

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

PRESS RELEASE

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U.S. COMMISSION ON CIVIL RIGHTS RELEASES INTERIM REPORT ON NEW BLACK PANTHER PARTY VOTER INTIMIDATION LITIGATION

Washington, DC – The United States Commission on Civil Rights has approved its interim report on the Justice Department’s commitment to even-handed enforcement of the civil rights laws entitled “[Race Neutral Enforcement of the Law? DOJ and the New Black Panther Party Litigation: An Interim Report.](#)” The interim report is posted on the Commission’s website.

The case stemmed from an incident that occurred in Philadelphia during the 2008 presidential election in which two New Black Panther Party (NBPP) members stood in the entrance to a polling place in full paramilitary garb shouting racial slurs, one of them brandishing a nightstick. In January 2009, a civil suit was initiated against the NBPP, its chairman, and the two men at the polling place for alleged Voting Rights Act violations. Despite the entry of a default in DOJ’s favor, in May 2009 the Department abruptly reversed course and dismissed charges against all but one of the defendants, and reduced the original sanctions it requested against the remaining defendant.

The Commission issued subpoenas for documents and for the testimony of key DOJ witnesses, including those supervisors allegedly responsible for the change in course of the lawsuit. The Department, however, refused to allow anyone with firsthand knowledge of the lawsuit to testify before the Commission and failed to provide critical documents relating to the Department’s decision-making process.

The Department’s efforts to stonewall the Commission’s investigation were largely successful until two career staff attorneys testified before the Commission in defiance of the Department’s ban, at great professional risk to themselves. These individuals, Christopher Coates and J. Christian Adams, both testified that the Department’s reversal of the New Black Panther Party litigation reflected a culture within the Justice Department that believes voting rights laws should not be enforced in a race-neutral fashion. Both witnesses testified that some DOJ personnel refused to work on voting cases in which the defendant was black and the victim white, and that those who worked on such cases suffered harassment within the Department. Mr. Coates further testified that current political appointees have openly stated their opposition to race-neutral enforcement of voting rights laws, testimony that remains unchallenged by the Department.

Although such testimony supported the need for thorough investigation, DOJ continued to withhold relevant documents and preclude relevant officials and supervisors from testifying. The Commission was thus limited in its ability to complete a final report. As a result, the Commission has issued an interim report that describes the evidence that has been collected up to this point and the lack of cooperation by the Department of Justice.

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Although the Commission has the power to subpoena witnesses and written material and requires federal agencies to cooperate fully with its investigations, its authority to seek legal recourse when the Attorney General refuses to enforce Commission subpoenas, as has occurred repeatedly during this investigation, is unclear. The report notes that the Department has an inherent conflict of interest when it decides not to cooperate with the Commission's investigations of DOJ's actions.

The Commission recommends, therefore, that Congress consider amendments to the Commission's statute to address investigations in which the Attorney General and/or the Department of Justice have a conflict of interest arising from the Commission's requests for information. Options might include requiring that the Attorney General respond in writing whenever the Commission requests the appointment of a special counsel to represent it in court; a statutory provision clarifying that the Commission may hire its own counsel and proceed independently in federal court; or a conscious decision by Congress not to alter the current authority that allows the Attorney General and the Department of Justice to act against the Commission's interest without explanation.

The report was approved by a 5-2 vote. Chairman Reynolds and Commissioners Gaziano, Heriot, Kirsanow and Taylor voted in favor; Commissioners Melendez and Yaki voted against; Vice Chair Thernstrom was not present for the vote.

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The U.S. Commission on Civil Rights is an independent, bipartisan agency charged with monitoring federal civil rights enforcement. Members include Chairman Gerald A. Reynolds, Vice Chair Abigail Thernstrom, Commissioners Todd Gaziano, Gail Heriot, Peter N. Kirsanow, Arlan D. Melendez, Ashley L. Taylor, Jr., and Michael Yaki. Martin Dannenfels is the Staff Director. Commission meetings are open to the general public. The Commission's website is <http://www.usccr.gov>.