

**Exhibit G –
State Commission
on Judicial Conduct
Documents**

State Commission on Judicial Conduct

For SCJC use only.

PO Box 12265
 Austin, TX 78711-2265
 Tel. (512) 463-5533 - Toll Free: (877) 228-5750

Complaint Form

- * If you are filing a complaint about more than one judge, please use a separate form for each judge.
- * You may complete this form online before printing.
- * Send the completed form and any additional pages or related documents to SCJC.

*Indicates required fields. Please note that faxed complaints will NOT be accepted.

*Submitter Name: Larance Coleman

*Judge: Eric Hagstette

*Mailing Address:

*Court Number: Harris County magistrate

*City, State Zip

*City and County: Houston, Harris County

*Date of Birth:

*Submitter Email:

Your Day Phone:

Your Evening Phone:

Your Cell/Other Phone: () -

Best time to call you: 10:00 ☒ A.M. ☐ P.M.**If your complaint involves a court case, please provide the following information:**

Cause Number:

Status of your case: ☐ Pending ☐ Concluded ☐ On Appeal

Your attorney:

Opposing Attorney:

Address:

Address:

City/Zip:

City/Zip:

Phone Number: () -

Phone Number: () -

PLEASE FILL IN ALL INFORMATION AVAILABLE FOR ANY WITNESSES (attach additional pages as needed)

Name:

Name:

Address:

Address:

Phone Number: () -

Phone Number: () -

What did this person witness?

What did this person witness?

If you are submitting documents, please provide copies, not originals.

I understand that as part of the Commission's investigation the judge may be provided a copy of this complaint. Please note - the Commission will do its best to maintain your confidentiality, if you so request. However, it may not be possible for us to pursue our investigation without revealing your identity at some point. If it is necessary to reveal your identity directly to the judge, we will advise you before proceeding.

*I request that my identity be kept confidential. ☐ Yes ☒ No

*Signature: Larance Coleman for Ser

*Date: 12-1-2016

Larance Coleman
For Senator Whitmore

Revised 01/30/2016

HARRISCO_CourtOrder 001724

Details of Complaint

Please type or print the factual details of your complaint in the space provided below. **Please include the date(s) of the alleged misconduct.** If more space is needed, attach additional sheets. Please sign and date each additional sheet. Your complaint should be as specific as possible, PLEASE DO NOT CITE CASE LAW IN YOUR COMPLAINT.

*Date(s) of Alleged Misconduct of Judge: on going

***Factual Details of your complaint against Judge:**

Senator John Whitmire (D-Houston) is filed complaints with the State Commission on Judicial Conduct against three Harris County Magistrates. Texas governing statutes clearly state that a magistrate should exercise their full discretion when conducting probable cause hearings and setting bond amounts. It is clear from the video of their hearings that this is clearly not the case with these magistrates. It appears the probable cause hearings in Harris County not only violate the intent of these statutes, but also the letter of the law. On December 1, 2016, the Houston Chronicle reported on these hearings and released videos of hearings conducted by Magistrates Eric Hagstette. Based on the obvious failures to conduct these hearings as required by statute, Senator Whitmire is naming him in his complaint to the State Commission on Judicial Conduct.

"total disregard for citizens and the complete lack of judicial temperament and professionalism are unacceptable. I am requesting a thorough investigation by the State Commission on Judicial Conduct to determine if these violations are intentional, individual, or the responsibility of the elected judges who appoint these magistrates."

How did you hear about the State Commission on Judicial Conduct? (please select one)

☐ State Bar of Texas ☒ Another State agency ☐ News media ☐ Attorney ☐ Friend ☐ Other:

*Printed Name: Larance Coleman for Sen

*Larance Coleman
For Senator
Whitmire*

*Signature: Larance Coleman

*Larance Coleman
For Senator
Whitmire*

*Date: 12-1-2016

HARRISCO_CourtOrder 001725

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*Submitter Name: *Judge: *Mailing Address: *Court Number: *City, State Zip: *City and County: *Date of Birth: *Submitter Email: Your Day Phone: Your Evening Phone: () - Your Cell/Other Phone: Best time to call you: ☒ A.M. ☐ P.M.**If your complaint involves a court case, please provide the following information:**Cause Number: Status of your case: ☐ Pending ☐ Concluded ☐ On AppealYour attorney: Opposing Attorney: Address: Address: City/Zip: City/Zip: Phone Number: () - Phone Number: () - **PLEASE FILL IN ALL INFORMATION AVAILABLE FOR ANY WITNESSES (attach additional pages as needed)**Name: Name: Address: Address: Phone Number: () - Phone Number: () -

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What did this person witness?

