

REPORT OF RESULTS OF INVESTIGATION
MDIG-22-004

PART I
EXECUTIVE SUMMARY

The Adjutant General (TAG) received a memorandum from the Secretary of the Air Force Inspector General's Office (SAF-IG), dated 12 October 2021. The memorandum stated: *"We recently completed an Inspector General investigation and discovered two issues with no federal nexus. Since we had no authority to investigate these matters, we are referring them to you ... as a state matter to determine if state policy was violated and resolve as you see fit."* On or around 8 December 2021, TAG directed this office to investigate the referred allegations. (Encl B and C)

ALLEGATIONS: Below are the specific allegations investigated by this office.

a. **ALLEGATION 1:** Determine whether Brigadier General (Brig Gen) Magram created a State Active Duty (SAD) position (Deputy Chief of Staff-Air (DCoS-A)) with the intent to select [REDACTED] in violation of California Military Veteran Code (CMVC) 142(b) and California Military Department (CMD) Regulation 600-1.

b. **ALLEGATION 2:** Determine whether Brig Gen Magram misused government personnel for personal services in violation of Joint Ethics Regulation (JER) 5500-07, 3-303(b) and CMD Regulation 600-1, Chapter 12.

STANDARDS:

a. JER 5500-07, 3-303(b) (dated 30 August 1993, through changes 7, dated 17 November 2011)

b. CMD Regulation 600-1, Chapter 12-1 (7) dated 21 April 2020

c. CMVC, 142(b), (2018 Edition)

FINDINGS:

a. **ALLEGATION 1:** The allegation that Brig Gen Magram created a SAD position (DCoS-A) with the intent to select [REDACTED] (pre-selection) was **not substantiated**.

b. **ALLEGATION 2:** The allegations that Brig Gen Magram misused government personnel for personal services **was substantiated**. The preponderance of evidence indicates that Brig Gen Magram while serving as Chief of Staff, Headquarters Air Division, from the period of 2016 thru 2018, had full-time Service Members drive him to various car repair facilities to service his privately owned vehicle.

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**PART II
SCOPE**

On or around 12 October 2021, TAG received 2 allegations, reflected in Part I of this report from SAF-IG. On or around 8 December 2021, TAG directed this office to conduct an investigation into Brig Gen Magram's conduct (Allegation 1 and 2). In this investigation we interviewed 10 witnesses who had knowledge of Allegation 1 and 2, including [REDACTED]

This office also reviewed documentary evidence including emails, personnel records, and applicable standards.

**PART III
ANALYSIS AND DISCUSSION**

ALLEGATION 1: Below is the analysis of evidence:

Background: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ALLEGATION 2: Below is the analysis of evidence:

Background: Allegation 2 occurred while Brig Gen Magram was a Colonel working as the Chief of Staff, Headquarters Air Division, California Air National Guard, on SAD. Brig Gen Magram was promoted to Brig Gen on 9 April 2019. For the purposes of this report Brig Gen Magram will be referred to at his current rank.

Evidence supports the finding that Brig Gen Magram did have full-time SMs provide personal services on various occasions during the period of 2016-2018:

1. Brig Gen Magram testified: "...Before duty hours, I took three or four rides in the period between Dec 2016 and Oct 2018. The three or four rides were to the Mercedes Dealership and the Upholstery shop mentioned above. To the best of my recollection, I recall Lt Col [Col] Vogt providing all of the rides which occurred prior to duty hours. He lived in Rocklin close to the dealer and not far from the Roseville Upholstery shop. I know the rides did not occur prior to that point because I owned a 2009 Nissan Altima until December of 2016, for which I did not require assistance. In December 2016 I bought my 2014 Mercedes E350 from Rocklin Mercedes. This is the vehicle for which I received the assistance. I do not recall exactly but I believe Lt Col [Col] Vogt picked me up at least once or twice from the Upholstery facility and about the same from the Mercedes dealer then we commuted to work together. I believe the total number of rides

