



U.S. Department of Justice

Office of Legal Counsel

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Washington, D.C. 20530

August 24, 2009

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