

U.S. COMMISSION ON CIVIL RIGHTS

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DEPOSITION

IN RE: :
: :
NEW BLACK PANTHER PARTY :
INVESTIGATION :
: :
:

Friday,
January 8, 2010

Washington, D.C.

DEPOSITION OF:

KRISTEN CLARKE

called for examination by Counsel for the
Commission, pursuant to Notice of Deposition,

in the offices of the United States Commission
on Civil Rights, located at 624 9th St., N.W.,
when were present on behalf of the respective
parties:

APPEARANCES:

On Behalf of the United States
Commission on Civil Rights:

of: DAVID BLACKWOOD, ESQ.
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ALSO PRESENT:

COMMISSIONER TODD F. GAZIANO

COMMISSIONER MICHAEL YAKI (via telephone)

NICK COLTEN

ALEC DEULL (via telephone)

PAM DUNSTON

MAHA JWEIED

DOMINIQUE LUDVIGSON

JOHN MARTIN

ALISON SCHMAUCH (via telephone)

KIMBERLY TOLHURST

T-A-B-L-E O-F C-O-N-T-E-N-T-S

Witness	Direct
Kristen Clarke	9

E-X-H-I-B-I-T-S

Clarke Exhibit No.		Marked
1	7/30/09 Washington Times Article - Re: DOJ Reversal	8
2	Notice of Litigation - U.S. v. New Black Panther Party	15
A	E-mail from Judith Reed to Kristen Clarke re: FW: Phila Story	17
B	E-mail from Judith Reed to Kristen Clarke re: unwanted fame?	17
C	E-mail from Luz Lopez-Ortiz to Kristen Clarke Subject: from the clips today...	17
D	E-mail from Luz Lopez-Ortiz to Kristen Clarke	17
E	Letter from Kristen Clarke to Richard Minitier	13

1 P-R-O-C-E-E-D-I-N-G-S

2 10:02 a.m.

3 MR. BLACKWOOD: On the record.

4 Okay. Good morning. This is
5 David Blackwood, General Counsel of the U.S.
6 Commission on Civil Rights. We are here for
7 the deposition of Kristen Clarke.

8 I'm going to read into the record
9 those who are present starting with myself,
10 Dominique Ludvigson, Commissioner Gaziano,
11 John Martin, Sr. Attorney Advisor Maha Zweied
12 and Kim Tolhurst. Attorneys for Ms. Clarke,
13 would you identify yourselves?

14 MR. RELMAN: My name is John
15 Relman and I'm with the law firm of Relman &
16 Dane. And with me is Jeff Robinson who is
17 with the NAACP Legal Defense Fund.

18 MR. BLACKWOOD: Okay. Pam Dunston
19 is also here to help with the technical
20 aspects, Nick Colten, Special Assistant, and
21 we have one Special Assistant, Alec Deull, who
22 is on the telephone.

1 Good morning, Ms. Clarke.

2 MS. CLARKE: Good morning.

3 MR. BLACKWOOD: Appreciate your
4 coming.

5 MS. CLARKE: Yes.

6 MR. BLACKWOOD: Appreciate you
7 bringing those documents. We may be able to
8 expedite things even faster than we thought.
9 Let me just run through some initial things.

10 First, could you just state your
11 name and where you work for the record?

12 MS. CLARKE: Kristen Clarke, NAACP
13 Legal Defense and Educational Fund.

14 MR. BLACKWOOD: And your position
15 there?

16 MS. CLARKE: I'm Co-Director of
17 the Political Participation Group.

18 MR. DEULL: I'm sorry. I'm having
19 trouble hearing. I'm sorry to interrupt.

20 MR. BLACKWOOD: Can you hear me,
21 Alec?

22 MR. DEULL: I can hear you, yes.

1 You're the only person I can hear. Again, I'm
2 sorry to interrupt.

3 MR. BLACKWOOD: Ms. Clarke, could
4 you just speak in that just so we can see if
5 he's hearing it clearly?

6 MS. CLARKE: Kristen Clarke, NAACP
7 Legal Defense and Educational Fund.

8 MR. BLACKWOOD: Alec, could you
9 hear that?

10 MR. DEULL: Barely.

11 (Off the record comments.)

12 MR. BLACKWOOD: Are you on a
13 speaker phone, Alec?

14 MR. DEULL: No, and I've got the
15 volume turned all the way up on my end.

16 (Off the record comments.)

17 MR. BLACKWOOD: Alec, Pam seems to
18 think that the problem is at your problem
19 because it seems to be picking up.

20 MR. DEULL: Okay. I can hear you
21 and I can hear Pam. But I can barely hear Ms.
22 Clarke and I couldn't really hear her

1 attorneys at all.

2 MR. BLACKWOOD: Okay. What we're
3 going to try to do is switch one of the
4 microphones and see if that works.

5 MR. DEULL: I appreciate it.
6 Thank you.

7 COMMISSIONER GAZIANO: Is it
8 possible to turn up the volume of her mike or
9 something?

10 (Off the record comments.)

11 MR. BLACKWOOD: I think we can go
12 off the record.

13 (Whereupon, the above-entitled
14 matter went off the record at 10:05 a.m and
15 resumed at 10:06 a.m.)

16 MR. BLACKWOOD: On the record.
17 Now I've put before you several exhibits and
18 let's just start with Exhibit 1 which is a
19 copy of a Washington Times article.

20 (Whereupon, the above-referred to
21 document was marked as Clarke
22 Exhibit No. 1 for identification.)

1 And it's dated July 30, 2009 and I
2 direct you to page three of that document
3 which is the part that pertains to you about
4 halfway down the page. If you would read to
5 yourself the -- Well, I'll read into the
6 record the following paragraph and then I have
7 some questions I'd like to ask you.

8 "Kristen Clarke, Director of
9 Political Participation at the NAACP Legal
10 Defense Fund in Washington, however, confirmed
11 to The Times that she talked about the case
12 with lawyers at the Justice Department and
13 shared copies of the complaint with several
14 persons. She said, however, her organization
15 was not involved in the decision to dismiss
16 the civil complaint."

17 DIRECT EXAMINATION

18 BY MR. BLACKWOOD

19 Q Ms. Clarke, can you tell me about
20 that representation? First off, is it
21 accurate?

22 A No, it is not.

1 Q Is any part of it accurate?

2 A I'm Co-Director of the Political
3 Participation Group at the NAACP Legal Defense
4 and Educational Fund. I confirmed that I
5 received a copy of the -- I did not indicate
6 that I talked about the case with lawyers at
7 the Justice Department.

8 Q Okay. Did you -- First off, let
9 me make a distinction between what you
10 represented to the reporter or did not
11 represent to the reporter and then later I
12 want to ask about did these events actually
13 occur one way or the other.

14 As far as reporting to the -- or
15 your discussion with The Washington Times
16 reporter, you're saying now you did not say
17 that you had any contact with DOJ attorneys.

18 MR. RELMAN: Hang on a second.
19 Let's be clear. I mean, I'm going to object
20 to -- The subject of this deposition is
21 communications that she had with the
22 Department of Justice. I want to be clear.

1 Are you asking her about what she talked to
2 The Washington Times reporter about or are you
3 asking her about the accuracy of these
4 statements that are in --

5 MR. BLACKWOOD: I'm taking it in
6 two parts.

7 BY MR. BLACKWOOD:

8 Q First, I'm just asking as I
9 understand it and we'll get your exhibit in
10 just a minute about the letter you wrote to
11 The Washington Times. You're saying that --
12 The first statement -- I'll be specific about
13 what I'm referring to -- that you talked about
14 the case with lawyers at the Justice
15 Department. You did not say that to The
16 Washington Times reporter.

17 A That's correct.

18 Q Okay.

19 MR. RELMAN: Well wait. Objection
20 here. What I'm saying is that this is not an
21 inquiry to what she talked to The Washington
22 Times reporter about. If you want to ask her

1 about whether she talked to the Department of
2 Justice, that's appropriate. But that's what
3 we're here to talk about.

4 So I want to be clear. Are you
5 asking her about the facts of whether she
6 spoke with the Department of Justice about
7 this matter or are you asking her about her
8 conversation with The Washington Times
9 reporter?

10 MR. BLACKWOOD: As I said before,
11 I was making a distinction between the two.
12 But frankly I don't care what she said to The
13 Washington Times reporter.

14 MR. RELMAN: Okay. So then let's
15 be clear then. The question then that is now
16 pending that you have to her is what -- is it
17 accurate that she talked with the Department
18 of Justice.

19 MR. BLACKWOOD: No. Let's start
20 first.

21 BY MR. BLACKWOOD:

22 Q Did you have a conversation with

1 The Washington Times reporter?

2 A Yes.

3 Q Fine. Now let's -- Why don't we
4 skip to the last exhibit in your pile which is
5 the letter you wrote to The Washington Times
6 which is Exhibit E. It should be in front of
7 you.

