U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 04 2012

The Honorable Charles E. Grassley
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Grassley:

This is in response to your letter to the Attorney General dated July 17, 2012, inquiring about a public meeting conducted on June 12 by the Department's Civil Rights Division (the Division) in New Iberia, Louisiana. Your letter expresses concern about reports that an attorney representing the Division made various statements allegedly intended to prevent a reporter from staying at the meeting, and asks about the Department's actions in response to the letters it has received about the meeting.

The meeting in question was held by the Department to monitor compliance with the consent decree entered by the court in *U.S. v. City of Alexandria, et al.*, No. 2:77-cv-02040-HAM (E.D. La. 1977), a case brought under Title VII of the Civil Rights Act of 1964, as amended. The United States, through the consent decree, is charged with ensuring that covered jurisdictions take adequate steps to eliminate discriminatory practices that were addressed in the decree. The June 12 meeting, like other compliance review meetings held in Louisiana over the last several months, was an opportunity for the Department to answer questions about the consent decree and to hear any concerns from the public regarding whether the City of New Iberia has substantially met the requirements of the decree.

All of the public meetings that have been held on this decree, including the one in New Iberia, have been open to the press and covered by several different media outlets, including *The Times Picayune*, the ABC television affiliate in Baton Rouge, and both the CBS and FOX television affiliates in the city of Harahan. The reporter from *The Daily Iberian* who had the conversation with the Department attorney to which your letter refers both attended and reported on the June 12th meeting. The reporter was not prevented from reporting on the statements made in the meeting or using quotes attributed to that Department attorney, as evidenced by several stories regarding the meeting that were published by his newspaper in subsequent days.

The reporter and the Department attorney appear to have had a misunderstanding about whether the reporter was welcome to remain at the meeting and to cover the attorney's remarks there. To the extent that this misunderstanding created the impression that *The Daily Iberian*

reporter, or other reporters, were not permitted to attend the meeting or other public meetings held by the Department, that does not represent Department policy, and we regret the confusion. There is no Department policy or "special rule," nor are we aware of any law, that prevents the press from attending public meetings or quoting Department officials at such meetings. To the contrary, all of the public meetings on this case have been open to the press, as all future public meetings – on this and other cases – will be.

Consistent with our standard practice, attorneys speaking on behalf of the Department at public meetings may at times refer reporters to the Department's Office of Public Affairs (OPA) for further information and additional statements. In this case, OPA answered numerous inquiries from *The Daily Iberian* on this matter and the underlying decree. That office is consistently available to members of the press who wish to obtain more information than is provided at a public meeting.

The Department is committed to the freedoms afforded by the United States Constitution, including the First Amendment, and in fact the Civil Rights Division actively works to protect those fundamental values. Based on the letters the Division received about the meeting in New Iberia, the Division has taken steps to ensure that its employees are fully aware of the Department's consistent policy that public meetings are open to the public, including the press. We believe that these steps will avert any possibility of misunderstandings on this point in the future.

In response to your requests for documents, we are providing the following: a copy of the consent decree in this case; the Department's responses to two letters it has received on this matter;[1] the public statements the Department has made on this matter; and a recent communication from the Assistant Attorney General for the Civil Rights Division to all Division staff.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Judith C. Appelbaum
Acting Assistant Attorney General

Enclosures

cc: The Honorable Patrick J. Leahy
Chairman

[1] The Department is also responding today to letters it received on this matter from Senator David Vitter and Representative Jeffrey Landry.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

VERSUS

THE CITY OF ALEXANDRIA, ET AL

CIVIL ACTION

NO. 77-2040

SECTION "I"

ORDER

On December 3, 1980, there was submitted to the Court plaintiff's motion for entry of consent decree. The basis for the motion was the mandate of the United States Court of Appeals for the Fifth Circuit in Docket 78-1436 of that court.

