



U. S. Department of Justice

Community Relations Service

Office of the Director

Washington, D.C. 20530

January 16, 2008

The Honorable Patrick Leahy
United States Senate
Chairman, Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Leahy:

Please find enclosed my responses to Questions for the Record submitted by you and Senator Cardin. In addition, I thank you for holding my confirmation hearing and the time you devoted to my nomination to be Director of the Community Relations Service ("CRS") of the Department of Justice. Please thank Senator Cardin for chairing my hearing.

I look forward to the opportunity to continue serving the country and the Department of Justice as Director of CRS.

Sincerely,

A handwritten signature in black ink, appearing to read "O. T. Harris", with a stylized flourish at the end.

Ondray T. Harris
Acting Director

Cc: The Honorable Arlen Specter
Ranking Member
United States Senate
Committee on the Judiciary

WRITTEN RESPONSES TO QUESTIONS FROM SENATOR PATRICK LEAHY,
CHAIRMAN, SENATE JUDICIARY COMMITTEE,
FROM ONDRAY T. HARRIS,
NOMINEE TO BE DIRECTOR OF THE COMMUNITY RELATIONS SERVICE
DEPARTMENT OF JUSTICE

1. At your hearing before the Senate Judiciary Committee, you were asked questions about the actions you took in response to the school yard noose incident in Jena, Louisiana and its aftermath. Just last month – in response to the prosecution of six African American youth known as the Jena 6, the rash of nationwide incidents involving the hanging of nooses, and the decline in Federal hate crime prosecutions – 5,000 protestors marched around the Justice Department asking the government to take more action to combat hate crimes. During your hearing, you testified that you were “satisfied” with the Community Relations Service’s (CRS) effectiveness in quelling racial tensions after the noose hanging incident in Jena.
 - a. What specific plan do you have for addressing the disturbing rash of noose hangings that have occurred nationwide in the aftermath of Jena?

Response: CRS has assessed, and is continuing to assess, noose incidents that have occurred throughout the country. CRS management designated conciliators in each region to handle jurisdictional conflicts, with an ongoing focus placed upon recent noose incidents. The employees at CRS have been instructed that it is critical that every noose incident is identified and assessed thoroughly, and that such cases are promptly reported to CRS Headquarters for guidance and resource assistance that may be required to expedite an appropriate response. In each community where a noose is displayed, CRS works with civil rights leaders, law enforcement, government and school officials, and community leaders to develop a capacity in the community to handle such incidents.

Additionally, CRS has remained significantly involved in Jena, Louisiana, and, in conjunction with other agencies of the Department of Justice, continues to offer services. For instance, from December 5-7, 2007, CRS facilitated a Community Education Forum with participation from community leaders and multiple DOJ components, including Community Oriented Policing Services (COPS), Office of Juvenile Justice and Delinquency Prevention (OJJDP), Bureau of Justice Assistance (BJA), U.S. Attorney for the Western District of Louisiana, DOJ’s Civil Rights Division (involved in planning the forum), and the Louisiana Commission on Law Enforcement and Administration of Criminal Justice (LCLE). The program was hosted by local clergy and was attended by more than 100 people, including representatives from LaSalle Parish law enforcement, courts and school district officials and families, civil rights leaders, community and faith-based groups, and business leaders. The forum allowed an open discussion as to methods and programs for helping to resolve perceived and real racial tension that exists in Jena.

Additionally, CRS was present in Jena on January 7, 2008, to facilitate a contingency planning meeting for a march and rally reportedly planned by an extremist organization for January 21, 2008. Presently, CRS is scheduled to be in Jena for two upcoming events: the foregoing march and rally by an extremist organization, and a SPIRIT school conflict resolution program, facilitated by CRS, to be held on March 19-20, 2008. Preparation for each of these events will occur in Jena on January 17, 2008.

- b. Does your “satisfaction” with CRS’s response to the noose hangings in Jena mean that you believe racial tensions have improved in all communities where your agency has been involved following a noose hanging? How does CRS measure whether racial tensions have improved or declined in communities?

