

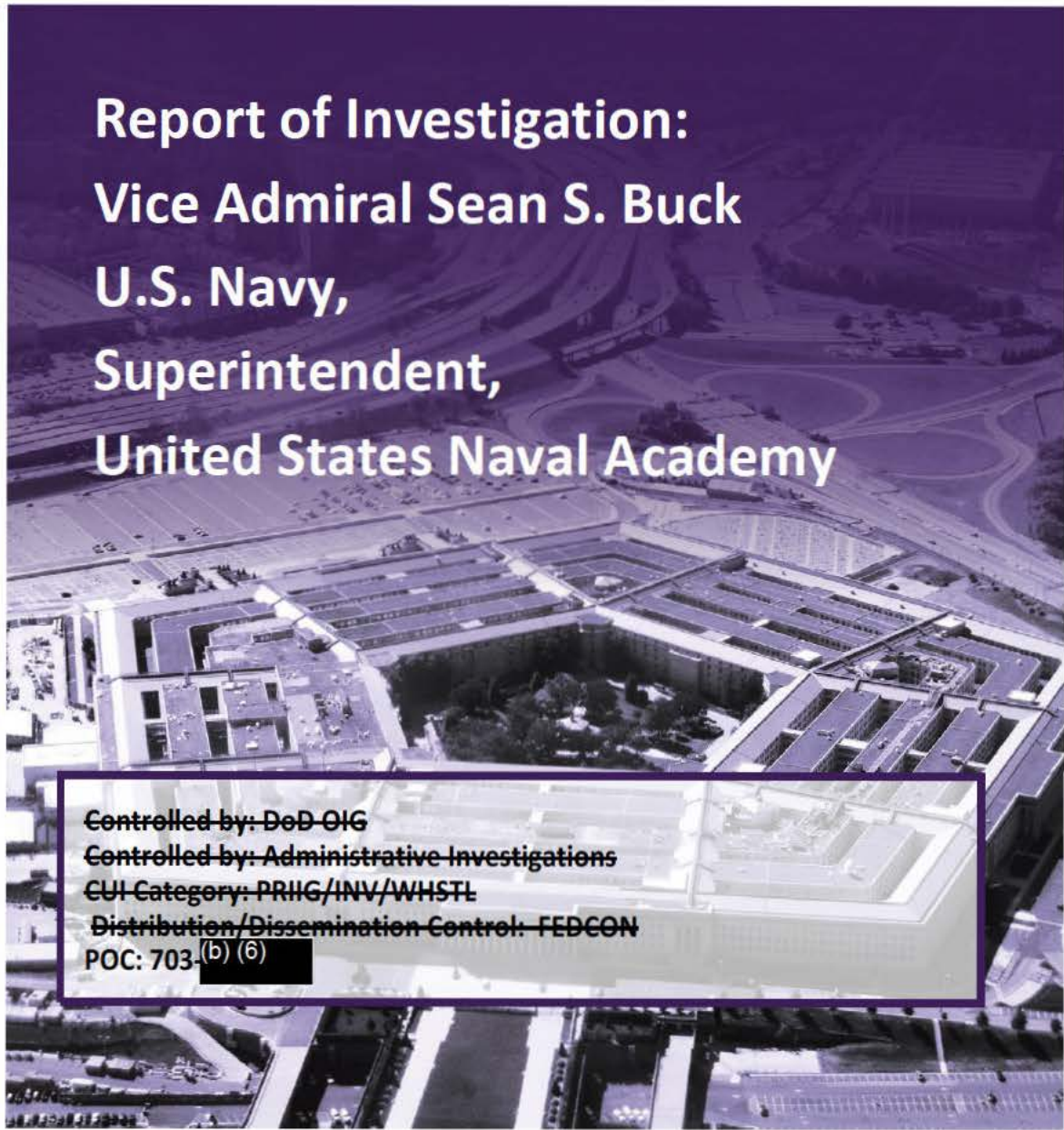


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# INSPECTOR GENERAL

*U.S. Department of Defense*

SEPTEMBER 30, 2022



## Report of Investigation: Vice Admiral Sean S. Buck U.S. Navy, Superintendent, United States Naval Academy

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**REPORT OF INVESTIGATION:  
VICE ADMIRAL SEAN S. BUCK  
U.S. NAVY**

## I. INTRODUCTION AND SUMMARY

### *Allegation Origin*

This investigation of Vice Admiral (VADM) Sean L. Buck, U.S. Navy, Superintendent, U.S. Naval Academy (USNA) examines his statements to senior Navy officials about the disenrollment proceedings against then-Midshipman First Class (MIDN) (b)(6), (b)(7)(C).<sup>1</sup> We received an allegation that, on three occasions, VADM Buck made false official statements when VADM Buck asserted that MIDN (b)(6), (b)(7)(C) said he would use military force against civilians.<sup>2</sup>

MIDN (b)(6), (b)(7)(C) posted over 40 tweets from June 7 through 15, 2020, including at least six tweets suggesting the use of violence and military force against civilians in the United States. In accordance with USNA processes, VADM Buck interviewed MIDN (b)(6), (b)(7)(C) on September 23, 2020 (hereafter “the interview”), asking MIDN (b)(6), (b)(7)(C) questions about his tweets. After the interview, VADM Buck recommended in a memorandum dated November 12, 2020, to the Assistant Secretary of the Navy, Manpower and Reserve Affairs (ASN[M&RA]) (hereafter “the memorandum”), that MIDN (b)(6), (b)(7)(C) be disenrolled from the USNA. The memorandum stated, in part, that MIDN (b)(6), (b)(7)(C) expressed remorse and apologized for his tweets, but VADM Buck had lost confidence in MIDN (b)(6), (b)(7)(C) judgment; therefore, VADM Buck recommended that MIDN (b)(6), (b)(7)(C) be disenrolled from the USNA.

On February 18, 2021, approximately 5 months after VADM Buck’s interview with MIDN (b)(6), (b)(7)(C), (b)(6), (b)(7)(C) convened a conference call with VADM Buck and senior staff members to discuss the status of MIDN (b)(6), (b)(7)(C) ongoing litigation with the Navy concerning former Secretary of the Navy Kenneth J. Braithwaite’s decision to disenroll MIDN (b)(6), (b)(7)(C). According to (b)(3), (b)(6), (b)(7)(C), during the conference call, VADM Buck recounted an exchange he had with MIDN (b)(6), (b)(7)(C) in which he asked MIDN (b)(6), (b)(7)(C) “Would you use military force to bomb rioters?” and MIDN (b)(6), (b)(7)(C) replied, “Yes.” (b)(3) (b)(6) (b)(7)(C) told us that this statement contradicted information in VADM Buck’s memorandum reflecting MIDN (b)(6), (b)(7)(C) expression of remorse and apology for his tweets.

This allegation was referred to the DoD Office of Inspector General (DoD OIG) on April 9, 2021. The referral included information that VADM Buck also made a similar statement on two other occasions—to former Secretary Braithwaite during his consideration of VADM Buck’s disenrollment recommendation, and to (b)(3) (b)(6) (b)(7)(C) on February 24, 2021.

