



October 8, 2009

Hon. William K. Suter  
Clerk  
Supreme Court of the United States  
Washington, D.C. 20543

Re: *Department of Defense v. American Civil Liberties Union,*  
*S.Ct. No. 09-160*

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
NATIONAL OFFICE  
125 BROAD STREET, 18TH FL.  
NEW YORK, NY 10004-2400  
T/212.549.2500  
WWW.ACLU.ORG

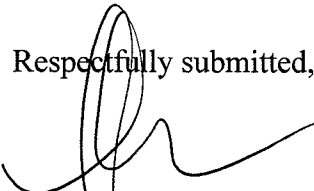
OFFICERS AND DIRECTORS  
SUSAN N. HERMAN  
PRESIDENT

ANTHONY D. ROMERO  
EXECUTIVE DIRECTOR

RICHARD ZACKS  
TREASURER

Dear Mr. Suter,

Respondents in the above-referenced case write in regards to the letter submitted by the government earlier this afternoon. Respondents continue to believe that certiorari should be denied for the reasons set out in their opposition. That Congress may enact the legislation described in the government's letter does not supply any reason for delay. Should Congress enact the proposed legislation, and should the Secretary of Defense then invoke the authority granted by the legislation with respect to some or all of the photographs at issue in this case, the government will be free to present any new arguments against disclosure to the district court.

Respectfully submitted,  
  
Jameel Jaffer

cc: Hon. Elena Kagan  
Solicitor General

Lucy Dalglish  
Reporters' Committee for Freedom of the Press

Charles S. Sims  
Proskauer Rose LLP