

Jacob Putman Campaign Press Release 1/29/18

I have received many calls, texts, and emails requesting my response to the so called "audit" released last week. As a prosecutor, I am and always have been committed to the truth. I have waited to comment until I had sufficient time to review the documents that were released. Today, I intend to set the record straight and correct the lies and half-truths that were told.

For the last nine years, I have been a prosecutor at the Smith County District Attorney's Office. In those nine years, I have tried more homicide cases than any prosecutor in Smith County. In the last nine years, I have tried more violent felonies than any prosecutor in Smith County. In the last nine years, I have tried more child abuse cases than any prosecutor in Smith County. I have tried and handled each and every one of these cases aggressively and with integrity. This is why I was asked by law enforcement to run. This is why I have and continue to have the endorsement of both the Tyler Patrolman's Association and the East Texas Fraternal Order of Police. I'm the one who has been working with law enforcement, trying their cases, and getting justice for victims. I also have the endorsements of State Senator Bryan Hughes, former State Senator Kevin Eltife, and State Representatives Matt Schaefer and Cole Hefner.

On Friday, I requested a copy of my personnel file. I will make it available for your review. As you will see, I have never been reprimanded or disciplined. My file contains proof of my hard work and performance including notes of thanks, letters of recommendation from the Police Academy, and consistent raises and promotions, including a promotion on November 27, 2017. The personnel file I will give you is the complete file as of Friday, with the lone exception being a document with my social security number on it and fingerprints etc. If something magically appears in the file in the future, just know it was not in there on Friday January 26, 2018.

This "audit" released was not a neutral effort to report facts. It was an unethical attempt by my opponent and the District Attorney to influence the election. This was a calculated effort to make me appear weak on crime. Nothing could be further from the truth.

Of my cases of included in the release, only one of those defendants had their case outright dismissed. That was Anthony Lemons. Anthony Lemons had two cases. They were each dismissed because the victim died and the cases couldn't be proven without the victim. Matt Bingham signed off on only one of them. The two dismissals are identical and filed on the same day, each with an attached death certificate. Matt Bingham claims this is a policy violation.

The other defendants each had multiple charges. These defendants with multiple charges pled to some of their cases while some of their cases were dismissed. I realize the public likely doesn't understand how there could be that many dismissals.

Let me give you some specific examples.

Michael Odom: 7 felony cases  
20yrs TDC on 2 Cases, 25yrs TDC on another, Dismiss his 4 remaining charges  
Patrick McShan: 4 felony cases  
35yrs TDC on 2 Cases, Dismiss 2 cases  
Delanda Player: 4 felony cases  
30 yrs TDC on 3 cases, Dismiss 1 case  
Andy Morrison: 2 felony cases  
45 yrs TDC on 1 case, Dismiss 1 case

Gary Warren: 2 felony cases  
30yrs on 1 case, Dismiss 1 Case

As a prosecutor, you look at all the evidence on each case. Whether someone is offered prison time, probation, or jail time is dependent on the facts and circumstances of each case. You can't convict someone on a headline. If you could, we wouldn't need jury trials. The specific facts of each case are important.

The accusation that has been made against me is that these dismissals were a violation of policy. At no time did I ever believe I was violating policy. When Matt Bingham went on T.V. before Christmas ranting about the policies he says I broke, he was holding a copy of the December 2012 policies. First, let me say that all employees on December 7, 2012 were required to read this, sign it, and return it. We were not allowed under any circumstances to keep a copy of it to review later.

