

## David Blackwood

---

**From:** Goldberg, Arthur (CIV) [Arthur.Goldberg@usdoj.gov]  
**Sent:** Friday, April 16, 2010 5:41 PM  
**To:** David Blackwood  
**Subject:** Letter responding to request for testimony

Mr. Blackwood:

Immediately below is the text of a letter from Jody Hunt regarding the Commission's request for testimony from the Department of Justice. We are sending this to you in email format because we are having computer problems this afternoon and wanted to be sure you received this today. A hard copy of this letter is being sent via first class mail as well.

Arthur R. Goldberg

Assistant Director

Federal Programs Branch

Civil Division

U.S. Department of Justice

202 514-4783

Dear Mr. Blackwood:

This letter responds to the March 30, 2010 request of the United States Commission on Civil Rights for the Department of Justice to identify a witness to testify at a hearing related to the Commission's planned statutory enforcement report for Fiscal Year 2010. This also responds to your earlier requests for testimony from two career Department employees, Christopher Coates, a Civil Rights Division attorney currently on detail to the United States Attorney's Office for the District of South Carolina, and J. Christian Adams, a trial attorney in the Voting Section of the Civil Rights Division.<sup>1</sup> 1/[The Commission's initial request sought information regarding specific subjects. Your March 30, 2010 letter modified that request to seek testimony regarding the "internal deliberations of the Department relating to the *New Black Panther Party* litigation." This letter responds to all of these requests for testimony from Department witnesses.]

As Department staff explained in your telephone conversations yesterday, we have been working to identify a Department witness for the Commission's hearing and are prepared to make available Assistant Attorney General for Civil Rights Thomas E. Perez. The Commission's March 30, 2010 letter requested testimony from Department employees regarding "the internal deliberations of the Department relating to the *New Black Panther Party* litigation," but our understanding from your conversations yesterday with Department staff is that the Commission's core focus is the decision to dismiss certain claims from that case. While Mr. Perez would testify on that decision and the factors that informed it, he is not at liberty to discuss internal deliberations. Based on the conversation with you yesterday, we understand that the Commission is amenable to having the Assistant Attorney General appear on a separate panel from other witnesses, as is customary for testimony from Assistant Attorneys General, and to work with us to accommodate his schedule on May 14.

The Department carefully considered the request for testimony from Messrs. Coates and Adams pursuant to 28 C.F.R. §§16.21-16.29 and in accordance with the Department's effort to cooperate with the Commission, but will not authorize these employees to testify before the Commission. As we explained, the Department has a longstanding institutional need to protect against disclosures of internal recommendations and deliberations of Department employees, particularly those related to prosecutorial decisions. Such disclosures would have a chilling effect on the open exchange of ideas, advice, and analyses that is essential to the decisionmaking process. It is critical that Department attorneys, particularly career line attorneys, be free to express their opinions and fulfill their responsibilities without fear that they will be subjected to individual examination by either Congress or federal agencies. In addition, we note that to the extent the Commission seeks factual information, that information is being provided through the extensive documents provided to the Commission, the interrogatory responses and supplementary interrogatory responses, and the testimony that will be offered by Mr. Perez. Neither Mr. Coates nor Mr. Adams made the decisions that the Commission wishes to examine. The Assistant Attorney General brings to bear the information of the Civil Rights Division as a whole, and therefore is in a better position to provide the information the Commission seeks.

We are confident that the testimony of the Assistant Attorney General and our responses to the Commission's requests for documents and information should satisfy the Commission's inquiry consistent with our institutional interests.

As discussed during your telephone conversations with Department staff yesterday, Assistant Attorney General Perez is available to testify May 14, 2010, pursuant to the mutually acceptable timing and format arrangements discussed. We appreciate the Commission's patience while the Department has undertaken consideration of the Commission's requests.

Sincerely,

Joseph H. Hunt

Director

Federal Programs Branch

Civil Division