



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

April 23, 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. Dep't of Defense, et al., 04 Civ. 4151 (AKH);
ACLU, et al., v. Dep't of Justice, 05 Civ. 9620 (AKH)

Dear Judge Hellerstein:

I am writing to update the Court regarding the status of certain images sought by the plaintiffs in the above-captioned case under the Freedom of Information Act ("FOIA").

By orders dated June 9, 2006 and June 21, 2006, the Court directed the Government to release twenty-one photographs depicting the treatment of detainees in Iraq and Afghanistan. By opinion dated September 22, 2008, the Second Circuit affirmed this Court's orders. See American Civil Liberties Union v. Department of Defense, 543 F.3d 59, 66-83 (2d Cir. 2008). On November 6, 2008, Appellants filed a petition for rehearing en banc only as to the panel's decision on FOIA exemption 7(F); that petition was denied on March 12, 2009. As the Government has now determined that it will not seek certiorari of the Second Circuit's decision, the Department of Defense is preparing to release the 21 photos at issue in the appeal and 23 other photos previously identified as responsive. In addition, the Government also is processing for release a substantial number of other images contained in Army CID reports that have been closed during the pendency of this case; these other images will be processed consistent with the Court's previous rulings on responsive images in this case. The parties have reached an agreement that the Department of Defense will produce all the responsive images by May 28, 2009.

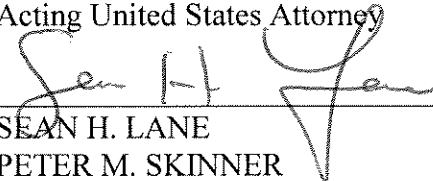
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We will keep the Court apprised of the status of this matter.

Respectfully,

LEV L. DASSIN
Acting United States Attorney

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cc: Amrit Singh, Esq. (by facsimile)
Jenny-Brooke Condon, Esq. (by facsimile)