



SECRETARY OF THE AIR FORCE
WASHINGTON

The Honorable Mike Rogers
Chairman
Committee on Armed Services
U.S. House of Representatives
2469 Rayburn House Office Building
Washington DC 20515

MAR 17 2023

Dear Chairman Rogers,

Thank you for your letter to the Secretary of Defense requesting information about the improper release of servicemembers' personnel records. I am responding on behalf of Secretary Austin for the Department of the Air Force (DAF). I want to assure you that we are taking this matter seriously. Our servicemembers have an expectation that their records will be properly protected, and the DAF must meet that expectation.

The release of military personnel records that occurred involved a military personnel system that is maintained and operated by the Air Force Personnel Center (AFPC). This system is primarily utilized by (1) retired, separated and active duty Airmen and Guardians seeking copies of their military personnel records and (2) federal agency background security personnel who are seeking military personnel record information on current or former servicemembers who have applied for a civilian position with a federal agency.

During the two-year period covered by the timeline in your letter, AFPC received a total of 19,597 requests for military personnel records. Immediately after we became aware in October 2022 of the improper records release concerning Ms. Jennifer-Ruth Green's records, AFPC conducted a Personal Identifiable Information (PII) breach investigation, as required under OMB and Department of Defense (DoD) policy. AFPC also initiated a separate audit of all third-party requests (10,599) received between early 2021 and early 2023. That audit identified a total of 11 individuals who had their military records released without proper authority.

As an additional safeguard, the Office of the Chief Information Officer conducted a FOIA review of requests made by Due Diligence Group, LLC (DDG) from January 1, 2021 to January 3, 2023. That review determined no PII was improperly released.

Since the AFPC audit was conducted, the DAF has taken a number of concrete steps to help ensure this does not happen again. Those steps are outlined below together with the additional information you requested.

Please note this communication contains Personally Identifiable Information (PII) and Privacy Act protected information and must, therefore, be safeguarded appropriately. Any further release of these documents or information outside your Committee must first be coordinated with the DAF.

1. A list of all servicemember records, excluding the content of such records, of individuals who were candidates for Congress or elected to Congress from January 1, 2021 to January 3, 2023 that were improperly released to Due Diligence Group (DDG) without a servicemember's prior consent.

The AFPC audit identified 7 individuals who were candidates for Congress or elected to Congress from January 1, 2021, to January 3, 2023, who had records released to DDG without proper authority.

- Representative Donald Bacon – Certificate of Release or Discharge from Active Duty, “DD Form 214”
- Representative Zachary Nunn – DD Form 214 and NGB Form 22
- Mr. Robert “Eli” Bremer – Official Military Personnel File (OMPF)
- Mr. Kevin Dellicker – DD Form 214
- Ms. Jennifer-Ruth Green – OMPF
- Mr. James Majewski – DD Form 214 and OMPF
- Mr. Samuel Peters – DD Form 214 and OMPF

The audit also identified four other individuals who were not candidates for Congress or elected to Congress who had records released without authorization. Of those four individuals, two had their records requested by and released to DDG.

2. A status report detailing current notifications to impacted individuals and an assessment of whether or not additional notifications may be forthcoming.

Each of the 11 individuals have been notified. At this time, the DAF has no notifications pending. Below are the notification dates for the 7 individuals who were candidates for Congress or elected to Congress.

- Representative Donald Bacon – notified by phone on February 2; written notification sent February 7, 2023
- Representative Zachary Nunn – notified by phone on February 2; written notification sent February 7, 2023
- Mr. Robert “Eli” Bremer – written notification sent February 8, 2023
- Mr. Kevin Dellicker – written notification sent February 8, 2023
- Ms. Jennifer-Ruth Green – written notification sent January 18, 2023
- Mr. James Majewski – written notification sent February 8, 2023
- Mr. Samuel Peters – written notification sent February 8, 2023

3. *The regulations and policies governing the request, redaction, and release of servicemember's OMPF.*

The governing Air Force Instruction (AFI) that covers the request, redaction, and release of a servicemember's OMPF is AFI 33-332, *Air Force Privacy and Civil Liberties Program*. In addition, there is DoD Directive 5400.07, *DoD Freedom of Information Act Program*, DoD Instruction (DoDI) 5400.11, *DoD Privacy and Civil Liberties Programs*, DoD Regulation 5400.11-R, *Department of Defense Privacy Program*, and DoD Manual (DoDM) 5400.11, Volume 2, *DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan*. The DoDI, DoD Regulation, DoDM, and AFI serve to implement the requirements of the Privacy Act of 1974 and OMB guidance concerning PII breaches.