8 (Whereupon, the above-referred to
9 document was marked as Clarke
10 Exhibit E for identification.)

11 MR. RELMAN: I don't know that we
12 have that here. We've got --

13 MR. BLACKWOOD: It's this letter.

14 MR. RELMAN: We've got Exhibit 1.

15 MR. BLACKWOOD: You should have
16 Exhibits 1 and 2. I'm sorry.

17 Mr. Court Reporter.

18 (Off the record comments.)

19 MR. BLACKWOOD: Okay. I just want
20 to get this out of the way because you're
21 correct, Mr. Relman. My concern is what
22 actually happened and not The Washington

1 Times.

2 BY MR. BLACKWOOD:

3 Q Exhibit E is a letter that you
4 wrote to The Washington Times. Is that
5 correct?

6 A That's correct.

7 Q And that reflects your position
8 with regard to your interview with The
9 Washington Times reporter. Is that correct?

10 A Yes, it does.

11 MR. BLACKWOOD: Okay. Thank you.
12 Now let's talk about what context you did or
13 did not have with the Justice Department. In
14 regards to the following questions, I'm going
15 to referring the case, the litigation, etc.,
16 and I'm in every instance referring to what
17 you have in front of you as Exhibit 1. I'm
18 sorry. It should be Exhibit 2 which is a
19 lawsuit styled, The United States of America
20 v. The New Black Panther Party For Self
21 Defense, which was filed in the Eastern
22 District of Pennsylvania. Unless I indicate

1 otherwise that is the lawsuit I am referring
2 to if I use the term "lawsuit case," etc.

3 Okay?

4 (Whereupon, the above-referred to
5 document was marked as Clarke
6 Exhibit No. 2 for identification.)

7 THE WITNESS: Okay.

8 BY MR. BLACKWOOD:

9 Q All right. Did you have any
10 conversation with anyone at the Justice
11 Department with regard to the litigation?

12 A I learned about the fact of
13 filing, the fact that this case was filed,
14 from a Justice Department attorney.

15 Q And who was that?

16 A Yvette Rivera.

17 Q And who is she?

18 A She is an attorney in the Civil
19 Rights Division of the Department in the
20 Voting Section.

21 Q And did you learn about that
22 approximately -- Well, tell me when you

1 learned about it approximately.

2 A I believe it was January 8th of
3 2009.

4 Q And how did you learn that?

5 A Through a phone call.

6 Q Who called who?

7 A She called me.

8 Q And what was the purpose of the
9 call?

10 MR. RELMAN: Objection. I mean --

11 MR. BLACKWOOD: Well, she didn't
12 know the purpose.

13 BY MR. BLACKWOOD:

14 Q What did she say to you and what
15 did you say to her?

16 A This case has been filed. That
17 was the extent of the phone call.

18 Q Okay. Did you subsequently have
19 any other contacts with anybody at the Justice
20 Department with regard to the litigation?

21 A No.

22 MR. BLACKWOOD: Before you should

1 -- Let me ask. Mr. Court Reporter, she can
2 have all the exhibits. Now the --

3 (Off the record comments.)

4 MR. BLACKWOOD: The Court Reporter
5 just placed before you Exhibits A through D I
6 believe which are exhibits that you brought
7 with you here today.

8 (Whereupon, the above-referred to
9 documents were marked as Clarke
10 Exhibits A-D for identification.)

11 BY MR. BLACKWOOD:

12 Q Can you tell me what Exhibit A is?

13 A Exhibit A is an email that was
14 sent to me on January 13th.

15 Q 2009, correct?

16 A 2009. That's correct.

17 Q And then the email appears to be
18 from Judith Reed. Who is she?

19 A Judith Reed is an attorney in the
20 Civil Rights Division of the Justice
21 Department.

22 Q And is it typical for Ms. Reed to

1 send you just news clips of this kind?

2 A No.

3 Q Did you talk to Ms. Reed about the
4 content of this email?

5 A No, I did not.

6 Q The next exhibit, Exhibit B, is
7 dated July 31, 2009. I'm just giving you --
8 I'll ask you in a minute about that particular
9 email. But between the time of the first
10 email on Exhibit A, January 13, 2009 and then
11 July 31, 2009, do you recall having any
12 conversations or any communications of any
13 kind with anybody at DOJ about the New Black
14 Panther litigation?

15 A Now again as I indicated earlier,
16 I learned about the fact of the filing from a
17 Justice Department attorney. I received the
18 email that we just referenced that also make
19 mention of the fact of filing. Beyond that,
20 there were no additional contacts about the
21 litigation itself.

22 Q So if I -- The answer to the

1 question whether you talked about the case
2 with lawyers at the Justice Department would
3 simply be wrong. That's an incorrect
4 statement.

5 A That's incorrect. Repeat the
6 question.

7 Q All right. If I said that or it
8 was represented that you had talked about the
9 case with lawyers at the Justice Department
10 that would be an incorrect statement.

11 A That's incorrect.

12 Q Okay. I'm going to have -- It may
13 be very -- a lot of negative questions, but I
14 just want to make sure about some things. So
15 I'm going to mention some names. It sounds
16 like I know what the answer is. But did you
17 talk to anybody at Justice about the
18 litigation with Loretta King?

19 A No.

20 Q Christopher Coats?

21 A No.

22 Q Laura Coats?

1 A No.

2 Q Judith Reed other than the email
3 that you already referenced?

4 A No.

5 Q Bob Berman?

6 A No.

7 Q Spencer Overton?

8 A No.

9 Q Thank you. Next if I could
10 reference Exhibit B. Would you tell me what
11 that is?

12 A Exhibit B is an email from Judith
13 Reed to myself dated July 31st of 2009.

14 Q Now that would be the day after
15 the article ran in The Washington Times. Is
16 that correct?

17 A This is the day after the July
18 30th article that appeared in The Washington
19 Times.

20 Q Okay. And did you respond or
21 contact Ms. Reed?

22 A No.

1 Q Why not?

2 A There was -- There was just no
3 response. The article was false. Let me --
4 No response.

5 Q Okay. Who was Judith -- Why would
6 Judith Reed be sending this to you? By that,
7 I mean do you know Judith Reed?

8 A Yes, I do know her.

9 Q And how do you know her?

10 A She's a former colleague.

11 Q Okay. You worked at the Justice
12 Department, correct?

13 A Yes.

14 Q All right. And that's where you
15 knew Ms. Reed?

16 A Yes.

17 Q How long were you at the Justice
18 Department?

19 A Between 2000 and 2006.

20 Q I'm sorry. There was a sound.
21 Between 2000 and 2006?

22 A That's correct.

1 Q And what was your position then?

2 A I was a trial attorney in the
3 Voting Section between 2000 and 2003 and a
4 prosecutor in the Criminal Section of the
5 Civil Rights Division between 2003 and 2006.

6 Q Did Ms. Reed send you other
7 articles like this? I don't mean about the
8 Black Panthers, but just generally she would
9 send you emails.

10 MR. RELMAN: Objection. That is
11 beyond the scope of this inquiry. Whether she
12 sent her other emails has nothing to do with
13 what's going on here. The proper focus, Mr.
14 Blackwood, is communications that she had with
15 the Department of Justice about the Black
16 Panther litigation as you framed it. Whether
17 she had communications with Ms. Reed on other
18 matters is irrelevant.

19 MR. BLACKWOOD: Mr. Relman, to be
20 clear, I'm not asking about the substance of
21 any of those things. I'm trying to establish
22 is this an uncommon occurrence to get emails

1 from Ms. Reed or is it common. That's the end
2 of the question.

3 MR. RELMAN: You can answer that
4 question yes or no.

5 THE WITNESS: I get emails all
6 throughout the day from many sources and it's
7 neither common nor uncommon.

8 BY MR. BLACKWOOD:

9 Q Okay. Is Ms. Reed a friend?

10 A Yes, she is.

11 Q Okay. Would you look at Exhibit C
12 please? And if you could identify that.

13 A This is an email that was sent to
14 me from Luz Lopez-Ortiz on July 31, 2009.

15 Q And again this includes
16 information relating to the article that ran
17 in The Washington Times.

18 A Yes, it does.

19 Q And who is Ms. Ortiz or Lopez-
20 Ortiz?

21 A She is an attorney in the Civil
22 Rights Division of the Justice Department.

1 Q And again did you know her from
2 your prior work there?

3 A Yes, she's a former colleague.

4 Q Okay. Is she also a friend?

5 A Yes.

6 Q Okay. Did you call Ms. Ortiz or
7 otherwise communicate with her about this
8 email?

9 A I did respond to this message.

10 Q Okay, and we'll get to that.
11 That's the next exhibit. Did you call her or
12 otherwise communicate with her other than the
13 email that you have provided?