The December 2012 policies have not been followed or enforced for almost 5 years. For example:

1. One requires prosecutors to clock in at 8am and out at 5pm with an hour for lunch. Not only have prosecutors not clocked in for 5 years, several prosecutors have routinely shown up well after 8, taken long lunches, and left before 5pm.
2. Another policy requires approval from the 1<sup>st</sup> Assistant or District Attorney to file a motion for continuance. Hundreds if not thousands of motions for continuances have been filed in the last five years without their approval.
3. A third policy requires approval to drop enhancement paragraphs. Every prosecutor in the last five years has dropped enhancement paragraphs without approval on numerous occasions.
4. A fourth policy prohibits our investigators from transporting evidence of any kind, yet the investigators have been ordered to do just that numerous times by every prosecutor including the DA and the 1<sup>st</sup> Assistant.

The policies of the DA's office have changed in writing many times since 2012. In addition to what was in writing, based on what Matt Bingham and April Sikes told us, myself and most of the other prosecutors who have worked in the DA's office believed we were authorized to reduce cases and dismiss cases if the dismissal was a part of a plea in another case. Let me show you the e-mail. We believed we were authorized to dismiss cases if it was a part of a plea agreement. This is clearly reflected by the numbers in the audit.

Interestingly, the "audit" only went back to 2013. My opponent and Matt Bingham have claimed that his dismissal policy has been a "longstanding policy going back for decades." I wonder why they didn't pull the 2012 dismissals? I worked here then and according to them, the policy was in effect then. Well, I have pulled many of the 2012 dismissals and will provide them to you when we conclude. You will see dismissal after dismissal without their signature because it was not the policy to get them countersigned, just ask Jason Parrish or Whitney Tharpe, two other prosecutors that should be on that audit.

Let me say something on behalf of the other prosecutors on that list. It is shameful for someone who calls himself a leader to claim that every one of his prosecutors went rogue to try to save face. These prosecutors are good lawyers who chose to make less money in order to serve this community and see justice done. As prosecutors, we believe in laws and rules. We strive to follow the rules and

enforce the laws. Not a single one of those people on that list deserves to be thrown under the bus so Matt Bingham can save face for the media, or try to sabotage my election for DA. I have personally prosecuted alongside Jeff Wood, Bryan Jiral, and the others on that list, and they should be commended for their service, not slandered on T.V.

I mentioned a moment ago that I have never been reprimanded or disciplined. I have been asked about a meeting in August of 2016. There was a meeting in late 2016. At that time, rumors had begun to circulate in the courthouse that I was going to run against 1<sup>st</sup> Assistant April Sikes in this election. I was asked to meet in Matt Bingham's office at 8 am one morning while I was in trial.

Present for the meeting was Matt Bingham, April Sikes, Phillip Smith, and Thomas Wilson. They asked me about three things, 1. Had I agreed to speak at a training at the Children's Advocacy Center in Anderson County? I told them I had. 2. Had I said anything bad about our office while I attended a Child Abuse Conference? I told them I hadn't. 3. Had I dismissed any cases without their signatures?

In response to this question, I told them I had dismissed cases without their signature, but only if it was a part of a plea deal on another case. Matt Bingham's response to me was that he was going to pull my dismissals and check. I returned to the jury trial that was waiting for me. This meeting in 2016 was long after Dabrett Black's 1<sup>st</sup> case. For over a year after that meeting, the issue was never mentioned again. After he pulled all my dismissals in 2016, I assumed that if I had done something wrong, he would have told me.

A reporter recently asked about the memos Phillip Smith and Thomas Wilson were ordered to write about that meeting. Matt Bingham ordered them to write those memos two weeks ago, well over a year after the meeting. I'll ask you, if you were asked to write a memo about a meeting well over a year ago, would you be able to recall the details? I suppose that's why the two memos reflect the meeting occurred on two different dates. No doubt he'll claim that I was disciplined, but no discipline was ever recorded in my personnel file. Again, it is available for your review.

My opponent and Matt Bingham's plan is not limited to misconstruing my records, lying about the past, and claiming all of his prosecutors just can't follow the rules. He and my opponent intend to "expose" a case of my every week or two. In fact, my opponent was going through files in Matt Bingham's office as recently as this past Friday. They do this by picking a case and releasing to the media portions of the facts when I'm in trial and unable to respond. Let me give you some examples.

