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Probe of ex-star drugs prosecutor stalls

Misconduct and perjury charges bounced to Cox

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The high-flying career of Karen Plants, once Wayne County's star drug prosecutor, fell in a blazing spectacle last spring amid allegations she allowed police to offer perjured testimony in a 2005 cocaine case.

But since then, a criminal probe into Plants' conduct has all but disappeared from view, as one county prosecutor after another refused the assignment before the matter finally landed in June with the state Attorney General's Office.

Nearly 11 months later -- a period during which Plants was accused of professional misconduct by state legal officials; suspended from her job, first with pay then without, and eventually retired -- the criminal probe remains pending. Attorney General Mike Cox said a decision on possible criminal charges is still a month or more away.

"This case is very important to public policy and the administration of justice," Cox said last week.

- **PDF:** http://www.freep.com/uploads/pdfs/2009/02/0222_plants_charges.pdf target="_blank">Read the charges from the Attorney Grievance Commission against Karen Plants
- **PDF:** http://www.freep.com/uploads/pdfs/2009/02/0222_plants_affirm.pdf target="_blank">Read the court of appeals documents | http://www.freep.com/uploads/pdfs/2009/02/0222_plants_concur.pdf target="_blank">2

As the perjury investigation continues, the Plants controversy has proved delicate for her former boss, Wayne County Prosecutor Kym Worthy, who praised Plants' service to her office last March as Worthy was aggressively pursuing perjury charges against then-Detroit Mayor Kwame Kilpatrick.

Worthy declined to comment for this article.

Legal scholars and trial-hardened attorneys around Detroit and the nation expressed astonishment at allegations that Plants -- a 17-year veteran and chief of major drug prosecutions -- not only allowed cops and an undercover informant to lie repeatedly under oath in the 2005 case, but got a circuit court judge to go along.

In the 2005 cocaine prosecution, Inkster police Sgt. Scott Rehtzigel and star witness Chad Povish testified that Povish had had no prior contact with Inkster police. In fact, Povish was a paid police informant who tipped off police about a major cocaine shipment in which two men were arrested. Jurors hearing the cases didn't learn of Povish's real role. Nor did defense lawyers. But Plants, the prosecutor, privately told the trial judge, Mary Waterstone, who has since retired.

The lies were rationalized, according to transcripts of private meetings between Plants and Waterstone, as necessary to conceal Povish's role.

Defendant Alexander Aceval's first trial ended with a hung jury. The second defendant, Ricardo Pena, was convicted. That conviction was later withdrawn when prosecutors acknowledged the false testimony. Pena eventually pleaded guilty.

Defense lawyer James Feinberg, who represented Aceval, criticized Worthy for not taking decisive action against Plants when the false testimony first came to light in 2006.

"There was no excuse for that," Feinberg said.

The Inkster officers could not be reached. Waterstone declined to comment.

Whether Plants, or anyone else, will face criminal charges remains unsettled even as a recent Court of Appeals opinion said "both the trial court and the prosecutor's conduct was plainly reprehensible."

Plants' lawyer Kenneth Mogill said he's in the dark about Cox's intentions. "We've heard nothing, nothing, nothing at all," Mogill said.

Feinberg said he was interviewed Tuesday by the Attorney General's Office and told he was he was one of the last witnesses to be questioned.

Maria Miller, spokeswoman for the Wayne County Prosecutor's Office, said her office has cooperated with the investigation.

Cox declined to discuss details of his investigation, but said it is nearing an end: "This is not your run-of-the-mill, read-the-file-bring-the-charges case," he said. "But we do expect it to be concluded soon - - maybe in a month or so."

The investigation sputtered from the beginning. Four county prosecutor's offices turned down the probe before Cox took it on in June. The assistant attorney general on the case, William Rollstin, had a monthlong murder trial in Grand Rapids and oversaw a major undercover sting operation.

Bennett Gershman, a professor at Pace Law School in suburban New York and an expert on prosecutorial misconduct, said such cases are tough. "Prosecutors and police are the good guys, and that's a tough problem when trying to convict them of wrongdoing," he said.

In Detroit, attorney Thomas Cranmer, who has prosecuted and defended official corruption cases, said the trial can be "role reversals. You may have police, or agents or officials who are (usually) seen as the white hats."

Popular culture with TV programs like "24" can influence jurors, he added, with stories where government "rule-breaking is not just condoned, but actually glamorized."

Law professor Kevin McMunigal of Case Western Reserve in Cleveland, an expert on legal ethics, said not all lying is out of bounds: "We do permit police to lie all the time. Otherwise, they couldn't do undercover investigations of drug gangs or terrorists. But we have to draw the line when we get to court."

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