrimental to the mission, and the CDI IOs did not follow up to determine if the (b) (6), (b) (7)(C) ever informed Col Nemeth he felt the dog was a distraction.
 - The (b) (6), (b) (7)(C) indicated that he did not like the practice of bringing dogs to work when he explained that several people brought their dogs to work, and it was difficult to tell them not to because Col Nemeth brought her dog to work. When asked if anyone complained about Col Nemeth’s dog, the (b) (6), (b) (7)(C) said none of his subordinates ever complained about Col Nemeth’s dog being at work.
 - Of the eight subordinate commanders, five did not mention or indicate the subject’s dog was a distraction or detrimental to the mission.
 - The (b) (6), (b) (7)(C) stated he never observed or perceived any negative implications of Col Nemeth’s dog at work.

- The (b) (6), (b) (7)(C) commander stated he allows subordinates to bring pets to work and has never heard any complaints. He further stated he “would have changed some things if we had people upset about (having pets at work).”
- The (b) (6), (b) (7)(C) stated no one from the mission support group or the maintenance group ((b) (6), (b) (7)(C)) complained about Col Nemeth’s dog.
- The (b) (6), (b) (7)(C) described the times she observed dogs at work as a “non issue.”
- The (b) (6), (b) (7)(C) stated he brought his own dog to work.
- With the exception of the complainant, who one witness described as disgruntled and intent on “burning the place down” on his way out, none of these commanders complained or spoke to Col Nemeth about bringing her dog to work. Furthermore, Col Nemeth testified under oath that she never heard any complaints about her dog being at work. Based on witness testimony, we disagree with your assertion Col Nemeth’s dog was detrimental to the mission and a distraction.
- Your comments regarding Col Nemeth’s dog “roaming around the conference room and urinated on the carpeted floor in the middle of the meeting” in paragraph 4 paints a different picture than the sworn testimony. The (b) (6), (b) (7)(C) was the only witness who described an incident involving Col Nemeth’s dog urinating during a meeting. In response to the question, “Have you ever observed anyone pick up after the dogs [referring to Col Nemeth’s dog and the (b) (6), (b) (7)(C) dog],” the (b) (6), (b) (7)(C) stated, “I witnessed Colonel Nemeth’s dog in the staff meeting urinate on the, uh, rug in the wing conference room. And, uh, I don’t know if Colonel - Colonel Nemeth was aware, but it happened right next to, um, one of our (b) (6), (b) (7)(C), uh, and the (b) (6), (b) (7)(C), uh, left the room and went back with paper towels and covered up the urination puddle, uh, in the conference room, and when Colonel Nemeth realized what was happening, she said, ‘Please don’t do that. That’s not your responsibility, that’s mine. (Unintelligible) my own dog. You - you don’t have to do that.’ And [the (b) (6), (b) (7)(C)] said, ‘No, no, it’s okay.... I’m doing on my own volition. So don’t - don’t worry.’ And so, I think Colonel Nemeth was very embarrassed that it happened.” None of the sworn testimony mentions the dog roaming around the conference room during a meeting, no one in attendance complained about the incident, and there is no sworn testimony from the (b) (6), (b) (7)(C) regarding the incident.
- The specific wording of an allegation is critical to the finding of the allegation. You are correct; the evidence indicates Col Nemeth brought her dog to work, allowed her subordinates to care for her dog, and violated the Code of Federal Regulations (CFR). Both the attached 24 Oct 23 SAF/IG Oversight Report (Attachment 2) and the 8 Sep 22 12-page summary of the initial SAF/IGS Oversight Review (Attachment 1) that CANG leadership was previously provided acknowledge these points. However, bringing in her dog does not automatically constitute a violation of Art 134, the JER, toxic leadership, or conduct unbecoming an officer. The ROI did not properly address the standards cited in the allegations as is required to substantiate a finding of misconduct.

As covered in the 24 Oct 23 SAF/IG Oversight Report, a preponderance of the evidence and the analysis in the CDI does not establish how, or even if, Col Nemeth's actions eroded morale, unit cohesion, good order and discipline, and respect for authority. Similarly, the evidence and analysis does not establish that Col Nemeth knew funds were being spent based on her pet or address Col Nemeth's testimony that when she found out about the expenditures, she put a stop to them and attempted to return the items. Furthermore, the evidence and CDI analysis do not establish how bringing a dog to work equates to toxic leadership. Lastly, none of the allegations directly addressed the issue you raised regarding the (b) (6), (b) (7)(C) continuing to fly following his DUI. Any criticism of inaction by Col Nemeth in this area was rendered moot by the ATAG pulling disciplinary authority up to his level. This action made it impossible for Col Nemeth to take any further action as her authority to act was removed by leaders at the state level.

