

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DENISE A. ROSALES, individually and on behalf of herself and all others similarly situated, Civ. Action No. 1:23-cv-00440-RP

Plaintiff,

v.

CHRISTINE WORMUTH, Acting Secretary of the Army, in her official capacity; DEPARTMENT OF THE ARMY; GREGORY D. FORD, Acting Director of the Department of the Army Criminal Investigation Division, in his official capacity; DEPARTMENT OF THE ARMY CRIMINAL INVESTIGATION DIVISION; CHRISTOPHER WRAY, Acting Director of the Federal Bureau of Investigation, in his official capacity; FEDERAL BUREAU OF INVESTIGATION; LLOYD J. AUSTIN III, Acting Secretary of Defense, in his official capacity; DEPARTMENT OF DEFENSE and UNKNOWN OFFICERS and EMPLOYEES OF THE DEPARTMENT OF DEFENSE and FEDERAL BUREAU OF INVESTIGATION, in their individual capacities.

Defendants.

THIRD AMENDED CLASS ACTION COMPLAINT

I. NATURE OF THE CASE

1. This lawsuit is about whether the federal government may create false records of arrest—records used to determine everything from job eligibility to security clearances—and simply refuse to correct them.

2. Plaintiff Denise A. Rosales is a non-commissioned officer in the Texas Army

National Guard. After an alleged minor incident prompted an investigation, the Department of the Army Criminal Investigation Division (“Army CID”) submitted a record to the Federal Bureau of Investigation indicating that Ms. Rosales had been arrested. Federal criminal history databases maintained by the FBI now show that Ms. Rosales had been “arrested or received” into custody.

3. The records of arrest are false. Ms. Rosales was never arrested or received into custody. Defendants do not dispute that fact.

4. Ms. Rosales has spent the better part of two years jumping through administrative hoops trying to get this false and unlawful record corrected. But Army CID has refused to amend Ms. Rosales’s records despite her pleas. This refusal is inexplicable since there is no dispute that Ms. Rosales has never been arrested.

5. Ms. Rosales is not alone in her plight. Defendants have created and maintained false arrest reports for thousands of service members who were never placed into custody. Unfortunately, Defendants have shown that they would rather indulge in bureaucratic inertia rather than fix a problem that has now destroyed the lives, reputations, and careers of numerous service members.

II. PARTIES

6. Plaintiff Denise A. Rosales (“Ms. Rosales”) is a resident of Hildago County, Texas.

7. Defendant Christine Wormuth is the acting Secretary of the Army. She is sued in her official capacity. She may be found at 101 Army Pentagon, Washington, DC 20310-0101.

8. Defendant Department of the Army (hereinafter, “DoA,” or “Army”) is an agency of the United States, headquartered at 101 Army Pentagon, Washington, DC 20310-0101.

9. Gregory D. Ford is the acting Director of the Department of the Army Criminal Investigation Division. He is sued in his official capacity. He may be found at 27130 Telegraph

Road, Quantico, VA 22134-2253.

10. Defendant Department of the Army Criminal Investigation Division (hereinafter, “Army CID”) is an agency of the United States, headquartered at 27130 Telegraph Road, Quantico, VA 22134-2253.

11. Defendant Christopher Wray is the acting Director of the Federal Bureau of Investigation. He is sued in his official capacity. He may be found at 935 Pennsylvania Avenue, NW, Washington, DC 20535-0001.

12. Defendant Federal Bureau of Investigation (hereinafter, “FBI”) is an agency of the United States, headquartered at 935 Pennsylvania Avenue, NW, Washington, DC 20535-0001.

13. Lloyd J. Austin III is the acting Director of Defense. He is sued in his official capacity. He may be found at 1000 Defense Pentagon, Washington, DC 20301-1000.

14. The Department of Defense (hereinafter “DoD”) is an agency of the United States, headquartered at 1000 Defense Pentagon, Washington, DC 20301-1000.

15. Officers and employees of the DoD and FBI, currently unknown, were responsible for creating a false criminal history record stating that Ms. Rosales was arrested when in fact she was not. They are sued in their individual capacities. Upon information and belief, they may be found at the addresses for the DoD and FBI listed above.

III. JURISDICTION & VENUE

16. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1346, and 1361, 5 U.S.C. § 552a(g)(1), and 5 U.S.C. §§ 702–704.

17. Defendants’ sovereign immunity has been waived pursuant to 5 U.S.C. § 702 and/or the Privacy Act. 5 U.S.C. § 552a(g).

18. Venue lies in this district pursuant to 28 U.S.C. § 1391 because Ms. Rosales was a

resident of this judicial district at the original time of filing.

IV. FACTUAL BACKGROUND

A. The Military's History of Creating False Arrest Records.

19. The military's long history of falsely reporting that soldiers have been arrested or received into custody is traceable to the aftermath of the Sutherland Springs mass shooting in 2017. After an Air Force veteran named Devin Kelley managed to obtain a firearm and killed 26 people, investigators discovered that the Air Force had failed to "ensure that Kelley's fingerprints and criminal history were submitted to the FBI's Criminal Justice Information Services ('CJIS') Division for inclusion in its databases." *Holcombe v. United States*, No. SA-18-CV-555-XR, 2021 WL 2821125, at *1 (W.D. Tex. July 6, 2021).

20. Thereafter, the DoD Inspector General recommended the review of and implementation of programs to enhance the procedures for collection and submission of fingerprints and criminal histories to the FBI's CJIS Division.¹ But in typical military fashion, all the services overcompensated, especially the Army.

21. Army Regulation ("AR") 195-2 establishes numerous investigative and information gathering responsibilities of all personnel assigned to Army CID elements, including compliance with Department of Defense Instruction ("DoDI") 5505.11.

22. DoDI 5505.11 prescribes procedures for DoD law enforcement to report criminal history data. This policy requires that, upon a determination of probable cause, all service members who are investigated for a range of offenses listed in the Uniform Code of Military Justice ("UCMJ") as punishable by imprisonment must have their fingerprints and criminal history record

¹ REPORT OF INVESTIGATION INTO THE UNITED STATES AIR FORCE'S FAILURE TO SUBMIT DEVIN KELLEY'S CRIMINAL HISTORY INFORMATION TO THE FEDERAL BUREAU OF INVESTIGATION, https://media.defense.gov/2018/Dec/07/2002070069/-1/-1/1/DODIG-2019-030_REDACTED.PDF (last visited Oct. 19, 2023).

information (“CHRI”) collected.

23. DoDI 5505.11 also instructs that Federal Document (FD)-249 (“Arrest and Institution Fingerprint Card”) be used to collect this information.² A completed FD-249 form must then be transmitted to the FBI’s CJIS Division, which operates the National Crime Information Center (“NCIC”), a national criminal justice information system that administers various databases.

24. Of course, nothing in DoDI 5505.11 directs or authorizes that any branch of the armed forces report to the FBI that a service member has been arrested if that did not in fact occur. But that is exactly what happens. Once the FD-249 form is transmitted to the FBI, the service member—who may have been investigated for virtually any type of UCMJ infraction but never arrested—is listed in the FBI’s NCIC system as having been arrested.

25. Upon information and belief, the FBI automatically lists service members as having been “arrested” in NCIC databases upon receipt of the FD-249 form. Of note, the FD-249 is titled “Arrest and Institution Fingerprint Card”³ and states that it “is to be used for criminal justice purposes, such as incident to arrests and incarcerations.”⁴

26. Whether a service member was arrested or not, the FBI makes that arrest record available to various governmental and nongovernmental entities. *See* 28 C.F.R. § 20.33.

27. The creation of false arrest records in the FBI’s NCIC databases is no secret. In fact, it is an admitted problem. After years of complaints, Army leaders held a press conference on November 3, 2022, to acknowledge the problem and admitted that false criminal history reports had been created for *at least* 900 people.

² *See Exhibit C*, FD-249 (providing a blank copy of the form).

³ *See* ARREST AND INSTITUTION FINGERPRINT CARD, <https://www.fbi.gov/file-repository/fd-249.pdf/view> (last visited October 26, 2023).

⁴ *See Ex. C*, at 2.

28. Gregory Ford, Director of Army CID, was one of the Army representatives to discuss Army CID's failures. As he stated, "[I]n many instances, those [procedures] were not followed. So, that is why we're saying they inaccurately, inappropriately entered into that III system, which reflects as an arrest."⁵

29. National media outlets have estimated that Army CID has created false criminal history and arrest record entries on upward of 2,400 Soldiers, veterans, and civilians.⁶ Ms. Rosales is one of those individuals.

B. Army CID and the FBI Created a False and Illegal Arrest Record for Ms. Rosales.

30. In the 12 years before she was falsely listed as having been arrested, Ms. Rosales worked as an analyst supporting various law enforcement agencies, including the Drug Enforcement Administration ("DEA"). In 2017, Ms. Rosales attended and graduated from the DEA's Basic Intelligence Research Specialist Course. She loved her work and hoped for permanent employment with a federal law enforcement agency.

⁵ Exhibit A, Director Ford Transcript, at 15.

⁶ See Hanna Lambert, *Congress is 'afraid' to stand up for soldiers slapped with false arrest record*, Rep. Gohmert says, FOX NEWS (Oct. 19, 2022), <https://www.foxnews.com/politics/congress-afraid-stand-soldiers-slapped-false-arrest-record-rep-gohmert>; Cory Dickstein, *Army CID agents wrongly entered hundreds of soldiers into criminal database during recruiting scandal investigation*, STARS AND STRIPES (Nov. 3, 2022), <https://www.stripes.com/branches/army/2022-11-03/army-soldiers-fbi-recruiting-investigation-7912895.html>; Hannah Lambert, *'Looking for scalps': Green Beret never charged with a crime ends up with murder on background check*, FOX NEWS (Sep. 23, 2022), <https://www.foxnews.com/us/looking-scalps-green-beret-never-charged-crime-ends-murder-background-check>.



Wendy Davis (left), a Drug Enforcement Administration intelligence research specialist, stands with Army National Guard Staff Sgt. Denise Rosales (right).

31. From June 2020 to February 2021, Ms. Rosales deployed to Kuwait as a federalized member of the Texas Army National Guard.

32. While in Kuwait, Ms. Rosales held a birthday party for her husband. Because the birthday party involved the alleged presence of alcohol, Ms. Rosales was investigated for misconduct and received an administrative reprimand.

33. Ms. Rosales was never “informally” or formally arrested, taken into custody, or received into custody. Absolutely no authority found probable cause to arrest or take Ms. Rosales into custody, no probable cause affidavit was ever created, and there is no record of Ms. Rosales being arraigned, “magistrated,” or having an initial appearance in any military or civilian court. Ms. Rosales was never restricted, confined to quarters, suspended from duties, or disarmed. When all was said and done, Ms. Rosales received no punishment or sanction other than an administrative reprimand.⁷

34. Despite never being arrested or taken into custody, the FBI’s NCIC records—based on information transmitted by Army CID—states that she was “ARRESTED OR RECEIVED”

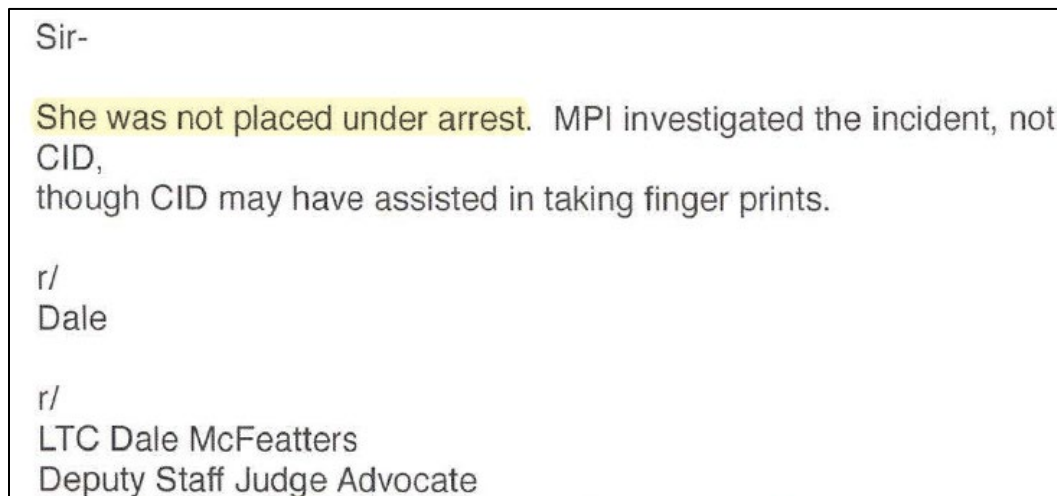
⁷ **Exhibit B**, Rosales Affidavit, at 1.

on “2021/01/05” related to “AGENCY CASE-132-2020-MPI709” and a charge of “FALSE OFFICIAL STATEMENTS.”⁸

C. The Army Refuses to Amend Ms. Rosales’s Records.

35. Although AR 195-2 requires notice to all persons listed in subject and/or suspect fields that the FD-249 cards collected have been submitted to the FBI CJIS Division “and the fact that such use may have an impact upon their military or civilian careers,” Ms. Rosales received no such notice.

36. Once Ms. Rosales learned about the false arrest record, she first tried to correct the problem by having her counsel contact an Army JAG officer. In a May 4, 2021 email, Lieutenant Colonel Dale McFeatters confirmed that Ms. Rosales had not been arrested.⁹



Sir-

She was not placed under arrest. MPI investigated the incident, not CID, though CID may have assisted in taking finger prints.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate

37. However, Ms. Rosales’s records were not corrected, so Ms. Rosales sought relief through the Privacy Act (5 U.S.C. § 552a) and relevant Army regulations. By a letter dated November 1, 2021, Ms. Rosales, through counsel, wrote to Army CID seeking amendment of her FBI NCIC arrest record on the grounds that it was not accurate.¹⁰

⁸ See **Exhibit D**, FBI Record, p. 4–5 (Ms. Rosales’s FBI Record is a record pursuant to 5 U.S.C. § 552a(a)(4)).

⁹ See **Exhibit E**, LTC McFeatters Admission, at 4.

¹⁰ **Exhibit F**, Privacy Act Amendment Request.

38. Ms. Rosales's request for amendment fell on deaf ears. By a letter dated November 16, 2021, Army CID denied Ms. Rosales's request for amendment. The denial letter did not respond to Ms. Rosales's grounds for amendment.¹¹

39. By a letter dated November 22, 2021, Ms. Rosales, through counsel, appealed from this denial of amendment.¹²

40. On or about December 21, 2022, over a year after submitting the appeal, Ms. Rosales received a letter from the Office of the General Counsel of the DoA denying her appeal. The denial letter did not respond to Ms. Rosales's grounds for amendment.¹³

41. Further, on a conference call on January 19, 2023, and in an email dated January 20, 2023, counsel for Ms. Rosales brought her false NCIC arrest record to the attention of Colonel Lance B. Turlington—Command Judge Advocate of U.S. Army Human Resources Command—and Colonel Robert G. Levy, Jr.—Chief Counsel of Army CID.¹⁴

42. Yet again, Ms. Rosales's efforts went nowhere. In an email dated February 2, 2023, Colonel Turlington pointed counsel for Ms. Rosales to the same appeals process through Army CID that she had already engaged in and exhausted.¹⁵

43. Colonel Turlington's email also explains the simple solution to correcting this false and illegal NCIC record. Army CID could simply pull back the FD-249 fingerprint card that it used to create the entry in the FBI's NCIC database.¹⁶ However, Army CID has refused to implement this solution.

¹¹ **Exhibit G**, Denial of Privacy Act Amendment Request.

¹² **Exhibit H**, Privacy Act Appeal.

¹³ **Exhibit I**, Denial of Privacy Act Appeal.

¹⁴ *See* **Exhibit J**, JAG Officer Email Exchange, at 2.

