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**The Inspector General
of the Air Force**

Report of Investigation (S8184P)

Brig Gen Glen M. Baker

August 2015

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REPORT OF INVESTIGATION (Case S8184P)

CONCERNING

BRIGADIER GENERAL GLEN M. BAKER

PREPARED BY

AUGUST 2015

I. INTRODUCTION

This investigation was directed in response to two separate complaints that were initially forwarded to Secretary of the Air Force Senior Official Inquiries (SAF/IGS) by the Joint Force Headquarters Oklahoma National Guard Inspector General (JFHQ/NGOK-IG) on 27 Aug 14.

The first complaint was filed by [REDACTED]

[REDACTED] who alleged that Brig Gen Glen M. Baker, Chief of Staff, Oklahoma Air National Guard (OKANG), Oklahoma City, OK, purportedly committed sexual assault on 22 Jul 14. This complaint was subsequently forwarded to the National Guard Bureau Office of Complex Investigations (NGB/OCI) for investigation. (Ex 1:5-10) The second was an anonymous complaint made to Oklahoma Representative Frank Lucas, US Congress, which involved several subjects, two of whom were Air Force Senior Officials. (Ex 1:11-14) SAF/IGS referred all non-senior official issues in this complaint to SAF/IGQ; conducted a complaint analysis (S8125P) dismissing the allegations against [REDACTED]

[REDACTED] Will Rogers Air National Guard Base (WRANGB), Oklahoma City, OK; and placed the complaints against Brig Gen Baker on hold until after the NGB/OCI investigation was completed. (Ex 1:1-4; Ex 2) The NGB/OCI investigation did not substantiate the sexual assault allegation against Brig Gen Baker (Ex 2:1); however, on 10 Apr 15, DOD-IG referred the case back to SAF/IGS for investigation into misconduct on the part of Brig Gen Baker. (Ex 1:3-4)

In [REDACTED] complaint, [REDACTED] alleged that on 22 Jul 14, while on temporary duty (TDY) to Volk Field, Wisconsin, for Patriot Exercise, a group of six personnel including Brig Gen Baker went out to dinner at a local restaurant. (Ex 1:7) [REDACTED] stated that prior to departing the hotel bar for dinner Brig Gen Baker consumed at least 5 or 6 drinks. (Ex 1:7) During the course of the meal, it became apparent to [REDACTED] that Brig Gen Baker was placing his hand on the leg of the woman sitting next to him at dinner, [REDACTED], a [REDACTED] to JFHQ/NGOK [REDACTED] (Ex 1:7; Ex 2:47) According to [REDACTED] told Brig Gen Baker to "stop" at least 3 times and pushed his hand away several times. (Ex 1:7)

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In the anonymous complaint to Representative Lucas, the complainant alleged that then¹ Colonel Baker kept a bottle of whiskey in his desk drawer and frequently drove home after drinking. (Ex 1:12) The anonymous complainant also alleged, "I have had to tolerate [REDACTED] [REDACTED] sexual advances for years but can't do anything about it unless I wanted to risk losing my job. There are several other women on base who would like to come forward with complaints about Colonel Baker, but are afraid to do so." (Ex 1:12) The anonymous complaint was signed by a "Concerned member of the 185th Oklahoma Air National Guard."²

During the course of this investigation, the IO interviewed the following witnesses:

- [REDACTED] [REDACTED] [REDACTED] to Air Mobility Command, A5/8, Scott AFB IL (Ex 9)
- [REDACTED] [REDACTED] [REDACTED] Will Rogers ANGB, Oklahoma City, OK (Ex 8)
- [REDACTED] [REDACTED] [REDACTED] Will Rogers ANGB, Oklahoma City, OK (Ex 7)
- [REDACTED] [REDACTED]³, [REDACTED], Will Rogers ANGB, Oklahoma City, OK (Ex 11:6-7; Ex 20)

In addition to the witnesses listed above, the IO spoke on the phone and/or emailed with the following personnel⁴:

- [REDACTED] [REDACTED] [REDACTED] Rogers ANGB, Oklahoma City, OK (Ex 11:1)
- [REDACTED] [REDACTED] [REDACTED], Will Rogers ANGB, Oklahoma City, OK (Ex 11:2)
- [REDACTED] [REDACTED] Will Rogers ANGB, Oklahoma City, OK (Ex 11:3)
- [REDACTED] [REDACTED] [REDACTED], Tinker AFB, Oklahoma City, OK (Ex 11:4)
- [REDACTED] [REDACTED] [REDACTED] Tinker AFB, Oklahoma City, OK (Ex 11:5)

¹ Brig Gen Baker was promoted to Brig Gen in June 2014. For the purposes of this investigation, the subject will be referred to as Brig Gen Baker regardless of his grade when the incidents occurred. (Ex 3:3)

² The [REDACTED] [REDACTED] [REDACTED] Tinker AFB, Oklahoma City, OK. (Ex 4:1)

³ For brevity the IO refers to this witness as [REDACTED] throughout the ROI.

⁴ These witnesses were not formally interviewed because they did not have significant information related to the complaints.

- [REDACTED], currently the [REDACTED], but [REDACTED] [REDACTED] [REDACTED], Will Rogers ANGB, Oklahoma City, OK (Ex 11:8)
- [REDACTED], Will Roger ANGB, Oklahoma City, OK (Ex 11:9)
- [REDACTED] [REDACTED] [REDACTED], Will Rogers ANGB, Oklahoma City, OK (Ex 11:10)
- [REDACTED], Tinker AFB, OK City, OK (Ex 11:11)

The IO also reviewed and referred to the NGB/OCI report of investigation (ROI) and the sworn testimony during that investigation by the following witnesses⁵:

- [REDACTED] [REDACTED] [REDACTED], JFHQ/NGOK, Oklahoma City, OK (Ex 2:63-69)
- [REDACTED] [REDACTED] [REDACTED], JFHQ/NGOK, Oklahoma City, OK (Ex 2:47-54)
- [REDACTED] [REDACTED] [REDACTED] [REDACTED] Will Rogers ANGB, Oklahoma City, OK (Ex 2:70-74)
- [REDACTED] [REDACTED] [REDACTED] Oklahoma Army National Guard (OKARNG), Oklahoma City, OK. (Ex 2:75-80)
- [REDACTED] [REDACTED] [REDACTED] Kansas ANG, Salina, Kansas. (Ex 2:81-82)

During the SAF/IGS investigation, three witnesses revealed to the IO possible additional incidents of sexual assault allegedly perpetrated by Brig Gen Baker. The IO made notification to the JFHQ/NGOK SARC, AFOSI, and NGB/OCI. (Ex 13)

Due to the sexual assault allegations and the fact that Brig Gen Baker was alleged to have violated an Oklahoma statute, the IO treated him as a suspect, and he was provided rights advisement under Article 31 of the UCMJ. On 3 Aug 15, Brig Gen Baker elected to invoke his right to remain silent and did not testify in the SAF/IGS investigation. (Ex 6)

II. SCOPE AND AUTHORITY

The Secretary of the Air Force has sole responsibility for the function of The Inspector General of the Air Force.⁶ When directed by the Secretary of the Air Force or the Chief of Staff of the Air Force, The Inspector General has the authority to inquire into and report on the discipline, efficiency, and economy of the Air Force and perform any other duties prescribed by

⁵ The IO received authorization from NGB/OCI to use their ROI and testimony during this investigation. (Ex 21)

⁶ Title 10, United States Code, Section 8014

the Secretary or the Chief of Staff.⁷ The Inspector General must cooperate fully with The Inspector General of the Department of Defense.⁸ Pursuant to Air Force Instruction (AFI) 90-301, *Inspector General Complaints Resolution*, 23 Aug 11, paragraph 1.13.4, The Inspector General has oversight authority over all IG investigations conducted at the level of the Secretary of the Air Force. (Ex 17:2)