Regarding your efforts to uphold the ethical standards in the California National Guard, I fully support them. However, it does not serve the interest of justice to substantiate allegations when they are not supported by the preponderance of the evidence. You expressed dissatisfaction with my determination that it was not in the best interest of the Air Force to pursue this matter further. However, given SAF/IG's efforts to help correct the deficient CDI, the lack of adequate response to those corrections, and because the state actions in this case had exceeded two years, finalizing the investigation was the proper course of action. Finally, I would point out, as specifically highlighted in the footnote you referenced, CA ANG leadership had the authority to take appropriate action on the matter. That is, you did not and do not need a substantiated CDI to hold members accountable for clear violations of instructions, rules, and laws.

Thank you for the opportunity to provide additional information on this matter. Please do not hesitate to contact me if you have any concerns or questions about this or any matter at (703) 697-4787.

DAVIS.STEPHEN.L. Digitally signed by
(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
STEPHEN L. DAVIS
Lieutenant General, USAF
The Inspector General

2 Attachments:

1. SAF/IGS Oversight Review – 8 Sep 22
2. SAF/IG Oversight Report (Nemeth) S9122P – 24 Oct 23



Office of the Secretary

SENSITIVE IG MATERIAL
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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

24 Oct 23

MEMORANDUM FOR RECORD

FROM: SAF/IGS

1140 Air Force Pentagon
Washington DC 20330-1140

SUBJECT: Oversight Review of the Commander Directed Investigation Regarding Misconduct by Col Lisa A. Nemeth, 146 AW/CC, CA ANG (S9122P, ACTS 2021-13023)

SAF/IGS reviewed the revised Report of Investigation (ROI) concerning Col Lisa Nemeth, former 146 AW/CC, dated 8 Nov 22, covering the subject Commander Directed Investigation (CDI) ordered by CA ANG/CC and conducted by CANG IG. In addition to the ROI and the supporting evidence referenced in the ROI (Atch 1), SAF/IGS reviewed Col Nemeth's response to the preliminary CDI report dated 15 Apr 23 (Atch 2), the Investigating Officer's (IO's) response to the Appointing Authority dated 15 May 23 (Atch 3), the appointing authority's final ROI approval dated 15 May 23 (Atch 4), a legal review of the revised ROI dated 30 Mar 23 (Atch 5), and a previous SAF/IGS review with attached recommendations regarding the initial ROI dated 8 Sep 22 (Atch 6).

Based on the document review and the analysis summarized in this memo, SAF/IGS determined the following:

- SAF/IGS does not concur with the findings in the revised ROI dated 8 Nov 22 for Allegations 1, 2, 4, and 8. A preponderance of the evidence does not support SUBSTANTIATED findings; all four allegations are changed to NOT SUBSTANTIATED. See discussion and analysis below.
- SAF/IGS concurs with the NOT SUBSTANTIATED findings in the revised ROI dated 8 Nov 22 for Allegations 3, 5, 6, and 7.

BACKGROUND

Col Nemeth assumed command of the 146 AW in Jun 2020. Prior to assuming wing command, she was a career Active Duty KC-135 pilot and the 6 OG/CC at MacDill AFB. According to (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), Col Nemeth was hired based on her AMC experience and expertise. (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), both C-130 evaluators and qualified Modular Airborne Firefighting System (MAFFS)¹ aircraft commanders (ACs), were in place as the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) to provide C-130 expertise and experience for the wing. Specifically, (b) (6), (b) (7)(C) said he expected Col Nemeth to rely on (b) (6), (b) (7)(C) C-130 experience.

¹ "MAFFS are portable fire retardant delivery systems that can be inserted into military C-130 aircraft without major structural modifications to convert them into airtankers when needed." (reference ://www.fs.usda.gov/managing-land/fire/planes/maffs)

SENSITIVE IG MATERIAL
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Complaints

The CDI into Col Nemeth's behavior was initiated by two complaints in Jun 2021. An anonymous complainant alleged Col Nemeth "acted excessively arrogant" and used enlisted personnel inappropriately. The complainant specifically said:

- Col Nemeth's decision to retain (b) (6), (b) (7)(C) as the wing (b) (6), (b) (7)(C) after he "totaled his car and was arrested and jailed for Driving Under the Influence (DUI)...while enlisted personnel across the base received swift discipline" was an example of Col Nemeth's "arrogant behavior."
- Col Nemeth used "subordinate enlisted personnel for personal tasks to include walking, feeding and babysitting her dog."
- Col Nemeth was "incapable of performing" because of her "political agenda," but the complainant did not elaborate on what constituted her political agenda.

