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## **PROSECUTOR CHARGES MAYOR AND FORMER CHIEF OF STAFF**

### ***56 Day Investigation Yields 12-Count Felony Complaint***

Prosecutor Kym L. Worthy announced multiple felony charges against Detroit Mayor Kwame M. Kilpatrick, 37 and his former Chief of Staff, Christine Beatty, 37 of Detroit. The charges are the result of a 56 day investigation by the Wayne County Prosecutor's Office that began on January 25, 2008. The investigation was initiated after the Detroit Free Press revealed that text messages supported allegations that Kilpatrick and Beatty lied under oath about their intimate relationship during the whistleblower trial brought by former Deputy Police Chief Gary Brown and Detroit Police Officer Harold Nelthorpe.

#### **Charges Against Kwame M. Kilpatrick**

(See Attachment A, Description of Charges)

Prosecutor Worthy has charged Kilpatrick with 8 felony counts:

- Count 1, Conspiracy to Commit Obstruction of Justice, which carries a maximum penalty of 5 years in prison (MCL 750.157-A.)
- Count 2, Obstruction of Justice, which carries a maximum penalty of 5 years in prison (MCL 750.505-A.)

- Count 3, Misconduct in Office, which carries a maximum penalty of 5 years in prison (MCL 750.505-C.)
- Count 4, Misconduct in Office, which carries a maximum penalty of 5 years in prison (MCL 750.505-C.)
- Count 5, Perjury – Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 6, Perjury – Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 9, Perjury – Other than Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 10, Perjury – Other than Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)

### **Charges Against Christine Beatty**

(See Attachment A, Description of Charges)

Prosecutor Worthy has charged Beatty with 7 felony counts:

- Count 1, Conspiracy to Commit Obstruction of Justice, which carries a maximum penalty of 5 years in prison (MCL 750.157-A.)
- Count 2, Obstruction of Justice, which carries a maximum penalty of 5 years in prison (MCL 750.505-A.)
- Count 3, Misconduct in Office, which carries a maximum penalty of 5 years in prison (MCL 750.505-C.)
- Count 7, Perjury – Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 8, Perjury – Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 11, Perjury – Other than Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)
- Count 12, Perjury – Other than Court Proceeding, which carries a maximum penalty of 15 years in prison (MCL 750.442-B.)

**Comments of Prosecutor Worthy Regarding Investigation and Charges**

(See Attachment B, Statement of Prosecutor)

**Wayne County Prosecutor's Office Trial Team**

(See Attachment B, page 4 under "Trial Team")

Prosecutor Worthy has assigned this case to highly skilled and experienced members of her staff, including: Assistant Prosecutors Lisa Lindsey, Robert Moran, Athina Siringas, and Robert Spada; Tim Baughman, Chief of Research and Appeals; James Bivens, Chief of Investigations.

**Arraignment**

On the morning of March 25, 2008 by 7:00 a.m., Kilpatrick and Beatty will surrender themselves for processing and are expected to be arraigned at the 36<sup>th</sup> District Court, 421 Madison Avenue, Detroit, MI on the same day.

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**CHARGES AGAINST KWAME M. KILPATRICK AND CHRISTINE BEATTY**

**Count 1: Conspiracy to Obstruct Justice (Both Defendants)**

Did unlawfully conspire, combine, confederate and agree together with each other and others to commit the following listed offense: Obstruction of Justice, contrary to MCL 750.157a, punishable by a maximum penalty of 5 years in prison.

**Count 2: Obstruction of Justice (Both Defendants)**

Did commit the crime of obstruction of justice by firing Gary Brown to willfully and corruptly hamper, obstruct and/or interfere with a criminal investigation and/or commit perjury to hide the firing of Gary Brown and/or the relationship between Christine Beatty and Mayor Kilpatrick, contrary to MCL 750.505, punishable by a maximum penalty of 5 years in prison.

**Count 3: Misconduct in Office (Both Defendants)**

Did commit misconduct in office, an indictable offense at common law, by firing Gary Brown to willfully and corruptly hamper obstruct and/or interfere with a criminal investigation of Mayor Kilpatrick's personal conduct/or EPU conduct and/or committing perjury to hide the firing and the true nature of their relationship, contrary to MCL 750.505, punishable by a maximum penalty of 5 years in prison.

