



SPECIAL VICTIMS' COUNSEL
AIR FORCE LEGAL OPERATIONS AGENCY
JOINT BASE ANDREWS, MARYLAND

30 September 2014

MEMORANDUM FOR [REDACTED]/CC
[REDACTED]/JA
AFOSI
ADC
SARC

FROM: [REDACTED]

SUBJECT: Notice of Representation – [REDACTED]

1. This notice is to inform you that I currently represent, and have an attorney-client relationship with [REDACTED]. If any judge advocate, defense counsel, investigating officer, commander, AFOSI special agent, government agent, military authority or other person wishes to question my client, I request that individual contact me first to discuss the general nature of the questions to be asked.
2. My client requests that all further contact (including if any party desires to interview or question her) related to the investigation and/or prosecution of her reported sexual assault be made through counsel.
3. My client hereby invokes her rights and privileges under Military Rules of Evidence, 412, 513 and 514 to the fullest extent under the law. If you deem it necessary to obtain any privileged information, please contact me to discuss the matter.
4. As applicable, please provide me copies of any investigative reports, witness statements, pleadings, or other documents relevant to my client's meaningful exercise of her rights as a federal crime victim and under the Uniform Code of Military Justice. These rights include, but are not limited to, the right to be protected from the offender, the right to be notified of court-proceedings, the right to be present at all court proceedings absent a court order, the right to confer with government counsel to include the right to be consulted regarding any decision to pursue or not pursue charges against the offender, and the right to be provided information about any conviction, sentence, imprisonment, and release of the offender.
5. If you have any questions or concerns, please contact me at [REDACTED] or via email at [REDACTED]

[REDACTED]
[REDACTED] Capt, USAF
Special Victims' Counsel



SPECIAL VICTIMS' COUNSEL
AIR FORCE LEGAL OPERATIONS AGENCY
RAMSTEIN AIR BASE, GERMANY

MEMORANDUM FOR [REDACTED] MDSS/SGSBT
[REDACTED] MDOS/SGOW

FROM: Capt [REDACTED], Special Victims' Counsel (SVC)

SUBJECT: Notice of Representation – Ms. [REDACTED]

1. This notice is to inform you that I currently represent, and have an attorney-client relationship with [REDACTED], a minor dependent of SMSgt [REDACTED] and daughter of Ms. [REDACTED]. If any judge advocate, commander, OSI special agent, security police investigator, first sergeant, supervisor or other person requests my client's medical records, to include any mental health records (psychiatrist, clinical psychologist, clinical social worker, or assistant), I request that [REDACTED] MDSS/SGSBT and/or [REDACTED] MDOS/SGOW contact me before any such records are released. As Miss [REDACTED]'s attorney, I am asserting her privilege to prevent disclosure of such records as per Military Rule of Evidence (MRE) 513 and IAW AFI 44-109, paras. 2.2-2.3. As her attorney I am asserting Miss [REDACTED]'s privilege on her behalf, and through her memo attached below, Miss [REDACTED] and Ms. [REDACTED] are directly asserting her privilege as well.
2. On behalf of Miss [REDACTED] I also request an accounting, IAW DoD 6025.18-R section C13 of any disclosure of her health information that may have occurred, as well as of any future disclosure of her health information. Again, through her memo attached below, Miss [REDACTED] and Ms. [REDACTED] are directly requesting such an accounting.
3. If you have any questions, please contact me at DSN [REDACTED], commercial [REDACTED], after hours through the Ramstein AB Command Post (DSN [REDACTED]-[REDACTED]), or via email at [REDACTED]@us.af.mil. Thank you for your assistance in this matter.

[REDACTED]
[REDACTED], Capt, USAF
Special Victims' Counsel

25 August 2014

MEMORANDUM FOR [REDACTED] MDSS/SGSBT
[REDACTED] MDOS/SGOW

FROM: Ms. [REDACTED] and Miss [REDACTED]

SUBJECT: Notice of Representation – Capt [REDACTED] represents Miss [REDACTED]

1. Capt [REDACTED] is my detailed special victims' counsel. I request that if any judge advocate, commander, OSI special agent, security police investigator, first sergeant, supervisor or other person requests my medical records, to include any mental health records, I request that [REDACTED] MDSS/SGSBT and/or [REDACTED] MDOS/SGOW contact Capt [REDACTED] before any such records are released. I am asserting my privilege to prevent disclosure of such records as per Military Rule of Evidence (MRE) 513 and IAW AFI 44-109, paras. 2.2 and 2.3.

2. I also request an accounting, IAW DoD 6025.18-R section C13 of any disclosure of my health information that may have occurred, as well as of any future disclosure of her health information. Because Capt [REDACTED] is my attorney, I authorize her to receive any such accounting on my behalf.

[REDACTED]

Patient

1. On behalf of my minor daughter, Miss [REDACTED], I concur in asserting her mental health privilege IAW MRE 513. I also concur with the request for an accounting of the records and disclosure of the accounting to Capt [REDACTED]

[REDACTED]

Parent / Guardian

**DEPARTMENT OF THE AIR FORCE
UNITED STATES AIR FORCE TRIAL JUDICIARY**

UNITED STATES

v.

[REDACTED]

)
)
) **SPECIAL VICTIMS' COUNSEL**
) **NOTICE OF APPEARANCE**
)
)
) **30 May 2014**
)

COMES NOW the undersigned counsel on behalf of [REDACTED] and submits the following notice of appearance.

1. [REDACTED], formerly [REDACTED], is the named victim in the Specifications of the Charges referred to the above-captioned Court-Martial. I was detailed to represent [REDACTED] in the course of my duties as an Air Force Special Victims' Counsel and maintain an attorney-client relationship with [REDACTED] on that basis.
2. Pursuant to MRE 412(c)(1)(B) and (c)(2), [REDACTED] asserts her rights to notice and to be heard with respect to any attempts to offer evidence under the purview of MRE 412.
3. Pursuant to MREs 513(a) and 514(a), [REDACTED] asserts her privileges with respect to any matters within the scope of those privileges.
4. I respectfully request the Court direct the parties to provide me with copies of any motions and accompanying papers filed pertaining to MREs 412, 513, 514, or 615 in which [REDACTED] is the subject of the motion in order to permit her exercise her rights under the Rules.
5. Pursuant to Article 6b(a)(3), UCMJ, and MRE 615, [REDACTED] reserves the right to be present throughout the court-martial.

