



DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

US ARMY INSPECTOR GENERAL AGENCY
REPORT OF INVESTIGATION

(Case 12-018)
NOV 20 2012

NAME/POSITION: Brigadier General (BG) Charlotte L. Miller, former Assistant Adjutant General, California National Guard (CANG), Sacramento, California (CA)

[Investigating Officer (IO) Note: BG Miller is currently assigned to the US Army Reserve (USAR), Standby Reserve - Inactive Status.]

SUBSTANTIATED ALLEGATION AND CONCLUSION: BG Miller improperly disseminated military records and personally identifiable information (PII). The preponderance of credible evidence reflected that BG Miller improperly released military records and documents that contained PII of individuals assigned to the CANG to members of the CA State Senate without proper authorization.

SUBSTANTIATED ALLEGATION AND CONCLUSION: BG Miller improperly wore a military uniform. The preponderance of credible evidence reflected that BG Miller improperly wore her military uniform when she testified to members of the CA State Senate at the confirmation hearing for Major General (MG) David S. Baldwin, The Adjutant General (TAG), CANG. BG Miller was in a Standby Reserve - Inactive status, was not on orders, and was not in an official capacity at the time of the hearing. There were no regulatory provisions that authorized BG Miller to testify at that time in her military uniform.

BACKGROUND:

1. On 13 February 2012, the Department of the Army Inspector General Agency (DAIG) received notification from the Inspector General (IG), CANG, of allegations against BG Miller. (b)(7)(C)

(b)(7)(C) alleged that BG Miller improperly received, possessed, and disseminated (b) military records and PII. Additionally, (b)(7)(C) alleged that BG Miller, while not in a duty status, improperly wore her military uniform.

2. A preliminary inquiry, DIG 12-00038, approved 13 August 2012, determined that the allegations that BG Miller improperly disseminated military records and PII, and that BG Miller improperly wore a military uniform require further investigation.

3. On 13 August 2012, The Inspector General directed an investigation by the DAIG.

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SYNOPSIS:

SUBSTANTIATED ALLEGATION: BG Miller improperly disseminated military records and PII.

1. (b)(7)(C) [redacted] alleged that BG Miller improperly received, possessed, and disseminated two documents from (b)(7)(C) [redacted] official military personnel file: specifically, an officer evaluation report (OER), with a thru date of 24 November 2010, and a general officer memorandum of reprimand (GOMOR). Both documents contained derogatory information.
2. Title 5 US Code Section 552a, The Privacy Act of 1974, states in paragraph 552a(i)(1), that any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established there under, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. Paragraph 552a(i)(3) states that any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000. Department of Defense (DOD) Directive (DODD) 5400.11, DOD Privacy Program, dated 8 May 2007, states in paragraph E3.1.2, that DOD personnel shall not disclose any personal information contained in any system of records, except as authorized by DOD 5400.11-R, DOD Privacy Program, dated 14 May 2007, or other applicable laws or regulations.
3. Evidence reflected that in July 2011, MG Baldwin involuntarily separated BG Miller from the CANG. MG Baldwin took this action because he had lost faith and confidence in her abilities as a senior leader.
4. On 15 February 2012, the CA State Senate Rules Committee conducted its confirmation hearing for MG Baldwin's appointment as TAG, CANG. Evidence indicated that the hearing was scheduled at least a week prior to 15 February 2012. LTC (b)(7)(C) [redacted] State Policy and Liaison, JFHQ, CANG, stated that BG Miller was part of a well-organized group that opposed MG Baldwin's confirmation as TAG. He further stated that prior to the confirmation hearing, BG Miller met with each State Senator, or respective Senate Staffer, of the Senate Rules Committee, as well as other State Senators, concerning MG Baldwin's confirmation. Evidence reflected that BG Miller gave each State Senator or Staffer a packet of documents that she claimed showed MG Baldwin's preferential treatment of certain subordinates. The packet of documents provided by BG Miller included LTC (b)(7)(C) [redacted] un-redacted OER, an

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un-redacted GOMOR, as well as the findings of an un-redacted CANG Army Regulation (AR) 15-6 investigation.

