

Principal Office • 1227 N. Valley Mills Dr., Ste. 208 • Waco, TX 76710 • (254) 776-3939 • fax (254) 776-4001

Capitol Area • 1629 K St., NW, Ste. 300 • Washington, DC 20006 • (202) 540-9950 • fax (202) 683-6130

Houston Area • 7120 FM 1464, Ste. G • Richmond, TX 77407 • (713) 489-9060 • fax (713) 489-9061

David R. Schleicher—admitted in DC & TX
DavidS@ThisLawFirm.com

Michael J. Coster—admitted in VA & UT
of-counsel (Ely, NV)

Kristofer R. Schleicher—admitted in GA
of-counsel (Atlanta)

Testimony before the U.S. House Oversight and Government Reform Committee

May 7, 2014

Assault, Obstruction, and Inaction by Agency Officials

Elisabeth Heller Drake
Special Agent, Office of Inspector General, U.S. EPA

Statement for the Record

Introduction

Chairman Issa, Ranking Member Cummings, and distinguished Members of the Oversight Committee, thank you for inviting me to testify before you today.

My name is Elisabeth Heller Drake and I am a Special Agent in the Environmental Protection Agency's (EPA) Office of Inspector General (OIG). I am testifying about what happened to me as a federal law enforcement officer last fall, and I appear before you voluntarily, as an individual, and not on behalf of the agency, nor on behalf of the OIG. No one at EPA has pre-approved my statement.

The Initial Obstruction

On Thursday, October 24, 2013, fellow EPA OIG Special Agent Ryan Smith and I had a difficult interview with EPA Office of Homeland Security (OHS) employee John Martin. We extended him the courtesy of having his personal attorney present, but he would not answer even basic questions.

He kept indicating he needed to be home to meet his children, so we ended in a timely fashion in spite of his lack of cooperation with our official investigation. Minutes after he left, I realized he left without the standard warning not to discuss the ongoing investigation with others and without signing the standard non-disclosure form.

Agent Smith was escorting his attorney out of the building and I was unable to reach her by phone, so I asked Special Agent Gary Don Dorman to go with me to the EPA Office of Homeland Security (OHS) to notify Martin of his obligations.

As we progressed into OHS's office suite, someone asked if Agent Dorman and I needed assistance, at which point I also overheard Mr. Martin's voice, talking to someone about specific information discussed during our interview of him. Turning in the direction of his voice, looking down a hallway, I saw the witness standing in the open doorway of an office, talking to a woman I later learned was Nancy Dunham from the EPA's Office of General Counsel. With them was someone I later realized was EPA Senior Intelligence Advisor Steven Williams.

Mr. Martin approached Agent Dorman and me and asked what we wanted. I responded that we had a follow-up item to address with him that would only take an additional moment of his time. Mr. Martin seemed defensive and responded that he did not want to discuss anything without his attorney present. I explained that there was no intention to ask additional questions, but that we merely needed his attention for a quick aside. Following protocol, I was trying not to unnecessarily disclose the ongoing investigation to the others in the area.

Martin said anything I had to say to him could be said in front of all present. Keeping my composure, I informed the witness that he was not permitted to discuss details of our interview with anyone other than his personal attorney.

Ms. Dunham and Mr. Williams shouted that my instructions were not accurate, at which point it became clear Mr. Martin was not going to sign our standard non-disclosure form.

I responded to Mr. Martin that I heard him talking about our interview when Agent Dorman and I entered the office space, and that he needed to desist from that type of dialogue immediately. I repeated that Mr. Martin should only discuss the interview details with his personal counsel. As I made those statements, Ms. Dunham continued to yell from down the hallway that I was not right.

At this time, Mr. Williams aggressively approached me, yelling “Put it in writing!” He stepped between me and Mr. Martin in a menacing way, again screaming to “Put it in writing!” and demanding to know where the standard protocol I was addressing was documented. Williams invaded my personal space, pointing and yelling, to a degree that it became difficult to understand what he was saying.

He repeatedly jabbed his finger at me, merely inches from my chest, and as he got more aggressive, his complexion heated, his veins bulged, and he began to sweat profusely.

We are trained to deal with difficult circumstances. However, I was surprised at having this situation escalate so quickly in a professional setting—EPA headquarters—over a request that was so standard and minor. If an individual

had acted this way toward me as a federal agent on the street, I might have arrested him. But it shocked me to be approached in this manner by what appeared to be a high-ranking EPA official. While Mr. Williams is not a large man, his inexplicable anger and aggressiveness in this professional office setting managed to leave me feeling intimidated.

