

# Exhibit 58



**U.S. Department of Justice**

**Civil Rights Division**

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*Office of the Assistant Attorney General*

*Washington, D.C. 20530*

**AUG 12 2010**

Mr. Robert N. Driscoll  
Alston & Bird LLP  
950 F Street, NW  
Washington, DC 20004

Re: MCSO's obligation to cooperate with the Department of Justice investigation pursuant to Title VI of the Civil Rights Act of 1964

Dear Mr. Driscoll:

On August 3, 2010, the Department of Justice ("Department") notified you that the Maricopa County Sheriff's Office ("MCSO") is not in compliance with its obligations under Title VI of the Civil Rights Act of 1964. This letter responds to the points related to MCSO's noncompliance that you raise in your letter dated August 5, 2010.

Part I of your August 5 letter asserts that the Department's Title VI investigation is limited to alleged national origin discrimination in MCSO jail facilities. This assertion is incorrect. From the time of the Department's initial March 10, 2009 letter to MCSO (copy enclosed), MCSO has been on notice that the Department is investigating allegations of national origin discrimination under Title VI with respect to not only MCSO's jail operations, but also its policing practices. The first sentence of that letter notified MCSO that Title VI was one of the statutory bases for our investigation, and the second sentence advised MCSO that the investigation would "focus on alleged patterns or practices of discriminatory police practices and unconstitutional searches and seizures conducted by the MCSO, and on allegations of national origin discrimination, including failure to provide meaningful access to MCSO services for limited English proficient (LEP) individuals." The explicit reference to an alleged pattern or practice of discriminatory policing, combined with the reference to an alleged denial of services for LEP individuals, very clearly put MCSO on notice that the Department was investigating discrimination in both policing practices and jail operations. Nothing in our initial letter or subsequent correspondence narrowed our investigation of national origin discrimination allegations solely to issues within MCSO jail facilities, as your letter indicates.

Our March 10, 2009 letter also notified MCSO that, in addition to Title VI, the Department's investigation would be conducted pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. Section 14141 prohibits a pattern or practice of conduct by law enforcement officers that deprives persons of rights protected by the "Constitution or laws of the United States." Nondiscrimination on the basis of race or national origin in programs that receive federal financial assistance is a right protected by Title VI, which is of course a law of the United States. Contrary to your assertion, there is nothing in the text of Section 14141 that makes it mutually exclusive of a Title VI investigation; the scope of the protection provided by Section 14141 is in fact defined by other rights-creating statutory and constitutional provisions. Your suggestion that a pattern or practice investigation of discriminatory policing practices cannot proceed under Title VI is therefore incorrect – MCSO has an obligation under Title VI not to engage in national origin discrimination in its policing practices, as courts addressing this issue have recognized.

Part II of your August 5 letter claims that MCSO has been fully cooperative with the portion of the Title VI investigation addressing MCSO jail practices with respect to LEP individuals. In fact, there has been very little cooperation from MCSO in this matter. Instead, apart from a few pages of documents produced in May 2009, MCSO's sole contribution has been a much delayed position statement that addresses only its jail operations and that was submitted thirteen months after the Department's original deadline. That position statement did not provide the documents requested by the Department.<sup>1</sup> In addition, consistent with its longstanding refusal to cooperate, MCSO has not provided the Department with any access to detention facilities or the opportunity to interview MCSO jail staff or inmates currently incarcerated in its facilities.

Part III of your August 5 letter contends that it would be premature for the Department to conclude that compliance cannot be achieved by voluntary means. This assertion is unsupported given MCSO's conduct to date. Your letter indicates that MCSO will continue to deny access to MCSO's facilities, personnel, and requested records with respect to our investigation into MCSO police practices and jail operations. That position is consistent with the MCSO's public announcement, made initially in a press conference over a year ago and reiterated as recently as August 2, 2010, of its intent to not cooperate with this investigation. Aside from an incomplete position statement provided over a year after it was requested, MCSO has acted consistently with its public announcement of noncooperation. MCSO cannot contend that it is voluntarily complying with the Department's investigation by choosing a selective portion of the investigation as to which it will provide a partial and dilatory response, while steadfastly continuing to refuse to produce the vast majority of the requested documents or to permit access to any relevant facilities or personnel.

Although we are prepared to have a final pre-suit meeting with you to determine whether MCSO will agree to comply voluntarily with its obligations under Title VI, we will not allow that meeting to be an opportunity for further delay. If MCSO's position has changed, please

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<sup>1</sup> For example, MCSO did not provide requested demographic breakdowns of its various jail populations, did not provide requested copies of visitation forms submitted at each of the jails, and did not provide requested samples of complaints received at each of its jails. These requested documents – and the others requested by the Department – will assist our determination regarding Title VI compliance.

