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March 4, 2009

Tony Rackauckas, Orange County District Attorney
Office of the Orange County District Attorney
401 Civil Center Drive West
Santa Ana, CA 92701

Chairs Emeriti
Danny Goldberg
Allan K. Jonas
Burt Lancaster†
Irving Lichtenstein, MD†
Laurie Ostrow†
Stanley K. Sheinbaum

RE: Complaint of mishandling of a criminal investigation

Dear Mr. Rackauckas:

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Chief Executive Officer
Ramona Ripston

The American Civil Liberties Union Foundation of Southern California respectfully requests that your office investigate the propriety of the Newport Beach Police Department's investigation into a criminal complaint made by Karyl Ketchum and Michael Wiggins on behalf of their daughter, Hailee Wiggins-Ketchum.

Chief Operating Officer
Heather Carrigan

On January 26, 2009, Mr. Wiggins reported an appalling and disgusting video, posted on Facebook, in which threats were made against Hail by three male classmates at Corona del Mar High School. The video, which was later removed from Facebook, can still be viewed at www.visuality.org/ketchum/index1. The video, which depicts Dutch Lamons, Noah Molnar, and Max Haase, was posted to the Facebook page of another classmate, Joey Jones, and could be viewed by the hundreds of people listed as his Facebook friends and the thousands of people in the Facebook Corona del Mar High School "network." The video consists of the three talking to their friend Joey and to the larger community of the high school. They address Hail directly. One tells her that Joey wants to kill her – "Hail, Joey told me that he wants to kill you. That he wants to legitimately kill you." Another says "I hope Hail watches this. And then you take a sniper to her forehead." One discusses raping her in the back of a truck, and, in an apparent mockery of her last name, asks if she "catches cum in her mouth."

Communications Director
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Managing Attorney &
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Peter J. Eliasberg

The Newport Beach Police Department assigned the school resource officer, Tom Monarch, to investigate. Subsequent to the report of the video, Joey Jones, threatened Hailee Wiggins-Ketchum at school, telling her that "this" – presumably her family having contacted the police and school authorities – "is the biggest mistake of your life." This too was reported to Officer Monarch. Officer Monarch, however, apparently determined that the threats were not credible.

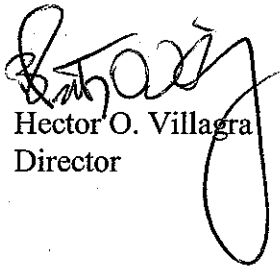
We strongly believe that Officer Monarch should have disqualified himself from the criminal investigation because he is an assistant varsity football coach at Corona del Mar and the three boys depicted in the video are varsity football players. He should have done so to avoid any potential conflict of interest or the appearance of one. The interests of justice require unbiased investigations of criminal complaints. Here, there can be no confidence in the results of the investigation conducted by the Newport

Beach Police Department given the obvious appearance of a conflict of interest.

We express no opinion as to whether these circumstances warrant imposition of criminal sanctions because we would not want to prematurely pass judgment. However, all people are entitled to equal enforcement of the law, criminal suspects and potential victims alike, and we believe that the facts presented justify a fair, impartial, and complete investigation.

Accordingly, we request that your office investigate the propriety of the Newport Beach Police Department's investigation and its failure to address the obvious potential conflict of interest.

Sincerely,



Hector O. Villagra
Director