Respectfully submitted,

/ [REDACTED]-signed//
[REDACTED], Capt, USAF
Special Victims' Counsel

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Appearance was served upon the Military Judge, Trial Counsel, Defense Counsel, and the Special Victims' Counsel for the other named victim in this case via electronic mail on 2 September 2014.

A large black rectangular redaction covers the signature area. A handwritten mark, possibly a checkmark or the letter 'A', is visible at the top right corner of the redacted area.

, Capt, USAF
Special Victims' Counsel

FIOA Request

Requestor: [REDACTED]

Records Requested: Report of Investigation from the March 2013 assault I disclosed in February 2014

Location of Records: RAF Lakenheath – 48 FW/JA and 48 FW/CMS

Address Where Records Should Be Sent (see attached disclosure release):

Capt [REDACTED]
AFLOA/SVC
Unit 5121
APO AE 09461-5121

Email Where Records Should Be Sent: [REDACTED]

Fees: If there are fees associated with this request, I request that they be waived as there is a legitimate public interest in providing this information to the victim of the crime.

Inapplicability of FOIA Exemptions:

The purpose of the FOIA is to provide citizens (and others) information about the workings of their government. A government is most effective when its citizens know what it is doing.¹ Consequently, President Obama and Attorney General Holder have stated that the government should presume releasability of information when a request is made under the FOIA. Only if the requested information falls within a specific exception may the government refuse to disclose the information. The burden is not on the requestor to show that the material is not covered by a FOIA exception.

The only exception that merits discussion is Exception 7—the law enforcement exception. There are six parts to the law enforcement exception.² Importantly, only parts (C) and (F) make

¹ The public has an interest in obtaining information that sheds light on an agency's performance of its duties because such information falls within the purpose of the FOIA to inform citizens about what their Government is doing. DODD 5400.7-r_AFMAN 33-302, paragraph C1.4.11.

² The law enforcement exception may only be used if releasing the information:
(A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to

nondisclosure mandatory; all other disclosure decisions are discretionary. DOD5400.7-R_AFMAN 33-302, paragraph C3.2.1.10. Regarding discretionary disclosures, DoD policy is that discretionary disclosures *shall* be made and the agency may refuse to disclose information only if the disclosure would foreseeably harm an interest protected by a FOIA exemption. *Id.*, paragraph C1.3.1.1 (emphasis added).

In this case, the law enforcement exception does not apply and there is no foreseeable harm to an interest protected by a FOIA exemption. The requested information will not interfere with law enforcement proceedings, nor will it impinge on a fair adjudication of the case because the investigation is complete and no adjudication will happen.

There is no unwarranted invasion of personal privacy³ because any personally identifiable information (addresses, phone numbers, social security numbers, etc.) may be redacted⁴ from the document.

The identity of confidential sources, if any, may be redacted.

There is no risk of disclosing techniques for criminal investigations or prosecutions because the ROI is distributed to numerous participants including commanders, defense attorneys, and persons accused of crimes.

Disclosure of this information would not endanger the life or physical safety of any individual.

Therefore, under the provisions of the FOIA, I am entitled to a redacted copy of the ROI, as there is no exception to the general presumption of disclosure.

Very Respectfully,



risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;

³ An analysis under the Privacy Act, 5 U.S.C. §552a, is unnecessary because, as the 11th Circuit has explained, “The net effect of the interaction between the two statutes is that where the FOIA requires disclosure, the Privacy Act will not stand in its way, but where the FOIA would permit withholding under an exemption, the Privacy Act makes such withholding mandatory upon the agency.” *News-Press v. DHS*, 489 F.3d. 1173, 1189 (11th Cir. 2007).

⁴ “Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection. The amount of information deleted, and the exemption under which the deletion is made, shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in this subsection under which the deletion is made.” FOIA, 5 U.S.C. § 552. Therefore, to the extent that there is personally identifiable information contained in the report or if the report, for example, contained the identity of a confidential source, this information could be redacted, and the remainder of the document released.



SPECIAL VICTIMS' COUNSEL
AIR FORCE LEGAL OPERATIONS AGENCY
RAF LAKENHEATH, UNITED KINGDOM

31 Jul 2014

MEMORANDUM FOR [REDACTED]/JA

FROM: AFLOA/CLSV – RAF Lakenheath

SUBJECT: Requests for Records Under FOIA/PA Rules

1. This notice is to request the Report of Investigation of [REDACTED] regarding her alleged assault of [REDACTED] for official use.
2. Paragraph 1 of subsection b of the PA allows for applicable PA records to be released to DoD employees. See 5 U.S.C. § 552a(b)(1). Specifically, the (b)(1) exception states that records from a PA SORN may be disclosed to “those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties.” DoD 5400.11-R, Department of Defense Privacy Program, paragraph C4.2.1, sets forth a three part test that must be met before a record from a PA SORN is provided to a DoD employee under the (b)(1) exception.
 - (a) The DoD employee has a need for the record in the performance of his or her assigned duties;
 - (b) the intended use of the record [by the requester] generally relates to the purpose for which the record is maintained; and
 - (c) only those records as are minimally required to accomplish the intended use are disclosed.
3. whether the accused has made any disclosures about the action or disposition that would diminish his/her expectation of privacy, and other relevant factors.”
4. My client requests that all communication be made through me. If you have any questions, please contact me at DSN [REDACTED], commercial [REDACTED] or via email at [REDACTED].

