

"IT WAS THE OFFICE JOKE"

DATELINE: **Los Angeles**

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A "joke" - that's how county prosecutor Michael Kraut described the way the District Attorney's Office handled his early warnings about dirty cop Rafael Perez, the central figure in the worst police corruption scandal in city history.

During an interview in August with an LAPD detective, a well-informed source said Kraut expressed frustration about his inability to get senior prosecutors to act on his suspicions about Perez. "It was the office joke," Kraut told investigators, alluding to his written warnings about the dirty cop in the summer of 1997.

The source said Kraut told the investigator he was particularly upset when his boss, Head Deputy District Attorney Richard Sullivan, failed to follow up on his note questioning Perez's honesty in the second of two cases. "It (the note) sat on his desk for a year," Kraut told a Los Angeles Police Department detective, the source said.

Kraut's words give the clearest picture yet of his view about the importance of his warnings, how they were ignored and how he was rebuked by his supervisors.

On Wednesday, District Attorney's Office spokeswoman Sandi Gibbons dismissed applying any significance to Kraut's statements. She pointedly noted that the second case Kraut spotted was handled by another prosecutor and was not his responsibility.

"Mr. Kraut chose to involve himself in a case that wasn't his," Gibbons said. "The facts did not bear out his feelings . . . It wasn't his case."

Police Chief Bernard C. Parks has a very different view of Kraut's warnings, insisting that if LAPD officials had been notified immediately, rather than in 1998, Perez would have been taken off the streets and many of the crimes alleged against Rampart Division anti-gang officers might not have occurred.

Despite the repeated warnings, the District Attorney's Office failed to officially notify the LAPD about the prosecutor's concerns in 1997 or even to warn other prosecutors that Perez was suspected of being dishonest.

During the year prosecutors held onto the information, Perez framed at least 17 people and stole nearly \$1 million in cocaine from an LAPD evidence room. He has told investigators he and other cops shot at least one unarmed man, beat other suspects, and routinely committed perjury to send innocent people to prison between 1995 and 1998.

Sources in the District Attorney's Office and LAPD agree that Kraut's first warning about

Perez was not conclusive enough to have fingered the dirty cop.

But LAPD sources argue that when that warning is combined with another botched case that includes concerns about the same cop from the same prosecutor, the warnings become more of a smoking gun than a red herring.

Kraut, who could not be reached for comment, has consistently declined requests for interviews, citing the corruption task force's ongoing probe and a concurrent internal investigation by the District Attorney's Office into his attempts to notify senior prosecutors about Perez.

Kraut's first attempt to sound the alarm, widely referred to as the Kraut memo, came in June 1997 after he was forced to ask a judge to dismiss drug charges against a defendant.

During an Aug. 12, 1999, interview with an LAPD detective, sources said, Kraut explained that he asked for the case to be kicked out because he had serious questions about Perez's testimony during the trial.

In sworn statements to LAPD investigators in September, Perez confirmed Kraut was right, but for the wrong reasons. According to Perez, Kraut believed he was lying about who his partner was on the day he arrested Ubaldo Gutierrez. That wasn't the case, Perez said. He was lying about so much more.

All of the charges against Gutierrez were bogus. Perez, who agreed to become an informant after hashing out a plea bargain, told investigators he planted the drugs on Gutierrez. The dirty cop added that his relationship with prosecutors resembled a "pissing match."

Second attempt made

The existence of the Kraut memo has been widely reported for months. What wasn't known, until the Daily News article Sunday, was that Kraut made a second attempt to draw his boss's attention to Perez only weeks later. In his talk with the detective, sources said, Kraut detailed that second attempt.

The case that grabbed Kraut's attention this time had been handled by another prosecutor, Deputy District Attorney Janis Johnson.

Just as with Gutierrez, drug charges against a defendant, Victor Perez, had to be dropped because of a police foul-up. Officer Perez, no relation to the defendant, and his partner, Nino Durden, told the prosecutor they could not find the drugs confiscated during the arrest. The failed prosecution took place less than two weeks after which Gutierrez was allowed to walk.

A short time later, Kraut said he reviewed the Victor Perez case and noticed Officer Perez was involved. To check up on the cop, Kraut called over to the police evidence room to

see whether the drugs seized during the arrest were on hand. He was told the narcotics were never missing, a source said.

Unlike the Gutierrez case, Kraut did not write an official memo or disposition report detailing his concerns. But, he told the detective, he placed a note on the Victor Perez file and gave it to his supervisor, Sullivan. Sullivan could not be reached Wednesday for comment.

Sally Thomas, director of central operations, is expected to complete the prosecutorial office's internal review of Kraut's warnings by early next week.

Following the Daily News' Sunday article on Kraut's warnings, the District Attorney's Office agreed to give the LAPD a copy of the Kraut memo, but insisted that no other memo or note related to the Victor Perez case could be found or existed to its knowledge. Conclusions lack support

An official statement released by the District Attorney's Office earlier this week concluded that the internal review of the Gutierrez file and the court transcript "does not support Mr. Kraut's conclusions, and does not support the contention that this case would have led to an earlier prosecution of Officer Perez."

The statement also noted that Kraut "personally informed" Officer Perez's supervisor about his concerns about the Gutierrez case and that the supervisor, a detective at the Rampart station, said he agreed with the decision to dismiss the charges.

The statement did not address why the District Attorney's Office failed to immediately tell LAPD brass, the Internal Affairs unit, or even its own prosecutors about Kraut's concerns in case Perez was a key witness in the future, which he would be.

The statement also ignored the Victor Perez case, which remains under investigation.

There are no audiotapes of Kraut's interview with Castillo. Sources said Kraut declined to be tape-recorded and police were not permitted to conduct formal interviews with the prosecutor or his supervisors. But the District Attorney's Office has promised to make Kraut available to police for further interviews.

To date, no one has issued a subpoena to Kraut, which would compel him to tell his story under oath.

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