Response: Let me correct any misunderstanding that may have been created by my response. In using the word “satisfied,” I was referring to the effectiveness of CRS services given during the September 20, 2007, march and rally in Jena, Louisiana, and not as to “quelling” the racial tensions in Jena. Alleviating the racial tension in Jena will take time, and CRS and the Department of Justice are dedicated to assisting the Jena Community during this difficult time. It is the goal of CRS to assist any community experiencing racial tensions. Our success depends upon the community’s willingness to accept the Agency’s services. Since the march and rally in Jena were peaceful events, absent any arrests or violence, it was evident that CRS successfully administered the Agency’s services. CRS does not suggest that racial tensions have improved in all communities where nooses have been discovered. Notwithstanding, the Agency’s goal is to assist the communities where nooses were hung with addressing all racial tension, and to assist in building the capacity for communities to independently and successfully address race relations in the future.

- c. How do you plan to restore the public’s confidence in the ability of the Justice Department to quell racial tensions that arise in communities with well documented noose incidents or hate crimes?

Response: In continuing to address racial tension stemming from noose discoveries around the country, CRS works diligently to assist those communities with alleviating racial tension. CRS retains public confidence by remaining an impartial entity that respects parties in dispute. Examples of services that CRS will continue to provide to communities, including Jena, experiencing racial tension include: SPIRIT (Student Problem Identification and Resolution of Issues Together – a conflict resolution program offered in schools that have experienced racial tension), LEMS (Law Enforcement Mediation Skills – a program that provides additional conflict resolution tools to law enforcement), community dialogues, community forums, technical assistance, and contingency planning and self-marshalling training for marches and rallies.

2. On September 26, 2007, I wrote a letter to then-Acting Attorney General Peter Keisler asking him to advise me and the Judiciary Committee on what the Justice Department's Community Relations Service was doing to help resolve the racial tensions in Jena, Louisiana and across the country. In response, the Community Relations Service sent me a list of its activities with response to noose incidents across the country. Yet, after reading CRS's response to my questions, I was troubled to learn that the agency did not involve itself in an incident at Georgetown College, where a black student of Nigerian descent was found hanging from a noose and dead in a white fraternity house on the Georgetown College campus in Kentucky. Can you explain why CRS did not get involved in this incident? Can you update me on whether CRS plans to take any actions to alleviate racial tensions in the Georgetown College, Kentucky case?

Response: CRS is presently involved in the Georgetown College case. CRS' conflict resolution and conciliation services are being provided to the community in Georgetown, including technical assistance and contingency planning. CRS facilitated a dialogue on January 15, 2008, between Georgetown College officials, African American community members, and other community leaders. In assessing the case, CRS has met with school officials, government officials, law enforcement, civil rights leaders, and clergy.

In compliance with CRS' statute, as set forth by Title X of the Civil Rights Act of 1964, CRS may become involved in a case after jurisdictional requirements are met. By statutory mandate, CRS is prohibited from offering its services automatically or instantaneously; rather, CRS will conduct an assessment to determine whether jurisdictional factors exist that would permit the Agency's involvement. Then CRS verifies that the parties are interested in using the Agency's services. If a community accepts CRS services, conciliators will offer its panoply of services to the community. This particular process continues with respect to the conflict in Georgetown, Kentucky.

3. In a not too distant time, during the Civil Rights Movement, the Federal government infiltrated mass protests and collected information on thousands of Americans. In the last few years, our Committee has read disturbing reports of the Federal government using massive databases, supposedly for the war on terror, to collect information on American citizens, including antiwar and civil rights protestors. I understand that CRS conducts information assessments for the purposes of gaining insight into historical issues or concerns of the community related to race, ethnicity, or national origin. Has CRS compiled any information on demonstrators in Jena, Louisiana or elsewhere collected information during its assessments and shared that information with Federal, State, or local law enforcement officials? If so, please explain in full detail what information was collected, put into databases and shared, on what dates the information was shared, to whom it was shared, and for what purpose was this information shared?

Response: CRS does not compile information for sharing with other agencies or organizations. CRS routinely retrieves data for programmatic purposes from our case management reporting system for internal use only.

