

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester Service Center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, HI 96857 (Official Business)

May 29, 2018

SJA FOIA:

Under the provisions of the Freedom of Information Act, I hereby request the following documents from the United States Army, United States Army Pacific Command Staff Judge Advocate (SJA), subordinate offices, and other related offices in the case of the United States v. Sergeant Aaron J. Whitman / SSN: 423356051 / DOB: April 10, 1985 / POB: Ozark, AL.

1. All internal and external communications by PACCOM SJA and the members of the SJA office in which SGT Aaron Whitman is the subject or include as part of the contents to include, but not limited to:

- a. All e-mail communications.
- b. All telephonic logs, notes and summaries.
- c. All written documents to include drafts.
- d. All working papers and notes.
- e. All observations related to the character and demeanor of the accused.
- f. All statements and documents to the credibility and testimony of witnesses, to include those listed but not appearing in trial, motions hearing(s), and all Article 32 hearings.
- g. All observations related to the character and demeanor of the victim(s).
- h. All statements and documents concerning evidence and arguments were used in official proceedings.
- i. Any opinion on the guilt or innocence of the accused.
- j. Any opinion of the possibility of plea deal.
- k. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by unit prior to trial sentencing.
- l. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.
- m. Memorandum of Understanding between Departments of Justice and Defense relating to the investigation and prosecution of crimes over which the two departments have concurrent

Exhibit A
Page 1

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester Service Center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, HI 96857 (Official Business)

Jurisdiction (MOU) established with Honolulu County District Attorney's office, with valid digital signatures from Department of Army.

2. All internal and external communications by members of the Trial Counsels Office in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:

- a. All e-mail communications.
- b. All telephonic logs, notes and summaries.
- c. All written documents to include drafts.
- d. All working papers and notes.
- e. All observations related to the character and demeanor of the accused.
- f. All statements and documents to the credibility and testimony of witnesses, to include those listed but not appearing in trial, motions hearing(s), and all Article 32 hearing(s).
- g. All observations on the character and demeanor of the victim(s).
- h. All statements and documents concerning the evidence and arguments in this case,
- i. whether or not the evidence and arguments were used in official proceedings.
- j. Any opinion on the guilt or innocence of the accused.
- k. Any opinion of the possibility of plea deal.
- l. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by unit prior to trial sentencing.
- m. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.

3. All internal and external communications by members of Trial Defense Service (TDS) office in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:

- a. All e-mail communications.
- b. All telephonic logs, notes and summaries.
- c. All written documents to include drafts.
- d. All working papers and notes.
- e. All observations related to the character and demeanor of the accused.

Exhibit A
Page 2

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Department of the Army, Commander, 25th Infantry Division, OSJA ATTN:
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(Official Business)

- f. All statements and documents to the credibility and testimony of witnesses, to include those listed but not appearing in trial, motions hearing(s), and all Article 32 hearing(s).
 - g. All observations on the character and demeanor of the victim(s).
 - h. All statements and documents concerning the evidence and arguments in this case,
 - i. whether or not the evidence and arguments were used in official proceedings.
 - j. Any opinion on the guilt or innocence of the accused.
 - k. Any opinion of the possibility of plea deal.
 - l. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by unit prior to trial sentencing.
 - m. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.
4. All internal and external communications by members of Air Force Office of Special Investigations (AFOSI) in which SGT Aaron Whitman is the subject or included as part of the contents to include but not limited to:
- a. All e-mail communications.
 - b. All telephonic logs, notes and summaries.
 - c. All written documents to include drafts.
 - d. All working papers and notes.
 - e. All observations related to the character and demeanor of the accused.
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Exhibit A
Page 3

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(Official Business)

m. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.

5. All internal and external communications by members of the Army Criminal Investigation Division (CID) in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:

- a. All e-mail communications.
- b. All telephonic logs, notes and summaries.
- c. All written documents to include drafts.
- d. All working papers and notes.
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- l. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by unit prior to trial sentencing.
- m. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.
- n. All recommendation in regard to UCMJ action being initiated by section sergeants, platoon sergeants, First sergeants, Commanders, and any other individual/ individuals involved with SGT Aaron Whitman while assigned to 25th ID.
- o. All counseling statements advising SGT Aaron Whitman that UCMJ actions were being considered for preferral with valid digital signature and proper follow up actions. All documents and recommendations for preferral of charges with valid digital signature and proper follow up actions.