Pursuant to AFI 90-301, paragraph 1.13.3.1, the Director, Senior Official Inquiries Directorate (SAF/IGS), is responsible for performing special investigations directed by the Secretary, the Chief of Staff, or The Inspector General and all investigations of senior officials. AFI 90-301 defines senior official as any active or retired Regular Air Force, Air Force Reserve, or Air National Guard military officer in grades O-7 (brigadier general) select and above, and Air National Guard Colonels with a Certificate of Eligibility (COE). Current or former members of the Senior Executive Service (SES) or equivalent and current and former Air Force civilian Presidential appointees are also considered senior officials. (Ex 17:3)

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

On 20 Apr 15, The Inspector General approved a recommendation that SAF/IGS conduct an investigation into an allegation of misconduct by Brig Gen Glen M. Baker, Chief of Staff for the OKANG. (Ex 1:1) The case was assigned to [REDACTED], who holds a SAF/IG appointment letter dated 20 Aug 14, (Ex 18), and the investigation started on 21 Apr 15.

III. BACKGROUND

Brig Gen Glen M. Baker is the Chief of Staff for the OKANG. (Ex 3:1) He is directly responsible to the Assistant Adjutant General for Air and The Adjutant General for the combat readiness and operational effectiveness of all units of the OKANG. (Ex 3:1) Brig Gen Baker has been a member of the OKANG since Jan 1980 and has served the majority of that time as a traditional guardsman. He received his commission through the Academy of Military Science, Knoxville, TN, in 1984 and has served as a maintenance officer and pilot with the 137th Airlift Wing for several years. Gen Baker served as the 185th Airlift Squadron commander from Jan 03 to Jan 05, the 137th Operations Group Commander from Jan 05 to Jan 07, the 137 ARW Vice Commander from Jan 07 – Jan 11 and the 137 ARW/CC from Jan 11 to Jan 14. (Ex 3:1-2) He was promoted to Brig Gen in Jun 14. (Ex 3:3)

⁷ These authorities are outlined in Title 10, United States Code, Section 8020

⁸ Title 10, United States Code, Section 8020(d)

The 137 ARW is a flying unit in the OKANG. (Ex 4:1) In the 2005 Base Realignment and Closure Committee (BRAC), the 137th Airlift Wing was redesignated as the 137 ARW and associated with the 507th ARW (AFRC) at Tinker AFB, OK. (Ex 4:3) Since Oct 08, the flying units have been located at Tinker AFB, while the support staff is still located at Will Rogers ANGB, Oklahoma City, OK. (Ex 4:3) Subordinate units for the 137 ARW include the 185th Air Refueling Squadron (ARS) and the 137th Aeromedical Evacuation Squadron (AES). Ex (4:2)

V. ALLEGATIONS, FINDINGS, STANDARDS, ANALYSIS AND CONCLUSIONS

ALLEGATION 1. Between on or about 16 Oct 12 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard, engaged in conduct unbecoming of an officer and a gentleman, including but not limited to excessive consumption of alcohol and inappropriate touching of subordinates, in violation of 44 O.S. §3390 *Conduct Unbecoming of an Officer and a Gentleman*, 1 Nov 07.⁹

STANDARDS.

44 O.S. §3390 *Conduct Unbecoming of an Officer and a Gentleman*, 1 Nov 07.

Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

*Elements.*¹⁰

- (1) That the accused did or omitted to do certain acts; and
- (2) That, under the circumstances, these acts or omissions constituted conduct unbecoming an officer and gentleman.

Explanation.

(1) *Gentleman.* As used in this article, "gentleman" includes both male and female commissioned officers, cadets, and midshipmen.

(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**

⁹ 44 O.S. §3268 *Statute of limitations*, limits charges, except as otherwise provided in this article, to offenses committed within 3 years of receipt of sworn charges. Thus there are incidents described later in Allegation 2, which are not included in Allegation 1 because of the statute of limitations. (Ex 16:69)

¹⁰ 44 O.S. §3390 does not contain any elements or explanation. We were unable to locate any case law referencing it, or other documentation discussing it. Because the language of the Oklahoma statute is identical to that of 10 USC §933, *Conduct unbecoming an officer and gentleman*, the elements and explanation were derived from the Manual for Courts-Martial, United States, 2012, Part IV, para 59.

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. [Emphasis added] (Ex 16:104)

44 O.S. §3202. *Persons subject to code*, 1 Nov 07.

This code applies to all members of the state military forces who are not in federal service. No person may be tried for any offense provided in this code unless it was committed while he was in a duty status or during a period of time in which he was under lawful order to be in a duty status. However, the processing of charges and all proceedings, including trial and punishment, may be conducted without regard to the duty status of the accused. (Ex 16:50)

44 O.S. §3205. *Applicability of Uniform State Code of Military Justice – Jurisdiction.*

- a. The Uniform State Code of Military Justice has applicability at all times and in all places, provided that the person subject to the code is in a duty status. For those offenses set forth in Section 3368 of this title, the Uniform State Code of Military Justice has applicability at all times and in all places regardless of duty status. Provided, however, these grants of military jurisdiction shall neither preclude nor limit civilian jurisdiction over an offense, which is limited only by the prohibition of double jeopardy. (Ex 16:51)

ANALYSIS.

TDY to Volk Field in Jul 14:

The initial incident that spurred this investigation occurred in Jul 14 while Brig Gen Baker was TDY to Volk Field, Camp Douglas, WI for Patriot Exercise¹¹, a nation-wide domestic operations exercise held 21-24 Jul 14. (Ex 2:2) According to the NGB/OCI report, on 22 Jul 14, a group of five Oklahoma National Guardsmen, including Brig Gen Baker; [REDACTED] and one [REDACTED] made plans to go to dinner. (Ex 2:2-3, 47) According to [REDACTED] met the group at [REDACTED] hotel that evening and [REDACTED] drove to the restaurant in two vehicles, a van and [REDACTED] car. [REDACTED] testified that Brig Gen Baker rode to the restaurant in [REDACTED]

¹¹ In addition to witness testimony that Brig Gen Baker was on this TDY, a review of Brig Gen Baker's pay record shows that he was on Title 32 (T32) TDY orders to Camp Douglas WI, from 22-23 Jul 14. (Ex 5:4, 12-14)

car. (Ex 2:47-48) During the NGB/OCI investigation, all witnesses and subject testified that Brig Gen Baker had been drinking at the hotel bar before the group departed for the restaurant, although there is a disparity among the witnesses on how many drinks Brig Gen Baker consumed ranging from 2-5 mixed drinks. (Ex 2:48, 56, 63, 70, 75, 81) In his testimony during the NGB/OCI investigation, Brig Gen Baker stated he was drinking whiskey with a splash of water or soda and felt he had three drinks at the hotel bar. (Ex 2:56) ██████ testified that he believed Brig Gen Baker was intoxicated prior to departing the hotel for the restaurant because he was "slurring his speech a little bit." (Ex 2:64) ██████ testified that ██████ knew that Brig Gen Baker had been drinking because his conversation was sporadic during the drive to the restaurant. ██████ further stated ██████ felt uncomfortable being alone in the car with Brig Gen Baker but that he did not behave in an inappropriate manner during the drive to the restaurant. (Ex 2:48)

