

## **Response of Greg Willis, Candidate for Collin County District Attorney**

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

I believe the present District Attorney's Office staffing matrix lacks a sufficient number of prosecutors in the individual courts. There are currently seven district courts hearing criminal cases. Staffing these courts with two permanently assigned assistant district attorneys will increase efficiency. A felony chief prosecutor will supervise two or three of these court teams depending on the respective caseloads for the individual courts. These changes will provide law enforcement and defense attorneys more access to prosecutors, as well as for more consistency in handling cases without the need for additional staff and connected growth in the budget. Additionally, I plan to implement a program of rotating misdemeanor prosecutors into the felony division before they are promoted to a chief's position within the Misdemeanor Division. These assignments will not only provide these prosecutors with felony trial experience, but also give them practical experience within the intake and grand jury sections. The benefits for implementing this specific program are many, not the least of which is providing better qualified and more experienced misdemeanor court chiefs to supervise and train new prosecutors who are responsible to handle misdemeanor cases in the Collin County Courts at Law.

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

I will refine the mission statement for this division and then staff it with only veteran prosecutors and criminal investigators who have real-world experience in the investigation and prosecution of complex white collar crimes, public integrity matters and organized crime. Among the crimes this unit will prosecute are complex theft and embezzlement cases, insurance and securities fraud, fraud against the state and local government, as well as public corruption, bribery, telemarketing and cyber crimes. Although my plan may result in fewer personnel assigned to Special Crimes (as we assign more prosecutors to the individual courts), we will see much closer coordination and cooperation between special crimes prosecutors and the felony chiefs. I believe that broadening our base of prosecutorial experience and building steadfast relationships with our local and state law enforcement partners will make up any deficit in the Special Crimes Division. Effectively combating this type of crime requires the collective and closely coordinated efforts of highly trained prosecutors and law enforcement officers that possess a vast reservoir of knowledge, experience and investigative prowess.

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

Tex. Gov't Code § 44.143 provides, in relevant part, that the

- (a) The criminal district attorney of Collin County shall attend each term and session of the district courts in Collin County held for the transaction of criminal business. He shall represent the state in all criminal and civil cases in the courts in the county unless otherwise provided by law.”
- (b) The criminal district attorney has all the powers, duties and privileges in Collin County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

It is my intention to strictly follow the law as it relates to the duties of the elected District Attorney, and consistent with my staffing plans, I do recognize that my primary obligation will be to oversee the assistant district attorneys who represent Collin County. However, as time permits, I do anticipate personally appearing in the courtroom as well as appearing at appellate arguments, as appropriate.

With respect to the specific question as to whether I will actually try cases, I have to be mindful of insuring that I am not disrupting my primary obligation of the efficient administration of justice in Collin County or giving my prosecutors the impression that I will systematically remove them from high profile cases.

All of that being said, the answer is yes, I do intend to get in the courtroom and try cases, as time permits. Please understand that it is my intention to hire only highly ethical and competent administrators and trial attorneys and until I have the Collin County District Attorneys' Office operating in the most efficient manner I can develop, I will not be in the courtroom trying cases. I view my role, in the administration of justice in Collin County, as ensuring that all of my staff strictly follows the mandate of Tex. Code Crim. Proc. Art. 2.01 so that all attorneys and staff in the Collin County District Attorney's Office recognize and embrace the tenet that our primary duty is not to convict, but to see that justice is done. If I choose and lead my co-workers wisely, my role in the administration of justice will be primarily one of supervision and ensuring strict compliance with the ethical administration of justice.

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

First is my commitment to make the just prosecution of criminal cases the number one priority of the Collin County District Attorney's Office. I will permanently assign prosecutors to the individual courts. Assistant district attorneys will take ownership of their cases as I implement a new protocol that not only gives each prosecutor more discretion over their individual cases, but also broadens the authority of chief prosecutors. My administration will work hard to build inter-agency relationships with law enforcement throughout Collin County to increase

our investigative and prosecution effectiveness. My administration will also create an on-call system, making veteran prosecutors available to Collin County law enforcement officers on a 24 hour / 7 days a week basis as we strive to make the pursuit of just results the guiding principle of the District Attorney's Office.

**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?**

I believe those individual assistant district attorneys assigned as court chiefs should have my support in the day-to-day operations of their courts. Those individuals must demonstrate integrity, professionalism and wisdom in order to justify occupying this very important role. Any prosecutor working with me in that capacity will have the ability, when justice requires, to reduce charges, reduce sentence recommendations and in appropriate cases, dismiss charges.

**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 your District Attorney, I vow to work closely with my law enforcement partners and the Courthouse Security Committee to do our part to help ensure the safety of all citizens and the personnel who work at our courthouse. The harsh reality is that law enforcement must be prepared to deal with the threat of armed violence in our courthouses. We learned from the deaths and wounded peace officers as a result of the Smith County Courthouse (Tyler) shooting in February 2005 that law enforcement officers armed only with pistols can be outgunned when confronting a heavily armed shooter bearing a high capacity semi-automatic rifle.

The county sheriff is statutorily charged with ensuring courthouse security. Even so, District Attorney Investigators are TCLEOSE certified Texas Peace Officers who work in the courthouses on a daily basis and I would expect them to provide any and all assistance to sheriff deputies and Homeland Security officials that work within the courthouse, if lives are threatened. I do not however advocate the creation of a SWAT or Emergency Response Team within the Office of the District Attorney. Given the lethality of active shooter events, and the unpredictability and speed with which they occur, it is impossible to predict whether the investment of semi-automatic rifles and shotguns to have on hand in the courthouse will result in lives being saved. But if the Tyler incident is any example, then it very well might. I am cognizant of the death and destruction an

active shooter is capable of if left unchallenged, and believe it is not unrealistic to arm a peace officer with a rifle and/or shotgun to engage an active shooter.

