

When my opponent announced her candidacy on the last filing day, she made the following statements:

15:07 “I am proud to say that I learned in an administration where this would have never happened.”

16:00 “I am the only candidate whose record demonstrates consistent and aggressive prosecution of violent crime.”

16:07 “I am the only candidate who has demonstrated the foresight, the judgment, and just plain common sense that is necessary to do this job.”

17:14 “[c]riminals who commit violent acts against other people, criminals who attack police, criminals who are repeat offenders, they will not be turned loose without a fight. . .not on my watch.”

During Barkley’s time as an Assistant District Attorney, she was assigned to the 114th and 241st District Courts.

I. Cases handled personally by Barkley.

A. Lakisha Tvette Crumble (DOB: 10/19/1978) – Assault of a Public Servant and Attempt to Take Weapon from an Officer in the 241st District Court in 2001.

On March 31, 2001 and April 6, 2001, Crumble was arrested for Assault of a Public Servant (241-0513-01), Attempting to Take Weapon from an Officer (241-0512-01), Criminal Trespass (001-82567-01), and Resisting Arrest/Search/Transport. *These are the exact same charges as Dabrett Black.* Barkley resolved all of these charges through the following plea agreement:

- 1) Assault of a Public Servant (241-0513-01) – 5 years Deferred Adjudication;
- 2) Attempting to Take Weapon from an Officer (241-0512-01) – 5 years Probation;
- 3) Criminal Trespass (001-82567-01) – *dismissed*; and
- 4) Resisting Arrest/Search/Transport – declined for prosecution.

Crumble spent a total of **3 days** (3/31/01-4/1/01; 4/6/01) in jail as a result of the plea agreement.

B. Michael Wayne Lee (DOB: 1/26/1981) – 6 charges (5 involving weapons and/or violent conduct).

Lee was arrested for Unlawful Carrying of a Weapon (002-80217-99) and Inhalant Paraphernalia Possession with Intent to Deliver/Manufacture (002-80747-99) on December 14, 1998 and was released on bond three days later. On December 19, 1998, while on bond for the

aforementioned charges, Lee committed two Aggravated Assaults with a Deadly Weapon (114-80133-99 and 114-80134-99). On January 1, 1999, while still on bond, Lee committed additional offenses, including an Assault causing Bodily Injury (002-81168-99) and Engaging in Organized Criminal Activity (114-80291-99).

Barkley resolved all of Lee's charges through a plea agreement which resulted in the following dispositions:

- 1) Unlawful Carrying of a Weapon (002-80217-99) and Assault causing Bodily Injury (002-81168-99) – 180 days in the Smith County jail;
- 2) Inhalant Paraphilia Possession with Intent to Deliver/Manufacture (002-80747-99) – *dismissed*;
- 3) Aggravated Assault with a Deadly Weapon (114-80134-99) – *reduced* to a misdemeanor Unlawful Carrying of a Weapon and sentenced to 1 year in the Smith County jail;
- 4) Aggravated Assault with a Deadly Weapon involving a firearm (114-80133-99) – *dismissed*; and
- 5) Engaging in Organized Criminal Activity charge (114-80291-99) – 1 year in the Smith County jail.

Barkley's plea agreement for Lee's *six pending cases* resulted in Lee being sentenced to 1.5 years in the Smith County jail. Lee was released from the Smith County jail on July 10, 1999 after serving a total of *189 days* (12/14/98-12/17/98; 1/7/99-7/10/99).

Barkley stated in the Motion to Dismiss for Cause No. 114-80133-99 (Aggravated Assault with a Deadly Weapon) that the plea deal was "*with approval and request of the victim and the investigating officer.*" The dismissal was approved by both her administration (signed by the First Assistant, David Dobbs) and one of her current supporters, retired Judge of the 114th District Court, Judge Cynthia Kent.

Approximately 2 months after Lee's release, he committed 3 additional criminal offenses:

- 1) Evading Arrest and Detention, on September 13, 1999 (001-86619-99);
- 2) Aggravated Assault with a Deadly Weapon involving a firearm, on September 15, 1999 (241-0022-00); and
- 3) Aggravated Assault with a Deadly Weapon involving a firearm, on November 12, 1999 (241-0226-00).