**Count 4: Misconduct in Office (Kwame M. Kilpatrick)**

Did commit misconduct in office, an indictable offense at common law, as the Mayor for the City of Detroit, by authorizing the City of Detroit to enter into an 8.4 million dollar settlement of the Gary Brown/Nelthorpe and Harris litigations with the corrupt motive of preventing the release of text messages or other information evidencing that Mayor Kilpatrick and his Chief of Staff Christine Beatty lied under oath, contrary to MCL 750.505, punishable by a maximum penalty of 5 years in prison.

**Count 5: Perjury - Court Proceeding (Kwame M. Kilpatrick)**

Did, being lawfully required to depose the truth as a witness in a jury trial, a court proceeding in the case of *Gary Brown and Harold Nelthorpe v. Kwame M. Kilpatrick and City of Detroit*, Case No. 03-317557-NZ, the case being a civil lawsuit before the Honorable Michael J. Callahan, for the 3<sup>rd</sup> Circuit Court for Wayne County, on August 29, 2007, commit perjury by: testifying he did not fire Gary Brown; and/or testifying that he did not know Gary Brown was investigating him or the Manoogian Mansion Party prior to his "un-appointment" ; and/or testifying falsely as to other circumstances surrounding the termination of Gary Brown including the reasons for the termination and how and why the decision was made, contrary to MCL 750.442-B, punishable by a maximum penalty of 15 years in prison.

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### **Count 6: Perjury - Court Proceeding (Kwame M. Kilpatrick)**

Did, being lawfully required to depose the truth as a witness in a jury trial, a court proceeding in the case of *Gary Brown and Harold Nelthorpe v. Kwame M. Kilpatrick and City of Detroit*, Case No. 03-317557-NZ, the case being a civil lawsuit before the Honorable Michael J. Callahan, for the 3<sup>rd</sup> Circuit Court for Wayne County, on August 29, 2007, commit perjury by testifying he did not have a romantic or sexual relationship with Christine Beatty, contrary to MCL 750.442-B, punishable by a maximum penalty of 15 years in prison.

### **Count 7: Perjury - Court Proceeding (Christine Beatty)**

Did, being lawfully required to depose the truth as a witness in a jury trial, a court proceeding in the case of *Gary Brown and Harold Nelthorpe v. Kwame M. Kilpatrick and City of Detroit*, Case No. 03-317557-NZ, the case being a civil lawsuit before the Honorable Michael J. Callahan, for the 3<sup>rd</sup> Circuit Court for Wayne County, on August 28, 2007, commit perjury by: testifying Gary Brown was not fired; and/or testifying that she did not know Gary Brown was investigating Kwame M. Kilpatrick or or the Manoogian Mansion Party prior to his “un-appointment” ; and/or testifying falsely as to other circumstances surrounding the termination of Gary Brown including the reasons for the termination and how and why the decision was made, contrary to MCL 750.442-B, punishable by a maximum penalty of 15 years in prison.

### **Count 8: Perjury - Court Proceeding (Christine Beatty)**

Did, being lawfully required to depose the truth as a witness in a jury trial, a court proceeding in the case of *Gary Brown and Harold Nelthorpe v. Kwame M. Kilpatrick and City of Detroit*, Case No. 03-317557-NZ, the case being a civil lawsuit before the Honorable Michael J. Callahan, for the 3<sup>rd</sup> Circuit Court for Wayne County, on August 28, 2007, commit perjury by testifying that she did not have a romantic or sexual relationship with Mayor Kilpatrick and that she did not use her Sky-Tel communication device to send or receive messages of a personal or sexual nature to Mayor Kilpatrick, contrary to MCL 750.442-B, punishable by a maximum penalty of 15 years in prison.

### **Count 9: Perjury - Other than Court Proceeding (Kwame M. Kilpatrick)**

Did, being a person of whom an oath was required by law, willfully swear falsely before Sheila D. Rice, a Notary Public within the County of Wayne, on June 26, 2003 as to the circumstances surrounding the “un-appointment” of Gary Brown, contrary to MCL 750.423, punishable by a maximum penalty of 15 years in prison.

### **Count 10: Perjury- Other than Court Proceeding (Kwame M. Kilpatrick)**

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Did, being a person of whom an oath was required by law, willfully swear falsely before Sheila D. Rice, a Notary Public within the County of Wayne, on October 11, 2004 as to the circumstances surrounding the “un-appointment” of Gary Brown, contrary to MCL 750.423, punishable by a maximum penalty of 15 years in prison.

