

City of Detroit Office of Inspector General

OIG # 2014-DA-0420

April 22, 2015



James W. Heath
INSPECTOR GENERAL

I. Background & Complainant's Allegations

On November 25, 2014, Alvin Davis, a former agent with the United States Department of Homeland Security - Immigration and Customs Enforcement (ICE), filed a complaint with the Office of Inspector General (OIG) alleging that public servants with the Detroit Police Department, the Office of the Wayne County Prosecutor, ICE and a judge on the 3rd Circuit Court abused their authority by allowing information they knew to be false to be presented during his criminal trial.

On February 11, 2010, the Office of the Wayne County Prosecutor charged Mr. Davis with (2) counts each of unlawful imprisonment, assault with a dangerous weapon and felonious assault. The charges resulted from an incident that occurred in Detroit following a robbery at the home of Mr. Davis's mother. The victims, Kristopher and Keenen Delbridge, alleged that Mr. Davis assaulted them in an effort to retrieve items which had been stolen from Mr. Davis's mother's home. On July 23, 2010, Mr. Davis was convicted of felonious assault, unlawful imprisonment and felony firearms with respect to one of the victims following a jury trial. The Detroit Police Department served as the investigating agency. Assistant Wayne County Prosecutor Thomas Trzcinski prosecuted the case and Judge James Callahan presided over the trial.¹

In January 2004 while Mr. Davis was employed by ICE, he was the subject of an investigation conducted by US-OIG examining his role in allowing an Iraqi citizen, Mohsin Al-Uglah, admission into the United States. As part of his regular professional duties, Mr. Davis processed Mr. Al-Uglah's application for entry into the United States. The US-OIG investigated the circumstances under which Mr. Al-Uglah was allowed entry because there was a question regarding a pending criminal sexual conduct charge against him. The relevant portion of the inquiry involved Mr. Davis's personal relationship with Zoha Madarani, who was Mr. Al-Uglah's representative in his immigration matter. When questioned by his employer, Mr. Davis initially denied having a romantic relationship with Ms. Madarani; however, he later admitted to having one with her. The City of Detroit Office of Inspector General is not aware of any final finding of wrongdoing on the part of Mr. Davis related to this incident.

Prosecutor Trzcinski made a motion to introduce evidence related to the January 2004 investigation during Mr. Davis's criminal trial. Judge Callahan ruled that aspects of the investigation could be admitted against Mr. Davis should he choose to take the stand at trial for the purpose of showing allegedly prior inconsistent statements offered by Mr. Davis. Mr. Davis did not testify during his trial.

Mr. Davis alleges that the public servants involved in his case abused their authority by allowing what he contends to be inaccurate and incomplete information concerning the investigation to be presented at trial. Mr. Davis contends that the investigation had nothing to do with his criminal charges and prevented him from testifying in his trial. Mr. Davis stated that he believes that the jury's decision might have been different had he testified.

¹ Thomas J. Trzcinski died on December 24, 2013.

II. Office of Inspector General Jurisdiction

The City of Detroit Office of Inspector General is an independent office established by the 2012 Charter of the City of Detroit. Its mission is to investigate allegations of waste, abuse, fraud, and corruption.² The Inspector General's jurisdiction extends "to the conduct of any Public Servant and City agency, program or official act, contractors and subcontractors providing goods and services to the City, business entities seeking contracts or certification of eligibility for city contracts and persons seeking certification of eligibility for participation in any city program."³

III. Discussion

With the exception of the DPD officers who participated in the prosecution of Mr. Davis's case, the OIG does not have jurisdiction over the primary individuals who performed acts which Mr. Davis alleges were improper. Neither the presiding judge, the county prosecutor, nor the federal agents fit within the Charter's definition of public servant, contractor, or subcontractor.⁴

DPD Officer John Day served as the officer in charge (OIC) of the criminal case. Typically, the OIC is the person who leads the investigation prior to the filing of criminal charges. Generally the assistant prosecuting attorney assigned to the case assumes primary responsibility for the case once criminal charges are filed. The prosecutor is responsible for trial tactics, the presentation of evidence, and the filing of any motions. The judge makes ultimate rulings concerning the admissibility of evidence.⁵ Accordingly, Officer Day cannot be held ultimately responsible for the decisions and rulings of the prosecutor and judge.

Mr. Davis understands this office's jurisdiction. His argument is that as OIC Officer Day was responsible for ensuring the veracity of the evidence and arguments presented in court. His point is not entirely without merit. For instance, an OIC who allows clearly erroneous evidence to be introduced without comment is likely in violation of his duty. However, this matter is quite different. First, Officer Day had nothing to do with the 2004 investigation, and cannot be expected to know the intricacies of the federal investigation. Secondly, Mr. Davis's complaint is essentially with the trial court's ruling, which is outside of the officer's control.

However, even if this office were to conclude that John Day was in some way responsible for the prosecutor's motion and the judge's ultimate ruling, our jurisdiction is limited because Officer Day is no longer employed by the City of Detroit, and therefore, does not satisfy the definition of a public servant under the OIG's authority. Records indicate that he retired in 2012.

² 2012 Charter of the City of Detroit, Art 7.5, Sec 7.5-301

³ 2012 Charter of the City of Detroit, Art 7.5, Sec 7.5-305

⁴ 2012 Charter of the City of Detroit, Art 2, Sec 2-105(9),(27)

⁵ Although beyond the scope of the OIG's inquiry, the Michigan Court of Appeals affirmed Judge Callahan's ruling on admission of the 2004 investigation on appeal.

IV. Conclusion

While the OIG has jurisdiction to investigate the actions of any City of Detroit public servant, this office cannot offer Mr. Davis the relief he seeks because it does not have jurisdiction over the primary actors in his matter. Additionally, the one public servant over whom this office did have jurisdiction, is no longer employed by the city.