WRITTEN RESPONSES TO QUESTIONS FROM SENATOR BENJAMIN L. CARDIN,
SENATE JUDICIARY COMMITTEE,
FROM ONDRAY T. HARRIS,
NOMINEE TO BE DIRECTOR OF THE COMMUNITY RELATIONS SERVICE
DEPARTMENT OF JUSTICE

In late September, our Judiciary Committee staff was briefed by you regarding the incidents in Jena, Louisiana. According to my staff, they were unable to get answers to some of the following questions and I hope you can help me today. It is my understanding from your testimony at your confirmation hearing that the regional director for Jena was not on the ground until June 12, 2007.

I understand prior to getting on the ground, your office did look into the community for possible tensions and did some background work, but in my view not being on the ground until almost a year later is unacceptable.

1. What specific actions were taken by CRS to prevent escalation in racial discord in Jena, Louisiana?

Response: The Community Relations Service ("CRS" or "Agency") has offered a myriad of services to the residents of Jena, including: self-marshalling training (teaching people how to peacefully control a march and rally), technical assistance (helping the town of Jena to develop a multi-racial Community Relations Panel to address future conflicts), community education forums (where discussions on grants and other DOJ services took place), facilitating dialogues (with participation by community and business leaders, government officials, civil rights leaders, law enforcement, school officials, and clergy) and ongoing assessments in Jena to determine where CRS can continue to offer conciliation and peacemaking services.

In addition, CRS is scheduled in March 2008 to put on its SPIRIT program at the high school in Jena. The SPIRIT (Student Problem Identification and Resolution of Issues Together) program is conflict resolution training for schools that have experienced racial tension. CRS has worked with all relevant parties in and around Jena, Louisiana, to ensure that discussions and activities proceed in a peaceful manner and contribute to the restoration of community stability.

When CRS first learned of the tensions in Jena, Louisiana, the Agency initiated standard operating procedures for assessing community conflicts associated with race, color, and national origin. Preliminary assessment efforts were taken to determine whether CRS' statutory mandate allowed the Agency to assist the Jena community in resolving racial tension. This jurisdictional inquiry is the same for every case alerted by CRS. A conflict is jurisdictional if community tension exists due to real or perceived discrimination based on race, color, or national origin. If a matter is deemed jurisdictional, then CRS verifies that the parties are interested in using the Agency's services. Additionally, if the matter is jurisdictional and the

parties are interested in working with CRS, then we determine whether the Agency's services are appropriate for resolution of a particular conflict. Only when each of these elements is answered in the affirmative, can CRS begin to work with a community toward conflict resolution. CRS affirmatively answered each of the aforementioned questions in assessing tension in Jena.

2. The nooses were hung at the school in Jena in August 2006, and your regional director learned of this action in September 2006. At your confirmation hearing you testified that CRS staff did not meet with civil rights leaders in Louisiana until November 2006.

Why did it take two months to set up a meeting with civil rights leaders after the nooses were hung in Jena?

Response: At the time of the noose incident in Jena, the town of Jena did not have a civil rights infrastructure. There were no identified civil rights leaders (from organizations such as the NAACP, for example) to work with in determining the extent or level of tensions in Jena. Consequently, CRS worked with state officials to gain a perspective of tensions in Jena. Once CRS gained necessary information regarding the tensions in Jena, the Agency met with local leaders to further understand matters.

Because it is a component of the Federal government, some communities are skeptical of CRS' involvement in community disputes. There was an aspect of resistance with regard to CRS initiation of services in Jena. In fact, prior to the June 2007 date, when the regional director of Region 6 initially traveled to Jena, she was advised by a Louisiana civil rights leader not to interact with the people in the town alone. Therefore, the regional director only drove around the town to the pertinent locations. To address community tensions in Jena, a level of trust had to develop between the CRS Regional Director performing the assessment and various parties in Jena. This is a process that does not occur instantaneously. It takes time to build relationships within communities that can lead to open lines of communication. CRS was successful in developing these channels and has continued to offer services in Jena and elsewhere in the country where incidents involving nooses have occurred.

