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Broward defender, prosecutor in feud over evidence

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Broward's public defender has leveled a broadside against State Attorney Mike Satz's office, saying his prosecutors systematically sit on evidence favorable to defendants, cover up for bad cops and use a double standard of justice that favors the wealthy and influential.

In a strongly worded letter to Satz on Tuesday, Public Defender Howard Finkelstein said he has come ``to the inescapable conclusion that the State Attorney's Office, either through neglect or by design, has been non-compliant with its obligation to disclose favorable evidence to criminal defendants."

In an interview Thursday, Satz flatly rejected Finkelstein's accusations.

``We're offended by this," Satz said. ``It's insulting to everybody who works here."

In a terse written response, Broward's top prosecutor called Finkelstein's conclusions misguided, and rejected as ``false and irresponsible" the charge that his office gives gentler treatment to the rich and well-connected.

The root of the clash between the two powerful and veteran elected officials: the legal requirement that prosecutors share with defense lawyers any evidence or information that might help the accused.

DEFENSE LAWYERS

In this quarrel, the Broward Association of Criminal Defense Lawyers has sided with Finkelstein, and wrote Satz on Thursday accusing him of a ``cavalier approach" in deciding what information might be useful to defense attorneys.

``It should not be up to your office to make an independent determination," the defense lawyers said in their letter.

But that is how prosecutors commonly do it, said Stephanos Bibas, a professor of law and criminology at the University of Pennsylvania Law School, who has written legal papers on the issue.

``It's common, indeed the norm, that the individual prosecutor on each case ends up looking through the file and deciding for himself or herself which information is favorable to the defendant and material important enough to turn over," Bibas said.

Bibas said he understood Finkelstein's anger, but added that his ``adversarial" approach might be ``counterproductive' to bringing meaningful change.

The dispute began in September when one of Satz's prosecutors gave the Public Defender's Office a list of about 30 police officers who were, or had been, under investigation.

Finkelstein claimed that his office, which provides legal representation to the indigent, had never been notified about those investigations, and that the information might have benefited his clients.

But he added that his staff had not kept track of all the notifications it received from Satz's personnel.

Prosecutors conceded that some cases ``may have fallen through the cracks." But since last fall, Satz said, his office has automated its system so that prosecutors no longer decide what information might be of use to defense lawyers and instead hand over everything they have learned.

WHAT ABOUT PAST?

The current deluge of paper, Finkelstein said, has led him to conclude that prosecutors were holding back information before.

Despite the fuss, Satz said in his interview, Finkelstein has failed to come up with a single case that has suffered because of information supposedly withheld by prosecutors.

Satz especially balked at Finkelstein's claims that his office shields misbehaving cops or employs a two-tiered justice system.

Satz's policy when he is filing charges against a defendant, he said, has always been ``to do the right thing for the right reason."