¹⁵ *See* **Ex. J**, at 4 (the redacted information pertains to other citizens with false criminal history records initiated by Army CID).

¹⁶ *See id.*

D. Ms. Rosales has Suffered Irreparable Harm Because of her False, Illegal Arrest Record.

44. As a result of the false criminal history record and bureaucratic intransigence, Ms. Rosales has suffered numerous occupational and personal detriments.

45. First, Ms. Rosales lost her position of employment supporting the DEA.¹⁷

46. Further, Ms. Rosales has not been able to return to her full-time Active Duty Operational Support (“ADOS”) position in the Texas Army National Guard. Ms. Rosales’s inability to return to ADOS hinders her ability to obtain an active-duty retirement.¹⁸

47. The false criminal history report hinders and negates Ms. Rosales’s ability to obtain future employment in the public sector and requisite security clearances. Indeed, Ms. Rosales’s false arrest record has prevented her from serving as an intelligence analyst and from obtaining access to at least one Texas Department of Public Safety facility.¹⁹

48. Ms. Rosales has and will continue to suffer other additional adverse effects stemming from her false, illegal arrest record, including but not limited to extreme mental anxiety, harm to her reputation, and her inability to act as a chaperone at various functions for her children.

49. To remedy and avoid these and further harms, Ms. Rosales must ask this Court for relief requiring Defendants to cease the dissemination of and expunge her false, illegal arrest record. If needed, Defendants are capable of adhering to other existing procedures or the creation of new, more accurate procedures to ensure that relevant, accurate criminal histories are appropriately disseminated.

¹⁷ See **Ex. B**, at 1.

¹⁸ See **Ex. B**, at 1–2.

¹⁹ See **Ex. B**, at 2.

V. CLASS ALLEGATIONS

50. Ms. Rosales brings her Due Process claims individually and on behalf of a class defined as follows:

All U.S. Army service members who have been reported as having been arrested or received into custody by any Department of Defense organization to the FBI, but who were not actually arrested or received into custody from six years prior to the filing of the complaint through the date of judgment.

51. The Class is ascertainable because class members can be easily identified through records maintained by Defendants. For example, records of all service members who were reported to the FBI as having been arrested or being received into custody may be easily cross-referenced with a list of all service members who were actually booked, processed, and arrested for an alleged offense.

52. The Class is so numerous that joinder of all members is impracticable. On information and belief, the number of Class Members is over 2,400. The joinder of Class members is impractical due to the size and relatively modest value of each individual claim.

53. There are questions of law or fact common to the class that predominate over any questions affecting only individual Class Members. Those common questions of law and fact include, but are not limited to, the following:

- a. Whether Defendants have a policy and practice of falsely reporting to the FBI that Class Members have been arrested or received into custody when in fact they have not;
- b. Whether Defendants' policies and procedures for correcting or amending Class Members' false arrest records are adequate;
- c. Whether Defendants and unknown federal officers arbitrarily failed to correct Ms. Rosales's and the Class Members' records that falsely report arrests despite knowing they were in fact not placed under arrest or taken into custody.

54. The claims or defenses of Ms. Rosales are typical of the claims or defenses of the class in that they arise out of the same factual and legal theories. Typicality does not require that the claims of the class members be identical to the claims of a class representative, only that the disputed issues are as central to a named plaintiff's claims as they are to the class members she seeks to represent. Indeed, the relief sought would benefit all class members in an identical manner.

55. Ms. Rosales will fairly and adequately protect the interests of the class. Like other Class Members, she has suffered from the creation, maintenance, and dissemination of false arrest records. She has no interests that are antagonistic to any Class Member and retained competent counsel to advance the interests of both herself and the Class.

56. Defendants have acted on grounds applicable to the Class, thereby making final injunctive and declaratory relief with respect to the Class as a whole appropriate. Specifically, Defendants have admittedly failed to correct records falsely stating that thousands of service members have been arrested or taken into custody when they in fact have not.

CLAIMS FOR RELIEF

COUNT I

Violation of the Fifth Amendment—Procedural & Substantive Due Process (Against All Defendants)

57. Ms. Rosales and the Class incorporate by reference all preceding paragraphs. Ms. Rosales brings this claim individually and on behalf of all Class Members.

58. The Due Process Clause of the Fifth Amendment guarantees that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONST. amend. V. “The touchstone of due process is protection of the individual against arbitrary action of government.” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974). This is so “whether the fault lies in a denial of fundamental procedural fairness ... or in the exercise of power without any reasonable

justification in the service of a legitimate governmental objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 845-46 (1998).

59. As set forth herein, Defendants’ actions have deprived Ms. Rosales and Class Members of their liberty and property interests within the meaning of the Due Process Clause of the Fifth Amendment. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). Specifically, and among other interests, Ms. Rosales and Class Members have a constitutionally protected interest in “a person’s good name, reputation, honor, or integrity.” *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971). Ms. Rosales and Class Members have lost jobs, job opportunities, security clearances, had their promotions held up, suffered the stigma of having an arrested record, and have had a change in legal status from a law-abiding citizens and service members to persons with a (nonexistent) criminal history.

A. Procedural Due Process

60. “Procedural due process rules are meant to protect persons not from the deprivation, but from the *mistaken or unjustified* deprivation of life, liberty, or property.” *Carey v. Piphus*, 435 U.S. 247, 259 (1978). That is precisely the problem here. Defendants’ constitutionally deficient procedures have resulted in the creation, maintenance, and distribution of false arrest records that wrongfully deprive Ms. Rosales and Class Members of their protectible interests.

61. For example, DoDI 5505.11 results in lumping together individuals like Ms. Rosales, who was not arrested, with individuals who were arrested. That is because the instruction fails to provide any parameters for distinguishing between persons who were arrested or not arrested. Rather, for every person for whom a determination of probable cause is made—arrested or not—Defendants create a fingerprint card indicating an arrest and transmit it to the FBI where it becomes an arrest record.

62. DoDI 5505.11 also states that “when required, a Privacy Act statement will be provided to each individual whose personal data is collected....” However, when that is “required” is a mystery. Ms. Rosales received no such Privacy Act statement, or any other notice that she would be falsely reported in official government documents as having been arrested.

63. Defendants do not provide (or do not follow) adequate procedures to oppose, correct, or challenge the creation, maintenance, and dissemination of false arrest records once created. Indeed, despite Ms. Rosales’s repeated formal and informal requests that the Defendants correct, withdraw, or otherwise stop disseminating false arrest records, her requests have fallen on deaf ears. Defendants continue to report, maintain, and distribute her false arrest record to current and prospective employers, among other persons and entities.

64. As a result of Defendants’ failures to implement any adequate procedures, Ms. Rosales and the Class have lost employment opportunities, suffered the stigma of having an arrested record, have had a change in legal status from law-abiding citizens and service members to persons with inaccurate or nonexistent arrest records and criminal history, and they will continue to be harmed unless they are afforded prompt remedy.

65. Ms. Rosales and the Class are entitled to declaratory and injunctive relief under this claim pursuant to 28 U.S.C. §§ 2201–2202.

B. Substantive Due Process

66. By creating, maintaining, and disseminating false records of arrest, and refusing to correct those records, Defendants’ actions are arbitrary, unreasonable, or have no relationship to a legitimate government interest.

67. Clearly, Defendants have no legitimate governmental interest in falsely reporting in national databases that service members have been arrested or received into custody. On the

contrary, Defendants have an interest in maintaining complete, accurate, and current records as required under various federal laws, rules and regulations. *See, e.g.*, 28 C.F.R. § 20.37; 18 U.S.C. § 1001 (making it a crime to enter a materially false statement into a government record).

68. Given the fact that Defendants are well aware of this pervasive problem, their refusal to stop, remedy, or correct this practice is arbitrary, unreasonable, and shocks the conscience .

69. Indeed, Defendants' refusal to indulge Ms. Rosales's requests to correct, amend, or expunge her arrest records is especially shocking because Defendants *know* that she was not arrested. An Army JAG Officer admitted as much as to counsel for Ms. Rosales, and Army CID admitted that these errors occurred Army-wide. Despite Ms. Rosales's repeated requests that the Army correct the record and that the FBI stop disseminating it, Defendants continue to report and distribute the false arrest record to current and prospective employers, among other persons and entities.

70. Yet, despite having actual knowledge of the falsity of Ms. Rosales's records and the records of Class Members, Defendants persist in their refusal to do anything about the problem. This head-in-the-sand approach can only be described as arbitrary and unreasonable at best, or bureaucratic bad faith or ill-will at worst.

71. Ms. Rosales and the Class are entitled to declaratory and injunctive relief under this claim pursuant to 28 U.S.C. §§ 2201–2202.

COUNT II
Violation of the Privacy Act, 5 U.S.C. § 552a
(Against the Department of the Army, Christine Wormuth, the Department of the Army
Criminal Investigation Division, and Gregory Ford)

72. Ms. Rosales incorporates by reference all preceding paragraphs.

73. The Privacy Act, 5 U.S.C. § 552a, “safeguards the public from unwarranted

collection, maintenance, use and dissemination of personal information contained in agency records ... by allowing an individual to participate in ensuring that his records are accurate and properly used.” *Jacobs v. National Drug Intelligence Center*, 423 F.3d 512, 515 (5th Cir.2005) (quoting *Henke v. U.S. Dep't of Commerce*, 83 F.3d 1453, 1456 (D.C.Cir.1996)). The Privacy Act encompasses causes of action for (1) an agency’s failure to amend an individual's records pursuant to his request; (2) an agency’s failure to maintain an individual's records with accuracy, relevance, timeliness, and completeness; and (3) an agency’s failure to comply with other Privacy Act provisions, which has “an adverse effect on the individual. *See id*; 5 U.S.C. § 552a(g)(1)(A)-(D).

74. Ms. Rosales is authorized to bring claims pursuant to the Privacy Act because she has exhausted her administrative remedies. 5 U.S.C. § 552a (g)(1)(A). Defendants have made a final determination not to amend her records and/or failed to make such a review in conformity with the Privacy Act’s requirements. 5 U.S.C. § 552a(d)(2)-(3).

A. Failure to Amend

75. In her record amendment request and subsequent appeals, Ms. Rosales offered Lieutenant Colonel Dale McFeatters’s admission that she was never arrested. Indeed, there is no evidence she was ever arrested because it never happened.

76. Despite clear evidence that Ms. Rosales was never arrested, Defendants failed to make a review in accordance with Ms. Rosales’s request, yet still managed to make a final determination not to amend her false arrest record in accordance with her request.

77. As a result of Defendants’ determination not to amend Ms. Rosales’s false arrest record or to even make a review in accordance with her request, Ms. Rosales has suffered the harms alleged herein.

78. Thus, Ms. Rosales is entitled to have this Court order Defendants to amend her false

arrest record in accordance with her request or in such other way as the Court may direct. *See* 5 U.S.C. § 552a(g)(2)(A).

79. Ms. Rosales is further entitled to attorney's fees and other litigation costs for this claim pursuant to U.S.C. § 552a(g)(2)(B).

B. Failure to Maintain Records with Accuracy.

80. Ms. Rosales's arrest record is inaccurate—it says she was arrested when she was not.

81. Defendants intentionally and willfully refused and failed to correct Ms. Rosales's arrest record despite knowing that it was false.

82. The accuracy of Ms. Rosales's arrest record is necessary to assure fairness in decisions relating to her ability to access certain data or physical locations in relation to her employment, or even to be employed at all.

83. Ms. Rosales has already suffered harm as result of her employer's reliance the inaccurate arrest record: she was unable to work as an intelligence analyst because she could not access certain information, she was unable to gain access to at least one Texas Department of Public Safety facility, she lost employment supporting the Drug Enforcement Administration, and she has been denied any opportunity to return to ADOS status.

84. Accordingly, under this claim, Ms. Rosales is entitled to monetary relief for actual damages—but no less than \$1,000—sustained as a result of Defendants' refusal and failure to amend her inaccurate arrest record. *See* 5 U.S.C. § 552a(g)(4)(A).

85. In addition, Ms. Rosales is entitled to the costs of the action and reasonable attorney's fees as determined by this Court. *See* 5 U.S.C. § 552a(g)(4)(B).

COUNT III

**Violations of the Administrative Procedure Act, 5 U.S.C. § 701, *et seq.*
(Against All Defendants)**

86. Ms. Rosales incorporates by reference all preceding paragraphs.

87. The APA provides that “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702. Judicial review is appropriate because Defendants’ actions constitute “final agency action for which there is no other adequate remedy.” 5 U.S.C. § 704.

88. The APA prohibits agency actions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” 5 U.S.C. § 706(2)(A). In addition, the APA prohibits agency actions that are “contrary to constitutional right, power, privilege, or immunity” or are “without observance of procedure required by law.” 5 U.S.C. § 706(2)(C) & (D).

89. First, whether motivated by bureaucratic expediency or recklessness, Defendants’ actions in creating records that falsely report a servicemember as having been arrested are arbitrary, capricious, an abuse of discretion, and are otherwise not in accordance with the law.

90. Second, Defendants’ failure and refusal to amend or correct Ms. Rosales’s records is arbitrary, capricious, and an abuse of discretion. Defendants have absolutely no basis in fact or law for such refusal. Since at least May 2021, Defendants have had actual knowledge that Ms. Rosales was never arrested and have been asked to correct the inaccuracy. Correcting or expunging Ms. Rosales’s false arrest record requires little effort on the part of Defendants. But by simply refusing to do anything about Ms. Rosales’s false records, Defendants apparently insist on maintaining a course of action that violates Ms. Rosales’s rights and federal laws.

91. Statutes and regulations that contain duties and procedures meant to protect Ms.

Rosales, and which Defendants violated, include but are not limited to:

- a. The FBI's duty to ensure the accuracy of the criminal records it maintains under 28 U.S.C. § 534 and regulations promulgated thereunder;
- b. Army CID's duty to ensure the accuracy and completeness of the information on fingerprint cards and CHRI that it sends to the FBI pursuant to 28 C.F.R. § 20.33 and AR 195-2; and
- c. Army CID's duty to provide some notice to Ms. Rosales pursuant to DoDI 5505.11 and AR 195-2.

92. Under this claim, Ms. Rosales is entitled to have this Court compel agency action unlawfully withheld pursuant to 5 U.S.C. § 706(1) and to have this Court hold unlawful and set aside inappropriate agency action pursuant to 5 U.S.C. § 706(2).

COUNT IV
Bivens Claim

(Against Unknown Officers and Employees of the Department of Defense and Federal Bureau of Investigation, in their individual capacities)

93. Ms. Rosales incorporated by reference all preceding paragraphs.

94. Upon information and belief, Defendants created, maintained, and distributed Ms. Rosales's false, illegal arrest record despite knowing that she was never arrested, in violation of her due process rights under the Fifth Amendment. Then, they proceeded to discriminate against Ms. Rosales in regards to her employment as a result of that false record.

95. In effect, Defendants constructively arrested, or seized, Ms. Rosales without the prerequisite due process afforded to her under the Fifth Amendment and then punished her for it.

96. As a result, Ms. Rosales lost her position of employment, has and will continue to suffer extreme mental anxiety while her false arrest records exists, and will suffer further harm.

