Jameel Jaffer
Director, National Security Project
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004

Dear Mr. Jaffer:

This responds to your Freedom of Information Act ("FOIA") request submitted to the
Department of Justice and the Department of Defense on April 22, 2008. The Criminal Division
referred to the Office of Legal Counsel ("OLC") for processing nine documents originating with
OLC that are responsive to this request. Since two of these documents are duplicates, we are
only processing eight of the nine documents.

Five of the eight documents were identified and processed in connection with previous
FOIA requests submitted by your organization. Accordingly, as you have agreed, we are not
processing these five documents in connection with the present request. Two of the remaining
three documents are drafts of OLC memoranda, and we are withholding them in full pursuant to
FOIA Exemptions One and Five, 5 U.S.C. § 552(b)(1), (5). We are invoking Exemption Five
with respect to information protected by the deliberative process privilege and Exemption One
with respect to information that is classified. Finally, we are releasing the remaining document,
which is enclosed.

Although I understand that your request is the subject of litigation, I am required by
statute and regulation to inform you that you have the right to file an administrative appeal.

Sincerely,

Paul P. Colborn
Special Counsel

Enclosure

cc: Marcia Sowles (without enclosures)
    Federal Programs Branch, Civil Division
    Department of Justice