5. On 9 February 2012, evidence reflected that BG Miller dropped off the same packet of documents with Colonel (COL) (b)(7)(C) Director, Joint Staff / Chief of Staff, JFHQ, CANG. COL (b)(7)(C) Staff Judge Advocate, JFHQ, CANG, stated that he got involved soon after BG Miller dropped off the packet. He recognized that some of the documents contained PII and that the CANG had to take whatever necessary steps to control any further spillage of the PII. Regarding LTC (b)(7)(C) OER, his full name and social security number, as well as the full names and social security numbers for his rater, COL (b)(7)(C) and senior rater, MG John S. Harrel, were not redacted from these documents. COL (b)(7)(C) informed Senator Darrell Steinberg, Chair, Senate Rules Committee, of the PII spillage, and asked him to safeguard the PII and not post it to the CA State Senate daily public record. LTC (b)(7)(C) stated that he met with (b)(7)(C) Appointments Director, Senate Rules Office, CA State Senate, once he was notified of the PII spillage and asked him to intervene to ensure the documents provided by BG Miller did not become part of the State Senate daily public record. Additionally, CANG sent letters to LTC (b)(7)(C) COL (b)(7)(C) and MG Harrel to inform them of the release of their PII.

6. When BG Miller provided the packet of documents to members of the CA State Senate and COL (b)(7)(C) she did so in her personal capacity; she was not assigned in any type of official duty status. Further, evidence reflected that there was no official request for these documents from members of the CA State Senate. BG Miller provided these documents on her own initiative. LTC (b)(7)(C) testified that he did not give BG Miller permission to obtain and disseminate these documents, which contained his PII.

7. On 5 October 2012, BG Miller's legal counsel advised DAIG via e-mail that BG Miller invoked her right to remain silent and declined to make a statement regarding the allegation.

[IO Note: During the course of the investigation, without testimony or a statement from BG Miller, it could not be determined when or how she obtained LTC (b)(7)(C) OER, GOMOR, and the AR 15-6 investigation findings. Upon a review of historical access of LTC (b)(7)(C) IPERMS account, there was no evidence that BG Miller accessed it and viewed his OER and GOMOR.]

8. The preponderance of credible evidence reflected that BG Miller improperly released military records and documents that contained PII of individuals assigned to the CANG to members of the CA State Senate without proper authorization. LTC (b)(7)(C) OER, GOMOR, and the AR 15-6 investigation findings were official Army records that contained PII. BG Miller did not receive proper authorization to release these official

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documents. The CA State legislature is not one of the exceptions listed as an appropriate recipient of PII and is not covered in the federal statute. Regardless, the documents provided by BG Miller were not requested by the CA State Senate, as evidence reflected that she provided them on her own initiative. BG Miller did not testify or provide a statement regarding the allegation. The allegation that BG Miller improperly disseminated military records and PII in violation of the Privacy Act of 1974 and DODD 5400.11 was substantiated.

SUBSTANTIATED ALLEGATION: BG Miller improperly wore a military uniform.

1. AR 870-1, Wear and Appearance of Army Uniforms and Insignia, paragraph 30-2, states that USAR personnel are only authorized to wear the uniform when participating in reserve training assemblies, exercises, conferences, or ceremonies in an official capacity under competent orders, and on certain other occasions not relevant to the facts of this case.

2. Evidence established that BG Miller wore her military uniform to testify at the CA State Senate during the 15 February 2012 confirmation hearing for MG Baldwin.

a. LTC (b)(7)(C) stated that no witnesses that appeared at the confirmation hearing were requested, invited, or subpoenaed to appear. BG Miller attended the confirmation hearing on her own volition and attended in military uniform, even though she was not on any type of orders.

b. (b)(7)(C) explained that MG Baldwin's confirmation hearing was open to the public. Any member of the public could attend and testify before the hearing members. None of the witnesses were invited, requested, or subpoenaed to attend.

c. (b)(7)(C) Office of the Chief, Army Reserve, General Officer Management Office, stated that BG Miller was not on orders when she testified on 15 February 2012 to members of the CA State Senate.

d. COL (b)(7) stated that BG Miller was not on official orders or acting in an official capacity when she testified in front of the CA State Senate on 15 February 2012. Additionally, BG Miller was in uniform the day she dropped off the packet of documents with COL (b)(7)(C)

[IO Note: A DVD recording of MG Baldwin's 15 February 2012 confirmation hearing showed that BG Miller appeared as a witness and testified against MG Baldwin's confirmation. She introduced herself as "Charlotte Miller, formerly a Brigadier General in the California Military Department." She was in her military uniform.]