97. Ms. Rosales is further entitled to monetary relief under this claim.

DECLARATORY RELIEF

98. Ms. Rosales is entitled to declaratory relief pursuant to 28 U.S.C. §§ 2201-2202.

Ms. Rosales asks the Court to enter judgment declaring as follows:

- a. Defendants' protocols and processes for reporting servicemember criminal history records to the FBI or other civilian law enforcement agencies—including but not limited to DoDI 5055.11 and AR 195-2—fail to comply with due process because they lack adequate procedural safeguards;
- b. Defendants' protocols and processes for correcting or amending false and inaccurate servicemember criminal history records and records of arrest fail to comply with due process and/or the Privacy Act;
- c. DoD Instruction 5505.11's identical procedure to handle fingerprint cards and CHRI for persons who have and have not been arrested is contrary to constitutional right, arbitrary, capricious, and an abuse of discretion;

INJUNCTIVE RELIEF

99. Ms. Rosales asks the Court to issue permanent injunctions against, enjoining Defendants, as well as their officers and employees, agents, delegates, and authorized representatives, as follows:

- a. Prohibit Defendants from creating, maintaining, and distributing arrest records for persons who were not arrested;
- b. Cease distribution of Ms. Rosales's and the Class's false arrest records, return the FD-249s (or alternate form) to the contributing DoD Law Enforcement Agency, and delete the offending arrest records from all NCIC databases;
- c. Defendants shall create adequate procedures to allow persons to challenge the creation, maintenance, and distribution of false arrest records; and
- d. Defendants shall create adequate procedures to ensure that arrest records are created only for persons who were arrested.

ATTORNEY'S FEES

100. Plaintiff requests payment of her reasonable attorney's fees and costs. Plaintiff is entitled to recover reasonable and necessary attorney's fees under 28 U.S.C. § 2412 and 5 U.S.C. § 552a(g)(2)(B) & (4)(B).

VI. PRAYER FOR RELIEF

For these reasons, Plaintiff asks the Court to award judgment in her favor, including

- a. declaratory and injunctive relief;
- b. monetary relief;
- c. Prejudgment and post-judgment interest as allowed by law;
- d. Attorney's fees;
- e. Costs of suit; and
- f. All other relief, in law and in equity, to which Plaintiff may be justly entitled.

Dated: October 26, 2023

Respectfully submitted,

O'CONNELL WEST, PLLC

/s/ Douglas K. O'Connell

Douglas K. O'Connell

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ATTORNEYS FOR DENISE A. ROSALES

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on October 26, 2023, on all counsel of record.

/s/ William B. Thomas
William B. Thomas

EXHIBIT A

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- AUDIO TRANSCRIPTION -
ARMY'S RECRUITER ASSISTANCE PROGRAM
INVESTIGATION OF RECORDS REVIEW

1 HOST: Today's meet at the roundtable we'll
2 discuss the Army's Recruiter Assistance Program,
3 investigation of records review.

4 On today's panel is Mr. Gregory D. Ford,
5 Director, US Army Criminal Division; Lieutenant General
6 Douglas L. Stitt, US Army Deputy Chief of Staff G-1;
7 Ms. Denise Council-Ross, US Army Principal Deputy General
8 Counsel; and Brigadier General David E. Mendelson, US
9 Army Assistant Judge Advocate General for Military Law
10 and Operations.

11 Today's meet at roundtable is on the record
12 with all statements attributable to the speaking
13 official. We will begin with opening comments by the
14 officials and then open the discussion for questions and
15 answers.

16 Please keep your microphone muted and wait
17 on me to call you. Please identify yourself by name and
18 agency when speaking. Due to time constraints, we do ask
19 that each media professional limit themselves to one
20 question with one follow-on.

21 I'll now call on Director Ford for his
22 opening statements.

23 DIRECTOR FORD: Good morning, everybody,
24 and thank you for taking the time to be with us.

25 I am Gregory Ford, the Director of Army

1 Criminal Investigation Division. Apologize upfront; I'm
2 getting over a bit of a cold, so I am happy to repeat if
3 I need to.

4 But joining me today, as previously
5 mentioned, are the US Army G-1, the Army's Office of the
6 General Counsel and the Office of the Army Judge Advocate
7 General. We are here today to discuss the comprehensive
8 review of investigations conducted in relation to a
9 number of Army recruiting programs.

10 Between 2012 and 2016, CID conducted over
11 900 investigations pertaining to the National Guard
12 Recruiting Assistance Program, G-RAP, and the Army
13 Reserve Recruiting Assistance Program, R-RAP, based upon
14 information that these programs may have been vehicles
15 for fraudulent claims against the Government.

16 In the spring of 2022, CID was contacted by
17 a number of individuals potentially impacted by these
18 investigations who requested to be removed from criminal
19 databases. As a result of that, those inquiries, CID
20 reviewed the associated cases and identified the
21 deficiencies therein.

22 Based on the results of those reviews, in
23 June, I directed a broader review of a hundred percent of
24 the investigations related to the RAP programs to include
25 all associated subjects in order to ensure that

1 appropriate standards were applied, particularly with
2 regard to placing these individuals in criminal
3 databases.

4 Since June 2022, CID has been reviewing
5 these cases from both an evidentiary and administrative
6 procedural standpoint. CID is fully committed to
7 identifying and correcting all records to align with the
8 documentation and evidence present in the case file.

9 CID takes our responsibilities in this area
10 very seriously, and it is clear that we fell short in a
11 large number of these investigations. We are dedicated
12 to completing a review of our processes, policies, and
13 training to ensure that such errors do not reoccur.

14 These efforts will be undertaken as part of
15 a larger transformation of CID and raising of the level
16 up to the federal law enforcement standard. If
17 individuals believe they were impacted by these
18 investigations, they can visit our CID website, our crime
19 records center section. We expect to have the majority
20 of these investigations reviewed and corrected by the end
21 of 2022, though a few may extend into early 2023 based on
22 the complexity of the information in the files.

23 Thank you. I'll turn it over to my
24 colleagues.

25 HOST: Okay. General Stitt.

1 GENERAL STITT: Good morning. Lieutenant
2 General Doug Stitt. I'm the Army G-1. Really appreciate
3 you-all taking the time to participate in this panel
4 today. And as Director Ford indicated, we are now going
5 to take the documentation that CID has uncovered and
6 transpose this and work with individuals and treat them
7 with dignity and respect because we take this seriously;
8 and we want to assist and facilitate each one of these
9 individuals that's been impacted by this review and work
10 with them across each of their individual actions as it
11 pertains to their military record.

12 I look forward to your questions. Thank
13 you.

14 HOST: Okay. And then for our combined
15 legal team, General Mendelson.

16 GENERAL MENDELSON: Good morning. My name
17 is Brigadier General David Mendelson. Next to me is
18 Ms. Denise Council-Ross. Our legal teams have been fully
19 engaged in the assessment process, and we will remain
20 integrated with the teams as the review continues.

21 Thank you.

22 HOST: Okay. We'll now transition to
23 questions and answers. Again, please stay on mute until
24 I call on you and limit yourself to a question and one
25 follow-up for the sake of time.

1 We'll begin with Lolita Baldor, Associated
2 Press.

3 MS. BALDOR: Hi. Good morning. Lolita
4 Baldor with AP.

5 A quick question on the review so far: Can
6 you tell us, Mr. Ford, how many reviews your staff has
7 gotten through so far?

8 There was an indication that more than half
9 or -- were found to be wrongly done. So can you give us
10 a sense of how many have been done so far and what the
11 results have been to date?

12 Thank you.

13 DIRECTOR FORD: Sure. Thank you. Again,
14 it's Greg Ford, CID. Two things: We have conducted
15 approximately 900 reviews. And when I say "reviews,"
16 those are not necessarily of cases. I'm talking about
17 reviews of individual subjects. So that's how we're
18 breaking it down. And what we're finding is the majority
19 of those are requiring some form of correction.

20 HOST: Okay. Thank you, sir.

21 MS. BALDOR: Thank you.

22 HOST: Okay. CBS, David Martin or Mary
23 Walsh, did you join? And, if so, do you have a question?

24 MR. MARTIN: This is David Martin. Can you
25 hear me?

1 DIRECTOR FORD: Yeah, we can, David.

2 MR. MARTIN: What were the shortcomings?

3 DIRECTOR FORD: I'm sorry. I missed that.

4 Could you repeat that one more time?

5 MR. MARTIN: You said that you -- you found

6 shortcomings in the majority of the 900 cases reviewed.

7 What were the shortcomings?

8 DIRECTOR FORD: Sorry about that. Thank

9 you for repeating it.

10 So, again, Greg Ford, CID.

11 The shortcomings are related to the
12 criteria used for entering individuals into the criminal
13 databases. That is really the crux of this review. Was
14 there enough information and were the right procedures
15 followed in order to justify entering individuals in the
16 criminal databases?

17 So when I say there were shortcomings,
18 that -- that was the shortcoming in that people were
19 inappropriately entered into the databases. And, again,
20 just to clarify, with these cases occurring between 2012
21 and 2016, largely conducted by reservists activated to
22 conduct these cases, we are left to look at these
23 historical case files; and we are basing our decisions
24 solely on the information and evidence contained in those
25 case files; and that is where we are looking for the

1 information necessary and the evidence necessary to
2 warrant entry into those databases. If those are -- if
3 they're not present in the files, we are taking
4 corrective action.

5 MR. MARTIN: So the bottom line is that
6 several hundred so far were wrongly listed in criminal
7 databases?

8 DIRECTOR FORD: So what I will tell you
9 right now is we -- we have between 100 and 200 ready for
10 notification, which means we have taken some corrective
11 action on those. And I earlier said we've reviewed, you
12 know, around approximately 900. The difference there is
13 where we are in the process of actually correcting those
14 records. It's a multistep process. So that's the reason
15 for the gap there. But yes. We certainly expect -- we
16 have between 100 and 200 now. We certainly expect, as we
17 finish the corrective action on each piece there, we will
18 have several hundred to notify at least that -- that
19 we're tracking right now.

20 HOST: Okay.

21 MS. WALSH: This is Mary Walsh. Can I just
22 jump in with a question?

23 HOST: Mary --

24 MS. WALSH: What is -- what is the impact
25 of being listed in the criminal database?

1 HOST: Mary. Excuse me, Mary. Your
2 organization has already been given a question and a
3 follow-up.

4 MS. WALSH: All right. Never mind. Okay.

5 HOST: Let -- let us just get through this,
6 and we -- we have others we haven't gotten to yet.

7 So Stars and Stripes, Corey Dickstein.

8 MR. DICKSTEIN: Yeah. Actually, I -- I'd
9 like to have y'all answer Mary's question first.

10 DIRECTOR FORD: Sure. Thank you. Again,
11 Greg Ford, CID.

12 So the two databases we're talking about is
13 DCII, which is the Defense Clearance and Investigations
14 Index. That is a database that someone gets entered to
15 when they are titled as part of a CID investigation and,
16 actually, any military criminal investigative
17 organization investigation.

18 "Titling" is an administration process,
19 routine recordkeeping and identification, and does not
20 indicate any sort of guilt or innocence. In fact,
21 there's a Department of Defense instruction that
22 prohibits the use of mere titling for any adverse action.

23 "Indexing" is the process by which an
24 individual is enrolled in the Interstate Identification
25 Index, or III, which is an FBI administrative database.

1 And, now, that enrollment can trigger certain impact; and
2 right now, it is impossible for us to know how an
3 individual may or may not have been impacted by that,
4 which is part of the reason we're directing folks to our
5 website so they can -- they can identify themselves if
6 they believe they've been impacted. Again, we are -- we
7 are conducting a hundred percent review, but we are
8 limited in some of the contact information we have. It's
9 very dated for some of these individuals. So we are
10 encouraging people to identify that website.

11 And some of the potential impacts of that
12 indexing in III, that database is queried when people
13 apply for certain jobs, when people apply to be
14 volunteers in certain organizations, would be queried for
15 security clearances, different things like that.

16 HOST: Okay. Hannah Lambert, Fox News
17 Digital.

18 MR. DICKSTEIN: I've got a follow-up. Oh,
19 but I've got -- I've got a follow-up.

20 HOST: Oh, okay. Go ahead with your
21 follow-up.

22 MR. DICKSTEIN: Yeah. I'm curious to know.
23 Those that have been impacted -- I mean, you just talked
24 about for jobs, for security clearances, and that kind of
25 stuff. What -- are -- are you guys prepared to

1 financially help these people or -- or, you know, what --
2 what are you guys going to do going forward for people
3 that have wrongly been denied jobs or security
4 clearances, things like that?

5 GENERAL STITT: Good morning.

6 DIRECTOR FORD: Go ahead. Go ahead,
7 General.

8 GENERAL STITT: Director Ford, good
9 morning.

10 And, sir, good morning. Doug Stitt here.

11 So speaking within the realm of military
12 personnel, as individuals are going through and we
13 receive information back from Director Ford and CID, we
14 will facilitate them and -- and treat individuals
15 individually as, you know, do they have a question
16 regarding their personnel file and what impacts it had
17 potentially on promotion, separation, updating their
18 record. And then if they decide to, if they have
19 separated from the military, come forward with a claim,
20 we would facilitate and assist them as well.

21 HOST: Director Ford, did you have anything
22 else?

23 DIRECTOR FORD: I do not. I was simply
24 going to cover the CID piece, which was the corrective
25 action, and then hand it over to General Stitt. So

1 nothing additional.

2 HOST: Thank you, sir.

3 Okay. Now let's go to Hannah Lambert, Fox
4 News Digital.

5 MS. LAMBERT: Good morning. I have a
6 question and a follow-up.

7 So my first question is just zeroing in on
8 the numbers a little bit more. You mentioned that you're
9 conducting a 100 percent review. How many cases is that
10 since we know at least 2,500 people were titled?

11 DIRECTOR FORD: So, again, I'll try to
12 redirect you away from the cases and go to the
13 individuals because that's really how we are looking at
14 these is on an individual subject basis.

15 So prioritizing these 1,900 individuals
16 were potentially indexed in III, and that's where we're
17 focussing -- that's why we're focussing that additional
18 effort on those 1,900 is because, as I laid out, while
19 titling, you know, is not meant to have any impact, the
20 indexing potentially could have impact. So we are
21 focussing on those and making those corrective actions as
22 quickly as possible as well as any associated titling
23 corrections.

24 But, you know, you're right. The number
25 you referenced, the larger number of -- of individuals

1 titled, we are also looking at those. So we will be
2 looking at the entire universe of G-RAP cases. That's
3 what I directed back in June.

4 And, again, we anticipate being able to get
5 there and complete the review and the corrective actions
6 by the end of the calendar year, potentially stretching a
7 little bit into '23.

8 MS. LAMBERT: Thank you.

9 My follow-up question was just can you
10 provide any additional clarity on how the titling system
11 ended up showing that many of these soldiers and veterans
12 were received into custody, or it shows up as an arrest
13 on their record, but received into custody when most of
14 them say they were not received into custody?

15 (Off The Record Zoom Discussions)

16 HOST: Can everyone mute their mics,
17 please?

18 (Off The Record Zoom Discussions)

19 HOST: Excuse me. We've got a hot mic.
20 Can you please mute your microphones?

21 (Off The Record Zoom Discussions)

22 HOST: Hello. The group talking about
23 e-mail, can you please mute your microphone?

24 Okay. Apologies for that.

25 Hannah, can you go back to your question,

1 please?

2 MS. LAMBERT: Yeah. No worries.

3 My question was just any additional clarity
4 on how the titling system resulted in so many people
5 having their records show that they were received into
6 custody when many individuals say they were never
7 received into custody?

8 DIRECTOR FORD: Sure. Again, Greg Ford,
9 CID.

10 And that's where there's a distinction
11 between the titling and the indexing. So the titling
12 itself was not -- does not reflect anybody being in
13 custody or reflecting a criminal history. That is simply
14 the administrative action of an individual being titled
15 in a CID investigation.

16 The reflection of an arrest or being taken
17 into custody comes in the III database, the indexing
18 portion of this; and that's where we're looking at the
19 protocols that were -- that were utilized to make those
20 decisions. We're reviewing it from, you know, the two
21 perspectives of: Was there enough information and
22 evidence in the file that would lead to the potential for
23 an arrest? And then were the appropriate procedures
24 followed, which, in this instance, would be an actual
25 arrest to warrant people being put in that database? And

1 that's where, in many instances, those were not followed.
2 So that is why we're saying they were inaccurately,
3 inappropriately entered into that III system, which
4 reflects that as an arrest.