C. Richard Gonzales (DOB: 4/11/1983) – 2 Aggravated Assaults of a Public Servant in the 241st District Court in 2000.

On October 27, 2000, while on bond for a Theft of Firearm charge from July 29, 2000, Gonzales was arrested on two charges of Aggravated Assault of a Public Servant (241-1171-01 and 241-1220-01), Resisting Arrest/Transport with a Deadly Weapon (241-0520-01), and Evading Arrest/Detention (003-80079-01). While on bond for these charges, Gonzales committed another Assault (003-84442-01) on August 10, 2001. Barkley resolved all of these charges through the following plea agreement:

- 1) Aggravated Assault of Public Servant (241-1171-01) – 10 years Deferred Adjudication;
- 2) Aggravated Assault of Public Servant (241-1220-01) – 10 years Deferred Adjudication;
- 3) Resisting Arrest/Transport with a Deadly Weapon (241-0520-01) – *dismissed*;
- 4) Assault (003-84442-01) – 2 years probation; and
- 5) Evading Arrest/Detention (003-80079-01) – 1 year probation.

Gonzales spent **50 days** (10/28/00-11/8/00; 1/12/01; 7/2/01-8/6/01; 8/17/01) in the county jail on these charges. Despite being arrested on two charges of Aggravated Assault of a Public Servant and committing another Assault while on bond for said charges, Barkley still permitted him to receive deferred adjudication, allowing him an opportunity to avoid a felony conviction. Gonzales' probation was subsequently revoked less than a year after his plea agreement because he committed new offenses while on probation.

D. Ramon Ramos (DOB: 5/23/1952) – Assault of a Public Servant in the 114th District Court in 1997.

On July 19, 1997, Ramos was arrested and charged with Assault of a Public Servant (114-81264-97) and Resisting Arrest/Transport (001-85340-97). Barkley was the prosecutor who handled this case and the charges were resolved as follows:

- 1) Assault of Public Servant (114-81264-97) – 5 years probation; and
- 2) Resisting Arrest/Transport (001-85340-97) – dismissed.

Ramos spent **2 days** in jail as a result of this disposition.

E. Estaban Mora (DOB: 5/29/1969) – Aggravated Assault of a Public Servant in the 114th District Court in 2001.

Mora was charged with Aggravated Assault of a Public Servant (114-81593-97) and Evading Arrest (001-82555-97). Barkley resolved these charges through the following plea agreement:

- 1) Aggravated Assault of Public Servant (114-81593-97) – reduced to misdemeanor charge of Assault (001-80193-01) with 180 days in the Smith County jail; and
- 2) Evading Arrest (001-82555-97) – 180 days in the Smith County jail.

Mora served a total of **173 days** in jail as a result of these charges. Of note, Mora committed these offenses in 1997, but did not enter a plea until January of 2001 because he failed to appear for court. Mora only entered the plea agreement after he was arrested on warrants for the charges in 2000. Barkley stated in the Aggravated Assault of a Public Servant dismissal that the victim, Dale Fueqay, approved of the reduction of the charge to a misdemeanor.

II. Cases handled by the “administration” that Barkley referred to in her press conference.

A. Kenneth Lane Goff (DOB: 7/3/1961) – Assault of a Public Servant in the 114th District Court in 2000.

On July 21, 2000, Goff, a convicted felon, was arrested for a parole violation, Assault of a Public Servant (114-1082-00), and Unauthorized Use/Theft of a Motor Vehicle out of Nacogdoches County, Texas. The administration resolved the Assault of a Public Servant by a plea agreement reducing the charge to a misdemeanor Assault (001-80074-01) and sentencing Goff to ***1 day*** in the Smith County jail.

B. Fred William Becker (DOB: 10/12/1955) – 2 Assault of a Public Servant cases in the 114th District Court in 1999.

On July 24, 1999, Becker was arrested on two charges of Assault on a Public Servant (114-81164-99), Evading Arrest/Detention (002-85743-99), Assault causing Bodily Injury involving a Family Member (002-85744-99), and Resisting Arrest/Transport (002-86144-99). The administration resolved all of these charges through the following plea agreement:

- 1) Assault of a Public Servant (114-81164-99) – 5 years Deferred Adjudication and the other one was declined for prosecution;
- 2) Evading Arrest/Detention (002-85743-99) – *dismissed*;
- 3) Assault causing Bodily Injury involving a Family Member (002-85744-99) – 2 years probation with 8 days in the Smith County jail as a condition of probation; and
- 4) Resisting Arrest/Transport (002-86144-99) – 2 years probation.

Becker served ***10 days*** in jail as a result of his plea agreement (7/24/99-7/25/99; 12/31/99-1/7/00).

C. Ricky Lee Tucker (DOB: 3/24/1981) – Assault of a Public Servant in the 241st District Court in 2000.

On December 14, 2000, Tucker was charged with Assault of a Public Servant (241-0084-01), Sexual Assault (241-0083-01), and Assault (002-80304-01). The Assault of a Public Servant and Assault charges occurred while Tucker was an inmate in the Smith County jail. Tucker assaulted James Folmar, a detention officer with the Smith County Sheriff’s Office. The administration resolved all of these charges through the following plea agreement:

- 1) Assault of a Public Servant (241-0084-01) – 5 years probation;
- 2) Sexual Assault (241-0083-01) – *dismissed by Barkley without a counter-signature*; and
- 3) Assault (002-80304-01) – 1 year in the Smith County jail.

