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The 'P' word

BY NEWS HITS STAFF

Talk about bad timing

Late last month, when announcing that her office was bringing perjury and other charges against Detroit Mayor **Kwame Kilpatrick** and former Chief of Staff **Christine Beatty**, Wayne County Prosecutor **Kym Worthy** spoke eloquently about the absolute need for participants in the justice system to remain true to the oaths they've taken.

With the eyes of southeast Michigan upon her as she stood before the assembled media, Worthy gave what amounted to a civics lesson.

"Oaths mean something," lectured the prosecutor. "They are critically important. They matter. They matter when jurors take their oaths; they matter when lawyers, judges and elected officials take their oaths. ... They matter and that's why witnesses take them -- every witness in every case. And it is so important, it is perjury if there is lying and perjury is a crime."

"Even children understand that lying is wrong," the prosecutor lectured. "If a witness lies, innocent people can go to jail or prison. ..."

"Honesty and integrity in the justice system is everything," Worthy declared.

We applauded what Worthy had to say during that news conference, but if she had been hooked up to a hypocrisy meter at the time, the needle would have been slamming into the red zone.

For at least two years, Worthy has known that a senior member of her staff allowed perjured testimony to be presented to a jury in a major drug case.

In a secret meeting with the judge presiding over the trial, assistant prosecutor **Karen Plants** -- head of the Major Narcotics Unit of the Prosecutor's Office -- admitted that cops had lied under oath in an attempt to hide the fact that a key prosecution witness was, in fact, a paid informant. In a transcript that was later unsealed, Plants and 3rd Circuit Court Judge **Mary Waterstone** discussed the fact that three government witnesses -- two of them police officers -- had committed perjury. But that information was never provided to defense attorneys or the jury, and the trial was allowed to proceed. Both prosecutor and judge speculated that the informant's life would be in jeopardy if his identity were revealed -- even though there was apparently no evidence placed on the record to support that belief.

"I let the perjury happen," Plants told the judge, who has since retired.

That was in September 2005.

When this rag wrote about the case in May and again in June of the following year, we talked with legal experts who called the action "outrageous." Worthy, however, defended Plants.

"The way this case has been reported is disturbing," Worthy declared. "The actions of the defense -- not this office or any of our witnesses -- led the press to question the character of one of my principal attorneys, Karen Plants. She is known throughout the criminal justice system as a lawyer of high integrity and competence."

Both alleged drug dealers involved in the case -- which involved 47 kilos of cocaine -- eventually pleaded guilty during retrials held after the perjury was uncovered. Those guilty pleas, argued Worthy, "vindicated" Plants.

"Even though this matter got ugly at times, the truth has prevailed, as I knew it would, and once again, justice has been served."

That's not the way lawyer David L. Moffitt of Bingham Farms saw it. As the attorney for one of the alleged dealers, Moffitt called for the appointment of a special prosecutor to investigate the perjury allegations. He also filed complaints with the Judicial Tenure Commission regarding Waterstone and the Attorney Grievance Commission over Plants' actions. The JTC, meeting in secret last year, apparently took no action against Waterstone, says Moffitt.

But the Attorney Grievance Commission on March 28 -- just four days after Worthy's stirring speech regarding the sanctity of truthful testimony -- issued a formal complaint against Plants. Among other things, the commission accuses Plants of deliberately "misleading" the jury in order to bolster the credibility of a witness who -- with the help of the judge, police and Plants -- was concealing the fact that he was actually the confidential informant, and that he stood to gain financially by getting a share of the assets seized from the accused.

The Attorney Disciplinary Board will hold a hearing on the matter May 19. Attorney **Kenneth M. Mogill**, who represents Plants, says his client acted appropriately: "By bringing this matter to the attention of the judge, she discharged her responsibilities. Neither Ms. Plants nor her office condones perjury. And while the charges here are obviously sensational, the evidence is going to show that Ms. Plants was in compliance with her legal and ethical obligations."

Obviously the Attorney Grievance Commission disagrees. So does Moffitt, who says that he's preparing to file a complaint with the commission regarding Worthy's handling of the situation.

Moffitt's client **Alexander Aceval** is appealing after accepting a 10- to 15-year prison sentence in a plea deal during his second trial after the first ended with a hung jury. Three weeks ago, the Michigan Supreme Court sent the case back to the appeals court, which is being asked to decide whether the perjured testimony has made it impossible for Aceval to receive a fair trial.

As for the special prosecutor Moffitt sought two years ago -- that desire has finally been fulfilled. Worthy last week asked for one to be appointed to investigate the matter. She also suspended Plants with pay. In a printed statement, the prosecutor also said she believes that Plants followed the appropriate guidelines by notifying the judge about the perjured testimony.

In her press conference announcing the charges being brought against Kilpatrick, Worthy made note of the fact that no one is above the law. We made that same point when first writing about Plants almost two years ago.

Here's what we said at the time:

"Judges and prosecutors swear to uphold the law. Our legal system is based on the belief they will do just that. If they don't, and are allowed to get away with it, the compact that holds things together falls apart. Which is why prosecution is essential if they appear to have committed a crime, just like any other alleged felon.

"Otherwise, where is the deterrent?"

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