Exhibit A
Page 4

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester Service Center,
Department of the Army, Commander, 25th Infantry Division, OSJA ATTN:
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(Official Business)

6. I swear under penalty of perjury by all applicable laws of the United States of America that everything is true in this document.

Respectfully,

//original signed//

SGT Aaron Whitman

Please send record to:

Aaron Whitman No.96281

1300 N. Warehouse Rd.

FT. Leavenworth, KS 66027-2304

DISTRIBUTION:

STAFF JUDGE ADVOCATE (SJA)

TRIAL COUNSELS OFFICE

TRIAL DEFENSE SERVICE (TDS)

AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS (AFOSI)

ARMY CRIMINAL INVESTIGATIONS DIVISION (CID)

Exhibit A
Page 5

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester service center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, Hawaii 96857 (Official Business)

6 July 2020

SJA FOIA:

Under the provisions of the Freedom of Information Act, I hereby request the following documents from the United States Army, United States Army Pacific Command Staff Judge Advocate (SJA), subordinate offices, and other related offices in the case of United States v. Sergeant Aaron J. Whitman / SSN:423356051/ DOB: April 10, 1985/ POB: Ozark, AL.

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 - g. All observations related to the character and demeanor of the victim(s).
 - h. All statements and documents concerning evidence and arguments were used in official proceedings.
 - i. Any opinion on the guilt or innocence of the accused.
 - j. Any opinion of the possibility of a plea deal.
 - k. All statements and documents regarding Military Protective Orders and limitations on freedom and liberties imposed by unit prior to trial sentencing.

Exhibit B
Page 1

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester service center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, Hawaii 96857 (Official Business)

1. A list of all statements and documents destroyed, the date of their destruction, and the reason of their destruction.
 - m. Memorandum of Understanding between Departments of Justice and Defense relating to the investigation and prosecution of crimes over which the two departments have concurrent Jurisdiction (MOU) established with Honolulu County District Attorney's Office, with valid digital signatures from the Department of the Army.
2. All internal and external communications by members of the Trial Counsels Office in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:
 - a. All e-mail communications.
 - b. All telephonic logs, notes and summaries.
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Exhibit B
Page 2

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester service center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, Hawaii 96857 (Official Business)

3. All internal and external communications of Trial Defense Service (TDS) office in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:
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 - g. All observations related to the character and demeanor of the victim(s).
 - h. All statements and documents concerning the evidence and arguments in this case, whether or not the evidence and arguments were used in official proceedings.
 - i. Any opinion of guilt or innocence of the accused.
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 - k. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by the unit prior to trial sentencing.
 - l. A list of all statements and documents destroyed, the date of their destruction, and the reason for their destruction.
4. All internal and external communications by members of Air Force of Special Investigations (AFOSI) office in which SGT Aaron Whitman is the subject or included as part of the contents to include, but not limited to:
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 - b. All telephonic logs, notes and summaries.

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- c. All written documents to include drafts.
 - d. All working papers and notes.
 - e. All observations related to the character and demeanor of the accused.
 - f. All statements and documents to the credibility and testimony of witnesses, to include those listed but not appearing in trial, motions hearing(s), and all Article 32 hearings.
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 - l. A list of all statements and documents destroyed, the date of their destruction, and the reason for their destruction.
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- h. All statements and documents concerning the evidence and arguments in this case, whether or not the evidence and arguments were used in official proceedings.
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- k. All statements and documents regarding all Military Protective Orders and limitations on freedom and liberties imposed by the unit prior to trial sentencing.
- l. A list of all statements and documents destroyed, the date of their destruction, and the reason for their destruction.
- m. All recommendations in regard to UCMJ action being initiated by section sergeants, platoon sergeants, First sergeants, Commanders, and any other individual(s) involved with SGT Aaron Whitman while assigned to 25th I.D.
- n. All counseling statements advising SGT Aaron Whitman that UCMJ action were being considered for preferral with valid digital signatures and proper follow up actions.

In case request is denied in whole or in part, please provide a detailed justification for withholding information and exemptions claimed under Title 5 U.S.C. 552/ 552a on which your denial is based.

I swear under penalty of perjury by all applicable laws of the United States of America that everything is true in this document.