5 HOST: Okay. Thank you, sir.

6 Task & Purpose, Haley.

7 MS. BRITZKY: Hi. Yes. Thank you for
8 doing this.

9 I just want to clarify. You're saying that
10 CID is, like, proactively looking at all of these cases,
11 but also that soldiers should be submitting reviews. So,
12 you know, who -- who has the responsibility here? Is
13 this up to soldiers to submit a review, or is CID, even
14 if they don't, going to be reviewing all of these cases,
15 and is there a deadline for them to submit those requests
16 to review?

17 DIRECTOR FORD: Thank -- thank you for that
18 question. I would like to clarify that, too.

19 Yes. We are absolutely doing the reviews
20 regardless of whether or not anybody contacts us of the
21 entire universe of G-RAP cases. We have taken that on
22 ourself. That's our responsibility to do.

23 What we are doing in addition is providing
24 a mechanism for individuals that, you know, believe they
25 may have been impacted to also contact us on our website,

1 provide some updated information, specifically mailing
2 information and contact information, so that as we
3 complete these reviews, we have a good mechanism to
4 contact those individuals and advise them, you know, of
5 what, if any, corrective action was taken with regard to
6 their individual situation.

7 It also allows us to pass that information
8 over to General Stitt's team of the G-1 side and others
9 to prepare for any follow-up conversations that may occur
10 between that individual and the -- the larger Army.

11 MS. BRITZKY: Got it, and if -- if I can
12 follow up: When this was first reported I think earlier
13 this year, there was some skepticism among, you know,
14 people who said they were impacted by this that this
15 would be carried out correctly and, you know, probably
16 understandably so, they were a little weary of -- of, you
17 know, would this actually help them, would this, you
18 know, discover discrepancies, things like that. So I
19 guess what assurances can you give about those folks who
20 are -- (audio distortion).

21 (Off The Record Zoom Discussions)

22 HOST: Again, please mute your mics. We've
23 got someone with a hot mic.

24 (Off The Record Zoom Discussions)

25 HOST: Okay. Haley, apologies. Please --

1 please continue, Haley.

2 DIRECTOR FORD: No, I got the question. No
3 need to repeat.

4 HOST: Okay.

5 DIRECTOR FORD: Yeah. No, I appreciate the
6 question.

7 So yes. Look, we are a -- we are a federal
8 law enforcement agency; and it is important that people
9 view us as responsible, conducting independent
10 investigations, and willing to take and accept
11 responsibility when we make mistakes.

12 So on these cases, again, I can't really go
13 into the whys the mistakes occurred because we're --
14 we're limited to looking at the files and what's
15 contained in them, but it's clear that we made mistakes.
16 So on our own volition, we are taking responsibility for
17 that, directing the review, and will make all the
18 necessary corrections to those records.

19 I mentioned earlier. This is part of the
20 larger transformation of CID, and the organization is
21 undergoing a lot of change right now to really model
22 ourselves in that traditional federal law enforcement
23 model and provide the Army with the superior felony
24 criminal investigative support it needs and deserves.

25 So again, for us, this is just what we must

1 do and should do as a law enforcement agency. If we
2 identify we did something wrong, we need to be upfront
3 about it and take the action to fix it.

4 MS. BRITZKY: Thank you.

5 HOST: Okay. We'll go to Military Times.

6 MR. LEHRFELD: Hi. Thank you. This is
7 Jonathan Lehrfeld with Military Times.

8 I wanted to ask how you think this
9 investigation compares to other CID investigations in
10 terms of its scope. Would you say that other
11 investigations have risen to this standard and scope or
12 is this still the most prominent?

13 DIRECTOR FORD: So I will -- I will caveat
14 -- this is Greg Ford again, CID.

15 I will caveat this with I have been a
16 member of CID for about a year and a half. So you're
17 working with a limited -- you know, limited direct
18 involvement here. But from what, you know, I've learned
19 about the organization and -- and from what we've started
20 to do here in terms of the transformation this -- this
21 certainly was a significant effort, a large number
22 investigations at one time, you know. And so in the
23 terms of effort, yes, it was a -- it was a large effort,
24 but we have other significant cases at any given point in
25 time.

1 We've had very significant cases throughout
2 the history of the organization. And we absolutely, you
3 know, are and should be capable of conducting an
4 investigation with the span and scope of this.

5 So, yeah, I mean, it was large. I don't
6 want to minimize that at all. It is certainly a lot of
7 effort, a lot of personnel dedicated to it at the time,
8 but not something that should be completely foreign to
9 us. And, again, I would have confidence, you know, today
10 in our ability to conduct an investigation of this size
11 and scope.

12 HOST: Jonathan, any follow-up?

13 MR. LEHRFELD: No. Thank you. I
14 appreciate it.

15 HOST: Okay. Let's go to Elizabeth Howe
16 with Defense One.

17 MS. HOWE: Hi. Thanks for doing this.

18 I was wondering about, you mentioned
19 several databases, organization systems. Have these
20 investigations revealed any issues with the data tracking
21 itself? Do these programs and softwares and databases
22 need to be updated? Are they -- or was it truly just
23 human error when -- when these issues occurred? Has the
24 software and the programs, do any changes need to be made
25 to how CID tracks this type of data?

1 Thanks.

2 DIRECTOR FORD: Thank you. Greg Ford, CID
3 again.

4 No. We have not -- our reviews have not
5 indicated any concerns with the systems themselves, the
6 databases themselves. And, again, the III, the databases
7 used for titling, that is a Department of Defense system
8 that all the military criminal investigative
9 organizations feed into. And III is a FBI-managed system
10 that all law enforcement across the country -- state,
11 local, and federal -- feed into.

12 So, no, this -- this was not a problem
13 detected with the systems themselves or any corrections
14 that need to be made there. This -- this was our
15 individuals and their assessment of the information,
16 evidence, and the protocols that led to individuals being
17 inappropriately indexed. So the systems themselves, no
18 concerns there.

19 MS. HOWE: Great. And then I did have one
20 follow-up about this program kicked off because of severe
21 recruiting shortcomings at the time, kind of like the
22 ones the Army is facing now.

23 Does the -- the renewal of investigations
24 have anything to do with the current recruiting
25 environment? Has the Army considered, like, how this

1 investigation might impact current recruiting, anything
2 like that? Thanks.

3 DIRECTOR FORD: So I will let General Stitt
4 speak to the recruiting piece. But, again, I'll just
5 reiterate: For us, in CID, the review of these cases
6 predates the discussion -- or certainly, it was my
7 knowledge predates the discussion about future use of the
8 programs. This was related to the few initial contacts
9 we got and requests to review individual investigations
10 that led us to identify broader concerns and then mandate
11 the -- the full review of the G-RAP cases. So that's
12 what caused this review. But I'll -- I'll kick it over
13 to General Stitt.

14 GENERAL STITT: Good morning. I
15 appreciate the question.

16 I think the Army National Guard is
17 reviewing their referral program to isolate and access
18 control measures that were lacking in the previous
19 program, but the Army National Guard -- and would refer
20 you to the NGB to get more details as they have the
21 direct oversight and responsibility.

22 HOST: Okay. Thank you, sir. Hey, we want
23 -- we have time for one final question. Steve Beynon,
24 Military.com, did you join?

25 MR. BEYNON: Yeah. I'm here. Hey, thanks.

1 Thanks for doing this. And real quick: How many actual
2 fraud cases were found? That's how this investigation
3 actually started.

4 DIRECTOR FORD: So in terms of action that
5 was taken on the universe of G-RAP investigations, there
6 was 137 prosecutions -- sorry. Again, Greg Ford, CID
7 again -- 137 prosecutions and 286 or so adverse
8 administrative actions.

9 MR. BEYNON: Thank you. Thank you. And
10 just -- just real quick: It -- it is a lot of people got
11 entangled in this stuff that potentially ruin their
12 lives. Is the Army prepared for any litigation on this?
13 I think the screened class action lawsuit -- and then I
14 know Stitt talked about it a little bit, but I didn't
15 really get a clear answer.

16 Is there any compensation set aside that
17 the Army can give these people?

18 BRIGADIER GENERAL MENDELSON: Brigadier
19 General David Mendelson. Thank you for the question.

20 In -- in terms of individuals impacted by
21 these record corrections, the website as been referenced
22 multiple times will be a primary source for those to
23 reach out to to get guidance in order to assist them,
24 wanting and determining where they think they may have
25 been impacted and getting relief, whether it be an

1 evaluation which they determine or think may have
2 impacted them moving forward or promotion, all that
3 information is online and the team is ready to assist in
4 that regard.

5 In -- in terms of what -- what the longer
6 term impacts are, at this point this time, we are just
7 trying to do the right thing. This is about dignity and
8 respect for those who have been maybe wrongly noted in
9 the FBI index. It's correcting the record and then
10 providing a forum and an opportunity for those
11 individuals to seek the remedy they need.

12 Thank you.

13 HOST: Okay. Thank you, everyone. Hey, we
14 are running short on time.

15 So to conclude this, I'll call on Director
16 Ford for any closing remarks he has.

17 DIRECTOR FORD: Thank you.

18 And I just want to thank everybody again
19 for joining us today and very much appreciate the
20 questions and the opportunity to shed additional light on
21 the areas that maybe needed a little more clarity.

22 So I just want to end by saying CID is
23 committed to being transparent and correcting any errors
24 made, and that is -- that is not just for this set of
25 investigations, but we are committed to transparency

1 across the board as we conduct our investigative mission.
2 And I again will encourage you to direct folks to the CID
3 crime record center website where they can identify
4 themselves as potentially impacted and provide some of
5 that information that will allow us to quickly and easily
6 get ahold of them to pass on the information relative to
7 their individual portion of this review.

8 So, again, thank you for everybody's time
9 and very much appreciate your questions today.

10 HOST: Thank you, Director Ford. So for
11 the media, the Army media relations team is available for
12 follow-ons. That information is on the advisory. Thank
13 you. Have a great day.

14 (End of Recording)

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1 REPORTER'S CERTIFICATE

2 STATE OF TEXAS)

3 COUNTY OF TRAVIS)

4

5 I, Delani Long, Certified Shorthand Reporter,
6 certify that the foregoing is a correct transcription, to
7 the best of my ability, from the audio recording of the
8 proceedings as provided to me.

9 I further certify that I am neither counsel
10 for, related to, nor employed by any of the parties to
11 the action in which this audio was transcribed, and
12 further that I am not financially or otherwise interested
13 in the outcome of the action.

14 I further certify that the total cost for the
15 preparation of this Reporter's Record is \$150.00 to be
16 paid by Mr. Doug O'Connell.

17 WITNESS MY OFFICIAL HAND this the 29th day of
18 November, 2022.

19

20 /S/ Delani Long
21 Delani Long, Texas CSR 09278
22 Expiration Date: 6/30/2023
23 Certified Shorthand Reporter
24 Travis County, Texas
25 Austin, Texas
delanilongcsr@yahoo.com
940.389.7739

EXHIBIT B

STATE OF TEXAS

§

COUNTY OF Hidalgo

§

§

AFFIDAVIT

BEFORE ME, the undersigned authority, personally appeared DENISE ROSALES, who, after being by me duly sworn stated the following under oath:

My name is DENISE ROSALES. I am over the age of eighteen (18) years, and I am competent to make this affidavit. The statements contained herein are true and correct.

The fact that the Army and the FBI has created an illegal and false criminal history report on me has caused a great deal of stress, pain and damage to my life and the lives of my family.

I was never arrested or apprehended by Army Military Police, Criminal Investigators, commissioned officer, warrant officer, petty officer, or noncommissioned officer.

I was never taken into custody or received into custody by any government official.

During my overseas deployment I was never confined to quarters, relieved of my duties, or disarmed.

The government's criminal history record falsely showing that I was arrested has created havoc in my life. After returning from my overseas deployment, I wasn't able to return to my full-time position working for the Texas Army National Guard because of the criminal history reporting that I was arrested. On or about April 07, 2021, I was terminated from my National Guard job in the Joint Counterdrug Task Force because of the criminal record. The Task Force provides Soldiers to support various law enforcement organizations to assist in narcotics investigations and cases. I worked on this Task Force for 12 years and loved my job and undeniably supported the mission. While on Counterdrug, I assisted U.S. Marshals, Texas Department of Public Safety and DEA as a criminal analyst. As a criminal analyst, I assisted with complex drug related investigations, identified, and analyzed raw data and conducted pattern analysis. While on mission, I was chosen from the entire Task Force to attend and successfully complete the DEA Basic Intelligence Research Specialist Training at Quantico, completing a 384 hours course. I have assisted in the coordination and execution of DEA's Red Ribbon campaign and supported 20 National Prescription Drug Take Back events. I supported over 100 Red Ribbon presentations and have spread the word of drug prevention awareness to over 50,000 students. I participated in the Texas Challenge Academy to help reclaim the potential of at-risk youth through education, training, and mentoring.

Losing my Activity Duty Operational Support (ADOS) position has interfered with my ability to obtain an active-duty retirement from the Texas National Guard. I have approximately 15 years of active-duty time and am unable to obtain another ADOS or

full time Guard position due to my criminal record. Currently, I am unable to apply for another position to complete my 20 years of active-duty time which hinders my ability to retire from the National Guard with full benefits immediately upon retirement.

After losing my Counterdrug position, I have been reluctant to apply for other Guard employment to save myself from the embarrassment of bringing up my false criminal history and being told I do not qualify for the position. There have been Title 10, ADOS and federal positions that I am qualified for but will never get the opportunity to apply for due to the false criminal history.

Due to lack of employment opportunities due to the false criminal history, I was forced to find work on Operation Lone Star on the Texas-Mexico border. This meant selling my home and re-locating myself and the family to the Rio Grande Valley. This false criminal history still haunts me in my current position. When I arrived at the border, my background history was run, and I was notified that I would have to get the Battalion Commander's permission to stay on the mission. I was also notified that I would not be able to work as an Intelligence Analyst, as I was not authorized access to certain databases and pertinent information which would hinder my ability to properly conduct my duties. My supervisors had to assign me as a logistics NCO in order to keep me on the mission. An opportunity came up for me to be transferred to one of the line companies as a Platoon Sergeant (Supervisor). However, part of the supervisor duties required access to Texas Department of Public Safety facility and when they ran my background for a key card, I was denied access based on the false criminal history. As a result, I was unable to properly conduct my duties and eventually moved to another position. I am constantly questioning what other positions I will be denied due to my false criminal history.

I have been notified by military security clearance managers that when my Top-Secret Clearance comes up for renewal, my clearance may be revoked due to the false criminal history. My attorney, who regularly represents military service members and civilians with security clearance issues tells me in his experience my clearance will certainly be suspended / revoked. Of course, I will be given the opportunity to explain that I really wasn't ever arrested or received into custody, but who will take my word over the plain text of the FBI's criminal history?

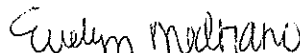
I am concerned that I cannot attend school field trips with my child because they run background checks on parents that sign up to chaperone school events. I understand that school officials will see that according to the FBI criminal history record, I have been arrested. Further, since there is no disposition to the arrest or received into custody school officials will logically assume I really have a pending criminal case that is unresolved. Since I can't disprove something that never happened, I will not be able to adequately explain to the school officials that I was not actually arrested and there is no pending case. School officials, like most people, will assume the government and especially the FBI can be relied on to keep accurate records on citizens. This causes me a great deal of sadness and anxiety because I would very much like to attend school events and field trips, but I am extremely concerned that I will end up embarrassing my 2

children. I want my children to be proud of their mother and not ask why I cannot attend a school event.

