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January 23, 2008

By Fax

Christopher Dunn, Esq.
New York Civil Liberties Union
125 Broad Street
New York NY 10004

Re: NYCLU v. NYPD, Supreme Court, N.Y. County, Index No. 115154/07

Dear Chris:

I respond to your letter of this afternoon. As you recall, before NYPD filed its motion to dismiss last week, we had discussed the possibility of the publication of some portion of the database. In fact, on Tuesday, you told me that you had heard rumors to that effect.

As our briefing schedule was pretty much set in stone, the papers were prepared on Wednesday, and transmitted to you midday on Thursday, January 17, 2008. Unbeknownst to me at that time, the Police Department transmitted the database to the National Archive of Criminal Justice Data ("NACJD") on Wednesday.

Based on what I learned today, subject to further inquiry, it appears that the NACJD will vet the information transmitted and make any suggestions it deems advisable for reformatting, including explanatory information. When the data is in appropriate format it will be made available to all researchers on a non-preferential basis.

I am advised that the material transmitted to NACJD consisted of 2006 data that was extracted from the same database that was given to RAND Corporation for its study. However, the data provided to NACJD excluded all information identifying the individuals involved in the stops (police officers and subjects of the stops), as well as the precise locations of the stops.

NYPD's actions in providing a redacted database to the NACJD were not taken in bad faith. Your FOIL request seeks data more extensive than the database that was provided to RAND, in that you request additional information about the timeframes of the stops that was not

included in the RAND database. Because the NYPD's transmittal to NACJD redacted more, and therefore contained less, information than the transmittal to RAND, it did nothing to change the legal arguments available to the Department after RAND was given the redacted database. At this point, therefore, there is still a live controversy, and NYPD's litigation posture is consistent with the position taken in the Motion to Dismiss.

However, if you believe that the forthcoming publication of the database provided to the NACJD can be the basis of a resolution of the case, please let me know.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Jesse I. Levine", with a long, sweeping horizontal stroke extending to the right.

Jesse I. Levine

cc: Thomas Doepfner