

# EXHIBIT 3





2. In my capacity as a journalist for the *Express-News*, I have covered the capture, release and prosecution of Sgt. Robert B. Bergahl, including the Article 32 preliminary hearing in his case (which I refer to below as the "Article 32 Hearing").

3. Over the course of the weeks leading up to the Article 32 Hearing, I repeatedly asked U.S. Forces Command ("FORSCOM") Public Affairs for more information about media access to the Article 32 Hearing and related records of that hearing. FORSCOM Public Affairs did not provide me with any information about whether, when, and how the press would be able to access records in this case.

4. The Article 32 Hearing was held on September 17 and 18, 2015 at Fort Sam in San Antonio, Texas with Respondent Lt. Col. Visger presiding. Although the proceedings were open to the public, and members of the public and the press were in attendance in the hearing room and in an overflow room equipped with audio and video transmission from the hearing room, the public was not given access to copies of evidence accepted by the hearing officer. In particular, the report of Maj. Gen. Kenneth R. Dahl's 2014 AR-15-6 investigation ("Investigation Report") and the transcript of an interview of Sgt. Bergdahl

conducted by Maj. Gen. Dahl ("Interview Transcript") were referred to repeatedly in open court and were accepted into evidence, though neither document was made available to the public.

5. The *Express-News* submitted formal written requests for access to copies of all documents admitted into evidence during the Article 32 Hearing, including the Investigation Report and the Interview Transcript, among other documents. The *Express-News* also requested access to a transcript of the Article 32 proceeding. Those requests were denied by the Army.

6. Attached as Exhibit A to this Affidavit is a true and correct copy of an email exchange between FORSCOM Chief of Public Affairs John P. Boyce and me reflecting my request for the Interview Transcript and the Army's denial of access to that document.

7. Attached as Exhibit B to this Affidavit is a true and correct copy of an email exchange between Mr. Boyce and me reflecting my request for all other unclassified documents submitted into evidence during the Article 32 Hearing and the Army's denial of access to those documents.

8. Attached as Exhibit C to this Affidavit is a true and correct copy of an email exchange between Mr. Boyce and me reflecting my request for a transcript of the Article 32 Hearing and re-stating my earlier requests for documents entered into evidence at the Hearing, as well as the Army's denial of access to those documents.



Sig Christenson

Subscribed and Sworn to  
before me this 2<sup>nd</sup> day of October, 2015.



Notary Public  
My Commission Expires:



# **EXHIBIT A**

**From:** [US Army - Fort Bragg](#)  
**To:** [Christenson, Sig](#)  
**Subject:** (US Army - Fort Bragg) Inquiry Response (1607398)  
**Date:** Friday, September 18, 2015 2:00:41 PM

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The following inquiry was submitted to US Army - Fort Bragg on 09/18/15 14:12 (1607398):  
From : Tracy Myers (4thPAD10)  
Date : 09/18/15 14:00

Mr. Christenson,

Thank you for your request and those of your parent organization with regard to the 2014 Army Regulation 15-6 investigation surrounding Sgt. Robert Bowdrie ("Bowe") Bergdahl's 2009 disappearance in Afghanistan. As the "300-plus page interview" you and your organization refer to is an element of the larger 2014 Army 15-6 investigation that is part of an on-going legal process, it is not available for release.

Please contact the Department of the Army with regard to questions about the Army's 2014 15-6 investigation. Freedom Of Information Act (FOIA) requests to the U.S. Army also may be found at: <https://www.rmda.army.mil/foia/foiarequest/default.aspx> . If needed, the U.S. Army also has online "A Citizen's Guide To Request Army Records Under The Freedom of Information Act (FOIA)" and other related resources at: <https://www.rmda.army.mil/>

Response may be attributed to Colonel Daniel J.W. King, spokesman for U.S. Army Forces Command

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From : Sig Christenson  
Date : 09/18/15 14:12

Yesterday the IO accepted a 300-plus page interview and summary submitted by MG Dahl. This is the interview he did with Bowe Bergdahl. The San Antonio Express-News and Hearst Newspapers requests that you immediately release this document to us.

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If you have further questions or would like more information, feel free to contact us via the link below.

<http://www.piersystem.com/go/inquiry/5287/?i=1607398>



# **EXHIBIT B**

**From:** [Army FORSCOM](#)  
**To:** [Christenson, Sig](#)  
**Subject:** Re: Documents submitted to the investigating officer  
**Date:** Saturday, September 19, 2015 10:41:49 AM

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Mr. Christenson,

As this is a preliminary hearing, any documents submitted for consideration to the Preliminary Hearing Officer are not releasable at this point in the legal process.

Media may request documents related to the Article 32 preliminary hearing by making a request to the Army via the Freedom Of Information Act (FOIA) at:

<https://www.rmda.army.mil/foia/foiarequest/default.aspx> . If needed, the U.S. Army also has online "A Citizen's Guide To Request Army Records Under The Freedom of Information Act (FOIA)" and other related resources at: <https://www.rmda.army.mil/>

You are registered as a member of our Bergdahl proceedings distribution list and will be notified when further information is available.

On Fri, Sep 18, 2015 at 8:39 PM, Christenson, Sig <[sigc@express-news.net](mailto:sigc@express-news.net)> wrote:

Dear Sir or Madam,

A number of documents were submitted to the Article 32 investigating officer during the Sgt. Bowe Bergdahl Article 32 proceeding which concluded earlier this afternoon at Joint Base San Antonio-Fort Sam Houston.

We have already asked that you release MG Kenneth Dahl's investigation and interview with Bergdahl, along with the executive summary. In addition, we also ask that you release all other documents submitted to the IO.