[REDACTED]
[REDACTED], Capt, USAF
Special Victims' Counsel



SPECIAL VICTIMS' COUNSEL
AIR FORCE LEGAL OPERATIONS AGENCY
JOINT BASE ANDREWS, MARYLAND

7 Nov 13

MEMORANDUM FOR HQ AFOSI/XILI
Attn: FOIA Section
27130 Telegraph Rd.
Quantico, VA 22134

FROM: [REDACTED]
(through her attorney)
Capt [REDACTED]
4349 Duffer Dr., Bldg. 625
Nellis AFB, NV 89191

SUBJECT: Freedom of Information Act Request

1. I am the legal representative of [REDACTED]. I am making the foregoing request for information under the Freedom of Information Act (FOIA) in my official capacity as [REDACTED] Special Victims' Counsel (SVC). I am authorized to make a FOIA request for a client in my official capacity as an SVC under Part B, Section 4 of the *Air Force Special Victims' Counsel Charter*.
2. [REDACTED] requests a copy of the Report of Investigation (ROI) published by Air Force Office of Special Investigations (AFOSI), Detachment 322, concerning a potential sexual assault against her (victim) by [REDACTED] (subject) on or about 7 April 2013. The Special Court-Martial Convening Authority (SPCMA) has already determined that no charges will be brought forward in this case, so release of the ROI to my client has no impact on any pending prosecution. [REDACTED] seeks this document in her personal capacity and not for a commercial use. My client does not seek the release of information protected under the *Privacy Act* or *Health Insurance Portability and Accountability Act* unless it is a record, or other information pertaining to her. My client requests that her information not be unnecessarily redacted from the records she receives.
3. [REDACTED] seeks waiver of the fees for this request because disclosure of the requested information is in the public interest and is not related to a commercial interest. Congress has expressed that there is a public interest in providing information to victims of sexual assaults in their changes to the *Military Rules of Evidence* and *Uniform Code of Military Justice* in recent years. In 2002, *Military Rule of Evidence* 615 was amended by Congress to make it harder for a victim-witness to be excluded from hearing testimony and other evidence in a trial. The purpose of that change was to facilitate a victim-witness's presence at court to witness the justice process and hopefully gain some level of closure from the observation. In 2012, Congress amended Article 54 of the *Uniform Code of Military Justice* to grant victims of sexual assaults a right to a copy of the Record of Trial free of charge when that victim testifies in the case. Again, Congress wished to provide victim-witnesses the ability to better observe and understand the military justice process in hopes of gaining a level of closure from the experience. Providing [REDACTED] a copy of the ROI without fee is in the public interest and should be granted.

4. My client requests that all contacts regarding this FOIA request be made directly to me as her attorney. All responsive documents, comments, or questions can be addressed to me at DSN [REDACTED], commercial [REDACTED], or via email at [REDACTED]. Thank you for your assistance with this request.

[REDACTED], Capt, USAF
Special Victims' Counsel

Capt [REDACTED] is my detailed special victims' counsel, and I have authorized him to submit this FOIA request on my behalf. I request that all future contacts regarding this request be made only through my attorney.

[REDACTED], [REDACTED] USAF



AIR FORCE LEGAL OPERATIONS AGENCY
SPECIAL VICTIMS' COUNSEL
HURLBURT FIELD, FLORIDA

20 March 2014

MEMORANDUM FOR [REDACTED]

FROM: AFLOA/SVC [REDACTED]

SUBJECT: SVC Request for Information – [REDACTED]

1. As previously noted, I represent [REDACTED] in my capacity as a Special Victims' Counsel (SVC). In order to effectively advocate my client's rights under Article 6b, UCMJ, *Rights of the victim of an offense under this chapter (See National Defense Authorization Act for Fiscal Year 2014, P.L. 113-66 [H.R. 3304], Sec. 1701)*; and IAW the government's VWAP responsibilities under AFI 51-201, *Administration of Military Justice*, Chapter 7, I request I be provided with the Article 32 Report and the Investigating Officer's (IO) recommendations. These documents are necessary for my client to meaningfully exercise her rights under Article 6b, UCMJ, and AFI 51-201.
2. Among the many rights accorded victims IAW Article 6b, UCMJ (10 U.S.C. § 806b), currently at issue here is [REDACTED] reasonable right to confer with the counsel representing the Government at an Article 32 hearing or court-martial relating to the offense; the right to proceedings free from unreasonable delay; and the right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this chapter.
3. AFI 51-201, para. 7.12.12, requires the servicing legal office to consult with victims and obtain their views concerning, "dismissal of charges; pretrial agreement negotiations, including PTA terms; plea negotiations; discharge or resignations in lieu of trial by court-martial; and scheduling of judicial proceedings where the victim is required or entitled to attend."
4. In order for the victims to meaningfully confer with the government counsel and present their views to the convening authority, they must have the IO's assessment of the strengths and weaknesses of the case IO in his review of the facts and credibility of the witnesses. Without this assessment, the victim cannot properly weight the potential outcome of their full involvement as compared to supporting alternate methods of disposition. This information is also critical to their understanding of subsequent decisions by the convening authority to refer all, some, or an alternate version of the underlying charges.
5. Apart from adherence to victim rights under the UCMJ and AFI 51-201, Article 32 reports and the recommendations of the IO are releasable under the Freedom of Information Act (FOIA) to the victim of a crime. These documents fall within the scope of the materials authorized for release under the Federal Register: "Individual's name, Social Security Number (SSN), records of trial by courts-martial; records of Article 15 punishment; discharge proceedings; documents received or prepared in anticipation of administrative non-judicial and judicial proceedings;

witness statements; police reports; other reports and records from local, state, or federal agencies.” Accordingly, “[i]n addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, **these records, or information contained therein, may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:… [t]o victims and witnesses of a crime** for the purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program and the Victims’ Rights and Restitution Act of 1990. See Federal Register Volume 73, Number 236, December 8, 2008, pg. 74472-72474. <http://www.gpo.gov/fdsys/pkg/FR-2008-12-08/pdf/E8-28936.pdf> (Emphasis added). In addition, pursuant to the FY14 NDAA’s revisions to Article 32, UCMJ (P.L. 133-66, Sec. 1702), the provision of a recording of the proceedings will become required on 27 December 2014.

6. Per AFI 51-201, paragraph 7.2, the primary objectives of the VWAP are to mitigate the physical, psychological, and financial hardships suffered by victims, to foster cooperation of victims within the military criminal justice system, and to ensure best efforts are made to accord to victims of crime certain enumerated rights.

7. As the victim in this case, [REDACTED] hardships would be most effectively mitigated by a speedy resolution to the criminal charges pertaining to her, whether that be through referral to a courts-martial or by some other lesser disposition. At the conclusion of the Article 32 hearing, the assigned defense counsel has already solicited input from [REDACTED] on her support of a Chapter 4 discharge request. In addition, as discussed above, the legal office is required to consult with the victim on a wide range of disposition options. In order for the victim to competently weigh these options and the potential outcomes of various courses of action, she must be provided with the underlying information that the servicing legal office, defense counsel and the convening authority are using to analyze the case and make their own informed decisions. Therefore, the information contained in the Article 32 report and IO recommendations are critical to a victim’s ability to make informed, meaningful decision as to their participation in court-martial.