<sup>1</sup> Disenrollment” refers to procedures used by the USNA to separate midshipmen from the USNA in cases involving unsatisfactory conduct. MIDN (b)(6), (b)(7)(C) sued the Navy, which we discuss later in the report, and ultimately the Navy allowed him to graduate from the USNA, receive a commission as an ensign on May 28, 2021, and enter active duty. However, for consistency and simplicity, we refer to him as “MIDN (b)(6), (b)(7)(C)” throughout this report. Midshipmen progress through the ranks similar to civilian universities; for instance, a freshman is a midshipman fourth class, a sophomore is a midshipman third class, a junior is a midshipman second class, and a senior is a midshipman first class.

<sup>2</sup> The terms “rioters” and “protesters” may have different connotations to different people. Therefore, throughout this report, we used the word each witness used.

On May 7, 2021, the DoD OIG initiated this investigation of VADM Buck's alleged false official statements. As an active duty officer, VADM Buck is subject to the Uniform Code of Military Justice (UCMJ). Accordingly, we will rely on Article 107 of the UCMJ to guide our analysis of the alleged false official statements. The elements of Article 107 as applied to this investigation are that:

- VADM Buck made a certain official statement;
- VADM Buck's statement was false in certain particulars;
- VADM Buck knew it to be false at the time he made it;<sup>3</sup> and
- VADM Buck made the false statement with the intent to deceive.<sup>4</sup>

We provide additional information about this standard in Appendix A.

### *Scope and Methodology of the Investigation*

During our investigation, we interviewed 20 witnesses, including (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C) (b)(6),(b)(7)(C). We also interviewed witnesses who had relevant information about these matters, including (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C).<sup>5</sup> We reviewed applicable standards and documents related to the USNA's inquiry and adjudication of the disenrollment proceedings against MIDN (b)(6),(b)(7)(C). We also reviewed VADM Buck's official e-mails from May 30, 2020, through May 30, 2021, and found no information to support the allegation.

### *Conclusion*

We concluded by a preponderance of the evidence that VADM Buck did not make a false official statement, as defined by Article 107 of the UCMJ, to (b)(6), (b)(7)(C) or (b)(6), (b)(7). However, we found that VADM Buck made a statement that was false during both the conference call with (b)(6), (b)(7)(C) on February 18, 2021, and the office visit with (b)(6), (b)(7) on February 24, 2021. We further found that VADM Buck knew that his statements were false, but we could not determine by a preponderance of the evidence that VADM Buck intended to make those false statements on either occasion to deceive (b)(6), (b)(7)(C) or (b)(6), (b)(7). Separately, we concluded that VADM Buck did not make a false official statement to former Secretary Braithwaite.

<sup>3</sup> "The false representation must be one which the accused actually knew was false. Actual knowledge may be proved by circumstantial evidence. An honest, although erroneous, belief that a statement made is true, is a defense," Manual for Courts-Martial (MCM) 2019, part IV, para 41.c.(1)(f).

<sup>4</sup> "It is not necessary that the false statement be material to the issue inquiry. If, however, the falsity is in respect to a material matter, it may be considered as some evidence of the intent to deceive, while immateriality may tend to show an absence of this intent," MCM 2019, part IV, para 41.c.(1)(d). To substantiate a criminal violation of Article 107, a prosecutor must prove all four elements beyond a reasonable doubt. However, our investigation is administrative in nature, so we used these elements to guide our review. To determine whether to substantiate an allegation of a false official statement, we examined whether the evidence supported meeting all four elements by a preponderance of the evidence, consistent with our normal process in administrative investigations.

<sup>5</sup> (b)(6), (b)(7)(C) and, while not vacating that position, was also appointed by Secretary Braithwaite to serve as the (b)(6), (b)(7)(C). Consequently, (b)(6), (b)(7)(C)

The following sections of this report provide the detailed results of our investigation. We first provide background information about VADM Buck, USNA, and adjudication of MIDN (b)(6), (b)(7)(C) conduct. We also provide information about VADM Buck's:

- interview with MIDN (b)(6), (b)(7)(C) on September 23, 2020;
- memorandum recommending disenrollment dated November 12, 2020;
- conference call with (b) (6), (b) (7)(C) and others on February 18, 2021;
- purported communication with former Secretary Braithwaite; and
- office visit with (b) (6), (b) (7) on February 24, 2021.

Finally, we present our overall analysis, conclusion, and recommendations.

## II. BACKGROUND

### *VADM Buck and the USNA*

VADM Buck assumed duties as the USNA Superintendent on July 26, 2019. According to the USNA, it prepares young men and women to become professional officers of competence, character, and compassion in the U.S. Navy and Marine Corps. USNA students are midshipmen who attend the academy for 4 years, graduating with Bachelor of Science degrees and commissions as ensigns in the Navy or second lieutenants in the Marine Corps. After graduation and commissioning, the graduates serve at least 5 years on active duty.

### *Adjudication of MIDN (b)(6), (b)(7)(C) Alleged Misconduct*

The USNA followed its process for investigating MIDN (b)(6), (b)(7)(C) tweets and determined his conduct was contrary to Navy Core Values and good order and discipline. As a result, the USNA started its process pursuant to section 8462 of title 10, United States Code, to determine whether to disenroll MIDN (b)(6), (b)(7)(C) for unsatisfactory conduct or inaptitude. Consistent with USNA processes, the USNA Deputy Commandant and the USNA Chief of Staff conducted separate hearings with MIDN (b)(6), (b)(7)(C) and recommended on August 6, 2020, and September 14, 2020, respectively, that MIDN (b)(6), (b)(7)(C) be disenrolled.<sup>6</sup>

VADM Buck conducted his required interview of MIDN (b)(6), (b)(7)(C) on September 23, 2020. At the conclusion of the interview, VADM Buck told MIDN (b)(6), (b)(7)(C) he would recommend disenrollment. A week later, on September 30, 2020, MIDN (b)(6), (b)(7)(C) filed a lawsuit in Federal court to prevent his disenrollment from the USNA and separation from the Navy. The court allowed the Navy to continue with disenrollment proceedings on November 9, 2020, but precluded the Navy from implementing any decision to disenroll and separate MIDN (b)(6), (b)(7)(C) pending the court's disposition of MIDN (b)(6), (b)(7)(C) lawsuit. On November 12, 2020, VADM Buck signed the memorandum to the ASN(M&RA), recommending that MIDN (b)(6), (b)(7)(C) be disenrolled from the USNA, separated from the Navy, and required to reimburse the Navy for his USNA tuition of \$174,753.

<sup>6</sup> USNA Instruction 1610.6 also requires, in most instances, that the Superintendent interview the midshipman to determine whether the midshipman's conduct was unsatisfactory and whether the midshipman should be disenrolled. USNA Instruction 1610.6, "U.S. Naval Academy Midshipmen Disenrollment Procedures for Cases Involving Unsatisfactory Conduct," June 19, 2012, governed these procedures at the time and was replaced by USNA Instruction 1610.6A on March 25, 2021.