On top of everything else, I have had to spend thousands of dollars fighting this injustice. WITNESS MY HAND this 21st day of August 2023.


DENISE ROSALES

SWORN TO AND SUBSCRIBED BEFORE ME on this the 21st day of August 2023.


Notary Public
Commission expires: 7/12/25

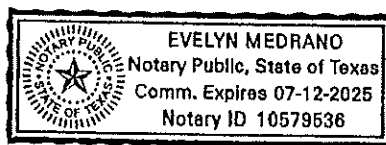


EXHIBIT C

LEAVE BLANK

CRIMINAL

(STAPLE HERE)

LEAVE BLANK

Case 1:23-cv-00440-RP

Document 23-3 Filed 10/26/23 Page 2 of 3

STATE USAGE

NFF SECOND

SUBMISSION

APPROXIMATE CLASS

AMPUTATION

SCAR

FD-249 (Rev. 11-1-20)

1110-0046

STATE USAGE

LAST NAME, FIRST NAME, MIDDLE NAME, SUFFIX

SIGNATURE OF PERSON FINGERPRINTED

SOCIAL SECURITY NO.

LEAVE BLANK

ALIASES/MAIDEN

LAST NAME, FIRST NAME, MIDDLE NAME, SUFFIX

UNIVERSAL CONTROL NO.

STATE IDENTIFICATION NO.

DATE OF BIRTH MM DD YY

SEX

RACE

HEIGHT

WEIGHT

EYES

HAIR

R. THUMB

2. R. INDEX

3. R. MIDDLE

4. R. RING

5. R. LITTLE

6. L. THUMB

7. L. INDEX

8. L. MIDDLE

9. L. RING

10. L. LITTLE

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY

L. THUMB

R. THUMB

RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

FEDERAL BUREAU OF INVESTIGATION, UNITED STATES DEPARTMENT OF JUSTICE

CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, CLARKSBURG, WV 26306

This FD-249 is to be used for criminal justice purposes, such as incident to arrests and incarcerations.

The Applicant form (FD-258) contains applicable Paperwork Reduction Act and Privacy Act notices and should be used for noncriminal justice purposes.

JUVENILE FINGERPRINT SUBMISSION YES <input type="checkbox"/> TREAT AS ADULT YES <input type="checkbox"/>		DATE OF ARREST MM DD YY	ORI CONTRIBUTOR ADDRESS REPLY YES <input type="checkbox"/> DESIRED?		
SEND COPY TO: (ENTER ORI)		DATE OF OFFENSE MM DD YY	PLACE OF BIRTH (STATE OR COUNTRY)		COUNTRY OF CITIZENSHIP
MISCELLANEOUS NUMBERS		SCARS, MARKS, TATTOOS, AND AMPUTATIONS			
		RESIDENCE/COMPLETE ADDRESS			CITY
OFFICIAL TAKING FINGERPRINTS (NAME OR NUMBER)		LOCAL IDENTIFICATION/REFERENCE		PHOTO AVAILABLE? YES <input type="checkbox"/>	PALM PRINTS TAKEN? YES <input type="checkbox"/>
EMPLOYER: IF U.S. GOVERNMENT, INDICATE SPECIFIC AGENCY. IF MILITARY, LIST BRANCH OF SERVICE AND SERIAL NO.			OCCUPATION		
CHARGE/CITATION 1.			DISPOSITION 1.		
2.			2.		
3.			3.		
ADDITIONAL			ADDITIONAL		
ADDITIONAL INFORMATION/BASIS FOR CAUTION			STATE BUREAU STAMP		

EXHIBIT D

1-787a (Rev. 01-23-2015)



U.S. Department of Justice
Federal Bureau of Investigation
Criminal Justice Information Services Division
Clarksburg, WV 26306

DATE: 05-03-2021

DENISE ALYSIA ROSALES
8507 GLEN COURT
SAN ANTONIO, TX 78239

The Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation has completed the following fingerprint submission:

Subject Name

DENISE ALYSIA ROSALES

Search Completed Result 05-03-2021 E202112300000102711

A SEARCH OF THE FINGERPRINTS PROVIDED BY THIS INDIVIDUAL HAS REVEALED PRIOR ARREST DATA AT THE FBI. THIS DOES NOT PRECLUDE FURTHER CRIMINAL HISTORY AT THE STATE OR LOCAL LEVEL.

Social Security number: [REDACTED]

The result of the above response is only effective for the date the submission was originally completed. For more updated information, please submit new fingerprints of the subject.

In order to protect Personally Identifiable Information, as of August 17, 2009, FBI policy has changed to no longer return the fingerprint cards. This form will serve as the FBI's official response.

This Identity History Summary (IdHS) is provided pursuant to 28 CFR 16.30-16.34 solely for you to conduct a personal review and/or obtain a change, correction, or updating of your record. **This IdHS is not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33.**

Any questions may be addressed to the Customer Service Group at (304) 625-5590. You may also visit the Web site at www.fbi.gov for further instructions.

A handwritten signature in black ink, appearing to read "S.A. Rago", is located in the bottom right area of the page.

Scott A. Rago
Section Chief
Biometric Services Section
Criminal Justice Information
Services Division

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
TCN CS10100L10124172
AGENCY CASE USARTD09Z

THE FBI IDENTIFIED YOUR TEN-PRINT SUBMISSION WHICH
CONTAINED THE FOLLOWING DESCRIPTORS:

NAME ROSALES, DENISE ALYSIA

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

STATE ID	BIRTH PLACE
NULL	[REDACTED]

OTHER BIRTH DATES	SCARS-MARKS-TATTOOS	SOCIAL SECURITY	MISC NUMBERS
NONE	NONE	[REDACTED]	NONE

ALIAS NAME(S)
NONE

END OF COVER SHEET

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z

NCN E2021123000000102711

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

THIS RECORD IS SUBJECT TO THE FOLLOWING USE AND DISSEMINATION RESTRICTIONS

UNDER PROVISIONS SET FORTH IN TITLE 28, CODE OF FEDERAL REGULATIONS (CFR), SECTION 50.12, BOTH GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES AUTHORIZED TO SUBMIT FINGERPRINTS AND RECEIVE FBI IDENTIFICATION RECORDS MUST NOTIFY THE INDIVIDUALS FINGERPRINTED THAT THE FINGERPRINTS WILL BE USED TO CHECK THE CRIMINAL HISTORY RECORDS OF THE FBI. IDENTIFICATION RECORDS OBTAINED FROM THE FBI MAY BE USED SOLELY FOR THE PURPOSE REQUESTED AND MAY NOT BE DISSEMINATED OUTSIDE THE RECEIVING DEPARTMENT, RELATED AGENCY OR OTHER AUTHORIZED ENTITY. IF THE INFORMATION ON THE RECORD IS USED TO DISQUALIFY AN APPLICANT, THE OFFICIAL MAKING THE DETERMINATION OF SUITABILITY FOR LICENSING OR EMPLOYMENT SHALL PROVIDE THE APPLICANT THE OPPORTUNITY TO COMPLETE, OR CHALLENGE THE ACCURACY OF, THE INFORMATION CONTAINED IN THE FBI IDENTIFICATION RECORD. THE DECIDING OFFICIAL SHOULD NOT DENY THE LICENSE OR EMPLOYMENT BASED ON THE INFORMATION IN THE RECORD UNTIL THE APPLICANT HAS BEEN AFFORDED A REASONABLE TIME TO CORRECT OR COMPLETE THE INFORMATION, OR HAS DECLINED TO DO SO. AN INDIVIDUAL SHOULD BE PRESUMED NOT GUILTY OF ANY CHARGE/ARREST FOR WHICH THERE IS NO FINAL DISPOSITION STATED ON THE RECORD OR OTHERWISE DETERMINED. IF THE APPLICANT WISHES TO CORRECT THE RECORD AS IT APPEARS IN THE FBI'S CJIS DIVISION RECORDS SYSTEM, THE APPLICANT SHOULD BE ADVISED THAT THE PROCEDURES TO CHANGE, CORRECT OR UPDATE THE RECORD ARE SET FORTH IN TITLE 28, CFR, SECTION 16.34.

- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

END OF PART 1 - PART 2 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 2

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7

NAME RODRIGUEZ, DENISE ALYSIA FBI UCN 159489VF7 DATE REQUESTED 2021/05/03

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR

[REDACTED]

BIRTH PLACE

[REDACTED]

PATTERN CLASS LS LS LS LS LS LS AU LS AU AU CITIZENSHIP UNITED STATES

1-ARRESTED OR RECEIVED 2021/01/05
AGENCY-US ARMY QUANTICO (VAUSA1400)
AGENCY CASE-132-2020-MPI709

FINGERPRINT INFORMATION
BSI/40343276012
PRINT DATE/2021/01/05

PHOTO INFORMATION - 3 PHOTOS AVAILABLE
BSI/40343276010
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276011
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276009
POSE/ DESC/
PHOTO DATE/2021/01/05

PALMPRINT INFORMATION
BSI/40343276008
PRINT DATE/2021/01/05

END OF PART 2 - PART 3 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 3

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7
NAME USED-ROSALES, DENISE ALYSIA
CHARGE 1-107-B--FALSE OFFICIAL STATEMENTS

RECORD UPDATED 2021/05/03



ALL ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON
FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

THE USE OF THIS RECORD IS REGULATED BY LAW. IT IS PROVIDED FOR OFFICIAL
USE ONLY AND MAY BE USED ONLY FOR THE PURPOSE REQUESTED.

EXHIBIT E

Thursday, October 7, 2021 at 11:24:01 Central Daylight Time

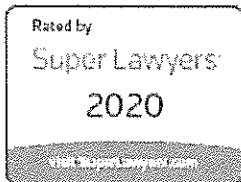
Subject: Email Chain Rosales
Date: Wednesday, October 6, 2021 at 3:17:27 PM Central Daylight Time
From: Doug O'Connell
To: Ashley Haisler
Attachments: PastedGraphic-2.tiff, sl-badge-s-w-2020.png, wln@mail.dal

Ashley: Email chain for Rosales' privacy act correction petition.

McFeatters admits she was not arrested.

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200
Austin, TX. 78701 | 512.547.7265 |
[Website](#) | [Linkedin](#) | [Facebook](#)



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Begin forwarded message:

From: "McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)" <dale.c.mcfeatters.mil@mail.mil>
Subject: RE: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)
Date: May 4, 2021 at 9:56:04 AM CDT
To: "doug@dougoconnell.com" <doug@dougoconnell.com>
Cc: "Martin, Heather M MAJ USARMY ASG KUWAIT (USA)" <heather.m.martin64.mil@mail.mil>, "ashley@dougoconnell.com" <ashley@dougoconnell.com>

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

Mr. O'Connell-

You are free to contact US Army Criminal Investigations Command and apprise them of your concerns

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfatters.mil@mail.mil
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com>
Sent: Tuesday, May 4, 2021 3:27 PM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dalc.c.mcfatters.mil@mail.mil>
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA) <heather.m.martin64.mil@mail.mil>; Ashley Haisler <ashley@dougoconnell.com>
Subject: Re: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser

Dale:

Thank you.

May I presume that now that you've identified a false entry in an official record you will be contacting MPI/CID to have the record corrected?

It's possible that this is an honest mistake however, it's equally possible that this was an intentional act, which would constitute a felony

Please advise.

Vr
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200 < [x-apple-data-detectors://1](#) >
Austin, TX, 78701 < [x-apple-data-detectors://1](#) > | 512.547.7265 <
[tel.512.547.7265](tel:512.547.7265) > | Website < [Caution-http://dougconnell.com/](#) > |
Linkedin
< [Caution-https://www.linkedin.com/in/doug-o-connell-91050327/](#) > |
Facebook <
[Caution-https://www.facebook.com/dougconnellandassociates/](#) >

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waiver of any attorney-client, work product, or other applicable privilege.

On May 4, 2021, at 3:56 AM, McFeatters, Dale C LTC USARMY
CENTCOM
CJTF OIR
(USA) <dale.c.mcfeatters.mil@mail.mil> wrote:

CLASSIFICATION: UNCLASSIFIED

Sir-

She was not placed under arrest. MPI investigated the incident, not
CID,
though CID may have assisted in taking finger prints.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfeatters.mil@mail.mil
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com>
Sent: Tuesday, May 4, 2021 2:48 AM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)
<dale.c.mcfeatters.mil@mail.mil>
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)
<heather.m.martin64.mil@mail.mil>; Ashley Haisler

<ashley@dougoconnell.com>

Subject: Re: [Non-DoD Source] SFC Denise Rosales (UNCL ASSII-1-D)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Date:

Thank you very much.

The attached criminal history - NCIC report shows that SFC Rosales was arrested by CID on January 5, 2021 for the offense that resulted in her GOMR.

I am skeptical she was actually arrested (or received into custody). Could you please clarify. And if she was arrested then I assume you have magistration documents that you can provide.

Thank you

vr
Doug

Douglas K O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200
Austin, TX, 78701 | 512.547.7265 | Website <

Caution-Caution-<http://dougoconnell.com/> > I LinkedIn <
Caution-Caution-<https://www.linkedin.com/in/doug-o-connell-9105032//> >
|
Facebook <
Caution Caution <https://www.facebook.com/dougoconnellandassociates/>

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On May 3, 2021, at 5:57 AM, McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dale.c.mcfeatters.mil@mail.mil> <
Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil>> > wrote:

CLASSIFICATION: UNCLASSIFIED

Sir-

It's my understanding the investigation was pending a forensic analysis with USACIL when we last received an update. I can't speak for SFC Rosales' current command but they likely have an interest in the outcome of the investigation.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> >
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com <
Caution-Caution-<mailto:doug@dougoconnell.com> > >
Sent: Friday, April 30, 2021 11:40 PM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)
<dale.c.mcfatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> > >
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)
<heather.m.martin64.mil@mail.mil <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > >
Subject: Re: [Non DoD Source] SFC Denise Rosales (UNCLASSIFIED)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dale:

Re: SFC Denise Rosales

Thank you. It appears that the CID investigation is still being reported as "open." This may be due to alcohol bottles being submitted for fingerprint analysis?

Because the CID investigation is not officially closed, Rosales cannot return to her full time job.

Is there anything you can do to get this matter closed out. Your command is finished with this matter, and Rosales is now back in Title 32 status.

Thank you.

vr
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U S Army Special Forces

505 West 12th Street - Suite 200
Austin, TX, 78701 | 512 547 7265 | Website <
<Caution-Caution-Caution-<http://dougconnell.com/>> | LinkedIn
<Caution-Caution-Caution-<https://www.linkedin.com/in/doug-o-connell-9105032>
7/

| Facebook

<Caution-Caution-Caution-
<https://www.facebook.com/dougconnellandassociates>

/>

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On Apr 23, 2021, at 9:00 AM, McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dale.c.mcfeatters.mil@mail.mil> <dale.c.mcfeatters.mil@mail.mil> <dale.c.mcfeatters.mil@mail.mil> <dale.c.mcfeatters.mil@mail.mil> wrote:

CLASSIFICATION: UNCLASSIFIED

Mr O'Connell-

CJTF-OIR does not plan on taking any further action against SFC Rosales beyond the reprimand already issued. It's possible she could face further administrative action by the Texas National Guard though I'm unaware of her unit's intentions. Please let me know if you need anything else.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> > <
Caution Caution Caution <mailto:dale.c.mcfatters.mil@mail.mil> <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> > >
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com <
Caution-Caution-<mailto:doug@dougoconnell.com> > <
Caution-Caution-Caution-<mailto:doug@dougoconnell.com> <
Caution-Caution-<mailto:doug@dougoconnell.com> > > >
Sent: Thursday, April 22, 2021 7:56 PM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)
<dale.c.mcfatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> > <
Caution-Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> <
Caution-Caution-<mailto:dale.c.mcfatters.mil@mail.mil> > > >
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)
<heather.m.martin64.mil@mail.mil <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > <
Caution Caution Caution <mailto:heather.m.martin64.mil@mail.mil> <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > > >
Subject: [Non DoD Source] SFC Denise Rosales

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

LTC McFeatters:

I'm representing SFC Rosales, along with Heather Martin. I'm obviously new to the case so I'm trying to get up to speed.

