

**U.S. Department of Justice**

*United States Attorney
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March 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)

Dear Judge Hellerstein:

The Court's stay of its consideration of Plaintiffs' contempt motion expired on February 28, 2009. John Durham, the Acting United States Attorney for the Eastern District of Virginia who is conducting a criminal investigation into the destruction of certain videotaped interrogations of detainees by the Central Intelligence Agency, did not request a continuation of the stay. Accordingly, it is our expectation that the Court will enter an order requiring the production of the information contemplated in the August 20, 2008 Order Regulating Proceedings; namely:

1. A list identifying and describing each of the destroyed records;
2. A list of any summaries, transcripts, or memoranda regarding the records, and of any reconstruction of the records' contents; and
3. Identification of any witnesses who may have viewed the videotapes or retained custody of the videotapes before their destruction.

Hon. Alvin K. Hellerstein
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With the termination of the stay, the CIA is now gathering information and records responsive to the Court's order. The CIA respectfully requests that it be permitted until Friday, March 6, 2009, to provide the Court with a proposed schedule under which it will respond to each of the three categories of information and records.

In the meantime, the CIA can now identify the number of videotapes that were destroyed, which is information implicated by Point 1 of the August 20, 2008 Order. Ninety-two videotapes were destroyed. This information is included in the CIA Office of Inspector General's Special Review Report, a redacted version of which was previously produced to the Plaintiffs. The CIA will unredact this information from the report and produce it to the Plaintiffs.

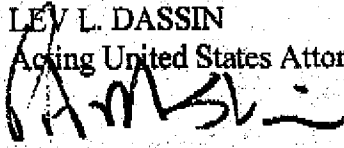
Finally, we note that certain of the information contemplated by the August 20, 2008 Order may be classified or statutorily protected from disclosure, such as the names of CIA employees who have reviewed the tapes. The CIA intends to produce all of the information requested to the Court and to produce as much information as possible on the public record to the Plaintiffs.

We thank the Court for considering this submission.

Respectfully,

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