14 A I --

15 MR. RELMAN: Objection. Are you
16 framing --

17 MR. BLACKWOOD: About this
18 particular email.

19 MR. RELMAN: Okay. You can answer
20 that.

21 THE WITNESS: The only
22 communication that I may have had with her was

1 to voice my strong reaction to The Washington
2 Times article which contained false and
3 misleading statements about me.

4 Q And that's what you told her?

5 A That would be the only thing that
6 we discussed.

7 Q Okay. Let's go to Exhibit D then
8 and can you identify that?

9 A This is the same email which
10 includes a response from me and then a
11 subsequent response from Ms. Lopez-Ortiz also
12 on July 31st of 2009.

13 Q Okay. Now let me -- Because
14 emails sometimes it's unclear who is saying
15 what. I just want to make sure whether it's
16 your understanding. The first communication
17 from -- was from Ms. Lopez-Ortiz and she
18 indicates "Subject: From the clips today --
19 interesting stuff." Correct?

20 A That's correct.

21 Q Okay, and your response is "Lies."
22 Correct?

1 A That's correct.

2 Q All right. And then her response
3 to you is "They are disgusting. This is
4 C.C.'s doing." C.C. being C.C., C-C and
5 that's the response back to you.

6 A Yes, that's correct.

7 Q Do you know who she is referring
8 to when she says, C.C.?

9 A I don't know. I'm not certain.

10 Q Did you ask her who she meant?

11 A No.

12 Q Is it safe to say you were upset
13 about the representations made by The
14 Washington Times?

15 A Yes.

16 Q And that led to you sending the
17 letter that is -- what is it -- Exhibit D?

18 A That's --

19 Q Exhibit E, correct?

20 A That's correct.

21 Q Did you follow up with -- Bear
22 with me. Did you follow up with The

1 Washington Times other than the letter or did
2 you receive any response?

3 MR. RELMAN: Objection. I think
4 it goes beyond the scope of this deposition.
5 Mr. Blackwood, what's the purpose?

6 MR. BLACKWOOD: I'm just trying to
7 follow up whether The Washington Times had any
8 representation. Counsel, I'm allowed to
9 follow through a logical line because there
10 may be other witnesses. If The Washington
11 Times says, for example, they have a tape or
12 whatever, I'd like to find out.

13 MR. RELMAN: How is that relevant
14 to the inquiry here?

15 MR. BLACKWOOD: It goes veracity
16 and frankly it is clearly relevant. All I'm
17 asking -- You produced, by the way, the letter
18 which is a letter to a third party and
19 outside, if anything, the scope as well. I'm
20 just asking did The Washington Times respond
21 to your letter.

22 MR. RELMAN: You can answer that

1 yes or no.

2 THE WITNESS: Did they respond to
3 this letter? No, and I thought it unfortunate
4 that they I don't believe ever published or
5 ran it.

6 BY MR. BLACKWOOD:

7 Q Okay, and just to be clear, so
8 they didn't call you, they didn't run a
9 retraction, none of these things.

10 A After this letter, no.

11 Q Okay. Now given your testimony as
12 I mentioned before we even started, I have a
13 variety of questions I prepared assuming the
14 veracity of The Washington Times articles. So
15 bear with me. I'm going to skip around some
16 of them just to see if there are relevant
17 questions still given your testimony.

18 With regard to the New Black
19 Panther litigation, did you talk to anybody
20 who was actively involved in that and by
21 "that" I mean there are other parties.
22 There's the Department of Justice. There were

1 also defendants. Did you talk to any of the
2 defendants?

3 MR. RELMAN: Hang on one second.
4 I just want to be clear. When you say "the
5 New Black Panther Party litigation," you're
6 referring now once again to the case.

7 MR. BLACKWOOD: That's correct.

8 MR. RELMAN: Okay. To the
9 complaint.

10 MR. BLACKWOOD: Not to general
11 things that we're talking about with
12 colleagues about the validity or anything
13 else. The parties to litigation reflected in
14 Exhibit 2.

15 MR. RELMAN: Okay. You can
16 answer.

17 THE WITNESS: No.

18 BY MR. BLACKWOOD:

19 Q When you were working at the
20 Department of Justice, did you work -- I'm
21 going to mention some names and ask if you
22 worked or they were colleagues there.

1 Christopher Coats?

2 A Yes.

3 Q What was his position when you
4 were there?

5 A This is -- would be back in 2003
6 when I left the section. My memory seems to
7 be that he was special counsel in the Voting
8 Section at that time.

9 Q How about Robert Popper?

10 A I don't believe I've ever worked
11 with Mr. Popper.

12 Q Okay. On that email, I don't want
13 to be redundant, but I want to be clear on
14 Exhibit D. When Lopez-Ortiz wrote you about
15 it's C.C.'s doing, you didn't ask in any way
16 about who she was referring to?

17 MR. RELMAN: Objection. Asked and
18 answered. You can answer it again.

19 THE WITNESS: No.

20 BY MR. BLACKWOOD:

21 Q But at the same time to be
22 consistent you were saying you don't know who

1 C.C. is.

2 MR. RELMAN: Objection. That
3 wasn't her testimony.

4 MR. BLACKWOOD: All right.

5 BY MR. BLACKWOOD:

6 Q If you can tell me, did you know
7 who C.C. is or did you suspect who C.C. was?

8 A I don't know. I suspect.

9 Q Who did you suspect?

10 A This is just guesswork here.

11 Q Correct. That's right.

12 MR. RELMAN: No. Hang on a
13 second. Ms. Clarke, you're not to guess. Her
14 prior testimony said she wasn't certain who
15 C.C. was and she's not going to guess. I'm
16 instructing her not to guess.

17 BY MR. BLACKWOOD:

18 Q Not to guess, who did you assume?

19 MR. RELMAN: Again, this is not
20 about assumptions. It's not about guesswork.
21 You asked if she knew who C.C. was. She said
22 she was not certain.

1 MR. BLACKWOOD: Counsel, I'm not
2 certain about many things, but someone used
3 just someone's initials to write to your
4 client. Obviously, that person who wrote to
5 her assumed that she would know who she was
6 referring to.

7 BY MR. BLACKWOOD:

8 Q So I think that it is clear and
9 relevant to ask who did you assume it meant
10 to. I understand you don't have 100 percent
11 certainty because it was someone else's
12 asking. But who did you assume she was
13 referring to?

14 MR. RELMAN: You can answer this
15 question. Once again, you've already
16 testified to it. You can answer it to the
17 best of your ability again, but I'm cautioning
18 you and instructing you. Do not guess or
19 speculate as to who C.C. is.

20 A At the time that I saw this email
21 I did not know who C.C. was. My only reaction
22 again was a very strong reaction to the false

1 and misleading statements that are contained
2 in The Washington Times article.

3 Q Okay. So you're --

4 A That was the only focus, my only
5 focus, at the time of this exchange.

6 Q It wasn't a focus on who was C.C.

7 A My only focus again was a very
8 strong reaction to the false statements that
9 are contained in The Washington Times article.
10 At that moment, that was the only thing that
11 I was focused on.

12 Q Okay. I want to make sure or
13 follow up on one of the names I mentioned
14 before. To be clear, did you -- are you sure
15 that you did not have a conversation with
16 Laura Coats of the Justice Department with
17 regard to the litigation?

18 A As I indicated earlier, no. I
19 recall no such conversation with her.

20 MR. BLACKWOOD: Okay. At this
21 time, I have no questions, although I may come
22 back. Under our procedures, Commissioners may

1 ask questions in a round robin type thing.
2 But we have one Commissioner here who is
3 present. So, Commissioner Gaziano, I throw
4 the floor to him. But I may come back and ask
5 a few other questions after that.

6 DIRECT EXAMINATION (Cont.)

7 BY COMMISSIONER GAZIANO:

8 Q Thank you again for coming here
9 and for your friends and attorneys. Let me
10 begin with some of the people you said you did
11 not speak with. Do you know Loretta King?

12 A Yes.

13 Q Okay. How do you know her?

14 A I used to work in the Civil Rights
15 division of the Justice Department.

16 Q Okay. Do you know Laura Coats?

17 A Yes.

18 Q And who is she? What is her
19 position?

20 A I do not know. I believe she's an
21 attorney in the Voting Section. I don't know
22 her position or role.

1 Q But you've worked with her.

2 A No.

3 Q Oh, you don't know. How might you
4 have known her or do you remember?

5 A I believe I was introduced to her
6 at a conference. I can't recall how I met
7 her.

8 Q Okay.

9 A Nor do I know her well.

10 Q But you've known her for about how
11 many years?

12 A I would estimate one to two years.

13 Q Okay. Did you talk to anyone in
14 the White House --

15 A No.

16 Q -- about the New Black Panther
17 litigation?

18 A No.

19 Q Did you talk to anyone on the
20 Obama Transition team about the New Black
21 Panther litigation?

22 A No.

1 MR. RELMAN: Objection. I think
2 that goes beyond the scope of the inquiry.
3 We're here to talk about communications with
4 Government officials.