Can you tell me the current posture of this matter?

Thank you.

vr
Doug O'Connell

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200
Austin, TX, 78701 | 512.547.7265 | Website <
Caution-Caution-Caution-Caution-<http://dougconnell.com/> <
Caution-Caution-Caution-Caution-<http://dougconnell.com/> > > |
Linkedin <
Caution-Caution-Caution-Caution-<https://www.linkedin.com/in/doug-o-connell-91050327/>
1050327/<
Caution Caution Caution Caution https://www.linkedin.com/in/doug_o_connell_91050327/

| Facebook <

Caution-Caution-Caution-Caution-<https://www.facebook.com/dougconnellandassociates/>
<
Caution-Caution-Caution-Caution-<https://www.facebook.com/dougconnellandassociates/>

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CLASSIFICATION: UNCLASSIFIED

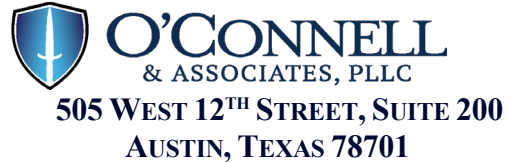
CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

EXHIBIT F



Douglas K. O'Connell
Telephone: (512) 547-7265
E-Mail: Doug@DougOConnell.com

November 1, 2021

United States Army
Criminal Investigation Division
Crime Records Center
Russell Knox Building
Quantico, VA 22134-2253

Via Email – usarmy.belvoir.usacidc.mbx.crcfoiapa@mail.mil

Re: Privacy Act Request to Change False Record Entry

Dear Sir or Madam:

This is a request submitted pursuant to the Privacy Act, 5 U.S.C. § 552a, on behalf of my client SFC Denise Rosales.

Your agency is responsible for generating an incorrect National Crime Information Center (NCIC) record. Specifically, as you can see on the attached NCIC report, my client was purportedly **arrested or received into custody by your agency on January 5, 2021 for the charge of false official statements.** This assertion is patently false. My client has never been arrested or placed into custody by Army CID or any other law enforcement agency—ever. In the attached e-mails, LTC Dale McFeatters—Deputy Staff Judge Advocate for Combined Joint Task Force – Operation Inherent Resolve—confirms SFC Rosales was not arrested pursuant to this charge. In an e-mail dated May 4, 2021, LTC McFeatters said, “She [SFC Rosales] was not placed under arrest.”

Likewise, SFC Rosales was never charged by any civilian or military agency or court with any criminal violation. I demand that you delete this NCIC entry with the FBI.

Pertinent information regarding my client:

Name: Denise Alysia Rosales

Social Security Number: [REDACTED]

Date of Birth: [REDACTED]

If your records indicate that SFC Rosales was in fact arrested, please consider this a Freedom of Information Act request for all records showing SFC Rosales was taken before a magistrate as required by law. Please provide court docket information, booking information, rights warning, and a copy of the warrant or complaint signed by a Judge as required by the Federal Rules of Criminal Procedure and the Uniform Code of Military Justice.

I look forward to a written acknowledgment of this request for amendment within 10 working days and a final response within 30 working days of the date this request is received in accordance with 5 U.S.C. § 552a(d) and AR 25-22, paragraph 8-1. Please acknowledge this request via email to: Ashley@DougOConnell.com.

Respectfully,



Doug O'Connell

Attachments:

1. NCIC Record
2. Attorney Authorization
3. E-mails from LTC Dale McFeatters



U.S. Department of Justice
Federal Bureau of Investigation
Criminal Justice Information Services Division
Clarksburg, WV 26306

DATE: 05-03-2021

DENISE ALYSIA ROSALES
8507 GLEN COURT
SAN ANTONIO, TX 78239

The Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation has completed the following fingerprint submission:

Subject Name

DENISE ALYSIA ROSALES

Search Completed Result 05-03-2021 E202112300000102711

A SEARCH OF THE FINGERPRINTS PROVIDED BY THIS INDIVIDUAL HAS REVEALED PRIOR ARREST DATA AT THE FBI. THIS DOES NOT PRECLUDE FURTHER CRIMINAL HISTORY AT THE STATE OR LOCAL LEVEL.

Social Security number: [REDACTED]

The result of the above response is only effective for the date the submission was originally completed. For more updated information, please submit new fingerprints of the subject.

In order to protect Personally Identifiable Information, as of August 17, 2009, FBI policy has changed to no longer return the fingerprint cards. This form will serve as the FBI's official response.

This Identity History Summary (IdHS) is provided pursuant to 28 CFR 16.30-16.34 solely for you to conduct a personal review and/or obtain a change, correction, or updating of your record. **This IdHS is not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33.**

Any questions may be addressed to the Customer Service Group at (304) 625-5590. You may also visit the Web site at www.fbi.gov for further instructions.

A handwritten signature in black ink, appearing to read "S.A. Rago", is located in the bottom right area of the page.

Scott A. Rago
Section Chief
Biometric Services Section
Criminal Justice Information
Services Division

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
TCN CS10100L10124172
AGENCY CASE USARTD09Z

THE FBI IDENTIFIED YOUR TEN-PRINT SUBMISSION WHICH
CONTAINED THE FOLLOWING DESCRIPTORS:

NAME ROSALES, DENISE ALYSIA

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

STATE ID	BIRTH PLACE
NULL	[REDACTED]

OTHER BIRTH DATES	SCARS-MARKS-TATTOOS	SOCIAL SECURITY	MISC NUMBERS
NONE	NONE	[REDACTED]	NONE

NONE	NONE	[REDACTED]	NONE
------	------	------------	------

ALIAS NAME(S)
NONE

END OF COVER SHEET

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z

NCN E2021123000000102711

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

THIS RECORD IS SUBJECT TO THE FOLLOWING USE AND DISSEMINATION RESTRICTIONS

UNDER PROVISIONS SET FORTH IN TITLE 28, CODE OF FEDERAL REGULATIONS (CFR), SECTION 50.12, BOTH GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES AUTHORIZED TO SUBMIT FINGERPRINTS AND RECEIVE FBI IDENTIFICATION RECORDS MUST NOTIFY THE INDIVIDUALS FINGERPRINTED THAT THE FINGERPRINTS WILL BE USED TO CHECK THE CRIMINAL HISTORY RECORDS OF THE FBI. IDENTIFICATION RECORDS OBTAINED FROM THE FBI MAY BE USED SOLELY FOR THE PURPOSE REQUESTED AND MAY NOT BE DISSEMINATED OUTSIDE THE RECEIVING DEPARTMENT, RELATED AGENCY OR OTHER AUTHORIZED ENTITY. IF THE INFORMATION ON THE RECORD IS USED TO DISQUALIFY AN APPLICANT, THE OFFICIAL MAKING THE DETERMINATION OF SUITABILITY FOR LICENSING OR EMPLOYMENT SHALL PROVIDE THE APPLICANT THE OPPORTUNITY TO COMPLETE, OR CHALLENGE THE ACCURACY OF, THE INFORMATION CONTAINED IN THE FBI IDENTIFICATION RECORD. THE DECIDING OFFICIAL SHOULD NOT DENY THE LICENSE OR EMPLOYMENT BASED ON THE INFORMATION IN THE RECORD UNTIL THE APPLICANT HAS BEEN AFFORDED A REASONABLE TIME TO CORRECT OR COMPLETE THE INFORMATION, OR HAS DECLINED TO DO SO. AN INDIVIDUAL SHOULD BE PRESUMED NOT GUILTY OF ANY CHARGE/ARREST FOR WHICH THERE IS NO FINAL DISPOSITION STATED ON THE RECORD OR OTHERWISE DETERMINED. IF THE APPLICANT WISHES TO CORRECT THE RECORD AS IT APPEARS IN THE FBI'S CJIS DIVISION RECORDS SYSTEM, THE APPLICANT SHOULD BE ADVISED THAT THE PROCEDURES TO CHANGE, CORRECT OR UPDATE THE RECORD ARE SET FORTH IN TITLE 28, CFR, SECTION 16.34.

- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

END OF PART 1 - PART 2 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 2

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7

NAME RODRIGUEZ, DENISE ALYSIA FBI UCN 159489VF7 DATE REQUESTED 2021/05/03

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR

[REDACTED]

BIRTH PLACE

[REDACTED]

PATTERN CLASS LS LS LS LS LS LS AU LS AU AU CITIZENSHIP UNITED STATES

1-ARRESTED OR RECEIVED 2021/01/05
AGENCY-US ARMY QUANTICO (VAUSA1400)
AGENCY CASE-132-2020-MPI709

FINGERPRINT INFORMATION
BSI/40343276012
PRINT DATE/2021/01/05

PHOTO INFORMATION - 3 PHOTOS AVAILABLE
BSI/40343276010
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276011
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276009
POSE/ DESC/
PHOTO DATE/2021/01/05

PALMPRINT INFORMATION
BSI/40343276008
PRINT DATE/2021/01/05

END OF PART 2 - PART 3 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 3

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7
NAME USED-ROSALES, DENISE ALYSIA
CHARGE 1-107-B--FALSE OFFICIAL STATEMENTS

RECORD UPDATED 2021/05/03



ALL ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON
FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

THE USE OF THIS RECORD IS REGULATED BY LAW. IT IS PROVIDED FOR OFFICIAL
USE ONLY AND MAY BE USED ONLY FOR THE PURPOSE REQUESTED.

November 1, 2021

Re: Attorney Designation & Representation

This letter serves to designate Attorneys represent me. The Attorneys listed below represent and are acting on my behalf:

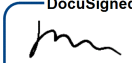
Doug O'Connell
Ashley Haisler (Paralegal)
Richard Hood (Law Clerk)

Mr. O'Connell & Ms. Haisler may be contacted at:

O'Connell & Associates, PLLC
505 West 12th Street
Suite 200
Austin, Texas 78701
(512) 547-7265

Please comply with any and all requests made on my behalf by my Attorneys or their staff.

Thank you.

DocuSigned by:

F666C06B4F8B434...

Denise Rosales

Subject: Email Chain - Rosales
Date: Wednesday, October 6, 2021 at 3:17:29 PM Central Daylight Time
From: Doug OConnell
To: Ashley Haisler
Attachments: PastedGraphic-2.tiff, sl-badge-s-w-2020.png, winmail.dat

Ashley: Email chain for Rosales' privacy act correction petition.

McFeters admits she was not arrested.

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200
Austin, TX, 78701 | 512.547.7265 |
[Website](#) | [LinkedIn](#) | [Facebook](#)



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Begin forwarded message:

From: "McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)" <dale.c.mcfeatters.mil@mail.mil>
Subject: RE: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)
Date: May 4, 2021 at 9:56:04 AM CDT
To: "doug@dougoconnell.com" <doug@dougoconnell.com>
Cc: "Martin, Heather M MAJ USARMY ASG KUWAIT (USA)" <heather.m.martin64.mil@mail.mil>, "ashley@dougoconnell.com" <ashley@dougoconnell.com>

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

Mr. O'Connell-

You are free to contact US Army Criminal Investigations Command and apprise them of your concerns.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfeatters.mil@mail.mil
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com>
Sent: Tuesday, May 4, 2021 3:27 PM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dale.c.mcfeatters.mil@mail.mil>
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA) <heather.m.martin64.mil@mail.mil>; Ashley Haisler <ashley@dougoconnell.com>
Subject: Re: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dale:

Thank you.

May I presume that now that you've identified a false entry in an official record you will be contacting MPI/CID to have the record corrected?

It's possible that this is an honest mistake however, it's equally possible that this was an intentional act, which would constitute a felony.

Please advise.

Vr
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200 < x-apple-data-detectors://1 >
Austin, TX, 78701 < x-apple-data-detectors://1 > | 512.547.7265 <
<tel:512.547.7265>> | Website < [Caution-http://dougoconnell.com/](http://dougoconnell.com/) > |
LinkedIn
< [Caution-https://www.linkedin.com/in/doug-o-connell-91050327/](https://www.linkedin.com/in/doug-o-connell-91050327/) > |
Facebook <
[Caution-https://www.facebook.com/dougoconnellandassociates/](https://www.facebook.com/dougoconnellandassociates/) >

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a
waiver of any attorney-client, work product, or other applicable privilege.

On May 4, 2021, at 3:56 AM, McFeatters, Dale C LTC USARMY
CENTCOM
CJTF OIR
(USA) <dale.c.mcfeatters.mil@mail.mil> wrote:

CLASSIFICATION: UNCLASSIFIED

Sir-

She was not placed under arrest. MPI investigated the incident, not
CID,
though CID may have assisted in taking finger prints.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfeatters.mil@mail.mil
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com>
Sent: Tuesday, May 4, 2021 2:48 AM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)
<dale.c.mcfeatters.mil@mail.mil>
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)

<heather.m.martin64.mil@mail.mil>; Ashley Haisler

<ashley@dougoconnell.com>

Subject: Re: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dale:

Thank you very much.

The attached criminal history - NCIC report shows that SFC Rosales was arrested by CID on January 5, 2021 for the offense that resulted in her GOMR.

I am skeptical she was actually arrested (or received into custody). Could you please clarify. And if she was arrested then I assume you have magistration documents that you can provide.

Thank you.

vr
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200

Austin, TX, 78701 | 512.547.7265 | Website <
[Caution-Caution-http://dougconnell.com/](http://dougconnell.com/) > | LinkedIn <
[Caution-Caution-https://www.linkedin.com/in/doug-o-connell-91050327/](https://www.linkedin.com/in/doug-o-connell-91050327/) >
|
Facebook <
[Caution-Caution-https://www.facebook.com/dougconnellandassociates/](https://www.facebook.com/dougconnellandassociates/)

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On May 3, 2021, at 5:57 AM, McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dale.c.mcfeatters.mil@mail.mil> <
Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > > wrote:

CLASSIFICATION: UNCLASSIFIED

Sir-

It's my understanding the investigation was pending a forensic analysis with USACIL when we last received an update. I can't speak for SFC Rosales' current command but they likely have an interest in the outcome of the investigation.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfeatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> >
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com <
Caution-Caution-<mailto:doug@dougoconnell.com> > >
Sent: Friday, April 30, 2021 11:40 PM
To: McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA)
<dale.c.mcfeatters.mil@mail.mil <
Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > >
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)
<heather.m.martin64.mil@mail.mil <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > >
Subject: Re: [Non-DoD Source] SFC Denise Rosales (UNCLASSIFIED)

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

Dale:

Re: SFC Denise Rosales

Thank you. It appears that the CID investigation is still being reported as "open." This may be due to alcohol bottles being submitted for fingerprint analysis?

Because the CID investigation is not officially closed, Rosales cannot return to her full time job.

Is there anything you can do to get this matter closed out. Your command is finished with this matter, and Rosales is now back in Title 32 status.

