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WASHINGTON, DC 20510-6275

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July 17, 2012

Via Electronic Transmission

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder:

I write to express my concern about reports of an incident at a June 12, 2012 public meeting in New Iberia, Louisiana involving Rachel Hranitzky, a Senior Trial Attorney in the Civil Rights Division.[1] It is my understanding that a formal complaint about the incident has been sent to the Department of Justice. I also understand that letters requesting information have been sent to Assistant Attorney General Thomas Perez by Senator David Vitter, Congressman Jeff Landry and the Reporters Committee for Freedom of the Press.

The June 22, 2012 letter from the Reporters Committee summarized the reports on the incident as follows:

> It is our understanding that on [June 12, 2012], Ms. Hranitzky arrived at the meeting and immediately asked if any journalists were present. When a *Daily Iberian* reporter attending the meeting responded in the affirmative, she informed him that he could neither record the meeting nor quote her statements. According to other attendees, the meeting had been advertised as a public meeting intended to address concerns with the city fire department's hiring and promotion process. However, citing 'special rules' of the Department of Justice for agency attorneys, Ms. Hranitzky instructed that her statements be neither recorded nor quoted. When the reporter questioned this instruction on the basis that Ms. Hranitzky was speaking at a public meeting, she apparently threatened him with the possibility that the DOJ could call his editors and publisher, and warned that he would not 'want to get on the Department of Justice's bad side.' Furthermore, it is our understanding that Ms. Hranitzky demanded the reporter leave the meeting,

[1] Matthew Beaton, "'DOJ practice' slammed by politicos, group," THE DAILY IBERIAN (July 8, 2012) (available at http://www.iberianet.com/news/doj-practice-slammed-by-politicos-group/article_32a8d028-c8b7-11e1-aa3d-0019bb2963f4.html).

> although—after making his objection known but agreeing not to quote her—he was ultimately allowed to remain.

According to one report on the incident, Ms. Hranitzky "'grew belligerent and threatening'" while speaking with the reporter.[2] After the meeting, she apparently told the reporter that she had been quoted in the past and gotten in trouble with the DOJ.[3] More specifically, Ms. Hranitzky told the reporter that the DOJ "'keeps a short leash on how their attorneys are quoted and she could get in big trouble if she were quoted in a newspaper.'"[4]

As you are well aware, on his first full day in office, President Obama declared openness and transparency to be touchstones of his administration, and ordered agencies to make it easier for the public to get information about the government. Specifically, he issued two memoranda written in grand language and purportedly designed to usher in a "new era of open government."[5] As recently as July 1, the White House Chief of Staff, Jack Lew, told a television audience that the Obama Administration "has been the most transparent administration ever."[6]

The reports about the incident in New Iberia and the existence of a DOJ policy or "special rules" which were the cause of the incident, are troubling. If accurate, the reports further confirm that there is a complete disconnect between the President's words about transparency and the actual conduct of his Administration.

Transparency and open government must be more than just pleasant sounding words found in memos and sound bites in television interviews. They are essential to the functioning of a democratic government. Moreover, if the reports about the incident and the existence of a DOJ policy or DOJ "special rules" are accurate, it would amount to a raw abuse of power and a complete disregard for the First Amendment and state open meetings laws.

I am seriously concerned about the reports regarding the incident in New Iberia. Accordingly, please respond to the following questions and requests for information:

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[2] Matthew Volkov, "Civil Rights Division Lawyer Under Fire for Threatening Reporter at Public Hearing," MAINJUSTICE.COM (July 9, 2012) (available at http://www.mainjustice.com/2012/07/09/civil-rights-division-lawyer-under-fire-for-threatening-reporter-at-public-hearing/print/).

[3] *Id.*

[4] *Id.*

[5] Memorandum from President Barak Obama Re: Freedom of Information Act (Jan. 21, 2009) (available at www.whitehouse.gov/the-press-office/freedom-information-act); Memorandum from President Barak Obama Re: Transparency and Open Government (Jan. 21, 2009) (available at www.whitehouse.gov/the-press-office/transparency-and-open-government).

[6] Josh Feldman, "Candy Crowley Calls Out President Obama For Executive Privilege Hypocrisy On Fast & Furious," MEDIAITE.COM (July 1, 2012) (available at http://www.mediaite.com/tv/candy-crowley-calls-out-president-obama-for-executive-privilege-hypocrisy-on-fast-furious/).

1. Is the DOJ, or the DOJ Inspector General, conducting an investigation of the incident in New Iberia?

2. If the DOJ is conducting an investigation, identify who is conducting it and describe in detail the scope of the investigation. If the investigation is being conducted by members of the Civil Rights Division, explain how they do not have a conflict of interest. If the DOJ is not conducting an investigation, explain why no investigation has been commenced.

