

Congress of the United States
House of Representatives
Washington, DC 20515

February 13, 2023

The Honorable Lloyd J. Austin III
Secretary of Defense
1000 Defense Pentagon,
Washington, DC 20301-1000

Dear Secretary Austin:

It is essential that the men and women of the Armed Forces trust their leadership's ability to protect private personnel data from improper disclosure. The release of Official Military Personnel Files (OMPF)¹ outside the proper processes violates Department of Defense (DOD) policy² and the Privacy Act of 1974,³ and if done pursuant to a public request, may also violate protections afforded under the Freedom of Information Act (FOIA).⁴

The Office of the Secretary of the Air Force (OSAF) has informed the Committee that it released 11 individuals' records over a 14-month period from October 2021-December 2022 to a private research firm which allegedly misrepresented itself in order to obtain access to the personnel records without authorization or consent. This news comes on the heels of a prior admission by the Air Force to having inappropriately released the OMPF of former Republican Congressional candidate Jennifer-Ruth Green to the very same research firm, Due Diligence Group (DDG).⁵ That disclosure served to revictimize a servicemember by releasing details about her sexual assault.⁶ The recent broader release of additional servicemembers' records highlights not only the inadequacy of procedures to secure military personnel files, but also raises concerning questions of possible illicit motive or political partisanship.

This conduct by the Air Force is, at a minimum, unacceptable. The conduct by the research firm is quite possibly criminal.

¹ NATIONAL ARCHIVES, *What is an Official Military Personnel File (OMPF)?*, available at <https://www.archives.gov/personnel-records-center/ompf-background>.

² DOD Federal Privacy Rule, Subpart E, *Disclosure of Personal Information to Other Agencies and Third Parties*, §310.21 Conditions of disclosure.

³ Privacy Act of 1974, 5 U.S.C. § 552a.

⁴ Freedom of Information Act, 5 U.S.C. § 552.

⁵ Kyle Morris, 'SMEAR MACHINE': Indiana Republican sounds off after Air Force admits to 'unauthorized release' of her records, FOX NEWS, Jan. 19, 2023.

⁶ Cheyanne M. Daniels and Emily Brooks, *Air Force improperly released records on GOP candidate's sexual assault*, THE HILL, Nov. 26, 2022.

Please provide to the Committees no later than February 27, 2023, the following information to help understand the shortcomings in the process which resulted in the improper disclosure of former servicemembers' private personnel records:

- (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 DDG without a servicemember's prior consent;
- (2) A status report detailing current notifications to impacted individuals and an assessment of whether or not additional notifications may be forthcoming;
- (3) The regulations and policies governing the request, redaction, and release of servicemembers' OMPFs;
- (4) The safeguards in place to ensure that only properly redacted OMPFs are released;
- (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;
- (6) Any administrative or punitive action taken against any individuals involved with the release of Ms. Green's, or other servicemembers', unredacted OMPFs;
- (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 investigation into Ms. Green's case; and,
- (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.

Thank you for your immediate attention to this request. The Committee on Armed Services, under Rule X, clause 1 of the Rules of the House of Representatives (House Rules), maintains oversight jurisdiction over the Department of Defense generally. Moreover, under the House Rules, the Committee derives its authority to conduct oversight from, among other things, clause 2(b)(1) of Rule X (relating to general oversight responsibilities), clause 3(b) of Rule X (relating to special oversight functions), and clause 1(b) of rule XI (relating to investigations and studies). The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

To arrange delivery of documents or ask any related follow-up questions, please contact Ryan Breitenbach of the Committee on Armed Services Majority Staff.

Thank you in advance for your cooperation with this inquiry.

Sincerely,



Hon. Mike D. Rogers
Chairman
Committee on Armed Services



Hon. James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Adam Smith, Ranking Member
Committee on Armed Services

The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability