

Legal experts: DOJ's Zimmerman tip line merely gives impression that agency is acting

By: Chuck Ross- July 21, 2013

A range of legal experts think that the Department of Justice's attempts to collect information from the public on George Zimmerman is a way to pass responsibility for investigating the man onto the public, as well as to give the impression that the agency is acting.

After a jury found Zimmerman not guilty of murdering Trayvon Martin, Attorney General Eric Holder said in a speech last Monday that the DOJ would conduct an investigation into whether or not the shooting was racially-motivated. Zimmerman is half-Hispanic and half-white. Martin was black.

"The Justice Department shares your concern — I share your concern — and, as we first acknowledged last spring, we have opened an investigation into the matter," Holder told the Delta Sigma Theta sorority during their national convention last week.

Zimmerman's defense team addressed that investigation in a Friday statement.

"We are confident [the Department of Justice] will find a young man with a diverse ethnic and racial background who is not a racist," Zimmerman's lawyers wrote, "a man who is, in fact, sensitive to the complex racial history of our country."

Benjamin Todd Jealous, the head of the NAACP, launched a petition shortly after the verdict which read that "George Zimmerman stalked and then took the life of Trayvon Martin." The petition has since received over one million signatures.

The Orlando Sentinel reported that Assistant Attorney General Thomas Perez held a conference call with federal officials and civil rights leaders saying that the DOJ would be setting up an email account — sanford.florida@usdoj.gov — to help gather information for the investigation.

Barbara Arnwine, the president and executive director of the Lawyers' Committee for Civil Rights Under Law who sat in on the call, told the Orlando Sentinel that the DOJ officials were "calling on us to actively refer anyone who had any information," in order to possibly build a hate crimes case against Zimmerman. "They said they would very aggressively investigate this case," she said.

The FBI and DOJ investigated Zimmerman last year, canvassing dozens of neighbors, friends, and acquaintances to determine if he was racist. Chris Serino, the lead investigator on the Martin shooting, said that he believed that Zimmerman had profiled Martin based upon his attire and "not his skin color".

Federal investigators closed the investigation without finding any evidence to support the claim that Zimmerman was racist. During the trial, Judge Debra Nelson refused to allow state prosecutors to argue that Zimmerman racially profiled Martin leading up to the shooting. Zimmerman's defense also flipped racism claims around on Martin, suggesting that by allegedly

calling Zimmerman a “creepy ass cracker,” his assault on Zimmerman may have been racially-motivated.

“I haven’t heard of this before with an acquitted defendant,” said University of Pennsylvania law professor Kermit Roosevelt of the use of an email tip line, “but it doesn’t surprise me that much.”

He says that evidence to build a federal case against Zimmerman will have to come from somewhere, and “this is a reasonable method of trying to get it, if any exists.”

Roosevelt also agrees that the DOJ’s strategy makes sense from a public relations perspective. “This effectively puts the ball back in the public’s court,” he said, adding, “it costs them less money than creating a big task force.”

Bringing such federal charges does not conflict with the Constitutional right preventing double jeopardy. The federal government can pursue charges in certain circumstances if new information comes to light after an acquittal in state court — though it is rare.

“It is unusual in my experience, but I don’t think it sets a bad precedent,” said Lauren Resnick, one of the US attorneys who secured a conviction of Lemrick Nelson in the fatal stabbing of Yankel Rosenbaum during the 1991 Crown Heights race riot, which took place in Brooklyn.

As in the Zimmerman trial, Nelson was acquitted in criminal court in Rosenbaum’s death. But Nelson was later convicted in federal court of a civil rights violation for the killing. Rosenbaum was Jewish and was beaten by a group of black men. Nelson later admitted to stabbing Rosenbaum.

Resnick says that the Zimmerman investigation “shows that DOJ is committed to a full review of the facts.”

Harvard law professor Alan Dershowitz told TheDC that he believes the DOJ’s recent move is “highly questionable”. He asked, rhetorically, “Are they also investigating Martin’s background to see whether he attacked anyone previously?”

Ilya Shapiro, a legal scholar at the Cato Institute, called the investigation “a waste of resources.” “It seems to me that this is just the DOJ trying to be seen as doing something,” he told The DC.

The Civil Rights division of the Department of Justice has used the email tip method in the past. For example, in November 2012 it set up an email address to investigate the Albuquerque, New Mexico police department which was alleged to have high incidents of excessive use of force.

In October 2012, the DOJ set up a tip line to investigate complaints that officials in Meridian, Mississippi were discriminating against juveniles and creating a “school-to-prison pipeline” which targeted African-American students.

And in September 2012, the department began investigating the Alamance County, North Carolina sheriff’s department for allegedly profiling Latinos.

A spokesperson for the Department of Justice would not provide details of the special email account other than to acknowledge its existence. TheDC was unable to determine if the DOJ had ever used such an account to pursue an investigation against a private citizen who’d been acquitted of a crime.

“It’s bizarre,” said Robert Zimmerman Jr., George Zimmerman’s brother. The email address itself seems to be “encouraging Sanford to do something about George.” Zimmerman Jr. said that he’d understand an email tip line if his brother were a fugitive, but said, “I can’t remember any time [the DOJ has] done this.”