Thank you.

vr
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

505 West 12th Street - Suite 200
Austin, TX, 78701 | 512.547.7265 | Website <
[Caution-Caution-Caution-http://dougconnell.com/](http://dougconnell.com/) > | LinkedIn
<[Caution-Caution-Caution-https://www.linkedin.com/in/doug-o-connell-9105032](https://www.linkedin.com/in/doug-o-connell-9105032)
7/

| Facebook

<[Caution-Caution-Caution-](#)

<https://www.facebook.com/dougoconnellandassociates>

/ >

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On Apr 23, 2021, at 9:00 AM, McFeatters, Dale C LTC USARMY CENTCOM CJTF OIR (USA) <dale.c.mcfeatters.mil@mail.mil> < Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > < Caution-Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> < Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > > > wrote:

CLASSIFICATION: UNCLASSIFIED

Mr. O'Connell-

CJTF-OIR does not plan on taking any further action against SFC Rosales beyond the reprimand already issued. It's possible she could face further administrative action by the Texas National Guard though I'm unaware of her

unit's intentions. Please let me know if you need anything else.

r/
Dale

r/
LTC Dale McFeatters
Deputy Staff Judge Advocate
Combined Joint Task Force - Operation Inherent Resolve
Camp Arifjan, Kuwait

NIPR: dale.c.mcfeatters.mil@mail.mil <
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Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > >
DSN: 318-480-6853

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

From: Doug OConnell <doug@dougoconnell.com <
Caution-Caution-<mailto:doug@dougoconnell.com> > <
Caution-Caution-Caution-<mailto:doug@dougoconnell.com> <
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Caution-Caution-<mailto:dale.c.mcfeatters.mil@mail.mil> > >>
Cc: Martin, Heather M MAJ USARMY ASG KUWAIT (USA)
<heather.m.martin64.mil@mail.mil <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > <
Caution-Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> <
Caution-Caution-<mailto:heather.m.martin64.mil@mail.mil> > >>
Subject: [Non-DoD Source] SFC Denise Rosales

All active links contained in this email were disabled. Please verify the identity of the sender, and confirm the authenticity of all links contained within the message prior to copying and pasting the address to a Web browser.

LTC McFeatters:

I'm representing SFC Rosales, along with Heather Martin. I'm obviously new to the case so I'm trying to get up to speed.

Can you tell me the current posture of this matter?

Thank you.

vr
Doug O'Connell

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces

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Austin, TX, 78701 | 512.547.7265 | Website <
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<http://dougconnell.com/> > > |
LinkedIn <
[https://www.linkedin.com/in/doug-o-connell-91050327/](https://www.linkedin.com/in/doug-oconnell-91050327/)
1050327/<
[https://www.linkedin.com/in/doug-o-connell-91050327/](https://www.linkedin.com/in/doug-oconnell-91050327/)

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ociates/

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CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

CLASSIFICATION: UNCLASSIFIED

EXHIBIT G



DEPARTMENT OF THE ARMY
U.S. ARMY CRIMINAL INVESTIGATION DIVISION
U.S. ARMY CRIME RECORDS CENTER
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

November 16, 2021

Sergeant First Class Denise Rosales
Attention: Ashley Haisler
ashley@dougoconnell.com

Dear Sergeant First Class Rosales:

This is in further response to your request to update/correct information in the National Crime Information Center (NCIC) from the files of the U.S. Army Criminal Investigation Division (USACID) received November 10, 2021. Your request was assigned control number FA22-0440.

The report responsive to your request has been finalized and received at this headquarters. Release of this report is presently being withheld and denied to you because disciplinary or administrative action has not been completed. You may submit another written request for a copy of the investigation at a later date, after it is completed. You may consider this an initial denial of your request pursuant to Title 5, USC, Section 552a, Exemption (j)(2) of the Privacy Act and Title 5, USC, Section 552, Exemption (b)(7)(A), (b)(7)(B), (b)(6) and (b)(7)(C) of the Freedom of Information Act.

This response is made on behalf of the Director, USACID, the Initial Denial Authority for USACID records under the FOIA.

If you decide to appeal at this time, your appeal must be submitted within 90 days of the date of this letter. In your appeal, you must state the basis for your disagreement with our response. Your appeal is made through this Center and should be addressed to the Director, U.S. Army Crime Records Center, 27130 Telegraph Road, Quantico, Virginia 22134, for forwarding, as appropriate, to the Office of the Secretary of the Army, the appellate authority. An appeal may not include a request for additional information or a request for an investigation to be conducted.

You have the right to seek dispute resolution concerning this release. If you intend to do so, you may contact the U.S. Army Criminal Investigation Division, Crime Record Center FOIA Public Liaison, Ms. Michelle Kardelis at usarmy.usacidc-foia@army.mil. Please put "Dispute" in the subject line.

You may also seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448 or by emailing OGIS@nara.gov.

-2-

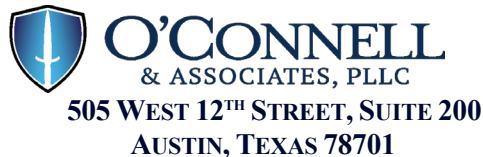
Questions regarding this action should be addressed in writing to the address shown on the letterhead or by emailing mariya.l.julien.civ@army.mil.

Sincerely

Randal L. Doyle

Randal L. Doyle
Deputy Director

EXHIBIT H



Douglas K. O'Connell
Telephone: (512) 547-7265
E-Mail: Doug@DougOConnell.com

November 22, 2021

TO: Office of the General Counsel, Secretary of the Army, 104 Army Pentagon, Washington, DC 20310-0104

THROUGH: Director, U.S. Army Crime Records Center, 27130 Telegraph Road, Quantico, VA 22134

Via Email – usarmy.belvoir.usacidc.mbx.crcfoiapa@mail.mil

Re: Appeal from Denial of Privacy Act Request to Change False Record Entry

Dear Sir or Madam:

This letter is an appeal on behalf of my client, SFC Denise Rosales, from the denial of her request to update/correct information in the National Crime Information Center (NCIC) from the files of the U.S. Army Criminal Investigation Division pursuant to Privacy Act, 5 U.S.C. § 552a and AR 25-22, paragraphs 6-6 and 8-1. In the original request to amend, I demanded that you delete the NCIC entry regarding SFC Rosales in Attachment 3. The original request was assigned control number FA22-0440. The denial letter was dated November 16, 2021.

First, the denial of my client's request to delete the NCIC entry is both factually and legally wrong. There is no incomplete disciplinary or administrative action. SFC Rosales received the attached General Officer Memorandum of Reprimand (GOMOR) in Attachment 6 as final punishment for any disciplinary or administrative action. Furthermore, SFC Rosales was released from active duty (Title 10 status) and resumed her position in the National Guard (Title 32 status). As a result, even if you wanted to pursue further disciplinary or administrative action, you lack the authority to pursue that course of action. Therefore, there is no reason to not delete the NCIC entry.

Second, there is still no change to the fact that my client was never arrested or placed into custody by Army CID or any other law enforcement agency. LTC Dale McFeatters—Deputy Staff Judge Advocate for Combined Joint Task Force – Operation Inherent Resolve—confirms SFC Rosales was not arrested pursuant to this charge. In an e-mail dated May 4, 2021, LTC McFeatters said, “She [SFC Rosales] was not placed under arrest.”

Thus, there is no valid exemption under 5 U.S.C. § 552a(j)(2) because there is no factual basis for which SFC Rosales’s NCIC record can apply to any of the information or report requirements listed under sections (A)–(C). In addition, there is no ground for an exemption under 5 U.S.C. 552 §§ (b)(6) and (b)(7)(A)–(C) because there is no ongoing investigation.

In conclusion, I demand that you delete this NCIC entry with the FBI. I look forward to your notice of amendment or denial in accordance with AR 25-22, paragraph 8-3.

Pertinent information regarding my client:

Name: Denise Alysia Rosales

Social Security Number: [REDACTED]

Date of Birth: [REDACTED]

Please acknowledge this request via email to: Ashley@DougOConnell.com.

Respectfully,



Doug O’Connell

Attachments:

1. Denial Letter
2. Original Statement of Reasons Seeking Review (Amendment Request)
3. NCIC Record
4. Attorney Designation
5. E-mails from LTC Dale McFeatters
6. General Officer Letter of Reprimand



DEPARTMENT OF THE ARMY
U.S. ARMY CRIMINAL INVESTIGATION DIVISION
U.S. ARMY CRIME RECORDS CENTER
27130 TELEGRAPH ROAD
QUANTICO VA 22134-2253

November 16, 2021

Sergeant First Class Denise Rosales
Attention: Ashley Haisler
ashley@dougoconnell.com

Dear Sergeant First Class Rosales:

This is in further response to your request to update/correct information in the National Crime Information Center (NCIC) from the files of the U.S. Army Criminal Investigation Division (USACID) received November 10, 2021. Your request was assigned control number FA22-0440.

The report responsive to your request has been finalized and received at this headquarters. Release of this report is presently being withheld and denied to you because disciplinary or administrative action has not been completed. You may submit another written request for a copy of the investigation at a later date, after it is completed. You may consider this an initial denial of your request pursuant to Title 5, USC, Section 552a, Exemption (j)(2) of the Privacy Act and Title 5, USC, Section 552, Exemption (b)(7)(A), (b)(7)(B), (b)(6) and (b)(7)(C) of the Freedom of Information Act.

This response is made on behalf of the Director, USACID, the Initial Denial Authority for USACID records under the FOIA.

If you decide to appeal at this time, your appeal must be submitted within 90 days of the date of this letter. In your appeal, you must state the basis for your disagreement with our response. Your appeal is made through this Center and should be addressed to the Director, U.S. Army Crime Records Center, 27130 Telegraph Road, Quantico, Virginia 22134, for forwarding, as appropriate, to the Office of the Secretary of the Army, the appellate authority. An appeal may not include a request for additional information or a request for an investigation to be conducted.

You have the right to seek dispute resolution concerning this release. If you intend to do so, you may contact the U.S. Army Criminal Investigation Division, Crime Record Center FOIA Public Liaison, Ms. Michelle Kardelis at usarmy.usacidc-foia@army.mil. Please put "Dispute" in the subject line.

You may also seek dispute resolution services by contacting the Office of Government Information Services (OGIS) at 877-684-6448 or by emailing OGIS@nara.gov.

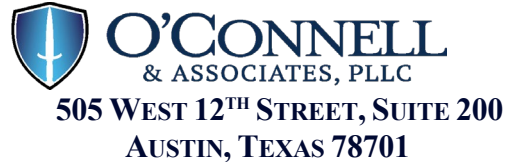
-2-

Questions regarding this action should be addressed in writing to the address shown on the letterhead or by emailing mariya.l.julien.civ@army.mil.

Sincerely

Randal L. Doyle

Randal L. Doyle
Deputy Director



Douglas K. O'Connell
Telephone: (512) 547-7265
E-Mail: Doug@DougOConnell.com

November 1, 2021

United States Army
Criminal Investigation Division
Crime Records Center
Russell Knox Building
Quantico, VA 22134-2253

Via Email – usarmy.belvoir.usacidc.mbx.crcfoiapa@mail.mil

Re: Privacy Act Request to Change False Record Entry

Dear Sir or Madam:

This is a request submitted pursuant to the Privacy Act, 5 U.S.C. § 552a, on behalf of my client SFC Denise Rosales.

Your agency is responsible for generating an incorrect National Crime Information Center (NCIC) record. Specifically, as you can see on the attached NCIC report, my client was purportedly **arrested or received into custody by your agency on January 5, 2021 for the charge of false official statements.** This assertion is patently false. My client has never been arrested or placed into custody by Army CID or any other law enforcement agency—ever. In the attached e-mails, LTC Dale McFeatters—Deputy Staff Judge Advocate for Combined Joint Task Force – Operation Inherent Resolve—confirms SFC Rosales was not arrested pursuant to this charge. In an e-mail dated May 4, 2021, LTC McFeatters said, “She [SFC Rosales] was not placed under arrest.”

Likewise, SFC Rosales was never charged by any civilian or military agency or court with any criminal violation. I demand that you delete this NCIC entry with the FBI.

Pertinent information regarding my client:

Name: Denise Alysia Rosales

Social Security Number: [REDACTED]

Date of Birth: [REDACTED]

If your records indicate that SFC Rosales was in fact arrested, please consider this a Freedom of Information Act request for all records showing SFC Rosales was taken before a magistrate as required by law. Please provide court docket information, booking information, rights warning, and a copy of the warrant or complaint signed by a Judge as required by the Federal Rules of Criminal Procedure and the Uniform Code of Military Justice.

I look forward to a written acknowledgment of this request for amendment within 10 working days and a final response within 30 working days of the date this request is received in accordance with 5 U.S.C. § 552a(d) and AR 25-22, paragraph 8-1. Please acknowledge this request via email to: Ashley@DougOConnell.com.

Respectfully,



Doug O'Connell

Attachments:

1. NCIC Record
2. Attorney Authorization
3. E-mails from LTC Dale McFeatters

1-787a (Rev. 01-23-2015)



U.S. Department of Justice
Federal Bureau of Investigation
Criminal Justice Information Services Division
Clarksburg, WV 26306

DATE: 05-03-2021

DENISE ALYSIA ROSALES
8507 GLEN COURT
SAN ANTONIO, TX 78239

The Criminal Justice Information Services (CJIS) Division of the Federal Bureau of Investigation has completed the following fingerprint submission:

Subject Name

DENISE ALYSIA ROSALES

Search Completed Result 05-03-2021 E202112300000102711

A SEARCH OF THE FINGERPRINTS PROVIDED BY THIS INDIVIDUAL HAS REVEALED PRIOR ARREST DATA AT THE FBI. THIS DOES NOT PRECLUDE FURTHER CRIMINAL HISTORY AT THE STATE OR LOCAL LEVEL.

Social Security number: [REDACTED]

The result of the above response is only effective for the date the submission was originally completed. For more updated information, please submit new fingerprints of the subject.

In order to protect Personally Identifiable Information, as of August 17, 2009, FBI policy has changed to no longer return the fingerprint cards. This form will serve as the FBI's official response.

This Identity History Summary (IdHS) is provided pursuant to 28 CFR 16.30-16.34 solely for you to conduct a personal review and/or obtain a change, correction, or updating of your record. **This IdHS is not provided for the purpose of licensing or employment or any other purpose enumerated in 28 CFR 20.33.**

Any questions may be addressed to the Customer Service Group at (304) 625-5590. You may also visit the Web site at www.fbi.gov for further instructions.

A handwritten signature in black ink, appearing to read "S.A. Rago", is located in the bottom right area of the page.

Scott A. Rago
Section Chief
Biometric Services Section
Criminal Justice Information
Services Division

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
TCN CS10100L10124172
AGENCY CASE USARTD09Z

THE FBI IDENTIFIED YOUR TEN-PRINT SUBMISSION WHICH
CONTAINED THE FOLLOWING DESCRIPTORS:

NAME ROSALES, DENISE ALYSIA

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR

STATE ID BIRTH PLACE

OTHER BIRTH
DATES

SCARS-MARKS-TATTOOS

SOCIAL
SECURITY

MISC NUMBERS

NONE

NONE

NONE

ALIAS NAME(S)
NONE

END OF COVER SHEET

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z

NCN E2021123000000102711

BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

THIS RECORD IS SUBJECT TO THE FOLLOWING USE AND DISSEMINATION RESTRICTIONS

UNDER PROVISIONS SET FORTH IN TITLE 28, CODE OF FEDERAL REGULATIONS (CFR), SECTION 50.12, BOTH GOVERNMENTAL AND NONGOVERNMENTAL ENTITIES AUTHORIZED TO SUBMIT FINGERPRINTS AND RECEIVE FBI IDENTIFICATION RECORDS MUST NOTIFY THE INDIVIDUALS FINGERPRINTED THAT THE FINGERPRINTS WILL BE USED TO CHECK THE CRIMINAL HISTORY RECORDS OF THE FBI. IDENTIFICATION RECORDS OBTAINED FROM THE FBI MAY BE USED SOLELY FOR THE PURPOSE REQUESTED AND MAY NOT BE DISSEMINATED OUTSIDE THE RECEIVING DEPARTMENT, RELATED AGENCY OR OTHER AUTHORIZED ENTITY. IF THE INFORMATION ON THE RECORD IS USED TO DISQUALIFY AN APPLICANT, THE OFFICIAL MAKING THE DETERMINATION OF SUITABILITY FOR LICENSING OR EMPLOYMENT SHALL PROVIDE THE APPLICANT THE OPPORTUNITY TO COMPLETE, OR CHALLENGE THE ACCURACY OF, THE INFORMATION CONTAINED IN THE FBI IDENTIFICATION RECORD. THE DECIDING OFFICIAL SHOULD NOT DENY THE LICENSE OR EMPLOYMENT BASED ON THE INFORMATION IN THE RECORD UNTIL THE APPLICANT HAS BEEN AFFORDED A REASONABLE TIME TO CORRECT OR COMPLETE THE INFORMATION, OR HAS DECLINED TO DO SO. AN INDIVIDUAL SHOULD BE PRESUMED NOT GUILTY OF ANY CHARGE/ARREST FOR WHICH THERE IS NO FINAL DISPOSITION STATED ON THE RECORD OR OTHERWISE DETERMINED. IF THE APPLICANT WISHES TO CORRECT THE RECORD AS IT APPEARS IN THE FBI'S CJIS DIVISION RECORDS SYSTEM, THE APPLICANT SHOULD BE ADVISED THAT THE PROCEDURES TO CHANGE, CORRECT OR UPDATE THE RECORD ARE SET FORTH IN TITLE 28, CFR, SECTION 16.34.