At the restaurant, the group was seated at a table as follows: on one side of the table, ██████ was seated in the middle with ██████ on his right and ██████ on his left. On the other side of the table, ██████ was seated in the middle, with Brig Gen Baker to ██████ right and ██████ to ██████ left. (Ex 2:48, 64, 71 & 76) All witnesses testified that Brig Gen Baker continued to consume alcoholic beverages, along with most of the group, at the restaurant. (Ex 2:48, 64, 71, 76 & 82) The witnesses described Brig Baker's behavior during the dinner as "obnoxious," that he was intoxicated, his conversation was sporadic, he had slurred speech and gave the waitress "a difficult time." (Ex 2:48-49, 64, 71 & 76) ██████ observed that during the dinner Brig Gen Baker was very friendly towards ██████ and was touching ██████ more than Brig Gen Baker should have been as a general officer. (Ex 2:82)

██████ testified that at some point during the dinner, Brig Gen Baker began touching ██████ leg with his hand on the outside of ██████ thigh halfway between ██████ hip and knee. (Ex 2:49) ██████ testified that ██████ noticed ██████ moving closer toward ██████ which drew ██████ attention to the fact that something was happening between ██████ and Brig Gen Baker. (Ex 2:71) At one point, ██████ witnessed Brig Gen Baker rub ██████ neck and back and that ██████ appeared to be uncomfortable with it, but did not appear to be overly upset. (Ex 2:71-72) ██████ also observed Brig Gen Baker touching ██████ back and that ██████ looked like ██████ felt awkward both by the look on ██████ face and ██████ body language." (Ex 2:81) ██████ and ██████ observed ██████ was fidgeting and said "stop" to Brig Gen Baker and pushed his hand away on at least 3 occasions during the time at the restaurant. (Ex 2:64-65, 76-77)

In his testimony during the NGB/OCI investigation, Brig Gen Baker stated he did not have any recollection of how much he had to drink that evening, who attended the dinner, how he got to or from the restaurant, or whom he sat by during the dinner. (Ex 2:56-57) He further testified that he did not recall touching ██████ leg or back, or ██████ telling ██████ to stop touching ██████ during the dinner. (Ex 2:57) Brig Gen Baker stated that it may be possible his

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██████████ on ██████████ cell phone requesting to either come to ██████████ room or that ██████████ come to his room. (Ex 11:6-7; Ex 20:12-13) ██████████ said at one point Brig Gen Baker called saying he could not find his way back to the hotel, which was a short walk from the restaurant they had been at that evening, and that he needed ██████████ to assist him with finding his room. (Ex 11:6; Ex 20:12-13) ██████████ testified that ██████████ had told ██████████ the next morning that Brig Gen Baker had been texting and calling ██████████ requesting ██████████ to come to his room on the night of 16 Oct 12. (Ex 8:7-8) ██████████ said that when ██████████ relayed this to ██████████ the next morning ██████████ said that Brig Gen Baker turned his attention toward ██████████ after ██████████ left the restaurant. (Ex 11:6; Ex 20:12) Both ██████████ and ██████████ stated that ██████████ believed Brig Gen Baker was intoxicated on the night of 16 Oct 12 when these incidents occurred. (Ex 8:9; Ex 11:6-7; Ex 20:15-16) When asked if ██████████ thought the fact that Brig Gen Baker was intoxicated influenced his conduct during this incident, ██████████ responded, "Yes." (Ex 20:17) ██████████ stated that everyone had a few drinks, but he did not recall that Brig Gen Baker had been drinking to excess. (Ex 11:2) ██████████ testified ██████████ believed Brig Gen Baker had been intoxicated because "he wanted to go back to the hotel and so he got a cab ... and the cab driver just kind of scooted forward a little bit and then told him to get out because he was right in front of the hotel that he was trying to get to." (Ex 8:9-10) ██████████ also recalled hearing from others on the trip that on the night of 16 Oct 12, Brig Gen Baker had been alone and could not recall the name of the hotel and took a taxi from the restaurant to the hotel which someone had told him "was the shortest taxi ride in history" or something to that effect. (Ex 11:2)

TDY to Massachusetts in Aug 12:

██████████ described an incident that occurred on/about 16 Aug 12¹⁶:

IO: Was he known as a party guy?

██████████ Yes.

IO: How do you know this?

██████████ Um, just through talk; it's a very small base and you hear people talking to each other all the time.

IO: Okay.

██████████ And plus he, he did it [partied].

¹⁶ Although this incident does not fall within the timeframe specified in the allegation, it is within the statute of limitations and is relevant to the allegation; therefore the IO included it in the analysis.

IO2: [REDACTED] a couple of questions. Do you recall some of the things you heard about him from other people in that regard?

[REDACTED] No, just that, you know, they all like to drink a lot and they would just have parties, that sort of thing.

IO: Who is they?

[REDACTED] Um, just people around the base, pilots, uh, nurses, just really anybody that [had] some contact with him.

IO: Did you attend any of these parties?

[REDACTED] Um, well I went to, the one that I talked to you about last week wasn't really a party, it was the, um, I think they called it a Strategic Planning Conference that we had, um, at the Guard Base outside of Boston¹⁷. He, after we were finished he, uh, went to the club there and, you know, paid for like a round of drinks for everybody, and, um, when we were there, you know, of course everyone is drinking and so I had gone back to my room for something and then, um, I walked back to the club but he was just kind of stumbling around outside the building, and I thought that it really isn't good for the wing commander to be stumbling around completely drunk outside the building. So I, uh, basically kept, held him up and walked him back into the bar and just dumped him off there hoping someone would take care of him.

IO: Did anybody else witness this behavior?

[REDACTED] Witness me carrying him back in? No. (Ex 8:6)

Activity Center on Will Rogers ANGB:

[REDACTED] testified that he has known Brig Gen Baker since [REDACTED] joined the OKANG in 1998. (Ex 9:2) Over the years, the two officers were peers, and when [REDACTED] was the [REDACTED], Brig Gen Baker was his [REDACTED]. In Jan 11, [REDACTED] became the [REDACTED] and Brig Gen Baker was the [REDACTED] and then the [REDACTED] (Ex 3:1-2; Ex 9:2) [REDACTED] testified that he did not often see Brig Gen Baker, because [REDACTED] was a traditional guardsman, but that he would sometime see him at the Activity Center or Club at Will Rogers ANGB on drill weekends. (Ex 9:4-5) When asked what Brig Gen Baker's behavior was like at the Activity Center, [REDACTED] responded, "...he was usually...pretty jovial." (Ex 9:5) When asked if Brig Gen Baker drank to excess or to the point that it adversely affected his conduct or behavior, [REDACTED] responded:

¹⁷ In addition to witness testimony that Brig Gen Baker was on this TDY, a review of his pay record shows that he was on T32 TDY orders to Hanscom AFB, MA from 16 Aug - 18 Aug 12. (Ex 5:2, 7-9)

IO: Okay. Do you believe the fact that Gen Baker was intoxicated influenced his conduct during this incident or these incidents?

█████ I think it played a factor.

IO: Okay. Do you think he would have behaved this way if he had been sober?

█████ I don't think he would have behaved the same. (Ex 9:9)

█████ testified █████ saw Brig Gen Baker at the Activity Center, "usually on Thursdays, I saw him a lot there; I myself was there a lot. Um, I couldn't give you an exact number...I would say weekly, yes." (Ex 20:4)

IO: And what was your interaction with Gen Baker like?

█████ Um, he was friendly, um, when you're at, I mean when everybody's just kind of hanging out and having fun it's your relaxed timeframe it's everybody's Friday on Thursday. I never had any, he was never mean to me or anything. We never had any issues like that.

...

IO: What type of a commander was he? What was his leadership style like?

█████ Um, I thought he was friendly and I thought he cared.

IO: Okay. What was his personal reputation? Was he known as a party guy?