The second complaint came from (b) (6), (b) (7)(C). He alleged it was "unprofessional" for Col Nemeth to bring her dog to work and have her subordinates care for her pet. He also said Col Nemeth went beyond CA TAG's requirements for COVID-19 vaccinations and felt the pressure she put on people to get vaccinated "could be perceived as bullying." Finally, the second complainant alleged Col Nemeth's behavior and focus on vaccinations was hurting unit morale.

Initially, the CDI focused on Col Nemeth bringing her dog to work and her approach to the COVID-19 vaccine. During early interviews, the initial IO, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) said, "the meat of the investigation hinges on Col Nemeth bringing her dog to work and COVID." These two points were captured in Allegation 1 as Col Nemeth's "personal agenda" (bringing her dog to work) and her "political agenda" (what the second complainant described as Col Nemeth putting pressure on members to get vaccinated for COVID-19).

Sometime during the investigation, the focus shifted away from COVID-19. The final ROI focused on three issues:

- Col Nemeth's decision to retain (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position after (b) (6), (b) (7)(C) wrecked his car and was arrested for DUI.
- Col Nemeth failing to curtail or discourage the discussion about possible involuntary MAFFS deployments and Col Nemeth's decision to combine MAFFS training with a Local Readiness Exercise (LRE).
- Col Nemeth bringing her dog to work.

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

On 4 Mar 21, (b) (6), (b) (7)(C) wrecked his car and was arrested for DUI. Evidence indicates when Col Nemeth learned about the incident, she contacted (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), and (b) (6), (b) (7)(C). According to Col Nemeth, she contemplated taking immediate action against (b) (6), (b) (7)(C) but was told to "slow down" by (b) (6), (b) (7)(C). On 8 Mar 21, (b) (6), (b) (7)(C) delegated authority to complete necessary action against (b) (6), (b) (7)(C) for his arrest to (b) (6), (b) (7)(C). After communicating with CANG leadership, Col Nemeth decided to retain (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position and stated she did so to take

advantage of his C-130 experience in preparation for upcoming inspections. On 12 May 21, (b) (6), (b) (7)(C) gave (b) (6), (b) (7)(C) an LOR, and in early Jul 2021, (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), took over duties as the (b) (6), (b) (7)(C). Multiple witnesses stated that they disagreed with Col Nemeth's decision and felt (b) (6), (b) (7)(C) should have been removed from the (b) (6), (b) (7)(C) position immediately following his accident.

Involuntary MAFFS Mobilization

Traditionally, the 146 AW has met MAFFS requirements with volunteers. However, in early 2021, the wing was experiencing a shortage of MAFFS-qualified pilots. In the spring of 2021, (b) (6), (b) (7)(C) sent a group text message to the MAFFS Aircraft Commanders (ACs) advising them if volunteers for MAFFS missions did not materialize, the aircrews faced involuntary mobilization. (b) (6), (b) (7)(C) said he sent the message to generate more MAFFS volunteers. According to testimonial evidence, no MAFFS ACs responded to his text.

Col Nemeth testified that by the time she learned about (b) (6), (b) (7)(C) text to the MAFFS ACs, the wing had a plan to meet MAFFS projected requirements for the 2021 fire season with volunteers. Col Nemeth explained she did not consider contradicting her (b) (6), (b) (7)(C) regarding the text because, although the wing had a plan in place, there was still a possibility of not meeting requirements with volunteers. In retrospect, Col Nemeth said she did not agree with the timing or content of (b) (6), (b) (7)(C) text. However, she believed doing nothing about the text was better than contradicting her (b) (6), (b) (7)(C) while there was still a possibility of needing further measures to meet MAFFS requirements.

