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10TH DISTRICT, VIRGINIA

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**Congress of the United States**  
**House of Representatives**

June 8, 2010

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The Honorable Eric H. Holder, Jr.  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave NW Rm 5111  
Washington DC 20530

Dear Attorney General Holder:

I am in receipt of a recent request from Assistant Attorney General Lee Loftus requesting approval of a reorganization within the department's Civil Rights Division. As the ranking member of the House Commerce-Justice-Science Appropriations Subcommittee, I take seriously my responsibility to provide oversight of the department.

As you know, over the past year I have repeatedly sought information from the Justice Department about the unwarranted dismissal of *U.S. v. New Black Panther Party*. Before I consider the recent reprogramming request affecting the Civil Rights Division, I expect the department to make a credible effort to answer legitimate questions about the dismissal of this case. The scant information that I have received from the department over the last year has failed to answer the questions and concerns raised by members of Congress and the U.S. Commission on Civil Rights with regard to this matter.

As you also know from my prior letters to you, my commitment to voting rights is without question. In fact, in 1981 upon my vote for the Voting Rights Act, the *Richmond Times-Dispatch* published the enclosed editorial, "A More Offensive Law," castigating me for my vote when every other member of the Virginia congressional delegation opposed it. The editorial chastised me stating, "Mr. Wolf will be partly to blame [for federal voting rights oversight]." Given my consistent support for voting rights throughout my public service, you can understand why I have been particularly troubled by the dismissal of this case. It is imperative that we protect all Americans' right to vote. This is a sacrosanct and inalienable right in any democracy.

I again call on you to answer the following questions with regard to the dismissal of this case. You may recall that I initially asked many of these questions in my letter to you dated July 21, 2009; I have yet to receive a response, however.

1. What reports did the department receive about New Black Panther Party (NBPP) voter intimidation on Election Day 2008?
2. Was Associate Attorney General Thomas Perrelli consulted and/or did he approve the dismissal of *U.S. v. New Black Panther Party*?

3. Please identify all career employees who recommended the final decision to dismiss this case.
4. Please identify all career employees who objected to the final decision.
5. Why have members of Congress and the U.S. Commission on Civil Rights been prevented from meeting with the trial team on this case?
6. What was the communication, if any, from Acting Assistant Attorney General for Civil Rights Loretta King to you, former Deputy Attorney General David Ogden, or Associate Attorney General Thomas Perrelli, or your offices prior to the case dismissal?
7. Did you, former Deputy Attorney General Ogden, or Associate Attorney General Perrelli approve (or express reservations about) the dismissal of this case and/or sign off on any communication with regard to the dismissal? If so, please provide that information.
8. Assistant Attorney General Ronald Weich's letter to me dated July 13, 2009, states that Ms. King is a 30-year career employee and was acting in that capacity when the case was dismissed. However, I understand that the Vacancy Reform Act characterized her position at the time, Acting Assistant Attorney General for Civil Rights, as a "Presidential appointment with Senate confirmation" (PAS) and in that capacity she would be acting in a political capacity, assuming the offices of the Associate Attorney General, Deputy Attorney General or Attorney General also did not opine on the matter. Could you please clarify?
9. The former attorney general was a signatory to the complaint. Are you a signatory to any legal document or internal directive regarding the dismissal of this case?
10. On what grounds did you find that the appearance of members of a widely recognized hate group wearing paramilitary-style uniforms did not constitute intimidation?
11. What precedent does this set for other like-minded groups -- whomever their target -- about federal enforcement of voter intimidation by hate groups outside of polling stations?
12. If showing a weapon, making threatening statements, and wearing paramilitary uniforms in front of a polling station do not constitute voter intimidation, at what threshold of activity would these laws be enforceable?
13. Mr. Weich's letter cites uncertainty as to the outcome of "default judgments" as your justification for dismissal of the charges against Jerry Jackson, Malik Zulu Shabazz, and the New Black Panther Party. The letter also alleges that the body of evidence amassed

further informed your decision to dismiss this case. Please provide copies of the sworn statements by witnesses, an inventory of video evidence, examples of such evidence that influenced dismissal, and the names of individuals and third-party groups contacted and any documents that they provided in prosecuting this case.

