

OIG Case 2013–DA-0039

Surveillance Conducted on Former Detroit Board of Police Chairman Jerome Warfield

Issued: January 21, 2014

The Office of Inspector General (OIG) received a complaint from Detroit Board of Police Chairman Jerome Warfield on May 13, 2013. Chairman Warfield alleged that members of the Detroit Police Department were conducting surveillance on him for reasons unrelated to a legitimate criminal investigation.

The Office of Inspector General has jurisdiction over all City of Detroit public servants.¹ This includes members of the Detroit Police Department.² The office is empowered to conduct investigations into alleged waste, abuse, fraud and corruption involving city agencies, departments and public servants.

Inspector General Heath initiated an investigation after speaking with Chairman Warfield and assigned an OIG investigator to lead the inquiry. The OIG has reached the following conclusions based upon that investigation.

Office of Inspector General Conclusions

1. The Internal Affairs Division of the Detroit Police Department conducted vehicle surveillance on Board of Police Commissioner Warfield.
2. The surveillance commenced based upon the order of former Interim Police Chief Chester Logan. Interim Chief Logan made the verbal order to Commander Brian Stair, the former Commander in charge of Internal Affairs, in December 2012.
3. Commander Stair was concerned that the ordered surveillance was not consistent with Internal Affairs's available manpower, nor with established department policy, and he expressed this concern to former Interim Chief Logan.
4. The starting point for all surveillance was Police Headquarters located at 1300 Beaubien. The dates of the surveillance were as follows:
 - a) January 3, 2013
 - b) January 31, 2013
 - c) February 14, 2013
 - d) February 21, 2013
 - e) March 7, 2013
 - f) March 28, 2013

¹ 2012 Detroit City Charter Sec. 7.5-305

² 2012 Detroit City Charter Sec. 2-105(A)(27). Public Servant means the Mayor, members of City Council, City Clerk, appointive officers, any member of a board, commission or other voting body established by either branch of City government or this Charter and any appointee, employee or individual who provides services to the City within or outside of its offices or facilities pursuant to a personal services contract.

5. The goal of the surveillance as communicated by former Interim Chief Logan was to determine Chairman Warfield's residency, presumably for determining his eligibility for service on the City of Detroit Board of Police Commissioners. No other members of the Board were subjected to surveillance.
6. Members of the Board of Police Commissioners are required to reside in the City of Detroit.
7. Although there had been some previous questions with respect to Chairman Warfield's residence, by the time Chief Logan ordered the surveillance, the City of Detroit Law Department had already concluded that Chairman Warfield met the residency requirement for service on the board. This opinion had been communicated to former Deputy Mayor Saul Green in a February 21, 2011 privileged and confidential Law Department opinion. It is not known whether Chief Logan was specifically aware of this legal opinion at the time he issued the order.
8. It is not entirely uncommon for the Internal Affairs Division to conduct "residency investigations." The most common investigation of this type involves residency questions surrounding the eligibility of political candidates. These questions generally originate based upon the complaint of a rival candidate and are generally communicated first to the City Clerk.
9. The City Clerk has no record of receiving a complaint concerning Chairman Warfield's residency during the relevant time period.

Discussion

Given the circumstances described above, the surveillance of a civilian official with "supervisory control and oversight of the Police Department"³ represents a clear example of department waste and abuse, the sort of which the Office of Inspector General was created to investigate. This is especially true when Internal Affairs, the agency charged with "policing the police" was ordered to participate in the action.

Subjecting members of the Board of Police Commissioners to unwarranted surveillance would certainly frustrate the purpose of the board and have a chilling effect on the members, who must be free to exercise their best judgment with respect to department matters. At the very least, decisions to conduct surveillance of the type described in this report, should be made after consultation with senior department personnel and only following a thorough review of relevant reports (ie. Law Department opinions) addressing the matter. To do otherwise, especially with respect to non-criminal investigations, opens the door to legitimate suspicions of abuse of authority.

The Office of Inspector General is tasked with investigating fraud, abuse, waste, and corruption. The office has no desire to interfere with the legitimate crime fighting or administrative enforcement actions of the Police Department. However, when the actions of any city agency or

³ 2012 Detroit City Charter Sec. 7-802

public servant have the effect described above, the OIG has no choice but to investigate and request a response from department leadership.