Combining MAFFS training with an LRE

The CDI did not specify what MAFFS training was combined with an LRE or when the actual training/exercise occurred. Testimonial evidence indicates wing leadership, including the (b) (6), (b) (7)(C), discussed how the wing could prepare for upcoming AMC inspections with limited opportunities. (b) (6), (b) (7)(C) said that, as the (b) (6), (b) (7)(C), he initiated the idea of using MAFFS training missions to exercise deployment capabilities as part of an LRE. The (b) (6), (b) (7)(C) was against combining the events. On the other hand, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) were in favor of using the opportunity to accomplish the deployment portion of the LRE. Col Nemeth decided to combine the events while minimizing the actual participation by MAFFS aircrews. Evidence indicates MAFFS aircrew members, and particularly the MAFFS ACs, did not like Col Nemeth's decision.

The Presence of Col Nemeth's Dog

In the late winter or early spring of 2021, during COVID-19 restrictions, Col Nemeth purchased a Dalmatian puppy from a breeder in Kansas. (b) (6), (b) (7)(C) also purchased a puppy from the same breeder and litter. (b) (6), (b) (7)(C) offered to pick up Col Nemeth's dog when he traveled to Kansas to pick up his puppy. Col Nemeth accepted his offer.

After her puppy arrived, Col Nemeth brought her puppy into the office. Witness testimony indicates CSS staff members liked having Col Nemeth's dog in the office and asked Col Nemeth to continue bringing the dog in. Col Nemeth said having the dog in the office boosted morale during COVID-19 restrictions. Col Nemeth testified she brought her dog into the office a half or full day a week, at most, and a member of her CSS testified Col Nemeth did not

bring the dog in often, maybe once every two to three weeks. Three witnesses mentioned the CSS personnel walking Col Nemeth's dog when making general complaints about the CSS staff not working enough. However, there is no evidence indicating anyone complained directly to Col Nemeth about having her dog at work. Other than the three witnesses' general complaints about CSS work habits, there is no evidence indicating required work was not accomplished due to the presence of Col Nemeth's dog.

(b) (6), (b) (7)(C) also brought his dog to work during the same time period. Witness testimony indicated MXG staff enjoyed having (b) (6), (b) (7)(C) dog in the office, and one individual testified he would ask to walk (b) (6), (b) (7)(C) dog during lunch breaks.

Eighteen witnesses confirmed Col Nemeth and/or (b) (6), (b) (7)(C) would bring their dogs to work during duty hours. Multiple witnesses stated they observed Wing Staff personnel walking dogs owned by leadership during duty hours. Evidence indicates both group commanders and squadron commanders were aware Col Nemeth brought her dog to work. The evidence also indicates none of the commanders complained to Col Nemeth about her dog or told her she should not bring her pet to work.

Oversight Observations

Based on the testimonial evidence, numerous witnesses were frustrated with Col Nemeth's leadership and seemed to resent that Col Nemeth, an Active Duty KC-135 pilot, was hired to lead the wing. This sentiment seemed most prevalent in the 146 OG and presented itself as frustration that Col Nemeth was not a qualified MAFFS pilot and thus did not hold the MAFFS mission in high enough regard. The stretch to include Col Nemeth's focus on AMC inspections as an aspect of her personal agenda, and the questions used during witness interviews indicate this bias may have extended to the CDI IOs. Col Nemeth identified this potential bias in the report in her TCL response and attributed it, at least partially, to the fact that she was an "outsider" from Active Duty. (b) (6), (b) (7)(C) also mentioned a bias against outsiders in his testimony. This bias may have impacted the evidence and analysis of Col Nemeth's decisions regarding MAFFS and (b) (6), (b) (7)(C).

While some members of the wing did not like discussions about involuntary MAFFS deployments, felt combining MAFFS training with AMC inspection preparation was a bad idea, and did not like the idea of (b) (6), (b) (7)(C) remaining the (b) (6), (b) (7)(C) after his DUI, these decisions were within Col Nemeth's authority and were made after Col Nemeth consulted with appropriate CANG leadership. The possibility that Col Nemeth retained (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position due to favoritism or bias against enlisted members was specifically addressed and Not Substantiated in Allegation 3 of the CDI ROI. Ultimately, the only specific evidence indicating a potential violation in the ROI involved Col Nemeth bringing her dog to work.

Overall, SAF/IGS concurred with the CDI analysis of Allegations 3, 5, 6, and 7 and determined evidence supported the Not Substantiated findings. However, the Substantiated findings of UCMJ violations (Allegation 1), toxic leadership (Allegation 2), ethical wrongdoing (Allegation 4), and conduct unbecoming (Allegation 8) were not supported by the evidence. The SAF/IGS analysis and findings for Allegations 1, 2, 4, and 8 are covered in detail in this oversight report.

