

FRANK R. WOLF
10TH DISTRICT, VIRGINIA

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CO-CHAIR—TOM LANTOS
HUMAN RIGHTS COMMISSION



Congress of the United States
House of Representatives

June 8, 2009

241 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-4610
(202) 225-5136

13873 PARK CENTER ROAD
SUITE 130
HERNDON, VA 20171
(703) 709-5800
(800) 945-9653 (IN STATE)

110 NORTH CAMERON STREET
WINCHESTER, VA 22601
(540) 667-0990
(800) 850-3463 (IN STATE)

wolf.house.gov

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Ave NW Rm 5111
Washington DC 20530

Dear Attorney General Holder:

I am troubled by your recent decision to drop the Department of Justice's lawsuit against the "New Black Panther Party for Self-Defense," a militant supremacist organization and hate group, and its two members who threatened voters as part of a national voter intimidation effort on Election Day last November.

According to the DOJ complaint, two uniformed men stood outside a polling station located at 1221 Fairmont Street in Philadelphia, Pennsylvania, brandishing weapons to intimidate voters. New Black Party Chairman and self-proclaimed "Attorney at War" Malik Zulu Shabazz confirmed that the placement of these men, Samir Shabazz and Jerry Jackson, in front of the polling station was part of a nationwide effort to position armed party members at precincts.

The complaint also stated that Samir Shabazz "pointed the weapon at individuals, menacingly tapped it [on] his other hand, or menacingly tapped it elsewhere. This activity occurred approximately eight to fifteen feet from the entrance to the polling station." Additionally, both men made "racial threats and racial insults at both black and white individuals" and made "menacing and intimidating gestures, statements, and movements directed at individuals who were present to aid voters," according to witness statements in the DOJ complaint. One of the witnesses, an experienced civil rights attorney who worked with Charles Evers in Mississippi, has publicly called this "the most blatant form of voter intimidation" he has ever seen.

On January 7, the Department of Justice appropriately filed suit in the U.S. District Court in Philadelphia against three men and the New Black Panther Party for Self-Defense under the Voting Rights Act. In the department's news release, Acting Assistant Attorney General Grace Chung Becker stated, "The Voting Rights Act of 1965 was passed to protect the fundamental right to vote and the Department takes allegations of voter intimidation seriously."

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I worry that the department's commitment to protecting the "fundamental right to vote" is wavering under your leadership. I fail to understand how you could dismiss a legitimate case against a party that deployed armed men to a polling station – one of whom brandished a weapon to voters – who harassed and intimidated voters, and could then decide that such actions do not constitute a violation of section 11(b) of the Voting Rights Act of 1965, which prohibits "intimidation, coercion, or threats" against voters. What message does this send to other like-minded groups -- whoever their target -- about this administration's commitment to voting rights?

None of the defendants filed an answer to the lawsuit, which means that legally they admitted all of the allegations in the complaint. Yet your department dismissed the suit it had already won by default against three of the defendants. Not only did the department dismiss the civil suit, but it has also failed to criminally prosecute the defendants. The actions of these defendants are all violations of criminal provisions of the U.S. Code that prohibit intimidating, threatening and coercing voters. This is outlined on pages 54-63 of "Federal Prosecution of Election Offenses," the handbook provided by the Public Integrity Section of the Criminal Division to Justice Department prosecutors. These defendants could have (and should have) been charged under a number of provisions, including 42 U.S.C §1973gg-10(1); 18 U.S.C. §§ 241, 242, 245(b)(1)(A), and 594.

In 2006, then-Senator Barack Obama called such intimidation tactics "deplorable," citing similar intimidation of Native American voters in South Dakota in 2004 and a number of other incidents targeting African American voters. Your inexplicable dismissal of the civil case and the failure to file a criminal prosecution flies in the face of the president's stand on voting rights and sullies the good name of your department. It calls into question your commitment to protecting all voters and guaranteeing that they can exercise their franchise freely without fear.

The American people and this Congress deserve a full and transparent accounting of your decision to drop this case.

Best wishes.

Sincerely,

Frank R. Wolf
Member of Congress

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