The complaint filed in this court on June 29, 1977, which accompanied the aforesaid "Partial Consent Decree," was styled as a class action alleging various classes of defendants. The partial consent decree which the mandate of the United States Court of Appeals for the Fifth Circuit has ordered this court to enter, was signed and approved by the plaintiff, by the State of Louisiana, and by five cities which are named defendants in the complaint. These are the Cities of Alexandria, Monroe, Shreveport, Baton Rouge and Kenner, Louisiana. Various stipulations between the plaintiff and other cities not named defendants have been filed in the record by the plaintiff, notwithstanding the fact that there has been no class action determination as required by Rule 23 of the Federal Rules of Civil Procedure.

After this Court refused to sign the consent decree submitted with the complaint, the Court ordered that steps be taken to permit the Court to hold a class action hearing as required by Rule 23. Thereafter this Court lost jurisdiction of the matter by virtue of the fact that the plaintiff filed a notice of appeal from this Court's refusal to sign the consent decree.

Inasmuch as there has been no class action determination by this Court nor by the United States Court of Appeals for the Fifth Circuit in its de novo review of this Court's refusal to sign the partial consent decree, this Court is of the opinion that it would be entirely inappropriate and totally inconsistent with the due process requirements of Rule 23 and the United States Constitution for this Court to take any action affecting class members not named defendants, absent appropriate determination that this cause should proceed as a class action. Accordingly,

DEC 9 1980

IT IS ORDERED that the partial consent decree filed in the record of this matter on June 29, 1977, between the United States Department of Justice, the State of Louisiana, and Maxie E. Cox, State Examiner; City of Alexandria, Louisiana; City of Monroe, Louisiana; City of Shreveport, Louisiana; City of Baton Rouge, Louisiana and City of Kenner, Louisiana BE AND THE SAME IS HEREBY ENTERED as required by the mandate of the United States Court of Appeals for the Fifth Circuit in United States versus City of Alexandria, No. 78-1436 of the Docket of that Court.

New Orleans, Louisiana, this 8th day of December, 1980.

UNITED STATES DISTRICT JUDGE

U. S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA

JUN 29 1977

FILED
NELSON B. JONES
CLERK

UNITED STATES OF AMERICA, Plaintiff, v. CITY OF ALEXANDRIA, et al., Defendants.	77-2040 CIVIL ACTION NO. SECTION I

PARTIAL CONSENT DECREE

The plaintiff United States of America filed its complaint in this action against, inter alia the State of Louisiana, the State Examiner, Municipal Fire and Police Civil Service, and the Cities of Baton Rouge, Shreveport, Monroe, Alexandria and Kenner (hereinafter referred to as Employers), as representatives of a class of defendant cities and fire protection districts for whom police and personnel employment examinations are administered by the State Police and Fire Civil Service. The Complaint alleges that the defendants are engaged in a pattern or practice of discrimination in employment on the basis of race and sex, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, et seq., as amended, the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3766, as amended, and the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221, et seq., as amended.

The parties, being desirous of settling this action by appropriate decree, agree to the jurisdiction of this Court over the respective parties and subject matter of

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this action, and hereby waive the entry of findings of fact and conclusions of law. The parties further aver that this action may be properly maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, and that the named defendants are proper representatives of that class. This Decree is final and binding as to the issues resolved herein. This Decree, being entered with the consent of the defendants, shall not constitute an adjudication or finding on the merits of the case and the defendants and each of them, deny that any unlawful discrimination has occurred. Defendants specifically assert that this Decree shall not constitute an admission of any violation of law.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. The defendants, their officials, agents, employees and successors, and all persons in active concert or participation with them in the performance of police and fire service functions covered by the complaint filed in this action are permanently enjoined from engaging in any act or practice which has the purpose or effect of unlawfully discriminating against any black or female employee of, or any black or female applicant or potential applicant for, employment with their respective departments or districts because of such individual's race, color, or sex. Specifically the defendants shall not unlawfully discriminate against any such individual in hiring, promotion, assignment, upgrading, training, discipline or discharge because of race, color, or sex. Further, defendants shall not retaliate against or in any respect

adversely affect any person because that person has lawfully opposed discriminatory policies or practices or because of that person's participation or cooperation with the initiation, investigation or litigation of any charge of discrimination based on race or sex, or the administration of this Decree.