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*I request that my identity be kept confidential. ☐ Yes ☒ No*Signature: *Date:

Larance Coleman
For Senator Whitmire

Revised 01/30/2016

HARRISCO_CourtOrder 001726

Details of Complaint

Please type or print the factual details of your complaint in the space provided below. **Please include the date(s) of the alleged misconduct.** If more space is needed, attach additional sheets. Please sign and date each additional sheet. Your complaint should be as specific as possible, PLEASE DO NOT CITE CASE LAW IN YOUR COMPLAINT.

*Date(s) of Alleged Misconduct of Judge: Jill Wallace

***Factual Details of your complaint against Judge:**

Senator John Whitmire (D-Houston) is filing complaints with the State Commission on Judicial Conduct against three Harris County Magistrates. Texas governing statutes clearly state that a magistrate should exercise their full discretion when conducting probable cause hearings and setting bond amounts. It is clear from the video of their hearings that this is clearly not the case with these magistrates. It appears the probable cause hearings in Harris County not only violate the intent of these statutes, but also the letter of the law.

On December 1, 2016, the Houston Chronicle reported on these hearings and released videos of hearings conducted by Magistrates Jill Wallace. Based on the obvious failures to conduct these hearings as required by statute, Senator Whitmire has named them in his complaint to the State Commission on Judicial Conduct.

The total disregard for citizens and the complete lack of judicial temperament and professionalism are unacceptable. I am requesting a thorough investigation by the State Commission on Judicial Conduct to determine if these violations are intentional, individual, or the responsibility of the elected judges who appoint these magistrates.

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☐ State Bar of Texas ☒ Another State agency ☐ News media ☐ Attorney ☐ Friend ☐ Other:

*Printed Name: Larance Coleman for Sen

*Signature: Larance Coleman for Sen

*Date: 12-1-2016

*Larance Coleman
For Senator
Whitmire*

*Larance
For Senator Whitmire*

HARRISCO_CourtOrder 001727

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*Signature:

*Date:

*Larance Coleman
 For SCJC
 W & H Miro*

Revised 01/30/2016

HARRISCO_CourtOrder 001728

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*Date(s) of Alleged Misconduct of Judge: Joseph Licata III

***Factual Details of your complaint against Judge:**

Senator John Whitmire (D-Houston) is filing complaints with the State Commission on Judicial Conduct against three Harris County Magistrates. Texas governing statutes clearly state that a magistrate should exercise their full discretion when conducting probable cause hearings and setting bond amounts. It is clear from the video of their hearings that this is clearly not the case with these magistrates. It appears the probable cause hearings in Harris County not only violate the intent of these statutes, but also the letter of the law.

On December 1, 2016, the Houston Chronicle reported on these hearings and released videos of hearings conducted by Magistrates Joseph Licata III. Based on the obvious failures to conduct these hearings as required by statute, Senator Whitmire has named him in his complaint to the State Commission on Judicial Conduct.

The total disregard for citizens and the complete lack of judicial temperament and professionalism are unacceptable. I am requesting a thorough investigation by the State Commission on Judicial Conduct to determine if these violations are intentional, individual, or the responsibility of the elected judges who appoint these magistrates.