8. [REDACTED] respectfully requests that the Article 32 report and IO recommendations are provided to her expeditiously through trial counsel, rather than having to wait for the prolonged delay of submitting a FOIA request and having it routed through all the required hands. By providing this information to the victim before absolutely required by the NDAA revisions, but still authorized for release under FOIA, you foster the cooperation of the victim and ensure you have made your best efforts to meaningfully confer with her in keeping with the underlying objectives and requirements of VWAP. This timely involvement of the victim in the discussion of disposition options will ensure that the victim does not have to make substantially uninformed decisions as to their participation or that her considerations are entirely overlooked.

9. If you have any questions regarding this request, please contact me at DSN [REDACTED],
[REDACTED], via my duty cell at [REDACTED] or via electronic mail at
[REDACTED].

///signed/[REDACTED]/20MAR14///
[REDACTED], Capt, USAF
Special Victims' Counsel

Certificate of Service

I certify I caused a true copy of this *SVC Request for Information* – [REDACTED] to
be served on the above-referenced counsel on 20 March 2014 via electronic mail.

///signed/[REDACTED]/20MAR14///
[REDACTED], Capt, USAF
Special Victims' Counsel



**SPECIAL VICTIMS' COUNSEL
AIR FORCE LEGAL OPERATIONS AGENCY
JOINT BASE MCGUIRE-DIX-LAKEHURST, NEW JERSEY**

18 March 2014

MEMORANDUM FOR TRIAL COUNSEL

FROM: SVC

SUBJECT: SVC Request for Report of Investigation

1. I have been detailed and currently have an attorney-client relationship with VICTIM, a victim of sexual assault. The sexual assault was reported on or about 17 March 2013 and a thorough Air Force Office of Special Investigations (OSI) investigation followed. On 29 January 2014 I was notified that OSI had completed their investigation and published a Report of Investigation (ROI) to the LEGAL OFFICE.
2. In order to effectively represent my client, I request a complete copy of the completed ROI in this case, including but not limited to, written or recorded witness statements, surveillance tape, hospital records, lab reports and any other evidence referenced in or attached to the ROI.
3. These documents are requested pursuant to my client's rights encapsulated in the UCMJ, Article 6(b)(recent change passed by the National Defense Authorization Act for Fiscal Year 2014) and the rights given under AFI 51-201, Chapter 7 and are further supported by the right "to be treated with fairness." *See* Crime Victims' Rights Act of 2004 (CVRA), 18 U.S.C. §3771(a)(8)(civilian predecessor to UCMJ, Article 6(b)); *and* UCMJ, Article 6(b)(containing nearly identical language as the CVRA). These documents are necessary for my client's ability to meaningfully participate in the military justice process. The right to confer with the Government is found in AFI 51-201, paragraph 7.11.5. VICTIM cannot meaningfully confer with the Government regarding the disposition of this case without access to the evidence being considered by the Initial Disposition Authority and his legal advisors.
4. VICTIM has also made a Freedom of Information Act (FOIA) request for a copy of the ROI. Due to the current backlog in processing FOIA requests, I have been informed that the response time is at least six months, and could be as long as one year. This unreasonable delay in VICTIM having access to the investigation and its findings unfairly prejudices her right to confer with the Government in this case. Furthermore, a FOIA request is not necessary in this case. VICTIM doesn't seek the ROI for general public release; she seeks the information regarding the investigation of her reported sexual assault for the purpose of conferring with the Government and expressing a well-informed opinion on her preferred disposition of the case. My client cannot address any concerns that the Disposition Authority has regarding potentially moving the case forward if she does not have access to the same information being considered by the Disposition Authority.
5. In recognition of its requirement to confer with victims of crime on whether to prefer charges and to inform victims on the disposition of their cases, the Government is authorized to release information otherwise protected under the Privacy Act to victims in order to comply with the

requirements of the Victim and Witness Assistance Program (VWAP). There is a blanket “routine use” exception in the Privacy Act Notice for victim disclosure. In the Federal Register Volume 73, Number 236, December 8, 2008 the Air Force gave notice that “documents received or prepared in anticipation of judicial proceedings; witness statements; police reports; or other reports from local, state or federal agencies” may be disclosed to victims for the purposes of providing information consistent with the requirements of the VWAP. A central aim of the VWAP is to “ensure best efforts are made to accord to victims of crime certain enumerated rights.” AFI 51-201, Chapter 7.

6. Accordingly, I request the above referenced documents, on behalf of my client, in order for my client to meaningfully and competently participate in the military justice process and to exercise the rights afforded by Article 6(b) of the Uniform Code of Military Justice and Air Force and DoD regulations.

7. If you have any questions, please contact me at DSN [REDACTED], commercial [REDACTED] or via email at [REDACTED]

//SIGNED//

[REDACTED], Capt, USAF
Special Victims' Counsel



**AIR FORCE LEGAL OPERATIONS AGENCY
SPECIAL VICTIMS' COUNSEL
HURLBURT FIELD, FL**

[DATE]

MEMORANDUM FOR TRIAL COUNSEL

FROM: AFLOA/CLSV (Capt Spencer)

SUBJECT: SVC Request for Information - *United States v ACCUSED*

1. I have been detailed and currently have an attorney-client relationship with **Rank Victim Initials**, a victim in the above referenced court-martial.
2. In order to effectively represent my client's right to be heard under the military rules of evidence (MRE) 412, 513, and 514, as well as the victim rights listed in Article 6b of the Uniform Code of Military Justice (UCMJ), I request the following documents pursuant to the Privacy Act and to Freedom of Information Act as well as the other cited authorities:
 - a. Copy of any charge sheet involving my client as the victim of a listed offense.¹²
 - b. Documents reflecting a decision not to prefer charges. DoDI, para. 6.2.3; AFI, para. 7.12.12.1.
 - c. Documents reflecting a decision concerning the disposition of the offense if other than a court martial. DoDI, para. 6.3.1.3.
 - d. Any documents listing evidence or other property obtained from the Victim, to include evidence tags. DODI, para. 6.3.1.14; AFI, para. 7.12.10.
 - e. Copies of all motions filed by the government and/or defense, including any applicable attachments, pertaining to MRE 412, MRE 513, MRE 514, and MRE 615. I also request copies of any orders or responses issued by the military judge. *Id.*; Also, generally, *LRM v. Kastenberg*, 72 M.J. 364 (C.A.A.F. 2013) (recognizing the right of the victim's attorney's right to be heard under MRE 412 and 513).
 - f. A copy of any and all statements my client has made reasonably related to the matters underlying the charges preferred by the government, to include documents prepared by any military criminal investigation organization (MCIO) and any other State or Federal investigatory agency relied on by the Government.