ANALYSIS OF ALLEGATION 1:

Allegation 1: Whether Col Lisa Nemeth eroded morale, unit cohesion, good order and discipline, and respect for authority of its members in violation Article 134 General Article, UCMJ when she put her personal and political agenda ahead of her professional duties.

To be substantiated, the evidence and analysis must meet the burden based on the language in the allegation itself and the burden based on the elements of the standard. To substantiate this allegation, a preponderance of the evidence must (1) support that Col Nemeth's conduct "eroded morale, unit cohesion, good order and discipline, and respect for authority" (the language in the allegation) and (2) establish that Col Nemeth's conduct was directly prejudicial to good order and discipline per Article 134.

After reviewing all testimony and contacting the CANG IG for further clarification, SAF/IGS found no evidence linking Col Nemeth's personal or political agenda directly to a deterioration of good order and discipline, or an erosion of morale, unit cohesion, or respect for authority. SAF/IGS concurs with the ROI analysis and finding that there is no evidence indicating Col Nemeth placed a political agenda above her professional duties. The ROI reasonably equated Col Nemeth bringing her pet to work with a personal agenda. However, the evidence does not indicate bringing her dog to work directly impacted good order and discipline. While three witnesses mentioned Col Nemeth's dog when complaining about the Commander's Support Staff (CSS) not doing enough work, these comments did not indicate the presence of Col Nemeth's dog eroded morale or unit cohesion. Finally, SAF/IGS does not concur that Col Nemeth's decision to retain (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C) following his DUI equated to a personal agenda. Based on the evidence, the decision to retain (b) (6), (b) (7)(C) was within Col Nemeth's authority and, in consultation and with the support of CA ANG/CC, she decided to leave (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position and utilize his expertise in upcoming inspection preparation. Therefore, the evidence does not show Col Nemeth placed her personal agenda above her professional duties by retaining (b) (6), (b) (7)(C) as the (b) (6), (b) (7)(C).

Conclusion:

While the ROI reasonably equated Col Nemeth bringing a pet to work and allowing subordinates to care for her pet to a personal agenda, the evidence does not establish bringing her dog to work was directly prejudicial to good order and discipline. Furthermore, the evidence does not support the conclusion that by bringing her dog to work and allowing subordinates to walk or play with her pet Col Nemeth eroded morale, unit cohesion, good order and discipline, and respect for authority. Finally, there is no evidence indicating Col Nemeth placed a political agenda ahead of professional duties. Therefore, the allegation that Col Nemeth eroded morale, unit cohesion, good order and discipline, and respect for authority of its members in violation Article 134 General Article, UCMJ, when she put her personal and political agenda ahead of her professional duties, is **NOT SUBSTANTIATED**.

ANALYSIS OF ALLEGATION 2:

Allegation 2: Whether Col Nemeth engaged in counterproductive and toxic leadership in violation AFI 1-2 and Article 92, UCMJ, during her time as 146 AW/CC against members in the 146 AW and the CA ANG.²

The ROI identified the following three areas of analysis to determine if Col Nemeth engaged in counterproductive and toxic leadership:

1. Col Nemeth did not stop or discourage discussions about involuntary MAFFS mobilization and supported utilizing MAFFS training as part of a readiness exercise in preparation for upcoming AMC inspections.
2. Col Nemeth brought her pet dog into the workplace.
3. Col Nemeth's decision to retain the (b) (6), (b) (7)(C) in his position following a DUI crash and arrest.

SAF/IGS assessed the evidence supporting each of these areas individually and determined the evidence did not support a substantiated finding of counterproductive and toxic leadership.

Area 1: Involuntary MAFFS mobilization and combining MAFFS training with a Logistics Readiness Exercise (LRE):

The following evidence was considered for the analysis of Area 1:

- The idea of involuntary mobilization came from (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) sent the text socializing the possibility of involuntary mobilization to the MAFFS Aircraft Commanders (ACs).
- The evidence indicates (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) both experienced MAFFS ACs and senior advisors to Col Nemeth, participated in the plan to combine the MAFFS training deployment process with an LRE, and both supported the idea.