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*Printed Name: Larance Coleman for Sen

*Larance Coleman
FOR SENATOR
WHITMIRE*

*Signature: Larance Coleman for Sen

*Larance Coleman
FOR SENATOR
WHITMIRE*

*Date: 12-1-2016

HARRISCO_CourtOrder 001729

State Commission on Judicial Conduct

Officers

Valerie E. Ertz, Chair
Douglas S. Lang, Vice-Chair
Ricky A. Raven, Secretary

Members

Patti H. Johnson
Martha M. Hernandez
Diane D. Threadgill
Demetrius K. Bivins
Orlinda L. Naranjo
David M. Russell
David M. Patronella
David C. Hall
Catherine N. Wylie
Tramer J. Woytek



Executive Director
Seana Willing

December 2, 2016

CONFIDENTIAL

Senator John Whitmire
Larance Coleman
Texas State Senate District 15
PO Box 12068
Austin TX 78711

Re: CJC Nos. 17-0350-AJ; 17-0351-AJ; 17-0352-AJ

Dear Senator Whitmire and Mr. Coleman:

We have received your complaints against various Texas judges. All complaints receive a thorough review and investigation relevant to the allegations, and are presented to the Commission. After its consideration, the Commission may dismiss a complaint, impose sanctions against a judge, or take other appropriate action. The Commission's actions are governed by Article V, Section 1-a of the Texas Constitution and Chapter 33 of the Texas Government Code.

Please be advised that our proceedings are confidential. We are prohibited by Section 33.033(c) of the Texas Government Code from identifying by name the judge against whom you have filed a complaint. In order to assist us with our investigation, please reference the above-listed CJC case numbers in all future correspondence. Additionally, if you intend to submit additional documents for our consideration, please send photocopies.

For your additional assistance, we have enclosed an information sheet that will explain more completely the process involved in investigating allegations of judicial misconduct.

We will inform you in writing of the Commission's action on your complaint.

If you have any questions or need additional information, please contact our office. When calling, please mention the above-listed CJC case numbers so as to expedite your phone call.

Sincerely,

A handwritten signature in black ink, appearing to read "Seana Willing".

Seana Willing
Executive Director

SW/cp
Enclosure

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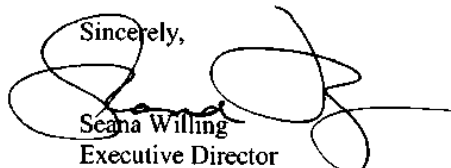
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Sincerely,



Seana Willing
Executive Director

SW/cp
Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARANDA LYNN O'DONNELL, et al.,
Plaintiffs,

Case No. 4:16-cv-01414
(Consolidated Class Action)

vs.

The Honorable Lee H. Rosenthal
U.S. District Judge

HARRIS COUNTY, TEXAS, et al.,
Defendants.

SECOND DECLARATION OF ALEXANDER BUNIN

1. My name is Alexander Bunin. I am over eighteen years of age, have personal knowledge of the facts set forth herein, and am competent to make this declaration.
2. I am the Chief Public Defender for Harris County, Texas. This supplements my previous declaration of February 20, 2017.
3. The Harris County Public Defender's Office (PDO) represents approximately 4% of misdemeanor arrestees (2,749 of 64,245 in 2016). PDO misdemeanor clients are those who are determined by an algorithm to be severely mentally ill or intellectually disabled.
4. I am a member of the Criminal Justice Coordinating Council and I was personally involved in applying for both the MacArthur Foundation Safety and Justice Grant and the Arnold Foundation Public Safety Assessment tool.
5. I have watched videos of Article 15.17 hearings, but I do not regularly attend these hearings in person. In my opinion, it is unwise for defendants to speak at those hearings because what they say will be used against them in later proceedings. I have been told by current and former prosecutors that this is true.
6. I believe that a "meaningful bail hearing" includes representation for the defendant and that both the prosecutor and defense attorney should have access to all available information (including, for example, the information gathered by Pretrial Services).
7. Except for the largest cities, and a few states, most jurisdictions in the United States do not provide representation at the initial bail hearing. The only county in Texas which does provide such representation for defendants is El Paso County. Bexar County has a pilot program to provide representation at bail hearings to a small segment of mentally ill defendants.
8. Harris County Commissioners Court recently approved a program to provide defense

SCJC 000010

HARRISCO_CourtOrder 001733

DX 23

4:16-cv-01414

exhibitstick.com

representation at the bail setting portion of the Article 15.17 hearings. This program will put Harris County on the cutting edge of the movement towards providing defense attorneys at initial bail hearings. This program will be wholly funded by Harris County.