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from both facilities, which occurred before work hours, was three to four rides." Additional he stated, "...to the best of my recollection it was Lt Col [Col] Vogt a couple of occasions, Lt Col Mu on one occasion and Lt Col LeBlanc on the other occasion. Most were to the Mercedes dealership. Lt Col Mu was to the Upholstery shop." Brig Gen Magram stated that he asked for an legal opinion from Col Warren (Ethics Officer / JAG) on the use of subordinates to drive him the repair facility. Brig Gen Magram testified: "I specifically asked Col Warren, our ethics advisor, about this situation. She proceeded to tell me that it shouldn't be an issue if the person offered and/or doesn't have an objection. She told me those kinds of rides were commonplace. So in my case, we discussed that if my rides were infrequent, there were offers and/or there were no objections by the member, and they were in conjunction with someone's commute, there should be no issue." (Appx L)

2. [REDACTED] testified that [REDACTED] drove Brig Gen Magram on several occasion to a car repair facility, generally, after duty hours. "Col [Brig Gen] Magram would ask: "Can you follow me over and give me a ride back to the office?" Or "Can you follow me over" or "Can you drop me off on our way [REDACTED] It happened to be the - one of the dealers that he would take a vehicle to, it's on - happens to be on the way [REDACTED]" [REDACTED] at the time believed it was within [REDACTED] duties to support [REDACTED] "bosses". In hindsight, [REDACTED] would have done things differently. [REDACTED] testified: "...my willingness to just try to help the team is now something I would not repeat. Because, really, my thoughts are in the best of efforts to try to assist a senior boss, it really puts them in a position, that is not favorable. I would conduct my personal involvement differently." [REDACTED] stated that Brig Gen Magram did not order [REDACTED] to drive him and felt that [REDACTED] could have said no, [REDACTED] testified: "I feel I could have [said no]. But it would have been a little uncomfortable. But I do feel I could have and I don't feel like he would have, uh, there would have been, you know, no - no major reprisal." (Appx Q)

3. [REDACTED] testified that [REDACTED] drove Brig Gen Magram once from work to the repair facility. [REDACTED] did not mind driving Brig Gen Magram. [REDACTED] testified: "...It was essentially on my way [REDACTED] It wasn't an inconvenience for me." [REDACTED] lives within [REDACTED] of the car repair facility. At no time did [REDACTED] feel obligated to drive Brig Gen Magram. [REDACTED] indicated that [REDACTED] has driven [REDACTED] to a car repair facility. Additionally, [REDACTED] picked up [REDACTED] from [REDACTED] and drove him to JFHQ. (Appx I)

4. [REDACTED] testified that [REDACTED] drove Brig Gen Magram twice to car repair facility. [REDACTED] testified: "I do not recall the name of the repair, but it was across the train tracks and Roseville High School." [REDACTED] testified that [REDACTED] was not ordered to drive Brig Gen Magram, but felt compelled to do so: "What was I going to say? No? It was not forced on me but I said yes because I just chalked it up to it's in Roseville." [REDACTED] continued, "He did not force me to drive him to the repair shop or pick him up at home, but what was I going to say? I believe he knows that was not appropriate but in the end, I just told myself it not a big deal and I was going that way. Did I really want to make a big deal out of it and gain an enemy over a few minutes. So I did it." (Appx N)

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5. [REDACTED] testified that [REDACTED] drove Brig Gen Magram on one occasion that did not involve picking up or dropping off at a car repair facility: [REDACTED]

[REDACTED] (Appx N)

6. [REDACTED] disputes Brig Gen Magram's testimony, in that [REDACTED] testified that [REDACTED] Brig Gen Magram [REDACTED] regarding subordinates driving him to/from car repair facilities. [REDACTED] testified: *"I would never [REDACTED] because his actions were in direct violation of the Joint Ethics Reg and there are no exceptions. There are so many issues with Col [Brig Gen] Magram requesting people to do this. Not only do they not feel that have the option to say no because he has control over their career, it also is an undue expense on the subordinate to have to pay for gas and wear and tear on their vehicle to chauffeur him around."* (Appx S)

