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Another Allegation That A Deputy Attorney General Withheld Evidence From A Grand Jury



Former Deputy Attorney General Eric Cohen. (Photo: New Jersey Globe).

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Former Deputy Attorney General Eric Cohen didn't share text messages that might contradict charges against an Essex County Prosecutor's office





By [David Wildstein](#), January 11 2024 11:24 am

There are new allegations that the New Jersey Attorney General's Office of Public Integrity and Accountability presented false information to a grand jury in the prosecution of a detective for the Essex County Prosecutor's Office, the latest in a cavalcade of accusations of prosecutorial misconduct leveled against the office charged with maintaining the public's trust in the criminal justice system.

This case involves Tim Kealy, who is accused of purchasing a GPS device and installing it on a drug suspect's car without a warrant. He was indicted in May 2021 on official misconduct charges.

Kealy is seeking a dismissal of the indictment, alleging that the deputy attorney general at the time, Eric Cohen, hid exculpatory evidence from the grand jury that shows he was in contact with his two immediate supervisors at the prosecutor's office, John DeGroot and Jerod Glover, during the weekend the device was installed.

"We believe there are text messages and/or other communications between Mr. Kealy and his commanding officers, Messrs. DeGroot and Glover, demonstrating that Mr. Kealy was ordered by them to place a tracking device on the suspect's vehicle," his attorney, Lee Vartan, wrote in a letter to Cohen in August. "If those messages exist, they are also evidence that both Messrs. DeGroot and Glover lied (repeatedly) to investigators and your office."

Vartan maintains that the messages would be on not only Kealy's phone but also DeGroot and Glover phones.

"The State has an obligation, if it has not already done so, to secure the phones of DeGroot and Glover and search them for Brady material," he told Cohen.

Prosecutors appear to have refused Vartan access to his client's phone. In a separate filing, he has asked a judge to order the return of property.

In a court filing, Vartan says the OPIA failed to thoroughly investigate the charges against Kealy and instead relied on an internal investigation at the prosecutor's office. He said the office has had the results of a forensic examination of Kealy's texts since at least January 2020 and that there was no review by prosecutors or investigators of the DeGroot and Glover phones.

"OPIA's never-investigated-theory was that Kealy had gone rogue in purchasing and installing the GPS device, ignoring both the Prosecutor's Manual and his supervisors," the court filing said. "OPIA's theory is wrong."

DeGroot and Glover said in sworn statements that they had no contact with Kealy that weekend, but phone records appear to show that there had been 65 messages and that Kealy had driven DeGroot to





“Now, years after OPIA should have known that two supervising officers in the Essex County Prosecutor’s Office lied—and months after OPIA does know—OPIA has done nothing,” Vartan said. “OPIA is still prosecuting Kealy and still ignoring DeGroot and Glover, even as the two leave in their wake hundreds of prosecutions that will surely be subject to collateral attack when the facts set forth in this motion are made public.”

Cohen, who left the attorney general’s office late last year and is now in private practice, declined to comment on the claims against him.

“I do not know what you referring to,” he told the New Jersey Globe. “I have not seen the allegation.”

This isn’t the first allegation of strategically [withholding facts to a grand jury](#) against Cohen. A 2021 indictment against Saddle Brook Police Chief Robert Kugler was dismissed the following year after a Superior Court judge ruled that Cohen omitted vital information from his presentment to the grand jury. The indictment came while Kugler, a Republican, was campaigning for Bergen County Sheriff and was announced just as vote-by-mail ballots were being sent out.

Cohen had also been part of the prosecution team led by embattled Deputy Attorney General John Nicodemo. Nicodemo is facing [at least five allegations of prosecutorial misconduct](#), some related to his withholding of evidence to a grand jury. His accusers are all former prosecutors; Vartan is a former Assistant Attorney General and Assistant U.S. Attorney who had made shortlists for [Attorney General](#) and U.S. Attorney over the last three years.

The attorney general’s office pushed back on criticism of the OPIA.

“Our office does not comment on ongoing criminal litigation. We will respond through our public filings in Court,” a spokesperson said. “As a general matter, dialogue between prosecutors and defense counsel regarding what the defense alleges may be exculpatory, or otherwise discoverable, information is a regular occurrence in criminal matters. Defense motions seeking allegedly exculpatory information are also not unusual.”

The spokesperson added, “We take our duties to the grand jury seriously, and allegations that the state abused the grand jury process should not be taken, or made, lightly. Of course defense allegations are not the same as facts.”

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EDITOR: DAVID WILDSTEIN, DAVID@NJGLOBE.COM

REPORTER: JOEY FOX, JOEY@NJGLOBE.COM

GENERAL MANAGER & ADVERTISING: KEVIN SANDERS, KEVIN@NJGLOBE.COM





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