

Jeff Bray's responses

BACKGROUND For #1– Right now there are 3 attorneys per misdemeanor court (1 chief, 2 others), and 1 Misdemeanor chief over it all. There are 3 “teams” of attorneys for District Courts. I believe there are 3 attorneys staffing 3 courts on one team, and 2 attorneys staffing 2 courts on the other team. Additionally, there are 4 attorneys in the crimes against children section, 6 in “special crimes” (civil and criminal), 5 in appeals, and 3 in Juvenile. (These numbers might be slightly off, but are generally correct.)

1. What do you think about the current structure/staffing of the ADAs? Would you shift attorneys around?

I have worked in three different DA's offices, some with mixed jurisdiction courts and some with dedicated criminal courts. I was a prosecutor for eleven years and triad at least 100 felony jury trials. I have worked in every section in teh D.A's office, and can step in and do any job. I am therefore in a great position to evaluate the staffing levels and the prosecutors.

I was with the Collin County DA's office for three years, and served as a general trial prosecutor and in the criminal Special Crimes division. I believe that the trial team concept is appropriate for the court structure we now have, but I believe an optimal ratio is three prosecutors for two courts. This allows two prosecutors to be occupied with a trial and one prosecutor who is familiar with the court's policies and personnel and generally familiar with the docket to handle the team's other responsibilities. Four prosecutors for three courts is too big, both too many prosecutors and too many courts, and three prosecutors for three courts is insufficient.

This is why if I am elected I will take over the special crimes division. The 296th District Court, which currently cannot hear criminal cases due the father/son relationship of it's judge and the current district attorney, will come back online. To keep my ratio of three prosecutors per two courts, we will need another trial team. The special crimes division is the only division that a district attorney could conceivable run while keeping up with their duties as D.A. I have extensive experience in these kinds of cases, both in the Dallas County Specialized Crime division and in the Collin County Special Crimes division. I would take one attorney from the special crimes division and the floating attorney to round out the trial team. This would save the county at least \$150,000. Mr. Angelino willll have the same staffing problem as I, but Mr. Willis will not. His wife is a district judge, so that court will be unable to hear criminal cases, and his prospective first assistant, David Waddill, is married to a misdemeanor judge, meaning that court will be unable to hear criminal cases as well.

2. What do you think about the criminal special crimes section? Would you make changes in that section, and if so, specifically how?

In addition to taking over the Special Crimes division, I will change it's orientation and responsibilities. It is supposed to be a white collar crime section, but it seems to have drifted over the years to a major fraud/catch-all division. It has also caused quite a bit of controversy. The Specialized Crime division of the Dallas County D.A.'s office handles all felony white collar crime cases, starting with a loss value of \$1500. These cases, and these victims, need an experienced white collar prosecutor just as much as the large cases, but the Collin County Special Crimes division only handles cases with a loss of at least \$20,000, and even then sends many eligible cases to the trial teams for prosecution after they are indicted. Unless a case goes through the standard intake process, it should be tried by the prosecutor that prepared it. I believe this division will be able to handle the cases that need special crimes attention even though we would be giving up a prosecutor to the new trial team. The section may also handle the same type of "special" cases it has handled in the past, including investigations of local attorneys and officials, but these will either be handled by me or under my direct supervision. If there is any negative impact from one of these investigations or prosecutions, I will be directly responsible and answerable to the involved parties, the press, and the voters.

Further, as a former special prosecutor for a neighboring county, I will not hesitate to call in a prosecutor from another office to take over an investigation if my office could be perceived as having an improper bias.

3. Will you get in the courtroom and actually try cases? Why or Why Not?

Again, I will take charge of the Special Crimes division. This will likely entail a trial or two per year, and I will likely try other cases, or at least pick juries. I have not been in the courtroom for three years, not since I left the Collin County D.A.'s office to become the senior legal advisor to the officers of the Plano Police Department. I was a very good trial prosecutor, and was honored to teach other prosecutors for the National District Attorney's Association. I plan to greatly increase the trial techniques training for attorneys in the D.A.'s office, and you cannot be an effective teacher if you cannot practice what you teach. If I say this is how you perform voir dire or this is how you conduct cross examination, I should be able to demonstrate that technique in court.

In addition, I like trying cases. I imagine Mr. Angelino also likes trying cases, as he has tried quite a few felonies. I do not know whether Mr. Willis enjoys trying cases, as every time I have asked him how many felony cases he has tried he has either evaded the question, said that "the D.A. does not try cases" or said something similar to "trying cases is not hard, it's like having a baby, you only need to have one to know how it goes". I presume from this reaction that Mr. Willis has never tried a felony case, and would be a bit uncomfortable telling the fifty prosecutors that report to him how to do their job. He may also be uncomfortable dealing with any first or second degree felonies, since to be allowed to represent an indigent defendant accused of this degree of crime, according to the district judges of Collin County, you must have at least four felony jury trials to your credit. He can speak to this issue better than I.

4. In general, what changes would you be making if you became District Attorney?

The most noticeable changes would be twofold: 1) better communication and cooperation with the police, and 2) more authority for the trial court chiefs. I have spent the last three years serving as a liason between frustrated police officers that do not understand why a prosecutor has taken a certain action, and exasperated A.D.A.'s that cannot understand why an officer did what they did. I have also discovered that, while prosecutors think they know quite a bit about policing, they actually are exposed to only a small part of an officer's job. Many of the officers I've dealt with have a very good understanding of the law, and sometimes more experience in court then the prosecutor. They serve us well on the street and in the court room.