2. It is the purpose and intent of this Decree to insure that blacks and women are not unlawfully discriminated against by the hiring, promotion, assignment and other employment policies and practices of the defendants with respect to the defendant Employers' police and fire departments, and that any disadvantage to blacks and women which may have resulted from past unlawful discrimination is remedied so that equal employment opportunity will be provided to all. The defendants have agreed (without admitting that any such standard is legally required) that in determining whether such purpose and intent has been achieved, to use as a standard of comparison the proportion of blacks and women in the appropriate work force of their respective cities and fire protection districts, and agree to undertake as the long term goal of this decree, subject to the availability of qualified applicants, achieving those proportions of blacks and women in the uniformed and non-uniformed job classifications within their respective police and fire departments as blacks and women bear to the appropriate work force in the particular jurisdiction. For purposes of this Decree uniformed refers to sworn police officers and all fire personnel performing fire fighting, prevention or inspection duties. In meeting this long term goal the defendants shall adopt the interim goals set out below, measured on an annual basis in filling vacancies within those departments:

(a) For the entry uniformed positions of police officer and firefighter, the interim goals shall

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be to fill at least fifty percent (50%) of all vacancies with qualified black applicants until the departmental goal of the work force percentage is met.

(b) For the uniformed entry position of police officer, the interim goal shall be to fill at least twenty-five percent (25%) of the vacancies with qualified female applicants, and for the uniformed entry position of firefighter, the interim goal shall be to fill at least fifteen (15%) of the vacancies with qualified female applicants until the departmental goal of the work force percentage is met.

(c) For non-uniformed positions within the respective departments, the interim goal for blacks shall be to fill at least fifty percent (50%) of the vacancies with qualified black applicants. For purposes of determining compliance with this subparagraph, all vacancies in non-uniformed positions shall be grouped together, expect with respect to those jurisdictions in which heretofore there have been traditionally black positions, such as janitor or laborer, in which case such traditionally black positions

will not be grouped with the other positions for purposes of determining compliance.

(d) For non-uniformed positions within the respective departments, the interim goal for women shall be to fill at least fifty percent (50%) of the vacancies with qualified female applicants. For purposes of determining compliance with this subparagraph, all vacancies in non-uniformed positions shall be grouped together, except with respect to those jurisdictions in which heretofore there have been traditionally female positions such as secretary, typist, record clerk or matron, in which case such traditionally female positions will not be grouped with the other positions for purposes of determining compliance.

For purposes of determining compliance with the interim goals established in paragraph 2 of this decree, persons "blanketed in" pursuant to Louisiana state law shall be considered persons filling vacancies subject to the interim goals; further, for purposes of this decree, persons who fail to complete probation shall not be counted as having been appointed. The parties recognize that, in evaluating an Employer's compliance with the interim and long term goals for women established herein, the level of interest demonstrated by women in the work force, after good faith recruitment efforts pursuant to paragraph 14 hereof, shall be considered.

3. Applicants identified as victims of unlawful discrimination under paragraph 15(b) of this Decree shall

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be given initial preference in filling entry level vacancies under this Decree. Upon employment of such persons, the filing of vacancies in entry positions shall proceed pursuant to the provisions of paragraph 2 above.

4. The interim goals for blacks and women set forth in paragraph 2 shall continue in effect for each department or district until the long term goals for that department or district have been achieved and maintained for a period of one year.

5. In filling vacancies in the uniformed entry positions (firefighter and police officer or equivalent titles), defendants may require that applicants, to be considered qualified, meet the minimum standards set forth by state law or by the respective local fire and police civil service boards as of January 1, 1977, or such other valid standards as the state or local boards may subsequently adopt, except that:

(a) In the event that a local board intends to modify any qualification or standard for hiring or promotion subsequent to January 1, 1977, the board shall, forty-five (45) days prior to the implementation of such modification, notify plaintiff in writing of the content of such intended modification.

(b) Any age limitation permitted above shall be subject to the provisions of paragraph (6) below.

(c) Minimum formal education requirements permitted above shall be deemed to include acceptance of the GED equivalent.

(d) All minimum height and weight requirements shall be abolished. This provision shall

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not prohibit the administration of a job-related test of physical strength and agility, provided that if an Employer wishes to utilize such a test, it shall provide to plaintiff in writing, forty-five (45) days prior to its use, a specific description of the test content.