14. Is certainty of favorable judgment a new requirement for this department before it will file a case?
15. Did the department contact the Southern Poverty Law Center and/or Anti-Defamation League, which list the New Black Panther Party as a hate group along with the KKK and American Nazi Party? If so, with whom did the department speak?
16. Did the signatories of the complaint concur with your decision to dismiss?
17. Do you believe that Jerry Jackson's affiliation, uniform, statements, and behavior at 1221 Fairmont Street, Philadelphia on November 4, 2008 are justified since he was a registered poll watcher?
18. Is it the policy of this Justice Department that any individual registered as a poll watcher may wear any form of uniform, brandish weapons, make unsolicited comments to voters, or loiter at the polls?
19. Does the department believe that the possession of papers allowing one to be present at a polling place also allows the holder to violate Section 11(b) of the VRA?
20. Was Jerry Jackson registered as a poll watcher with a particular political party or campaign? If so, which one?
21. Was that political party or campaign interviewed with regard to Jackson's role in the complaint? If so, were they aware and did they condone his appearance on November 4?
22. In a video of the event, Jackson and Shabazz state that they are providing "security" for the polling precinct. Who authorized them to provide these services and under what authority?
23. Mr. Weich's letter states that the dismissal was based, in part, on the view that the New Black Panther Party's publicly announced plan to position several hundred of its members at polling places on Election Day did not violate Section 11(b) of the VRA because the announcement did not go so far as to expressly call on party members to "display weapons" at the polls. How do you justify this response given that a violation of Section 11(b) does not require the use of weapons, or even the threat to use weapons?

24. Mr. Weich's letter states that you believe the injunction against Samir Shabazz "is tailored appropriately to the scope of the violation" – enjoining Shabazz from "displaying a weapon within 100 feet of any open polling location on Election Day in the City of Philadelphia." The letter also states that "Section 11(b) does not authorize other kinds of relief, such as monetary damages or civil penalties." Why is the injunction from displaying weapons in front of polling places only limited to the City of Philadelphia and not extended to other cities that fall within the Eastern District of Pennsylvania, such as Allentown, Reading, Lancaster and Bethlehem? What will happen if Shabazz brandishes a weapon at a polling place in another city?

In addition to the aforementioned requests, I would also appreciate copies of the following documents pertaining to the dismissal of this case:

1. Documents Referred to in the J-memo (from Christopher Coates et al. to Grace Chung Becker (Dec. 22, 2008)), including witness statements (not signed declarations) from Mike Mauro, Chris Hill, Steve Morse, Officer Richard Alexander, Joe DeFelice, John Giordano, Wayne Byman, Joe Fischetti, Larry Counts, Angela Counts, Harry Lewis, Malik Zulu Shabazz, Draft Notice Letter to defendants, and the Draft Consent Decree.
2. Documents referred to in the Appellate Section memo (e-mail from Diana Flynn to Steven Rosenbaum of May 13, 2009:
  - a. E-mail from Voting Section to Civil Rights Division of May 1, 2009
  - b. Draft Motion for Default Judgment (dated April 30, 2009)
  - c. Draft Memorandum of Law in Support of Motion for Default Judgment (April 30, 2009)
  - d. Draft Proposed Order (dated May 6, 2009)
3. All incident reports and witness statements related to this case.
4. Any reports on the investigation of NBPP actions on Election Day in Philadelphia.
5. Any other reports of NBPP intimidation in Philadelphia or around the country.
6. Any third party reports of NBPP or defendant voter intimidation.
7. A summary of additional facts discovered after the complaint was filed.
8. Communications between the Voting Section staff and Loretta King with regard to *U.S. v. New Black Panther Party*.
9. Communications between Civil Rights Division and former Deputy Attorney General David Ogden with regard to *U.S. v. New Black Panther Party*.

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10. Communications between CRD and Associate Attorney General Thomas Perrelli with regard to *U.S. v. New Black Panther Party*.
11. Internal memoranda with regard to the decision to dismiss *U.S. v. New Black Panther Party*.
12. Copies of communications between Civil Rights Division and the Appellate Section with regard to the case.
13. Any Appellate Section reviews of other voter intimidation cases.
14. A summary of the department's First Amendment concerns with regard to *U.S. v. New Black Panther Party* and summaries of First Amendment concerns in other voter-intimidation cases.
15. Examples of other federal voter intimidation cases where the status of defendant as poll watcher was of concern.
16. Documents evidencing that career employees on the trial team advocated the dismissal of this case.
17. Draft complaints or other draft pleadings with regard to this case.

I believe that this information is long overdue and necessary in order to ensure that both the Congress and the U.S. Commission on Civil Rights are able to exercise statutory oversight responsibilities. The American people deserve to know why this important voter intimidation was dismissed over the objection of the career attorneys of the Civil Rights Division's trial team and appellate office.

I would appreciate a written response to my request by June 22. Please do not hesitate to contact me at 202-225-5136 if you need additional information.

Best wishes.

Sincerely

Frank R. Wolf  
Member of Congress