Very Respectfully,

//original signed//

Aaron Whitman

Please send record to:

Aaron Whitman 96281

1300 N. Warehouse Rd.

Ft. Leavenworth, KS 66027- 2304

Exhibit B
Page 5

MEMORANDUM THRU Staff Judge Advocate, FOIA Requester service center, Department of the Army, Commander, 25th Infantry Division, OSJA ATTN: Military Justice, 580 Kolekole Avenue, Suite 125 Schofield Barracks, Hawaii 96857 (Official Business)

DISTRIBUTION:

STAFF JUDGE ADVOCATE (SJA)

TRIAL COUNSELS OFFICE

TRIAL DEFENSE SERVICE (TDS)

AIR FORCE OF SPECIAL INVESTIGATIONS (AFOSI)

ARMY CRIMINAL INVESTIGATIONS DIVISION (CID)



**COMMANDER, U.S. INDO-PACIFIC COMMAND
(USINDOPACOM)
CAMP H M SMITH, HAWAII 96861-4028**

J06 FOIA
2020-F-115
August 26, 2020

Aaron Whitman
1300 N. Warehouse Road
Ft. Leavenworth, KS 66027

Subject: USINDOPACOM Freedom of Information Act (FOIA) Control Number 2020-F-115,
Final Response

Dear Mr. Whitman,

This is in response to your Freedom of Information Act (FOIA) request dated July 6, 2020, in which you sought to obtain documents from the United States Army, United States Army Pacific Command Staff Judge Advocate (SJA), and other related offices in the case of United States v. Sergeant Aaron J. Whitman. Your request is enclosed for reference.

It appears that our office received your request in error but we determined that the records you are seeking may fall under the purview of U.S. Army Pacific (USARPAC). As such, we have chosen to forward your request to the USARPAC FOIA office for processing and direct response to you. Keep in mind, due to the Coronavirus (COVI-19) pandemic, there has been a delay in processing times. Nonetheless, you should expect to receive an initial response from them with a newly assigned control number. From this point forward, please contact their office directly for any questions or updates about your request. You do not have to contact them at this time but if you need to do so in the future, their contact information is as follows:

U.S. Army Pacific
ATTN: APIM-PER, FOIA Office
Bldg. 128, Historic Palm Circle
Fort Shafter, HI 96858-5100
Phone: (808) 787-1184
Email: apim@shafter.army.mil

This fulfills our obligation to you under the FOIA and your request with us is administratively closed. Further, we assessed no processing fees or administrative costs. Should you have any questions concerning any aspect of your request, you may contact our office by phone at (808) 477-9147

Exhibit C



DEPARTMENT OF THE ARMY
US ARMY TRIAL DEFENSE SERVICE, PACIFIC RIM REGION
HAWAII FIELD OFFICE
FORT SHAFTER HI 96858

HQDA-TD-PR

13 May 2021

MEMORANDUM FOR Aaron Whitman, 1300 N. Warehouse Road, Ft. Leavenworth, KS
66027-2304

SUBJECT: Response to Request Under the Freedom of Information Act

1. I have reviewed your request for communications of the "Trail Defense Service (TDS) office in which SGT Aaron Whitman is the subject or included as part of the contents." These records are not subject to disclosure under the Freedom of Information Act (FOIA). Responsive documents would be covered under Exemption 5.

2. As a TDS Client, you are entitled to certain files that pertain to you. This office reached out to your prior attorneys, who indicated that you were provided with the case file. If that is inaccurate or you no longer possess the file, please let this office know.

3. The point of contact for this memorandum is CPT Brian Tracy at 808-787-5811 or brian.c.tracy.mil@mail.mil.


DERRICK W. GRACE
LTC, JA
Regional Defense Counsel

Exhibit D

22 May 21

MEMORANDUM FOR U.S. Army Trial Defense Service, Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858

SUBJECT: Appeal to Freedom of Information Act (FOIA)/Privacy Act (PA), SGT Aaron Whitman

