

Investigators find differential treatment at DOJ but do not substantiate discrimination claims

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Independent investigators did not substantiate racial and sexual discrimination claims against Deputy AG Eric Wilson as he denies allegations from the head of the Division of Law Enforcement Services.

Two UW System administrators independently investigated the allegations and concluded that Dem AG Josh Kaul's second in command, Wilson, likely did not discriminate against women or racial minorities in the workplace. The reports, which were heavily redacted before being made public, did show Wilson likely treated women and men at work differently, but that treatment was not because of their gender identities.

Division head Tina Virgil and others filed several complaints accusing Wilson and former head of DOJ's Division of Criminal Investigation Brian O'Keefe of violating several workplace policies. The allegations paint a picture of a hostile work environment inside the DOJ with several leaders treating Virgil and others worse than their white, male counterparts.

Virgil has worked at DOJ in various positions for 28 years. Virgil's attorney, Lester Pines, did not immediately respond to requests for comment.

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The complaints were heavily redacted, with some missing entire pages worth of information. They focus on alleged behavior between 2018-2019, some of which occurred before Kaul took office on Jan. 7, 2019.

In the report, Wilson said he treated people differently because he wanted to treat

people equitably rather than equally. Wilson also said he believes in treating people differently based on their specific circumstances, according to one of the DOJ-provided reports.

The investigators also concluded “by the preponderance of the evidence that DAG Wilson treated individuals, who identify as female, differently than their colleagues as it relates to the specifically identified matters we reviewed in this investigation.”

However, the report adds Wilson did not treat those employees differently because they identified as female.

Read the [report on Wilson](#).

O’Keefe, who no longer works at DOJ, was also the subject of one of the reports.

O’Keefe was appointed to his position by former AG Brad Schimel, but DOJ spokeswoman Gillian Drummond told WisPolitics.com O’Keefe recently retired because his son graduated from college and he had previously planned for that to mark the end of his time at DOJ.

One specific complaint against O’Keefe alleges he several times made abusive comments to lower-ranking staffers, creating a “paramilitary” style work environment.

The complaint outlines O’Keefe’s response to an employee who raised concerns about calls made in the middle of the night demanding work results.

The report states: “there was an instance where he said to an employee ‘can a major question a private, can a private question a major’ and that it was related to questions regarding Brian contacting an analyst at home after hours.”

In a supplemental statement from O’Keefe, he said he did make missteps with employees at least a couple times during his time at DOJ, but he tried to create an equitable and inclusive work environment. He added the complaints were only from a few in the department and did not reflect his overall work behavior.

“I have consistently denied the allegations against me, which were made by a small group of employees based on a limited set of interactions,” he said.

Read the [report on O’Keefe](#).

Investigators also could not substantiate claims that DOJ HR Director Jayne Swingen failed to act on complaints of harassment, bullying, pay inequity and discrimination.

“We find it is more likely than not that Jayne acted on reports of employee misconduct and did so in a nondiscriminatory timely manner,” the report states.

Read the [report on Swingen](#).

State GOP communications director Anna Kelly says the redacted reports show Kaul is hiding something.

“It took Josh Kaul’s DOJ over a year to release these reports with heavy redactions,” Kelly told WisPolitics.com. “Kaul has something to hide, and victims like Tina Virgil deserve answers as she undergoes the legal process from her complaint.”

But DOJ’s Drummond says the agency handled the investigation transparently between the department, complainants and those facing allegations.

“Once the reports from that independent investigation were complete, DOJ reviewed the reports and followed up with those involved in the investigation,” she said. “DOJ, which takes the rights of those who file complaints and of public records subjects seriously, then began the extensive process of preparing the records for public release. That process included offering both the complainants and the respondents the opportunity to review redacted reports prior to release.”

She also said Kaul has worked to correct missteps made by his predecessor.

“For four years DOJ was badly mismanaged by the previous administration, whose decisions frequently put expediency ahead of the best interests of Wisconsinites,” Drummond added.