

# **Exhibit C**

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August 4, 2020

*Via Facsimile (703-613-3007)*

Agency Release Panel  
c/o Mark Lilly  
Information and Privacy Coordinator  
Central Intelligence Agency  
Washington, DC 20505

**Re: Freedom of Information Act Appeal – Reference No. F-2020-00494**

Dear Mr. Lilly:

We represent Cable News Network, Inc. and journalist Thomas Lake (together, “CNN”) with regard to the above-referenced Freedom of Information Act (“FOIA”) request, made to the Central Intelligence Agency (“CIA”) on December 6, 2019, for copies of all records relating to James Joseph Brown (the “Request”). This appeal pursuant to FOIA, 5 U.S.C. § 552, challenges the constructive denial of that Request (the “Denial”).

## **BACKGROUND**

In February 2019, CNN published a three-part series of investigative reports, titled “Lost In The Woods With James Brown’s Ghost,” about questions surrounding the deaths of the “Godfather of Soul” James Brown and his third wife.<sup>1</sup> The final report in that series examined several pressing questions about the circumstances surrounding Brown’s death.<sup>2</sup> The report noted that, in the official account of those events, only Brown’s personal manager Charles Bobbit was with the singer when he died. Bobbit, who himself died in 2017, reportedly left Brown alone for several minutes, and after returning “Bobbit heard Brown complain from his bed that his chest was on fire and then saw Brown lie down and die.”

Three women—Jacque Hollander, Shana Quinones and Tomirae Brown—have told CNN of apparent connections between James Brown and the CIA. Brown himself wrote in

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<sup>1</sup> See <https://www.cnn.com/interactive/2019/02/us/james-brown-death-questions/index.html>.

<sup>2</sup> See [https://www.cnn.com/interactive/2019/02/us/james-brown-death-questions/chapter\\_03.html](https://www.cnn.com/interactive/2019/02/us/james-brown-death-questions/chapter_03.html).

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his 2005 autobiography, “I Feel Good: A Memoir of a Life of Soul”, that he’d been under surveillance by the CIA. In May 2019, CNN Senior Writer Thomas Lake, who wrote the three-part series, met with Shana Quinones, who had previously worked for Brown and who claimed to have been romantically involved with the singer in the 1990s.<sup>3</sup> Quinones recounted that “Bobbitt sometimes talked to her about the last hour of James Brown’s life,” and that Bobbitt suffered “lasting regrets about that night” because, according to Quinones, “[h]e was supposed to be watching Brown, keeping him safe, and he was haunted by the possibility that someone had done something to Brown while he was out of the room.”

On December 6, 2019, Lake submitted the Request to the CIA for copies of all records in the CIA’s files that relate to Brown. On December 17, 2019, Mark Lilly, the CIA’s Information and Privacy Coordinator, notified CNN by letter that the CIA was reviewing and processing the request. A copy of that communication is attached as Exhibit A. Approximately five months passed without any further communication from the CIA. On May 5, 2020, the CIA indicated that it would complete its processing of the Request in 577 days, or on December 3, 2021, more than two years after the original Request was made. A copy of that communication is attached as Exhibit B.

The Request has been outstanding for approximately eight months without indication from the CIA whether it will fulfill the request or deny it, and it appears that the CIA will not make a determination as to the Request for another 16 months. CNN therefore submits this administrative appeal pursuant to FOIA, 5 U.S.C. §§ 552, *et seq.*, to challenge the CIA’s constructive denial of the Request. The Agency Release Panel should instruct the CIA to produce all responsive records in unredacted form and without further delay.

### **ARGUMENT**

#### ***The CIA’s Failure to Respond to the Request within the Time Period Specified by FOIA Constitutes a Constructive Denial***

Under FOIA, the CIA was required to respond to the Request within 20 working days of its receipt. *See* 5 U.S.C. § 552(a)(6)(A)(i). Such a response must have informed CNN whether the agency would comply with the Request and provide a basis for its decision. *Id.* Specifically, the CIA was obliged to “at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intend[ed] to produce and withhold, and the reasons for withholding any documents; and (iii) inform [CNN] that [it] can appeal whatever portion of the ‘determination’ is adverse.” *CREW v. FEC*, 711 F.3d 180, 188 (D.C. Cir. 2013).

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<sup>3</sup> *See* <https://www.cnn.com/2020/03/03/us/james-brown-lawyer-breaks-silence/index.html>.

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Approximately eight months after the Request was made, the CIA has still not made a determination as to whether the Request will be granted or not. Rather, it has indicated that CNN will have to wait much longer, some 16 months, for the CIA to ultimately comply with its threshold obligations under FOIA. This lengthy delay violates the clear commands of the FOIA statute.

The CIA's failure to substantively respond to CNN's Request within the time period specified by FOIA is a constructive denial of the Request. *See* 5 U.S.C. § 552(a)(6)(C)(i). Accordingly, CNN respectfully requests that the Agency Review Panel direct the CIA to release all records responsive to the Request, unredacted and without delay.

\* \* \*

We look forward to your prompt response within 20 days of this appeal, and in any event by no later than the close of business on August 24, 2020. *See* 5 U.S.C. § 552(a)(6)(A)(ii).

Should you wish to discuss the request or this appeal, please do not hesitate to contact us. We would appreciate you communicating with us via email at [tobinc@ballardspahr.com](mailto:tobinc@ballardspahr.com) (with copies by regular mail). Thank you for your assistance.

Sincerely yours,

BALLARD SPAHR LLP



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Enclosures

cc: CNN and Thomas Lake (via email)