█████ I couldn't say necessarily a party guy, but he was very friendly and would openly purchase drinks for the entire bar. He would leave an open tab. Um, so friendly and out there; I couldn't necessarily say party guy, but yes he was there and we all had good times. (Ex 20:4)

Many witnesses for the incidents previously mentioned described Brig Gen Baker as being intoxicated and believed this may have had an impact on his behavior. However, there were other individuals who stated that although they had seen Brig Gen Baker consume alcoholic beverages, they had not witnessed him drinking to excess; but they also stated they rarely went to the Activity Center on base or socialized with Brig Gen Baker. (Ex 11:1-5, 8) There were no witnesses who testified or claimed any knowledge of whether Brig Gen Baker kept alcohol in his office and did not recall ever seeing Brig Gen Baker drink while on duty. (Ex 7:7; Ex 8:13; Ex 9:9-10; Ex 11:1, 5, 8)

When asked to describe what type of leader or commander Brig Gen Baker was, several witnesses described him as jovial, caring, fair, personable, easy going, encouraging and friendly. (Ex 7:4; Ex 9:4; 11:9; Ex 20:4)

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█ Uh, he did drink and, uh, I would say to excess or not, he was not slurring or falling down or any of that, but I think it did impair his judgment for the fact that, uh, as he drank he would, uh, he would become more jovial and hang on people and put his arms around them, uh, something more, uh, it was, it was a little more, it was more than I was used to or would expect out of a, uh, senior leader's, uh, actions.

IO: Okay. Did you ever witness Gen Baker touching anyone inappropriately or that may have been unwanted?

█ I did not witness him touching [in]appropriately. I did witness him, he put his arms around people ...he was, uh, you know, kind of a big hugger ... talked to, you know ...I don't know, ...I wasn't in those people's minds but yes he did put his arms ... around people and it became a little more, ...aggressive as if, if he had more to drink, but I did not see actual inappropriate touching. (Ex 9:5)

█ stated it was both males and females that Brig Gen Baker would put his arms around. (Ex 9:6) Although he could not recall any specific individuals, █ stated that it was "usually like either flying med techs, or ...flight nurses...in that field." (Ex 9:6, 8-9) █ could not say whether any of the touching was sexual in nature, and stated he never saw any reaction from the individuals when Brig Gen Baker touched them. (Ex 9:6-7)

IO: ...During these times when you saw him at the activity center or the club and he was putting his arm around them, you stated that Gen Baker had been drinking at the time of the incident?

█ Yes.

IO: Okay. Do you believe that he was intoxicated or drunk?

█ Yes.

IO: Okay why?

█ Uh, because he actually, it was enough so that he, uh, I've seen him ask for, uh, individuals to give him a ride home. So it was enough that he thought that he had asked for a ride home.

IO: Okay. Do you know who he asked for a ride home?

█ I've given him a ride to his home before.

IO: Okay. Anybody else?

█ Uh, I'm not sure if he called █ or if he called, uh, or if had a, another individual do it, but, but I have done it.

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When determining whether a violation of 44 O.S. §3390 *Conduct Unbecoming of an Officer and a Gentleman*, has occurred both elements of the standard must be considered. The elements of 44 O.S. §3390 are:

- (1) That the accused did or omitted to do certain acts; and
- (2) That, under the circumstances, these acts or omissions constituted conduct unbecoming an officer and gentleman. (Ex 16:104)

The IO applied the elements of 44 O.S. §3390 as an acid test to determine if Brig Gen Baker violated the article.

(1) That the accused did or omitted to do certain acts.

During the TDY to Volk Field on 22 Jul 14, Brig Gen Baker consumed at least 2-3, and possibly as many as 5, mixed drinks at the hotel prior to departing for the restaurant. (Ex 2:48, 56, 63, 70, 75, 81) He had slurred speech and his conversation was sporadic prior to departing the hotel and during the drive to the restaurant. (Ex 2:48, 64) Brig Gen Baker continued to consume alcoholic beverages at the restaurant. (Ex 2:48, 64, 71, 76, 82) During dinner, Brig Gen Baker repeatedly touched [REDACTED] inappropriately on [REDACTED] thigh and back, despite [REDACTED] pushing his hand away and telling him no at least 3 times. (Ex 2:49: 64-65, 76-77)

During the TDY to ANGRC on 16 Oct 12, Brig Gen Baker consumed an undetermined amount of alcoholic beverages and was intoxicated. (Ex 8:9; Ex 11:6-7; Ex 12:15-16; Ex 20:16) Brig Gen Baker grabbed [REDACTED] around the waist and wouldn't let go, and [REDACTED] had to push him away. (Ex 8:10) Brig Gen Baker texted and called [REDACTED] repeatedly later in the evening requesting that he come to [REDACTED] room or [REDACTED] come to his room. (Ex 11:6-7; Ex 20:12-13) Brig Gen Baker couldn't find his way back to the hotel, which was less than a quarter mile from the restaurant where the group had been that evening, and took a taxi back to the hotel. (Ex 8:9-10; Ex 11:2)

During the TDY to Massachusetts 16-18 Aug 12, Brig Gen Baker was found stumbling around drunk outside the club one evening and had to be held up and walked back into the club by [REDACTED]. (Ex 8:6)

Brig Gen Baker frequently went to the Activity Center on WRANGB on UTA weekends, and on occasion, consumed alcoholic beverages to point that he required someone to drive him home. (Ex 9:9)

(2) That, under the circumstances, these acts or omissions constituted conduct unbecoming an officer and gentleman.

The IO considered the language in 44 O.S. §3390, which describes the nature of the offense and states that "conduct violative of this article is **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.**" (Ex 16:104) The IO also focused on the language in 44 O.S. §3390 which states that there are certain moral attributes common to the ideal officer and the perfect gentleman, a lack of which is indicated by, among other things, indecency and indecorum, below which the personal standards of an officer cannot fall without seriously compromising the person's standing as an officer, or the person's character as a gentleman. (Ex 16:104)

The IO focused on the aspect of 'indecent' and 'indecorum,' as defined in the Merriam-Webster dictionary when comparing Brig Gen Baker's conduct during the incidents described above.

Indecency¹⁸ is defined as:

1. A morally or sexually offensive quality: an indecent quality.
2. Behavior that is morally or sexually offensive: indecent behavior.

Indecorum¹⁹ is defined as:

1. Something that is indecorous (not decorous, conflicting with accepted standards of good conduct or good taste).
2. Lack of impropriety (rude or immoral behavior, a wrong or immoral act, an improper act).

CONCLUSION.

Although ██████ stated that ██████ had never seen Brig Gen Baker behave the way he did in the restaurant before, ██████ did not appear to be shocked that he had behaved this way. Even witnesses described ██████ as seeming uncomfortable, but not upset about it. In ██████ testimony, ██████ stated that ██████ thought he was just "being Baker." ██████ and ██████, who did not know Brig Gen Baker before this trip, were shocked by his behavior at dinner on 22 Jul 14. ██████ exercised sound judgment by urging ██████ to leave while Brig Gen Baker was in the restroom, thus ensuring ██████ was safely removed from Brig Gen Baker's presence and avoiding further harassment that evening. Although there is some disparity on how much Brig Gen Baker had to drink that night, all witnesses testified he had more than a few

¹⁸ Definition obtained from <http://www.merriam-webster.com/dictionary/indecency>

¹⁹ Definition obtained from <http://www.merriam-webster.com/dictionary/indecorum>

drinks. It is telling that Brig Gen Baker could not recall the events of that evening, yet all of the other witnesses had detailed memories of what occurred.

