

CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

Office of General Counsel

1 May 2009

Honorable Alvin K. Hellerstein  
United States District Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 630  
New York, NY 10007

Re: ACLU v. Dep't of Def., 04 Civ. 4151

Dear Judge Hellerstein:


Pursuant to the workplan proposed by the Government on April 9, 2009, which was accepted in part by the Court's April 20, 2009 Order, we are enclosing an index describing the first half of the contemporaneous records created in August 2002. The index describes each record and notes the FOIA exemptions applicable to each record. As contemplated by the schedule the Government will be proposing in response to the Court's April 20, 2009 Order, the Government intends to submit a declaration from a senior Government official on May 22, 2009 that more fully explains the justifications for withholding under FOIA.

At this time, however, we wish to note that the records at issue, which are actual operational cables between CIA station(s) and CIA headquarters, are different in kind from the general legal memoranda addressing CIA interrogation methods that were disclosed on April 16, 2009. Unlike the memoranda, which address the legality of interrogation methods that are no longer used, the cables disclose extremely sensitive operational information that would threaten the efficacy of present and future interrogations. For example, disclosure of the cables could reveal how the CIA approaches interrogations as a general matter, including its strategic decisions about when particular interrogation methods were used, in what order, and, most importantly, why particular methods were used in certain

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situations. The cables also contain sensitive information about what types of questions are asked and at what point in the interrogation, and how interrogators calibrate particular interrogation approaches to the detainees' responses. Even though some of those methods are no longer employed by the CIA, the cables reveal the strategy and tactics of the CIA's interrogations and provide insight into how the CIA elicits information from those whom they interrogate, as well as actual intelligence obtained during interrogations. If this kind of information is disclosed, our enemies will be better prepared to resist and subvert interrogations now and in the future. Accordingly, the level of information the Government can disclose from the cables is far different than the level of information that was disclosed from the legal memoranda.

Sincerely,



John L. McPherson

Associate General Counsel