It is also my understanding that you expressed concerns about the lack of infrastructure, mediators and CRS staff in Jena, when trying to handle certain racial problems or other hate crimes. Specifically, I understand that there are only two individuals that cover the entire region in which Jena is located. {Region 6 covers Texas, New Mexico, Louisiana, Oklahoma and Arkansas}.

3. Knowing that the town is not set up to handle a situation like JENA 6, why would the regional director wait almost a year to go to the site?

Response: The perception that CRS did nothing for one year in Jena is not correct. While CRS was not physically on-site in the town of Jena in September 2006, the Agency was working diligently with parties throughout the state to assess racial tensions and determine whether CRS could assist in the matter. CRS' physical entry into Jena for purposes of offering conflict resolution services could have only occurred after preliminary contacts were made and relationships with community leaders in Jena had matured. When jurisdiction in Jena was confirmed, CRS worked to gain the confidence of all relevant parties and to explain the benefits of utilizing our free services. Timing for CRS entry is contingent on a number of factors, including developing a sense of trust within a community. This entry successfully occurred through the persistence and skill of CRS' regional director.

- a. Additionally, how can the American people truly believe that 2 individuals from DOJ CRS are capable of handling such a situation?

Response: CRS uses its resources prudently, and its career employees perform an admirable and difficult job in addressing racial conflicts and tensions in this country. CRS must prioritize matters to work effectively, efficiently, and strategically in addressing conflicts. Wherever community tension levels are escalating or verging on violence, CRS shifts resources to address these priorities. While only two individuals were covering Region 6 at the time, when it was evident that tensions were increasing in Jena, CRS management made the decision to increase efforts and to deploy a team of conciliators from throughout the country to assist with the civil rights march and rally in September 2007. Over forty percent of Full Time Equivalent (FTE) employees in the Agency worked on events stemming from Jena.

- b. If confirmed, what would you do to restructure the division to make it more productive and responsive to problems across our nation?

Response: If confirmed, I will continue to stress efficient use of our resources, and work to constantly improve the effectiveness of CRS services. CRS is structured in a way that allows for the most efficient deployment of conciliators to handle conflicts throughout the country. As a conflict resolution organization, CRS deploys to areas in the country that are experiencing racial tension. For conciliators to assess situations – in a timely fashion – that arise throughout the United States, the current structure of the Agency with regional and field offices permits broad coverage.

The JENA 6 case has drawn the most attention to hate crimes in America today. However, Jena 6 is not the only hate crime incident occurring in America. These crimes are crimes against all humanity. According to the *New York Times*, this administration has brought fewer hate crimes cases compared to its predecessors.

Last week the United States Senate unanimously passed a resolution I introduced, S. Res. 396, which expresses the sense of the Senate that: the hanging of nooses is

a reprehensible act, and under certain circumstances can be a criminal act; and that the hanging of nooses should be investigated and prosecuted by Federal, State, and local law enforcement, with the cooperation of all citizens and the private sector.

4. On November 25, 2007, the New York Times published an article, "The Geography of Hate" which also had a map reflecting all the noose hangings that have occurred post-Jena. I displayed this graphic to you during your confirmation hearing. According to the chart, there have been 9 noose hangings in New York and 5 noose hangings in Pennsylvania in the last year after the Jena incident.
 - a. What role has CRS played in minimizing the increasing number of hate crimes across the country under your watch?

Response: CRS, in collaboration with various community and law enforcement entities, has developed a hate crimes program curriculum for use in our jurisdictional work around the country. This program has been delivered to multiple communities since its development. Education is one of the strongest components for minimizing the effects of hate in our country.

5. In my view the role of CRS is to be more pro-active in situations where racial tension is brewing, as opposed to being merely reactive and waiting for a hate crime to occur.
 - a. Are you aware of the incidents and problems occurring in Southern Maryland? How has your office been involved in addressing those problems?

Response: CRS is aware of the racial tensions in Maryland. CRS works within our statutory mandate to address jurisdictional problems in every state and territory. This includes assisting local, city, and state officials, community and civil rights leaders, law enforcement officials, and school district personnel with developing solutions to racial conflicts in Maryland communities. In Maryland, CRS has facilitated numerous jurisdictional conflict interventions. CRS, as with any conflict, will work with all parties in Maryland engaged in a jurisdictional dispute or experiencing racial difficulty.