Tacorey Gilliam: Matt Bingham claims I illegally dismissed a case after a jury verdict. Understand this, his claim is that I, a defense attorney, and a District Judge broke the law in this case. The crazy thing is that if Matt Bingham wanted to know why I dismissed the case, all he had to do was walk down the hall and ask me.

Tacorey Gilliam had two cases. He had one case for Forgery, and a second case for Tampering with a Witness. We had a jury trial on the Tampering with a Witness. The jury found the defendant guilty, and sentencing was set off a few weeks. In those two weeks, the judge, the defense attorney and I had a chance to review the record. The record showed that the conviction likely wouldn't survive an appeal based on the witnesses answers at trial.

What that means is if we had sentenced the defendant, the tax payers would have to pay for a lengthy appeal process which would have overturned the conviction because of the witnesses' testimony. Instead of doing that, we pled Tacorey Gilliam guilty to the Forgery case that was still

pending and dismissed the trial case. Tacorey Gilliam was still went to prison for eight years. There was nothing illegal about this procedure despite Matt Bingham's false accusation against me and a District Judge.

The next example is Mario Solis. Mario Solis had an injury to a child case against one of his daughters and an Assault Family Violence case against his current wife. His wife did not wish to prosecute the Assault case. In the last nine years, I have tried more child abuse cases than any prosecutor in Smith County. I care about these children and getting justice for them. Mr. Solis was accused of hitting his daughter. She had a bruise on her face. In any child injury case, the most important piece of evidence is the forensic interview of the child at the Children's Advocacy Center. What the child and her sister said in this case was that her father pulled her off the bed to spank her. As he was pulling her off the bed, her face hit the bed causing the bruise. In that interview she never said her father hit her in the face.

It is serious and traumatic event to ask a child to testify against a parent they love. I have held the hand of many small children on the way to the witness stand in order to convict child abusers. Before you put a child through that experience, a prosecutor who cares about the child will make sure the evidence is solid enough to ensure a conviction. In that interview, the child did not accuse her father of hitting her in the face. In these cases, the State must prove beyond a reasonable doubt that the injury was not an accident. The State must also prove beyond a reasonable doubt that the parent was not using reasonable discipline. Parents are allowed to spank their children in Texas. The statements of the children allowed for the possibility that it could have been an accident occurring during discipline. The fact that the defendant had been drinking may or may not have convinced a jury it was intentional.

Because of the totality of the evidence which included the child's statement and the statement of the other children in the home at the time, I believed a jury would either acquit the defendant or place him on probation if he was convicted. The defendant was willing to plea to probation on the Family Violence Assault against his wife. While it is a misdemeanor charge, it can be used for enhancement in the future and it spared the children from having to testify against their father.

For Matt Bingham to criticize my handling of this case is ridiculous. Take for example Mayra Rodriguez. Matt Bingham dismissed Mayra Rodriguez' felony injury to a child case and pled it to a misdemeanor assault last week. The dismissal said it was because the victim's mother didn't want the child to testify and because the defendant passed a polygraph on self-defense. What the dismissal doesn't tell you is that even if the polygraph were admissible in court, which it isn't, self-defense is not a legal defense to the reckless injury of an innocent 3<sup>rd</sup> person by law. He dismissed an injury to a child case which the defendant had no defense to and pled it to a misdemeanor assault the defendant did have a defense to.

If you need another example, I would encourage you to do a Public Information Request from the DA's Office and from the Sheriff's Office for Amanda Jullian. Amanda Jullian was another injury to a child case Matt Bingham dismissed, this time for "additional investigation", which for those of you that don't know what that means we are dismissing it and never doing anything with it. I think you'll find the reports and pictures on that case very compelling.

