

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION, CENTER FOR
CONSTITUTIONAL RIGHTS, PHYSICIANS FOR HUMAN
RIGHTS, VETERANS FOR COMMON SENSE AND
VETERANS FOR PEACE,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE, AND ITS COMPONENTS
DEPARTMENT OF ARMY, DEPARTMENT OF NAVY,
DEPARTMENT OF AIR FORCE, DEFENSE
INTELLIGENCE AGENCY; DEPARTMENT OF HOMELAND
SECURITY; DEPARTMENT OF JUSTICE, AND ITS
COMPONENTS CIVIL RIGHTS DIVISION, CRIMINAL
DIVISION, OFFICE OF INFORMATION AND
PRIVACY, OFFICE OF INTELLIGENCE, POLICY AND
REVIEW, FEDERAL BUREAU OF INVESTIGATION;
DEPARTMENT OF STATE; AND CENTRAL
INTELLIGENCE AGENCY,

Defendants.

CIVIL ACTION

DOCKET NO. 04-CV-4151 (AKH)

DECLARATION OF
LAWRENCE S. LUSTBERG IN
SUPPORT OF PLAINTIFFS'
MOTION FOR
PRELIMINARY INJUNCTION

I, LAWRENCE S. LUSTBERG, hereby depose and state:

1. I am an attorney with Gibbons, Del Deo, Dolan, Griffinger and Vecchione, P.C., counsel for Plaintiffs in the above-captioned matter.

2. On May 25, 2004, I submitted a request pursuant to the Freedom of Information Act ("FOIA") to the Department of Defense ("DOD") and its components, the Departments of Army, Navy, Air Force and Defense Intelligence Agency; Department of Justice ("DOJ") and its components Office of Information and Policy,

Civil Rights Division, Criminal Divison, Federal Bureau of Investigation and Office of Intelligence Policy and Review; Department of Homeland Security ("DHS"); Department of State ("DOS") and the Central Intelligence Agency ("CIA") (hereinafter "May 2004 FOIA Request"). I filed the request on behalf of Plaintiffs American Civil Liberties Union ("ACLU"), Center for Constitutional Rights ("CCR"), Physicians for Human Rights ("PHR"), Veterans for Common Sense ("VCS") and Veterans for Peace ("VFP"). A copy of the May 2004 FOIA Request to each Defendant agency is attached herewith as Exhibits 1-13.

3. Incorporated into the May 2004 FOIA Request was an application by Plaintiffs for expedited processing, pursuant to FOIA and agency regulations.

4. The May 2004 FOIA Request seeks the same category of records as those requested in Plaintiffs' earlier FOIA request, submitted in October 2003. The records sought concern the treatment of individuals apprehended after September 11, 2001, and held by the United States at military bases or detention facilities outside the United States ("Detainees"); records concerning the deaths of Detainees in custody; and records concerning the government's practice of "rendering" Detainees to countries known to use torture.

5. Copies of Plaintiffs' October 2003 FOIA Request and application for expedited processing are appended to the May 2004 FOIA Request as Appendices B-C.

Under penalty of perjury, I hereby declare that the foregoing is true and correct to the best of my knowledge and belief.

Signed: _____/LSL/_____
LAWRENCE S. LUSTBERG

Date: July 6, 2004
Newark, New Jersey

TABLE OF CONTENTS

Each of the attached FOIA Requests includes a Letter dated May 25, 2004 to Defendant Agency from Plaintiffs with FOIA Request and Application for Expedited Processing, and the following Appendices: (A) List of Responsive Records; (B) Plaintiffs' 2003 FOIA Request; (C) Plaintiffs' 2003 Request for Expedited Processing.

The Exhibits are in the following order:

1. DEPARTMENT OF DEFENSE
2. DEPARTMENT OF NAVY
3. DEPARTMENT OF AIR FORCE
4. DEPARTMENT OF ARMY
5. DEFENSE INTELLIGENCE AGENCY
6. DEPARTMENT OF JUSTICE OFFICE OF INFORMATION AND POLICY
7. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION
8. DEPARTMENT OF JUSTICE CRIMINAL DIVISION
9. DEPARTMENT OF JUSTICE OFFICE OF INTELLIGENCE, POLICY AND REVIEW
10. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF INVESTIGATIONS
11. DEPARTMENT OF HOMELAND SECURITY
12. DEPARTMENT OF STATE
13. CENTRAL INTELLIGENCE AGENCY