While some ACs did not like the idea of involuntary mobilization and claimed the idea hurt morale, deciding not to contradict the (b) (6), (b) (7)(C) text socializing the potential of an involuntary mobilization was a reasonable command decision within Col Nemeth's authority. Similarly, combining MAFFS deployment/training with an LRE was also a command decision within Col Nemeth's authority. While the aircrew members and (b) (6), (b) (7)(C) did not like the idea of combining the MAFFS mobilization/training with an exercise, the evidence indicates the (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), both qualified and experienced MAFFS ACs, supported the idea. The evidence does not indicate Col Nemeth's decisions were self-serving, abusive, erratic, corrupt, or incompetent. Additionally, the evidence did not establish Col Nemeth failed to treat others with dignity or respect.

² The term "counterproductive" comes from Army Doctrine Publication (ADP) 6-22, *Army Leadership and the Professional*, 31 Jul 19. Paragraph 8-46 of the ADP associates the term "toxic" with what the Army refers to as "Counterproductive Leadership Behaviors" characterized by abusive, self-serving, erratic, corrupt behaviors and/or leadership incompetence. As an Air Force leader, the ADP does not specifically apply to Col Nemeth. However, given the service affiliation of the senior IO and the CDI Appointing Authority, SAF/IGS considered the elements of the ADP when assessing whether Col Nemeth's behavior should be considered "counterproductive and toxic" by Air Force Standards.

Area 2: Col Nemeth bringing her pet to work:

The fact that Col Nemeth brought her dog to work and the impact of this action was established and assessed in Allegation 1 and Allegation 4 of the ROI. Regarding toxic or counterproductive behavior, the evidence does not indicate Col Nemeth disrespectfully directed others to care for her dog or clean up after her dog. Based on testimony, when Col Nemeth observed a subordinate cleaning up after her dog in the office, she intervened and explained to her subordinate that she was not expected to clean up after her dog. While it can be argued having her dog present during meetings could be viewed as disrespectful to those in the meeting, there is no evidence indicating this point was raised to Col Nemeth, and no one involved in the meeting complained about having the dog there. Based on the evidence, Col Nemeth bringing her dog to work did not constitute disrespecting subordinates or failing to treat others with dignity and respect.

Area 3: Col Nemeth retaining the Wing CV in his position following a DUI:

As discussed in Allegation 1, the evidence indicates retaining (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position following his DUI arrest was a command decision within Col Nemeth's authority. Col Nemeth contacted CANG leadership immediately after the incident to discuss options. CANG leadership knew about her decision to retain (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position, and CANG leadership had the authority to remove (b) (6), (b) (7)(C) from the (b) (6), (b) (7)(C) position if desired. Although the evidence indicates the decision may have been unpopular among some unit members, there is no evidence Col Nemeth's behavior rose to the level of disrespecting subordinates, personally attacking others, or lacking empathy.

Whether Col Nemeth was biased or engaged in favoritism when she decided to retain (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) position was investigated, analyzed, and NOT SUBSTANTIATED in Allegation 3 of the ROI. SAF/IGS concurs with the Allegation 3 determination that there was no actual bias or favoritism in Col Nemeth's decision, and there were no comparable disciplinary actions contradictory to her decision to retain (b) (6), (b) (7)(C).

Conclusion:

Individually, the areas analyzed did not rise to the level of toxic and counterproductive behavior. Collectively, the areas analyzed do not demonstrate a pattern of disrespectful behavior, attacks on personal dignity, or lack of inclusion. Similarly, when considered in aggregate, Col Nemeth's decisions and actions do not indicate behavior that was abusive, self-serving, erratic, incompetent, or corrupt. Therefore, the evidence does not support that Col Nemeth engaged in counterproductive and toxic leadership in violation of AFI 1-2 and Article 92 of the UCMJ, and the finding for Allegation 3 is **NOT SUBSTANTIATED**.

ANALYSIS OF ALLEGATION 4:

Allegation 4: Whether Col Nemeth unreasonably used military resources for her personal benefit in violation of Joint Ethics Regulations when she allowed subordinates to walk her dog and complete other personal tasks that were not military related.

Standards Discussion:

The revised ROI identified DoD 5500.7-R *Joint Ethics Regulation*, Section 3-303.b as the governing standard for Allegation 4. However, based on the evidence, Section 3-303.b is not the correct standard. Section 3 of the JER applies to Personal Participation in Non-Federal Entities. While section 3-303.b does include the statement “any other non-Federal purposes,” when taken in context of the section and the sub-section, the standard does not apply. Given the language in the allegation, specifically the “unreasonably *used* military resources” (emphasis added) part, as well as the focus on actions of subordinates, the most appropriate section of the JER that applies to the allegation is misuse of subordinates’ time (5 C.F.R Part 2635.705). Based on the evidence, SAF/IGS also considered if allowing subordinates to care for her pet constituted accepting gifts from employees receiving less pay (5 C.F.R. Part 2635.302(b)). Finally, although the language in the allegation language does not directly apply to Col Nemeth misusing her position or authority, SAF/IGS considered if bringing her pet to work equated to using her public office for private gain (5 C.F.R Part 2635.702).