### **Count 11: Perjury - Other than Court Proceeding (Christine Beatty)**

Did, being a person of whom an oath was required by law, willfully swear falsely before Sheila D. Rice, a Notary Public within the County of Wayne, on December 9, 2003 that she did not know Gary Brown was investigating the Manoogian Mansion party prior to his un-appointment and /or other circumstances surrounding the termination of Gary Brown, contrary to MCL 750.423, punishable by a maximum penalty of 15 years in prison.

### **Count 12: Perjury - Other than Court Proceeding (Christine Beatty)**

Did, being a person of whom an oath was required by law, willfully swear falsely before Sheila D. Rice, a Notary Public within the County of Wayne, on December 9, 2003 that she was not aware of the Mayor’s philandering, contrary to MCL 750.423, punishable by a maximum penalty of 15 years in prison.

**COMMENTS OF PROSECUTOR KYM L. WORTHY**

59 days ago I told you that the Wayne County Prosecutors Office would conduct a fair and impartial investigation and that we would not be rushed and that only the facts and evidence would lead us.

This is just what we have done. For the men and women in this office, doing things right trumps doing things fast and easy every time. We serve you with independent thought – unbossered and unbought. We have taken orders and instruction from no one. The only body that has told us what to do is the body of the law. We started with clean slates and open minds. We have been careful, deliberate, thoughtful and analytical. Our decision is well reasoned, supported by the evidence, and autonomous.

We reviewed over 40,000 pages of documents that we obtained, talked to many witnesses and put in countless hours. In criminal investigations, one does not simply obtain documents and charge. Real life investigation is very different from a 44-minute legal drama on television.

There have been some obstacles in our way in this investigation - obstacles that have caused delays. I have no problem whatsoever with zealous advocacy. But during an investigation, there are also rules that must be followed and I have no tolerance for deliberate obstruction. I have not said anything about reasons for any delay but now I am going to set the record straight since it came down to a public hearing this morning because of the machinations of the City of Detroit. At every bend and turn there have been attempts by the City through one lawyer or another to block aspects our investigation.

We have had to file Motions to Compel Production of Records; we have had to appear in Circuit Court, respond in the Court of Appeals, and last Friday we had to file paperwork in the Michigan Supreme Court in an attempt to fight to get documents that we subpoenaed on January 31<sup>st</sup> that still have not been turned over. Some of the documents have been turned over, but we have been told that others have been destroyed or lost. We don't know when or by whom.

Since it became clear to me that the City, through its lawyers, would continue to try to drag their feet and drag our investigation out forever, I made the decision that we would complete our perjury investigation as it relates to Mayor Kilpatrick and Christine Beatty and make that announcement today. Our investigation has led to other potential defendants so we will continue our investigation into their activities.

Let me be very clear. This was not an investigation focused on lying about sex. Gary Brown's, Harold Nelthorpe's and Walter Harris's lives and careers were

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forever changed. They were ruined financially and their reputations were completely destroyed because they chose to be dutiful police officers. The public trust was violated. This investigation is about whether public dollars were used unlawfully -and more.

This investigation started because of the Detroit Free Press article on the text messages. The importance of an independent press is vital to our society. But prosecutors are unique – our duties are unique. We have to examine potential evidence from every perspective – upside down, inside out and sideways. We are the ones that have to walk into court and prove all charged cases beyond a reasonable doubt. And we also have to make sure that every defendant receives due process.

In my view, the American system of justice is the best in the world. It is certainly not perfect because the people within it are not perfect. But we try every day to make it work.

We ask a lot of all of the participants in the justice system – we ask a lot of our judges, our jurors, our defense attorneys, the police, courtroom personnel, certainly the prosecutors – but especially our witnesses.

It doesn't matter if it is a criminal or civil case – witnesses are the backbone, heart, core, soul and center of the justice system. Without witnesses the American system of justice would totally collapse. Without witnesses we have nothing, justice means nothing and we can do nothing for anyone. Crime would be rampant as no one would ever be responsible for anything and no civil suit of any kind would stand resolved.

Witnesses must give truthful testimony. And we have to demand that they do. That is why they must take an oath. There are variations on courtroom oaths but basically an oath says:

I do solemnly swear or affirm that the testimony that I am about to give in this matter is the truth, the whole truth and nothing but the truth.

