Exhibit 15

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September 30, 2018

Princina Stone
General Attorney
Executive Office for U.S. Attorneys
Department of Justice
175 N. Street, NE, Ste 5.200
Washington, DC 20530

Re: Privacy Act/FOIA Request on behalf of Ashley Neese

Dear Ms. Stone:

Please accept this letter as a follow-up to our conversation from September 14, 2018. In response to the topic of whether we may need consent from certain individuals due to Privacy Act restrictions, I wanted to pass on my initial research of this topic, for whatever assistance it may be, that indicates my client should be provided all of the information, and at worst, the vast majority of the information, requested in our letter dated July 20, 2018, under the Privacy Act and FOIA, as described below.

Release of Information pursuant to the Privacy Act and FOIA

The Privacy Act focuses on four basic policy objectives including: 1) to restrict disclosure of personally identifiable records maintained by agencies; 2) to grant individuals increased rights of access to agency records maintained on themselves; 3) to grant individuals the right to seek amendment of agency records maintained on themselves upon a showing that the records are not accurate, relevant, timely, or complete; and 4) to establish a code of "fair information practices" that requires agencies to comply with statutory norms for collection, maintenance, and dissemination of records. In accordance with these basic core objectives, and given that the majority of information we have requested directly concerns, and in many instances we believe directly discusses my client, Ashley Neese, we would submit that our request falls directly within the parameters of the Privacy Act in conjunction with FOIA.

As I am sure you are aware, Privacy Act rights are personal to the individual who is the subject of the record and cannot be asserted derivatively by others. See, e.g., *Warren v. Colvin*, 744 F.3d 841, 843-44 (2d Cir. 2014). A record is described as "any item, collection, or grouping of information about an individual that is maintained by an agency, . . ." 5 U.S.C. § 552a(a)(4). In the Fourth Circuit, the Court has set forth, "[w]hether the *Tobey* court's distinction be accepted, the legislative history of the Act makes it clear that a 'record' was meant to 'include as little as one descriptive item about an individual,'" and finding that "draft" materials qualified as "records" because they "substantially pertain to Appellant," "contain 'information about' [him],

EXHIBIT 15

as well as his 'name' or 'identifying number,'" and "do more than merely apply to him" (citing *Quinn v. Stone*, 978 F.2d 126, (3d Cir. 1992).

Thus, for example, the texts, emails, and transcript of statements by Ms. Emily Clark to a court reporter about Ashley Neese which the United States Attorney advised me were voluntarily provided by Roanoke attorney Paul Beers to the USAO WDVA on May 3, 2018, clearly exist and should be provided. Additionally, any notes of conversations with Mr. Beers about these materials and his conversations with the USAO regarding Ashley Neese, which I understand exist, and which Ashley Neese observed, should also be produced. While the Privacy Act has a "No Disclosure Without Consent" Rule, given that the majority of the information we have requested directly pertains to and discusses Ms. Neese, we submit that the consent rule does not apply to this material. Further, a "disclosure" under the Privacy Act does not occur if the communication is to a person who is already aware of the information. See, e.g., *Quinn v. Stone*, 978 F.2d 126, 134 (3d Cir. 1992); *Kline v. HHS*, 927 F.2d 522, 524 (10th Cir. 1991); *Hollis v. Army*, 856 F.2d 1541, 1545 (D.C. Cir. 1988).

Regarding any alleged "privacy" rights that [redacted] may assert, her rights have been waived, and thus, there is no Privacy Act violation given that she, and perhaps Mr. Beers, has made an allegation against Ms. Neese. See, e.g., *Hoffman v. Rubin*, 193 F.3d 959, 966 (8th Cir. 1999) (finding no Privacy Act violation where agency disclosed same information in letter to journalist that plaintiff himself had previously provided to journalist; plaintiff "waiv[ed], in effect, his protection under the Privacy Act"). [redacted] and Mr. Beers effectively waived any potential privacy rights when shemade the allegations about Ms. Neese to the USAO-WDVA, through counsel Paul Beers and Emma Kozlowski, and by disclosing information to Department of Justice components and employees.

Regarding the investigative material from Operation Pain Train which we have requested, we submit that there would be no violation of the Privacy Act because Ms. Neese is already aware of this information as she was the lead AUSA prosecuting the overall case. She had access to the investigative material throughout the case and those materials were disclosed as part of discovery in the matter.

Conclusion

Our requests under the Privacy Act and FOIA fall squarely within the objectives laid out within the Privacy Act. The records we have requested must be disclosed to Ms. Neese, an individual to which the information pertains, as these records are part of the system of records maintained by the Department of Justice and its components. There are no legitimate disclosure concerns because [redacted] and anyone else who has made a statement to an employee of a DOJ component or a copy of which was provided to a component of the Department of Justice, as these individuals have waived any potential privacy rights they have regarding the records by providing information allegedly pertaining to Ms. Neese. Further, Ms. Neese was already aware of the investigative material in Operation Pain Train.Thus, she is entitled to receive that information and by providing that information, DOJ is not making a "disclosure" of information that would violate the Privacy Act.

Additionally, as I indicated to you on the phone, we will gladly accept rolling production of records and information requested, as this information is important to my client. Thank you for your time and attention to this matter.

Sincerely,

/s/ *David G. Barger*

David G. Barger