



UP for the

CHALLENGE

After practicing law for more than 40 years, Fayette County Attorney Larry Roberts hasn't lost one ounce of zeal for the job. His passion and charisma are evident in not only the career path he has led, but also in the way he encourages and pushes approximately 100 young lawyers working under him in the county attorney's office to be the best attorneys they can be.

Roberts, a 1969 graduate of the University of Kentucky College of Law, spent the bulk of his career doing what he enjoys most — trying cases in court. He has served as a public defender and state prosecutor, has practiced in the private sector, and formed his own firm, Roberts and Smith, in 1989.

His no-nonsense attitude and determination to be the best there is have afforded him numerous opportunities throughout his career. >>

PROFILE OF **LARRY ROBERTS**,
FAYETTE COUNTY ATTORNEY

/Abbie Darst, Program Coordinator



After practicing law for 40 years, what keeps it exciting? What about practicing law makes you love it enough to keep doing it for so long?

Probably, it is the competition. I like the fray and trying to solve problems. So, if I can be involved in a little tiny case of somebody putting graffiti on a wall, catching them and proving that case, then that's intriguing to me. Or, if it is a convoluted murder case and my client is charged with murder, I want to make the prosecution prove it. If I can show lots of areas of question that a jury might grasp hold of, maybe I can create a reasonable doubt. Although law practice is not a game, it is a competition. It is getting ready for a big event. Teaching people how to prepare cases is intriguing to me. And that means working with the police as well as the prosecutors or defense lawyers.

For instance, when young lawyers come in, they have heard that you should be prepared — I ask them, 'What does that mean to you?' Well, they have not been to the scene where the car was stopped for the DUI. Why haven't they? Well, nobody does that. You read the report. But, if you are going to go to trial with this case, then why wouldn't you want to go look at the scene or take photographs of the area that might be relevant to something that might come up in the case? Talk to all of the witnesses and bring them into the office and have the witnesses there to talk amongst themselves so that the stories are all straight when you go to court.

What has been the most challenging aspect of your career?

Doing a job as well as I can do it and not sloughing off. In any job, you can do it 75 percent, and I never have. I have tried to make these people here, these young lawyers, understand that if they have a trial on Monday and they are not ready, they had better not be going to that UK basketball game on Saturday — they had better be working. Not that I am trying to be punitive, but I want them to be prepared. If it means going to the jail or going to find a witness in Cincinnati or whatever it is, then you have

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to do that. It is easy not to do it. You can cut corners in anything. So, preparation is a huge thing to me no matter what you do. It is very time consuming, it is a drain on family or your spare time — you want to play golf or whatever — but if you are going to do it right, then there is a way to do it right.

What accomplishments are you most proud of?

I am still alive.

I have enjoyed everything about my career. I like trying cases and I like trying them on both sides of the aisle — defending and prosecuting. I enjoy it. I like a fight, basically. I like civil work as well as criminal. I guess the bottom line would be I do not remember, necessarily, any particular victories or defeats, but I know that helping people has been very gratifying. Even a loss in a criminal case, you can help a defendant. Overall, as a lawyer, I have enjoyed making a difference in people's lives.

You have had an extensive career as a commonwealth's attorney, county attorney and in private practice. In your career experience, how has your perspective of police-executive leadership changed?

I graduated from law school in 1969, and I have seen tremendous changes from the standpoint of training.

There are so many issues with regard to not just training someone to do investigations, but also to understand legal complications that come up with everything from driving, to how you handle prisoners, to just avoiding law suits. Specialties have occurred in so many different areas from polygraph, to scientific investigation, to domestic violence. Our officers have a total understanding of dealing with domestic violence now because they are trained specifically in that area. That is a tremendous leap from 25 years ago.

The laws have changed to help the officers in so many different ways.

Now, officers have detailed reports and supplemental reports called 235s. Most statements are taken on a tape recorder — statements of witnesses as well as defendants. This has been stressed for years to block the reasonable-doubt argument by a defense lawyer of "Why didn't you tape this statement?" So we teach them to tape the statements whether it is a DUI arrest or a murder. Some still don't for various reasons, but as a general rule, officers have become much more professional with regard to report writing.

There are a group of people who really want to go after individual criminals, and that is always a niche or a small group in every police department, I think. Those guys are very good. They are seasoned.

Now, the young officers coming in are scared to death in their first appearances. We work with them, along with our prosecutors to explain in a preliminary hearing what they need to do, how to say it, where to stand and where to look. We tell them not to read their reports. We do all this because they are scared, like the first speech they made in high school. But they had training on it. And with the training they get, it is not just throwing them to the wolves.

I go in all the time to watch officers when we are having preliminary hearings, and I am amazed about it. I write letters to the chief about it because some of them do very, very well. They have very detailed reports — I'm seeing it better and better.

Do you ever go to the local police department and train officers on these skills?

