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NEW YORK CIVIL LIBERTIES UNION

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BY FACSIMILE AND FIRST CLASS MAIL

May 4, 2006

Raymond Kelly
Commissioner
New York City Police Department
1 Police Plaza
New York, N.Y. 10038

Re: NYPD Investigations of Photographers

Dear Commissioner Kelly:

On behalf of the New York Civil Liberties Union, we write to express our concerns about the Department's treatment of people lawfully photographing public places in New York City. In particular, based on information we recently have received from members of the Department, we are concerned the Department is investigating a substantial number of photographers yet lacks appropriate guidelines for and supervision of such investigations and, moreover, that the NYPD's Intelligence Division is maintaining a database of photographers.

In the last several months, we have received or otherwise learned of a number of reports of photographers being stopped and detained by police officers. Some photographers have been searched and threatened with arrest if they would not destroy their film. Photographers also have been subjected to a second round of questioning by members of the Intelligence Division.

One photographer client of ours was stopped by a police officer while taking pictures of a highway overpass near a public housing complex in the Bronx. At the request of the officer, he displayed the digital images of his photographs and explained the artistic nature of his work. The officer insisted the images were not art and threatened to arrest him if he did not destroy them. When he refused to do so, the officer asked for his camera and tried to delete the images but was unable to do so. After being detained nearly 45 minutes, the photographer was released, but two days later he received a telephone call at his place of work demanding that he submit to further questioning by members of the Intelligence Division. When that questioning took place the following day, our client was asked about his political activities and whether he was Muslim.

A second client is an accomplished nature photographer who was stopped by police officers while taking photographs in the vicinity of the George Washington Bridge in the middle

of the afternoon. After cooperating fully with the officers, he was asked if they could accompany him back to his apartment, to which he consented. Much to his surprise, the officers then asked to enter his apartment and proceeded to search it, including going through personal photo albums of his.

Like our first client, our second client later received a call to be questioned by members of the Intelligence Division. At that point, he contacted us. Though he wanted to cooperate with the Department, he understandably was frightened by the situation. We therefore arranged for the questioning to take place in our offices, and we represented the photographer in that interview.

As a result of our involvement in these matters, we have learned several things that heightened the concerns we already had about the Department's treatment of photographers.

- We have been informed that the most common type of report received by the NYPD's terrorism hotline is about photography.
- We believe the Department may have no policies or procedures specifically governing investigations of photographers.
- We have been informed that the Intelligence Division is maintaining a database that includes the identities of everyone investigated for photography by the Division, regardless of the outcome of the investigation.

If this information is accurate, it may well explain the complaints we have been receiving. If the Department is investigating a substantial number of reports of photography, it is essential that there be appropriate policies and procedures as well training for and supervision of those investigations. Without appropriate training and supervision, officers may be far too likely to conduct photography investigations in an inappropriate and even unlawful manner.

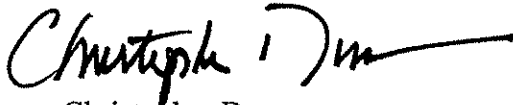
We of course recognize the Department can and should investigate suspicious activity, which in some circumstances could include photography. But nothing about photography itself is suspicious. To the contrary, photography is protected by the First Amendment and has a long and rich history in New York City. That the Police Department has received a report about photography of important landmarks provides no basis for police officers to detain photographers and conduct searches, much less to attempt to force photographers to destroy images.

We therefore ask that the Department promptly review the manner in which it is investigating reports about photographers. In particular, we ask that the Department develop appropriate guidelines, training, and supervision for such investigations. In addition, we ask that the Department expunge any information it has compiled in an Intelligence Division database that concerns photographers who have been investigated and found not to have engaged in any unlawful conduct.

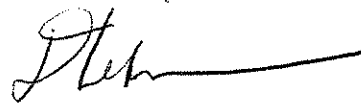
If you have any questions or require additional information, we would be happy to discuss

this matter with an appropriate member of your staff. Otherwise, we look forward to a response indicating how the Department intends to respond to our concerns.

Sincerely,

Handwritten signature of Christopher Dunn in black ink, featuring a stylized 'C' and 'D'.

Christopher Dunn
Associate Legal Director

Handwritten signature of Donna Lieberman in black ink, featuring a stylized 'D' and 'L'.

Donna Lieberman
Executive Director