3. If the DOJ is conducting an investigation, provide a copy of the final report from that investigation when it is completed.

4. Set forth in detail the DOJ's version of the events that took place at the public meeting in New Iberia.

5. If the reports are accurate and Ms. Hranitzky told the reporter that he could not quote anything she said at the public meeting, provide a citation to the legal authority justifying that statement. If there is no legal authority supporting the statement, expressly acknowledge that fact.

6. Does the DOJ have a policy or "special rules," written or unwritten, regarding the recording or quotation of statements made by its employees at public meetings? If there is a written policy or written rules, provide a copy. If there is an unwritten policy or unwritten rules, describe the policy or rules in detail.

7. If the DOJ has a policy or "special rules," written or unwritten, regarding the recording or quotation of statements made by its employees at public meetings, identify: (a) when that policy or those rules were initiated, (b) who is the author of the policy or rules and (c) the rationale or justification for the adoption of the policy or rules. Also, identify the legal authority supporting the existence of such a policy or such rules given the protections for freedom of speech and freedom of the press under the First Amendment. If such analysis was previously conducted and is set forth in a document, provide a copy of that document.

8. According to the reports, Ms. Hranitzky told the reporter that unless he complied with her orders about not quoting her, the DOJ might contact his editors or publisher and he would not want to get on the DOJ's "bad side." Have DOJ employees been instructed to use or had it suggested to them that they could use the DOJ "bad side" statement or any other similar threat tactic when dealing with members of the media? If so, set forth in detail (a) the circumstances under which the instructions or suggestions were made and (b) the justification for such an instruction or suggestion being given.

9. Has the DOJ previously disciplined or reprimanded its employees, in any manner, whether officially or unofficially, if the statements they make at public meetings are

quoted by the media? If so, please explain in detail the circumstances under which such discipline has occurred and/or could occur.

10. The reports on the incident in New Iberia referenced a DOJ policy or "special rules" related to employees' interactions with members of the media and their speaking at public meetings. Even if no official policy or rules exist, is the DOJ investigating whether any practices exist or whether orders have been given to DOJ employees by their supervisors about the employees' interactions with members of the media and their speaking at public meetings. If the DOJ is conducting an investigation, identify who is conducting it and describe in detail the scope of the investigation. Also, if the DOJ is conducting an investigation, provide a copy of the final report from that investigation. If the DOJ is not conducting an investigation, explain why no investigation has been commenced.

11. If a DOJ employee speaks at a public meeting in his or her official capacity, is the reporting on or recording of the employee's statements subject to state open meetings laws, such as the one that exists in Louisiana? If not, explain why you maintain that the statements are not subject to open meetings laws. Also, if not, identify what laws or rules, the DOJ is subject to or follows in connection with the recording of a public meeting at which a DOJ employee speaks in his or her official capacity. If your answer includes a reference to internal DOJ rules, provide a copy.

12. Was the meeting in New Iberia subject to Louisiana's open meetings law? If you maintain that it was not, explain your response in detail.

13. Since the publication of the reports on the incident in New Iberia, have DOJ employees been given any instructions or training on how they are to interact with individuals, including members of the media, attending public meetings? If so, and if those instructions or that training was in written format, provide a copy. If so, and if the instructions or training was not in written format, describe it in detail. If there have not been any instructions or training given, explain why that is so.

14. Since 2007, has the DOJ received any complaints, whether informal or formal, regarding statements or conduct by its employees at a public meeting, proceeding or event similar to Ms. Hranitzky's reported statements and conduct in New Iberia? If so, identify each such incident in detail. For each such incident, provide a copy of the written complaint or report that the DOJ received and a copy of any written response by the DOJ.

15. Provide copies of all written responses by the DOJ to any inquiries, letters or complaints about the incident at the meeting in New Iberia.

16. Provide copies of the notices or advertisements for the meeting in New Iberia.

17. Provide copies of any public statements or comments made by the DOJ on the incident at the meeting in New Iberia.

18. Identify the case or cases which were the subject of the meeting in New Iberia, including the case name(s) and docket number(s).

19. Provide a copy of the ruling or consent decree issued in the case or cases which were the subject of the meeting in New Iberia.

20. Provide copies of any written statements or comments issued by the DOJ regarding the case or cases which were the subject of the meeting in New Iberia.

21. Provide copies of any written DOJ policy, directive or guidance regarding DOJ employees speaking with members of the media.

I ask that you provide written answers and documents by August 17, 2012.

Sincerely,

Charles E. Grassley

Ranking Member, Senate Judiciary Committee

Cc: Hon. Patrick J. Leahy, Chairman, Senate Judiciary Committee