The testimony of [REDACTED] and [REDACTED] regarding the events of the night out during the TDY to the ANGRG in Oct 12 closely matched. Although others may not have recalled how much Brig Gen Baker had to drink, all witnesses testified he had been drinking and most of them recalled that he had difficulties finding his way back to the hotel that was reportedly within a short walking distance of the restaurant. Brig Gen Baker's texts and calls to [REDACTED] are unusual since there were other senior personnel on the trip who it would have been more appropriate for Brig Gen Baker to contact for assistance.

Brig Gen Baker was well-liked among the witnesses the IO spoke to. Even the witnesses who reported his inappropriate conduct had nice things to say about him. They all seemed to dismiss Brig Gen Baker's behavior as normal [for him] and something they had long since accepted. Given that Brig Gen Baker essentially spent his entire career at this wing in the OKANG, it is understandable that he would have a strong rapport and even be friends with many of the members of the wing; however, it appears that he failed to understand the difference between his role as a senior leader in the wing versus being "one of the boys." The conduct described by the witnesses throughout this investigation is not what one would expect from a wing commander and senior leader in the ANG and it called to question his character. Although not all witnesses testified to having seen this behavior, there were enough witnesses whose similar accounts of Brig Gen Baker's misconduct established a pattern of someone who, although he may have been a really nice guy, failed to maintain control of himself or his actions, particularly when he consumed alcohol.

During the timeframe that the incidents occurred, Brig Gen Baker was in senior leader positions (vice wing commander, wing commander and chief of staff) in the OKANG. An officer in these types of leadership positions is expected to set the example for his/her subordinates of how an officer should behave both on and off duty. Brig Gen Baker's behavior toward the [REDACTED] subordinates described in the testimony conflicted with the accepted standards of good conduct and were highly improper. Based upon the testimony, each of these incidents occurred when Brig Gen Baker had been consuming alcohol or was intoxicated. The IO found by preponderance of evidence that Brig Gen Baker did commit acts to include excessive consumption of alcohol and inappropriate touching of subordinates; that Brig Gen Baker's behavior during the incidents was indecent and indecorous as defined by Webster's dictionary, and were of such a nature as to seriously compromise his standing as an officer and character as a gentleman.

By a preponderance of evidence, based upon the findings of fact and sworn testimony, the allegation that between on or about 16 Oct 12 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard, engaged in conduct unbecoming of an officer and a

gentleman, including but not limited to excessive consumption of alcohol and inappropriate touching of subordinates, in violation of 44 O.S. §3390 *Conduct Unbecoming of an Officer and a Gentleman*, 1 Nov 07, was **SUBSTANTIATED**.

ALLEGATION 2. Between on or about 27 Aug 11 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard engaged in sexual harassment of his subordinates, in violation of ANGI 36-3, *National Guard Military Discrimination Complaint System*, 30 Mar 01.

STANDARDS.

ANGI 36-3, *National Guard Military Discrimination Complaint System*, 30 Mar 01, states in pertinent part:

1-7. Policy

a. The fair, equitable, and non-discriminatory treatment of all members and employees of the NG improves morale and productivity, fosters unit cohesion and readiness, and increases the combat effectiveness of the Guard. It is the policy of the NG to provide equal opportunity for NG military personnel or applicants for membership in the NG; they will not be subjected to illegal discrimination because of race, color, religion, gender (to include sexual harassment), national origin, or reprisal for having participated in a protected equal opportunity activity.

b. All NG personnel are entitled to serve in an environment free from sexual harassment. **Sexual harassment is a form of gender discrimination and will not be tolerated.** Allegations of sexual harassment will be given prompt attention and resolved as expeditiously as possible. Sanctions outlined in State Codes of Military Justice, and/or in military or civilian personnel regulations will be applied when it is substantiated that an individual has engaged in sexual harassment or other forms of illegal discrimination. Such instances will be documented in the individual's official personnel file and reflected on evaluations/appraisals, as appropriate. [Emphasis added] (Ex 14:6)

ANGI 36-3 further provides the following definition of sexual harassment:

A form of gender discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or
- (2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(3) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who **makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.** [Emphasis added] (Ex 14:38)

ANALYSIS.

In ALLEGATION 1, [REDACTED] [REDACTED] described an incident during the ANGRC TDY in Oct 12, in which Brig Gen Baker grabbed [REDACTED] around [REDACTED] waist and [REDACTED] had to push him away from [REDACTED]. When asked if [REDACTED] felt this unwanted, inappropriate touching was sexual in nature, [REDACTED] responded, "...honestly yes. Um, yeah I think that's what he was looking for that night." (Ex 8:10) [REDACTED] [REDACTED] further explained that [REDACTED] thought his actions were sexual in nature because of the text messages [REDACTED] had told [REDACTED] about, "and then just the way that he was doing it, ...it was kind of, like I said it was inappropriate. It wasn't just, you know, like two friends messing with each other." (Ex 8:11)

When asked why [REDACTED] did not report this incident when it occurred, [REDACTED] responded:

[REDACTED] Well he's the, uh, he was the wing commander, and I don't know if you've been to that Guard Base, but it's very small and there's absolutely no way I could have done that and still had a career.

IO: Okay. So even though he didn't directly threaten you, you had a, did you have a concern for your job or for something negative happening?

[REDACTED] Oh, most definitely.

IO: Okay. So did you fear reprisal if you reported it?

[REDACTED] Yes.

IO: Okay.

[REDACTED] It's a, I mean it's a tight-knit, knit group out there ...um, and you just don't make them mad and you do what they want. (Ex 8:12)

In addition to [REDACTED] testimony regarding Brig Gen Baker grabbing [REDACTED] around the waist and [REDACTED] having to push him away from [REDACTED] also testified that there were times when Brig Gen Baker would refer to [REDACTED] as the [REDACTED].” [REDACTED] went on to state that [REDACTED] did not think that was appropriate. (Ex 8:4)

IO: Did you ever hear him, what other types of things did you hear him say that was not appropriate or jokes types of things?

[REDACTED] Um, I, well I can't give you specific examples of the jokes ...because you know you hear so many things so often, you just kind of become numb to it and you just walk away.

IO: Okay. And when he did refer to you as a tractor beam of hotness, what, where were you all at? Were you in a meeting, were you at the activity center there at Will Rogers?

[REDACTED] Um, we were I, oh I can't remember where it was, but I do know it was somewhere on the base ... and then he would just refer to me that, referred to me as that just occasionally just wherever, you know. He'd ask [REDACTED], you know, how the tractor beam of hotness was doing, that sort of thing. (Ex 8:5)

In [REDACTED] testimony, [REDACTED] described an incident that occurred at the Activity Center on base sometime around Aug 11.²⁰ (Ex 20:5-6) [REDACTED] said one evening after work [REDACTED] was sitting at a high-top table with [REDACTED], when Brig Gen Baker approached [REDACTED] with a friend, who Brig Gen Baker introduced as his designated driver. [REDACTED] said that Brig Gen Baker started off by stating he had drank seven martinis and asked [REDACTED] to excuse his behavior. He then proceeded to place his hand on [REDACTED] knee and then between [REDACTED] legs.²¹ (Ex 20:5-6)

IO: Okay. So exactly where did he touch you on your thigh?

[REDACTED] The, uh, inside the left interior...

IO: Okay.

[REDACTED] ... and he was, you, you could tell he was going for the [REDACTED] area, I just was not allowing it. I was forcibly removing his hands and closing my legs.

²⁰ 44 O.S. §3268 *Statute of limitations*, limits charges, except as otherwise provided in this article, to offenses committed within 3 years of receipt of sworn charges. Thus this incident was not included Allegation 1, because of the statute of limitations. (Ex 16:69)

²¹ This incident has been reported to AFOSI, the SARC and NGB/OCI as possible sexual assault. NGB/OCI is currently assessing whether they will open an investigation. (Ex 13)

...