9. Hearing officers should consider the five factors outlined by U.S. District Judge James DeAnda in the 1987 settlement order in *Roberson v. Richardson*. Ability to pay should be considered if the court will require money bail as a condition of release. The Judges retain discretion in individual cases but the new bail schedule should tie release conditions to risk.

10. I do not believe there is a legal impediment to the use of money as a condition of release, as long as the criminal hearing officer considers the defendant's ability to pay. That an arrestee has not made bail is not complete proof that they did not have the ability to pay at the time of the initial bail hearing. I believe that it is the defense attorney's, and the court's, responsibilities to readdress bail issues in the court of jurisdiction if it appears the defendant remains detained for inability to pay money.

11. I believe that it is not realistic for an arrestee to hire a private attorney to represent them at the initial bail setting as it is extremely difficult for that attorney to get to the hearing in time for the initial bail consideration, and historically that has rarely occurred.

12. I support the work being done by the Criminal Justice Coordinating Council with the Arnold Foundation's consultant, Marie VanNostrand. I believe this tool will result in more releases on non-monetary conditions, which I prefer to monetary conditions.

13. Public Defenders routinely rely upon the information gathered by Pretrial Services It is helpful in the investigation of their cases and to assesses whether to seek reconsideration of their bail.

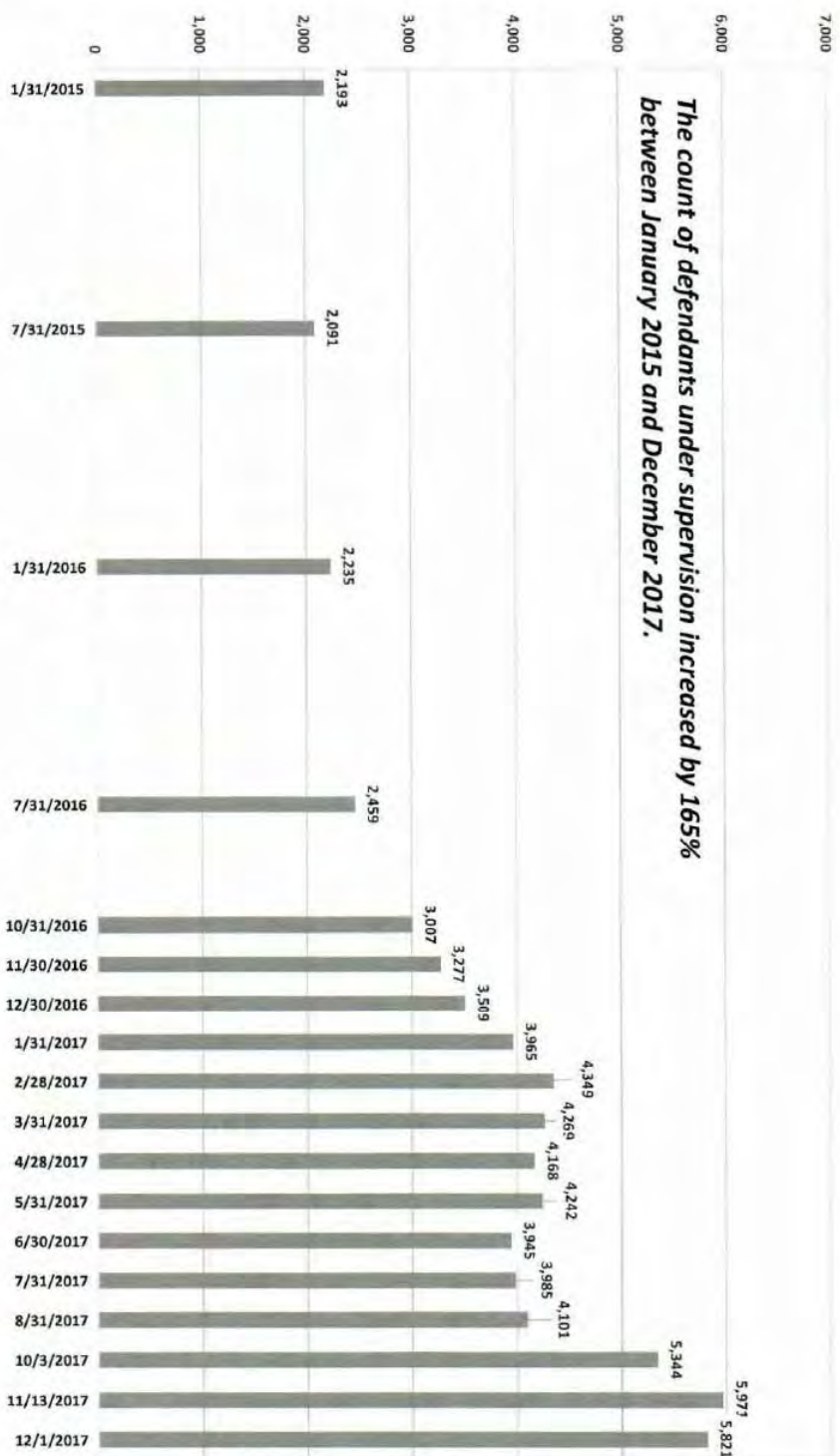
I certify under the penalty of perjury that the foregoing is true and correct.