5 COMMISSIONER GAZIANO: I disagree,
6 but let me try to explain to both you and your
7 client why that is. As an experienced
8 Washington hand, we often if we're trying to
9 influence a public official and we don't
10 personally know that public official or even
11 sometimes if we do know that public official
12 we know that the bank shot, the indirect
13 route, is as effective, if not more effective,
14 sometime. Right?

15 MR. RELMAN: Objection. You don't
16 have to answer that question. Do not answer
17 that question.

18 COMMISSIONER GAZIANO: Why?

19 MR. RELMAN: Because her views
20 about how you influence a Government official
21 are not relevant to this inquiry.

22 COMMISSIONER GAZIANO: They're

1 relevant to her credibility of whether she is
2 an experienced political participation
3 director of a major and important institution.

4 MR. RELMAN: I've made my
5 objection. Do not answer that question.

6 COMMISSIONER GAZIANO: And I make
7 clear that I am asking for an answer.

8 MR. RELMAN: Okay, and I'm saying
9 do not answer.

10 COMMISSIONER GAZIANO: What is
11 your --

12 MR. RELMAN: Your next question,
13 Commissioner.

14 COMMISSIONER GAZIANO: No, what is
15 your --

16 MR. RELMAN: She is not going to
17 answer the question. Next question please.

18 COMMISSIONER GAZIANO: Is that --
19 Are you going to follow that advice of your --

20 THE WITNESS: I am going to follow
21 my lawyer's advice.

22 COMMISSIONER GAZIANO: Okay. That

1 will speed up the process. You're not a
2 potted plant either. So you can follow your
3 attorney's advice or not.

4 BY COMMISSIONER GAZIANO:

5 Q Okay. Did you speak to anyone in
6 the Obama Transition about the New Black
7 Panther litigation?

8 MR. RELMAN: At what period of
9 time are you asking her about?

10 COMMISSIONER GAZIANO: At any
11 time.

12 THE WITNESS: No.

13 BY COMMISSIONER GAZIANO:

14 Q Did you talk to anyone at
15 Covington & Burling who -- with the intent --
16 about the New Black Panther with the intent or
17 hope that they would talk to someone in either
18 the Justice Department, White House or the
19 rest of the Obama Administration about the New
20 Black Panther litigation?

21 MR. RELMAN: I object to the
22 question, but you may answer it to the extent

1 that the question is asking if you talked to
2 anyone with a purpose or intent of --

3 COMMISSIONER GAZIANO: Or hope.

4 MR. BLACKWOOD: Leave it at
5 purpose and intent.

6 MR. RELMAN: Purpose or intent of
7 effectuating a communication with the
8 Department of Justice.

9 THE WITNESS: No.

10 BY COMMISSIONER GAZIANO:

11 Q Did you talk with anyone -- I'm
12 not interested in who you may have talked with
13 regarding the case if you had no intent,
14 purpose or hope that they would communicate
15 with the Department. But did you talk to
16 anyone else about the New Black Panther
17 litigation with the purpose, intent or hope
18 that they would communicate to the White House
19 or the Justice Department or the rest of the
20 Administration about the litigation?

21 MR. RELMAN: Object to the
22 question, but you may answer it.

1 THE WITNESS: No, and again any
2 communications that I have had about this case
3 beyond merely sharing the fact of filing have
4 concerned the false and misleading statements
5 that appear in The Washington Times article
6 and subsequent editorial.

7 BY COMMISSIONER GAZIANO:

8 Q Okay. Well, go there then. I
9 agree with our general counsel that your
10 present assertion that the story is false is
11 relevant and that we need to probe that at
12 least a little bit.

13 Who did you speak with at The
14 Washington Times?

15 MR. RELMAN: Objection. I don't
16 understand the relevance of the reporter.

17 COMMISSIONER GAZIANO: It goes to
18 the credibility of her claim that they got it
19 wrong.

20 MR. RELMAN: Well.

21 MR. BLACKWOOD: If I might
22 respond.

1 MR. RELMAN: Yes. I --

2 MR. BLACKWOOD: I think it is
3 relevant in this fashion. We now have a clash
4 of versions of events and I understand your
5 point by saying Mr. Seper got that incorrect,
6 Mr. Seper being the person whose byline is
7 there. We're allowed to look into if there's
8 a clash of versions of event going to the core
9 of what this issue is. We're asked to follow
10 up about what contacts they had and when they
11 had them.

12 MR. RELMAN: You have specified,
13 Mr. Blackwood, in your letter that this is
14 about communications. This investigation,
15 this deposition, is about communications that
16 this witness had with the Department of
17 Justice and I'm allowing her to answer
18 questions with respect to the White House as
19 well. That is the focus of this
20 investigation.

21 The conversations that she had
22 with The Washington Times are not relevant to

1 that inquiry.

2 MR. BLACKWOOD: All right.

3 MR. RELMAN: One of the people --

4 COMMISSIONER GAZIANO: If I may,
5 it's my question time.

6 MR. BLACKWOOD: That's all right.

7 MR. RELMAN: I appreciate your
8 clarification, but this is --

9 COMMISSIONER GAZIANO: Please let
10 me respond. The Commission --

11 MR. RELMAN: Let me just clarify
12 my objection in full. My objection in full is
13 this is not an inquiry into her communications
14 with The Washington Times. This is not what
15 this is about.

16 COMMISSIONER GAZIANO: And please
17 don't interrupt me when I'm trying to explain
18 what the Commission's interest is. The
19 Commission established what the scope of the
20 investigation is pursuant to public documents
21 that have been released and I -- Either you've
22 gone over them or you had the ability to do

1 so.

2 The scope of our investigation is
3 broader than you indicate. I have not been a
4 party to some of the communications that
5 you've had with the general counsel. I
6 generally agree that that's the core of our
7 focus.

8 But we have a -- The witness is
9 saying here today that the facts in a
10 newspaper report are not true. She has
11 testified that she's spoke with the reporter.
12 I'm certainly entitled to see whether her
13 claim today is sound or whether it's not.

14 MR. RELMAN: Mr. Gaziano, let me
15 respond because I'm going to lay out my
16 objection. In the Notice of Deposition that
17 was sent to us, the subject matter of the
18 deposition is defined as "all information
19 relating to any communications by you with the
20 Department of Justice regarding acts of voter
21 intimidation by the New Black Panther Party
22 for self defense." That is the subject

1 matter. That's what we agreed to come here to
2 talk about. That I understand is the focus of
3 your inquiry.

4 COMMISSIONER GAZIANO: And --

5 MR. RELMAN: Whether -- Let me
6 finish, Mr. Gaziano, please. Whether or what
7 she said or what communications she had with
8 The Washington Times reporter is not relevant.
9 If you want to ask her whether the statements
10 in this article are true, you're free to do
11 that. You're free to do that and ask her if
12 she did have communications with the
13 Department of Justice.

14 But who she spoke to at The
15 Washington Times or what she said to The
16 Washington Times that is not the focus of this
17 inquiry and that is not a subject matter that
18 I'm going to have her testify about.

19 COMMISSIONER GAZIANO: It's a
20 ridiculous position you're maintaining.
21 Because what we're trying to resolve is
22 whether the statement that The Washington

1 Times reporter reported that she spoke with
2 Justice Department attorneys is true or not.

3 MR. RELMAN: And --

4 COMMISSIONER GAZIANO: And let me

5 --

6 MR. RELMAN: And she --

7 COMMISSIONER GAZIANO: And --

8 MR. RELMAN: She's already

9 testifying that --

10 COMMISSIONER GAZIANO: And it goes

11 to her denial of that report, who she spoke

12 with and what the conversation was.

13 Furthermore, we can call Ms. Clarke back and

14 I don't think she would like that. I don't

15 know if -- Your firm would enjoy the fees, but

16 I doubt that she would appreciate that. The

17 Commission probably wouldn't appreciate that.

18 So we ought not to be playing

19 games about something that is clearly central

20 --

21 MR. RELMAN: Mr. Gaziano, to --

22 COMMISSIONER GAZIANO: -- to what

1 she is trying to deny.

2 MR. RELMAN: She's already stated
3 she had no conversations with respect to these
4 issues that you're interested in with the
5 Department of Justice. That's the issue here,
6 not what she said to The Washington Times
7 reporter.

8 COMMISSIONER GAZIANO: One of the
9 issues is whether her denial today and the
10 denial in this letter, Exhibit E, is true.
11 And to get at that, I would like to ask a few
12 obviously relevant questions such who did you
13 speak with. Was it Mr. Seper or was it
14 someone else from The Washington Times?

