



U. S. Department of Justice

Civil Rights Division

Assistant Attorney General

Washington, D.C. 20530

DEC - 2 2011

Sheriff D.T. Marshall  
Montgomery County Sheriff Office  
115 South Perry Street  
Montgomery, AL 36104

Re: Alabama House Bill 56 (H.B. 56)

Dear Sheriff Marshall:

The Department of Justice values our many partnerships with local law enforcement agencies across Alabama and throughout the country. It is in that spirit that I am writing in connection with Alabama House Bill 56, which was signed into law on June 9, 2011. Although H.B. 56 is the subject of ongoing litigation in federal court, a number of provisions have gone into effect, including provisions that require immigration status verification during certain law enforcement encounters. I believe that the vast majority of law enforcement officers live up to their oath to protect and to serve all persons with whom they interact. I am, however, writing to remind you that as you implement these provisions, you and your officers have a continuing responsibility to comply with the Constitution and laws of the United States.

The Civil Rights Division of the Department of Justice is closely monitoring the impact of H.B. 56 in a number of areas to ensure compliance with applicable civil rights laws, including to ensure that law enforcement agencies are not implementing the law in a manner that has the purpose or effect of discriminating against the Latino or any other community. We are also very concerned about the impact of H.B. 56 on victims of crime, in particular in cases of sexual assault and domestic violence.

As a recipient of federal financial assistance, your agency is required to comply with various non-discrimination requirements under federal statutes and regulations, including Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d(c) (Safe Streets Act). The federal government may, in some circumstances, terminate federal funds or bring a civil lawsuit in federal court seeking affirmative relief to enforce Title VI, the Safe Streets Act, and their implementing regulations.

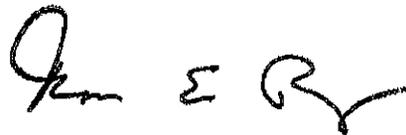
Both Title VI and the Safe Streets Act prohibit law enforcement agencies that receive federal funding from excluding from participation, denying benefits to, or discriminating against any person on the ground of race, color or national origin, including limited English proficiency. In addition, the implementing regulations for both statutes impose regular data collection and record keeping obligations on all recipients, and authorize the Department to require the submission of information and data necessary to examine whether these non-discrimination requirements are being met. 28 C.F.R. § 42.106(b)-(c) (Title VI) ("Each recipient shall keep such records and . . . permit access by [the Department] to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance" with Title VI.); 28 C.F.R. § 42.207(a)(1)-(2) (Safe Streets Act). Transparent administration of federally-funded police practices is critical to the United States' obligation to ensure that public funds are not being used to finance unlawful discrimination. I therefore remind you of these data collection and record preservation obligations in the event the Department finds it necessary to request and review your records to ensure compliance with your non-discrimination obligations. Additionally, upon request, we would expect you to provide copies of all relevant training materials, including video or audio tapes of any presentations.

Further, the Attorney General of the United States is authorized under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, to bring a civil suit against state and local law enforcement entities when they engage in a pattern or practice of conduct that deprives persons of their rights under the Constitution or laws of the United States. As you undertake law enforcement activity under H.B. 56, it is critical that you develop policies and develop systems of accountability to ensure that your enforcement of this law does not result in the unlawful stopping, questioning, searching, detaining, or arresting of persons in violation of the Fourth and Fifth Amendments, or in the targeting of racial or ethnic minorities in a manner that violates the Fourteenth Amendment.

The Department of Justice looks forward to continuing and strengthening our partnerships with Alabama law enforcement; those partnerships are critical to our efforts to keep the American people safe. I believe that we are committed to the same ideas and hope you will work with us to ensure that we each fulfill our obligations to enforce the Constitution and laws that prohibit racial and ethnic discrimination.

Thank you for your attention to these important civil rights issues facing Alabama and the nation as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom E. Perez". The signature is fluid and cursive, with the first name "Tom" being the most prominent.

Thomas E. Perez  
Assistant Attorney General