Misuse of Subordinates’ Time: Based on testimonial evidence and confirmed in the ROI analysis, Col Nemeth did not encourage, direct, coerce, or request any of her subordinates to care for her dog. The witnesses consistently testified they asked Col Nemeth if they could take her dog for a walk during their daily breaks, and Col Nemeth testified that she told her subordinates “many times” that they should not care for her dog. SAF/IGS found no indication individuals walked or cared for Col Nemeth’s pet because Col Nemeth asked them to or they felt compelled to do so. Furthermore, the evidence did not indicate subordinates took care of Col Nemeth’s dog as a favor to Col Nemeth. On the contrary, the preponderance of the evidence indicates subordinates liked having the dog at work and wanted to walk or play with the dog for their own morale. Therefore, the elements of misuse of subordinates’ time are not met for subordinates voluntarily walking Col Nemeth’s dog or the other personal tasks described in the ROI.

Acceptance of Gifts: The preponderance of the evidence indicates members of the CSS staff and others cared for Col Nemeth’s dog during breaks because they wanted to, and doing so improved their morale. The evidence indicates the motivation to walk or care for Col Nemeth’s dog was not to do a favor for Col Nemeth. Therefore, allowing subordinates to care for her pet did not constitute Col Nemeth accepting a gift in the form of a favor from employees who receive less pay.

Public Office for Private Gain: Evidence indicates avoiding kennel costs was not a factor in Col Nemeth’s decision to bring her dog into work approximately once a week or less. Instead, she testified that she brought her dog in to boost morale, and witnesses supported that they requested Col Nemeth bring her dog to work. She testified, “it brought happiness to people...it made them smile and laugh when it was a horrible time [during COVID-19].” There is no evidence indicating Col Nemeth used her Government position, title, or the authority

associated with her public office in a manner that was intended to coerce or induce another into providing a benefit, financial or otherwise.

Conclusion:

It was arguably poor leadership for Col Nemeth to bring her dog into work. CANG leadership is aware Col Nemeth unintentionally violated the Code of Federal Regulations (CFR) Title 41 by bringing her dog onto Federal property.³ However, Col Nemeth's decision to bring her dog to work does not equate to an ethical violation of the JER or an unreasonable use of military resources.

Based on the evidence, Col Nemeth's decision did not equate to misuse of subordinates' time or accepting a favor from employees receiving less pay. While Col Nemeth could bond with her pet during duty hours by bringing her dog to work, this benefit did not rise to the level of using her public office for private gain. Despite general comments in the ROI to the contrary, SAF/IGS found no evidence indicating official work was not accomplished because Col Nemeth brought her dog to work. Col Nemeth did not ignore complaints or concerns about bringing her dog to work or knowingly violate regulations by bringing her dog to work. Finally, SAF/IGS found no indication individuals walked or cared for Col Nemeth's pet as a favor to Col Nemeth. On the contrary, the preponderance of the evidence indicates subordinates asked Col Nemeth to bring her dog in, liked having the dog at work, and wanted to walk the dog for their own morale. Therefore, there is no evidence Col Nemeth unreasonably "used" subordinates or military resources.

As written, the allegation that Col Nemeth unreasonably used military resources for her personal benefit in violation of the *Joint Ethics Regulation* when she allowed subordinates to walk her dog and complete other personal tasks that were not military related, is **NOT SUBSTANTIATED**.

SAF/IGS considered whether it would be appropriate to rewrite the allegation and reinvestigate using CFR Title 41 as the standard. Given the passage of time, the known facts of the case, extenuating circumstances including COVID-19 restrictions in place at the time of the events, and the level of AF interest, SAF/IGS determined it was not in the best interest of the Air Force to pursue the matter further. There is no evidence indicating Col Nemeth willfully disregarded the CFR with the intent for personal gain. Col Nemeth's actions were not intended to do harm to others, and no one was harmed physically or professionally. Col Nemeth credibly testified that she was unaware of the CFR and would not have brought her dog onto federal property if she had been. No one complained about a CFR violation. Other commanders and leaders at the group and wing level were also unaware of the CFR prohibiting dogs or other animals on Federal property for other than official purposes. Finally, and most importantly, CA ANG Leadership is aware Col Nemeth unintentionally violated the CFR by bringing her dog to work and has the authority to take appropriate action on the matter.