15 MR. RELMAN: Objection, but you
16 can answer that question.

17 THE WITNESS: Jerry Seper is the
18 author of the article and, yes, the person I
19 spoke with.

20 BY COMMISSIONER GAZIANO:

21 Q Okay. Am I correct that he
22 initiated the telephone call to you?

1 A Yes.

2 Q Okay. What did he say relevant to
3 -- Well, did he indicate why he was calling
4 you?

5 MR. RELMAN: Objection. This goes
6 beyond the scope of this inquiry. Don't
7 answer that question.

8 COMMISSIONER GAZIANO: Are you
9 willing to refuse to answer the question?

10 THE WITNESS: I'm following my
11 counsel's advice.

12 COMMISSIONER GAZIANO: Okay.

13 BY COMMISSIONER GAZIANO:

14 Q Well, what did -- what was the
15 conversation you had with him?

16 MR. RELMAN: Objection. This goes
17 beyond the scope of this deposition. Don't
18 answer that question.

19 COMMISSIONER GAZIANO: How is it
20 going beyond the scope of the deposition to
21 test the claim in this exhibit that she did
22 not say certain things? I want to know what

1 she did say if she didn't say this.

2 BY COMMISSIONER GAZIANO:

3 Q What did you discuss about the New
4 Black Panther litigation?

5 MR. RELMAN: Objection. I want to
6 take a break for a moment and discuss this
7 with co-counsel.

8 (Commissioner Yaki joins
9 deposition via teleconference.)

10 COURT REPORTER: Is that
11 acceptable?

12 MR. BLACKWOOD: Yes, we can go off
13 the record for that purpose.

14 (Whereupon, the above-entitled
15 matter went off the record at 10:40 a.m. and
16 resumed at 10:42 a.m.)

17 MR. BLACKWOOD: Please go ahead
18 back on the record.

19 MR. RELMAN: Okay. Thank you. I
20 want to state my objection to the question.
21 Let me say once again that the subject matter
22 of this deposition is communications with the

1 Department of Justice. This witness has
2 testified now in response to Mr. Blackwood's
3 questions that she had no communications with
4 the Department of Justice about this
5 litigation other than what she's spoken to.

6 This is not an inquiry about who
7 she talked to at The Washington Times or any
8 other place about this litigation. This
9 Commission has no authority to inquiry into
10 that. It goes to core First Amendment values
11 and issues and rights and, furthermore, this
12 is not a libel suit against The Washington
13 Times. So I'm instructing the witness not to
14 answer for those reasons the question that has
15 been put to her.

16 COMMISSIONER GAZIANO: Since
17 Commissioner Yaki has joined, let me state the
18 relevance of my question which is -- I'm not
19 even sure that Commissioner Yaki is aware.
20 She has -- The witness has shared a letter
21 with us and she has also testified that the
22 statements in The Washington Times paper are

1 not true. And so I am and I maintain that it
2 is highly relevant to test the veracity of
3 that assertion today to ask her what she did
4 discuss with the reporter.

5 BY COMMISSIONER GAZIANO:

6 Q But based on your prior practice,
7 I assume you are going to follow your
8 counsel's advice and refuse to answer that
9 question at this time.

10 A I'm following my counsel's advice.

11 Q Okay. Well, I don't know if we'll
12 have to call you back. But for now let me
13 move onto what may be my last question.

14 MR. BLACKWOOD: If I could. I was
15 -- before we ask the next question, I was
16 informed by the Court Reporter that we failed
17 to have you sworn in. So I would like to have
18 you sworn in at this time with the
19 understanding that this applies to your
20 testimony up to this point. Is that
21 acceptable?

22 THE WITNESS: Yes.

1 MR. BLACKWOOD: Mr. Court
2 Reporter.

3 WHEREUPON,

4 KRISTEN CLARKE

5 was called as a witness by Counsel and, having
6 been first duly sworn, was examined and
7 testified as follows:

8 MR. BLACKWOOD: Sorry.

9 COMMISSIONER GAZIANO: And do you
10 reaffirm now on the record that what you've
11 said before is also --

12 THE WITNESS: Yes.

13 BY COMMISSIONER GAZIANO:

14 Q Okay. I think maybe my last
15 question at least unless other questions are
16 raised is The Washington Times also says that
17 you shared copies of the complaint or you
18 forwarded copies of the complaint. Did you
19 forward copies of the New Black Panther
20 complaint?

21 A I did.

22 Q Okay. Who did you share copies of

1 the complaint with?

2 MR. RELMAN: Well, if this
3 question -- If your question goes to whether
4 she shared copies of the complaint with
5 someone at the Department of Justice you can
6 answer that question. If you shared copies of
7 the complaint with anybody else, then you are
8 not to answer that question.

9 COMMISSIONER GAZIANO: Let me make
10 a two-part question.

11 BY COMMISSIONER GAZIANO:

12 Q Did you share -- I don't know why
13 you would need to share copies of the
14 complaint with the people at Department of
15 Justice. But let me -- Since they initiated
16 it, did you share/forward copies of the
17 complaint with anyone in the Department of
18 Justice, White House or rest of the Obama
19 Administration?

20 A No.

21 Q Did you share copies of the
22 complaint with anyone on the Obama Transition

1 Team?

2 A No.

3 Q Okay. As we've established
4 sometimes it is more effective to try to reach
5 someone through someone else. Did you share
6 a copy of the complaint in the New Black
7 Panther litigation -- Or who else did you
8 share a copy of the complaint in the New Black
9 Panther litigation?

10 MR. RELMAN: Objection. Do not
11 answer that question. It is over broad. This
12 is not an inquiry into her communications --

13 COMMISSIONER GAZIANO: Okay.

14 MR. RELMAN: -- with any person in
15 the world about this litigation. It is an
16 inquiry into whether she had communications
17 with the Department of Justice and we have
18 allowed questions with respect to the White
19 House and in this case the Obama Transition
20 Team. She's answered that question that she
21 did not.

22 Otherwise, your inquiry is over

1 broad. You have no authority in inquire into
2 that. It goes to core First Amendment values
3 and you have no right to do that.

4 COMMISSIONER GAZIANO: Absolutely
5 we have a right to investigate this. The
6 scope of our discovery is even broader than
7 the Federal rules and as you know this is
8 relevant to federal -- But let me ask it a
9 different way.

10 BY COMMISSIONER GAZIANO:

11 Q Did you -- Who else or did you
12 forward a copy of the complaint with anyone
13 with the hope, intent or purpose that it might
14 be dismissed?

15 MR. RELMAN: Objection to the
16 question as asked, but you may answer that
17 question.

18 THE WITNESS: No.

19 BY COMMISSIONER GAZIANO:

20 Q Why did you forward copies of the
21 complaint?

22 MR. RELMAN: Objection. First of

1 all, who are you referring to? Forward copies
2 to whom?

3 COMMISSIONER GAZIANO: You've
4 prevented her from answering to whom. So I
5 just want to know for what purpose were you
6 forwarding copies of the complaint in the New
7 Black Panther litigation.

8 MR. RELMAN: You can answer that
9 question.

10 THE WITNESS: For informational
11 purposes only.

12 BY COMMISSIONER GAZIANO:

13 Q What kind of informational
14 purposes?

15 A It is a practice to share
16 information with others that they may find of
17 interest.

18 Q Sure. Sometimes you share a funny
19 joke because you want to provide humor.
20 Sometimes you provide professional advice
21 because -- What was your purpose? What type
22 of information were you hoping to share in

1 forwarding the complaint in the New Black
2 Panther litigation?

3 A Again, merely sharing the fact of
4 filing with others who may have found it
5 interesting that a federal voting rights case
6 had been filed.

7 Q Hm. Isn't it easier to just write
8 in an email a case was filed than to actually
9 attach a complaint?

10 MR. RELMAN: Objection. That
11 question has no bearing on this investigation
12 whatsoever.

13 COMMISSIONER GAZIANO: It has a
14 bearing on her previous answer which says to
15 merely alert them to the fact of filing and
16 not anything contained herein.

17 MR. RELMAN: Mr. Commissioner, I'm
18 sorry. This is just wasting our time here.
19 You know, the question about whether it is
20 more effective to simply say a complaint's
21 been filed than to forward it is, the
22 complaint itself, a question that serves no

1 purpose or intent if the inquiry here is to
2 find out if she had communications with the
3 Department of Justice which she said she did
4 not have.

5 Next question please. Don't
6 answer that.

7 COMMISSIONER GAZIANO: I'm trying
8 to follow up on her answer. Are you --

9 BY COMMISSIONER GAZIANO:

10 Q Why else besides informing them of
11 the fact that the complaint was filed -- What
12 other reasons did you have to forward the
13 complaint?

