

Plea bargaining stands ignite prosecutor's race

By PAT MURPHY
STAFF WRITER

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Oakland's much bally-hoed no-plea-bargaining approach to crime fighting is too rigid and results in clogging the courts with minor cases, according to the Democratic challenger for Oakland County prosecutor who vows to be more flexible.

People charged with serious felonies languish in jail while the incumbent prosecutor clogs the courts pursuing defendants on charges like car theft and other nonviolent crimes, claims Steven Kaplan, who has been an assistant prosecutor in Macomb County since 1988.

"It's a waste of court resources."

No so, counters incumbent Republican Richard Thompson who, along with Kaplan, was praised by Kaplan's boss, Macomb County Prosecutor Carl J. Marlinga.

"Oakland voters gave me a mandate to continue the tough no-plea-bargaining policy," he said, because they realize it deters crime.

"We have a 95 percent conviction rate," said Thompson, who was elected prosecutor in 1988, after nearly 15 years as chief assistant to his mentor, L. Brooks Patterson. "My office has a record of unparalleled success, not promises."

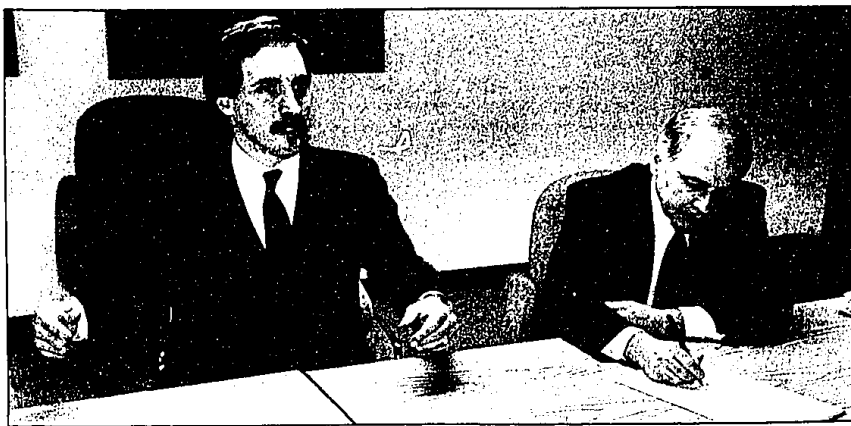
Kaplan, 39, and Thompson, 55, are competing in the Nov. 3 general election for a position that has been dominated by Republicans for almost two decades. Thompson is a law graduate of Wayne State University; Kaplan, of the Detroit College of Law.

The two heatedly disagreed and challenged each other's claims Thursday in an interview at the Observer & Eccentric Newspapers, one of their few joint appearances of the campaign.

On plea bargaining

Kaplan claims fundamental changes are needed in the prosecutor's office, especially in the area of plea bargaining.

The member and former president of the Southfield Board of



STEPHEN CANTRELL/STAFF PHOTOGRAPHER

On the attack: Both Steve Kaplan (left) and incumbent Richard Thompson display their prosecutorial skills as they stump for the position of Oakland County prosecutor.

Education said despite being more flexible on plea bargaining, he would actually be tougher on major crime.

"I would never plea bargain on a rape or other violent crime," said Kaplan. "But my opponent would," despite his claims of being tough on crime.

Thompson visibly bristled at the suggestion. His standing no-plea-bargaining policy does allow for departures, he said, but only "in rare and compelling circumstances."

His office might allow a reduced charge in a rape case, Thompson said, if the victim were unable to testify, and plea bargaining was the only way to go after the perpetrator.

"But that's rare," said Thompson, and like reluctantly making a pact with the devil. "We send people to jail, most of time on pleas to the original charge."

It's a sign of his toughness, the prosecutor said, that some defense lawyers — and an occasional judge — criticize his rigid no-plea-bargaining policy.

On paroles

The two candidates have different

views on the role the prosecutor's office should take in the parole process — particularly with violent felons like serial killer Leslie Allen Williams.