¹ See Air Force Instruction 51-201, *Administration of Military Justice*, 21 December 2007 (incorporating Change 1, 3 February 2010 (hereafter AFI), Chapter 7, paragraph 7.11.5.

² Department of Defense Instruction 1030.2, *Victim and Witness Assistance Procedures*, 4 June 2004 (hereafter DODI) Chapter 6, paragraph 6.3.1.3.

g. A copy of any report of investigation created by any MCIO or other law enforcement entity that is reasonably related to the matters underlying the charges preferred by the Government where my client is the named victim.

3. I also request that all of the following notifications be provided to me as **Rank Victim Initial**'s detailed SVC:

a. The appearance of the accused before a pretrial confinement hearing or an Article 32, Uniform Code of Military Justice (UCMJ) investigation. DoDI, para.6.3.1.4; AFI para. 7.12.9.4.

b. Release of the suspected offender from pretrial confinement, if applicable. DoDI, para. 6.3.1.5; AFI, para. 3.2.8.

c. Any and all scheduling, including changes and delays, of any hearing my client is entitled to or required to attend. DoDI, para. 6.3.1.5; AFI, para. 7.12.9.5.

d. The disposition of the case, to include the acceptance of a plea of "guilty," the rendering of a verdict, or the withdrawal or dismissal of charges. DoDI, para. 6.3.1.12

e. The offender's sentence and general information regarding minimum release date, parole, clemency, and mandatory supervised release – if applicable. DoDI, para. 6.3.1.15.; AFI, para. 7.12.9.7; AFI, para. 7.11.7.

4. These documents and notifications are requested pursuant to my client's rights encapsulated in UCMJ, Article 6(b), the right to be heard under the cited military rules of evidence, and the rights given under AFI 51-201, Chapter 7. These documents are necessary for my client's ability to meaningfully participate in the military justice process; and are further supported by the right "to be treated with fairness." *See* Crime Victims' Rights Act of 2004 (CVRA), 18 U.S.C. §3771(a)(8)(civilian predecessor to UCMJ, Article 6(b)); *and* UCMJ, Article 6(b)(containing nearly identical language as the CVRA) The notion of "fairness" includes the notion of "due process." 150 Cong. Rec. S10911, 9 October 2004 (statement of Sen. Kyl commenting on the meaning of the terms in the CVRA).

5. Finally, the Privacy Act allows disclosure of several of the requested documents. In the Federal Register Volume 73, Number 236, December 8, 2008 the Air Force gave notice that "documents received or prepared in anticipation of judicial proceedings; witness statements; police reports; or other reports from local, state or federal agencies" may be disclosed to victims for the purposes of providing information consistent with the requirements of the Victim and Witness Assistance Program (VWAP). A central aim of the VWAP is to "ensure best efforts are made to accord to victims of crime certain enumerated rights." AFI 51-201, Chapter 7.³

1. ³ Additionally, this request implicates the system of records notice (SORN) found in F051 AFJA I, *Military Justice and Magistrate*, F071 AF OSI D, *Investigative Information Management System*, and F071 AF OSI C, *Criminal Records*.

6. Releases pursuant to the Department of Defense Privacy Program, based on DoD 5400.11-R, *Department of Defense Privacy Program*, C4.2.1, may be restricted. Please clearly identify which records are being released internally, pursuant to my role as the SVC, and indicate any other restrictions placed on these records. All records not otherwise identified will be assumed to be released under a FOIA analysis and will be releasable directly to my client.

7. If you have any questions, please contact me at DSN [REDACTED], Comm: [REDACTED], or via email at [REDACTED] / [REDACTED].

[REDACTED]

[REDACTED], Capt, USAF
Special Victims' Counsel

CERTIFICATE OF SERVICE

I hereby certify that I delivered a copy of this request for information to the Trial Counsel via e-mail on [DATE].

[REDACTED]

[REDACTED], Capt, USAF
Special Victims' Counsel

Norfolk Constabulary
Rape Investigation Unit
Jubilee House Falconers Chase
Wymondham
Norfolk
NR18 0WW

[REDACTED]
C/O: AFLOA/SVC

Building 1070
RAF Lakenheath
Brandon, Suffolk IP27 9PN

11 March 2014

Dear Sir/Ma'am,

I am writing to request a copy of the report of investigation for a crime I reported in April 2012. I reported that I was sexually assaulted in Norwich on approximately 8 April 2012. The assault was reported to Norfolk Constabulary on approximately 11 April 2012. I made a statement to Norfolk police and was interviewed on many occasions. On 11 March 2013, I received a letter from the Detective Sergeant who investigated my report providing limited details about the investigation and reason for non-prosecution.

The investigation reference number is: [REDACTED]
The crime reference number is: [REDACTED]

As I have relocated back to the United States, I kindly request that you send the requested information to my legal representative in this case at the following address:

Capt [REDACTED]
Special Victims' Counsel
Building 1070
RAF Lakenheath
Brandon, Suffolk IP27 9PN

Please contact Capt [REDACTED] at [REDACTED] or [REDACTED] if you have any questions or need further information. Thank you.