Alexander Bunin

2/28/2017
Date

Defendants Under HCPS Supervision, January 2015 to December 2017



Source: Harris County Pretrial Services, Defendant Monitoring Division
Created 12/01/2017

SCJC 000012

HARRISCO_CourtOrder 001735

**CHARLEY A. DAVIDSON
8418 WINNINGHAM LANE
HOUSTON, TEXAS 77055**

November 30, 2017

Re: Complaint Against Eric Stewart Hagstette

To Whom It May Concern:

I am writing this letter on behalf of Eric Stewart Hagstette. I am aware that ethics complaints have been made against him and certain other Harris County magistrate judges.

I have known Eric for approximately 50 years. We met each other in high school. Although we didn't travel in the same circles, we knew each other and had numerous friends in common. Even back in high school, Eric was considered by his peers to be a person of high integrity and character. We didn't talk in terms of a person being "ethical" when we were teenagers but, if we had, Eric would have been characterized as an extremely ethical person. He didn't cut corners, he did things "the right way," and when he told you something, you could count on it; you didn't have to check its accuracy. I also came to appreciate that Eric is not a judgmental person. He will listen to someone or their position on a subject and evaluate its worth regardless of their background or situation. He may not agree with you, but he will disagree with you for the right reasons.

Eric and I both went to the University of Texas, both for undergraduate and law school, in the 1970s. When I would see Eric, he would be the same as he had been in high school – smart, dependable, of high character and just a good guy everyone would trust and wanted to hang around.

Eric and I both worked at the Harris County District Attorney's Office after law school. Although we never worked in the same court together, it was a relatively small office back then and you knew all the other prosecutors and you knew *about* all the other prosecutors. Eric was highly regarded in the courthouse, both by fellow prosecutors and defense attorneys but also judges and court staff as well. Eric was considered to be very balanced and fair as a prosecutor and I never heard *anyone* say anything negative about his ethics or handling of a case during the years we were at the Office together. Clearly, he was highly regarded by management at the DA's Office as evidenced by the fact that Johnny Holmes made Eric the Chief of the Major Fraud Division within the Special Crimes Bureau, one of the most prestigious positions within the Office. Frequently, when one prosecutor is rewarded with a particular promotion, there will be carping and backstabbing by those who didn't get the position. With Eric, there was none. No one questioned his abilities, his character, or his leadership skills. How could you get upset with a person like that getting a position you wanted?

Perhaps most illustrative of my feelings for Eric, both in terms of his legal abilities as well as his character and ethics, is what happened in 1992. That year, Eric, Rusty Hardin, Brad Beers, and I (all former prosecutors who had worked together), started a law firm together, Hardin, Beers, Hagstette & Davidson. Not only did the four of us tie our fortunes and futures to each other, we made Eric the Managing Partner. He not only had a good head for business and what it would take to run a fledgling law firm, he was a man of character and integrity, whom you wouldn't mind handling the money and making the tough decisions. Our firm dissolved a number of years later, as many law firms do, and we all went on our separate career paths. Even after we separated, I have kept up with Eric and his career as a Magistrate Judge and we remain social friends. I have spoken to judges and other magistrate judges about Eric and, to a person, they regard him highly. I have talked to lawyers who have appeared at the hearings he conducts and, not surprisingly, they are very complimentary of how he handles himself. Has he ever gotten upset at a particular individual, either by something they said or an attitude they had? I'm sure he has; show me the person who hasn't. But, throughout, has he tried to do what he thought was the right thing given all the circumstances? I would be stunned if it were otherwise.

