



U.S. Department of Justice

Civil Division

NOV 24 2009

Washington, D.C. 20530
Telephone:
(202) 514-1259

Via Facsimile, E-mail, and U.S. Mail

Mr. Gerald A. Reynolds, Chairman
United States Commission On Civil Rights
624 Ninth Street, N.W.
Washington, D.C. 20425

Re: New Black Panther Party Matter

Dear Chairman Reynolds:

I write with respect to the dialogue between the Department of Justice ("Department") and the United States Commission On Civil Rights ("Commission") concerning the New Black Panther Party matter. By letter dated and sent (via e-mail and facsimile) November 16, 2009, the Department of Justice requested that the Commission send all future written communications about this matter directly to my attention. Although I have not heard from or received anything directly from the Commission, I am advised that the Commission has sought to serve subpoenas on two Department employees (Mr. Christopher Coates and Mr. J. Christian Adams) with a cover date of November 18, 2009, copies of which have since been provided to me. I respectfully request that the Commission communicate directly with me regarding any issue or concern it wishes to raise with the Department, with these two employees, or with any other current or former employees of the Department regarding this matter.

Apart from the question of the Commission's authority to issue subpoenas to the Department or to its employees, which we can perhaps preserve for another day, I wish to note that the employees on whom the Commission has purported to serve subpoenas have not been authorized to provide any Department information to the Commission or otherwise with respect to this or any matter. The employees may not provide any information to the Commission or otherwise, moreover, absent express authorization from the Department. Among other things, Department regulations governing the disclosure of information by Department employees provide, in pertinent part, that

... no employee or former employee of the Department of Justice shall, in response to a demand, produce any material contained in the files of the Department, or disclose any information relating to or based upon material contained in the files of the Department, or disclose any information or produce .

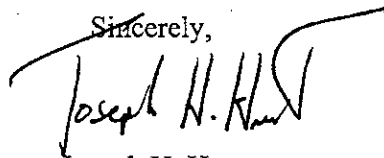
any material acquired as part of the performance of that person's official duties or because of that person's official status without prior approval of the proper Department official. . . . " 28 C.F.R. §§ 16.22(a).

Accordingly, the two Department employees (as well as any other employees or former employees of the Department) from whom the Commission has sought to obtain information through subpoenas may not provide the Commission with any information (in writing, by testimony, or otherwise) unless and until the Department has had an opportunity to fully review and consider the Commission's demand. In that regard, I note that the Commission has sought subpoena response dates of December 2 and 3, 2009 (or even earlier) for the information it seeks, and has sought to schedule depositions of the two employees for those same dates. This short response date (including the intervening Thanksgiving holiday) does not give the Department sufficient time to make a determination of whether the employees will be permitted to provide the information the Commission seeks; please be advised, therefore, that the employees will not be authorized to appear for depositions on December 2 or 3, 2009 and that no documents will be provided by those dates.

The Department will continue to consider the Commission's request for information and in so doing will take into account the subpoenas that have been directed at the Department's employees. The Department will also continue to consider the Commission's request for information in light of the implications it has for the ongoing review by the Department's Office of Professional Responsibility, as noted in prior correspondence between the Department and the Commission. I will contact you in the near future with respect to the Commission's request (including as set forth in the subpoenas directed at the two Department employees). Before doing so, however, I request that you provide the Department with certain information that would assist the Department in its consideration of the Commission's request -- namely, copies of any and all minutes from the Commission's meetings regarding this matter, as well as any other material in the possession of the Commission concerning this matter that may become a matter of public record but that has not yet been disclosed. Please also advise me whether the Commission has issued subpoenas to any Department employees or former Department employees other than the two referenced above, as authorization from the Department would be required before such employees or former employees could provide any information to the Commission.

I look forward to hearing from you at your earliest convenience as we move forward in a productive way concerning this matter.

Sincerely,



Joseph H. Hunt
Director

Federal Programs Branch

cc: David P. Blackwood, General Counsel