Sincerely,

[REDACTED]



**AIR FORCE LEGAL OPERATIONS AGENCY
SPECIAL VICTIMS' COUNSEL
NELLIS AIR FORCE BASE, NEVADA**

4 Jun 14

MEMORANDUM FOR ████████/JA (████████████████████)

FROM: AFLOA/SVC (Capt ██████████)

SUBJECT: SVC Request for Information – *U.S. v.* ████████ ██████████

1. As previously noted, I represent A1C ██████████ in my capacity as a Special Victims' Counsel (SVC). In order to effectively advocate my client's rights under Military Rules of Evidence (MREs) 412, 513, 514, and 615; Article 6b, UCMJ, *Rights of a victim under this chapter* (See *National Defense Authorization Act for Fiscal Year 2014*, P.L. 113-66 [H.R. 3304], Sec. 1701); and IAW the government's VWAP responsibilities under AFI 51-201, Chapter 7, I request I be provided with the documents listed below. These documents are necessary for my client to ***meaningfully*** exercise their rights under Article 6b, UCMJ, and AFI 51-201 and to be heard under the relevant MREs (see *LRM v. Kastenberg*, 72 MJ 364 (CAAF 2013)).

2. IAW Article 6b (10 U.S.C. § 806b), UCMJ, and AFI 51-201, Chapter 7, Air Force victims have certain rights, and the government certain concomitant responsibilities, in the military justice process. *Id.* Specifically, under Article 6b, UCMJ, victims are accorded:

- 1) The right to be reasonably protected from the accused.
- 2) The right to reasonable, accurate, and timely notice of any of the following:
 - 1) A public hearing concerning the continuation of confinement prior to trial of the accused.
 - 2) A preliminary hearing under section 832 of this title (article 32) relating to the offense.
 - 3) A court-martial relating to the offense.
 - 4) A public proceeding of the service clemency and parole board relating to the offense.
 - 5) The release or escape of the accused, unless such notice may endanger the safety of any person.
- 3) The right not to be excluded from any public hearing or proceeding described in paragraph (2) unless the military judge or investigating officer, as applicable, after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this chapter would be materially altered if the victim heard other testimony at that hearing or proceeding.

- 4) The right to be reasonably heard at any of the following:
 - 1) A public hearing concerning the continuation of confinement prior to trial of the accused.
 - 2) A sentencing hearing relating to the offense.
 - 3) A public proceeding of the service clemency and parole board relating to the offense.
 - 5) The reasonable right to confer with the counsel representing the Government at any proceeding described in paragraph (2).
 - 6) The right to receive restitution as provided in law.
 - 7) The right to proceedings free from unreasonable delay.
 - 8) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this chapter.
3. Furthermore, AFI 51-201, para. 7.12.9 provides that the government will provide the victim with the earliest possible notice of:
- 1) The status of the investigation of the crime, to the extent it will not interfere with the investigation and is appropriate;
 - 2) The accused's pretrial status and any subsequent change in that status, including but not limited to, the accused being placed in pretrial confinement, being released from pretrial confinement, or escaping from pretrial confinement;
 - 3) Preferral and referral of charges or a decision not to pursue prosecution;
 - 4) A pretrial confinement hearing and/or Article 32 investigation, including introduction of any MRE 412, 513 or 514 evidence;
 - 5) Notification of the scheduling, including changes and delays, of each court-martial proceeding the victim is entitled to or required to attend;
 - 6) The acceptance of a guilty plea or announcement of findings; and
 - 7) The sentence imposed, including the date on which the accused becomes eligible for release from confinement, or parole, if applicable.

4. Release of the information sought below is fully IAW the Air Force's VWAP responsibilities and the Privacy Act. *See* Federal Register Volume 73, Number 236, December 8, 2008, pg. 74472-72474. <http://www.gpo.gov/fdsys/pkg/FR-2008-12-08/pdf/E8-28936.pdf>
5. Accordingly, I request I be provided with the following information:
 - 1) **A copy of all statements made by my client concerning this case.** A copy of my client's statement is required in order for my client to *meaningfully* confer with the trial counsel assigned to the case pursuant to Article 6b, UCMJ. *See U.S. v. Rubin*, 558 F. Supp. 2d 411 (E.D.N.Y. 2008) (Interpreting the "right to confer" with regard to the civilian version of the CVRA as including the right to seek information from the government within the reasonable bounds of the CVRA's goals); *U.S. v. BP Products North America, Inc*, 2008 WL 501321 (S.D. Tex. 2008) ("the purposes of the conferral provision is to ensure that victims can obtain information from prosecutors and convey information to prosecutors, to enable the victims to form and express opinions"). The CVRA was intended "to direct government agencies and employees, whether they are in executive or judicial branches, to treat victims of crime with the respect they deserve and to afford them due process." 150 Cong. Rec. S10911, 9 October 2004 (statement of Sen. Kyl). "Due process" requires the opportunity to be heard in a "meaningful manner." *See, Armstrong v. Manzon*, (380 U.S. 545, 552 (1965)).
 - 2) **A copy of the DD458, Charge Sheet.** Again, a copy of the Charge Sheet is necessary in order for my client to exercise their rights, pursuant to Article 6b, UCMJ, to confer with trial counsel. Absent an ability to fully understand what the United States is alleging the Accused did, my client cannot be meaningfully conversant in any conversations concerning their rights with respect to the military justice process; nor can I be an effective advocate of those rights on their behalf.
 - 3) **Copies of any documentation relevant to disciplinary or administrative actions being taken against my client**, including offers of Non-Judicial Punishment or administrative counseling documents such as Letters of Reprimand. Such documents are necessary for my client to understand and meaningfully weigh the full impact of their choices with respect to participation in the military justice process.
 - 4) **A copy of my client's summarized/verbatim Article 32 testimony and the IO recommendation:** Pursuant the FY14 NDAA's revisions to Article 32, UCMJ (P.L. 133-66, Sec. 1702), provision of a recording of the proceedings will become required on 26 December 2014; until that eventually, my client only asks for their own testimony and the IOs independent analysis of the case at bar. As with the statement and the charge sheet, a copy of the victim's Article 32 testimony and the Investigating Officer's recommendation portion is necessary for the victim to adequately confer with trial counsel assigned to the case. Without an educated understanding of the merits of the case, it is impossible for victim to meaningfully confer with trial counsel or the convening authority regarding disposition. In the case of summarized testimony, my client will likely have already reviewed summarized testimony; in the case of verbatim testimony, it is standard practice to have a witness review previous testimony prior to

testifying again. This significantly reduces any concern that the victim will be provided with any information that will cause the investigation to be negatively affected – the victim has previously reviewed their statement. Finally, the entire Article 32 report, redacted for privacy concerns, is provided to the victim as a part of the Record of Trial (ROT) and could otherwise be obtained through a FOIA request.