14 MR. RELMAN: She -- If you had any
15 other reasons, you can answer the question.

16 THE WITNESS: I -- There is no
17 other purpose.

18 COMMISSIONER GAZIANO: No other
19 purpose. Okay. Well, I think I will rest at
20 that point.

21 MR. BLACKWOOD: Commissioner Yaki,
22 do you have any questions? Commissioner Yaki.

1 COMMISSIONER YAKI: Yes, I'm here.
2 I'm sorry. I was momentarily stupefied by the
3 line of questioning that was going on. The --
4 I really don't have any questions per se.

5 Well, I'm going to ask a question.
6 If counsel objects I will -- well, I'll ask my
7 question right now.

8 DIRECT EXAMINATION (Cont.)

9 BY COMMISSIONER YAKI:

10 Q Ms. Clarke, my name is Michael
11 Yaki. I'm a member of the U.S. Commission on
12 Civil Rights. Just so you know for the record,
13 I have serious qualms about the nature of this
14 investigation and my question goes really not
15 to your percipient knowledge of --

16 Well, let me ask you this
17 question. Number one, Ms. Clarke, you were
18 not present at Philadelphia during the time of
19 the events alleged in the Department of
20 Justice complaint, were you?

21 A No, I was not.

22 Q You were not a percipient witness

1 -- Is it fair to say you were not a percipient
2 witness to the events that went on in
3 Philadelphia? Is it not?

4 MR. RELMAN: I'm sorry. I didn't
5 understand that.

6 MS. DUNSTON: Commissioner Yaki,
7 this is Pam. That's not coming over clear.
8 Can you restate that please?

9 COMMISSIONER YAKI: Yes.

10 BY COMMISSIONER YAKI:

11 Q Is it fair to say you were not
12 percipient witness to the events in
13 Philadelphia that were alleged at the time of
14 the complaint?

15 MR. RELMAN: I'm sorry. This is
16 counsel. Commissioner, I apologize. I just
17 don't understand the term you're using
18 "percipient," as I understand it, witness.
19 Could you rephrase that?

20 COMMISSIONER YAKI: Okay.

21 BY COMMISSIONER YAKI:

22 Q You were not physically present to

1 witness any of the events in Philadelphia?

2 A No, I was not.

3 Q Were you -- May I ask a more open-
4 ended question? You are -- you have some
5 expertise in the laws surrounding voting
6 rights. Would that be a fair
7 characterization?

8 A Yes.

9 Q It is? My question goes to this.
10 Prior to the complaint and prior to the events
11 alleged in the complaint against the New Black
12 Panther Party, in your experience as a lawyer
13 engaged in -- prior to the time of the filing
14 of the New Black Panther Party, prior to the
15 events alleged at the time of the New Black
16 Panther Party complaint, in your expertise as
17 a voting rights lawyer, can you recall
18 incidents, any incident, prior to that
19 incident, prior to that time in which you
20 believe that there were violations of Section
21 11(b) of the Voting Right Act?

22 MR. RELMAN: I'm going to object

1 to the question. It goes beyond the scope of
2 the deposition. I'm going to instruct the
3 witness not to answer.

4 COMMISSIONER YAKI: Okay. That's
5 fine.

6 BY COMMISSIONER YAKI:

7 Q One last question, Ms. Clarke.
8 Did you involve a -- Were you involved in and
9 when I say involved, did you review and at
10 suggestions to or were consulted for the
11 filing of the New Black Panther Party
12 complaint?

13 MR. RELMAN: You can answer that
14 question.

15 THE WITNESS: I didn't catch the
16 latter part of your question, Commissioner.
17 By whom?

18 BY COMMISSIONER YAKI:

19 Q Were you -- Before a complaint was
20 filed, did you review the complaint brought by
21 the Black Panther Party?

22 A No, I did not.

1 COMMISSIONER YAKI: Okay. That's
2 all the questions I have.

3 MR. BLACKWOOD: I just have one
4 question to clarify matters.

5 BY MR. BLACKWOOD:

6 Q Did you receive -- You've got a
7 copy of the complaint. Did someone send to
8 you or did you get it yourself?

9 A I obtained it myself.

10 MR. BLACKWOOD: Thank you. Okay.
11 I have no further questions.

12 Does anyone have any further
13 questions before we terminate the deposition?

14 COMMISSIONER GAZIANO: Just to
15 follow up on yours.

16 BY COMMISSIONER GAZIANO:

17 Q From the court? Where did you
18 obtain the complaint?

19 A We did an internal -- We made an
20 internal effort to track it down through PACER
21 perhaps. I'm not sure exactly how.

22 Q So you're not sure. There was

1 someone --

2 A It was an internal -- internally
3 obtained.

4 Q So perhaps some one on your staff
5 obtained it. Is it the --

6 A A paralegal on my staff tracked
7 down a copy of the complaint. I'm not sure if
8 she got it from PACER.

9 Q So it's possible it was a public
10 source. Is it possible it was --

11 A It was absolutely a public source.

12 COMMISSIONER GAZIANO: Okay.

13 Thank you.

14 MR. BLACKWOOD: With that, the
15 deposition is concluded. Thank you very much.

16 THE WITNESS: You're very welcome.

17 MR. BLACKWOOD: Off the record.

18 (Whereupon, the taking of
19 deposition in the above-entitled matter was
20 concluded at 10:56 a.m., signature having not
21 been waived.)

22

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From: "Reed, Judith (CRT)" <Judith.Reed@usdoj.gov>
 To: "KRISTEN CLARKE" <kclarke@NAACPLDF.ORG>
 Date: 1/13/2009 1:04 PM
 Subject: FW: Phila story

Don't know if you were aware of this latest lawsuit; below is a news article as well

Justice Department Seeks Injunction Against New Black Panther Party Lawsuit Seeks to Prohibit Voter Intimidation in Future Elections
 WASHINGTON - The Justice Department today filed a lawsuit under the Voting Rights Act against the New Black Panther Party for Self-Defense and three of its members alleging that the defendants intimidated voters and those aiding them during the Nov. 4, 2008, general election.

The complaint, filed in the United States District Court in Philadelphia, alleges that, during the election, Minister King Samir Shabazz and Jerry Jackson were deployed at the entrance to a Philadelphia polling location wearing the uniform of the New Black Panther Party for Self-Defense, and that Samir Shabazz repeatedly brandished a police-style baton weapon.

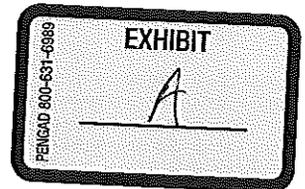
"Intimidation outside of a polling place is contrary to the democratic process," said Acting Assistant Attorney General Grace Chung Becker. "The Voting Rights Act of 1965 was passed to protect the fundamental right to vote and the Department takes allegations of voter intimidation seriously."

According to the complaint, party Chairman Malik Zulu Shabazz confirmed that the placement of Samir Shabazz and Jackson in Philadelphia was part of a nationwide effort to deploy New Black Panther Party members at polling locations on Election Day. The complaint alleges a violation of Section 11(b) of the Voting Rights Act of 1965, which prohibits intimidation, coercion or threats against "any person for voting or attempting to vote." The Department seeks an injunction preventing any future deployment of, or display of weapons by, New Black Panther Party members at the entrance to polling locations.

The New Black Panther Party for Self-Defense, which claims active chapters nationwide, is distinct from the Black Panther Party founded by Bobby Seale in the 1960s.

The Civil Rights Division enforces the Voting Rights Act of 1965. To file complaints about discriminatory voting practices, including acts of harassment or intimidation, voters may call the Voting Section of the Civil Rights Division at 1-800-253-3931. More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice's web site at www.usdoj.gov/crt/voting/index.htm.

