

09:53

1 that they have an important mission and that what they do is
2 worthwhile and important. That is not the issue. The issue is
3 what is their authority for just general policing activities
4 within the city of New Orleans.

5 After this meeting with the AG's office in which
6 his representatives were unable to provide me any authority for
7 some of these activities, I said, "Well, why don't you, if you
8 want to go back and think about this and do some more research,
9 write me and tell me the authority that you have that supports
10 your activities." That was in January, and I have not received
11 anything else from them to date.

12 I reached out a month or two ago and asked the
13 AG to either come meet with me again or to have a telephone
14 conference so I could see where we are and what exactly the
15 AG's agents were doing, to see whether there was any cause for
16 concern, but I did not get any response.

17 I asked the consent decree monitor to
18 specifically reach out to the AG's office, to issue a personal
19 invitation for them to appear today to explain the sources of
20 their authority and to talk about cooperation and collaboration
21 between the AG's office and the NOPD in the areas where it
22 would be appropriate and needed, but the AG's office responded
23 that they would not be sending anyone to attend or represent
24 the AG here today.

25 Over the last year or so, the city attorney's

09:55

1 office has done research to determine what the authority of
2 special agents of the AG's office is, and I would ask Ms. Dietz
3 to report to us on what she has found.

4 **MS. DIETZ:** Thank you, Your Honor. I will start by
5 saying that, as should be evident from the people sitting in
6 this room and the agreements that I have just described, the
7 NOPD and the city welcome lawful assistance from other law
8 enforcement agencies. It's crucial to the way we conduct our
9 business. We encourage and facilitate those relationships.

10 As I also stated before, however, authority to
11 engage in law enforcement activity varies and is prescribed by
12 state law or the home rule charter. The Louisiana attorney
13 general has no independent statutory authority to conduct law
14 enforcement activities in New Orleans.

15 According to the constitution, the attorney
16 general is the chief legal officer of the state. The
17 constitution does not provide any specific law enforcement
18 powers to the attorney general's office. Under state law, the
19 division of state police is tasked with state law enforcement
20 responsibilities and that division falls within the department
21 of public safety under the governor.

22 In New Orleans the mayor is the chief law
23 enforcement officer, and the New Orleans Police Department is
24 charged via the charter with all law enforcement in
25 New Orleans. The attorney general does enjoy investigatory

09:56

1 authority in certain areas and, as NOPD has done with other law
2 enforcement bodies as well as our federal partners, we welcomed
3 the attorney general's assistance in a certain investigatory
4 manner.

5 We offered a written memorandum of understanding
6 to the attorney general that would have outlined specific
7 assistance NOPD could use, specific lawful assistance the NOPD
8 could use from the attorney general's office. I would like to
9 be very clear that New Orleans and the NOPD have never rejected
10 assistance from the attorney general's office so long as that
11 assistance was lawful and fell within their statutory
12 authority.

13 Any cooperation with the attorney general's
14 office must be consistent with the law and fall within the
15 authority the attorney general has been given by state law.
16 This is to ensure the public that the police department charged
17 with law enforcement is leading all related law enforcement
18 efforts.

19 The attorney general's office would not agree to
20 sign the memorandum of understanding as we presented it to
21 them. Again, moving forward, I'll say again the city welcomes
22 assistance from other law enforcement agencies and would
23 welcome lawful assistance from the attorney general's office,
24 but any such assistance should be written down and clarify the
25 legal authority each body has.

09:58

1 **THE COURT:** Could you give me some examples of the
2 areas in which the AG's office does have authority to do
3 certain investigations.

4 **MS. DIETZ:** I think Medicare fraud, certain civil
5 fraud actions. They have the authority to intervene in certain
6 criminal proceedings if requested by the district attorney. In
7 those instances they have to prove to the court that their
8 intervention is necessary. I can get the list of the other
9 things.