1. This is a request to appeal the decision from the Initial Denial Authority (IDA), U.S. Army Trial Defense Service, Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858
2. As part of this appeal, the undersigned notes there are many anomalies in the memo, dated 13 May 2021 he received from U.S. Army TDS, Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858. This memo was deficient in many ways, as per the FOIA statute 5 U.S.C. 552: There was no FOIA tracking/control number; the response letter made no provisions for an appeal to the initial denial authority; and did not contain any provision for seeking records resolution with the NARA.
3. The undersigned has not received any of CPT Cordello's case file information on himself.
4. Furthermore, the denial memo is wholly incorrect by claiming FOIA Exemption 5 because any information produced by CPT Cordello was for her client – the undersigned. As per *United States v. Dupas*, 14 M.J. 28, 31 case file disclosure must also include attorney notes and work-product. The 'work-product' privilege (Exemption 5) applies only against third persons and cannot be evoked against the client himself.
5. Exemption 5 was developed to protect inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. However, § 552(b)(5) "cannot be properly read as suggesting that all factual matters contained in intra-government memoranda is to be rendered exempt from compelled disclosure." *EPA v. Mink*, 410 U.S. 73, 93 S. Ct. 827, 35 L. Ed. 2d 119 (1973),
6. The records sought do not meet exemption criteria as defined in Title 5 U.S.C. § 552(b)(5). While 5 U.S.C. § 552(b)(5) "encouraged free exchange of ideas among government policymakers, it does not authorize agency to throw a protective blanket over all information by casting it in the form of internal memorandum." *Bristol-Myers Co. v. Federal Trade Com.*, 424 F.2d 935, 138 U.S. App. D.C. 22, 1970 Trade Cas. (CCH). To qualify for non-disclosure under Exemption 5, a document must thus satisfy two conditions: its source must be a Government agency, and it must fall within the ambit of privilege against discovery under judicial standards that would govern litigation against the agency that holds it." *Dept. of Interior & Bureau of Indian Affairs v. Klamath Water Users Protective Ass'n*, 532 U.S. 1, 8 121 S. Ct. 1060, 149 L. Ed. 2d 87 (2001). The threshold issue that must be addressed when Exemption 5 is asserted is whether the records in question qualify as "inter-agency or intra-agency memorand[a]." *Judicial Watch, Inc. v. Dep't of Commerce* ("Judicial Watch I"), 90 F. Supp. 2d 9, 13 (D.D.C. 2000). "With respect to the secondary consideration under Exemption 5-whether such material would not be 'available by law in litigation with the agency,'" *id.*, "the parameters of Exemption 5 are determined by reference to the protections available to litigants in civil discovery..." *Burka v. Dep't of Health and Human Services.*, 318 U.S. App. D.C. 274, 87 F.3d 508, 516 (D.C. Cir. 1996). Thus, if a document requested pursuant to the FOIA would normally be subject to disclosure in the civil discovery context, it must also be disclosed under the FOIA. *Id.* Conversely, information that is routinely not subject to disclosure in the civil discovery process

Exhibit E
Page 1

is exempt from disclosure under Exemption 5, *Id.* Moreover, “to justify non-disclosure under Exemption 5, an agency must show that the type of material it seeks to withhold is generally protected in civil discovery for reasons similar to these asserted by the agency in the FOIA context.” *Id.* at 517. Thus, courts have incorporated three traditional civil discovery privileges into Exemption 5: (1) the deliberative process privilege; (2) the attorney-client privilege; and (3) the attorney work-product privilege. *NLRB v. Sears, Roebuck, & Co.*, 421 U.S. 132, 148049, 95 S. Ct. 1504, 44 L. Ed. 2d 29 (1975); *Coastal Gas Corp. v. Dep’t of Energy*, 199 U.S. App. D.C. 272, 617 F.2d 854, 862, 866 (D.C. Cir. 1980).

The undersigned asserts the information requested is no different than what should be available to him under the civil discovery process and the content of CPT Cordello’s case files should be facially obvious that such information is available to her client. Otherwise, the undersigned asserts that the Government has not met the burden to exempt itself from providing information to the undersigned under all three privileges as grounds for not disclosing the withheld information, and U.S. Army TDS has not shown that the type of material it seeks to withhold is generally protected in civil discovery. In other words, the Government has not done the proper analysis demonstrating CPT Cordello’s case file and emails pertaining to her client, in question, are exempt typically, “courts require specific document-by-document analysis in order to determine applicability of exemption for inter-agency memoranda or attorney work product; affidavit must contain specific description what deliberative process was involved or what role document served in process or proved support that document was prepared by agency attorneys in contemplation of litigation.” *Bernson v. Interstate Commerce Com.*, 625 F. Supp. 13 (D. Mass 1985). Furthermore, if somehow CPT Cordello’s case file on her client, the undersigned was “exempt”, because of the passage of time it is apparent that such stale information has long since been adopted as the undersigned’s appeal process is complete. “Where it is clear agency has adopted the material in otherwise exempted document...courts hold that adopted material loses its immune status.” *United States v. J.B. Williams Co.*, 402 F. Supp. 796, 1975-2 Trade Cas. (CCH) (S.D.N.Y. 1975).