ANALYSIS OF ALLEGATION 8:

Allegation 8 (as written in the ROI): Whether Col Nemeth engaged in conduct that was unbecoming of an officer in violation of Article 133 Conduct Unbecoming an Officer and

³ (b) (6), (b) (7)(C) also violated CFR Title 41 by bringing his dog to work. However, there is no record of him being investigated or receiving administrative paperwork for this violation.

Gentleman, UCMJ, based on the above actions. By “above actions,” the allegation refers to the actions and behavior identified and assessed in Allegations 1 through 7 of the ROI.

After reviewing the evidence as well as the analysis of Allegations 1-7 of the ROI, SAF/IGS did not identify actions, decisions, or omissions that seriously compromised Col Nemeth’s character or standing as an officer. The evidence indicates Col Nemeth brought her dog to work and allowed subordinates to provide some care for her dog. The evidence did not indicate Col Nemeth directed subordinates to accomplish self-serving tasks on official time. The evidence and analysis contained in Allegations 1 through 7 do not support the conclusion that Col Nemeth failed to treat others with dignity and respect. Finally, Col Nemeth’s actions and behavior addressed in Allegations 1 through 7 of the ROI were not characterized by dishonesty, unfair dealings, indecency, indecorum, lawlessness, injustice, or cruelty. Therefore, the evidence does not support that Col Nemeth engaged in conduct that was unbecoming of an officer in violation of Article 133 Conduct Unbecoming an Officer and Gentleman, UCMJ, and the finding for Allegation 8 is **NOT SUBSTANTIATED**.

SUMMARY

The allegations and findings based on the SAF/IGS Oversight are as follows:

Allegation 1: Whether Col Lisa Nemeth eroded morale, unit cohesion, good order and discipline, and respect for authority of its members in violation Article 134, UCMJ when she put her personal and political agenda ahead of her professional duties, is **NOT SUBSTANTIATED**

Allegation 2: Whether Col Nemeth engaged in counterproductive and toxic leadership in violation AFI 1-2 and Article 92, UCMJ, during her time as 146 AW/CC against members in the 146 AW and the CA ANG, is **NOT SUBSTANTIATED**

Allegation 3: Whether Col Nemeth was biased and engaged in favoritism regarding disciplinary actions against enlisted members and officers in violation AFI 36-2909 and not IAW with ANGI 36-101 during her time as the 146 AW/CC, is **NOT SUBSTANTIATED**

Allegation 4: Whether Col Nemeth unreasonably used military resources for her personal benefit in violation of joint ethics rules when she allowed subordinates to walk her dog and complete other personal tasks that were not military related, is **NOT SUBSTANTIATED**

Allegation 5: Whether Col Nemeth treated people of color differently at the 146 AW and the CA ANG in violation of Article 93 by subjecting Airmen to completing humiliating and degrading tasks for her personally and professionally, is **NOT SUBSTANTIATED**

Allegation 6: Whether Col Nemeth abused her authority as 146 AW/CC when she ostracized Airmen for not receiving the COVID-19 vaccination, is **NOT SUBSTANTIATED**

Allegation 7: Whether Col Nemeth created a hostile work environment by harassing and bullying Airmen for not receiving the COVID-19 vaccination, is **NOT SUBSTANTIATED**

Allegation 8: Whether Col Nemeth engaged in conduct that was unbecoming of an officer in violation of Article 133, UCMJ, based on the above actions, is **NOT SUBSTANTIATED**

AF/JAJI reviewed the case file and concurs with the analysis and determinations in this memo.

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

Director, Senior Official Inquiries

I have reviewed this Oversight Report and concur with the SAF/IGS findings.

A handwritten signature in black ink, appearing to read "A-LD" followed by a horizontal line.

STEPHEN L. DAVIS
Lieutenant General, USAF
The Inspector General

Atch:

1. Report of Command Directed Investigation – revised 8 Nov 22
2. Subject's TCL Response – 15 Apr 23
3. IO Response to Appointing Authority – 15 May 23
4. Appointing Authority Approval – 15 May 23
5. ROI Legal Review – 30 Mar 23
6. Initial SAF/IGS Oversight Recommendations – 8 Sep 22