They would include:

- Prosecution Exhibit 2, the order attaching Bergdahl to Forces Command.
- Prosecution Exhibit 3, temporary change of station directing then-Pfc. Bergdahl to report to Afghanistan.
- Prosecution Exhibit 4.

We also ask that you release the Article 15-6 investigation that was done following his disappearance from Observation Post Mest on June 30, 2009, as well as any other documents that are germane to the case and now in the hands of the

investigating officer.

We ask in advance that you alert us when Gen. Abrams has rendered his decision in the case, and that Forces Command release the IO's report at that time. Such reports have been routinely provided to the media in the past following a commander's decision on referral.

We do not, however, ask for the map that was mentioned during the hearing since it is classified.

Thank you for your help in supporting our efforts to fully tell the story of what happened in that case.

Respectfully,

Sig

Sig Christenson

Military writer

San Antonio Express-News

Hearst Newspapers

[\(210\) 250-3205](tel:(210)250-3205) (O)

[\(210\) 250-3205](tel:(210)250-3205) (Cell)

**EXHIBIT C**

**From:** [Boyce, John P CIV \(US\)](#)  
**To:** [Christenson, Sig](#)  
**Subject:** RE: Two San Antonio Express-News requests -- Details on "Yukon Recovery" search during Bergdahl disappearance, Article 32 Hearing Transcript -- Sig Christenson -- 28 Sept. 2015 (UNCLASSIFIED)  
**Date:** Tuesday, September 29, 2015 7:27:28 AM

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CLASSIFICATION: UNCLASSIFIED

Sir, thank you for your below two requests of 28 Sept. at 7:15 p.m. and 7:18 p.m. EDT, Monday, as well as your earlier, related requests. The Article 32 Preliminary Hearing Media Center closed on the evening of Friday, Sept. 18, so you won't need to E-mail that location for information requests at this time, 10 days later.

We do appreciate your continuing interest in the United States Army, its military operations and ongoing events. We did check on your request attempting to gather additional information about "Operation Yukon Recovery," your request for a transcript of the Article 32 hearing from 17-18 Sept., as well as your other ongoing earlier request(s) associated with the Article 15-6 unit-level review from 2009 and the 2014 Article 15-6 review prepared by MG Dahl.

As this is an ongoing legal action, any documents submitted for consideration to the Preliminary Hearing Officer are not releasable at this point in the continuing legal process -- including associated, potential details addressed during the two-day public hearing that you attended and covered for the San Antonio Express-News Newspaper.

Media may continue to request documents related to the Article 32 preliminary hearing by making a request to the Army via the Freedom Of Information Act (FOIA) at: <https://www.rmda.army.mil/foia/foiarequest/default.aspx> .

If needed, the U.S. Army also has online "A Citizen's Guide To Request Army Records Under The Freedom of Information Act (FOIA)" and other related resources at: <https://www.rmda.army.mil/>

You remain registered as a member of our E-mail distribution list on this topic and will be notified when further information about this ongoing legal action potentially is available.

Thank you, again, Sir.

Very respectfully,  
--paul

Paul Boyce  
Office of the Chief of Public Affairs; ATTN: AFCS-PA  
U.S. Army Forces Command  
Bldg. 8-1808, 4700 Knox St.  
Fort Bragg, N.C. 28310  
E-mail: [john.p.boyce2.civ@mail.mil](mailto:john.p.boyce2.civ@mail.mil)  
Phone: (910)-570-7200; Fax: (910) 570-1546; Military DSN: 670-7200

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

From: Christenson, Sig [<mailto:sigc@express-news.net>]  
Sent: Monday, September 28, 2015 7:18 PM  
To: Army FORSCOM <[armyarticle32hearing@gmail.com](mailto:armyarticle32hearing@gmail.com)>  
Cc: Boyce, John P CIV (US) <[john.p.boyce2.civ@mail.mil](mailto:john.p.boyce2.civ@mail.mil)>  
Subject: Article 32 transcript request

All,

I recently asked for a number of records connected with the case against Sgt. Bowe Bergdahl, including both the Article 15-6 investigation from 2009 and the Article 15-6 prepared by MG Dahl.

In addition those records, and others submitted to the court during the recent Article 32 proceeding, we are asking for a transcript of the proceeding held in the Installation Management Command offices on Joint Base San Antonio-Fort Sam Houston.

Thanks,

Sig

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

From: Christenson, Sig [<mailto:sigc@express-news.net>]  
Sent: Monday, September 28, 2015 7:15 PM  
To: Army FORSCOM <armyarticle32hearing@gmail.com>  
Cc: Boyce, John P CIV (US) <john.p.boyce2.civ@mail.mil>  
Subject: Checking back re Yukon Recovery questions

All,

I am checking back with you to see if you've made progress on my request concerning a message I sent on Sept. 21.

I asked any soldiers in Paktika or other provinces where Operation Yukon Recovery was conducted later required to sign non-disclosure agreements pledging not to discuss their deployments. If so, how many soldiers and other military personnel required to sign that document?

I also asked if you could list the provinces that were involved in Operation Yukon Recovery and if the operation did indeed run 45 days in those provinces, starting 30 July 2009, or if it perhaps continued beyond the mid-September timeframe.

It seems likely that search missions for Bergdahl would have continued after Sept. 20, but it also makes sense that they may have been scaled back to fewer provinces and districts. If so, it would be good to know what constituted the search area and what troops (down to the battalion level) were involved.

Thanks,

Sig

CLASSIFICATION: UNCLASSIFIED