The fact I had a sidearm holstered out of sight under my suit jacket did not make any difference; I was not chasing a criminal on the street, but rather in an environment where I never would have expected such behavior from a professional staff member. Avoiding unnecessary physical contact, I stepped back from Mr. Williams.

I tried to de-escalate the incident by asking Mr. Williams to identify himself. Remaining professional, upon hearing his name I responded, "Mr. Williams, I'm Special Agent Elisabeth Drake. It's so nice to meet you" and put out my hand to shake his. He refused to shake my hand and instead responded, "I don't want to know you."

In spite of my clear notice that I was a federal law enforcement officer, he again started yelling at me. I thought back to my research and recalled that he was not only a GS-15, but also a Naval Reserves Captain, making his tirade and interference with my official duties all the more surprising.

In another effort to reduce the tension, I told Mr. Williams that I was not there to speak with him, at which point he screamed at Agent Dorman and me to get out of their office space. He continued to yell as we departed.

Back at the OIG office, we reported the assault to management, leading other agents to return to the Office of Homeland Security to investigate. Martin had left; Ms. Dunham and Mr. Williams said they were too stressed to be interviewed.

The case was turned over to the Federal Protective Service (FPS) to investigate. They interviewed Agent Dorman and me, as well as the OHS staff member who had offered us assistance when we first arrived that evening of October 24. FPS then prepared an affidavit in support of Mr. Williams' arrest for the DC offense known as "INTENT TO FRIGHTEN ASSAULT." But the U.S. Attorney's Office decided to refer it back to EPA for handling through administrative action.

Whether Mr. Williams attacked and intimidated me that evening because I am female and so felt he could get away with it, and whether he has acted in a threatening manner towards other females in the workplace, are questions for another time and place. I instead am here to relay what happened that night and EPA's response to it out of concern about OIG not being allowed to do its job.

The Second Obstruction

Was Mr. Williams put on paid administrative leave until a full inquiry could be completed? No. Was I allowed to resume the OIG investigation involving Office of Homeland Security staff? No. Did the Administrator remind those involved of their duty to cooperate with the OIG? No. Have my attorney and I repeatedly asked, both in person and in writing, for EPA to do such things? Yes.

In fact, the only prompt, concrete action taken by the EPA was to issue a stand-down memo days later that halted the OIG investigation until a plan could be developed and put in place to end ongoing conflicts between the EPA's Offices of Homeland Security and of the Inspector General.

As my attorney and I told the Administrator's staff, *we know of no exemption in the law that says an agency head can halt an official OIG investigation so long as it is done to encourage investigators and their targets to get along better with each other.* It is common in our line of work to have to remain professional in spite of conflict. It is not common for a GS-15 official to interfere, then essentially be rewarded with an investigation being halted for what has been over six months.

Mr. Chairman and Ranking Member Cummings, we are now more than six months out from the events of October 24, yet I believe the investigation underway the day of the assault continues to go uninvestigated. If there were wrongdoings going on within EPA's OHS, as an OIG Agent I feel responsible to

conclude my investigation and bring those issues forward. However, I find it equally as important to determine that if there were no wrongdoings within the office identified, to set the record straight in that regard as well.

Conclusion

To be clear, I am not complaining about the actions of the EPA Inspector General or his staff. They have been very supportive of my career, especially so during the difficult months since I was assaulted in the line of duty.

I also am not out to harm EPA. On the contrary, it is because the Environmental Protection Agency's work is so important that the agency must be given the best chance possible to succeed. That only can happen if there is a healthy, independent, and unobstructed OIG; an OIG whose Agents can insist upon cooperation from the agency's employees, regardless of their seniority, and regardless of the office that happens to be the one subject to our law enforcement authority on a given day.

Thank you for your time, and I would be happy to answer any questions you may have for me.

* * * * *

Biographical Information

Elisabeth Heller Drake is a GS-13 Special Agent (Criminal Investigator) with the Environmental Protection Agency's Office of Inspector General, where she has worked since January 2013. She also has worked as a Special Agent for the Offices of Inspector General of the Government Printing Office and the Department of Health and Human Services. Prior to her time as a federal agent, she worked for four years as a Department of Defense, Defense Security Service background investigator. She holds a bachelor's degree in Administration of Justice from George Mason University, where she was an honor student. In her seven years in federal law enforcement she twice has received a Special Act of Service Award for her investigative work.