



Transactional Records Access Clearinghouse  
Syracuse University

October 19, 2009

The Honorable Eric Holder  
Attorney General of the United States  
Department of Justice  
9<sup>th</sup> and Pennsylvania Avenue, NW  
Washington, D.C. 20530

Dear Attorney General Holder:

We are writing you because we believe a retraction of a recent statement made by the Justice Department is warranted. The subject of the department's statement was a report by the Transactional Records Access Clearinghouse (TRAC) about the government's troubled terrorism enforcement efforts. In addition, we would like to request a meeting with you or responsible agency officials to open a discussion focused on ending the department's continued and unfortunate denial strategy about its well-documented record. Briefly, here are the details.

Over the last twenty years, TRAC – a data-gathering and data-research organization associated with Syracuse University – has become widely recognized as a unique source for accurate and comprehensive information about the operations of many different federal programs. Subjects include various kinds of criminal and civil enforcement, the operation of the Immigration Courts, tax collection and other areas. All of the reports and data we post on our web sites are based on very detailed material we obtain from government itself, generally under the Freedom of Information Act. Among others, TRAC's data sources include various Justice Department divisions and agencies, the Office of Personnel Management, the Department of Homeland Security, the Internal Revenue Service, the Administrative Office of the United States Courts.

Because of the breadth of these materials and the statistical expertise, substantive knowledge and the meticulous care that we bring to our work, TRAC's data analyses have provided the American people, Congress, news organizations, public interest groups and the government itself a way to independently examine a large number of key public matters worthy of further study. One telling fact is that the General Accountability Office in a recent report on the Immigration Courts favorably cited TRAC's previous reports on the same subject. Various inspector general offices, the OMB, the Supreme Court and other government bodies subscribe to our data services.

Please understand that before posting reports and data, TRAC always engages in an intense multi-level effort to check the accuracy and completeness of the material provided us by the government. For example, using the referral- by-referral data we receive from the Executive Office for U.S. Attorneys (EOUSA), we develop counts and compare them with those in the department's annual reports. If we find inconsistencies, we make every attempt to resolve them. We undertake a series of internal checks to assure ourselves that the individual events recorded in the EOUSA data sum up to the totals recorded in the department's reports. In addition, TRAC tries to obtain written agency records describing the scope of the information we have obtained, how it is collected, how it is coded and any internal administrative practices that might have influenced its quality. In many instances, we



have provided agencies access to reports before they are posted, seeking to obtain feedback about potential problems before they are made public. TRAC sometimes employs another level of quality control by meticulously comparing the case-by-case information from the EOUSA with that available in court records, as well as with other agency databases tracking the same events.

Given that the government is the original source for all of the data presented in our reports and the extensive and varied efforts to check and double check the material before it is passed along to the public, we were astonished by the statement your Public Affairs Office provided reporters several days before the posting our latest report on September 27. In that report we examined and compared data from the U.S. Courts, the National Security Division, and the EOUSA on the government's record on criminal enforcement of the country's terrorism laws. (See <http://trac.syr.edu/tracreports/terrorism/215/>) TRAC had provided your office early access to our embargoed study to enable the Justice Department to have an informed comment about the questions it raised. Instead, the short statement asserted that the Department "stands by its record" and then went into an ad hominem attack on TRAC. And contrary to the initial claim, the statement provided no concrete information about the department's record.

Sadly, although we had hoped for more from the Obama Administration, the tactic adopted by the Justice Department in late September did not surprise us. In fact, for more than ten years, the Department has sought to substitute empty name-calling for a serious discussion of the serious problems a careful examination of department records has found in civil rights enforcement, environmental enforcement, FBI operations and many other areas. We believe this response has harmed the country – in some instances undermining the department's efforts to deal with very serious problems like the threat of terrorism in the United States and other cases putting off the consideration of a host of other shortcomings. The Department's reaction contrasts sharply with that of the Nuclear Regulatory Administration which – when confronted with TRAC findings about major deficiencies in its tracking of safety violations in nuclear power plants – met with TRAC and then mounted a multi-year effort to correct the deficiencies TRAC had uncovered.

In April of 1996 we addressed a letter very similar to this one to former Attorney General Reno. She and her Director of Public Affairs, Carl Stern, ultimately refused to engage in an exploration of the alleged data problems in TRAC's report that focused on the government's lax enforcement of the nation's tax laws. In the hopes of moving beyond the negative fact-denying posture the Justice Department has adopted in both its September 27 response to TRAC's report and the 1996 event, we are enclosing for your convenience copies of both the recent statement your Public Affairs office provided reporters and the exchange of correspondence with Attorney General Reno and Mr. Stern.

In closing, we call upon you to retract the Department's statement and to facilitate our meeting with you or other selected department officials to discuss the situation.

Sincerely,



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Susan B. Long  
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Enclosures:

1. Department of Justice September Statement
2. 1996 DOJ Public Affairs correspondence

Copies To:

Patrick J. Leahy, Chairman  
Senate Judiciary Committee (with Enclosure 1)  
Representative John Conyers, Chairman  
House Judiciary Committee (with Enclosure 1)  
Representative Bennie Thompson, Chairman  
House Homeland Security Committee and Governmental Affairs Committee  
(with Enclosure 1)  
Senator Joseph I. Lieberman, Chairman  
Senate Homeland Security and Governmental Affairs Committee (with Enclosure 1)  
Inspector General Glenn A. Fine  
Justice Department Office of the Inspector General (with Enclosure 1)