Posted to DOJ OIG
FOIA Reading Room After
Earlier FOIA Release

October 8, 2026

Michael R. Bromwich
Senior Counsel
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Dear Mr. Bromwich,

Thank you for your October 6, 2026, letter requesting coordinated investigations by the Department of Justice (DOJ) and Department of the Interior Offices of Inspector General into the circumstances surrounding the arrest and prosecution of your client, David Carter Hearn.

We have considered your request under the *Principles of Effective Oversight of the Department of Justice* (*the Principles*), including Principle 4, Matter Selection, and the evaluation criteria in Appendix A.[1] Those principles guide the OIG's consideration of jurisdiction, the appropriate forum, the seriousness and potential systemic significance of allegations, the anticipated value of oversight, and coordination with other responsible bodies. Applying that framework, we have determined to decline a separate OIG investigation and to refer the allegations concerning DOJ personnel to the Department's Office of Professional Responsibility (OPR).

The principal allegations concerning DOJ personnel relate directly to attorneys' exercise of their authority to investigate and litigate. These include the decision to seek an indictment; the presentation of evidence to the grand jury; compliance with disclosure and preservation obligations, particularly the obligation to timely produce exculpatory evidence to the defense under *Brady*; representations to the court; and communications with a defense expert. Under 5 U.S.C. § 413(b)(3), the OIG must refer allegations involving Department attorneys, investigators, or law enforcement personnel to OPR when they relate to an attorney's exercise of authority to investigate, litigate, or provide legal advice. Related allegations concerning investigators and law enforcement personnel fall within that referral framework. The allegations concerning the U.S. Attorney likewise relate to the exercise of authority to investigate and litigate and therefore fall within the referral requirement of 5 U.S.C. § 413(b)(3). The U.S. Attorney's leadership position does not change the character of those allegations nor the OIG's statutory responsibility under the IG Act to refer the allegations to OPR. Prior Inspectors General have expressly recognized in congressional testimony that OPR's responsibility for misconduct involving Department attorneys acting in their legal capacity extends to the most senior Department lawyers, including those in leadership positions. *See* Statement of Michael E. Horowitz before the House Committee on Oversight and Government Reform, Strengthening Agency Oversight: Empowering the Inspectors General Community, at 3 (Jan. 15, 2014).[2]

[1] Available at: Principles of Effective Oversight of the Department of Justice.
[2] https://oig.justice.gov/sites/default/files/2019-12/1.15.14.pdf#page=3

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Your own congressional testimony described OPR's core function as investigating allegations involving "grand jury abuse, abuse of the discovery process, other alleged unethical conduct in the course of litigation and in trials." *See* Oversight of the FBI, S. Hrg. 107–447, at 34 (June 20, 2001).[3] Inspector General Glenn A. Fine subsequently testified that Congress had codified the jurisdictional assignment to OPR, explaining: "This remains the current jurisdictional framework." His testimony also reiterated the statutory requirement that the Inspector General shall refer to OPR allegations relating to an attorney's exercise of investigative, litigation, or legal-advice authority. *See* Strengthening the Unique Role of the Nation's Inspectors General, S. Hrg. 110-587, Statement of Glenn A. Fine before the Senate Committee on Homeland Security and Governmental Affairs, at 14 & n.3 (July 11, 2007).[4] Inspector General Michael E. Horowitz likewise acknowledged this statutory allocation in congressional testimony, stating that "the IG Act grants exclusive investigative authority to the DOJ's Office of Professional Responsibility," such that "[the OIG] can't look at…allegations of prosecutorial misconduct." *See* Recommendations and Reforms from the Inspectors General, Hearing before the House Committee on Oversight and Government Reform, Serial No. 115–50, at 6 (Nov. 15, 2017).[5]

The primary DOJ allegations in your letter fall within the categories of prosecutorial misconduct that your congressional testimony identified as OPR's core responsibility. Referral of those allegations to OPR is consistent with that allocation of responsibility. Your letter identifies prior OIG investigations involving Department attorneys and matters conducted jointly with OPR. Joint OIG-OPR investigations may be appropriate when the allegations and applicable authorities warrant participation by both offices. We separately considered whether OIG participation was warranted here and, for the reasons explained in this letter, determined that referral to OPR, rather than a joint investigation, is the appropriate response. Your concerns regarding OPR's staffing do not change the jurisdictional framework governing the assessment of the allegations.

