



U.S. Department of Justice

Office of the Inspector General

September 13, 2010

The Honorable Lamar Smith
2138 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Frank R. Wolf
241 Cannon House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressmen Smith and Wolf:

This is in response to Congressman Smith's letter to me, dated August 3, 2010, and to Congressman Wolf's letter to me, dated July 14, 2010. In your letters, you raised concerns regarding the dismissal by the Department of Justice (Department) of the lawsuit against the New Black Panther Party. In addition, you raised broader allegations regarding the Civil Rights Division's enforcement of federal voting rights law.

As we previously conveyed in a letter to Congressman Wolf, dated February 2, 2010, and in a letter to both of you, dated April 19, 2010, investigation of the Department's handling of the New Black Panther Party litigation, by statute, falls within the Office of Professional Responsibility's (OPR) jurisdiction rather than the Office of the Inspector General's (OIG) jurisdiction. The Inspector General Act specifically states that the OIG shall refer to the OPR allegations "that relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice[.]" See U.S.C. App. 3 § 8(E)(b)(3). Moreover, in accord with that statute, OPR is investigating the Department's handling of the New Black Panther Party case and has been doing so for more than a year. In response to my recent inquiry, OPR officials have informed us that they are near the end of their investigation and are beginning to draft their report of investigation.

In your recent letters you have also identified broader issues that go beyond the Department's handling of the New Black Panther Party litigation. Through this letter I want to inform you that the OIG plans to initiate a review of the enforcement of civil rights laws by the Voting Section of the Department's

Civil Rights Division. This review will examine, among other issues, the types of cases brought by the Voting Section and any changes in these types of cases over time; any changes in Voting Section enforcement policies or procedures over time; whether the Voting Section has enforced the civil rights laws in a non-discriminatory manner; and whether any Voting Section employees have been harassed for participating in the investigation or prosecution of particular matters. We believe that our review of these issues will address many of the issues raised in your recent letters to me.

I also want to address an issue raised by Congressman Wolf in his July 14 letter. As explained in previous correspondence to Congressman Wolf, our conclusion that the OIG does not have jurisdiction to investigate the Department's handling of a specific piece of litigation, the New Black Panther Party matter, is based on the statute discussed above. It is not motivated by any hesitancy to investigate the Department's senior political leadership. The long record of the OIG's work demonstrates our willingness to pursue investigations, audits, inspections, and reviews throughout the Department, regardless of the potential reaction by, or impact on, the Department's leadership.

I certainly understand the position you have both expressed in previous correspondence that the OIG is better able than OPR to review the Department's handling of the New Black Panther Party litigation. As you know, I have stated publicly on many occasions that I believe that the provision of the Inspector General Act that removes from the OIG's jurisdiction investigation of Department attorneys' handling of litigation should be changed. But unless and until the law is changed, I have an obligation to follow it.¹

However, we believe we do have the authority to conduct the broader program review, described above, regarding the Civil Rights Division's enforcement of voting rights laws, and we intend to conduct such a review. In conducting this review, we expect to examine cases brought by the Voting Section over time. While our review will include information about cases such as the New Black Panther Party matter and others, our review will be focused

¹ It is also important to note that our interpretation of the apportionment of jurisdiction between the OIG and OPR is well-settled law and is in accord with every Administration's interpretation of the Inspector General Act during my tenure at the OIG (since 1995). Moreover, the OIG has followed this interpretation of the Act in this and previous Administrations. For example, during the previous Administration several Members of Congress raised allegations that the Department's prosecution of the former governor of Alabama, Donald Siegelman, was politically motivated and improperly handled. Just as with the New Black Panther Party case, that matter involved allegations regarding the conduct of Department attorneys with respect to specific litigation, and it involved claims of politicized decisions in that litigation. Similar to how we handled the New Black Panther Party allegations, we referred the Siegelman matter to OPR.

more broadly on the overall enforcement of civil rights laws by the Voting Section rather than on a single case.

Please contact me if you have any questions about this letter.

Sincerely,



Glenn A. Fine
Inspector General