In a memorandum dated January 15, 2021, former Secretary Braithwaite approved VADM Buck’s recommendation that MIDN (b)(6),(b)(7)(C) be disenrolled from the USNA, separated from the Navy, and required to reimburse the Navy for his tuition to fulfill his military service.<sup>7</sup>

### III. ANALYSIS OF THE ALLEGATION

#### *Chronology of Significant Events*

Table 1 lists the significant events related to this investigation.

Table 1. *Chronology of Significant Events*

Date	Event
Sept. 23, 2020	VADM Buck interviews MIDN (b)(6),(b)(7)(C) about his tweets and informs MIDN (b)(6),(b)(7)(C) that he recommends disenrollment from the USNA and separation from the Navy.
Sept. 30, 2020	MIDN (b)(6),(b)(7)(C) files a lawsuit in Federal court to prevent his disenrollment from the USNA and separation from the Navy.
Nov. 9, 2020	The court allows the Navy to continue with disenrollment proceedings, but precludes the Navy from implementing any decision to disenroll and separate MIDN (b)(6),(b)(7)(C) pending the court’s disposition of MIDN (b)(6),(b)(7)(C) lawsuit.
Nov. 12, 2020	VADM Buck signs a memorandum to the ASN(M&RA) and recommends that MIDN (b)(6),(b)(7)(C) be disenrolled from the USNA. VADM Buck also provides a copy of his memorandum to MIDN (b)(6),(b)(7)(C) for rebuttal.
Dec. 22, 2020	The court grants a Government motion to dismiss MIDN (b)(6),(b)(7)(C) lawsuit because the Navy has not made a final decision on whether MIDN (b)(6),(b)(7)(C) should be disenrolled.
Jan. 15, 2021	Secretary Braithwaite concurs with VADM Buck’s recommendation and decides to disenroll MIDN (b)(6),(b)(7)(C) from the USNA, beginning the process for disenrollment.
Jan. 20, 2021	Secretary Braithwaite departs office and (b) (6), (b) (7)(C) assumes duties.
Jan. 21, 2021	MIDN (b)(6),(b)(7)(C) is served with former Secretary Braithwaite’s January 15, 2021 decision and files a request in Federal court seeking to reopen his lawsuit to prevent his disenrollment from the USNA. The court reopens the lawsuit.
Feb. 18, 2021	(b) (6), (b) (7)(C) conducts a conference call with VADM Buck and other senior Navy officials to discuss the litigation concerning MIDN (b)(6),(b)(7)(C) disenrollment. VADM Buck comments on MIDN (b)(6),(b)(7)(C) statements about the use of military force against civilians.
Feb. 19, 2021	(b) (6), (b) (7)(C) calls former Secretary Braithwaite to ask about former Secretary Braithwaite’s rationale for approving MIDN (b)(6),(b)(7)(C) disenrollment.
Feb. 23, 2021	(b) (6), (b) (7)(C) decides to settle the lawsuit and allow MIDN (b)(6), (b)(7)(C) to remain at the USNA.
Feb. 24, 2021	VADM Buck meets with (b) (6), (b) (7)(C) and again comments on MIDN (b)(6),(b)(7)(C) statements about the use of military force against civilians.
Apr. 9, 2021	(b)(3) (b)(6) (b)(7)(C)
May 7, 2021	The DoD OIG initiates this investigation.

Source: The DoD OIG.

<sup>7</sup> The Secretary of the Navy delegated the authority to discharge a midshipman to the ASN(M&RA). In the case regarding MIDN (b)(6),(b)(7)(C), former Secretary Braithwaite ultimately decided to retain that authority for himself.

## ALLEGED FALSE OFFICIAL STATEMENTS

(b)(3) (b)(6) (b)(7)(C) referred to the DoD OIG the complainant's concerns regarding the accuracy of comments VADM Buck made on three occasions—(b) (6), (b) (7)(C) and others on February 18, 2021, during a conference call; to then-Secretary Braithwaite; and to (b) (6), (b) (7) on February 24, 2021, during an office visit. According to (b)(3) (b)(6) (b)(7)(C) VADM Buck told the (b) (6), (b) (7)(C) that during the interview with MIDN (b)(6),(b)(7)(C) which occurred 5 months earlier, VADM Buck asked MIDN (b)(6),(b)(7)(C), “Would you use military force to bomb rioters?” and MIDN (b)(6),(b)(7)(C) replied, “Yes.”

The complainant stated that VADM Buck's comment about MIDN (b)(6),(b)(7)(C) statement regarding the use of military force against civilians presented two issues. First, VADM Buck's comment was a material factor omitted from his recommendation for disenrollment, which could result in a lack of due process for MIDN (b)(6),(b)(7)(C). Second, the complainant was concerned that if VADM Buck's comment was not accurate, (b) (6), (b) (7)(C) and former Secretary Braithwaite risked making decisions about MIDN (b)(6),(b)(7)(C) enrollment in the USNA without a firm factual basis.

(b)(3) (b)(6) (b)(7)(C) told us that VADM Buck's comment that MIDN (b)(6),(b)(7)(C) asserted he would use military force against civilians contradicted the memorandum, which did not mention MIDN (b)(6),(b)(7)(C) advocating for the use of military force against civilians. Instead, the memorandum stated that MIDN (b)(6),(b)(7)(C) expressed remorse for his conduct. (b)(3) (b)(6) (b)(7)(C) stated that (b)(3) (b)(6) (b)(7)(C) told him neither (b) (6), (b) (7)(C) nor (b) (6), (b) (7)(C), who were present during the interview, recalled MIDN (b)(6),(b)(7)(C) stating he would use military force against civilians.

(b)(3) (b)(6) (b)(7)(C) told us that on February 23, 2021, (b)(6),(b)(7)(C), (b)(5)

(b)(3) (b)(6) (b)(7)(C)

### VADM Buck's Interview of MIDN (b)(6),(b)(7)(C)

As part of the disenrollment proceedings, on September 23, 2020, VADM Buck interviewed MIDN (b)(6),(b)(7)(C) regarding MIDN (b)(6),(b)(7)(C) conduct. In addition to VADM Buck, nine witnesses attended the 75-minute interview—five USNA staff members, three midshipmen from MIDN (b)(6),(b)(7)(C) chain-of-command, and MIDN (b)(6),(b)(7)(C). To determine whether the question at issue was asked and answered, we reviewed (b) (6), (b) (7)(C) notes of the interview, interviewed every person present for the interview, and reviewed VADM Buck's memorandum, which contained information regarding the interview.