This approach is consistent with jurisdictional determinations you made while serving as Inspector General. In your April 8, 1998, letter to James P. Scanlan, you declined to investigate allegations of prosecutorial misconduct by the Special Counsel and others Department offices who investigated and prosecuted Deborah Gore Dean because those matters involved attorneys' exercise of investigative, litigation, or legal-advice authority. You identified OPR as the office ordinarily having jurisdiction and explained that, absent extraordinary circumstances, OIG should not independently review OPR's decisions concerning allegations within its jurisdiction. You reaffirmed that determination in your May 4, 1998, letter to Mr. Scanlan. *See* Letters from Inspector General Michael R. Bromwich to James P. Scanlan, April 8, 1998, at 1–2, and May 4, 1998, at 1.[6] Those determinations illustrate the distinction between identifying allegations that warrant consideration by the responsible oversight office and establishing a basis for separate OIG involvement. We have applied that distinction here, while separately considering the authorities and circumstances that could warrant OIG participation. The Principles require consideration of whether a separate OIG investigation would provide meaningful additional oversight value. Our decision to refer your letter to OPR places the allegations against DOJ personnel before the office responsible for evaluating this category of misconduct. On the information presented, we have not identified a distinct investigative objective not within OPR's statutory jurisdiction that would warrant separate OIG participation. We recognize that several allegations concern interactions between DOJ and Interior personnel, including the transmission of evidence and compliance with preservation and disclosure obligations. That interagency dimension does not, by itself,

[3] https://www.govinfo.gov/content/pkg/CHRG-107shrg79609/pdf/CHRG-107shrg79609.pdf
[4] https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/071107Fine.pdf
[5] https://www.govinfo.gov/content/pkg/CHRG-115hhrg28508/pdf/CHRG-115hhrg28508.pdf
[6] https://www.jpscanlan.com/images/1998-04-08_from_Michael_R_Bromwich.pdf; https://www.jpscanlan.com/images/1998-05-04_from_Michael_R_Bromwich.pdf

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require DOJ OIG participation. The alleged conduct of DOJ personnel remains appropriately referred to OPR, while Interior's oversight authorities determine their own response. The examples of coordinated investigations by multiple inspectors general identified in your letter do not alter the statutory allocation of responsibility applicable to these allegations.

Our principles guiding matter-selection do not require an alleged pattern of misconduct as a condition for oversight; a single incident may warrant review. Here, our determination rests on the nature of the allegations and the appropriate oversight forum. After considering the information presented in your letter, we have not identified a distinct DOJ issue, such as a discrete management, programmatic, or systemic failure separate from the professional responsibility questions that OPR is statutorily charged with reviewing. Accordingly, while we take seriously the allegations you raise, they do not expand the OIG's jurisdiction beyond the limits set by § 413(b)(3). The allegations concerning Interior's contracting, renovation work, and personnel are matters for that Department and its oversight authorities.

This determination concerns the appropriate oversight forum and does not constitute a finding on the merits of your allegations. Nor do we regard the dismissal of the criminal case against your client as resolving the separate question of professional misconduct. Consistent with our principles of objectivity and fair process, the referral neither adopts nor rejects the factual assertions in your letter and does not prejudge OPR's assessment.

Our decision rests on the applicable statutory framework and our independent application of established oversight criteria. We considered the seniority of the personnel involved and the sensitivity of the allegations, together with the other applicable matter-selection criteria. If additional information identifies a distinct matter within OIG's jurisdiction that warrants separate oversight, we will evaluate it under the same principles.

For all of the above reasons, we are referring your letter to OPR for its consideration and appropriate action.

Sincerely,



Don R. Berthiaume
Inspector General
United States Department of justice.

cc: Caryl Brzymialkiewicz
Deputy Inspector General Performing
the Duties of the Inspector General
U.S. Department of Interior

Suzanne Drouet
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