7. [REDACTED] discussed the issue with [REDACTED] testified: *"I told [REDACTED] that it was a direct violation of the JER for Col [Brig Gen] Magram to have people run him to all his appointments and people were talking about it. All of HQ in Air Division was talking about it because it also caused issues when the person that was driving Col [Brig Gen] Magram around was needed in their job capacity and not available. [REDACTED] talked to Col [Brig Gen] Magram about it. It was also one of the reason [REDACTED] picked Col [Brig Gen] Magram up after [REDACTED] instead of [REDACTED]"* (Appx S)

Analysis/Discussion: Testimony and evidence reviewed by this office indicates that Brig Gen Magram did have full-time staff members, his subordinates, provide personal services for him in violation of JER and CMD 600-1. Brig Gen Magram's own statement corroborates his use of subordinates on numerous occasions to drive him to various locations for personal reasons and constitutes misuse of government personnel to perform personal services.

Brig Gen Magram stated that he asked Col Warren (SJA Ethics Counselor) for advice regarding subordinates transporting him in their POV for personal reasons. According to Brig Gen Magram, he asserts that Col Warren did not believe it was an issue, thereby he began to ask his subordinates for rides. Brig Gen Magram asserts that the transportation provided by subordinates was infrequent, before duty hours and was along their commute home or to work. (Appx K, L)

[REDACTED] (Appx S)

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Further, Brig Gen Magram did not require Col Warren to write an ethical opinion on the matter (Appx HH). Based on lack of documental evidence, i.e., emails, MFRs, ect, this office determined that Brig Gen Magram did violate the JER by having full-time staff members, his subordinates provide personal services for him.

Finding: This office determined that the preponderance of credible evidence substantiated the allegation that Brig Gen Magram misused government personnel for personal services in violation of JER 5500-07, 3-303(b) and CMD Regulation 600-1, Chapter 12. The JER prohibits the use of subordinates in support of unofficial business to prevent significant cost to the Federal Government and potential abuse. This office determined that Brig Gen Magram did not receive a written legal/ethical opinion regarding subordinates providing personal services for him and that he did in fact have subordinates provide personal services as defined by JER and thereby this office substantiated this allegation.

**PART IV
OTHER MATTERS**

During the course of this investigation, several Servicemembers in Headquarters Air Division described an apparent routine office practice of subordinates providing car rides to superiors to help them perform personal errands. This conduct violates JER 3-303(b) and 5 CFR § 2635.702, which prohibit the use of government resources – including subordinate time and vehicles – for private gain. The instances described by witnesses in this investigation were not limited to the conduct by BG Magram, but instead reflected a broader, longstanding practice in Headquarters Air Division of allowing this conduct to occur over a period of years.

**PART V
RECOMMENDATIONS**

Record the substantiated allegation that Brig Gen Magram misused government personnel for personal services in his SP file.

Refer this report to Brig Gen Magram's command for appropriate follow-on disciplinary action or training regarding the substantiated allegation.

Recommend mandatory federal ethics training for personnel assigned to Headquarters Air Division.