The interview was not digitally recorded; however, the (b)(6),(b)(7)(C) took notes during the interview that were used to prepare VADM Buck's memorandum recommending MIDN (b)(6),(b)(7)(C) be disenrolled. None of the other individuals present took any notes, nor did VADM Buck have a list of questions for the interview. According to the (b)(6),(b)(7)(C) notes, MIDN (b)(6),(b)(7)(C) gave an opening statement (b) (6) he notes also indicated that VADM Buck told

MIDN (b)(6),(b)(7)(C) he believed MIDN (b)(6),(b)(7)(C) had a deep character flaw when valuing humanity and did not know if any amount of time could fix that flaw. However, the notes contained no reference to VADM Buck asking MIDN (b)(6),(b)(7)(C) if he would bomb rioters or MIDN (b)(6),(b)(7)(C) stating he would bomb rioters or otherwise use lethal military force against civilians. (b) (6), (b) (7)(C) notes indicated that VADM Buck asked MIDN (b)(6),(b)(7)(C), "Why do you think you would self-correct if you hadn't been caught?" with MIDN (b)(6),(b)(7)(C) replying, (b) (6)

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We interviewed all nine witnesses and asked each of them what they remembered about questions and answers concerning the use of military force against civilians. These interviews occurred approximately 8 months after the September 2020 interview. All nine witnesses told us that MIDN (b)(6),(b)(7)(C) tweets were discussed during the interview. Four of the nine recalled that VADM Buck asked MIDN (b)(6),(b)(7)(C) if he would bomb rioters, or words to that effect. Two of the nine witnesses recalled MIDN (b)(6),(b)(7)(C) stating he would use military force to bomb rioters, or words to that effect. One of the two witnesses told us about not recalling the exact question or answer, but recalled the context of questions such as "Would you actually do this in real life?" and "[I]s this a course of action that you would deem acceptable?" The witness did not recall MIDN (b)(6),(b)(7)(C) exact response but told us that MIDN (b)(6),(b)(7)(C) replied that he would use military force to bomb rioters if that were necessary to preserve the rule of law or the safety of other citizens, and then it would be justified. The second of the two witnesses also did not recall the exact question, but told us that VADM Buck asked a question to the effect of whether MIDN (b)(6),(b)(7)(C) would use military force to bomb rioters, and specifically recalled MIDN (b)(6),(b)(7)(C) responding that he would "bomb rioters or use military weapons on rioters." This witness told us about being shocked at MIDN (b)(6),(b)(7)(C) response on the use of force against civilians. The second witness stated that VADM Buck next asked MIDN (b)(6),(b)(7)(C) questions about his intentions and thought process to understand what was on his mind when he posted the tweets.

Seven of the nine witnesses, including (b) (6), (b) (7)(C) ) and (b) (6), (b) (7)(C), did not recall MIDN (b)(6),(b)(7)(C) stating that he would use military force to bomb rioters, or otherwise use lethal military force against civilians. For example, (b) (6), (b) (7)(C) told us that he would have remembered MIDN (b)(6),(b)(7)(C) making an assertion that he would use military force to bomb rioters, because such an assertion was inconsistent with MIDN (b)(6),(b)(7)(C) statements of remorse for his actions. Similarly, (b) (6), (b) (7)(C), (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C), told us:

Had Midshipman (b)(6),(b)(7)(C) doubled down on the ... inherent insinuation of his Tweet that we should use military force against civilian protesters, that would have been something I would have used as justification (b)(3) (b)(6) (b)(7)(C) to show ... this guy still doesn't get it. He doesn't understand, you know, he does not understand what he did wrong. That's a very strong supporting argument [for disenrollment].

It also would have been completely incongruent with how he was presenting his case essentially at this interview, which was "I'm deeply sorry, I'm so ashamed, you know, I wish I could take it back" kind of stuff. And then if he would have said all of that and then but "[Y]es, I actually absolutely believe we should have bombed civilians," that would have been very jarring and

<sup>8</sup> According to the memorandum, MIDN (b)(6), (b)(7)(C) (b)(6), (b)(7)(C)



very incongruent with everything else he was saying. So, it would have stuck out and been something I would have (b)(3)(b)(6)(b)(7)(C).

(b)(6), (b)(7)(C) added that VADM Buck traditionally used these interviews as unstructured counseling sessions. (b)(6), (b)(7)(C) told us that VADM Buck speaks “off the cuff” to the midshipman during these interviews, which makes them sometimes confusing to follow as VADM Buck moves from topic to topic.

(b)(3) (b)(6) (b)(7)(C)

During his interview with us, VADM Buck described MIDN (b)(6),(b)(7)(C) as articulate, remorseful, and regretful about his conduct. VADM Buck explained that he was concerned that MIDN (b)(6),(b)(7)(C) tweets advocated for the use of military force against civilians. We asked VADM Buck if he asked MIDN (b)(6),(b)(7)(C) if he would use military force to bomb rioters, and if so, what MIDN (b)(6),(b)(7)(C) said in response. VADM Buck stated that he asked MIDN (b)(6),(b)(7)(C) if he would have used military force in the riots of June 2020 when he made the tweets. VADM Buck told us that MIDN (b)(6),(b)(7)(C) replied, “I wrote what I wrote. I said what I said in my Tweet.”

According to VADM Buck, he asked MIDN (b)(6),(b)(7)(C) if he really meant the statement in his tweets that he would use military force, such as a drone, against people rioting, and that MIDN (b)(6),(b)(7)(C) replied that he was not proud of what he wrote but meant what he said at the time he made the tweets. VADM Buck also described asking MIDN (b)(6),(b)(7)(C) if he realized when he made the tweets about dropping a bomb from a drone against rioters that innocent civilians could be endangered. VADM Buck explained how MIDN (b)(6),(b)(7)(C) processed his question and realized that perhaps he did not consider the consequences of the actions he advocated in his tweets. VADM Buck told us that MIDN (b)(6),(b)(7)(C) stated that he “was regretful” for his tweets.

VADM Buck told us that he was worried about MIDN (b)(6),(b)(7)(C) character because, despite 3 years of instruction at the USNA, MIDN (b)(6),(b)(7)(C) did not have “just one bad night,” but sent the tweets over 7 or 8 nights, and this continued course of conduct caused VADM Buck to worry about MIDN (b)(6),(b)(7)(C) character and judgment. We asked VADM Buck if MIDN (b)(6),(b)(7)(C) indicated that he would use military force against civilians if he were commissioned. VADM Buck stated, “No, he did not say that. I don’t remember him saying that, and I don’t remember asking him that question. I don’t think I did.” VADM Buck told us that during their discussion about the tweets, he lost confidence in MIDN (b)(6),(b)(7)(C) judgment, and he did not believe that MIDN (b)(6),(b)(7)(C) should be a (b)(6), (b)(7)(C).” VADM Buck told us that he informed MIDN (b)(6),(b)(7)(C) at the conclusion of the interview that he would recommend that MIDN (b)(6),(b)(7)(C) be disenrolled from the USNA.

(b)(6), (b)(7)(C) prepared the five-page memorandum, in part, using the notes he took during the interview. (b)(6), (b)(7)(C) told us that he and his leadership knew the memorandum could be released publicly as a part of the Federal court record, and, consequently, they were careful when preparing the memorandum to ensure its accuracy. However, (b)(6), (b)(7)(C) did not intend for the memorandum to be a summary of the interview or an outline of the specific questions that VADM Buck posed or responses by MIDN (b)(6),(b)(7)(C). VADM Buck signed and submitted the memorandum to the ASN(M&RA) on November 12, 2020, recommending that MIDN (b)(6),(b)(7)(C) be disenrolled from the USNA.