██████████ I was wearing my ABUs; I was wearing a uniform.

IO: And you said that he had a civilian friend with him?

██████████ Yes his friend was going to ... it was his DD, his designated driver.

IO: Okay did you know the person?

██████████ No.

IO: Okay. All right and about how long did this go on, this interaction with Gen Baker where he was trying to put his hands between your thighs?

██████████ I would say, it's hard to...you know, it seemed like a really long moment in that time, but sometimes it's not, that, just from, I would say between five to seven minutes of trying to remove myself from the situation, but not really knowing what to do.

IO: Okay.

██████████ But they stood there for a while talking, I mean it was probably ten/fifteen minute conversation, cause again it was four of us.

IO2: And nobody else said anything?

██████████ No, I asked...

IO2: Or was it noticeable?

██████████ I thought it was noticeable. I, um, saw, I believe it was ██████████ a ██████████ now, ██████████ and then ██████████, they were to the left of us at the bar, at the Activity Center and I felt like they were giving me weird looks and I thought they saw what was going on, but the looks they were giving me I thought that they were thinking that I was wanting that because a lot of people do want to have that moment (chuckle) with the vice wing commander or even a pilot so I thought they were looking negatively upon me and not him and then ██████████ when Baker and his friend left, I asked ██████████, I said did you not see that? Why didn't you help me? I don't understand, what, you what I mean and he said he had no idea what was going on and then he was frustrated with me that I didn't stop it in a more verbal way and a louder way to let him know what was going on.

IO2: Okay. And then I just want to go back one second to the thigh. So how far up the thigh did he get? Between, as your talking, let's just talk inches then, between the knee and the, all the way up to the crotch, where in that? Halfway, three-quarters of the way up your leg?

██████████ I would say if it weren't for the fact that, I mean, the ABU's and then me closing my legs, I would say he was a good maybe inch or two inches almost away from touching me in, in...

IO2: From your crotch?

██████████ Correct.

IO: So one to two inches south of the crotch, okay. And what did you... well first of all did you feel that this unwanted touching was sexual in nature?

██████████ Yes.

IO: Okay. Why did you think that?

██████████ Well when you're going for parts of the body like that, that's not a friendly gesture, that is an... I'm, I'm interested in, in more physical contact. And that's why he actually ended up giving me his phone number that day and, and told me to call him, um...

IO: So he gave you his phone number and told you to call him?

██████████ Correct and it.. I don't have it now, that was a few years ago but, um, it was, it was not his, I don't think it was his work number; I felt like it was a personal number, if that makes sense?

IO: Okay. And what did you do in response?

██████████ I just kept removing his hands and then they ended up leaving, giving me his phone number and then that was it...

IO: And when he gave you his phone number did he say call me or did he say anything to you about why he was giving you his phone number?

██████████ To call him if I wanted to hang out. I think they were looking for me to follow them at one point.

IO: Follow them?

██████████ As in like follow them, like leave the bar and go hang out. That was the impression I received, and again that was an impression, but I, I got the feeling that he wanted me to go hang out with them.

IO: Hang out where?

██████████ I'm assuming at that guy's house since that guy was the one driving home and obviously he's not going to take me to his [Brig Gen Baker's] house.

IO: Okay. Did you say anything to him like stop or don't do that or anything like that?

██████████ No, I kept, I just kept removing his hands and, and thinking back now, I, there are so many different things I could have done, but I, I didn't...I just kept removing his hands.

IO: ... And what reaction did Gen Baker have to you pushing, or removing his hands from your thigh?

██████████ I think he kind of thought it was like a little bit of a game at first and I think that's why he kept attempting, but then I did that, that last final shove and I think he finally understood nothing was going to happen in that moment.

IO: Okay did Gen Baker hint at or threaten to take any unfavorable personnel action or withhold favorable personnel action if you didn't comply?

██████████ No.

IO: Did he, what about the other that if you did comply that you'd get a better job or anything, you know, good would happen?

██████████ No. (Ex 20:5-11)

The IO had spoken with ██████████ on the telephone prior to this interview. (Ex 11:6-7) When asked why ██████████ did not report the incident, ██████████ responded because ██████████ knew if ██████████ reported it, nothing would happen. ██████████ went on to say whenever someone high ranking does something and it is reported, there may be some closed door meetings to discuss it, but nothing ever comes of it. (Ex 11:6)

When asked during the interview why ██████████ did not report it, ██████████ responded:

██████████ I just felt like he was having a, a dumb moment. Um, I didn't feel attacked or scared or anything, it was just an uncomfortable moment; I didn't feel like he was doing

anything, I mean it was wrong (chuckle) but it wasn't like anything horrible, it wasn't going to really affect anything if that makes sense because it might be nothing happen. He didn't aggressively push me down or take me home or anything. Um, I thought it was just a dumb moment. I don't know how else to explain it.

IO2: Well and, and you didn't really routinely work with him? Is that right?

██████████ No, it was (throat clearing) it was just the fact that I was in the flying, even though we're AE we're not really a flying squadron, we're technically you have to go, fly on the aircraft. So you do interact, through the flight schedules and some of the meetings. Technically we're still Ops...

IO: Um-hmm.

██████████ ... so I would have to go to that building for meetings, um, and be in that zone.

IO: Okay. And why didn't you report the incident where he was texting you [during the ANGRC trip in Oct 12]?

██████████ Again it wasn't anything; I didn't think it was that important (throat clearing). I just thought, you know, he was drunk and being dumb, um, because of what his story was with being lost. Um, it wasn't anything horrible that was going to ruin anything if that makes sense.

IO: What about now, now that a little time has passed and you've reflected on it, do you have a different opinion on either incident?

██████████ I, I, I think they're both inappropriate... um, I still, I, I, I guess my quest, or not my question, my thoughts are now, I wish I would have said something about the Activity Center, not necessarily to anybody else but to him, saying hey you shouldn't do that... because if he was, what if he did it to somebody that was younger, I'm not exactly a spring chicken, but what if he had done it to somebody that was younger and more impressionable, let's say an eighteen year-old that just came in you know, the, the military. Um, so I figure or think that I should have said something and been more aggressive in that moment myself... (Ex 20:18)

The IO contacted ██████████ and ██████████ and asked them about this incident. Both individuals denied any recollection of the incident. (Ex 11:9-11)

In ██████████ testimony, ██████████ described an incident that occurred at an earlier time in 2009. Although it is outside of the specific timeframe for this allegation, the IO felt it was relevant to the case:

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IO2: Were there ever any other incidents where Gen Baker's conduct towards you was inappropriate or unprofessional?

██████████ Um, I was thinking about this one. This one, this was years ago, um, this happened at the Activity Center again, um, I just became a full timer so it was probably around the middle of 2009 that May/June area where I started going to the Club or the Activity Center, um, he [Brig Gen Baker] did actually come up to me asking me to take my hair down because he wanted me to see my hair in its normal state versus in the bun that I always wore.

IO: He came up to you and asked you to take your hair down while you were in uniform?

██████████ Yes, and, while I was wearing a flight suit.

IO: Because he wanted to see what your hair looked like down?

██████████ Yes and he wanted to see my face.

IO: Did you do it?

██████████ I did.

IO: You took ██████████?

██████████ I did.

IO: Okay.

██████████ Yeah, you know you feel so dumb for this afterwards (chuckle).

