

# **EXHIBIT C**



**DEPARTMENT OF THE NAVY  
HEADQUARTERS  
NAVAL CRIMINAL INVESTIGATIVE SERVICE  
27130 TELEGRAPH ROAD  
QUANTICO VA 22134-2253**

5720 2018-002812  
SER00LJF/18U0153  
January 12, 2018

Mr. James Coleman  
Duke University School of Law  
Wrongful Convictions Clinic  
Box 90360  
Durham, NC 27708

Dear Mr. Coleman:

This further responds to your May 11, 2016 Freedom of Information Act (FOIA) request seeking all records pertaining to security camera video footage from January 5, 2004 on Marine Corps Base Camp Lejeune relating to your client, Mr. Ruben Wright's, investigation. Reference is made to your subsequent request, dated July 17, 2016, asking that the Department of the Navy investigate the circumstances under which the footage that NCIS turned over to the Onslow County Sheriff's Office prior to trial was altered, withheld, or destroyed. Reference is also made to your November 10, 2017 administrative appeal and the December 19, 2017 appeal remand by the Office of the Judge Advocate General (OJAG).

After coordination with the NCIS Carolinas Field Office consolidated evidence facility, our office has obtained a copy of the Evidence Custody Document (ECD) in relation to the final transfer of the evidence associated with your client's investigation to the Onslow County Sheriff's Office. Per the remand, this ECD is responsive to your initial request for records pertaining to the security camera video footage. As ECDs are not contained in a NCIS official system of records and is considered an internal document, it was not originally considered responsive to your request. Enclosure (1) pertains.

As advised by OJAG, our office has accepted the portion of the remand pertaining to an accounting of our efforts to locate the alleged missing video tape as a new FOIA request. This request has been assigned FOIA number DON-NAVY-2018-002812. The redacted information is a NCIS Management Directed Inquiry (MDI) which was initiated after your complaint filed against NCIS alleging the agency altered, withheld, or destroyed the requested video footage. Enclosure (2) pertains.

Additionally, Enclosure (B) to Exhibit (10) of the MDI (page 28) is CD video footage and still photographs obtained from the NCIS Norfolk Field Office evidence vault by the investigating agent in conjunction with the MDI. As advised, the CD contained 25 files (video clips and photographs) however only three photographs could be opened. In an attempt to assist you in your quest for information, our office contacted the NCIS Information Technology Directorate (Code 15) to ascertain if any current video software programs, that are compatible with our current computer systems, could open the files. On January 10, 2018 Code 15 informed us that our Service does not maintain any compatible software, however, all still photographs can be opened in Windows Photo Viewer. We are providing you a complete unredacted copy of the CD.

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Our review of the ECD and MDI reveals that they contain personal identifiers (such as names and social security numbers) of third parties, the release of which would constitute an unwarranted invasion of personnel privacy. Accordingly, we must partially deny your request and withhold this information pursuant to the FOIA 5 U.S.C. § 552(b)(6) and (b)(7)(C). We have also provided an enclosure explaining the various exemptions of the FOIA. Enclosure (3) pertains.

As the official responsible for the partial denial of your request, or if you believe an adequate search for responsive records was not accomplished, I am advising you of your right to appeal this determination. Your appeal must be postmarked within 90 calendar days from the date of this letter and should be addressed to the Secretary of the Navy's designee: Office of the Judge Advocate General, (Code 14), 1322 Patterson Avenue, S.E., Suite 300, Washington Navy Yard, D.C. 20374-5066. The envelope and letter should bear the annotation "FOIA Appeal." Please include a copy of your original request with your appeal letter.

If you choose not to appeal, you have the right to seek dispute resolution services. You may contact the Department of the Navy's FOIA public liaison, Mr. Chris Julka, at christopher.a.julka@navy.mil or (703) 697-0031 or the Office of Government Information Services (<https://ogis.archives.gov/>).

Furthermore, all NCIS Reports of Investigation, Investigative Actions, and exhibits/enclosures were provided to you in our March, 2015 release of the investigative file, case control number 06JAN04-CALE-0007-7HMA, which was assigned FOIA number DON-NAVY-2015-001001. All search efforts have been exhausted and you have been provided with all information maintained by this Service.

There are no assessable fees associated with the processing of your request. If you have any questions regarding this matter, please contact our office at (571) 305-9092 or via email at ncis\_foia@navy.mil.

Sincerely,

\\s\\

KAREN RICHMAN  
CDR, JAGC, USN

Encl:

- (1) ECD redacted
- (2) MDI redacted w/ photographic/video enclosures
- (3) Exemption sheet