The memorandum stated, in part, that MIDN (b)(6),(b)(7)(C) said he was sincerely apologetic for his actions, and his comments could not be defended. In the memorandum, VADM Buck stated the following about MIDN (b)(6),(b)(7)(C) and his tweets, “[He] was not only advocating a flippant use of military weapons, but he was advocating for using them indiscriminately against civilians in a domestic context.” VADM Buck further wrote in the memorandum, “MIDN (b)(6),(b)(7)(C), in [the] interview, indicated that he desired to become (b)(6), (b)(7)(C); however, after this revealing glimpse into MIDN (b)(6),(b)(7)(C) character, I cannot provide my stamp of approval to giving him that awesome responsibility with confidence.”

VADM Buck’s memorandum stated that he lost confidence in MIDN (b)(6),(b)(7)(C) decision-making capability, and he could not approve allowing MIDN (b)(6),(b)(7)(C) to receive a commission and be trusted to use proper judgment in any future scenario involving the potential use of lethal force against civilians, particularly in a domestic context. The memorandum contained no information that MIDN (b)(6),(b)(7)(C) stated in the interview that he would use military force against civilians. Instead, the memorandum indicated that MIDN (b)(6),(b)(7)(C) did not believe the military should indiscriminately use force against civilians and said his tweets were “hyperbolic.”

We asked VADM Buck how he incorporated MIDN (b)(6),(b)(7)(C) responses to his questions into the memorandum. VADM Buck told us the memorandum chronologically stated the key points raised during the interview. VADM Buck then stated, “I guess I don’t know, I didn’t write the memo. I read it and approved it because I thought it was pretty accurate.”

(b) (6), (b) (7)(C) and (b)(6),(b)(7)(C) both told us that the memorandum was an accurate reflection of the interview and the facts of the case regarding VADM Buck’s recommendation for disenrollment.

### Conclusions Regarding the Interview

We determined that MIDN (b)(6),(b)(7)(C) did not state that he would bomb rioters or otherwise use lethal military force against civilians in the interview. All nine witnesses told us that MIDN (b)(6),(b)(7)(C) tweets were discussed during the interview, of which seven, including (b) (6), (b)(6),(b)(7)(C) and (b)(6),(b)(7)(C) who took notes and prepared the memorandum, told us that MIDN (b)(6),(b)(7)(C) did not state that he would bomb rioters or otherwise use lethal military force against civilians. Importantly, these witnesses included (b)(3) (b)(6) (b)(7)(C). VADM Buck testified that MIDN (b)(6),(b)(7)(C) was regretful and remorseful, albeit perhaps not fully so until he understood the consequences of using military force against civilians. (b)(3) (b)(6) (b)(7)(C) (b)(3) (b)(6) (b)(7)(C)

We placed great weight on (b) (6), (b) (7)(C) memory and contemporaneous notes because he told us he was responsible for taking notes during the interview and drafting the memorandum. Finally, the memorandum, which was signed on November 12, 2020, indicated that MIDN (b)(6),(b)(7)(C) did not believe the military should indiscriminately use force against civilians.

### *Allegation 1 – (b) (6), (b) (7)(C) Conference Call*

(b) (6), (b) (7)(C) convened a conference call on February 18, 2021, to discuss the status of MIDN (b)(6),(b)(7)(C) ongoing litigation with the Navy concerning former Secretary Braithwaite’s decision to disenroll MIDN (b)(6),(b)(7)(C). Six other witnesses also attended the call—

(b)(3) (b)(6) (b)(7)(C)

We interviewed each of them.

(b)(3) (b)(6) (b)(7)(C) told us that the conference call attendees discussed the option to settle the case by retaining MIDN (b)(6), (b)(7)(C) and enrolling him in a USNA remediation program and an alternate option of defending former Secretary Braithwaite's disenrollment decision.<sup>10</sup>

(b)(3) (b)(6) (b)(7)(C) told us that VADM Buck argued against settling the case, telling the attendees, among other things, that MIDN (b)(6), (b)(7)(C) was not somebody that he could trust in combat. Specifically, (b)(3) (b)(6) (b)(7)(C) told us that VADM Buck stated that during the interview with MIDN (b)(6), (b)(7)(C), he asked MIDN (b)(6), (b)(7)(C), "Would you use military force to bomb rioters?" and MIDN (b)(6), (b)(7)(C) replied, "Yes." (b)(3) (b)(6) (b)(7)(C) told us that no one on the conference call voiced any concern about VADM Buck's comment or asked him to clarify his comments.

(b)(3) (b)(6) (b)(7)(C) stated that he believed VADM Buck made this statement to convince him not to settle the case and to continue disenrollment proceedings. We asked (b)(3) (b)(6) (b)(7)(C) about the basis for his belief. (b)(3) (b)(6) (b)(7)(C) replied that VADM Buck was presenting the point that the Navy should not settle the case because VADM Buck did not trust MIDN (b)(6), (b)(7)(C) judgment in combat due to MIDN (b)(6), (b)(7)(C) statement in the interview that he would bomb rioters. (b)(3) (b)(6) (b)(7)(C) also stated that VADM Buck's statement conflicted with the information in the memorandum that indicated MIDN (b)(6), (b)(7)(C) expressed remorse for his conduct.

(b)(3) (b)(6) (b)(7)(C) told us that he met with (b)(3) (b)(6) (b)(7)(C) and (b)(3) (b)(6) (b)(7)(C) on (b)(3) (b)(6) (b)(7)(C) to discuss concerns regarding VADM Buck's statement. On February 23, (b)(3) (b)(6) (b)(7)(C) said that he met again with (b)(3) (b)(6) (b)(7)(C) and (b)(3) (b)(6) (b)(7)(C), as well as (b)(3) (b)(6) (b)(7)(C), to discuss the matter. As part of those discussions, (b)(3) (b)(6) (b)(7)(C) said that they agreed they needed VADM Buck to clarify his account of MIDN (b)(6), (b)(7)(C) statement that he would bomb rioters because it conflicted with what VADM Buck had stated in the memorandum.

In interviews with us, (b)(3) (b)(6) (b)(7)(C), and (b)(3) (b)(6) (b)(7)(C) corroborated (b)(3) (b)(6) (b)(7)(C) recollection of VADM Buck's argument during the conference call, including his account of MIDN (b)(6), (b)(7)(C) statement about using military force on rioters. They also shared their concerns that VADM Buck's account during the February 18 conference call was inconsistent with his November memorandum and problematic for the Navy's ongoing litigation. According to (b)(3) (b)(6) (b)(7)(C), and (b)(3) (b)(6) (b)(7)(C) did not ask VADM Buck to clarify his comments because they decided to refer the matter to the DoD OIG and did not want to taint any potential investigation. (b)(3) (b)(6) (b)(7)(C) was not aware of any evidence that VADM Buck made the statement to deceive anyone.