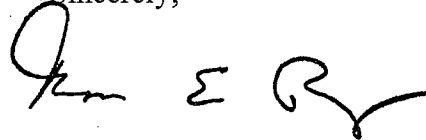
inform us immediately and provide your agreement that MCSO will produce all of the documents requested in our First Request for Documents in March 2009, and will also permit access to all pertinent staff and facilities in connection with the Department's investigation of *both* MCSO police practices and jail operations. We will be happy to work with you to schedule the necessary document production, staff interviews, and site visits.

In addition, if you have concerns that specific materials requested in our First Request for Documents go beyond the scope of our investigation, we will be happy to discuss the means by which MCSO can comply with its obligations under Title VI by August 17, 2010. In this regard, Part IV of your August 5 letter makes the incorrect suggestion that a Title VI police pattern or practice investigation must be limited to specific contracts or sources of federal funds (you reference, for example, the expired 287(g) contract). This argument is rebutted by the text of Title VI, which defines "program or activity" broadly in 42 U.S.C. § 2000d-4a. Receipt of federal financial assistance by any part of a state or local agency obliges the agency as a whole to comply with Title VI and cooperate with investigations of alleged discrimination.

MCSO's failure to cooperate to date stands in marked contrast with the cooperative response that the Department has received from other law enforcement agencies and grant recipients in investigations of alleged discrimination in policing and correctional practices. We remain interested in resolving this matter short of litigation and would welcome MCSO's agreement that it will comply voluntarily with its obligations. We will, however, proceed imminently to litigation unless MCSO provides the complete cooperation outlined herein.

If you have any questions, please do not hesitate to contact Judy Preston, Acting Chief of the Special Litigation Section, at 202-514-6258; or Peter Gray, Deputy Chief of the Federal Coordination and Compliance Section, at 202-305-0042.

Sincerely,



Thomas E. Perez  
Assistant Attorney General

cc: Alexandra J. Gill  
Ogletree Deakins

Clarisse McCormick  
Maricopa County Attorney's Office

The Honorable Dennis K. Burke  
United States Attorney  
District of Arizona

Enclosure



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 10 2009

VIA FIRST CLASS MAIL

Sheriff Joseph Arpaio  
Maricopa County Sheriff's Office  
100 West Washington  
Suite 1900  
Phoenix, AZ 85003

RE: Investigation of the Maricopa County Sheriff's Office

Dear Sheriff Arpaio:

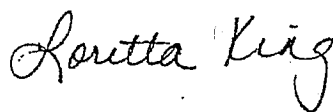
This is to inform you that the United States Department of Justice is commencing an investigation of the Maricopa County Sheriff's Office ("MCSO") pursuant to the pattern or practice provisions of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 ("Section 14141") and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d ("Safe Streets Act"), and pursuant to the prohibitions against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 ("Title VI") and the Safe Streets Act, 42 U.S.C. § 3789d(c). Our investigation will focus on alleged patterns or practices of discriminatory police practices and unconstitutional searches and seizures conducted by the MCSO, and on allegations of national origin discrimination, including failure to provide meaningful access to MCSO services for limited English proficient (LEP) individuals.

In conducting the investigation, we will seek to determine whether there are violations of the above laws by the MCSO. We have not reached any conclusions about the subject matter of the investigation. We believe that you and other MCSO officials want to operate the MCSO consistent with the requirements of the Constitution and federal law. During the course of our investigation, we will consider all relevant information, particularly the efforts the MCSO has undertaken to ensure compliance with federal law. We also will offer to provide recommendations on ways to improve practices and procedures, as appropriate. Provided that the MCSO cooperates fully with our investigation, if we conclude that there are not systemic violations of constitutional or other federal rights, we will notify you that we are closing the

investigation. If, on the other hand, we conclude there are such violations, we will inform you of the findings and attempt to work with the MCSO to remedy any such violations. In addition, we will identify any financial, technical, or other assistance the United States may be able to provide to assist the MCSO in correcting the identified deficiencies.

Our enforcement of the Violent Crime Control and Law Enforcement Act of 1994<sup>has</sup> involved a variety of state and local law enforcement agencies, both large and small, in jurisdictions such as New York, California, New Jersey, Georgia, the District of Columbia, and Ohio. In nearly fifteen years of enforcing this statute, the good faith efforts of state and local jurisdictions working with us have enabled us routinely to resolve our claims without resorting to contested litigation. We have had similar success addressing claims of national origin discrimination under Title VI and the Safe Streets Act. We encourage the MCSO to cooperate with our investigation and can assure you that we will seek to minimize any potential disruption our efforts may have on the operations of the MCSO. Our Special Litigation Section will be handling the investigation in cooperation with the Coordination and Review Section and will contact your office to discuss the next steps. The Chief of the Special Litigation Section, Shanetta Y. Cutlar, may be reached at (202) 514-6255.

Sincerely,



Loretta King  
Acting Assistant Attorney General

cc: Andrew Thomas  
County Attorney  
Maricopa County

Max Wilson  
Chairman, Board of County Supervisors  
Maricopa County

The Honorable Diane J. Humetewa  
United States Attorney  
District of Arizona