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3. Evidence reflected that BG Miller was a member of the Standby Reserve – Inactive Status at the time she testified at MG Baldwin's confirmation hearing. Additionally, she was not on any type of military orders at that time. BG Miller testified at MG Baldwin's confirmation hearing in her personal capacity, on her own initiative, and not in any type of official status.
4. BG Miller did not testify or provide a statement regarding the allegation.
5. The preponderance of credible evidence reflected that BG Miller improperly wore her military uniform when she testified to members of the CA State Senate at MG Baldwin's confirmation hearing. BG Miller testified on her own initiative. There were no provisions in AR 670-1 that authorized BG Miller to testify at that time in her military uniform. BG Miller was in a USAR Standby Reserve - Inactive status, was not on orders, and was not in an official capacity on 15 February 2012.

OTHER MATTER: A query of iPERMS indicated that there were some individuals in the CANG who may have had unauthorized access to LTC (b)(7)(C) iPERMS account and may have improperly viewed his OER and GOMOR.

RECOMMENDATIONS:

1. This report be approved and the case closed.
2. Refer this report to the Office of The Judge Advocate General.
3. Refer the Other Matter Issue to TAG, CANG.

(b)(7)(C)

LTC, IG
Investigator

(b)(7)(C)

Investigator

APPROVED:



PETER M. VANGJEL
Lieutenant General, USA
The Inspector General

Ends

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ROI Abbreviations and Acronyms

The following abbreviations and/or acronyms appeared in this report:

AR	Army Regulation
BG	Brigadier General
CA	California
CANG	California National Guard
COL	Colonel
DAIG	Department of the Army IG Agency
DOD	Department of Defense
DODD	Department of Defense Directive
E-mail	Electronic Mail
GOMOR	General Officer Memorandum of Record
IG	Inspector General
IO	Investigating Officer
JFHQ	Joint Force Headquarters
LTC	Lieutenant Colonel
LTG	Lieutenant General
OER	Officer Evaluation Report
MG	Major General
PII	Personally Identifiable Information
TAG	The Adjutant General
USAR	United States Army Reserve

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ROI Personnel Listing

Baldwin, David S., MG, TAG, CANG

(b)(7)(C) LTC, State Policy and Liaison, JFHQ, CANG

(b)(7)(C) COL, Staff Judge Advocate, JFHQ, CANG

(b)(7)(C) COL, G-1, Headquarters, CA Army National Guard

Miller, Charlotte L., BG, Former Assistant Adjutant General, JFHQ, CANG

Mustion, Richard P., MG, Commanding General, United States Human Resources Command

(b)(7)(C) General Office Management Office, Office of the Chief, Army Reserve

(b)(7)(C)

(b)(7)(C) COL, Director, Joint Staff / Chief of Staff, JFHQ, CANG

Steinberg, Darrell, Senator and Chair, Senate Rules Committee, CA State Senate

Talley, Jeffrey W., Lieutenant General (LTG), Chief, Army Reserve / Commanding General, United Army Army Reserve Command

(b)(7)(C) Appointments Director, Senate Rules Office, CA State Senate

LIST OF EXHIBITS

EXHIBIT ITEM

A Directive and Legal Reviews

B Standard: DODD 5400.11, DOD Privacy Program

C Documents

- C-1 Department of the Army Memo 600-8-104, dated 26 June 2006
- C-2 Picture of BG Miller at MG Baldwin confirmation hearing, 15 February 2012
- C-3 E-mail, dated 5 October 2012, BG Miller declination to testify or provide a statement
- C-4 Chain of E-mails from COL (b)(7) regarding PII Spillage
- C-5 E-mail, dated 15 October 2012, Actions taken by CANG concerning improper access to PII
- C-6 Chain of E-mails from G-1, CA Army National Guard, regarding access to LTC (b)(7)(C) iPERMS account
- C-7 DIG 12-00038, approved 13 August 2012

D Testimony

- | | | |
|-----|---------------------|----------|
| D-1 | LTC (b)(7)(C) (PI) | FOIA: NO |
| D-2 | (b)(7)(C) (MFR) | FOIA: NO |
| D-3 | COL (b)(7) (MFR) | FOIA: NO |
| D-4 | COL (b)(7)(C) (MFR) | FOIA: NO |
| D-5 | LTC (b)(7)(C) (MFR) | FOIA: NO |
| D-6 | COL (b)(7)(C) (MFR) | FOIA: NO |
| D-7 | LTC (b)(7)(C) (MFR) | FOIA: NO |
| D-8 | (b)(7)(C) (MFR) | FOIA: NO |

E Notifications

- E-1 LTG Talley
- E-2 MG Mustion
- E-3 BG Miller