(e) Utilization of background investigations and other factors related to applicants' character and suitability for employment shall be conducted in accordance with the provisions of paragraph 7 below.

(f) If plaintiff believes that the interim hiring goals are not being met because of standards or practices permitted herein, or otherwise objects to a standard or its implementation, the affected parties shall meet and attempt to agree on a modification thereof, or other appropriate action. Failing agreement, either party may move the Court for a determination of the lawfulness or validity of the standard or practice.

6. Any maximum age limitation permitted pursuant to paragraph 5 above shall be deemed waived for any black applicant who at a time when he was qualified because of age, failed the written examination for any eligibility list which was in effect on or subsequent to March 24, 1972; for any female applicant who at a time when she was qualified because of age was eliminated from consideration by minimum height and weight requirements subsequent to March 24, 1972 and for any black or female applicant who was at the time qualified because of age, and who passed the written examination for eligibility list in existence on or after March 24, 1972,

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but was not appointed from that list. Within ninety (90) days of entry of this Decree, defendants, together with the plaintiff, shall review the records of the state and local boards to determine the identity of such persons, and the defendants shall notify such persons by registered mail of their right to re-apply regardless of age for the next appropriate examination, and such notice will again be given thirty (30) days prior to the next examination. Notice by registered mail to the individual at his last known address complies with this paragraph.

7. Except as otherwise provided, in evaluating applicants, Employers shall utilize their standards and procedures in a manner non-discriminatory in purpose and effect and consistent with achieving the interim goals set forth in paragraph 2 above. Each Employer shall provide to plaintiff within forty-five (45) days of entry of this Decree a list of all disqualifying factors for employment as a uniformed police or fire employee, and a list of those factors which are not automatically disqualifying, but which are considered in evaluating an applicant's character or suitability for employment. Plaintiff shall review these factors and if the parties disagree on the validity of these considerations, either party may move the Court for resolution. Approval or acquiescence of plaintiff in the use of factors which are not automatically disqualifying shall not be deemed to be approval of the manner in which the factor may be utilized with respect to any particular individual.

8. The State Examiner may, for the entry level positions of firefighter and police officer, administer

to applicants a written examination as provided by the present Louisiana Statute for the purpose of establishing lists of qualified applicants for certification to defendant cities and fire protection districts, Provided that such examination shall not be a defense for failure to meet the interim hiring goals set forth in paragraph 2 hereof, unless the parties mutually agree that the examination and the passing score utilized do not have an adverse discriminatory impact or validly measure the qualifications for those positions and are required by business necessity. If defendants wish to assert the validity of the written examination as a defense for failure to meet the interim hiring goals set forth in paragraph 2 hereof, they shall provide to plaintiff any relevant validity studies and underlying data. If the parties are unable to agree on the validity of the examination, either party may move the Court for a determination of its lawfulness.

9. Where appropriate, defendants shall retitle classes, such as fireman, to eliminate the suggestion of sex preference. No additional appointments shall be made from existing eligibility lists for positions covered by this Decree, unless continued use of the list will allow compliance with the interim goals established in this Decree.

10. Current education and experience requirements established for non-uniformed positions may be continued, provided that such requirements shall not be a defense for failure to meet the interim goals established in paragraph 2(c) and (d) unless the parties mutually agree that such requirements are valid or do not have adverse impact on blacks or women. If the defendants wish to

assert the validity of such requirements as a defense for failure to meet the interim hiring goals set forth in paragraph 2 hereof, they shall so notify plaintiff. If the parties are unable to agree on the validity of the requirements, either party may move the Court for a determination of their lawfulness.

11. There shall be no discrimination on the basis of race or sex with respect to duty assignments within the police and fire departments, except as may be lawfully required by the special nature of the assignment.

12. (a) The defendants, and each of them, agree to develop and implement an active and continuing program of recruitment directed at increasing substantially the number of black and female applicants for police and fire positions to a level consistent with their obligation to achieve the interim hiring goals established in paragraph 2 above.

