



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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*86 Chambers Street  
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July 2, 2009

**BY FACSIMILE**

Hon. Alvin K. Hellerstein  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1050  
New York, New York 10007-1312

Re: *ACLU, et al., v. Department of Defense, et al.*, No. 04 Civ. 4151 (AKH);  
*ACLU, et al., v. Department of Justice*, No. 05 Civ. 9620 (AKH)

Dear Judge Hellerstein:

We write in response to Plaintiffs' July 1, 2009 letter, which seeks a July 6, 2009 deadline for the production of any additional information that can be released from the Central Intelligence Agency Office of Inspector General Special Review Report. For the reasons explained below, the Government cannot complete its review of the Special Review Report prior to the August 31, 2009 deadline set in the Court's June 3, 2009 Order.

The Second Circuit remanded 319 documents, including the Special Review Report, to this Court for further review given the release this year of additional information about the CIA's detention and interrogation program. The parties could not agree on a schedule for the CIA's review of the 319 documents, and the Court set an August 31, 2009 deadline in its June 3, 2009 Order. By its express terms, that order did not set an interim deadline for the Special Review Report, and we made clear to the Plaintiffs that we did not read the Court's order as implying such a deadline. Nevertheless, we advised the Plaintiffs of the Government's intention to expedite the review of the Special Review Report and to produce the Report in June 2009. We have since determined that, regardless of our original intent, the Government cannot expedite the review of the Special Review Report.

As we explained to the Court and Plaintiffs when Plaintiffs first raised the prospect of expediting the Special Review Report, the Report poses unique processing issues. It is over 200 pages long and contains a comprehensive summary and review of the CIA's detention and interrogation program. The Report touches upon the information contained in virtually all of the remaining 318 documents remanded for further review. Although the Government has endeavored in good faith to complete the review of the Special Review Report first, as we have gone through the process, we have determined that prioritizing the Report is simply untenable.

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In this instance, we have determined that the only practicable approach is to first complete the review of the remaining 318 documents, and then apply the withholding determinations made with respect to the information in those documents to the Special Review Report. Many of the documents remanded for further review raise similar issues, and the review of individual documents informs the review of the whole. Moreover, the prioritization of the Special Review Report risks inconsistency in the application of FOIA exemptions to the information contained in the remaining documents. Given the sensitivity of the information at issue, and the need for coordination among multiple components of the Government, the review of the remanded documents is a time-consuming and labor-intensive exercise. One month into that process, we have concluded that we must review all of the documents together, and that the review will take until August 31, 2009, as we originally requested.

Accordingly, the Government will complete its review of the Special Review Report by August 31, 2009, in accordance with the Court's August 31, 2009 deadline. To the extent Plaintiffs' July 1, 2009 letter is interpreted as a request to modify the deadline contained in the June 3, 2009 Order, the Government opposes such a request for the reasons explained above.

Respectfully submitted,

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