4. *The safeguards in place to ensure that only properly redacted OMPFs are released.*

Following the audit, AFPC implemented the following robust measures to help prevent the improper release of information:

- A second level review on all third-party requests received by AFPC, elevated to the Chief, Operation Support & Records Management Divisions (GS-14) at AFPC.
- A thorough legal sufficiency review conducted by the AFPC Legal Office on non-governmental third-party requests received by AFPC before records are released.
- AFPC conducted remedial awareness and specialized training to staff members involved in the release process of records requests received by AFPC.
- AFPC has initiated a personnel action to establish and hire a second quality control official to ensure records are properly redacted before release.
- AFPC conducts monthly audits to ensure no records were improperly released.
- The AFPC Privacy Office and AFPC Legal Office are independently verifying current processes and procedures for records requests and releases.

5. *The investigative process each military service takes if servicemembers or the civilian workforce release information covered by the Privacy Act outside of official channels.*

The DoD Manual 5400.11, Volume 2, "*DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan*," details the Department's requirements for reporting and responses to breaches of personally identifiable information, including information covered by the Privacy Act. The process for the DAF is outlined below.

The AFI that covers the investigative process the Air Force follows if servicemembers or the civilian workforce release information covered by the Privacy Act outside of official channels is AFI 33-332, *Air Force Privacy and Civil Liberties*

Program. Key guidelines for conducting an inquiry of a PII incident from the AFI, subchapter 3.2, are provided below:

- The senior-level individual in the chain of command shall appoint an investigating official (IO) for the organization where the actual or possible loss, theft, or compromise of information occurred to conduct an inquiry of the incident to determine if it is an actual breach, the cause of the incident, and if there was any criminal intent that would warrant a criminal investigation. The servicing Privacy Manager shall provide guidance to the appointed IO.
- The appointed IO shall review the initial Preliminary PII Breach Report and independently assess the handling of the breach. The IO will submit the Final PII Breach Report to the appointing senior-level individual. The senior-level individual will determine if notification to affected individuals is required after a risk analysis has been completed and if any corrective actions should be taken.
- Upon concurrence with Final PII Breach Report recommendations, the senior-level individual in the chain of command for the organization where the loss, theft or compromise occurred shall route the Final PII Breach Report to the appropriate level Privacy Manager.
- Commanders/Directors shall ensure notifications are sent to individuals once a decision has been made as to whether there may be any impact towards the individual(s).
- Commanders may also take any appropriate disciplinary action.

Chapter 3 of the AFI provides additional information about breach reporting procedures.

6. *Any administrative or punitive action taken against any individuals involved with the release of Ms. Green's, or other former servicemembers', unredacted OMPFs.*

Administrative action was taken by AFPC.

7. *A detailed list of changes the Department of the Air Force has made to policies and procedures related to the release of OMPFs as a result of the Inspector General's investigations into Ms. Green's case.*


Please see the above response to question four which outlines the list of changes made to the DAF policies and procedures related to the release of OMPFs.

8. *Whether there is any active Air Force Office of Special Investigations case or any other criminal referral of DDG for potential violations of law pertaining to improper access and disclosure of private, federal, military personnel records.*

An Air Force Office of Special Investigations review is ongoing.

If you or your staff have any questions, please contact me at (703) 697-6088. I sent a similar letter to Chairman Comer.

Sincerely



Frank Kendall
Secretary of the Air Force

cc: The Honorable Adam Smith, Ranking Member, Armed Services Committee
The Honorable James Raskin, Ranking Member, Oversight and Accountability Committee