

# Exhibit 61

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August 13, 2010

*VIA EMAIL (dsmith@mail.maricopa.gov)*

David R. Smith  
County Manager  
Maricopa County  
County Manager's Office  
301 West Jefferson Street  
10<sup>th</sup> Place  
Phoenix, AZ 85003-2143

Re: DOJ Title VI Investigation

Dear Mr. Smith

I write on behalf of Sheriff Arpaio in response to your letter of August 12, 2010. As an initial matter, as you are aware, the Sheriff is a constitutional officer elected by the people of Maricopa County. He does not report to you, or to the Board of Supervisors ("Board"). This point is particularly appropriate in relation to the U.S. Department of Justice ("DOJ") investigation, an investigation with respect to which the Board has already been deemed to have a conflict—having requested the investigation and the involvement of the DOJ.

The Sheriff will respond to the investigation and defend and protect the reputation of the Maricopa County Sheriff's Office ("MCSO") and its Deputies as he sees fit, and he will not be intimidated by the Board's repeated threats and attempts to deny him access to counsel (while repeatedly authorizing private counsel for itself) or to otherwise undermine enforcement of the all of the laws—including immigration laws. If the Board does not like the current state of the law of Arizona or of federal law, it is free to advocate to change it—it is not free to direct the Sheriff not to enforce the laws that are on the books or to undermine the MCSO by seeking to control litigation for purposes of losing the case and scoring political points.

As to the substance of your letter, let me inform you of facts of which you may be unaware, having been uninvolved in DOJ's investigation to date. First, the MCSO has never objected to an investigation under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 200d to 200d-7 ("Title VI"). Until recently, the only portion of the DOJ

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investigation identified as a Title VI investigation had been with respect to provision of services to individuals with limited English proficiency ("LEP") and with respect to allegations of an English-only policy in MSCO jail facilities. The MCSO has responded to DOJ's requests in that regard and stands ready to respond further should more requests on LEP issues be forthcoming.

Recently, DOJ took the position that its police practices investigation (brought under another statute, 42 U.S.C. § 14141) was also within the ambit of Title VI. Given that the Title VI investigation is directed only towards allegations of national origin discrimination, there are many police practices issues (for example, canine policy, overtime policies, and searches and seizures) that do not implicate national origin discrimination and could not conceivably be covered by Title VI. MCSO is in the process of working with DOJ to clarify what police practices issues DOJ thinks implicate the issue of national origin discrimination and what complaints it has received in this regard that it desires to investigate under Title VI.

Thus, the disagreement with DOJ is simply over the appropriate scope of a police practices and national origin discrimination investigation under Title VI. Whether the issue of scope is resolved through negotiations or in a court establishing the boundaries of the investigation under federal law, is well within the authority of the Sheriff's Office to address this issue with DOJ. Clearly, DOJ is not entitled to information unrelated to its Title VI investigation just because the Title VI investigation exists; the Sheriff is simply requiring compliance with the law, not flouting it, as you suggest.

If you or counsel for the Board would like to be briefed on this specialized area of the law (with which Mr. Irvine is apparently unfamiliar given his letter to Mr. Perez dated August 12, 2010) or the status of the investigation, please feel free to contact me directly at the direct dial number listed above.

Sincerely,



Robert N. Driscoll

cc: Thomas K. Irvine