

Friday

August 2
1985

Scott: Waco police to bypass DA

By DARRELL DUNN
Tribune-Herald Staff Writer

Waco Police Chief Larry Scott said Thursday he has decided to bypass the McLennan County District Attorney's Office and have Assistant U.S. Attorney Jan Patterson handle prosecution of as many cases as possible.

"We haven't been getting any prosecution locally, and we have been receiving very good cooperation from the feds in cases that the DA's office has refused to take," Scott said.

Scott said the district attorney's office has refused to prosecute numerous

cases, returning the cases to the police department citing either insufficient evidence or poor search warrants.

He said the district attorney's office also has let criminal cases expire without prosecution under the speedy trial act.

"There's not much else left to do other than (take the cases to the federal attorney)," Scott said. "I feel we have a very efficient and aggressive U.S. attorney in Jan Patterson in this district, and she has really been working with us on things."

But Feazell and members of his staff claim the difficulty in prosecution can

be attributed to shoddy police work by the Waco Police Department's drug enforcement unit.

"Cases dismissed by this office are made based on legal opinions. That's our job to determine," said Pat Murphy, an assistant district attorney.

"When cases are dismissed, a decision is made that some legal deficiency is involved, especially if you look in regards to DEU (drug enforcement unit).

"If they did not prescreen cases they wanted to get search warrants on, and choose to move without benefit of counsel, well, yes, there were many times we

felt they had not met the stringent requirements for search warrants that the law instructed," Murphy said.

"The message is directed primarily at the DEU. The street officers, I've helped many times when they've called me. The DEU is where we've had our problem," Murphy said.

Scott said there have been instances in which the Waco Police Department has taken cases the McLennan County District Attorney's Office would not prosecute, and presented the cases to Ms. Pat-

Please see WACO, Page 9A

Waco police say they'll bypass DA's office, Feazell

□ From Page 1A

terson, who obtained convictions in federal court.

Scott said two of the cases involved Ronnie Howeth and Tommy Regian.

Ms. Patterson, who is conducting a federal grand jury investigation of Feazell in Austin, was in Austin on Thursday and did not return telephone calls.

David Deaconson, an assistant district attorney, said that in the case involving Regian, the police department approached him and told him that they wanted to go to federal court "because the rules of evidence in the federal court would make it easier for them to get a conviction."

Deaconson said that he believes Scott "may be misinformed."

Crawford Long, an assistant district attorney, said he handled the case involving Howeth.

Long said Howeth was charged with aggravated assault on a police officer and possession of methamphetamine with intent to deliver.

"I had the (Department of Public Safety) lab check the drug and as it turned out, it wasn't meth, but amphetamine. And it was a very small amount. It would have been a misdemeanor bust," Long said.

Long said the officer who was assaulted could not remember details of the incident, and also said it was the Waco Police Department that decided not to pursue the maximum conviction on Howeth.

"(The district attorney's office) seemed more interested in taking him to trial than anyone else. When we first got the police in and

started talking about it, they asked us if we wanted to plea bargain," Long said.

Long said they got a plea bargain of eight years for the offense of criminal mischief, and all the police officers involved said they were satisfied with the conviction.

Ken Bennett, an assistant district attorney, said that in another arrest involving Howeth, police executed a search warrant at Howeth's residence, but "(Howeth) wasn't even in the house."

Bennett said a small amount of drugs was found on another individual in the residence, "so we decided to prosecute (Howeth) using Crawford (Long's) case."

Murphy said a prime example of how the DEU has failed to clear search warrants properly with the district attorney's office was the February 1984 raid of a methamphetamine lab in rural McLennan County.

Among those arrested was Edna Sloan Chrisenberry, who was described by one Waco police officer as "one of the leading drug manufacturers in the state."

During testimony in January, March and April, it was indicated that a Waco police officer who had followed a suspicious vehicle to where it stopped at the rural residence, walked about 150 yards down a private driveway to within 15 feet of the residence and detected "a strong chemical odor" usually associated with the manufacture of methamphetamine.

The officer said he began preparing a search warrant the next day.

Judge Byron McLellan said the officers should have conferred with members of the district attor-

ney's office before seeking the search warrants.

McLellan ruled that the search warrant used to confiscate materials in the drug raid was not valid, and granted a motion to suppress the evidence seized. Charges against Chrisenberry and others indicted had to be dropped for lack of evidence.

"After all this work. After all this investigation, there was not even a contact made with the district attorney's office, or any of the attorneys in that office to finalize efforts necessary for a warrant, or a search under that warrant," McLellan said.

"In my opinion, had (the DEU) brought their facts before us, within a matter of a few hours we could have shorn up the facts on which we would base sufficient evidence for a search warrant," Murphy said.

"(McLellan) was aghast that they would not prescreen their search warrants. We're on call 24 hours a day. We've named other attorneys that are available 24 hours a day for DEU officers or anyone else," Murphy said.

Scott said Thursday that in the future "any case we have that the federal prosecutor will take will be handled that way."

Scott said the police department also recently turned over a case to Ms. Patterson involving an assault at the downtown post office in which a woman was attacked by another woman wielding a hammer because he thought the case would be prosecuted more aggressively at the federal level.

The police chief said his problems with Feazell and Feazell's of-

fice have been going on for "a couple of years, anyway."

But a memo from Scott to Long dated Oct. 16, 1984, states, "I would like to take this opportunity to thank you and your office on the fine job you did concerning the successful prosecution in the David Langer case.

"Successful law enforcement is a team effort and knowing that the district attorney's office and the police department are making a joint effort to combat crime in the Waco community is gratifying," Scott wrote.

In Bryan at a pretrial hearing in the capital murder trial of David

Wayne Spence on Thursday, Feazell said: "My office has a record that I'm proud of. According to a Board of Pardons and Paroles study, we had the highest rate of felony conviction in the state of Texas last year."

The Texas Judicial System's annual report of 1983 does indicate McLennan County had the highest conviction rate.

According to the report, the county had a conviction rate of 75 percent, with 24 percent dismissal rate. Dallas county had a 71 percent conviction rate and a 27 percent dismissal rate. Tarrant County had a 71 percent conviction

rate and a 28 percent dismissal rate.

Scott was asked if he believes there is any chance of correcting the problems between the police department and Feazell's office.

"Time will take care of that," Scott said, declining to elaborate.

Ms. Patterson has said the federal grand jury investigation of Feazell was initiated because of a "serious crime problem" in McLennan County.

Ms. Patterson has declined to say when the grand jury is meeting, or how much longer the grand jury may continue its probe of Feazell.