10 **THE COURT:** I think one thing I was concerned about,
11 and I'm sure you looked at also, is whether the AG's office has
12 statewide power to arrest --

13 **MS. DIETZ:** They do not.

14 **THE COURT:** -- for violations of any criminal law
15 enacted by the State of Louisiana.

16 **MS. DIETZ:** They do not. Under state law only
17 certain individuals that fall under the scope of a peace
18 officer have authority to arrest, and it's specifically
19 designated under state law who has the authority to arrest. So
20 while you might have, for example, a reserve sheriff's deputy
21 from another parish working for the attorney general, his or
22 her status as a peace officer for the parish does not translate
23 to the authority to be a peace officer under the direction of
24 the attorney general. So the attorney general umbrella has to
25 stay within the statutory authority given to them.

09:59

1 **THE COURT:** So the AG could not give an officer from
2 a neighboring parish the authority to come into New Orleans and
3 make arrests because the AG doesn't have that authority.

4 **MS. DIETZ:** That's correct.

5 **THE COURT:** It's important that the policing is done
6 by entities with the authority to do the policing for a number
7 of reasons; for example, for the arrest to be valid and for any
8 seizure of evidence to be constitutional.

9 **MS. DIETZ:** Yes.

10 **THE COURT:** So these questions have real-life
11 ramifications in the criminal justice system. It's not a
12 technicality. It's very important.

13 **MS. DIETZ:** That's right. We do have opportunities
14 for the attorney general to assist the New Orleans Police
15 Department that fall within their lawful authority, but
16 engaging in active policing on the street isn't one of them.

17 **THE COURT:** For example, the AG's office, they are
18 investigators, and they have expertise and they have some
19 resources you probably don't have. Is that an example of an
20 area in which you would request assistance?

21 **MS. DIETZ:** It is. It is. That was an example in
22 which we asked for assistance with investigation. I forget
23 specifically which investigation.

24 **THE COURT:** I think it was homicide.

25 **MS. DIETZ:** Yeah, I think that's correct. Yes.

10:01

1 **THE COURT:** The concepts that are in Chapter 1.1, I
2 think it all ties together that what we are trying to be sure
3 of is what the authority is and what is the source of it, for
4 the NOPD as well as these other agencies, and to make sure that
5 NOPD is exercising its obligations under the city code and the
6 home rule charter to be the chief law enforcement agency of the
7 city of New Orleans.

8 I think that the concepts in Chapter 1.1 are
9 implicit in the consent decree, but I'm wondering if it might
10 be advisable for us to consider an amendment to the consent
11 decree and make those concepts explicit.

12 **MS. DIETZ:** The city would certainly work with the
13 Department of Justice and the Court to consider that.

14 **THE COURT:** We will think about that going forward.

15 Ms. Gunston, do you have any comments about this
16 issue, about the importance of Chapter 1.1 and exercising
17 authority within one's jurisdiction?

18 **MS. GUNSTON:** Only to agree with the Court,
19 Your Honor, that of course it's important, in order for NOPD to
20 continue to keep the officers and public safe, that they would
21 coordinate with any agencies within NOPD that are engaged in
22 law enforcement activities.

23 **THE COURT:** In the days ahead, I'm sure we will have
24 more discussions about how to tie up all the loose ends that we
25 might have out there on this topic.

10:03

1 It's clear to me that the AG's office has
2 limited statutory authority to investigate crimes in certain
3 areas, but it doesn't have the ability to make statewide
4 arrests for violations of state law.

5 I will continue to do what I need to do to make
6 sure that the integrity of the policing in the city of
7 New Orleans is maintained. By that I mean that only entities
8 with authority to make arrests do that, but I also want to make
9 clear I echo what Ms. Dietz said. There are many areas where
10 the AG's office has expertise and we welcome their assistance,
11 particularly with investigating homicides, because we all know
12 that that's a concern and an area of emphasis for us right now.

13 * * *

14

15

16

17

18

19

20

21

22

23

24

25