(b)(3) (b)(6) (b)(7)(C) told us that he recalled attending the conference call with VADM Buck. According to (b)(3) (b)(6) (b)(7)(C), during the call, VADM Buck explained his rationale for the recommendation to disenroll MIDN (b)(6), (b)(7)(C) by comparing MIDN (b)(6), (b)(7)(C) tweets (more than 40 tweets over a period of 8 days) with tweets sent by other midshipmen who had "sort of one-off incidents with their tweets." (b)(3) (b)(6) (b)(7)(C) further recounted how VADM Buck stated on the call

<sup>9</sup> (b)(3) (b)(6) (b)(7)(C)

<sup>10</sup> If midshipmen subject to potential disenrollment are retained, they may be entered into the Midshipman Remediation Program, which involves mentorship from selected USNA staff and faculty to correct their professional and performance deficiencies.

that he lost confidence in MIDN (b)(6),(b)(7)(C) judgment and described asking MIDN (b)(6),(b)(7)(C) a question to the effect of “would you use military force to bomb rioters,” and (b)(6),(b)(7)(C) said “yes.”<sup>11</sup> (b)(3) (b)(6) (b)(7)(C) also told us that after the conference call, he called (b) (6), (b) (7)(C) and (b)(6),(b)(7)(C) on February 19, 2021, and again on February 22, 2021, and both told him they did not recall VADM Buck asking MIDN (b)(6),(b)(7)(C) about using military force to bomb rioters or MIDN (b)(6),(b)(7)(C) responding that he would bomb rioters. (b)(3) (b)(6) (b)(7)(C) told us that he was not aware of any evidence that VADM Buck made the statement to deceive anyone.

(b)(3) (b)(6) (b)(7)(C) told us that he attended the conference call but did not recall any statement by VADM Buck regarding MIDN (b)(6),(b)(7)(C) and the use of military force to bomb rioters. (b)(3) (b)(6) (b)(7)(C) told us that he had no role in the disenrollment action regarding MIDN (b)(6),(b)(7)(C), his recollection of the conference call was “murky,” and he was just a “fly on the wall” during the conversation.

(b)(3) (b)(6) (b)(7)(C) told us that the conference call was on his calendar, but he did not recall being on the call. (b)(3) (b)(6) (b)(7)(C) stated that he learned of (b)(3) (b)(6) (b)(7)(C) concerns during a separate conference call with (b)(3) (b)(6) (b)(7)(C), and (b)(3) (b)(6) (b)(7)(C) on February 25, 2021, and offered to ask VADM Buck to clarify the comments about MIDN (b)(6),(b)(7)(C) statements regarding the use of military force against civilians. However, (b)(3) (b)(6) (b)(7)(C) told us that (b)(3) (b)(6) (b)(7)(C) advised him to let the DoD OIG investigate the matter, so (b)(3) (b)(6) (b)(7)(C) did not ask VADM Buck to clarify his comments. (b)(3) (b)(6) (b)(7)(C) told us that he had known VADM Buck for years, and in his opinion, VADM Buck would not try to deceive anyone.

VADM Buck told us that he did not recall attending the February 18, 2021, conference call with (b) (6), (b) (7)(C) but confirmed to us that the event was on his calendar. We informed VADM Buck that we received information that during the February 18 conference call, he stated that he asked MIDN (b)(6),(b)(7)(C) during the interview, “Would you use military force to bomb rioters?” and MIDN (b)(6),(b)(7)(C) replied “Yes.” VADM Buck told us that he did not recall ever making that statement, either during the conference call or on any other occasion. VADM Buck told us that he understood that his recommendation to disenroll MIND (b)(6),(b)(7)(C) was subject to approval by the Navy civilian leadership who could instead instruct him to commission MIDN (b)(6),(b)(7)(C). VADM Buck stated he would abide by any decision the Navy leadership made. VADM Buck stated that he respected the process, and he had no reason to “lie” to anyone and was simply exercising his best military judgement based on the information he had.

### Conclusions Regarding Allegation 1 – Conference Call

We determined that VADM Buck made an official statement in the course of his duties to (b) (6), (b) (7)(C) and others during a conference call on February 18, 2021. Specifically, we found that VADM Buck said that during the interview, he asked MIDN (b)(6),(b)(7)(C), “Would you use military force to bomb rioters?” and MIDN (b)(6),(b)(7)(C) replied, “Yes.” (b)(3) (b)(6) (b)(7)(C), (b)(3) (b)(6) (b)(7)(C) each had a similar recollection of VADM Buck’s statement.

With respect to falsity, we determined that VADM Buck’s statement on February 18 was false. Based on our analysis of the interview, we concluded that VADM Buck’s statement about MIDN (b)(6),(b)(7)(C) affirmative response to his question about using military force against civilians was false. In the November 12 memorandum, which VADM Buck and others described as an accurate account of the September 23 interview, no information indicates that MIDN (b)(6),(b)(7)(C)

<sup>11</sup>(b)(3) (b)(6) (b)(7)(C) provided us notes he took during the conference call, which were consistent with his testimony.

stated in the interview that he would use military force against civilians; instead, it indicates that while MIDN (b)(6),(b)(7)(C) was advocating for using military force indiscriminately against civilians in his tweets, he did not believe the military should indiscriminately use force against civilians. The information contained in the November 12 memorandum was based on contemporaneous notes taken by (b)(6), (b)(7)(C) during the interview and corroborated by seven of the nine witnesses to the interview.

We next evaluated whether VADM Buck knew his statement to be false at the time he made it. VADM Buck told us that MIDN (b)(6),(b)(7)(C) stated in the interview that he was not proud of what he wrote but meant what he said at the time he made the tweets. VADM Buck stated that MIDN (b)(6),(b)(7)(C) realized during the interview that perhaps he did not consider the consequences of the actions he advocated in his tweets and regretted making them. VADM Buck told us that he did not ask MIDN (b)(6),(b)(7)(C) if he would use military force against civilians if he were commissioned nor did MIDN (b)(6),(b)(7)(C) ever state that he would. VADM Buck told us that he did not recall ever stating that he asked MIDN (b)(6),(b)(7)(C) if he would use military force to bomb rioters and MIDN (b)(6),(b)(7)(C) responding that he would.

We found, however, that VADM Buck was a participant in the brief exchange he shared with (b)(6), (b)(7)(C) and others. Furthermore, VADM Buck's memorandum, which VADM Buck, (b)(6),(b)(7)(C), and the (b)(6),(b)(7)(C) all described as an accurate account of his interview with MIDN (b)(6),(b)(7)(C), contained no information that MIDN (b)(6),(b)(7)(C) stated in the interview that he would use military force against civilians. The memorandum indicated that MIDN (b)(6),(b)(7)(C) did not believe the military should indiscriminately use force against civilians. During his August 5, 2021 interview, VADM Buck told us that MIDN (b)(6),(b)(7)(C) was not fully remorseful for what he had written on Twitter until he fully understood the consequences of using military force against civilians. Even allowing for some distance between the November 12, 2020 memorandum account of MIDN (b)(6),(b)(7)(C) statements and VADM Buck's recollection of those statements on August 5, 2021, it is still the case that neither account supports VADM Buck's statement, on February 18, 2021, that he asked MIDN (b)(6),(b)(7)(C) "Would you use military force to bomb rioters?" and MIDN (b)(6),(b)(7)(C) replied, "Yes." Accordingly, we determined that VADM Buck knew his statement about MIDN (b)(6),(b)(7)(C) answer to his question on the use of military force against civilians was false. However, to establish that VADM Buck made a false official statement as defined by Article 107, we next evaluated whether VADM Buck intended to deceive (b)(6), (b)(7)(C) when he made the false statement.