The oath does not say:

I do solemnly swear or affirm that the testimony I am about to give in this matter will be some of the truth, when it suits me, some of the time and anything but the whole truth

Oaths mean something. 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 when new citizens take the oath of

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citizenship; they matter when doctors take the Hippocratic Oath; they matter when anyone swears before a notary public. They must matter and that is 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.

You know the fundamental principles of the justice system are fairly simple – they aren't hard. We learned them all as children:

- Tell the truth
- Take responsibility for your actions
- Admit when you are wrong
- Be fair and play fair
- Don't take or use things that aren't yours
- There are consequences for bad behavior

Even children understand that lying is wrong. If a witness lies, innocent people can go to jail or prison, people can literally get away with murder, civil litigants who deserve money may not get it or may get money they don't deserve. And lying cannot be tolerated even if a judge or jury sees through it.

We ask witnesses to come in and risk their lives in drive-by shooting cases and then return to the neighborhoods they came from; we ask witnesses to testify against multi-national corporations; we ask witnesses to do all kinds of things to support our cases.

How can we look another witness in the eye and ask them to come in and do these things if we do not follow the law for witnesses who lie under oath – even if they are parties to lawsuits – and demand that these witnesses follow the law and give truthful testimony? No matter what a particular witness's stature may be.

Some have suggested that the issues before us are personal or private. Our investigation has clearly shown that public dollars were used, people's lives were ruined, the justice system was severely mocked, and the public trust trampled on. This case is about as far from being a private matter as one can get.

Honesty and integrity in the justice system is everything. That is what this decision is about.

Just when did honesty, integrity, truth and honor become traits to be mocked or downplayed or ignored or laughed at or excuses made for them? When did telling the truth become a supporting player to everything else?

The Roman Goddess of Justice is the idealization of the moral force that underlies the legal system. She is most often depicted with a set of weighing scales typically suspended from her left hand upon which she measures the

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strengths of a case's support and opposition. She is also often seen carrying a double-edged sword in her right hand, symbolizing the power of Reason and Justice, which may be wielded either for or against any party.

She is almost always draped in flowing robes, symbolizing the fair and equal administration of the law without corruption, avarice, prejudice, or favor.

The blindfold she wears does not mean that we turn a blind eye or give a wink and a nod to crimes committed, no matter how inconsequential they may seem to some, by a person who has means, political power, a name or influence. If that is done, the process is not fair or impartial. Lady Justice wears a blindfold to indicate that justice should be meted out objectively, without fear or favor, regardless of the identity or power of the accused.

President Theodore Roosevelt once said, "No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor."

### **IN THIS CASE WE ASKED:**

1. Can we charge perjury? Yes.
2. Are there other crimes or offenses that we can charge beside perjury? Yes.
3. Should we charge? Yes.

### **THE CHARGES:**

(See Attachment A)

### **THE PROSECUTION TEAM:**

I have assembled a team of excellent trial prosecutors to handle this unique case.

Lisa Lindsey – is a Lead Attorney and is specially assigned to me to try high profile and complex cases. She has been trying criminal cases for 21 years

Robert Moran – is the Principal Attorney in charge of the Homicide Unit and one of the most brilliant legal and trial strategists in my office. He has been trying cases for 15 years

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Athina Siringas – is a member of the Homicide Unit, tried civil cases for 17 years and has been with this office for seven years

Robert Spada – is the Principal Attorney in our Forfeiture Unit and has been trying criminal and civil asset forfeiture for 17 years

I also want to thank my Chief of Research and Appeals, Mr. Timothy Baughman, for his invaluable work on this case and my Chief of Investigations, James Bivens, and his team for all of their work.

This is a very sad day for the City of Detroit, the County of Wayne and for the State of Michigan. We certainly take no joy or pleasure in this. But it would be much sadder still if true justice were ignored.

### **PROCESSING OF KILPATRICK AND BEATTY**

When defendants are not in custody and the identity of their lawyers are known to the prosecution, it is our procedure to contact their attorneys and inform them of pending criminal charges. I have spoken briefly to the lawyers for Mayor Kilpatrick and former Chief of Staff, Christine Beatty. I indicated to them that we were charging their clients and that I fully expect Mayor Kilpatrick and Ms. Beatty to turn themselves in no later than 7:00 a.m. tomorrow morning.