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Date: May 13, 2009

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**U.S. Department of Justice**

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

May 13, 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:

We are 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 letter dated April 23, 2009, the Government informed the Court and the plaintiffs that the Government had decided not to seek certiorari of the Second Circuit's decision regarding photographs depicting the treatment of detainees in Iraq and Afghanistan. See American Civil Liberties Union v. Department of Defense, 543 F.3d 59, 66-83 (2d Cir. 2008). We have been informed today that, upon further reflection at the highest levels of Government, the Government has decided to pursue further options regarding that decision, including but not limited to the option of seeking certiorari. The deadline by which the Government must seek certiorari is June 9, 2009.

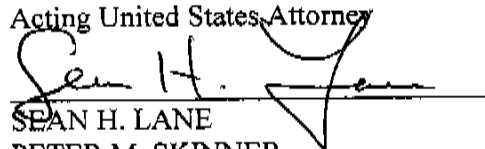
Hon. Alvin K. Hellerstein
May 13, 2009

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

Respectfully,

LEV L. DASSIN
Acting United States Attorney

By:


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