IO: What did you think when he asked you take ██████████

██████████ I thought it was odd. Um, there was actually, um, I don't [know] what he is now, but, um, ██████████, he was there when it happened. There was another pilot there as well, but I don't remember ██████████ name, um, but we were where that entrance to the kitchen is at the bar, the last three stools and Baker came over and asked me to do that. It was just a very odd situation.

IO: So you think ██████████ witnessed it ...

██████████ ██████████ was standing right there.

IO: Okay was there, and you said there was somebody else but you can't remember his name?

██████████ I don't remember who it was; there was just another pilot there.

IO: Okay. And when you took ██████████ did Gen Baker, at that time he was a colonel right, Col Baker; did he... did he say anything or did he touch you or did he touch ██████████

██████████ Um, he touched ██████████, if I remember correctly, he, I was putting my hand in there to kind of ██████████

██████████ and he kind of touched the back, I think to kind of like pouf it up or do, I don't know what he was doing.

IO: So he kind of played with it?

██████████ And then, yeah, and then he wanted, he wanted me to turn around so he could see my face. So it's, it was awkward and, and I just feel awkward now (chuckle).

IO2: That's fine. Did anybody say anything?

██████████ No, uh, it, we made a joke afterwards.

IO: Who made joke?

██████████ It was, uh, ██████████ and I, we were kind of laughing about it and thought that was weird.

IO: So the General, well I guess like, the Colonel at the time, now Gen Baker, had you take, asked you to ██████████ which you did. He kind of put his hands ██████████ then he left or what happened after that?

██████████ He just walked away. He makes the rounds; that's what he does ...

IO: Did he ask anybody else to take their hair down that day?

██████████ Not that I'm aware of.

IO: Okay. Was that considered normal behavior for him?

██████████ I didn't really know at the time and now that I, I kind of do, then yes. (Ex 20:20-21)

The IO contacted [REDACTED] who denied any recollection of Brig Gen Baker asking anyone to [REDACTED] while in uniform. (Ex 11:11)

During a telephone conversation with [REDACTED] mentioned [REDACTED] had a member of [REDACTED] squadron, [REDACTED], who was under a wing commander-directed investigation for several issues including adultery, sexual harassment and conduct unbecoming, of which 21 of 32 complaints were substantiated. As such, [REDACTED] advised that any testimony [REDACTED] and [REDACTED], should be "taken with a grain of salt." (Ex 11:1) The IO took this under consideration during [REDACTED] interview with [REDACTED]; as well as the fact that with the exception of the texts from Brig Gen Baker discussed in the previous allegation, none of the incidents [REDACTED] described were corroborated by other witnesses. When the IO contacted [REDACTED] to schedule the interview, [REDACTED] was reluctant and expressed concern to the IO that [REDACTED] testimony in this investigation could have a negative impact on [REDACTED] desire to become a commissioned officer in the [REDACTED] once [REDACTED] completed [REDACTED] bachelor's degree. Taking everything into consideration, the IO felt [REDACTED] account of incidents that occurred between [REDACTED] and Brig Gen Baker were consistent with those described by other victims; and the IO believed [REDACTED] testimony and demeanor appeared to be credible and not contrived. The IO also considered that these incidents occurred a few years ago, were embarrassing to the victim, and it was reasonable that [REDACTED] would have a better recollection of the events than an observer or bystander who may not have been paying attention.

Another witness reported an incident that occurred between [REDACTED] and Brig Gen Baker in 2011 at the National Guard Association of the United States (NGAUS) Convention in Milwaukee. Ex 7:4) In [REDACTED] testimony, [REDACTED] stated that [REDACTED] worked full-time at the [REDACTED] from approximately January 2011 to December 2014, while Brig Gen Baker served as the wing commander. [REDACTED] stated that Brig Gen Baker was sometimes a traditional officer, but came on full-time during the deployment of the fulltime vice wing commander. [REDACTED] described an incident that occurred between Brig Gen Baker²³ and [REDACTED] in 2011.²⁴

²² For brevity the IO refers to this witness as [REDACTED] throughout the ROI.

²³ A review of Brig Gen Baker's pay record shows he was not in a duty status on the days of the NGAUS Convention, which is appropriate as ANG members are generally not authorized to be in duty status nor authorized pay and per diem to attend the NGAUS Convention unless there is a legitimate business reason to do so. (Ex 5:1)

²⁴ 44 O.S. §3268 *Statute of limitations*, limits charges, except as otherwise provided in this article, to offenses committed within 3 years of receipt of sworn charges. Thus this incident was not included Allegation 1, because of the statute of limitations. (Ex 16:69)

█...I had mentioned to you earlier [in a prior telephone conversation] there was one time early in my full-time career there where he was playing with the █ and he was, he kissed the back of my neck.²⁵

IO: Um, and when was that?

█ It was in 2011 and I'm a little uncertain of which venue it was. I was trying to remember for sure, um, I, I'm thinking it was in Milwaukee at the NGAUS Convention²⁶ when we were in our Oklahoma room because I'm trying to remember what the room looked like and that's, that's where I think it was. The only other place it could have been would have been at our State Convention because we would often have breakout rooms, too, but those are the only two options because I stopped going to those events.

IO: All right. And, um, were there any witnesses?

█ There were people in the room, ma'am, but I, I don't remember anyone specifically. I, we were sitting at a table ...

IO: Did you talk to anybody about it after it happened?

█ No. No, I, I was kind of embarrassed about it but he, um, I know I was sitting at a table and he came up behind me.

IO: Okay.

█ So and I never discussed it with him after, after that time either.

IO: And when you say you stopped it, how did you stop it?

█ I pushed him away.

IO: Okay.

█ Um, and, and actually I left the room, so he didn't follow me and we, he never tried anything else.

IO: Okay. Did you feel that this um, unwanted touching was sexual in nature?

█ Yes, ma'am.

IO: Okay. Why did you think that?

█
█
²⁶ The 133d NGAUS Conference and Exhibitions was held 27-29 Aug 2011 in Milwaukee WI. (Ex 19)

█████ Well, um, I've never been touched that way in the military at all and uh, certainly never kissed on the back of my neck. We weren't in uniform but we, he, we still were in the military. He should not have done that.

IO: Mm-hmm. Um, and did you say anything to him? You said you pushed him off, did you say anything?

█████ I don't, I, I probably, I would think I said to stop but I don't remember exactly. It's been so long ago and I, I just never discussed it with him.

IO: And uh, what was his reaction when you told him to stop or when you pushed him away?

█████ Mm, I don't remember him doing any, anything notable. I, I left immediately, so he stayed in there somehow. I don't know what he, what he did.

IO: Okay. Did you see him um, later during the conference or on another day during the convention?

█████ I don't remember seeing him, but he's, he's one that I would have avoided, too, just because of that. That would have been uh, I'm kind of shy and naïve that way, I would have avoided him even if I saw him. (Ex 7:4-6)

Although ██████ testified that Brig Gen Baker never threatened ██████ career ██████ did speculate that may have been why ██████ did not have a close working relationship with each other, despite the fact that ██████ was his executive officer.

█████ ...he was not someone that I wanted to work around or be around and, and that's probably, I'm sure that's a factor [the incident that occurred at NGAUS] but so looking back on it maybe, maybe that was something I should have reported but in my mind at the time he discontinued the behavior so I thought that it was a non-issue.

IO: Okay ...even though he may not have directly threatened you, did you have a concern for your job or ...for an unfavorable personnel action? In other words, did you feel that you might be reprimanded if you uh, reported it?