The Agency's expertise is in providing a process to willing parties to help facilitate resolution of community conflicts. Whether it is a noose incident or other action perceived as discriminating on the basis of race, color, or nation origin, CRS' goal is to examine each case impartially, considering the Agency's wide range of available services for preventing and reducing racial conflict. These services have been provided to Maryland communities when requested or when a need becomes evident to CRS conciliators. Furthermore, CRS has various training programs that it offers to communities. For instance, the Agency's Law Enforcement Mediation

Skills (LEMS) program, conflict resolution training for law enforcement, was offered in January to the community of Hagerstown, Maryland.

6. According to the Southern Poverty Law Center, there are at least 10 active hate groups in Maryland.

- a. What steps or actions have your office use to combat possible hate crimes in Maryland?

Response: In Maryland, CRS has worked with any community that has desired our services to help address racial tensions. CRS has provided conciliation and mediation services in Maryland and throughout the country. In Maryland, one such service CRS has used is its Hate Crimes Program, a two-day program that provides state and local law enforcement officers with the skills and knowledge crucial to the identification, reporting, investigation, and prosecution of and education about hate crimes. CRS is not an enforcement or investigatory agency; we offer conciliation and mediation services to communities that have experienced hate-related incidents. In addition, measures such as community dialogues or education forums are useful for advancing understanding of different cultures and reducing tension in communities following hate-related incidents.

- b. Do you have a relationship with local groups in Maryland, like the NAACP?

Response: Yes.

- c. Are you in regular contact with the leaders of civil rights organizations in each state?

Response: Yes.

- Please give me examples of some of the organizations you are in contact with in Maryland.

Response: CRS has worked with various groups in Maryland, including local, city, state and federal government officials (*i.e.*, U.S. Attorneys' Offices, Mayors' Offices and Governors' Offices), Maryland and national civil rights leaders and groups, law enforcement officials (*i.e.*, State Police, Sheriffs' Offices, etc.), and school administrators and principals.

Coordination between CRS and the Civil Rights Division is critically important in order for CRS to have a successful mission.

7. What has CRS done in the past, and what will you do in the future, to more aggressively monitor and assess the need for intervention?

Response: While the Agencies have different missions and statutory mandates, CRS and the Civil Rights Division share a good working relationship. CRS will continue to “aggressively monitor” jurisdictional conflicts in America associated with race, color, and national origin, and promptly enter communities as prescribed by the Agency’s formative statute.

I have heard that some civil rights groups in Louisiana were concerned about the meetings held after the Jena-6 incident, and whether their input given to CRS would remain confidential so as to protect their identities.

- a. Did CRS staff make clear that the meetings were confidential?

Response: CRS performs conciliation work in confidence. We initially introduce the Agency to all parties so that everyone understands CRS’ confidentiality mandate. For example, we advise the parties that we are not an enforcement agency, that working with CRS is voluntary, and that our mandate requires the Agency to refrain from sharing information about our conciliation work. At times, other agencies have concurrent jurisdiction over certain conflicts, including the FBI for purposes of investigation. Nevertheless, CRS does not participate in law enforcement investigations.

We have received reports that FBI agents may have attended some of these meetings, which may have alienated and intimidated some members of the community.

- b. Did FBI agents attend these meetings? If so, why?

Response: CRS facilitated a public, open-invitation, Community Education Forum in Jena, Louisiana, on July 26, 2007. This forum was organized to allow the Jena community to ask questions of various federal entities, including the FBI, about actions being taken to address the conflict in Jena. Community education forums allow communities to discuss problems and possible solutions to ongoing racial conflict. For this particular forum, civil rights and community leaders in Jena had inquired about specific actions being taken by the federal government for improving the situation in Jena. At the behest of those leaders, CRS facilitated the Community Education Forum to answer questions from members of the Jena community. The FBI was only present at CRS meetings in Jena where CRS was acting in its conciliator role. Furthermore, all meetings where CRS conciliation services are being offered, and where the FBI or other law enforcement entity is present, are purely voluntary and confidential. The voluntary nature of CRS’ services, particularly with regard to mediation, enhances the Agency’s impartiality and effectiveness as a conflict resolution specialist.