- > From afar, it looks like witness intimidation
- > By DANA DiFILIPPO
- > Philadelphia Daily News
- > difilid@phillynews.com 215-854-5934
- > On Election Day, two black supremacists stood watch over a Fairmount
- > polling site.
- > City police didn't charge them with any crime. And the District
- > Attorney's Office received no complaints about their behavior.
- > But the feds, from their D.C. digs 120 miles away, nonetheless
- > delivered a big smackdown this week when the U.S. Department of
- > Justice sued the pair - plus their group, the New Black Panther Party,
- > and its chairman - alleging voter intimidation.
- > The New Black Panther Party, in turn, suspended its Philadelphia
- > chapter, issuing a "public notice" characterizing chapter president
- > Minister King Samir Shabazz as a rogue who acted without the
- > organization's approval when he brought a nightstick on his Election
- > Day surveillance mission.
- > "The New Black Panther Party has never, and never will, condone or
- > promote the carrying of nightsticks or any kind of weapon at any
- > polling place," the notice stated. "It is true that volunteers in the
- > New Black Panther Party successfully served as poll watchers all over
- > the country and helped get the black vote out. [But] we were incident
- > free. We are intelligent enough to understand that a polling place is
- > a sensitive site and all actions must be carried out in a civilized



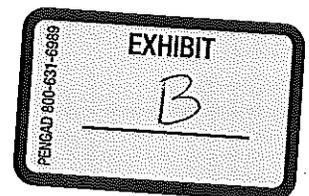
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- > and lawful manner."
- > The saga on Nov. 4 started when Shabazz and Jerry Jackson, a New Black Panther Party member who also is a member of the 14th Ward's Democratic Committee, showed up at the polling site at 12th Street and Fairmount Avenue.
- > Yesterday, Shabazz said that he had visited that site because "the community asked" for him.
- > "We had gotten calls earlier that morning that people in the community were getting harassed by neo-Nazis and skinheads," he said. "We were asked to secure the area, and that's what we done. We weren't saying anything; we weren't doing anything to violate anyone's civil rights or right to vote. Even the mayor and the D.A. spoke out on our behalf, somewhat."
- > Several news and amateur videos of the supremacists show them standing in black berets, boots and military garb, occasionally talking with news reporters. In one online video, a man can be seen nonchalantly entering the building behind the Panthers.
- > But according to the feds' nine-page complaint filed Wednesday, Shabazz menacingly tapped a nightstick in his hand throughout his "deployment" there. The complaint further charges that Shabazz and Jackson tried to block access to the building and hurled racial threats and insults at white and black voters and poll workers.
- > Party chairman Malik Zulu Shabazz also was named in the complaint but wasn't present at the Fairmount site on Election Day.
- > The complaint charges that the Panthers violated the Voting Rights Act of 1965, which prohibits intimidation, coercion or threats against voters. The feds want an injunction barring the Panthers from sending members - especially those with weapons - to polling places during future elections.
- > "Intimidation outside of a polling place is contrary to the democratic process," Acting Assistant Attorney General Grace Chung Becker said in a prepared statement. "The Voting Rights Act of 1965 was passed to protect the fundamental right to vote, and the Department takes allegations of voter intimidation seriously."
- > Scot Montrey, a spokesman for the department's civil-rights division, declined to say what sparked the federal complaint, when local authorities had decided that no offense had occurred.
- > "Generally, we let the legal filings speak for themselves," Montrey said.
- > The presence of a weapon typically elevates what some might view as free speech to an intimidation offense, one justice source said.
- > Shabazz is a familiar presence to many who pass by the Clothespin statue near City Hall; he often spends weekday afternoons there, selling the New Black Panther Party's \$2 newspaper and preaching to passers-by.
- > He declined to say yesterday whether the chapter suspension would alter his plans to spread his extremist message, which includes a black-separatist call to destroy whites. He also refused to reveal how he would respond to the complaint and chapter suspension.
- > "A wise general never reveals his tactics," Shabazz said.
- > Jackson couldn't be reached for comment.
- > The New Black Panther Party, which officials have labeled a hate group, is different from the Black Panther Party founded by Bobby Seale in the 1960s, which emphasized self-help programs for blacks. *
- >

From: "Reed, Judith (CRT)" <Judith.Reed@usdoj.gov>
 To: "KRISTEN CLARKE" <KCLARKE@NAACPLDF.ORG>
 Date: 7/31/2009 12:03 PM
 Subject: unwanted fame?

Rep Smith Seeks Answers From DOJ in Voter Intimidation Case. The Washington Times
 <<http://www.washingtontimes.com/news/2009/jul/31/senior-republican-wants-answers-panther-party-case/>> (7/31, Seper) reports that Rep. Lamar Smith (R-TX), the ranking Republican on the House Judiciary Committee, "wants a closed-door briefing with the head of the Justice Department's Voting Rights Section on Friday over the department's decision to seek a dismissal in a voter intimidation case against the New Black Panther Party." Smith "Smith said he has been unsuccessful since May in getting answers on whether political appointees were involved in the dismissal of three of four counts in the case after the Justice Department had won default judgments on all counts and why the department has refused to respond to congressional inquiries on the investigation." Citing a report Thursday in the Washington Times
 <http://www.washingtontimes.com/news/2009/jul/30/no-3-at-justice-okd-panther-reversal/?feat=home_cube_position1> , Smith "said Associate Attorney General Thomas J. Perrelli knew about discussions to dismiss the complaint, but the Justice Departments responses to Congress 'make no mention of his involvement in the decision-making process. Instead, they continually refer to vague justifications for the Obama Justice Departments actions, none of which include a legitimate explanation for why a case would be dropped,' he said. 'It is clear that political appointees at the Justice Department allowed career employees to be pressured to drop a case against the presidents political allies. That is politicizing justice and it undermines democracy.'" Rep. Frank Wolf (R-VA), "said on the House floor Thursday he was 'deeply troubled by the Department of Justices questionable dismissal of an important voter intimidation case in Philadelphia, where I grew up and my father was a policeman.'" Justice Department spokeswoman Tracy Schmalder "said the department has tried to cooperate with Congress and agreed to a meeting with" Wolf "and career attorneys 'in which they made a good-faith effort to respond to his inquiries about this case. We will continue to try to clear up any confusion Congressman Wolf has about this case."

More Commentary. The Washington Times
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From: "Lopez-Ortiz, Luz (CRT)" <Luz.V.Lopez-Ortiz@usdoj.gov>
To: "KRISTEN CLARKE" <KCLARKE@NAACPLDF.ORG>
Date: 7/31/2009 12:16 PM

Subject: from the clips today --interesting stuff

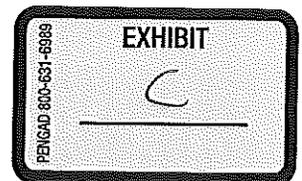
Rove Finishes Testimony, Discusses US Attorney Dismissals. Former Bush advisor Karl Rove finished his second day of closed-door testimony before the House Judiciary Committee yesterday, and the Washington Post <<http://www.washingtonpost.com/wp-dyn/content/article/2009/07/30/AR2009073002023.html?hpid=topnews>> (7/31, Johnson) and the New York Times <<http://www.nytimes.com/2009/07/31/us/politics/31rove.html?hp>> (7/31, A14, Johnston) report this story and on a joint interview Rove did with the newspapers this month with the understanding that reports be embargoed until after his testimony. Both articles cast doubt on Rove's assertion that he played a small role in the dismissal of nine US Attorneys in late 2006.

Under the headline "E-Mails Show Larger White House Role In Prosecutor Firings," the Post reports that according to e-mails it has obtained, Rove "and other high-ranking figures in the Bush White House played a greater role than previously understood in the firing of federal prosecutors almost three years ago." Citing the e-mails "and new interviews with key participants," the Post reports that these materials "provide new information about efforts by political aides in the Bush White House, for example, to push a former colleague as a favored candidate for one of the U.S. attorney posts. They also reflect the intensity of efforts by lawmakers and party officials in New Mexico to unseat the top prosecutor there." In the interview, Rove "described himself as merely passing along complaints by senators and state party officials to White House lawyers." The Post notes that Assistant U.S. Attorney Nora R. Dannehy "continues to investigate whether the firings of the prosecutors and the political firestorm that followed could form the basis of possible criminal charges such as making false statements or obstruction of justice."

Under the headline "Rove Says His Role In Prosecutor Firings Was Small," the Times reports that Rove "said in a recent interview that he had sought status reports about vacancies in prosecutors' offices, pushed subordinates to find a job for a former deputy and monitored plans for dismissals as they evolved after Mr. Bush's re-election in 2004," but "said he played only a peripheral role in the removal of the prosecutors" and said "that he could not answer one of the central unanswered questions that the panel has hoped to resolve: whether it was the White House that directed the Justice Department to remove the prosecutors." The Times notes that a "statement from the Judiciary Committee on Thursday suggested that" Rove "might not have fully described his role in the matter in the earlier interview, with reporters for The New York Times and The Washington Post. In the interview, Mr. Rove also provided a selection of office e-mail messages about the issue. 'It's hardly surprising that Mr. Rove would minimize his involvement in the U.S. attorney firings or that selectively leaked documents would serve his version of events,' the statement said."

The AP <<http://www.washingtonpost.com/wp-dyn/content/article/2009/07/30/AR2009073003354.html>> (7/31) also reports on Rove's testimony.