(b) Before establishing an eligibility list for the entry positions in police and fire departments covered by this Decree, each local board shall determine and report to the State Examiner whether, based on estimated hiring during the life of that list and the race and sex make up of that list, the department will be able to meet its interim hiring goals from that list. Should compliance not be reasonably expected given the make up of that list, the Local Board shall not certify for employment from that list and the appointing authority and the State Examiner shall immediately notify the plaintiff in writing of the matter, specifying all relevant details, including a copy of the list, identified by race and sex, and the number of anticipated appointments over the life

of that list. The affected parties shall then meet within a reasonable period to discuss methods by which the department can meet its goals from that list or any subsequent list. If the parties fail to resolve the matter voluntarily within thirty (30) days of original notification to plaintiff, either party may move the Court for immediate resolution.

13. The Office of State Examiner, local fire and police civil service boards, and, where applicable, the local police and fire departments, shall retain all records for a period of five (5) years relating to the recruitment, selection, appointment, promotion, training, assignment and discipline of persons on police and fire departments covered by this Decree, including applications, identified by race and sex, all medical and background investigation files, training evaluations, all evaluations of applicants and employees, eligibility and certification lists with persons identified by race and sex, and records relating to discipline and discharge. Plaintiff shall have the right to inspect and copy any or all such documents upon reasonable notice to defendants without further order of this Court, except that proper authorization from the individual or an order of the Court may be required with respect to medical records. In addition, defendants shall furnish such information or records as plaintiff requests in writing, provided such requests shall not be unduly burdensome and provided further that plaintiff shall pay the reasonable costs thereof.

14. For purposes of this Decree, a reporting period shall run from July 1 through December 31 and from January 1 through June 30 for each year. Within thirty (30) days after the close of each reporting period:

(a) The State Office of Fire and Police Civil Service shall provide to plaintiff:

1. For each department covered by this Decree, the number of persons, by race and sex, tested for each position in the department, and the number, by race and sex, who passed the examination during the reporting period.

2. Copies of each eligibility list established for a position during the reporting period, with persons identified by race and sex.

3. A summary of efforts made by the State during the reporting period in connection with recruitment of blacks and women, pursuant to paragraph 12 (a) of this Decree.

(b) Each local fire and police civil service board shall provide to plaintiff for each police and fire department covered under this Decree:

1. The number of persons, by race and sex, appointed to each position on these police and fire departments during the reporting period.

2. The number of persons, by race and sex, disqualified during the reporting period for appointment to a position on these departments, categorized by position, and reasons for disqualification.

3. The name, address, telephone number, race and sex of each person terminated or

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who resigned from these departments during the reporting period, prior to completion of probation.

4. The name, address, telephone number, race and sex of each black or female employee discharged during the reporting period, and a statement of the reasons for discharge.

5. The total number of persons in each job classification in these departments, by race and sex, as of the close of the reporting period.

6. An estimate of the number of appointments anticipated by the department in each job classification during the next reporting period.

7. A summary of all efforts made by the departments during the reporting period in connection with the recruitment of blacks and women, pursuant to paragraph 12(a) of the Decree.

(c) Each local fire and police civil service board shall also provide to plaintiff, within forty-five (45) days of the entry of this Decree, a report showing the number of persons, by race and sex, in each job classification of each police and fire department covered by this Decree, as of January 1, 1977.

15. (a) The parties reserve for resolution all issues raised by the Complaint with respect to standards, policies or practices related to the promotion of personnel, and to all claims asserted by the plaintiff

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on behalf of persons alleged by plaintiff to have been disadvantaged by virtue of unlawfully discriminatory policies or practices of defendants.

(b) Upon entry of this Decree, plaintiffs shall be given all reasonable access, for purposes of inspection and copying, in accordance with the provisions of paragraph 13 relating to medical records and payment, to the personnel records of the defendants relating to police and fire employment, including both hire and promotion, for the purpose of identifying blacks and women who may have been victims of unlawful race or sex discrimination. Such review shall be completed as soon as possible, but in any event within one year of entry of this Decree.

16. Nothing in this Consent Decree prejudices the rights of defendants to, at any time appropriate, urge that adverse impact alone, unaccompanied by discriminatory intent, does not constitute a violation of the law or to urge that the Congress is without power to dispense legislatively with the requirement that discriminatory intent be established.