█████ I don't, I don't know I really thought that far ahead on it. Um, I, that would have, that would have been a concern of mine if he had, had done something again. I would have had that worry because I would have to, to think in my head if I was going to report it what all of the outcomes would be but I do know that I made conscious efforts to, if I had to be there working after hours or we, we only worked Monday through Fri, or Thursday unless we had a big, big meeting on Friday, I was always very careful to go into my office and close my door and leave the light off and just work on the computer if I knew he was in his office. I just didn't feel comfortable around him, but I don't have

anything, you know, anything else to report as far as a real reason. It was just a, just a feeling and I was trying to make sure I was kind of isolated and as far as I figured if he didn't know I was there he wouldn't come into my office for anything, so it would prevent any future things happening. That's just kind of the way I looked at it. [Emphasis added] (Ex 7:7)

In ██████ testimony during the NGB/OCI investigation, ██████ stated ██████ considered this incident [from the night of the restaurant in July 2014] a "learning experience." ██████ stated if ██████ had it to do over again, ██████ would switch seats with someone to avoid the situation. (Ex 2:52) ██████ further testified ██████ did not consider the situation bad or wrong, but considered it uncomfortable. ██████ said if a subordinate came to ██████ would tell them it was good to have a group around and advise them it was smart they took ██████ own car. (Ex 2:52)

9 of 18 witnesses contacted or whose testimony was used during this investigation denied having witnessed Brig Gen Baker behave inappropriately toward ██████; however, those 9 witnesses also stated they did not frequent the Activity Center or often socialize with Brig Gen Baker. (Ex 11:1-5; 8-11) ██████ denied ever seeing or having first-hand knowledge of Brig Gen Baker acting unprofessionally toward ██████ however, he said he had heard things, but could not recall what specifically or who he had heard them from. (Ex 11:4)

ANGI 36-3 further provides the following definition of sexual harassment:

A form of gender discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- (1) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or
- (2) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
- (3) Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment. [Emphasis added]

The IO conducted the following acid test to determine if Brig Gen Baker violated the ANGI 36-3:

(1) Did Brig Gen Baker make unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature? Yes.

The IO found by a preponderance of the evidence that Brig Gen Baker made unwelcome physical contact with ██████ ██████ described the contact as sexual in nature. ██████ and ██████ did not say ██████ felt the

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contact was sexual in nature, but it made both of them uncomfortable. ██████ changed ██████ behavior as a result of Brig Gen Baker's physical contact with ██████ to avoid him and to actively hide ██████ presence from him if ██████ were working after hours.

(2) Was submission to or rejection of such conduct made either explicitly or implicitly a term or condition of a person's job, pay, or career? Yes.

████████ stated that ██████ felt ██████ could not report Brig Gen Baker's conduct. ██████ believed ██████ had to "do what they want" that "you just don't make them mad". (Ex 8:12) ██████ feared that reporting Brig Gen Baker's conduct would negatively impact ██████ career and ██████ career.

████████ and ██████ did not appear to believe ██████ had to accept Brig Gen Baker's conduct, but none of ██████ reported it, either.

(3) Was submission to or rejection of Brig Gen Baker's conduct by a person used as a basis for career or employment decisions affecting that person? No.

There is no evidence to support Brig Gen Baker based any career or employment decisions based on whether the women involved consented to his inappropriate touching.

(4) Did Brig Gen Baker's conduct interfere with an individual's performance or create an intimidating, hostile, or offensive environment? Yes.

As already discussed, ██████ was intimidated by Brig Gen Baker's conduct and feared reporting it would jeopardize ██████ career and ██████ career. ██████ was also intimidated by Brig Gen Baker's inappropriate touching, changing ██████ work behavior to avoid him and hide ██████ presence from him. ██████ reported the behavior was "obnoxious" and that if ██████ could redo the event, ██████ would change ██████ behavior by sitting somewhere else. This suggests ██████ found Brig Gen Baker's behavior offensive. ██████ didn't think there was a reason to report the incidents because ██████ felt nothing would happen because of Brig Gen Baker's rank. ██████ regrets not reporting it because he could have tried something similar with a younger Airman who was more impressionable.

CONCLUSION.

According the ANGI 36-3, "sexual harassment is a form of gender discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment." Although ██████ stated that Brig Gen Baker never threatened ██████ job or an unfavorable personnel action, the fact that ██████ avoided working closely with Brig Gen Baker indicated that his behavior did impact their working relationship. Based on the IO's previous experience as an executive officer, the IO felt that a commander should have a close working relationship with the executive officer. If the

working relationship was functioning normally, there would be a high level of trust between the two officers. [REDACTED] testimony that [REDACTED] practically had to hide in [REDACTED] office from Brig Gen Baker in order to prevent an opportunity for him to do anything else to [REDACTED] is remarkable. The IO found by preponderance of evidence that Brig Gen Baker's conduct toward [REDACTED] created a hostile environment as it is not reasonable for a subordinate to feel they have to hide from [REDACTED] supervisor.

Although there was no testimony or evidence that Brig Gen Baker made overt threats to the victims who testified to misconduct directed toward them; given his position of authority over them, it is reasonable that they believed reporting his misconduct could have resulted in negative consequences to their careers. Based on [REDACTED] testimony, [REDACTED] clearly felt reporting the incident would have had a negative impact on [REDACTED] career. [REDACTED] also expressed concern regarding [REDACTED] [REDACTED], career. [REDACTED] testified that Brig Gen Baker never threatened an unfavorable personnel action, but [REDACTED] did express regret that [REDACTED] did not report his misconduct, because although [REDACTED] felt [REDACTED] had the situation under control, it could have happened to someone younger and more vulnerable.

Considering Brig Gen Baker's behavior described in both the previous allegation and this allegation, and the similarity between the testimonies of victims, the IO found that by a preponderance of evidence a reasonable person would conclude that "such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment," as defined by the standard.

By a preponderance of evidence, based upon the findings of fact and sworn testimony, the allegation that between on or about 27 Aug 11 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard engaged in sexual harassment of his subordinates in violation of ANGI 36-3, *National Guard Military Discrimination Complaint System*, 30 Mar 01, was **SUBSTANTIATED**.

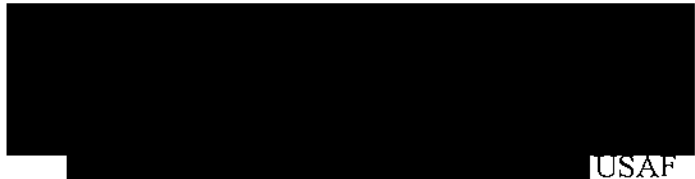
VI. SUMMARY

ALLEGATION 1, that between on or about 16 Oct 12 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard, engaged in conduct unbecoming of an officer and a gentleman, including but not limited to excessive consumption of alcohol and inappropriate touching of subordinates, in violation of 44 O.S. §3390 *Conduct Unbecoming of an Officer and a Gentleman*, 1 Nov 07, was **SUBSTANTIATED**.

- The preponderance of evidence supported the conclusion that Brig Gen Baker's conduct during various social events with members of the Oklahoma Air National Guard was not what was expected of a senior officer in the Air National Guard and seriously compromised his character as a gentleman.

ALLEGATION 2, that between on or about 27 Aug 11 and on or about 22 Jul 14, Brig Gen Glen M. Baker, Oklahoma Air National Guard engaged in sexual harassment of his subordinates, in violation of ANGI 36-3, *National Guard Military Discrimination Complaint System*, 30 Mar 01, was **SUBSTANTIATED**.

- The preponderance of evidence supported the conclusion that Brig Gen Baker's inappropriate touching of female subordinates within his organization created a hostile and offensive environment culminating in sexual harassment.



USAF

Investigating Officer
Directorate of Senior Official Inquiries

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

A handwritten signature in cursive script, appearing to read "Sami D. Said".

SAMI D. SAID
Major General, USAF
Deputy Inspector General