5) **Copies of all filed motions, Government and Defense, including any applicable attachments, pertaining to MRE 412, 513, 514, and 615.** I also request copies of any orders or responses issued by the military judge. Such documents are manifestly necessary in order for my client to meaningfully exercise the right to be heard with respect to these rules (*see LRM v. Kastenber*, 72 MJ 364 (CAAF 2013)).

6) **Property held by the Government:** A list of any of the victim’s property held by the government (including text messages, copied social media content (Facebook, Twitter, etc.), or photos). *See* AFI 51-201, Chapter 7, paragraph 7.12.15.

6. If you have any questions regarding this request, please contact me at DSN [REDACTED], (COMM 7 [REDACTED]), or via electronic mail at [REDACTED].

///signed///

[REDACTED], Capt, USAF
Special Victims’ Counsel

Certificate of Service

I certify I caused a true copy of this *SVC Request for Information – U.S. v. [REDACTED]* – [REDACTED] to be served on the above-referenced counsel on 4 Jun 14 via electronic mail.

[REDACTED], Capt, USAF
Special Victims’ Counsel

Sir,

I've attached the relatively recent JAA talking paper on processing SVC requests for records. I believe the first two pages are the most relevant. Basically my request for the video is a request for a record that is considered Privacy Act material under AFOSI PA System of Records Notice (the SORN is also attached and mentioned in the second paragraph of the talking paper).

JAA guidance is that these requests should be processed as functional/official use request outside the formal FOIA process. While release is ultimately discretionary, JAA advises release of the records if the three-part PA test is met. The test is:

- (1) The DoD employee has a need for the record in the performance of his or her assigned duties;
- (2) the intended use of the record [by the requester] generally relates to the purpose for which the record is maintained; and
- (3) only those records as are minimally required to accomplish the intended use are disclosed.

Here is an excerpt from the JAA talking paper:

“SVC’s requesting PA records covered by the Military Justice SORN and AFOSI SORNs can meet this test and properly be provided requested PA records when the request is made in the context of performing their assigned duties during the investigative or Article 15/courts-martial/or other Air Force disciplinary process (i.e., the purpose for which the records were created/compiled by the Air Force is similar to the SVC’s intended use in the performance of their assigned duties). AFI 51-201, paragraph 7.24, further states that “[w]hen analyzing PA exceptions, consider the Air Force’s interest in fostering cooperation of victims and witnesses in the instant case, whether the accused has made any disclosures about the action or disposition that would diminish his/her expectation of privacy, and other relevant factors.”

As an official use release, the record OPR (in this case OSI but with guidance from you), can also place limits on who else the record is disclosed to, require that it be returned once it is no longer needed, redact certain parts, etc. For what it is worth, I have no intention of sharing the video with anyone else; it is only for my own viewing. Attached is also another JAA talking

paper about SVC disclosure of PA info of others to a victim/client—not as relevant here since it is the client’s own record, but I thought you might want it for possible future reference.

I’m TDY the first part of next week, but I will be at Beale most of the day Friday. If you have questions I’m happy to discuss this further either before I get there (my cell is [REDACTED]), or in person sometime on Friday.

V/R,

[REDACTED], Capt, USAF

Special Victims' Counsel

AFLOA/CLSV

Nellis Air Force Base, Nevada

Phone: DSN [REDACTED], Comm [REDACTED]

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-----Original Message-----

From: [REDACTED] /JA
Sent: Friday, August 15, 2014 4:05 PM
To: [REDACTED] AFLOA/CLSV
Subject: RE: [REDACTED]

Thanks, that'll help speed the process

-----Original Message-----

From: [REDACTED] AFLOA/CLSV
Sent: Friday, August 15, 2014 4:02 PM
To: [REDACTED] /JA
Subject: RE: [REDACTED]

Yes Sir. Give me the weekend and I will give you some documents that discuss release of information to SVCs. Requests are to be processed as official use requests and not through FOIA.

Capt [REDACTED]

-----Original Message-----

From: [REDACTED] /JA
Sent: Friday, August 15, 2014 3:49 PM

To: [REDACTED] AFLOA/CLSV

Subject: RE: [REDACTED]

Ryan, for my assay, could you forward me the authority for releasing statements to SVCs? I saw something in ONS this morning about how we process these requests (i.e., NOT as some FOIA), but this is relatively new stuff for me.

Not to give you pushback, but just want to document the steps we're all taking here, thx

[REDACTED]

-----Original Message-----

From: [REDACTED] AFLOA/CLSV

Sent: Friday, August 15, 2014 3:45 PM

To: [REDACTED]/JA

Cc: [REDACTED] AFOSI [REDACTED]

Subject: RE: [REDACTED]

Sir,

I would like to receive a copy of the first forensic interview of my client done by SA [REDACTED] on 9 August, as this interview was recorded. It is standard practice in the SVC community to obtain copies of all statements, consent forms, and other written evidence (text messages, Facebook conversations, etc.) collected from our clients by investigators. Obviously in a child case you do not have evidence in these same forms, but obtaining copies of this type of evidence allows me

to quickly get up to speed on the allegations and evidence in a case without asking my client any questions about the misconduct, which seems especially important in a child case.

SA [REDACTED] indicated that release of this evidence would require authorization from your office, so please let me know if this is doable.

V/R,

[REDACTED], Capt, USAF

Special Victims' Counsel

AFLOA/CLSV

Nellis Air Force Base, Nevada

Phone: DSN [REDACTED], Comm [REDACTED]

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VICTIM REQUEST FOR RECORD OF TRIAL

U.S. v. [REDACTED]

PRIVACY ACT STATEMENT

AUTHORITY: MCM, Article 54. Record of Trial

PRINCIPAL PURPOSE: "In the case of a general or special court-martial involving a sexual assault or other offense covered by section 920 of this title (article 120), a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records are authenticated. The victim shall be notified of the opportunity to receive the records of the proceedings."

Read the statements that follow and place an "X" on the line next to your response. Check one only.