17. For those named defendants and class members who sign or stipulate ot the terms of this Decree, the operation of Section 518(c)(2)(E) of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be stayed.

18. The Court shall retain jurisdiction of this action for such further relief as may be necessary or appropriate to effectuate the purposes of this Decree. At any time after five years from the date of this Decree defendants or any of them may apply, with sixty (60) days notice to plaintiff, for termination of this Decree with

respect to that party, and upon a showing by that defendant of achievement of the goals of this Decree, such motion shall be granted by the Court, absent good cause shown by plaintiff.

Entered this day of , 1977.

UNITED STATES DISTRICT JUDGE

Approved:

GERALD F. GEORGE
KATHERINE P. RANSEL
Attorneys
U.S. Department of Justice
Washington, D.C. 20530
Attorney for Plaintiff

John L. Avant, Special Asst. Atty. Gen.
Attorney for Defendant
State of Louisiana, and
Maxie E. Cox, ~~Acting~~
State Examiner

Carroll Lamier, Mayor
City of Alexandria, La., et al.

Charles D. Patten III, City Attorney
City of Monroe, La., et al.

City of Shreveport, La., et al.

City of Baton Rouge, La., et al.

City of Kenner, La., et al.

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

JUL 1 0 2012

Via First Class Mail & Electronic Mail

Ms. Lucy A. Dalglish
Executive Director
The Reporters Committee for Freedom of the Press
1101 Wilson Blvd, Suite 1100
Arlington, Virginia 22209-2211

Re: Conduct of Public Meetings in Conjunction with the Compliance Review of Consent Decree in United States v. City of Alexandria, et. al

Dear Ms. Dalglish:

This letter is in response to your correspondence seeking information about public meetings that have been held by the Department of Justice in order to monitor compliance with the consent decree entered by the court in *U.S. v. City of Alexandria, et. al.*

The Employment Litigation Section of the Civil Rights Division is responsible for enforcement of Title VII of the Civil Rights Act of 1964, as amended. To discharge those enforcement responsibilities, attorneys from the department hold many different types of meetings, both public and private, in order to obtain relevant information about employment practices of covered employers, including – as is the case here – their compliance with the terms of a consent decree approved by a federal court.

In fact, the department has held a number of public meetings regarding the *U.S. v. City of Alexandria, et. al* consent decree. All of these meetings have been open to the press, as all future public meetings will be. The division has participated in these meetings in order to answer questions from the public about the consent decree and to determine whether or not the requirements of the decree have been met by a particular jurisdiction. As is our standard practice, attorneys speaking on behalf of the department at public meetings may at times refer reporters to the department's Office of Public Affairs (OPA) for further information and additional statements.

The Daily Iberian both attended and reported on the department's June 12th compliance meeting; as is evidenced by several stories regarding the meeting that were published by the newspaper in subsequent days, the reporter was not prevented from reporting on the statements made in the meeting, including quotes attributed to a department attorney. Additionally, other media outlets have previously attended the other public meetings regarding the Louisiana consent decree, including *The Times Picayune*, the ABC television affiliate in Baton Rouge, and both the CBS and FOX television affiliates in the city of Harahan.

Moreover, we note that OPA has consistently and uniformly been available to press and *The Daily Iberian* to answer inquiries about this case and we will continue to do so. OPA specifically has answered numerous inquiries from *The Daily Iberian* from both the reporter who covered the June 12th meeting and the managing editor of the outlet.

The Department of Justice firmly believes in, and aggressively protects, the freedoms afforded by the United States Constitution, including the First Amendment.

Please do not hesitate to contact my office should you have further questions about this letter.

Sincerely,

Thomas E. Perez
Assistant Attorney General

cc: Attorney General Eric H. Holder, Jr.

U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General *Washington, D.C. 20530*

JUL 12 2012

Mr. Jeff Zeringue
Managing Editor
The Daily Iberian
P.O. Box 9290
New Iberia, LA 70562

Dear Mr. Zeringue:

This is in response to your letter of June 15th, raising questions about a public meeting conducted on June 12th by the Department of Justice in New Iberia, Louisiana.