We could not determine, by a preponderance of the evidence, that VADM Buck made the false statement with the intent to deceive (b)(6), (b)(7)(C) or others. Intent to deceive is the most difficult element to prove in a false statement case. Because it is rarely proven by direct evidence, we must rely on circumstantial evidence to determine whether VADM Buck acted with the intent to deceive. For example, probative circumstantial evidence might include motive to deceive or actual knowledge of falsity. Here, no Navy official that we interviewed could point to any evidence, whether direct or circumstantial, that VADM Buck intended to deceive (b)(6), (b)(7)(C). VADM Buck told us that he respected the disenrollment process that gave the Navy civilian leadership the final decision authority on his recommendation; he was just exercising his best military judgement and had no reason to deceive anyone. Furthermore, although relying on character evidence to prove that a person acted in accordance with that character on a particular occasion is suspect, we believe it has some probative value in this investigation, as (b)(3) (b)(6) opined on VADM Buck's character with high approbation. Finally, our review of VADM Buck's e-mails revealed no evidence to support the allegations.

*Allegation 2 – VADM Buck’s Alleged Statement to Former Secretary Braithwaite*

The second allegation concerns an alleged statement by VADM Buck to former Secretary Braithwaite sometime before former Secretary Braithwaite approved the recommendation to disenroll MIDN (b)(6),(b)(7)(C). (b)(3) (b)(6) (b)(7)(C) told us that he called former Secretary Braithwaite on February 19, 2021, and asked why former Secretary Braithwaite approved VADM Buck’s recommendation to disenroll MIDN (b)(6),(b)(7)(C). According to (b)(3) (b)(3) (b)(6) (b)(7), former Secretary Braithwaite stated that MIDN (b)(6),(b)(7)(C) did not deserve a commission and that VADM Buck told him (former Secretary Braithwaite) that VADM Buck asked MIDN (b)(6),(b)(7)(C) in the interview, “Would you use military force to bomb rioters?” and MIDN (b)(6),(b)(7)(C) replied, “Yes.” (b)(3) (b)(6) (b)(7)(C) told us that he did not discuss with former Secretary Braithwaite his concern that the memorandum did not reflect this alleged exchange between VADM Buck and MIDN (b)(6),(b)(7)(C).

Former Secretary Braithwaite told us that he did not recall VADM Buck ever telling him that VADM Buck asked MIDN (b)(6),(b)(7)(C) if MIDN (b)(6),(b)(7)(C) would use military force to bomb rioters or that MIDN (b)(6),(b)(7)(C) ever indicated an inclination to bomb rioters. Former Secretary Braithwaite told us that the only time VADM Buck mentioned MIDN (b)(6),(b)(7)(C) was during the summer of 2020 and that VADM Buck did not go into any detail. Former Secretary Braithwaite told us that he did not speak with VADM Buck again regarding MIDN (b)(6),(b)(7)(C) once the USNA investigation began.

Former Secretary Braithwaite told us that he recalled the telephone call from (b)(3) (b)(3) (b)(6) (b)(7) asking him why he approved VADM Buck’s recommendation to disenroll MIDN (b)(6),(b)(7)(C), but did not recall telling (b)(3) (b)(6) (b)(7)(C) that VADM Buck told him that MIDN (b)(6),(b)(7)(C) stated that he would bomb rioters. This was likely because he did not recall that VADM Buck informed him MIDN (b)(6),(b)(7)(C) stated that he would bomb rioters. Former Secretary Braithwaite told us that he informed (b)(3) (b)(6) (b)(7)(C) that MIDN (b)(6),(b)(7)(C) actions were contrary to good order and discipline and egregious enough that MIDN (b)(6),(b)(7)(C) would have a difficult time leading a diverse command. Former Secretary Braithwaite opined that, as a USNA graduate, he knew what the institution stood for and did not believe MIDN (b)(6),(b)(7)(C) conduct reflected the ideals of a midshipman, and MIDN (b)(6),(b)(7)(C) conduct would create a negative command climate in his unit. Former Secretary Braithwaite emphasized that even without the alleged comments by VADM Buck about MIDN (b)(6),(b)(7)(C) inclination to use military force against civilians, he felt strongly that MIDN (b)(6),(b)(7)(C) should be disenrolled.

Former Secretary Braithwaite told us that he directed his (b)(6),(b)(7)(C) to monitor the USNA investigation. We interviewed (b)(6),(b)(7)(C) for any knowledge of communications between VADM Buck and former Secretary Braithwaite about MIDN (b)(6),(b)(7)(C). (b)(6),(b)(7)(C) told us that he was not aware of any instance in which former Secretary Braithwaite and VADM Buck discussed the case regarding MIDN (b)(6),(b)(7)(C). We asked (b)(6),(b)(7)(C) if former Secretary Braithwaite ever indicated that VADM Buck discussed MIDN (b)(6),(b)(7)(C) statement that he would use military force against civilians. (b)(6),(b)(7)(C) told us that, to his knowledge, they did not.

VADM Buck told us that he telephonically informed former Secretary Braithwaite and ADM Gilday in June 2020 that there would be media reports regarding MIDN (b)(6),(b)(7)(C) and that he assigned an officer to investigate the matter, but he had no further communication with former Secretary Braithwaite or ADM Gilday regarding MIDN (b)(6),(b)(7)(C). VADM Buck also told us that he did not recall any discussions with former Secretary Braithwaite concerning (b)(6),(b)(7)(C) and the potential use of military force against civilians.

Conclusions Regarding Allegation 2 – VADM Buck’s Alleged Statement to Former Secretary Braithwaite

We determined that the evidence does not support the allegation that VADM Buck made a false official statement to former Secretary Braithwaite, as neither former Secretary Braithwaite nor VADM Buck recalled this exchange. Furthermore, former Secretary Braithwaite did not recall relaying any of the alleged information to (b) (6), (b) (7)(C). There is no corroboration for this alleged conversation between (b) (6), (b) (7)(C) and VADM Buck. Accordingly, we concluded that VADM Buck did not make a false official statement to former Secretary Braithwaite.

*Allegation 3 – VADM Buck’s Office Visit with (b)(3) (b)(6)*

The third allegation concerned VADM Buck’s alleged comments to (b)(3) (b)(6) (b) during a visit to her office on February 24, 2021. (b)(3) (b)(6) (b) told us that VADM Buck made an unannounced visit to her office in the Pentagon, and she said that, during that visit, VADM Buck discussed his rationale for recommending disenrollment. For example, VADM Buck told her he lost confidence in MIDN (b)(6), (b)(7)(C) ability to use sound judgment in the employment of weapons systems as (b)(6), (b)(7)(C). According to (b)(3) (b)(6) (b), VADM Buck told her that during the interview, VADM Buck asked MIDN (b)(6), (b)(7)(C) if he would, with either a drone or a manned aircraft, indiscriminately fire on protesters, and MIDN (b)(6), (b)(7)(C) replied that he would. VADM Buck then told (b)(3) (b)(6) (b) that he explained innocent civilians’ lives would be placed in jeopardy, and this was why he lost confidence in MIDN (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) and recommended disenrollment.

