



# County of Erie

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February 28, 2008

**Via Federal Express  
Over Night Delivery**

Gregory Gonzalez, Senior Trial Attorney  
U. S. Department of Justice, Civil Rights Division  
Special Litigation Section-PHB  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

**Re: Investigation of the Erie County Holding Center  
and the Erie County Correctional Facility  
Our File No. 31.20070052**

Dear Mr. Gonzalez:

Accompanying this letter, please find documents which are responsive to the Document Request which was sent to this office with your letter dated January 30, 2008.

As we have previously discussed, we were unable to provide many of the documents which you requested, due to issues of privilege. As I outlined in my letter to you of February 1, 2008, Document Request § I (C) (2) (d) - (h) and § II (A)(1)(b) & (e); (B) (1), (9) and (11) ask for records protected by the mental health privilege (see New York Mental Hygiene Law § 33.13, New York Civil Procedure Law and Rules §§ 4507 and § 4508); Document Request § II (A)(1)(d); (B) (1) - (4) & (8) ask for records protected by the medical records privilege (see New York Civil Procedure Law and Rules § 4504); and Document Request § II (A)(1) asks for parts of the personnel records of police and corrections officers which are privileged in New York (See New York Civil Rights Law § 50-a). It is also clear that Document Request §§ I (C) (2) (d) - (h); II (A)(1)(b), (d) & (e); (B)(1) - (4), (8), (9) & (11) ask for documents that are confidential under HIPPA regulations. (see 45 CFR § 164.500, *et. seq.*).

As you have been unable to provide me with any statutory or case law which contradicts my assessment on this matter, I am unable to provide documents covered by these privileges. However, I remain open to review anything you can send me which you feel would correct me on

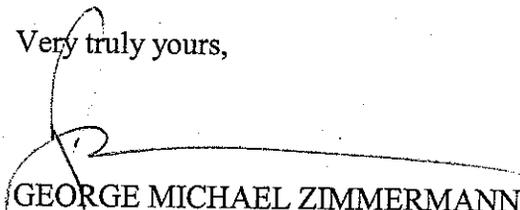
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any of these points. Should you be able to do so, we would be happy to provide you with the documents we have gathered which are responsive to the above requests, but which we are withholding at this point.

Let me again assure you that Erie County remains ready and willing to cooperate in your investigation, and will provide you with everything we are allowed to disclose by law.

Thank you for your kind attention in this matter.

Very truly yours,



GEORGE MICHAEL ZIMMERMANN  
Interim Erie County Attorney

GMZ/mow

enclosures

cc without enclosures:

Chris Collins, Erie County Executive  
Timothy Howard, Erie County Sheriff