The meeting in question was held by the department in order to monitor compliance with the consent decree entered by the court in *U.S. v. City of Alexandria, et al.* under Title VII of the Civil Rights Act of 1964, as amended. The meeting was part of a series of public meetings held by the department to answer questions about the consent decree and to hear any concerns from the public about whether a jurisdiction has substantially met the requirements of the decree. The United States, through the consent decree, is charged with ensuring that covered jurisdictions take adequate steps to eliminate discriminatory practices that were addressed in the decree.

Each of the public meetings that have been held have been open to the press; indeed, they have been covered by several different media outlets, including *The Times Picayune*, the ABC television affiliate in Baton Rouge, and both the CBS and FOX television affiliates in the city of Harahan. At the June 12th meeting, the reporter from *The Daily Iberian*, Matthew Beaton, both attended and reported on the meeting, as evidenced by several stories regarding the meeting that were published by the newspaper in subsequent days. The reporter was not prevented from reporting on the statements made in the meeting, including quotes attributed to a department attorney.

You suggest that your reporter and the department attorney conducting the June 12 meeting may have had a misunderstanding about the department's policies on public meetings. To the extent that your reporter had the impression that reporters are not welcome to attend public meetings, that does not represent department policy. All of the public meetings on this case have been open to the press, as all future public meetings will be. Of course, as is our standard practice, attorneys speaking on behalf of the department at public meetings may at times refer reporters to the department's Office of Public Affairs (OPA) for further information

and additional statements. We note that OPA has consistently and uniformly been available to press and *The Daily Iberian* to answer press inquiries about this case and we will continue to be so. As you know, OPA has specifically answered numerous inquiries on this matter both from your reporter and from you.

The Department of Justice shares your commitment to the freedoms afforded by the United States Constitution, including the First Amendment, and acts aggressively to protect those fundamental values.

Please do not hesitate to contact my office should you have any further questions about this letter.

Sincerely,

Thomas E. Perez
Assistant Attorney General

- Main Justice - http://www.mainjustice.com -

Civil Rights Division Lawyer Under Fire for Threatening Reporter at Public Hearing

Posted By Matthew Volkov On July 9, 2012 @ 7:03 pm In News | Comments Disabled

UPDATE: This story has been updated to include comment from the Justice Department. Please refer to the bottom of the article.

A Justice Department trial attorney is under fire for demanding that a journalist not report her comments made during a public hearing in Louisiana. If department officials refuse to address the attorney's behavior, they can "expect us to raise hell," **Lucy Dalglish**, executive director of the Reporters Committee for Freedom of the Press told Main Justice.

At a public hearing in the New Iberia, La., city hall earlier this month, **Rachel Hranitzky**, a senior trial attorney with the Civil Rights Division, told [1]local reporter **Matthew Beaton** that special Justice Department rules prohibited him from quoting or recording her. The hearing was held to address the hiring and promotion process at the New Iberia Fire Department

"We are gravely concerned over any internal practice or policy of preventing journalists from recording or quoting statements made by DOJ officials," Dalglish wrote in a letter to the Justice Department about the incident. "Restricting the public's right to report on federal officials' actions at public meetings clearly conflicts with the mandates of the First Amendment and state open government laws."

Beaton planned to file reports on the story with The Daily Iberian, a local newspaper. But an adamant Hranitzky told him he could not record or quote her.

"You can't quote me or record the meeting," she declared according [2] to the Daily Iberian. "You can quote those who speak, but you cannot quote me."

The New Iberia assistant fire chief and a handful of residents said the meeting had been advertised as public and challenged Hranitzky's claims.

Hranitzky "grew belligerent and threatening" and said if Beaton did not follow her directive he would be asked to leave, the Daily Iberian reported [2].

"[The Department of Justice] can call your editors and publisher at the paper, and trust you don't want to get on the Department of Justice's bad side," Hranitzky reportedly said.

Beaton said that after the meeting Hranitzky told him she had been quoted in the past and gotten in trouble with the department.

"She said that there are 'special rules' by which attorneys are quoted," he said in an interview with Main Justice. "Afterwards she told me the Department of Justice keeps a short leash on how their attorneys are quoted and she could get in big trouble if she were quoted in a newspaper."