(b)(3) (b)(6) (b) told us that she was concerned by the inconsistencies of this statement with the memorandum. She told us, “[A]ll I said to him during that conversation is ‘Admiral, that statement is not in the record [the memorandum] and is a compelling fact.’” She said that VADM Buck replied, “I’ll do a better job.” (b)(3) (b)(6) (b) told us that she did not think VADM Buck understood her concern that what he was saying to her was inconsistent with the memorandum, but she did not ask VADM Buck to clarify his comments. She also told us that she was mindful not to conduct an inquiry into the matter of her concerns that VADM Buck’s statement was inconsistent with the memorandum, because VADM Buck did not have counsel present and (b)(3) (b)(6) (b)(7)(C) was concerned about VADM Buck’s possible inaccurate statement.

(b)(3) (b)(6) (b) told us that one of her staff members attended the office call with VADM Buck and prepared a memorandum for record of the office visit. The staff member referred us to the content in the memorandum and told us that VADM Buck stated in the office visit that, during his interview of MIDN (b)(6), (b)(7)(C) VADM Buck asked MIDN (b)(6), (b)(7)(C) if he would indiscriminately fire on protesters from either a drone or manned aircraft, and MIDN (b)(6), (b)(7)(C) replied that “yes” he would. The staff member told us that he believed VADM Buck was concerned that if MIDN (b)(6), (b)(7)(C) were commissioned and placed in a future scenario involving the use of force against civilians, MIDN (b)(6), (b)(7)(C) emotions might impede his judgment.

VADM Buck told us that he was in the Pentagon and took the opportunity to make an unannounced office visit with (b)(3) (b)(6) (b). VADM Buck told us that he spoke with (b)(3) (b)(6) (b) for about 15 minutes and told her that he was frustrated that no one had asked him about his rationale for recommending that MIDN (b)(6), (b)(7)(C) be disenrolled. VADM Buck told us that (b)(3) (b)(6) (b) did not mention that they discussed this topic during the February 18, 2021 conference call with (b) (6), (b) (7)(C).

We asked VADM Buck to tell us about any comments he made to (b) (6), (b) (7) about the interview with MIDN (b)(6),(b)(7)(C) and the use of military force against civilians. According to VADM Buck, he told (b)(3) (b)(6) (b):

I confirmed with [MIDN (b)(6),(b)(7)(C)] in the interview face-to-face, “Did you write these Tweets? Was this your opinion that you wanted to use military force against rioters as a quick way out?” And I confirmed with (b)(3) (b)(6) (b) that I got to do that in person with [MIDN] (b)(6),(b)(7)(C).

That [MIDN (b)(6),(b)(7)(C)] wrote those Tweets and that’s the way he felt at the time between the 7th and 15 June whenever those particular Tweets were written.

We asked VADM Buck to respond to the assertion that he told (b)(3) (b)(6) (b) and the staff member he asked MIDN (b)(6),(b)(7)(C) if MIDN (b)(6),(b)(7)(C) would indiscriminately fire on protestors with either a drone or manned aircraft, and that MIDN (b)(6),(b)(7)(C) replied, “Yes, he would.” VADM Buck told us that this statement to (b)(3) (b)(6) (b) described how MIDN (b)(6),(b)(7)(C) said he felt at the time he made the tweets. VADM Buck told us that he did not mean to suggest to (b)(3) (b)(6) (b) that he asked MIDN (b)(6),(b)(7)(C) about bombing civilians once MIDN (b)(6),(b)(7)(C) was commissioned.

#### Conclusions Regarding Allegation 3 – VADM Buck’s Alleged Statement to (b)(3) (b)(6) (b)

We determined that VADM Buck made an official statement in the course of his duties to (b)(3) (b)(6) (b) and her staff member during an office visit on February 24, 2021. Specifically, we found that VADM Buck told (b)(3) (b)(6) (b) and the staff member that, during the interview, VADM Buck asked MIDN (b)(6),(b)(7)(C) if he would indiscriminately fire on protestors with either a drone or manned aircraft, and MIDN (b)(6),(b)(7)(C) replied that he would. (b)(3) (b)(6) (b) and the staff member each told us that VADM Buck made this statement during his office visit, and the staff member recorded this statement in a near-contemporaneous memorandum for record.

For the reasons discussed previously, we determined that VADM Buck’s statement to (b)(3) (b)(6) (b) on February 24 was false and that he knew his statement was false. Ultimately, for the reasons discussed in Allegation 1, there is insufficient evidence for us to conclude that VADM Buck made the statement to (b)(3) (b)(6) (b) with the intent to deceive her.

## **IV. OVERALL CONCLUSION**

VADM Buck did not make a false official statement to (b) (6), (b) (7)(C), former Secretary Braithwaite, or (b) (6), (b) (7), as defined by Article 107 of the UCMJ.

## **V. RECOMMENDATION**

We make no recommendation regarding VADM Buck.



## Appendix A: Standards

### UNIFORM CODE OF MILITARY JUSTICE, ARTICLE 107, "FALSE OFFICIAL STATEMENTS; FALSE SWEARING"

- (a) FALSE OFFICIAL STATEMENTS.—Any person subject to this chapter who, with intent to deceive—
- (1) signs any false record, return, regulation, order, or other official document, knowing it to be false; or
  - (2) makes any other false official statement knowing it to be false;
- shall be punished as a court-martial may direct.

### MANUAL FOR COURTS-MARTIAL, UNITED STATES, 2019, PART IV, PARAGRAPH 41, ARTICLE 107, "FALSE OFFICIAL STATEMENTS; FALSE SWEARING"

The elements that must be proven to substantiate a violation of Article 107 are:

- (a) That the accused signed a certain official document or made a certain official statement;
- (b) That the document or statement was false in certain particulars;
- (c) That the accused knew it to be false at the time of signing it or making it; and<sup>12</sup>
- (d) That the false document or statement was made with the intent to deceive.<sup>13</sup>

The Manual provides explanations for key terms related to false official statements.

- (a) *Statements.* Statements may be made orally or in writing and include records, returns, regulations, orders, or other documents.
- (b) *Official statements.* Official statements are those that affect military functions, which encompass matters within the jurisdiction of the military departments and Services. There are three broad categories of official statements under this offense:
  - (i) where the accused makes a statement while acting in the line of duty or where the statement bears a clear and direct relationship to the accused's official duties;
  - (ii) where the accused makes a statement to a military member who is carrying out a military duty at the time the statement is made; or
  - (iii) where the accused makes a statement to a civilian who is necessarily performing a military function at the time the accused makes the statement.

<sup>12</sup> "The false representation must be one which the accused actually knew was false. Actual knowledge may be proved by circumstantial evidence. An honest, although erroneous, belief that a statement made is true, is a defense," MCM 2019, part IV, para 41.c.(1)(f).

<sup>13</sup> "It is not necessary that the false statement be material to the issue inquiry. If, however, the falsity is in respect to a material matter, it may be considered as some evidence of the intent to deceive, while immateriality may tend to show an absence of this intent," MCM 2019, part IV, para 41.c.(1)(d).

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Report of Investigation:  
VADM Sean S. Buck



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