The last example I'll give you on this attempt to smear my reputation is Dameon Mosley. Dameon Mosley is currently awaiting trial for capital murder for shooting a clerk during a convenience

store robbery. He was on probation for aggravated robbery when he allegedly committed capital murder. What my opponent and Matt Bingham will tell you is that I agreed to place him on that probation.

What they won't tell you is why I placed him on probation. The case he was placed on probation for involved Dameon Mosley and Kory Tave. Tave was the gunman and Mosley was the look out. The gun Tave used was not a real gun but a BB gun. Mosley was caught first by Tyler PD. He confessed to helping Tave commit that robbery as well as other robberies, he told Tyler PD where to find Tave, and he agreed to testify against Tave. Mosley had no criminal history at all while Tave had been to prison for Aggravated Assault. Tave ultimately pled guilty and went to prison for 20 years. I offered Mosley probation after discussing his helpfulness and cooperation with Detective Dennis Mathews at the Tyler Police Department who approved the offer.

These slanderous attacks on my record of supposed policy violations are ridiculous. They are dirty politics at their worst. I have tried more cases than any other prosecutor in this office in the last nine years. In case you need more proof at how disingenuous these claims are, let me quickly direct you to two more cases.

Dennis Bendy was charged with aggravated assault. His case was outright dismissed by prosecutor Richard Vance without a counter signature. Dennis Bendy later went on to commit the PT Cole Park murder of an innocent mother in front her child. Richard Vance still works in our office. Matt Bingham tried the PT Cole Park murder, knew about the prior dismissal without a signature, and never once went on T.V. and ranted about how embarrassed or ashamed he was of Richard Vance. Do you know why he didn't? Because Richard Vance is a good prosecutor who doesn't have a crystal ball. Richard made the best decision he could with the evidence he had as we all do, and he isn't responsible for the murder Dennis Bendy committed.

I didn't have a crystal ball when I handled the Dabrett Black case. I pled him to 12 months because the victim didn't want to testify, the Defendant had no prior felonies and was a three time deployed combat veteran, and even if we got the maximum punishment, he would have been up for parole in 15 months. The difference between my plea deal and the maximum punishment was 3 months guaranteed confinement. I followed the policies in place at the time as already demonstrated. I also notified our grand jury attorney immediately when Dabrett Black reoffended in July of 2017. I made sure they knew to have the judge increase his bond upon indictment since the judge initially set a very low bond of \$15,000.

It is easy for my opponent and Matt Bingham to play Monday morning quarterback and criticize those actually doing the job. They have each done exactly the same thing. One last example: Terrance Raibon was a violent felon with five prior felonies. Instead of prosecuting him for unlawfully possessing a firearm, Matt Bingham let Terrance Raibon out of jail and put him on probation. Do you know what Terrance Raibon did? He shot Tyler Police Officer Ken Gardner two months after being released on probation. Let me repeat that, Matt Bingham let a 5 time convicted felon out on probation and that felon shot and nearly killed Tyler Police Officer Ken Gardner. The doctors were able to save Detective Gardner's life, but he still has the bullet in him.

I am running for District Attorney because I believe in truth, justice, and aggressive prosecution with integrity. I have faithfully served the citizens of Smith County for nine years. I am committed to upholding the rule of law, to ensuring everyone is treated equally, and to aggressively prosecuting

criminals to keep this community safe. Most of all, I am committed to truth, transparency and accountability. I am committed to having clear and concise policies that every prosecutor will know. I'm proud to have the endorsement of the Tyler Patrolman's Association and the East Texas Fraternal Order of Police, Bryan Hughes, Kevin Eltife, Matt Schaefer, and Cole Hefner.

I pledge to vigorously uphold the rule of law and our Constitution. Justice will be applied equally to everyone, regardless of age, race, or social status, including elected officials. Our DA's office will have crystal clear policies and be filled with people of unquestioned integrity and professionalism, and we will cooperate with our brave law enforcement officers to protect the citizens of Smith County.

Jacob Putman