



UNITED STATES COMMISSION ON CIVIL RIGHTS

624 NINTH STREET, NW, WASHINGTON, DC 20425
www.usccr.gov

October 13, 2010

The Honorable Eric Holder, Jr.
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Holder:¹

In a separate letter, the Commission asks you to waive any purported privilege you have asserted and cooperate fully with all of its requests for information.² This letter concerns some particularly important writings that we request be produced without delay—and regardless of whether the Department will produce all other responsive documents.

In sworn testimony before the Commission, former Voting Section attorney J. Christian Adams stated that he participated in a meeting on May 13, 2010 to brief and help prepare Assistant Attorney General Perez for his testimony the next day before the Commission. On September 24, 2010, former Voting Section Chief Christopher Coates testified that he participated in this meeting by phone and that he informed Mr. Perez that the New Black Panther Party lawsuit was effectively dismissed because of hostility to the race-neutral enforcement of the voting laws.³ The day after that briefing, May 14, 2010, Mr. Perez testified in response to a question about the possibility that individuals in the Civil Rights Division harbored such views that “We don’t have people that are of that ilk” in the Division.⁴

¹ At a public meeting of the U.S. Commission on Civil Rights on October 8, 2010, the Commission approved this letter by a 5-1 vote. Commissioners Reynolds, Kirsanow, Taylor, Heriot and Gaziano voted in favor and Commissioner Yaki opposed. The motion to approve the letter allowed commissioners who were not present at the meeting to vote on the letter after the meeting, and Commissioner Melendez subsequently voted against sending the letter.

² See 42 USC § 1975b(e) (“All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.”).

³ Hearing Testimony of Christopher Coates Before the U.S. Commission on Civil Rights at 145 (Sept. 24, 2010).

⁴ Hearing Testimony of Thomas Perez Before the U.S. Commission on Civil Rights at 35 (May 14, 2010).

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The Commission is understandably interested in why Mr. Perez neglected to disclose the information he had learned from Mr. Coates the previous day regarding “people [who might be] of that ilk.” Our immediate problem is that Mr. Coates felt constrained by the Department’s privilege assertions not to provide details regarding such conversations. (He said he would be willing to provide details if the privilege is waived or ruled to be invalid.) We would like to recall Mr. Coates after you instruct him he may testify freely. In the meantime, we ask that you expedite the production of the following:

- Writings or emails Mr. Coates prepared about the New Black Panther Party litigation or hostility to the race-neutral enforcement of the voting laws in the month preceding Mr. Perez’s testimony, particularly one on or about April 26, 2010.
- Writings or emails J. Christian Adams prepared about the New Black Panther Party litigation or hostility to the race-neutral enforcement of the voting laws in the month preceding Mr. Perez’s testimony, particularly one on or about May 10, 2010.

Please also identify every person in the Department who saw or received these documents.

Finally, it is disappointing that private litigants seeking similar information pursuant to the Freedom of Information Act have received a 62-page privilege log of the documents that were withheld, while the Commission, which is entitled to the actual documents, has received neither the documents nor the courtesy of a privilege log of materials you refuse to provide, which the Department has also refused to provide.⁵ The Commission asked for such a privilege log ten months ago and several times since then. We respectfully renew our request for all documents and emails responsive to our requests and, if appropriate, for a detailed privilege log explaining the reasons why any documents responsive to our requests have been withheld.

⁵ See Letter of Joseph H. Hunt to Chairman Gerald Reynolds (May 13, 2010).

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Thank you for your prompt attention to these matters.

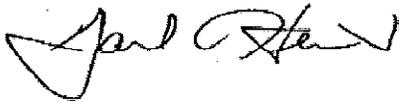
Sincerely,



Gerald A. Reynolds
Chairman



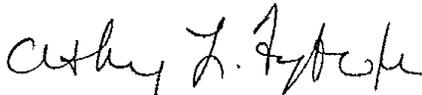
Todd Gaziano
Commissioner



Gail Heriot
Commissioner



Peter Kirsanow
Commissioner



Ashley Taylor, Jr.
Commissioner

cc: Vice Chair Abigail Thernstrom
Commissioner Arlan Melendez
Commissioner Michael Yaki