We train all the time. Recently, we had the Lexington Division of Police recruit class in here for an hour and a half. I want them to see this place and know where they are and not have them feel like they are going to a new world. We introduced them to the prosecutors and talked to them a little bit about the things we are looking for. One of my assistants — Lee Turpin — has already spent an hour and half talking to them about domestic violence. I go to talk about my pet >>

topic — how to destroy a reasonable-doubt argument. It is like playing chess. You have to think how a defense lawyer thinks. We have Brian Mattone, my first assistant, who talks about case writing and presentations. We have people go and talk about search and seizure. That is what we do with the recruits. We also do this all the time with other officers in the trainings they have scheduled throughout the year.

How did serving as an adjunct professor for the University of Kentucky School of Law influence your law career?

I like trial work. And when I was in law school, Bob Lawson was the law professor that we had in evidence, and he later became the dean. When we were seniors, I asked if he would teach a group of 15 to 20 of us how to try a case because there was not anything that taught you how to do that. He taught the class for a whole semester, at night on his own time.

Then, I went into private practice for a couple years as a legal aid. Then, I became the assistant commonwealth attorney just shortly thereafter, and Lawson was part of the reason I was hired to be an adjunct professor. We basically took that concept to teach law students how to go into a courtroom and try a case. We had them stand up and do opening statements and cross examinations, and we taught them the difference between prosecution and defense. Students were assigned to go into court with a public defender's office or with the prosecutor's office and try cases.

I thoroughly enjoyed that and today, guys that are 50 years old still talk about being in that class.

I remember my first day of getting sworn in. The judge asked me if I was ready to try a case and I said, 'Sure,' thinking it would be next month. Instead, he introduced me to John Jones and told me he was my client, and we were going to try the case that afternoon — a felony. So, I at least knew where to stand because of what Lawson taught. That is what we try to do with this course.

What does it mean for Fayette County that the county attorney's office is now paperless?

Typically when we go to court, we have a number of files. Each case has a folder and I can look at the case. When the defendant comes in, I can say we are going to recommend to you such and such and I have the record in here, and so forth. Then the defense lawyer will argue what they need, and we will either plea bargain the case or we will set it for trial. We carry the files over to the courthouse, and after court is over, we bring the file back and if the case is dismissed or is a plea, we throw the file in the trash can. There are eight or 10 pages that are down the tube. And most misdemeanor cases are disposed of with guilty pleas so you do not have the paper anymore.

If a case is continued for, say, two weeks, then there is a docket out two weeks from now and that piece of paper has to get to the prosecutor who is going to handle it. Well, today, we do not know who that prosecutor will be in two weeks. So, if you do not know, then this stack of paper has to be put somewhere. Then somebody else has to be able to figure out where it is.

It is maddening when you have 55,000 cases a year. It is easy if you have a small business, but here, you have a large volume. Many, many times, over and over and over again, we — prosecutors — are trying to find the case. It is a huge waste of time.

I do not know economics specifically, but I know when I go buy copiers and toner for the office, they tell me it costs 11 cents per page to print. That is a lot of money. If you are the district court clerk, you are dealing with thousands of pages every day that are being copied. Every time we have a case, we have to go get this copied out of a file and get the police report and make a copy of it and then make a copy for the public defender or whomever.

We decided that it is possible to go paperless. My thought was, federal court has gone paperless. I went through that as a lawyer learning how to file something by computer. Though it about drove me crazy,

suddenly you do not have any paper. You can make a file in your office and have a manila file that you can put things in if you want to keep that to go to court. But, in federal court, all the pleadings and everything are done electronically and have been done that way the past six or seven years on a graduated scale. You cannot file a paper copy over there — they will not let you. The old dinosaurs like me had a hard time with it.

So, I thought, I'm getting killed here in my budgets with money being taken away from me. What can we do? Lee Turpin came up with some software people who said we could do it. They said it would take about \$50,000 to get laptops for everybody in the office. I went to the city and they gave me the \$50,000. It cost us about \$75,000 total. We had the wiring done and now I can pull it up here in the office or the courtroom and get into any that we have.

The tremendous advantage is not necessarily carrying less stuff into court, but it is the ability of the lawyers to know exactly what is going on in that case if they need to. It's pretty cool. We've had it going since about the end of February. It's now full time — everybody in the office is on board.

Are there any particular programs in which the county attorney's office is involved?

One program that we have is the federal prosecutor program. When I started here, this office had never had meetings of prosecutors. If you were a prosecutor, and you went to court, you had never had any training within the office to teach you what to do and how to handle a defense lawyer or a judge. How do you beat them? We started having meetings every Friday. All I was trying to do was broaden the horizons of the lawyers.

I talk to them before I hire them and ask where they want to be in five years and they usually do not know. Not one of them had ever been to federal court,

never stepped foot into federal court or seen a major malpractice trial. Well, I was astounded by that. If the most famous lawyer in the world was here trying a case they would not know it, which I cannot fathom. We started bringing in speakers on different days to teach them a little bit about what is on the outside of this little microcosm of trying DUI cases. We brought people from Afghanistan who went over there on missions and talked about people selling their babies. Why? Because I want them to get something out of this office and have them think about something other than just working 8 to 4.