- FBI IDENTIFICATION RECORD -

WHEN EXPLANATION OF A CHARGE OR DISPOSITION IS NEEDED, COMMUNICATE DIRECTLY WITH THE AGENCY THAT FURNISHED THE DATA TO THE FBI.

END OF PART 1 - PART 2 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 2

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7

NAME RODRIGUEZ, DENISE ALYSIA FBI UCN 159489VF7 DATE REQUESTED 2021/05/03

SEX RACE BIRTH DATE HEIGHT WEIGHT EYES HAIR

[REDACTED]

BIRTH PLACE

[REDACTED]

PATTERN CLASS LS LS LS LS LS LS AU LS AU AU CITIZENSHIP UNITED STATES

1-ARRESTED OR RECEIVED 2021/01/05
AGENCY-US ARMY QUANTICO (VAUSA1400)
AGENCY CASE-132-2020-MPI709

FINGERPRINT INFORMATION
BSI/40343276012
PRINT DATE/2021/01/05

PHOTO INFORMATION - 3 PHOTOS AVAILABLE
BSI/40343276010
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276011
POSE/ DESC/
PHOTO DATE/2021/01/05
BSI/40343276009
POSE/ DESC/
PHOTO DATE/2021/01/05

PALMPRINT INFORMATION
BSI/40343276008
PRINT DATE/2021/01/05

END OF PART 2 - PART 3 TO FOLLOW

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES DIVISION
CLARKSBURG, WV 26306

USARTD09Z
PART 3

NCN E2021123000000102711

- FBI IDENTIFICATION RECORD - FBI UCN-159489VF7
NAME USED-ROSALES, DENISE ALYSIA
CHARGE 1-107-B--FALSE OFFICIAL STATEMENTS

RECORD UPDATED 2021/05/03



ALL ENTRIES CONTAINED IN THIS FBI RECORD ARE BASED ON
FINGERPRINT COMPARISONS AND PERTAIN TO THE SAME INDIVIDUAL.

THE USE OF THIS RECORD IS REGULATED BY LAW. IT IS PROVIDED FOR OFFICIAL
USE ONLY AND MAY BE USED ONLY FOR THE PURPOSE REQUESTED.

November 1, 2021

Re: Attorney Designation & Representation

This letter serves to designate Attorneys represent me. The Attorneys listed below represent and are acting on my behalf:

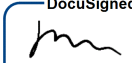
Doug O'Connell
Ashley Haisler (Paralegal)
Richard Hood (Law Clerk)

Mr. O'Connell & Ms. Haisler may be contacted at:

O'Connell & Associates, PLLC
505 West 12th Street
Suite 200
Austin, Texas 78701
(512) 547-7265

Please comply with any and all requests made on my behalf by my Attorneys or their staff.

Thank you.

DocuSigned by:

F666C06B4F8B434...

Denise Rosales



DEPARTMENT OF THE ARMY
HEADQUARTERS, 36TH INFANTRY DIVISION (FORWARD)
TASK FORCE SPARTAN
CAMP ARIFJAN, KUWAIT
APO AE 09306-0000

ACTF-OSS-CG


27 April 2021

MEMORANDUM FOR SGT Eleno Rosales, Headquarters Support Company, 36th Infantry Division, Task Force Spartan, Camp Arifjan, Kuwait APO AE 09306

SUBJECT: General Officer Memorandum of Reprimand

1. An investigation into allegations that you took part in an event involving alcohol, in violation of General Order One, along with, false official statement and obstruction of justice, were substantiated.
2. The Army and this command put significant trust and confidence in noncommissioned officers (NCO). As an NCO, you are charged with the responsibility of setting examples for subordinates to emulate. Clearly, your actions fell below the standards expected of an NCO in the United States Army. There is no excuse for your actions. That you took part in a party where you knowingly witnessed alcohol consumption in a nation where such substances are illegal and your character after-the-fact raise serious questions as to your potential for continued service in the United States Army at any level.
3. This is an administrative reprimand imposed under the provisions of AR 600-37, and not as punishment under Article 15, UCMJ. You are advised that in accordance with AR 600-37, Paragraph 3-5b, I am considering whether to direct this reprimand be filed permanently in your Army Military Human Resource Record. Prior to making my filing decision, I will consider any matters you submit in extenuation, mitigation, or rebuttal. You will be provided, by separate cover, a copy of the evidence which forms the basis for this reprimand. You will immediately acknowledge receipt of this reprimand in writing. You will forward any matters you wish me to consider through your chain of command within seven calendar days, pursuant to Army Regulation 600-37, paragraph 3-7.

Encl



PATRICK M. HAMILTON
Major General, USA
Commanding General



**DEPARTMENT OF THE ARMY
HEADQUARTERS, 36TH INFANTRY DIVISION (FORWARD)
TASK FORCE SPARTAN
CAMP ARIFJAN, KUWAIT
APO AE 09306-0000**

ACTF-IHB-H

___ April 2021

MEMORANDUM FOR Commander, Task Force Spartan, Camp Arifjan, Kuwait
APO AE 09306

SUBJECT: Acknowledgement of Receipt of Reprimand

1. I have read and understand the General Officer Memorandum of Reprimand that I received on _____.

2. I acknowledge that I have the opportunity to respond by submitting matters in extenuation, mitigation, or rebuttal. If I choose to submit written matters, I understand that I must submit them to my immediate commander within seven calendar days.

3. I elect (initial):

Not to submit any matters.

To submit written matters within seven calendar days. I understand that if I select this option, but do not submit written matters within the time prescribed, I waive my right to respond.

**Sign
& Date**

ELENO ROSALES
SGT, USA
Respondent

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DENISE A. ROSALES,

Plaintiff,

v.

CHRISTINE WORMUTH, Acting
Secretary of the Army, in her official
capacity; DEPARTMENT OF THE
ARMY; GREGORY D. FORD, Acting
Director of the Department of the Army
Criminal Investigation Division, in his
official capacity; DEPARTMENT OF
THE ARMY CRIMINAL
INVESTIGATION DIVISION;
CHRISTOPHER WRAY, Acting
Director of the Federal Bureau of
Investigation, in his official capacity;
and FEDERAL BUREAU OF
INVESTIGATION,
Defendants.

Civ. Action No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

EXHIBIT E



**DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104**

December 21, 2022

Douglas O'Connell Esq.
505 West 12th St. Ste. 200
Austin, TX 78701
Email: Ashley@DougOConnell.com

Dear Mr. O'Connell

This letter responds to your Freedom of Information Act (FOIA) appeal FA22-0702, dated 22 November 2021 on behalf of SFC Denise Rosales.

On November 10, 2021 a Privacy Act Request to Change Record was submitted to U. S. Army Criminal Investigation Division (USACID) to update/correct records pertaining to SFC Rosales. After carefully considering the issues presented by your appeals, we conclude that USACID's denials complied with the FOIA and, accordingly, deny the appeal concerning USACID's withholding of information contained in their system of record.

The FOIA permits an agency to withhold requested records if (1) the information qualifies for a FOIA exemption; and (2) the agency reasonably foresees that disclosing the withheld information would harm an interest protected by an exemption. 5 U.S.C. § 552(a)(8)(A)(i)(I),(b). Here, the denials are proper because disciplinary or administrative action concerning other involved parties has not been completed. You may submit another written request to USACID for a copy of the investigation after the pending actions are completed. The denial is proper at this time pursuant to Title 5, USC, Section 552a, Exemption (j)(2) of the Privacy Act and Title 5, USC, Section 552, Exemption (b)(7)(A), (b)(7)(B), (b)(6) and (b)(7)(C) of the Freedom of Information Act.

This letter constitutes final action on behalf of the General Counsel, designated by the Secretary of the Army to consider appeals under the FOIA. You may, if you so desire, seek judicial review of this determination in the federal court system in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Peter V. Lee

Peter V. Lee
Assistant to the General Counsel

EXHIBIT I



**DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104**

December 21, 2022

Douglas O'Connell Esq.
505 West 12th St. Ste. 200
Austin, TX 78701
Email: Ashley@DougOConnell.com

Dear Mr. O'Connell

This letter responds to your Freedom of Information Act (FOIA) appeal FA22-0702, dated 22 November 2021 on behalf of SFC Denise Rosales.

On November 10, 2021 a Privacy Act Request to Change Record was submitted to U. S. Army Criminal Investigation Division (USACID) to update/correct records pertaining to SFC Rosales. After carefully considering the issues presented by your appeals, we conclude that USACID's denials complied with the FOIA and, accordingly, deny the appeal concerning USACID's withholding of information contained in their system of record.

The FOIA permits an agency to withhold requested records if (1) the information qualifies for a FOIA exemption; and (2) the agency reasonably foresees that disclosing the withheld information would harm an interest protected by an exemption. 5 U.S.C. § 552(a)(8)(A)(i)(I),(b). Here, the denials are proper because disciplinary or administrative action concerning other involved parties has not been completed. You may submit another written request to USACID for a copy of the investigation after the pending actions are completed. The denial is proper at this time pursuant to Title 5, USC, Section 552a, Exemption (j)(2) of the Privacy Act and Title 5, USC, Section 552, Exemption (b)(7)(A), (b)(7)(B), (b)(6) and (b)(7)(C) of the Freedom of Information Act.

This letter constitutes final action on behalf of the General Counsel, designated by the Secretary of the Army to consider appeals under the FOIA. You may, if you so desire, seek judicial review of this determination in the federal court system in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Peter V. Lee

Peter V. Lee
Assistant to the General Counsel

EXHIBIT J

*redacted portions of these
email exchanges are outside
the scope of this complaint

From: [Doug O'Connell](#)
To: [Richard Hood](#)
Subject: Fwd: Rosales Privacy Act Request
Date: Friday, March 17, 2023 12:59:16 PM
Attachments: [sl-badge-s-w-2020.png](#)
[sl-badge-s-w-2020.png](#)
[1 - Denial Letter.pdf](#)
[2 - Original Statement of Reasons Seeking Review \(Amendment Request\).docx](#)
[3 - NCIC Record.pdf](#)
[4 - Attorney Designation.pdf](#)
[5 - E-mails from LTC Dale McFeatters.pdf](#)
[6 - General Officer Letter of Reprimand.pdf](#)
[SFC Denise Rosales Appeal.docx](#)
[Rosales FOIA Appeal \(FA22-0440\) Response - OGC.pdf](#)

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces



505 West 12th Street - Suite 200
Austin, TX, 78701
512.547.7265



CONFIDENTIALITY NOTICE: This email message and any accompanying data or files is confidential and may contain privileged information intended only for the named recipient(s). If you are not the intended recipient(s), you are hereby notified that the dissemination, distribution, and or copying of this message is strictly prohibited. If you receive this message in error, or are not the named recipient(s), please notify the sender at the email address above, and delete this email from your computer, and destroy any copies in any form immediately. Receipt by anyone other than the named recipient(s) is not a waiver of any attorney-client, work product, or other applicable privilege.

Begin forwarded message:

From: O'Connell West Law <doug@oconnellwest.com>
Subject: Fwd: Rosales Privacy Act Request
Date: January 20, 2023 at 5:45:29 PM CST
To: "Turlington, Lance B COL USARMY HRC (USA)" <lance.b.turlington.mil@army.mil>, "Levy, G Robert JR COL USARMY USACIDC (USA)" <gary.r.levy.mil@army.mil>
Cc: "Moore, Christopher L (Chris) COL USARMY HRC (USA)" <christopher.l.moore48.mil@army.mil>

Gentlemen: On our call yesterday you asked for an example of a [REDACTED] case where the Army created (sent to FBI) a false criminal history.

This is the case of Denise Rosales. While deployed to Kuwait, Rosales was investigated for possession / consumption of alcohol in violation of GO #1. She received a GOMOR for that misconduct (attached). However she has a NCIC criminal history (attached) that shows she was arrested and or received into custody for that offense. We don't object to her being investigated, titled or the GOMOR, we object to the criminal history that shows she was arrested or received into custody - because she was not arrested or received into custody.

We confirmed that she was not arrested with the in-theater JAG - LTC Dale McFeathers. In the attached email correspondence McFeathers acknowledges Rosales wasn't arrested but refused to do anything to correct the problem.

We requested CID correct the record. CID denied this request (attached).

We appealed to DA based on the Privacy Act. This appeal was denied (attached).

Our plan before yesterday's call was to file a lawsuit in Federal Court. I'm hoping that you gentlemen can get the NCIC record fixed and we can avoid the hassle and expense of litigation.

Please let us know if you have any questions.

vr

Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces



505 West 12th Street - Suite 200
Austin, TX, 78701
512.547.7265



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Begin forwarded message:

From: [Turlington, Lance B COL USARMY HRC \(USA\)](#)
To: [Doug O'Connell](#)
Cc: [Levy, G Robert JR COL USARMY USACIDC \(USA\)](#); [Richard Hood](#)
Subject: RE: Follow Up from Phone Conference
Date: Thursday, February 2, 2023 4:05:35 PM
Attachments: [image002.png](#)

Doug,

Here's what I had taken as questions, feel free to verify / edit / correct.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. [REDACTED] some clients have a Federal Criminal History that indicate they were taken into custody, but they actually were not. National Crime Information Center (NCIC) records- how to clean up?
8. For cases that were investigated and Titled properly, and the action was forwarded to the FBI, those records indicate that the subject was arrested, even when they were not. When the subject approached the FBI to resolve the error in the record, the FBI sends them back to the reporting agency. The record says "Arrested and received into custody" but that is not correct.

Rob said FBI 'reports' the records. Subjects should request correction to the CID record. CID submits an index record. CID can pull back the fingerprint card – III entry. Again- submit a request for correction.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

v/r,

Lance Turlington
COL, JA
HRC CJA

(502) 613-4248
(502) 387-0950 (gov cell)

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From: Doug O'Connell <doug@oconnellwest.com>
Sent: Wednesday, February 1, 2023 8:12 PM
To: Turlington, Lance B COL USARMY HRC (USA) <lance.b.turlington.mil@army.mil>
Cc: Levy, G Robert JR COL USARMY USACIDC (USA) <gary.r.levy.mil@army.mil>; Richard Hood <richard@oconnellwest.com>
Subject: [Non-DoD Source] Follow Up from Phone Conference

Lance: Following up from our conference call on January 19th.

You indicated that you'd be sending a summary of the due outs and our RFIs. Checking to make sure I didn't miss that.

Please let me know if you need us to send you an email with the issues.

Thanks,
Doug

Douglas K. O'Connell
Attorney at Law
Colonel (Ret) U.S. Army Special Forces



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