(1) Deliberative Process Challenge. To be exempt from disclosure under the deliberative process privilege, the agency must show that its decision is both (1) predecisional and (2) deliberative. *Nat’l Ass’n of Home Builders v. Norton*, 353 U.S. App. D.C. 374, 309 F.3d 26, 39 (D.C. Cir. 2002). “a document is predecisional if it was ‘prepared in order to assist an agency decisionmaker in arriving at his decision,’ rather than to support a decision already made.” *Petroleum Info Corp. v. Dep’t of Interior*, 298 U.S. App. D.C. 125, 976 F.2d 1429, 1434 (D.C. Cir. 1992). The preparation of the document therefore must be “[a]ntecedent to the adoption of an agency policy.” *Jordan v. Dep’t of Justice*, 192 U.S. App. D.C. 144, 591 F2d 753, 774 (D.C. Cir. 1978). However, a document cannot be characterized as predecisional “if it is adopted, formally or informally, as the agency position on an issue or is used by the agency in its dealings with the public.” *Coastal States*, 617 F.2d at 866. Examples of predecisional documents include “recommendations, draft documents, proposals, suggestion, and other subjective documents with reflect the personal opinions of the writer rather than the policy or the agency.” *Id.* The undersigned asserts, that any emails or the undersigned’s case file do not qualify as information assisting an agency of arriving at any decision, or antecedent to the adoption of an agency policy — these matters have been long settled and thus any facts or discussions are not “predecisional” in nature. Also, “agency has burden of proving that factual matters contained in document for which it claims deliberative process privilege are so inextricably intertwined with agency’s deliberative process as to be inseparable.” *Norwood v.*

FAA, 580 F. Supp. 994 (W.D. Tenn 1983). The Government has clearly not met this burden as it relates to the undersigned's case file other than throwing "a protective blanket over all information by casting it in the form of internal memorandum."

Deliberative process. A document is deliberative if the "materials...bear on the formulation or exercise of agency policy-oriented judgment." *Petroleum Info.*, 976 F.2d at 1435. The information may be "a direct part of the deliberative process in that it makes recommendations or expresses opinions on legal or policy matters." *Vaughn v. Rosen*, 173 U.S. App. D.C. 187, 523 F.2d 1136, 1144 (D.C. Cir. 1975). The information may also concern "factual summaries that were written to assist [in] the making a discretionary decision." *Mapother v. Dep't of Justice*, 303 U.S. App. D.C. 249, 3 F.3d 1533, 1539, (D.C. Cir. 1993). Most importantly, the document must reflect the "give-and-take of the consultative process." *Senate of P.R. v. Dep't of Justice*, 262 U.S. App. D.C. 166, 823 F.2d 574, 585 (D.C. Cir. 1987). Again, the undersigned asserts, that any emails concerning himself or his case file, or any information concerning the deliberative or "give-and-take of the consultative process" as it applies to him is not being provided to third-parties, merely to the client himself. Also such information is no longer "predecisional" in nature.

(2) Attorney-Client Privilege. "To invoke the attorney-client privilege, an agency must demonstrate that the document it seeks to withhold (1) involves confidential communications between an attorney and his or her client' and (2) relates to a 'legal matter for which the client has sought professional advice.'" *Judicial Watch, Inc. v. U.S. Postal Serv.* ("Judicial Watch II"), 297 F. Supp. 2d 252, 267, (D.D.C. 2004) (citations omitted). However, the attorney-client privilege does not give the agency the ability to, "withhold a document merely because it is a communication between the agency and its lawyers." *Id.* (citation omitted). The agency must show that the information provided to its lawyers was intended to be confidential and was not disclosed to a third party. *Id.* (citation omitted). The undersigned asserts since he is "the client", it is patently obvious any email communications or the CPT Cordello's case file on the undersigned, her client is not confidential in nature as it is not being disclosed to multiple parties — just her client.