One of the most frustrating events for an officer is when a case they have submitted to the D.A.'s office is refused. I will make sure that if there is an intake policy for a certain kind of case, it is in writing and the police know about it. There is little more frustrating then putting a great deal of work into a case only to have it unexpectedly refused. We will also not shy away from tough cases. There is nothing dishonorable in losing a tough case. Some cases simply need to be prosecuted whether we have a good chance of conviction or not. As long as there is probable cause and we have an adequate chance of proving our case beyond a reasonable doubt, every case will receive due consideration.

I would also give the felony trial court chiefs more authority. They are all very experienced trial attorneys, and know what cases we can prove and what we cannot. To put it simply, I trust them, and stand ready to be held responsible for their decisions.

The same goes for minimum plea recommendations. These would likely be scaled back, but each prosecutor knows they are responsible for the deals they make, and can be asked about the reasons a certain deal was made at any time.

5. Right now, only three people in the District Attorney's office have authority to dismiss a case. The misdemeanor division chief for misdemeanor cases, the first assistant for felony cases, and of course, the elected District Attorney. What do you think of this policy? Would you allow misdemeanor court chiefs and or felony court chiefs to dismiss cases they feel should be dismissed?

It is hard to allow misdemeanor court chiefs to dismiss a case, as there have been times when, due to heavy turnover, the misdemeanor court chiefs actually did not have very much experience. It is possible that the misdemeanor division chief could delegate their authority to dismiss on an assistant by assistant basis. As discussed above, I would give trial team chiefs the authority to dismiss cases, and stand responsible for their actions. Like any business with employees worth their salt, I trust and respect them, and will show that trust and respect by giving them a great deal of authority.

6. Current DA John Roach recently proposed using funds to purchase weapons and body armor for the Investigators in the office. What do you plan on doing with these weapons, and will your investigators continue to train to be a emergency security staff for the court?

As senior legal advisor to the Plano Police Department for the last three years, I have worked extensively with use of force situations and tactical team legal considerations. Members of these teams undergo a great deal of training periodically throughout the year. They must train on operations as well as qualify on the weapons they use. If our investigators in the D.A.'s office could achieve and maintain this same level of training, then I would feel comfortable letting them operate as a planned response team. What is more likely is that our investigators would not take action unless the armed person is an "active shooter". All officers in the Plano Police Department are trained to deal with an active shooter, not just S.W.A.T. team members. We will not sit by why innocent civilians are shot. As soon as the S.W.A.T. team arrives, they take over.

If there is an active shooter in the courthouse, we will follow the active shooter plan that will be in place and take action, but once the sheriff's office is ready, we will turn the scene over to them. We cannot safely work with them unless we have trained extensively with them.

We will certainly keep the body armor, but likely will have no use for the heavy weapons. We will be very proficient, as I believe we currently are, in the use of our semi-automatic handguns.

7. Do you have any plans to expand or develop alternative/deferred sentencing programs? What programs have you seen or heard of that you would implement?

I am open to any program that may help defendants get out of the cycle that is too easy to fall into: get caught committing a crime, get found guilty, can't get a job, commit another crime, go to jail, get out, can't get a job, etc. I will not commit to any specific program until I know the specifics of it. I believe that my first responsibility as district attorney is to the law-abiding citizens of the community to keep them safe. If a defendant is a danger to the community, they need to be locked up. If there is a way to get them treatment or training in a confined setting, I am fully in favor of that. Given how hard it is to actually get sent to prison (it often takes at least two convictions unless the crime is a violent crime or drug dealing) it would seem that any "outpatient" treatment options should be examined during the process that led to the first conviction.

8. What lessons should the Collin County District Attorney learn (if any) from Dallas County's experience with their Innocence Commission?

We should keep in mind that the convictions that were found to be improper were the result of technology quite inferior to that now available, and often involving practices that were questionable even at the time. Advanced DNA and other scientific

testing is available to nearly every defendant that desires it, and law enforcement has a duty to preserve biological evidence.

What we cannot do is find a way to eliminate the circumstances that often led to these wrongful convictions, mainly one witness cases. It is the criminal that decides who witnesses them commit the crime and what evidence is left at the scene. We cannot as a society say that we will not prosecute one witness cases. As long as we prosecute one witness, or even multiple witness cases with no hard evidence, there is the chance that the witnesses might be mistaken. Most departments are adopting procedures that should reduce the possibility of faulty eyewitness identifications, such as showing suspect pictures one at a time, and making sure that the officer conducting the lineup does not know which of the pictures shows the person suspected of committing the crime.

9. Do you believe our indigents are well served and fairly treated in our "Indigent Defense Plans"? What changes to the plans might you recommend to the Board of Judges?

I believe that the newly enacted "Fair Defense Plan" adequately addresses the court systems' responsibility. It complies with newly enacted state law, imposes minimum experience requirements on attorneys who wish to represent indigent defendants (see answer to question three, above), and pays an adequate fee to attorneys who handle such cases. If there is a problem with the process or the fee schedule, I am certainly open to discussing it with any defense attorney that wishes to do so and going with them to address the Board of Judges if appropriate.

10. Would you bar defendants from open pleas before a judge if a plea agreement can not be reached, or would you reserve the right to object if you thought the judge might be more lenient than your plea offer was? Which level of prosecutors in the office would be allowed to make this decision?

I would not bar open pleas. Our office may enact internal policies of not doing open pleas in front of certain judges, just as a policy was enacted not allowing court trials to Mr. Willis when he was a misdemeanor judge because he was finding unquestionably guilty defendants innocent and finding good, hard working officers to be not believable.

I would let the individual prosecutor make the call on open pleas. New prosecutors will naturally go to a more experienced prosecutor when needed, knowing that they will be held responsible for their actions.