Tucker served a total of **191 days** in jail as a result of his plea agreement (12/4/00-6/13/01). The administration offered Tucker probation for assaulting an officer despite his violent criminal history. Tucker had previously spent 250 days in jail on an Assault charge (001-83597-99) which he committed while he was on probation for Criminal Mischief (001-80361-99).

D. Walter James Gray (DOB: 3/9/1933) – Assault of a Public Servant in the 114th District Court in 1999.

On July 15, 1999, Gray, a convicted felon, was arrested for a parole violation, Assault of a Public Servant (114-81168-99), 2 Resisting Arrest/Transport charges (001-85785-99 and 001-85786-99), Criminal Mischief (001-85384-99), and Criminal Trespass (001-85383-99). The administration reached the following plea agreement with Gray:

- 1) Assault of Public Servant (114-81168-99) – *reduced* to misdemeanor Assault (001-87112-99) and sentenced to 250 days in the county jail. The motion to dismiss the felony states ***“Officer Smith is in agreement that the above-styled case should be reduced to the misdemeanor offense of Assault.”***¹
- 2) 2 Resisting Arrest/Transport charges (001-85785-99 and 001-85786-99) – 200 days in the Smith County jail on each;
- 3) Criminal Mischief (001-85384-99) – 180 days in the Smith County jail; and
- 4) Criminal Trespass (001-85383-99) – 180 days in the Smith County jail.

Gray served 253 days in the county jail, which exceeded his sentences, because of his parole hold from TDCJ.

E. Chaise Lee McNeal (DOB: 9/26/1963) – Assault of a Public Servant in the 241st District Court in 1999.

On July 8, 1998, McNeal was arrested for an outstanding parole warrant, 2 Assaults of Public Servants (241-81366-98 and 241-81367-98), Evading Arrest/Detention (002-85209-98), Assault (002-85211-98), and Resisting Arrest/Transport (002-85585-98). The administration reached the following plea agreement with McNeal:

- 1) Assaults of Public Servants (241-81366-98 and 241-81367-98) – *reduced* to misdemeanor offense of Resisting Arrest/Transport (002-85585-98);
- 2) Evading Arrest/Detention (002-85209-98) – 180 days in the Smith County jail;
- 3) Assault (002-85211-98) – 300 days in the Smith County jail; and
- 4) Resisting Arrest/Transport (002-85585-98) – 300 days in the Smith County jail.

McNeal served 290 days in the county jail as a result of the agreement.

¹ The misdemeanor Assault charge (001-87112-99) was filed in on November 15, 1999, 2 days before the felony Assault Public Servant charge was dismissed. The assault charge (001-87112-99) references a "Felony Reduction."

McNeal had a prior violent criminal history. He had a conviction for Assault Family Violence charge (110,244) from 1994 where he received 90 days in the Smith County jail.

McNeal subsequently committed an Aggravated Assault (241-1144-02) in 2002. Bingham dismissed this charge at the victim's request as evidenced by the Motion to Dismiss he filed in the case.

F. William Ashton Rozell (DOB: 10/7/1980) – Aggravated Assault of a Public Servant in the 241st District Court in 2001.

On July 17, 2001, Rozell was arrested for Aggravated Assault of a Public Servant (241-1395-01), Driving While Intoxicated (001-84477-01), Criminal Mischief (001-84570-01), and Failure to Identify Fugitive from Justice. The administration resolved all of these charges through the following plea agreement:

- 1) Aggravated Assault of a Public Servant (241-1395-01) – 10 years probation;
- 2) Driving While Intoxicated (001-84477-01) – 100 days in the Smith County jail;
- 3) Criminal Mischief (001-84570-01) – 100 days in the Smith County jail; and
- 4) Failure to Identify Fugitive from Justice – never filed.

Rozell served *111 days* in the county jail as a result of his plea agreement (7/17/01-11/5/01). Rozell committed more violent crimes while on probation.

G. Bret Thomas Bradberry (DOB: 5/21/1982) – Assault of a Public Servant in the 114th District Court in 2000.

On January 24, 2000, Bradberry was arrested for Assault of a Public Servant (114-0189-00) and Injury to a Child with Intent to cause Bodily Injury (114-0190-00). The administration resolved both of these charges through the following plea agreement:

- 1) Assault of a Public Servant (114-0189-00) – 10 years Deferred Adjudication; and
- 2) Injury to a Child with Intent to cause Bodily Injury (114-0190-00) – 10 years Deferred Adjudication.

