

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK
CITY BAR

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The Honorable Arlen Specter
Chairman
U.S. Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Patrick Leahy
Ranking Member
U.S. Senate Committee on the Judiciary
433 Russell Senate Office Building
Washington, D.C. 20510

Dear Senators Specter and Leahy:

I am writing on behalf of the Association of the Bar of the City of New York to join the call for an oversight hearing regarding the current state of the Civil Rights Division of the United States Department of Justice. The Association is an independent non-governmental organization with a membership of more than 22,000 lawyers, judges, law professors, and government officials. Founded in 1870, the Association is amongst the nation's largest and oldest bar associations, with a long history of protecting and promoting civil rights.

Since its formation in 1957, the Civil Rights Division of the Justice Department has developed a long and distinguished track record in enforcing federal civil rights laws during both Democratic and Republican administrations. The Division has been at the forefront of many key cases that have protected civil rights in areas such as education, housing, employment, and voting. The Association has a long history of collaborating and working with the Civil Rights Division on important matters.

Given this great legacy, the Association is deeply concerned by recent press reports regarding the growing politicization of the Civil Rights Division and what appears to be an increasing disregard for the views of the career employees of the Division. Some of the most troubling reports relate to the Division's recent review of the Texas redistricting plan and the Georgia voter identification law. According to materials obtained by the news media, the political appointees in the Division overrode the recommendations of a majority of the career lawyers and analysts against approving the Texas and Georgia proposals.

Even more troubling is recent news that the Justice Department has now barred staff attorneys from offering recommendations in these types of Section 5 Voting Rights Act cases. Under this section, states with a history of discrimination must first gain approval from the Justice Department before making any changes to their voting systems. For many years, in both Democratic and Republican administrations, the staff attorneys in the Division have conducted an initial review of any proposed changes and issued recommendations. The Justice Department's recent decision to abandon these well established procedures appears to be designed to stifle the role of the staff attorneys and filter out legal advice that the political appointees do not want to hear.

These matters raise serious concerns about the Division's commitment and ability to fully and fairly enforce civil rights laws that protect one of our nation's most fundamental rights -- the right to vote. As Acting Assistant Attorney General for Civil Rights, Bradley J. Schlozman noted in commemorating the fortieth anniversary of the Voting Rights Act of 1965 in July 2005:

[T]he passage of the Voting Rights Act represented one of the highest water marks of a struggle undertaken by millions of courageous Americans who endured with great dignity, the abhorrent forces of racism and intolerance, and literally put their very lives on the line for the most basic American right: the simple right to vote, a right, incidentally, which had been guaranteed for a century and systematically denied for just as long.¹

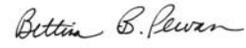
Moreover, these reports are the most recent in a long line of media reports indicating disturbing trends within the Civil Rights Division. According to other reports in the press and remarks by Division lawyers who have left in recent months, large numbers of experienced employees have left the Division or transferred to other divisions of the Department because of tension with political appointees and dissatisfaction with a lack of commitment to enforcement of civil rights laws. Meanwhile those who have remained have been excluded from hiring decisions that are increasingly made by political appointees. Furthermore, other reports indicate that over the last few years there has been a significant decrease in the number of voting rights and employment discrimination cases filed by the Division and a correspondingly large increase in the amount of time staff attorneys have been required to spend prosecuting immigration cases. Finally, we have heard unsettling reports of increasing hostility between political and career attorneys within the Division.

In sum, the Civil Rights Division of the Justice Department is an institution with a remarkable legacy that must not be compromised. The Association strongly supports holding broad oversight hearings in the Senate to review the current state of the Civil Rights Division. By holding this type of hearing, the Senate will go a long way toward maintaining the integrity of the Division and assuring the public that the Division is still committed to protecting their rights and freedoms. Proper oversight will also help ensure that the Division – which has a long tradition of professional, non-partisan and fair-

¹ Bradley J. Schlozman, Acting Assistant Attorney General for Civil Rights, Remarks at the RFK Justice Department Building on the Fortieth Anniversary of the Voting Rights Act of 1965 (July 27, 2005).

minded enforcement of the nation's civil rights laws – continues to play the essential role assigned to it. Americans' hard-won civil rights are simply too important to be left without committed protectors.

Respectfully,

A handwritten signature in cursive script that reads "Bettina B. Plevan".

Bettina B. Plevan