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Supreme Court

Alexander To Support Sotomayor. The AP
http://news.yahoo.com/s/ap/20090730/ap_on_go_su_co/us_sotomayor_alexander_yll=AkRiEWceq.7JS0KzKUesg55p24cA;_ylu=X3oDMTJ0ZG52NzdpBGFzc2V0A2FwLzlwMDkwNzNmL3VzX3NvdG91YXlvcld9hbGV4YW5kZXIEcG9zAzEwBHNIYwN5bl9wYWdpbmF0ZV9zdW1tYXJ5X2xpc3QEc2xrA25vM3JlcHVibGijYQ-- (7/31, Davis) reports, "The Senate's No. 3 Republican announced Thursday he'd break with the rest of his party's leaders to support Supreme Court nominee Sonia Sotomayor, who's in line to become the first Hispanic justice." Sen. Lamar Alexander "said he was voting for President Barack Obama's nominee despite his differences with her, particularly on gun rights." Said the GOP senator, "Even though Judge Sotomayor's political and judicial philosophy may be different than mine, especially regarding Second Amendments rights, I will vote to confirm her because she is well qualified by experience, temperament, character and intellect to serve." The Politico <http://www.politico.com/news/stories/0709/25610.html> (7/31, Raju) notes that "Alexander criticized then-Sen. Barack Obama and Democratic senators for voting against John Roberts's nomination for chief justice in 2005, 'solely because they disagreed with what Sen. Obama described as Roberts's "overarching political philosophy,"' adding, "'Today, it would be equally wrong for me to vote against Judge Sotomayor solely because she is not on my side on some issues.'"

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From: "Lopez-Ortiz, Luz (CRT)" <Luz.V.Lopez-Ortiz@usdoj.gov>
To: "KRISTEN CLARKE" <KCLARKE@NAACPLDF.ORG>
Date: 7/31/2009 1:10 PM
Subject: RE:

They are disgusting. This is CC's doing.

-----Original Message-----

From: KRISTEN CLARKE [mailto:KCLARKE@NAACPLDF.ORG]
Sent: Friday, July 31, 2009 12:45 PM
To: Lopez-Ortiz, Luz (CRT)
Subject: Re:

lies.

>>> "Lopez-Ortiz, Luz (CRT)" <Luz.V.Lopez-Ortiz@usdoj.gov> 7/31/2009
12:12 PM >>>

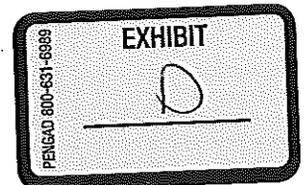
Subject: from the clips today --interesting stuff

Rove Finishes Testimony, Discusses US Attorney Dismissals. Former Bush advisor Karl Rove finished his second day of closed-door testimony before the House Judiciary Committee yesterday, and the Washington Post <<http://www.washingtonpost.com/wp-dyn/content/article/2009/07/30/AR20090>

[73002023.html?hpid=topnews](http://www.washingtonpost.com/wp-dyn/content/article/2009/07/30/AR2009073002023.html?hpid=topnews)> (7/31, Johnson) and the New York Times <<http://www.nytimes.com/2009/07/31/us/politics/31rove.html?hp>> (7/31, A14, Johnston) report this story and on a joint interview Rove did with the newspapers this month with the understanding that reports be embargoed until after his testimony. Both articles cast doubt on Rove's assertion that he played a small role in the dismissal of nine US Attorneys in late 2006.

Under the headline "E-Mails Show Larger White House Role In Prosecutor Firings," the Post reports that according to e-mails it has obtained, Rove "and other high-ranking figures in the Bush White House played a greater role than previously understood in the firing of federal prosecutors almost three years ago." Citing the e-mails "and new interviews with key participants," the Post reports that these materials "provide new information about efforts by political aides in the Bush White House, for example, to push a former colleague as a favored candidate for one of the U.S. attorney posts. They also reflect the intensity of efforts by lawmakers and party officials in New Mexico to unseat the top prosecutor there." In the interview, Rove "described himself as merely passing along complaints by senators and state party officials to White House lawyers." The Post notes that Assistant U.S. Attorney Nora R. Dannehy "continues to investigate whether the firings of the prosecutors and the political firestorm that followed could form the basis of possible criminal charges such as making false statements or obstruction of justice."

Under the headline "Rove Says His Role In Prosecutor Firings Was Small," the Times reports that Rove "said in a recent interview that he had sought status reports about vacancies in prosecutors' offices, pushed subordinates to find a job for a former deputy and monitored plans for dismissals as they evolved after Mr. Bush's re-election in 2004," but "said he played only a peripheral role in the removal of the prosecutors" and said "that he could not answer one of the central unanswered questions that the panel has hoped to resolve: whether it was the White House that directed the Justice Department to remove the prosecutors." The Times notes that a "statement from the Judiciary Committee on Thursday suggested that" Rove "might not have fully described his role in the matter in the earlier interview, with reporters for The New York Times and The Washington Post. In the interview, Mr. Rove also provided a selection of office e-mail messages about the issue. It's hardly surprising that Mr. Rove would minimize his involvement in the U.S. attorney firings or that selectively leaked



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(1/5/2010) KRISTEN CLARKE - RE:

documents would serve his version of events,' the statement said."

The AP
<<http://www.washingtonpost.com/wp-dyn/content/article/2009/07/30/AR2009073003354.html>> (7/31) also reports on Rove's testimony.

Rep Smith Seeks Answers From DOJ In Voter Intimidation Case. The Washington Times
<[http://www.washingtontimes.com/news/2009/jul/31/senior-republican-wants](http://www.washingtontimes.com/news/2009/jul/31/senior-republican-wants-answers-panther-party-case/)

-answers-panther-party-case/> (7/31, Seper) reports that Rep. Lamar Smith (R-TX), the ranking Republican on the House Judiciary Committee, "wants a closed-door briefing with the head of the Justice Department's Voting Rights Section on Friday over the department's decision to seek a dismissal in a voter intimidation case against the New Black Panther Party." Smith "Smith said he has been unsuccessful since May in getting answers on whether political appointees were involved in the dismissal of three of four counts in the case after the Justice Department had won default judgments on all counts and why the department has refused to respond to congressional inquiries on the investigation." Citing a report Thursday in the Washington Times
<[http://www.washingtontimes.com/news/2009/jul/30/no-3-at-justice-okd-pan](http://www.washingtontimes.com/news/2009/jul/30/no-3-at-justice-okd-panther-reversal/?feat=home_cube_position1)

ther-reversal/?feat=home_cube_position1> , Smith "said Associate Attorney General Thomas J. Perrelli knew about discussions to dismiss the complaint, but the Justice Department's responses to Congress 'make no mention of his involvement in the decision-making process. Instead, they continually refer to vague justifications for the Obama Justice Department's actions, none of which include a legitimate explanation for why a case would be dropped,' he said. 'It is clear that political appointees at the Justice Department allowed career employees to be pressured to drop a case against the president's political allies. That is politicizing justice and it undermines democracy.'" Rep. Frank Wolf (R-VA), "said on the House floor Thursday he was 'deeply troubled by the Department of Justice's questionable dismissal of an important voter-intimidation case in Philadelphia, where I grew up and my father was a policeman.'" Justice Department spokeswoman Tracy Schmalzer "said the department has tried to cooperate with Congress and agreed to a meeting with" Wolf "and career attorneys 'in which they made a good-faith effort to respond to his inquiries about this case. We will continue to try to clear up any confusion Congressman Wolf has about this case.'"

More Commentary. The Washington Times
<[http://www.washingtontimes.com/news/2009/jul/31/hack-panthers/?feat=art](http://www.washingtontimes.com/news/2009/jul/31/hack-panthers/?feat=article_related_stories)

icle_related_stories> (7/31) editorializes, "The Justice Department's decision to drop an already-won voter-intimidation case against members of the New Black Panther Party merits multiple, independent investigations." The Times continues, "So far, the Justice Department has stonewalled legitimate inquiry. It has yet to provide records sought by this newspaper back in May." Justice Department spokesman Tracy Schmalzer "refused several times to say whether department lawyers consulted with any outsiders. Yet Kristen Clarke of the NAACP Legal Defense Fund confirmed that she talked about the case with Justice Department lawyers. Ms. Schmalzer said she would not talk about 'internal deliberations.' But if they consulted with outside groups, those deliberations by definition are not just internal."

Supreme Court

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CLARKE 000008

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July 31, 2009

Dear Mr. Minitzer:

This letter is intended to correct misstatements in the Washington Times July 30 article: *No. 3 at Justice OK'd Panther reversal* and July 31 editorial: *Huck Panthers*. I did not indicate to any Washington Times reporter that I ever had any discussion with Department of Justice attorneys about a lawsuit that they filed against members of the New Black Panther Party. Nor have I ever engaged in advocacy to any Department of Justice official regarding this case or urged that the Department take a position on this case, one way or the other. While this lawsuit is not one that I have closely followed, I did confirm to the Washington Times that the NAACP Legal Defense and Educational Fund, Inc. has long believed, and continues to believe, that it is vitally important for the Department of Justice to investigate and pursue claims of voter intimidation to ensure minority voters' access to the polls.

Thanks,

A handwritten signature in black ink, appearing to read "Kristen Clarke".

Kristen Clarke
Co-Director, Political Participation Group