SAUL RANGEL
COL, CSG
Inspector General

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APPENDIXES

- APPX A Legal Review
- APPX B Directive
- APPX C Letter from Department of Air Force IG (DAF/IGS) to MG Baldwin, referral of Brig Gen Magram allegations that had no federal nexus, dated 12 October 21
- APPX D Action Memorandum, dated 8 December 2021
- APPX E DA Form 2823, [REDACTED], dated 28 March 2022 (Allegation 1)
- APPX F DA Form 2823, [REDACTED], dated 28 December 2021 (Allegation 1)
- APPX G DA Form 2823, [REDACTED], dated 8 February 2022 (Allegation 1)
- APPX H Testimony, [REDACTED], dated 17 December 2021 (Allegation1)
- APPX I DA Form 2823, [REDACTED], dated 14 February 2022 (Allegation 2)
- APPX J DA Form 2823, Brig Gen Jeffrey Magram, dated 18 February 2022 with attachments (Allegation 1)
- APPX K DA Form 2823, Brig Gen Magram, dated 2 February 2022 (Allegation 2)
- APPX L DA Form 2823, Brig Gen Magram, Supplemental Response, dated 3 February 2022 (Allegation 2)
- APPX M DA Form 2823, [REDACTED], dated 21 March 2022 (Allegation 1)
- APPX N DA Form 2823, [REDACTED], dated 25 March 2022 (Allegation 2)
- APPX O DA Form 2823, [REDACTED], dated 27 December 2021 (Allegation 1)
- APPX P Memorandum, Subject: Interview for [REDACTED], dated 20 April 2022 (Allegation 1)
- APPX Q Testimony, [REDACTED], dated 16 December 2021 (Allegation1 and Allegation 2)

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- APPX R Memorandum, Subject: Interview for [REDACTED], dated 20 April 2022 (Allegation 1)
- APPX S DA Form 2823, [REDACTED], dated 6 March 2022 (Allegation 2)
- APPX T Memorandum, Subject: Letter of Justification for downgrade of the O-6 Director of Staff, dated 13 August 2019
- APPX U SAD Position Action Request, CMD 900-22, with supporting documents, signed by approval authority on 13 August 2019
- APPV V SAD Vacancy Announcement, SAD VA# 2019-96, Deputy Chief of Staff-Air (05), Open date 23 August 2019, closing date 10 September 2019
- APPX W SAD Vacancy Announcement, SAD VA# 2019-96, Amendment Eligibility Requirement, Deputy Chief of Staff-Air (05), Open date 23 August 2019, closing date 10 September 2019
- APPX X Memorandum, Subject: Admin correction to SAD Vacancy Announcement 2019-96 Deputy Chief of Staff, dated 30 Aug 19
- APPX Y Email, Subject: HQs Deputy Chief of Staff, 241-160-9160-146 MPAC 15 Aug 19, from Lt Col LeBlanc to Shaw Debra, dated 7 Oct 19 (Change to VA)
- APPX Z SAD Vacancy Announcement, SAD VA# 2019-96, Amendment #2 Eligibility Requirement, Deputy Chief of Staff-Air (05), Open date 10 October 2019, closing date 31 October 2019
- APPX AA SAD Vacancy Announcement, SAD VA# 2019-96, Amendment #3 Affiliation /Eligibility Requirement, Deputy Chief of Staff-Air (05), Open date 14 October 2019, closing date 25 October 2019
- APPX BB Memorandum, Subject: Deputy Chief of Staff, Air (SAD 05) - SAD VA 2019-96, dated 28 October 2019 (Applicant Roster to Selecting Supervisor)
- APPX CC Email, Subject: FW: SAD Position – Deputy Chief of Staff, from [REDACTED] to [REDACTED] dated 29 October 2019
- APPX DD Memorandum, Subject: Results of State Active Duty (SAD) Executive Personnel Council (EPC) dated 31 October 2019

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- APPX EE Memorandum, Subject: State Active Duty Executive Personnel Council (GOEPC) / General Officer Executive Personnel Council (GOEPC) Charter, dated 23 January 2015
- APPX FF Memorandum, Subject: Manpower and Personnel Advisory Council Charter, dated 12 June 2017
- APPX GG Memorandum, Subject: OCT 2020 Request for Technical Assistance by the Secretary of the Air Force Inspector General's Office (SAF-IG)
- APPX HH Email, Subject: CMD-IG Follow Up, between Brig Gen Magram and COL Saul Rangel; CC: LTC Minasian, Larry C LTC
- APPX II Memorandum, Subject: Subject Rights Warning for Brig Gen Magram, dated 10 May 22