(3) Attorney Work-Product Doctrine. The purpose of the attorney work-product doctrine is to "protect documents prepared in contemplation of litigation" and "provides a working attorney with a 'zone of privacy' within which to think, plan, weigh facts and evidence...and prepare legal theories" without fear that the information will be disclosed in litigation. *Coastal States* 617 f.2d at 864. The privilege provides an attorney with a "certain degree of privacy, free from unnecessary intrusion by opposing parties and their counsel." *Id.* The purpose of the privilege is to protect the adversary trial process by "encouraging effective legal representation within the framework of the adversary system [,thereby] removing counsel's fears that his thoughts and information will be invaded by his adversary." *Id.* As a result of attempting to preserve the integrity of the adversary trial process, the "working-product rule does not extend to every written document generated by an attorney [or] shield from disclosure everything that a lawyer does." *Id.* Instead it is only applicable to, "material 'prepared in anticipation of litigation for trial.'" *Id.* (quoting *Jordan v. U.S. Dep't of Justice*, 192 U.S. App. D.C. 144, 591 F.2d 753, 775 (1978)). Once, again the undersigned asserts that any information on her client—the undersigned are categorically and facially not "material prepared in anticipation of litigation for trial" and no information is being provided to an "adversary" therefore not exempt from disclosure.

7. Simply put, for the reasons indicated, CPT Cordello's case file and any record of her communications as it pertains to her client — the undersigned must be disclosed to him. It is surprising that whoever prepared the response memo to the undersigned's request cited Exemption 5, when clearly based on case law, this does not apply to the client himself.

8. In the event that this appeal is denied, please provide justification for withholding the redacted records and provide an affidavit with specific document-by-document analysis in order to determine applicability of exemption for inter-agency memoranda or attorney work product. The affidavit must contain specific description what deliberative process was involved or what role document served in process or proved support that document was prepared by agency attorneys in contemplation of litigation.

9. The point of contact is the undersigned at 1300 N. Warehouse Road, Fort Leavenworth, KS 66027

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct (28 U.S.C. § 1746) and that I am the person named below.
Executed on: 22 May 2021

//original signed//
AARON WHITMAN
SSN: 423-35-6051
DOB: 4-10-85

22 May 2021

MEMORANDUM FOR U.S. Army Legal Services Agency, U.S. Army Trial Defense Service,
ATTN: FOIA Officer, 9275 Gunston Road, Fort Belvoir, VA 22060

SUBJECT: Freedom of Information Act (FOIA)/ Privacy Act (PA) Request, Communications by
Captain Sharon Cordello, U.S. Army Trial Defense Service in the case of *United States v.*
Whitman, Army No. 20170550

1. This is a request under the FOIA (5 U.S.C. § 552) and PA (5 U.S.C. § 552a) and *United States v. Dorman* 58, M.J. 295, 298 (C.A.A.F. 2003). Respectfully request any documents and/or electronic communications from Captain Sharon Cordello, aka Sharon Shinn, sharon.l.cordello2.mil@mail.mil. CPT Cordello was detailed as the undersigned's military trial defense attorney from 1 June 2017 – 31 October 2018 in the case of *United States v. Whitman*. During this period, CPT Cordello was stationed at Wheeler Army Airfield, U.S. Army TDS, Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858
2. Request any electronic communication made by CPT Cordello where the term "Whitman" is referenced anywhere in the document. The timeframe for these communications are from 1 June 2017 – 31 October 2018. Also, as per *Dorman and United States v. Dupas*, 14 M.J. 28, 31 case file disclosure must also include attorney notes and work-product. The 'work-product' privilege (Exemption 5) applies only against third persons and cannot be evoked against the client himself.
3. This request being made by the undersigned is for personal use, not commercial and all information will be used for legal purposes.
4. The undersigned is not willing to pay fees associated with this request, because this is a personal use request there should not be any fees associated with it. If you estimate there will be fees, the undersigned humbly requests a waiver. Disclosure of the requested information is in the best interest of military justice and will contribute significantly to the transparency and public trust of the military justice system.
5. In the event that this request is denied in whole or in part, please provide a detailed justification for withholding the records and the exemptions claimed on which the denial is based.
6. The point of contact is the undersigned at 1300 N. Warehouse Road, Fort Leavenworth, KS 66027
7. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct (28 U.S.C. § 1746) and that I am the person named below.
Executed on: 22 May 2021

//original signed//
AARON WHITMAN
SSN: 423-35-6051
DOB: 4-10-85

Exhibit F