_____ I REQUEST A COPY OF THE RECORD OF TRIAL IN THIS CASE. PLEASE PROVIDE ME A COPY AS SOON AS THE RECORDS OF THE PROCEEDINGS ARE AUTHENTICATED.

Select One: _____ hard copy _____ soft copy (CD)

Please send my copy of the Record of Trial to the following address:

Telephone Number (Optional): _____

_____ I REQUEST A COPY OF THE RECORD OF TRIAL IN THIS CASE. PLEASE PROVIDE ME A COPY WHEN ACTION IS TAKEN IN THIS CASE.

Select One: _____ hard copy _____ soft copy (CD)

Please send my copy of the Record of Trial to the following address:

Telephone Number (Optional): _____

_____ I DO NOT REQUEST A COPY OF THE RECORD OF TRIAL IN THIS CASE.

PRINTED NAME OF VICTIM: [REDACTED]

SIGNATURE OF VICTIM: [REDACTED]

CAPT USAF AF-JA (US)

From: [REDACTED]
Sent: Thursday, November 14, 2013 3:22 PM
To: [REDACTED] Capt USAF ACC AFLOA/SVC
Cc: [REDACTED]
Subject: RE: Follow up: Request for Information in the [REDACTED] Case
Categories: On Behalf of

Capt [REDACTED],

In accordance with what I told you previously in and with the guidance you've provided, the command took appropriate administrative action in this case. I'm afraid I'm not authorized to release any additional information.

v/r,

[REDACTED]
Assistant Staff Judge Advocate
Minot Air Force Base
DSN 453-4152, Comm (701) 723-4152

This message may contain information protected from disclosure by the attorney-client and/or attorney work product privileges or by other applicable laws, regulations or orders. Do not disseminate without approval. If you have received this message in error, please notify the sender by reply e-mail and delete all copies of this message. This message may also contain Privacy Act information. Under the Privacy Act of 1974, you must safeguard all pertinent information reflected on this e-mail and, if applicable, all attachments. Disclosure of information is IAW AFI 33-119, AFI 33-127, AFI 33-129, DoDR 5400.7 AF Supp and AFI 33-332.

-----Original Message-----

From: [REDACTED] Capt USAF ACC AFLOA/SVC
[REDACTED]
Sent: Thursday, November 14, 2013 2:27 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Follow up: Request for Information in the [REDACTED] Case

Capt [REDACTED]

I'd like to follow up with you regarding the status of the case involving my client, A1C [REDACTED]), in the matter with the Subject/Accused, A1C [REDACTED] [REDACTED]. On 9 September 2013, we provided a statement that my client did not wish to proceed or participate in a court-martial surrounding the allegations that she made on 1 February 2013 involving her being the victim of a sexual assault. As I understand it, your office supported my client's stance and worked with your NAF in order to address this matter in an

administrative forum. I request information as to the disposition of that matter so that my client can gain some amount of closure in her life after dealing with this particular assault. Specifically, I request to know how the matter was handled administratively by the command, (Article 15, LOR, LOA, LOC, or verbal counseling), and if there was any punishment levied, as well as if administrative discharge for the Accused is planned (and what characterization is initially sought).

I understand the Privacy Act concerns that your office may have but I hope that the information that I am requesting, pursuant to AFI 51-201, Administration of Military Justice, dated 6 June 2013, paragraph 7.24. Disclosure of Administrative Disposition (full text below), adequately covers those concerns. Additionally, I believe that there is additional support for my request found on the JAJM Virtual Military Justice Deskbook under the title, " What Information About a Case Can be Disclosed to a Victim or Witness?" LINK: <https://aflsa.jag.af.mil/apps/jade/collaborate/mod/resource/view.php?id=17623>, text below.

Thank you for your consideration and assistance in this matter.

V/r,

█

█, Capt, USAF

Special Victims' Counsel

Offutt AFB, NE 68113

Commercial: █

DSN: █

Work Cell: █

Alternate E-mail: █

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of the originator's office. If you received this message in error, please notify the sender by reply e-mail and delete all copies of this message."

From JAJM Deskbook:

Victims and witnesses generally have the right to know the disposition of the case against an offender. If disposition is by court-martial, the analysis is straightforward. AFI 51-201, paragraphs 7.10. through 7.14., as well as Figure 7.1. and Figure 7.4. provide an extensive list of notifications to victims, witnesses and other individuals. However, if the case is disposed of by NJP or by Quality Force Management (QFM) tools, such as a Letter of Reprimand, the analysis is more complex. In 2008, the Privacy Act System of Records Notice (SORN) for courts-martial and Article 15 records was changed to acknowledge the "routine use" of providing disclosure to victims and witnesses of a crime consistent with the requirements of the Victim and Witness Assistance Program. Accordingly you may disclose: that the offender received and accepted NJP; the findings of the commander; the general nature of the punishment, i.e., a fine and a reprimand; any collateral consequences that follow by operation of regulation or are documented on the AF 3070, including UIF entry, officer/SNCO selection record entry appeal results. No similar SORN provision exists for lesser administrative dispositions such as LORs, LOCs, and LOAs. In those cases, disclosing that "appropriate administrative actions were taken," or that "the commander decided not to impose nonjudicial punishment or prefer court-martial charges" is appropriate. Similarly a statement that "no adverse administrative action was taken" may also be appropriate, depending on the circumstances.

The applicable portion of AFI 51-201 is para. 7.24, which reads:

"Disclosure of Administrative Disposition. In cases where allegations against a suspect are disposed of other than by trial, a victim or witness may want to be informed of the alternate disposition. Victims and witnesses should be provided as much relevant information as possible, consistent with the privacy rights of the accused. In accordance with 5 U.S.C. 552a (the Privacy Act), records and information related to Article 15 punishment and administrative discharge proceedings may be disclosed as a routine use to victims and witnesses of a crime for the purposes of providing information consistent with the requirements of VWAP and the Victims' Rights and Restitution Act of 1990. When analyzing Privacy Act exceptions, consider the Air Force's interest in fostering cooperation of victims and witnesses in the instant case, whether the accused has made any disclosures about the action or disposition that would diminish his/her expectation of privacy, and other relevant factors. Because each case presents unique facts and circumstances, decisions to release information must be reviewed on an individualized basis, in light of the Privacy Act and the exceptions allowing disclosure, as provided therein."