Kaplan insists the prosecutor should monitor parole hearings and, if necessary, intervene to prevent the premature release of violence-prone felons.

Thompson said that would be extremely difficult with the number of parolees released each year. Instead, last July his office obtained a consent judgement requiring the parole board to notify the victims of a crime before the person convicted of committing it is released.

"It was too late for Leslie Allen Williams," said Thompson said. "But it does require the parole board to notify somebody before releasing convicted felons."

More recently, last month to be specific, Thompson filed suit against the Michigan Department of Corrections after a child molester, Harold Clayton Anderson, was released from Jackson Prison as a result of the liberal application of so-called good time — the policy of reducing sentences as a reward for good behavior.

Besides putting Anderson back in prison, that suit resulted in an injunction that blocked the early release of 5,000 prisoners, Thompson said.

So, the incumbent prosecutor said, his office has taken action against premature paroles, as Kaplan advocates. But in Macomb County — where Kaplan works, but does not have policy setting responsibilities — the prosecutor does not, Thompson said.

"My office delivers," said Thompson, who is a member of Gov. John Engler's advisory committee on criminal justice. "We don't promise."

On assisted suicide

When it comes to assisted suicide — and the handling of physician Jack Kevorkian, the so-called "Dr. Death" — Kaplan and Thompson are worlds apart.

Kaplan said Michigan should permit assisted suicide once the Legislature establishes guidelines.

Thompson has repeatedly asked the Legislature to address the issue of assisted suicide. But he wants them to make assisted suicide illegal, a felony with ap-

propriate sanctions.

Kevorkian, of course, is the Royal Oak pathologist who made international news on assisted suicide by advising five women on taking their own lives. Thompson, who occasionally attends the same Armenian church as Kevorkian, pressed three first-degree murder charges against the physician.

All were dismissed by judges who said Michigan has no law against assisted suicide.

"I would never have prosecuted Kevorkian in the first place," said Kaplan. "Prosecuting him was a waste of resources and an abuse of power."

Thompson said he firmly believed murder charges should be brought against Kevorkian. Furthermore, he had no choice. "My duty as prosecutor is to enforce all the laws. And existing Michigan law prohibited assisted suicide."

Thompson said his position on assisted suicide — and the prosecution of Kevorkian — was similar to that embraced by Kaplan's boss, Macomb County Prosecutor Carl Marlinga.

Kaplan disagreed, and invited the O&E to check with Marlinga.

Contacted Friday morning, Marlinga said if Kevorkian had assisted the women in committing suicide in Macomb County, "My approach would have been very close to Dick Thompson's."

"As long as there was any question about Kevorkian crossing the line — actively helping the women die, rather than merely advising them — Kevorkian should have been prosecuted for murder," Marlinga said.

The Macomb County prosecutor spoke highly of Kaplan, calling him a dedicated assistant and a skilled lawyer. "He's a workaholic who has earned the praise and respect of everyone he works with."

Marlinga said he did not encourage — or discourage — Kaplan in his bid to be Oakland's next prosecutor. "It's something he (Kaplan) is doing outside the office. If he is elected, it will be Macomb's loss and Oakland's gain."

"But I like Dick Thompson."

Areas of agreement

Two areas of agreement did emerge.

Both are in favor of citizens' grand juries to investigate unsolved murders and narcotics trafficking, such as the three Thompson convened during his term. And both favor capital punishment.

Those grand juries — the first in the county in more than 17 years — were approved by Oakland circuit court judges under the direction of Thompson.

Indictments from those grand juries led to convictions in at least five murders and the destruction of the infamous Kalasho drug ring.

Kaplan said he approves of citizen grand juries as a prosecutor's tool because they can compel reluctant witnesses to give testimony they might not offer voluntarily.

"Grand juries can be very helpful," Kaplan said. "It's a wonderful tool and more prosecutors should use it."

Kaplan favors the death penalty for first degree murder "not because it deters crime, but because it is the appropriate punishment." Thompson would employ the death penalty for first degree murder "with aggravating circumstances" but believes it does deter crime.

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