The city of New Iberia is legally bound to evaluate the hiring practices of its municipalities because of a history of discrimination, Beaton said. Hranitzky held last month's meeting to evaluate the Fire Department's hiring practices. Beaton said prior to the meeting the assistant fire chief was "quite outspoken" about what he thought were inappropriate hiring practices within his department.

"It kind of undercut him not to have everybody properly quoted there," Beaton says. "It had been advertised in the paper that it was a public meeting, there was no doubt about that."

The incident provoked outcry from two members of Congress. Rep. **Jeff Landry** (R-La.), Sen. **David Vitter** (R-La.), and the RCFP executive director each sent letters expressing their concern to the Justice Department.

This never should have happened," Dalglish said. "If they try to maintain it [Hranitzky's invocation of department's "special privileges"] as a policy that's a big problem — a really, really, big problem."

But both the lawmakers and the Reporter's Committee have yet to hear back from the department.

"I think the reason we haven't heard back from them yet is because they know it's bogus," says Dalglish. "My hunch is that they're still trying to figure out what happened."

Landry said in his letter: "I find it wholly unacceptable that our government, specifically the DOJ, has not responded. I have yet to find statutory authority that sanctions the actions of Ms. Hranitzky."

Beaton said the most frustrating part of the ordeal was the department's unwillingness to address the issue or give any explanation for Hranitzky's actions.

"Is she the only one going to these meetings and demanding she not be quoted? Or is this a general practice across the entire department?" he asked. "It's certainly a cause for concern if that's what everyone is doing."

The Department of Justice Office of Public Affairs deputy director **Nanda Chitre** provided Main Justice with the following comment:

> The Department of Justice welcomes the public and the press at compliance meetings in an effort to promote an open exchange of information and to ensure particular jurisdictions are meeting the requirements of the department's consent decrees. As is our standard practice, attorneys speaking on behalf of the department at public meetings may at times refer reporters to the Department's Office of Public Affairs for further information and additional statements. The Civil Rights Division attorney who appeared in New Iberia at the June 12, 2012 meeting did not prevent any reporter from staying at a public meeting, and never attempted to alter or stop a news story. The reporter from the *Daily Iberian* not only was present for the entire meeting, but the newspaper published multiple articles related to the meeting using quotes attributed to a department attorney. Additionally, other media outlets have attended similar public meetings regarding the *U.S. v. City of Alexandria, et al.* consent decree, including *The Times Picayune*, the ABC television affiliate in Baton Rouge, and both the CBS and FOX television affiliates in the city of Harahan.

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From: Perez, Thomas E (CRT)
To: CRT Users
Subject: Outreach Follow-Up
Date: Thursday, August 16, 2012 2:07:40 PM

To All Division Staff:

Thank you all for the incredible work you have been doing. I am inspired by the commitment and tenacity that I see in Division staff every day and believe we have made much progress in protecting the fundamental rights we all cherish.

As I stated in my July 10th memo, outreach is crucial to the Division's work. I appreciate the efforts that have been made in each Section to engage in outreach to educate people and communities about their rights; deter discriminatory conduct; inform our enforcement efforts; and shape the remedies we pursue.

Many of you attended the outreach training held by the Professional Development Office on July 18, at which we discussed numerous topics, including conducting outreach consistent with our professional responsibility obligations and appropriate responses to media inquiries at public meetings. We anticipate holding additional sessions of this training in the fall and expect all staff who engage in outreach to participate.

I want to take this opportunity to confirm that it is the Division's – and the Department's – policy that meetings we hold that are open to the public are open to everyone, including to the press. As you know, members of the media may not be barred from such meetings or prevented from covering or quoting statements made during meetings that are open to the public.

Of course, the Office of Public Affairs (OPA) manages the Department's interactions with the media, and all employees should feel free to consult that office for further guidance and to refer reporters to them for additional information. In addition, should you receive an inquiry from a reporter outside the context of a public meeting, please continue to refer such inquiries to OPA.

Thank you, again, for all you do for the Division and on behalf of the American people.

Tom