

May 7, 2009

Russell G. Leavitt
Office of the General Counsel
United States Department of Defense
1600 Defense Pentagon
Room 3B688
Washington, DC 20301-1600

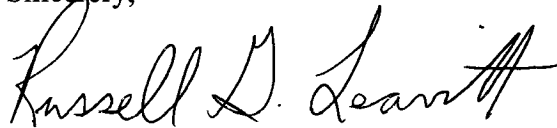
VIA E-mail
Jameel Jaffer
ACLU Foundation
Legal Department
125 Broad Street
18th Floor
New York, NY 10004-24000

Re: American Civil Liberties Union v. Department of Defense, et al., No. 1:08-cv-01003-RJL

Dear Mr. Jaffer,

I write to inform you of DoD's review of a document referred to us by the Department of Justice in the above-referenced case. We received the document, which consists of forty-six pages, on April 3, 2009. It represents a draft response to Congressional Questions for the Record, arising out of a hearing before the Senate Judiciary Committee, on June 15, 2005. Although we are withholding the draft, pursuant to FOIA Exemption 5 and the Deliberative Process Privilege, the final version of these answers was published in the Congressional Record, with only minimal changes. It can be located on the web, at pages 73-99 and 121-137 of this file: <http://www.access.gpo.gov/congress/senate/pdf/109hrg/24332.pdf>. As always, if you have any questions, please direct them to Ms. Marcia Sowles, United States Department of Justice, Civil Division.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell G. Leavitt", with a stylized flourish at the end.

Russell G. Leavitt
Associate Deputy General Counsel (Legal Counsel)