One of the people we brought into this office was U.S. Attorney Amul Thapar, and they asked him questions. About two weeks later, he called me and asked if I would consider forming a task force with him. He said it was going to be different than any one I had ever been on. It was on Internet predators, and since every case comes through our office first in Lexington, he wanted to have me, the commonwealth's attorney, and the police officers meet regularly. If we decide a case would be better to go to federal court because it gets more time and no probation or parole then we would funnel that off. He asked me to assign two people in this office to try those cases in federal court. I agreed immediately. I came back to the office and offered the opportunity to two staffers here. I explained that it meant they were going to have to devote double time because they would be doing something new but still had to do their jobs, and they said yes.

They did that. They were scrutinized by justice and screened just like an FBI agent or U.S. attorney. It took about three months per person. Then they were accepted and went off to school for two weeks down in Columbia, S.C. where every U.S. attorney goes to be trained. Suddenly, boom, they are in the grand jury, handling federal cases, talking to federal judges, dealing with defense lawyers, going to court and trying these cases. A year later, one of the women was hired to be an assistant U.S. attorney. So, we put another person in it. It is >>

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Thirty years ago I was prosecuting a case about carrying a concealed deadly weapon. The officer got on the stand and the defense lawyer asked him, "Well, does the gun fire?"

And he said, "Well, yeah it fires."

And the lawyer said, "Well, did you test fire it?"

And he said, "No."

"Did you ever hear it fire," the lawyer asked.

He answered, "No."

"Well then how can you say it fires?" the defense lawyer asked.

"Well, I can just tell that it can," the officer said.

Well, that is a hole in the case. He did not think about having to prove that element. So the defense lawyer, thinking he is going to win this case, excuses the officer, and the officer gets down and goes back in the back in the jury room. All of a sudden we hear BANG. He comes out and says, "It fires." He shot it out the courthouse window right out on Main Street. And so we won, we got that conviction, but that is kind of sloppy. There are lots of examples of that in the past that we do not see much now.



on-going and it is huge as a recruiting tool. We are the only county attorney's office in the country doing that. That's because they let us — I am hoping that is going to continue.

Also, some of our prosecutors are going to other counties and trying felony cases. That is not being done by any other county attorney. I want that, and it takes time away from us to do it. But, we cover their work and they try felony cases in Bourbon, Scott and Woodford counties. Now, on their resumes they have circuit judges who have seen them try cases. That is big for a law firm to look at because you can go to any law firm in town and in the first five years, none of their people have tried any cases at all. They do not let them. That gives us a leg up on being recruited by the law firm as opposed to hiring somebody out of law school.

Is there anything you would do differently if you had your whole career to do over?

No. I would do it exactly the same way.

Most people when they practice law do not really have a choice of how they do it. They might want to be a trial lawyer. Well, how do you get to be a trial lawyer? You go to work for a firm, but no firm tries any cases and that gets to be frustrating. So, you might end up as a corporate lawyer. Or, you may want to be a corporate lawyer, but you go into the firm or you cannot get a job, so you start practice, and you do not get any corporate cases, you get divorce cases, so now you are a divorce lawyer.

I did not ever want to do anything like that. I wanted to be a trial lawyer. Even from law school I knew that you cannot just go out and get a job as a trial lawyer in a firm because you do not know anything. So, I decided to volunteer to be a public defender. When I would go to court, I would always go back into the hold over and talk to my clients. I knew them, I had met them in jail, but I would go into the hold over before or during court and talk to them because I knew when I was back there talking to them, other people would see that. When I left, they would ask who I was and they

would get my name, or ask me for my card, because I was spending time with somebody. Those people started calling me or their families started calling me. I started getting business on a small basis — \$100, \$200 cases. Pretty soon, I started getting felonies and bigger cases, and I got into court and started trying cases. When you stand up and argue with a judge or with a jury and they are looking out the jail window at you from the hold over, they would say, "Wow, look how he's fighting for you," and that is what people want. That blossomed into a pretty good practice. I enjoyed that.

Then, I got an offer to become a prosecutor in the commonwealth's attorney's office. It was a federal grant to hire a full-time prosecutor. In 1972 there were no full-time prosecutors in Kentucky — none. They hired me as the first one, as a kind of a test. I started as an assistant commonwealth's attorney. My boss got appointed to be the United States attorney, and the governor appointed me as commonwealth's attorney. I ran three terms for office then got a chance to go into private practice.

I did a lot of insurance defense work with the firm I went with and I had a couple of really big civil cases. After that, I decided to leave and went in by myself because I did not want to be a civil defense, accident kind of lawyer. I branched off to try to start doing more criminal and potentially more civil cases.

I did that for 25 years, and then I came here when this job opened. I love it here. It is fun. It is by far the hardest job I have ever had because there are 100 people here that I supervise, and keeping control of that and trying to make it professional is very difficult. And it has been an effort — it is kind of like a football coach coming into a big university. You have players that buy into him but do not know the system. You have players that do not buy into it and fight him. And then you have new recruits coming. I have that constantly. Trying to get to a level that I want, where we are very, very professional, is something for which I strive. J