8. What do you see as the appropriate relationship between CRS and federal law enforcement, such as the FBI?

Response: The appropriate relationship between CRS and any party is one of neutral conciliator who respects parties in dispute. CRS is not a law enforcement agency. The Agency's involvement with a conflict is to help facilitate resolutions deemed appropriate by the community. Facilitating dialogue, a skill of CRS conciliators, is a primary method toward developing an open and honest line of communication between communities and governmental entities.

9. How will you transform CRS to be more community friendly and more welcome by local community and civil rights groups?

Response: CRS will continue to stress its impartiality and confidentiality. CRS only works with parties who agree to use our services when appropriate. Rendering effective service will best advertise to communities and civil rights groups that CRS is dedicated to assisting them. If confirmed, I will continue to stress at CRS that our goal is to always serve communities in the most effective and sensitive way possible.

In the Voting Section of the Civil Rights Division, several decisions appear to have been made in which political considerations trumped the Division's obligation to enforce the Voting Rights Act. Perhaps the most infamous of these examples occurred in 2005, when the Administration precleared Georgia's government-issued photo identification law despite numerous comment letters outlining the impact that the law would have on minority voters and over the recommendation of an objection from the majority of the staff who worked on it. Recent testimony and communications from career staff involved in this case make clear that the decision to preclear the Georgia voter ID bill was predetermined and political. The law was later found unconstitutional by state and federal courts, one of whom likened it to a Jim Crow era poll tax.

10. After the reauthorization last year of the Voting Rights Act of 1965 for another 25 years, do you agree that the Justice Department must remain vigilant to examine, deter, and oppose discriminatory voting practices and procedures that covered States seek to impose? What steps will you take in this upcoming election to make sure voter intimidation does not occur?

Response: CRS is prepared during each election season to address community conflicts that stem from allegations of discriminatory practices. In addition, the Agency plans to meet with the Civil Rights Division in preparation for the election season. Nonetheless, CRS' mandate as established by Title X of the 1964 Civil Rights Act and subsequent appropriations language makes clear that CRS works with communities only on existing conflicts.

11. Please explain in detail the role that your office plays in providing assistance to the Civil Rights Division during the Section 5 pre-clearance process.

Response: None. Having said that, however, CRS stands ready to assist communities in addressing tension arising from actual or perceived limitations on voter participation.

It is my understanding that CRS is to help the Civil Rights Division in contacting minority community groups when state and local officials impose undue burdens on minority voter participation.

12. What actions have you taken in this regard under your tenure as Acting Director?

Response: CRS is an impartial agency. It is contrary to CRS' mandate to make any judgment as to the propriety of state and local governmental decisions. Notwithstanding, CRS stands ready to assist communities in addressing tension arising from actual or perceived limitations on voter participation. In addition, CRS will work with DOJ's Civil Rights Division and any appropriate governmental agency in addressing such tension in the community.

It is my understanding that you were employed in the Civil Rights Division during the same period that Mr. Schlozman and Mr. Van Spakovsky were working there.

13. Were you involved in any hiring decisions or interviews within the Civil Rights Division? If so, please detail which individuals and offices were involved.

Response: While a Deputy Chief of Employment Litigation in Civil Rights, I did participate in the interviewing of career attorneys. Notwithstanding, I was not involved in the hiring decision. Along with another Deputy Chief of the Civil Rights Division, I was responsible for interviewing and selecting the non-paid summer interns for the section from years 2005 to 2007.

14. Have you been interviewed by the Inspector General who is currently investigating the hiring, firing, and case reassignment complaints within the division? If so, when?

Response: It is public knowledge that the Office of Professional Responsibility and the Office of the Inspector General are investigating the hiring practices in the Civil Rights Division. I was interviewed telephonically on December 6, 2007.

15. What role should politics play in the hiring, firing, and case assignment of your employees?

Response: Politics should play no role in the hiring, in the termination of employment, and/or in the terms and conditions of employment for career employees at CRS.