



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street, 3rd Floor  
New York, New York 10007*

March 15, 2010

BY HAND

Alexander Abdo, Esq.  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, N.Y. 10004

Re: ACLU v. Central Intelligence Agency, et al., No. 09 Civ. 5413 (AKH)

Dear Mr. Abdo:

On behalf of the United States Department of Defense ("DoD"), the United States Department of Justice Office of Legal Counsel ("OLC"), and the Central Intelligence Agency ("CIA"), I enclose documents responsive to the Freedom of Information Act ("FOIA") request dated December 9, 2008 (the "Request"), that is the subject of the above-referenced case.

Since January 15, 2010, DoD has processed approximately 2018 pages of documents found in the Office of the Secretary of Defense. The enclosed documents – Bates numbered ACLU (DP) 1274 - ACLU (DP) 1275, ACLU (DP) 1277 - ACLU (DP) 1280, ACLU (DP) 1440 - ACLU (DP) 1442, ACLU (DP) 1470 - ACLU (DP) 1481, ACLU (DP) 1488 - ACLU (DP) 1492, ACLU (DP) 1271 - ACLU (DP) 1272, ACLU (DP) 1509 - ACLU (DP) 1510, ACLU (DP) 1291 - ACLU (DP) 1296, and ACLU (DP) 1299 - ACLU (DP) 1300 – have been determined to be releasable either in whole or in part, and the rest of the processed documents are being withheld in full pursuant to some or all of the following exemptions: 5 U.S.C. § 552(b)(1), (b)(3), (b)(5), (b)(6), (b)(7)(A), and (b)(7)(C). Specifically, the information being withheld either in full or in part is currently and properly classified pursuant to Executive Order 12958, as amended, section 1.4(c) concerning intelligence activities of the United States, and section 1.4(d) concerning foreign relations or foreign activities of the United States, including confidential sources. The information is also exempt by a statute establishing particular criteria for withholding: specifically 10 U.S.C. § 130(c), which permits the withholding of sensitive information concerning foreign governments and international organizations. In addition, some of the withheld information is exempt from release because it pertains to certain inter- and intra- agency communications protected by the deliberative process privilege and attorney work-product doctrine. Other information is being withheld because its release would constitute a clearly unwarranted invasion of the personal privacy of individuals. Finally, information has been withheld concerning detainees because the information is part of an ongoing investigation and prosecution of the detainees.

Alexander Abdo, Esq.  
March 15, 2010  
Page 2

With respect to the remainder of the response to the Request, DoD is still waiting for additional responses from other agencies regarding documents referred to those agencies for consultations. DoD will continue to process those documents as it receives responses from those agencies.

I also enclose one redacted OLC memorandum, Bates numbered 003801- 003807, that OLC could not previously release due to necessary consultations with other agencies. OLC's response to the Request is now complete.

On behalf of the CIA, I enclose documents Bates numbered 2-049 (7 pages), 2-054 (5 pages), 3-002 (10 pages), 3-012 (2 pages), 3-003 (1 page), 4-002 (11 pages), and 4-007 (6 pages). Since February 1, 2010, the CIA has processed more than 500 pages of documents following the referral and coordination process within the Executive Branch. The enclosed documents have been determined to be releasable in part, and the remainder of the processed documents are being withheld in full pursuant to some or all of the following exemptions: 5 U.S.C. § 552 (b)(1), (b)(2), (b)(3), (b)(5) and (b)(6). This production completes the CIA's processing of all the documents that have been referred to the Executive Branch to date, and concludes the CIA's response of non-email documents responsive to the above-referenced matter. I also note that given the Plaintiff's August 6, 2009 memorialized agreement with the Government, the CIA and the other defendants in this case have not processed documents that are responsive to the ACLU's FOIA request in this case and were processed in the FOIA requests at issue in case numbers 1:04-CV-4151 and 1:05-CV-9620. Finally, on February 1, 2010, the CIA requested that the ACLU suggest a list of positions for which you would like CIA to search its email repository for records responsive to your Request. To date, we have not received a response to this request, so the CIA has not commenced a search of email accounts.

Finally, the Department of State ("State") has completed its searches in response to the Request. As a result of its expansive search for documents, State has located thousands of pages of potentially responsive records and has begun the process of reviewing the located records for responsiveness and to determine which, if any, FOIA exemptions are applicable. Due to the number of records located, and State's obligations with respect to other FOIA cases filed by the ACLU, State will need until June 15, 2010 to complete the processing of the first wave of documents. State will also provide an update on June 15, 2010 regarding the processing of the remainder of the located records.

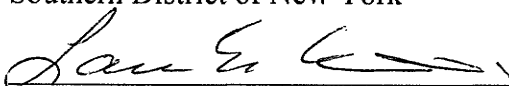
Alexander Abdo, Esq.  
March 15, 2010  
Page 3

We thank you for your continued cooperation in this matter.

Very truly yours,

PREET BHARARA  
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Encls.