

- ***How do you restore your trust with the law enforcement unions that proclaimed today they have 'no confidence' in you?***

We are confident that individual police officers know and understand how much we appreciate what they do and how much our office wants to help them help us protect Harris County's citizens from criminal conduct.

There are many examples of this. We have expended asset forfeiture money for many programs beneficial to the individual officers on the street. At the outset of my term, we made the decision to provide lawyers and investigators to provide training at no cost to police academies and TCLEOSE programs. We have aggressively prosecuted criminals who assault officers as they do their dangerous work.

If a police union, for whatever reason, wants to be critical of our office's decisions, that is its right. Our primary concern, however, is making sure that the individual officers get the support they need from our office, and we believe we are providing that support.

- ***Do you still believe your trace case policy is appropriate? How has it affected case loads/jail population/crime rates?***

The reasons we articulated in 2008 when we announced our trace case policy are still valid today. It is a fundamental principle of our system of laws that we cannot prosecute people for possessing a drug that *we cannot prove they knew they were possessing*.

Knowing possession of less than one-thousandth of a gram (the equivalent of a single grain of Sweet-N-Low) is, for all practical purposes, impossible to prove beyond a reasonable doubt. This is not a unique position: it is shared by the District Attorneys of Bexar, Tarrant, and Travis Counties, for example.

My role is to see that justice is done, and I cannot in good conscience subvert the criminal justice system to lock people up for offenses that I cannot legally prove beyond a reasonable doubt.

To our knowledge, adoption of the trace case policy has not aggravated the rate of criminal activity in Harris County. Instead, statistics reflect that crime rates are generally going down.

- ***HPOU says the policy keeps criminals on the streets instead of locking them up for a minor crime – how concerned are you that making trace cases a misdemeanor results in shorter sentences? It seems that HPOU agrees with Rudy Giuliani’s policy of broken window policing. Do you agree with that theory – that stopping minor crimes prevents major ones?***

We disagree with your premise that we have made “trace cases a misdemeanor.” We have not converted felony conduct into misdemeanor conduct. We have simply adopted a policy that reflects what the law already requires: that before we file a felony controlled substance charge against an individual, we must be able to prove that the individual was in *knowing* possession of the controlled substance.

We also disagree with your premise that our policy “keeps criminals on the streets.” To our knowledge, adoption of the trace case policy has not aggravated the rate of criminal activity in Harris County. Instead, statistics reflect that crime rates are generally going down.

- ***What is the policy in your intake? HPOU suggested you changed the burden for a charge from probable cause to beyond a reasonable doubt. True?***

It would be deeply cynical for our office to authorize the filing of a criminal charge that we know we will never be able to prove beyond a reasonable doubt.

This is not to say that we have never authorized a charge solely on the basis of probable cause. In some cases, we may authorize a criminal charge on the basis of probable cause because we are confident that, with further investigation and trial preparation, the evidence in the case will meet the beyond a reasonable doubt standard. Of course, if the evidence does not improve during the course of trial preparation, we dismiss the case. To do

otherwise would be a waste of scarce prosecutorial and judicial resources and would be unethical.

Trace cases, by contrast, generally never get any better than the evidence adduced by the police officers at the time of arrest. Further investigation and trial preparation will not yield additional evidence of the defendant's *knowledge* of the presence of the controlled substance when the substance is, for all practical purposes, invisible. To agree to prosecute a trace case knowing that we will never be able to legally prove the case beyond a reasonable doubt is just not right.

- ***How do you evaluate an officer's trustworthiness? HPOU et al suggested law enforcement officers are not trusted in the DA's office – they brought up the case of Sam Roccaforte as an example.***

It is a canard to suggest that "law enforcement officers are not trusted in the DA's office." The vast majority of our cases are based on police officer testimony and we vouch for the credibility of police officers in front of Harris County juries every day. As I have already stated, we hold our local police forces in the highest regard and appreciate the difficult work they do. Honest officers who properly document their work and follow appropriate police procedure will always have a place of respect in the criminal justice system.

- ***Why did you cancel our 1:30 interview?***

We had an interview scheduled with Katie McCall, but Channel 13 cancelled that interview.