Bradberry served *87 days* in the county jail before entering this plea agreement for 10 years Deferred Adjudication (1/24/00-4/19/00). Bradberry's probation was subsequently revoked on October 29, 2003 in (007-1742-03 and 007-1743-03) because he was arrested on multiple charges of Sexual Assault of a Child out of Henderson County.

H. Keith Jessie (DOB: 12/29/1970) – Assault of a Public Servant in the 114th District Court in 2000.

On November 20, 1999, Jessie was arrested for Aggravated Assault of a Public Servant (114-0062-00), Resisting Arrest (001-87493-99), Evading Arrest (001-87523-99), Assault

causing Bodily Injury (001-87659-99), Criminal Mischief \geq \$50 $<$ \$500 (001-87704-99), and Assault by Threat. The administration resolved all of these charges through the following plea agreement:

- 1) Aggravated Assault of Public Servant (114-0062-00) – *dismissed*;
- 2) Resisting Arrest (001-87493-99) – 300 days in the Smith County jail;
- 3) Evading Arrest (001-87523-99) – 160 days in the Smith County jail;
- 4) Assault causing Bodily Injury (001-87659-99) – 300 days in the Smith County jail;
- 5) Criminal Mischief \geq \$50 $<$ \$500 (001-87704-99) – 160 days in the Smith County jail; and
- 6) Assault by Threat – never filed.

Jessie served **142 days** in the Smith County jail as a result of the agreement (11/21/99-4/10/00). Jessie had a criminal history. In 1990, he received probation for Unlawful Carrying of a Weapon (87,206) but was revoked in 1992 receiving 60 days in the Smith County jail. In 1996, he was convicted of Possession of Marijuana (123,513) and received 22 days in the Smith County jail. In 1997, he was convicted of Terroristic Threat (001-82682-97) and received 90 days in the Smith County jail. In 1998, he was charged with Assault (001-87850-98) and received 365 days in the Smith County jail. Additionally, he had previously been charged with two counts of Assault which were dismissed.

On October 29, 2000, within 6 months of Jessie's release from jail, he committed an Assault causing Bodily Injury to a Family Member (002-86025-00) and received 345 days in the Smith County jail.

III. Dismissals without counter-signatures.

During her press conference, Barkley stated that it has long been required to have a counter-signature on dismissals. However, over the years, multiple prosecutors have dismissed cases without counter-signatures and have not been reprimanded. Some examples are identified as follows:

- 1) **Barkley's** dismissal of Ricky Tucker's Sexual Assault case (241-0083-01) on June 22, 1999;
- 2) Brett Harrison's dismissal of Kenneth Goff's Assault of a Public Servant case (114-1082-00) on January 8, 2001 pursuant to the charge being reduced to a Class "A" misdemeanor Assault (001-80074-01) and Goff receiving **1 day** in the Smith County jail on the reduced charge;
- 3) Joe Black's dismissal of William Kellis' Aggravated Assault case (F-96-1118-7) on January 27, 1997 pursuant to the charge being reduced to a Class "A" misdemeanor Assault (001-80074-01) and receiving 1 year Probation on the reduced charge; and
- 4) Richard Vance's dismissal of Dennis Bendy's Aggravated Assault with a Deadly Weapon involving a Firearm (007-0181-12) on July 19, 2012.

Although the “Dismissal Policy” has purportedly been effective for “decades,” the dismissal of Dennis Bendy’s case (007-0181-12) is relatively recent. Further, the underlying circumstances surrounding Dennis Bendy’s case are noteworthy.

On August 8, 2011, Dennis Bendy (DOB: 3/26/1994), a documented gang member, committed the offense of Aggravated Assault with a Deadly Weapon involving a firearm (007-0181-12). This offense was committed when Bendy and his brother, Terrance Bendy (DOB: 8/31/1991), drove together in a car and threatened a rival gang member with a firearm. Despite this violent conduct, Richard Vance, the prosecutor handling the case, dismissed Bendy’s indictment. In the dismissal, he states that he approved the dismissal of Bendy’s case with the detectives. The dismissal does not have the “required” counter-signatory.

Approximately one year later, Bendy murdered an innocent bystander when attempting to assassinate a rival gang member in a park. Briana Raquel Young, the victim, was in the park with her daughter when she was shot by Bendy. She died in front of her toddler.

During Bendy’s trial for Young’s murder, the State provided notice to the defense that they would be offering evidence of Bendy’s guilt in the dismissed Aggravated Assault case despite the charge having been dismissed.

No disciplinary actions were *ever* taken against Vance for dismissing Bendy’s Aggravated Assault charge without the purported required counter-signature.