Detroit Police Department Response

The Charter makes clear that the Inspector General shall make no report or recommendation critical of a city department without affording that department the opportunity to first be heard concerning the matter.⁴ In September 2013 the OIG submitted its preliminary findings to Detroit Police Chief James Craig. Chief Craig responded to the preliminary findings in a timely and forthright manner (Attachment #1).

While he acknowledged that “valuable police resources were wasted” in the investigation, Chief Craig indicated that he did not agree that any abuse had occurred.

Office of Inspector General Recommendation

1. As the law enforcement agency for the City of Detroit, the Detroit Police Department must have the ability to conduct appropriate investigations into any activity which may violate local, state or federal laws. This includes both criminal and administrative laws.
2. The Detroit Police Department should implement specific policies to ensure that decisions to conduct surveillance or investigations which might have the effect of frustrating the civilian oversight of the Department be made as consistently and deliberately as possible.
3. This policy should be disseminated to both civilian and department leadership as appropriate.

Acknowledgement

It should be noted that the activities described in this report occurred prior to the current Chief's tenure with the City of Detroit. Both he and Commander Brian Stair cooperated in this investigation to the fullest extent possible. Their cooperation is an example of the productive relationship which exists between the Police Department and Office of Inspector General. A full understanding of the events surrounding this investigation would not have been possible absent their active participation.

⁴ 2012 Detroit City Charter Sec. 7.5-311

ATTACHMENT #1



September 16, 2013

James W. Heath, Esq.
Inspector General
City of Detroit
65 Cadillac Square, Suite 3210
Detroit, Michigan 48226

RE: OIG Case 2013-DA-0039
Complaint by DPD Police Commissioner Jerome Warfield

Dear Inspector General Heath:

I have reviewed your correspondence dated September 4, 2013, in regards to the investigation of the complaint filed by Police Commissioner Jerome Warfield.

Although I am in agreement with the fact that valuable police resources were wasted investigating a matter that had already been decided by the City of Detroit Law Department, I do not find the need to institute any changes to the existing policies of the Detroit Police Department.

The City of Detroit Charter requires members of the Board of Police Commissioners to reside within the City of Detroit. Your correspondence stated that the goal of the surveillance was to determine Chairman Warfield's residency, which is a legitimate function of Internal Affairs.

It appears that your findings were inconclusive as to whether former Chief Logan was aware that a legal opinion on this issue had been rendered by the Law Department prior to the order for surveillance. In my discussion with Commander Stair regarding this matter, he stated that the residency investigation was terminated once he presented former Chief Logan with the Law Department's opinion. This may be an indication that the former Chief, in fact, had no prior knowledge.

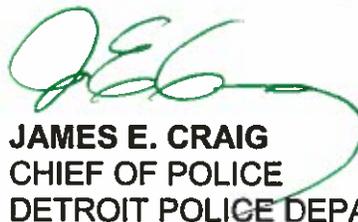
Internal Affairs is charged with investigating police and civilian employees who misuse their position of trust. Internal Affairs investigates criminal violations



of federal and state law as well as the Charter of the City of Detroit. Internal Affairs also routinely conducts administrative investigations as well as residency investigations in regards to election and voter challenges. Prior to a change in state law that allowed sworn members to live outside of the city of Detroit, the department staffed a Residency Section which was under the umbrella of Internal Affairs. Although the Residency Section has since been disbanded, the function has remained within Internal Affairs.

In closing, based on the information provided to me, I do not find sufficient evidence to show that an abuse took place or that the surveillance was unwarranted. I concur that members of the Detroit Board of Police Commissioners should be free to exercise their best judgment in respect to department matters and I plan to continue to work very closely with them. However, any allegations of misconduct or violations of the City Charter on the part of any member of the department or appointee must be investigated by the appropriate authority in order to ensure the public trust.

As always, I would be happy to meet with you to discuss this matter in greater detail. I look forward to working very closely with your office in our common mission to root out waste, abuse, fraud and corruption within city government.



JAMES E. CRAIG
CHIEF OF POLICE
DETROIT POLICE DEPARTMENT