There is no question that sheriff deputies and McKinney police officers would respond as quickly as possible and move to locate, contain and stop the shooter as soon as possible. But until they reach the courthouse, it would be the sheriff deputies assigned as bailiffs and District Attorney Investigators who would have to initially counter the threat. In those critical moments, the failure to act could cost lives. I would seek the expert advice of Sheriff Box, Chief Kowalski and our Homeland Security officials on how our Investigators might be integrated into a collective active shooter protocol with an eye towards providing the most realistic and effective response possible, should such a horrific event ever occur.

**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?**

Yes. The current system is bloated with criminal cases that would be more appropriately handled by diversion out of the courts and into an alternative program of rehabilitation. I would favor diversion for *youthful, non-violent offenders* with a *demonstrated desire to change their behavior* in exchange for keeping their record clear. This means I will expand the current divert program within the misdemeanor division and create a felony diversion program.

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

When the Dallas County District Attorney became aware that innocent individuals had been convicted and incarcerated, he moved swiftly to rectify these injustices. Such actions are completely consistent with Texas law -- a district attorney's paramount duty is to seek justice. As District Attorney it will be one of my priorities to make sure that Collin County prosecutors and all of our law enforcement agencies take full advantage of the important lessons we have learned from uncovering and studying the kinds of problems that led to those wrongful prosecutions and convictions of all those innocent individuals, who have now finally been exonerated.

Beyond the grave injustice to the wrongfully convicted, a credible criminal justice system simply cannot tolerate the number of violent criminals who (as a result of charging and convicting innocent citizens) were never prosecuted, but rather were allowed to remain at large to commit additional crimes against our citizens.

After meeting with the various law enforcement agencies these past few months, I am confident that the professionals at all levels of the Collin County criminal justice system sincerely want to be respected by their peers and by the public for performing their duties aggressively by zealously investigating and prosecuting

criminal offenses, while at the same time diligently protecting the rights of our citizens.

**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?**

In my view, the Sixth Amendment to the U.S. Constitution gives an indigent defendant the right to competent, diligent representation by a well qualified attorney. I believe an emphasis should be placed on working to keep well qualified defense attorneys involved with the programs and removing those with records of inadequate representation.

In 2001 the Texas Legislature enacted what is commonly referred to as the “Texas Fair Defense Act,” which has been codified as article 26.04 of the Texas Code of Criminal Procedure. This act mandates that each county in Texas shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for or charged with a misdemeanor punishable by confinement or any felony. It also provides that each county’s plan must be consistent with article 26.04 as well as Tex. Code Crim. Proc. Articles 1.051, 15.17, 26.05, and 26.052. Recognizing the mandate imposed on all Texas counties, Collin County’s “plans” take three different forms: a District Court Plan, a County Court Plan, and a Juvenile Board Plan.

While I believe that no program is perfect, it is difficult without a more comprehensive study of all three plans to fully and fairly answer your question. I can tell you that as District Attorney, it is my intention to conduct a full review of the plans and then meet with the Board of Judges and the Collin County Commissioners Court to discuss my thoughts and/or concerns. The cost of these plans, as reported by the Texas Fair Defense Project can be reviewed at the following link:

[http://tfid.tamu.edu/Datasheet/Datasheet.asp?County\\_ID=43](http://tfid.tamu.edu/Datasheet/Datasheet.asp?County_ID=43)

I am fully aware of the fact that the Collin County Indigent Defense Program has, along with programs in numerous other counties, been the subject of both local and national criticism. The Collin County program was criticized in the 2008 study conducted by the Brennan Center for Justice at New York University School of Law, “Eligible for Justice: Guidelines for Appointing Defense Counsel” at page 16. The full text of the report can be found here:

[http://brennan.3cdn.net/c8599960b77429dd22\\_y6m6ivx7r.pdf](http://brennan.3cdn.net/c8599960b77429dd22_y6m6ivx7r.pdf)

As you can see from the Collin County statistics provided at the [tfid.tamu.edu](http://tfid.tamu.edu) link above, the implementation of this mandated program entails a significant commitment from taxpayers. In evaluating the plans for Collin County, my role as the District Attorney would be to strike an appropriate balance between the

rights of the indigent defendant and the commitment that every public official should embrace: demanding fiscal responsibility for these types of committed funds, ensuring they are spent wisely and fairly.

**10. Would you bar defendants from open pleas before a judge if a plea agreement cannot 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?**

A defendant may plead guilty or no contest (with the States' consent) to a criminal charge without an agreement with the prosecutor as to the punishment the prosecutor will recommend. The judge has the responsibility to assess the punishment applicable to the offense unless the defendant requests that a jury assess punishment. The State Bar of Texas Criminal Justice Section's Citizen Guide calls this "pleading open to the judge."

See:

<http://www.texasbar.com/Template.cfm?Section=Home&CONTENTID=5129&TEMPLATE=/ContentManagement/ContentDisplay.cfm>

An open plea requires a waiver of a jury trial. Tex. Code Crim. Proc. Art. 1.13 gives the State a statutory right to a jury trial. The decision to waive a jury trial on behalf of the State is not a decision that can be lightly made and must be evaluated on a case by case basis. Certainly, it is not my intention to universally bar defendants from open guilty pleas to the Court but every case must be independently evaluated on its particular merits.

I will also note that I have faith in our elected judiciary to follow their oath and carefully consider the facts of every case before imposing sentence whether this occurs after a jury trial or after an open plea of guilty. If the question asked is whether I will predicate a decision to request a jury trial solely on whether or not I believe we can obtain a greater sentence from a jury, my answer to this question is no.