Simply, if I had to pick one person for my (now adult) children to model themselves after, in terms of friendship, intelligence, hard work, character and ethics, and responsibility, it would be Eric Hagstette. He is that solid of a person.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Charley A. Davidson', with a stylized flourish at the end.

Charley A. Davidson

CAD/ssb

December 5, 2017

RE: Complaint against Harris County Hearing Officer Eric Hagstette

To Whom It May Concern:

I am writing this letter on behalf of Eric Hagstette, a Hearing Officer for the County of Harris. It is my understanding that ethics complaints have been filed against him and other Harris County Hearing Officers.

I have known Eric for over 30 years. I met him through my husband, Charley Davidson. Eric and Charley went to high school together and have remained friends throughout the years. We try to get together with Eric on a social basis almost monthly.

Eric had been with the Harris County District Attorney's Office before I joined the Office as an Assistant District Attorney in 1986. Eric returned to the District Attorney's the same year that I started. He was made the Division Chief of Major Fraud in Special Crimes. I was junior to Eric in the office, so I had few professional dealings with him. However, he had a very good reputation amongst the prosecutors. Everyone thought he was extremely fair, balanced and professional.

In 1992, Eric left the office. He, Charley, Brad Beers and Rusty Hardin formed the law firm of Hardin, Beers, Hagstette and Davidson. I saw Eric quite often during that time when I would go to their offices. Eric always seemed to work very hard, but he would take time out to visit with me, see how I was doing, and ask about our young children.

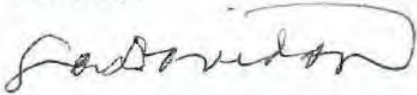
In 1996, the firm decided to split up. It was sometime after that when Eric was interviewed for the position of Hearing Officer in Harris County. The role of a Hearing Officer is to listen to the facts of a case as presented by an Assistant District Attorney and determine if there exists probable cause for the case to go to trial. After hearing the facts and deciding whether there is probable cause, the Hearing Officer would then set bonds and conditions. By the time Eric was made a Hearing Officer, I was no longer working probable cause court, therefore, I never had the opportunity to go in front of him professionally. However, many of my colleagues did. The only complaint that I ever heard from my colleagues about Eric was that he was so fair and balanced that he would often find no probable cause on cases to the dismay of the Assistant District Attorneys. To me, that says a lot about Eric's integrity. He had essentially been a career prosecutor but could also see the forest through the trees and do the right thing on cases instead of just being a rubber stamp for the prosecution.

HARRISCO_CourtOrder 001738

SCJC 000015

To this day, I still socialize with Eric. He is always a true gentleman. Obviously, to say otherwise, the complainant clearly does not know Eric. I would be totally shocked to hear that Eric did something deliberately unprofessional without good cause. That is just not in his nature. He is such a good man and I am honored to be considered his friend.

Sincerely,

A handwritten signature in black ink, appearing to read "Luci A. Davidson". The signature is fluid and cursive, with a large loop at the end.

Luci A. Davidson



5 Houston Center
1401 McKinney Street, Suite 2250
Houston, TX 77010-4035
p: 713.652.9000
www.rustyhardin.com

AFFIDAVIT OF RUSTY HARDIN

STATE OF TEXAS

§
§
§

COUNTY OF HARRIS

Before me the undersigned Notary Public, on this day personally appeared Rusty Hardin, known to me to be the person whose name is subscribed to the foregoing instrument and having been duly sworn, on his oath did depose and say as follows:

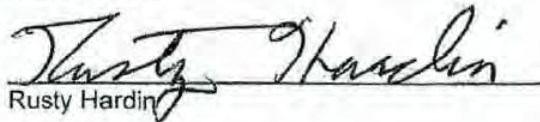
1. "My name is Rusty Hardin. I am over 18 years of age. I have never been convicted of a felony or a crime of moral turpitude. I am competent to make this affidavit. The facts stated in this affidavit are based upon my personal knowledge and are true and correct.
2. I am an attorney licensed to practice law in Texas since 1975. I have known Judge Eric Hagstette since 1977 when we served together as assistant district attorneys in Harris County. I consider Judge Hagstette to be one of the most ethical lawyers I have ever known. He has always been an attorney sensitive to the rights of others.
3. I served as an assistant district attorney from 1975 to 1990, and during that time I had many opportunities to observe Judge Hagstette exercise his discretion in numerous circumstances that called for sensitivity and good judgment as he dealt with a whole range of criminal cases from sexual assault to capital murder. For several of the latter years of our service I was Judge Hagstette's immediate supervisor. I was always struck by the ethical and compassionate way he dealt with the rights of both victims and defendants. He was a credit both to the legal profession and to the cause of public service.
4. I felt so strongly about the many admirable qualities of Judge Hagstette that I convinced him to leave the Harris County District Attorney's Office in February of 1991 and join me as a partner in the four-lawyer firm of Hardin, Beers, Hagstette, and Davidson. We practiced primarily criminal defense law together for five years, and, during daily interaction on a panoply of cases, I remained extremely impressed by the principled and fair way he handled all matters. When I left the firm to form Rusty Hardin and Associates in 1996, Judge Hagstette continued to office with me as he ran his own independent practice until he was appointed to his present position as magistrate judge. Not once throughout all of these years have I ever seen any instance of unethical behavior or insensitivity to the rights of others. Indeed, of all the

HARRISCO_CourtOrder 001740

SCJC 000017

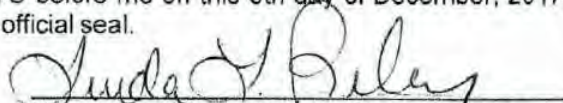
lawyers I have ever known, Eric Hagstette is probably the kindest, most gentle, and most decent human being I have had the opportunity to observe. Those traits have characterized the way he has lived his life, practiced law, and served as a magistrate.

5. I respectfully ask the Committee on Judicial Conduct to consider Judge Hagstette's demeanor and the tapestry of his personal accomplishments in assessing the validity and appropriate outcome of the complaint before you. I sincerely hope your decision does not leave a stain on a man whose entire career has been a credit to the profession."


Rusty Hardin

SUBSCRIBED AND SWORN TO before me on this 5th day of December, 2017,
to certify which, witness my hand and official seal.




Notary Public in and for the State of Texas
My commission expires: 8/29/21



**ADMINISTRATIVE OFFICES
OF THE
DISTRICT COURTS TRYING CRIMINAL CASES IN HARRIS COUNTY
HARRIS COUNTY CRIMINAL COURTS AT LAW
HARRIS COUNTY JUSTICES OF THE PEACE**



Hearing Officer Search Committee

Hon. Debbie Mantooth Stricklin
Presiding Judge
180th District Criminal Court

Hon. Mark Atkinson
Presiding Judge
County Criminal Court at Law #13

Hon. Tom Lawrence
Presiding Judge
Justice of the Peace Precinct 4 Place 2

August 9, 2005

Eric Hagstette
1401 McKinney #2250
Houston, TX 77010

Re: Interview for Criminal Hearing Officer Position

Dear Eric Hagstette:

Thank you for your application for the position of Harris County Criminal Hearing Officer (hearing officer). You have been selected to interview with a panel of judges on August 18, 2005 at 2:00 p.m. Interviews will be held in the administrative offices of the courts on the seventh (7th) floor of the Harris County Criminal Justice Center. Interviews will not be rescheduled under any circumstances.

Before you proceed to the next step in the interview process, you should be aware of certain practical issues and considerations associated with the criminal hearing officer's position.

1. Hearing officers work 10-hour shifts.
2. Hearing officers must be available at all times during their shift and may not leave the premises for any reason, including meals. In other words, hearing officers must remain in chambers or the courtroom for the entire shift.
3. New hearing officers are required to work nights and weekends.
4. Hearing officers are responsible for providing for their own continuing legal education and must maintain the requisite number of CLE hours set by the State Bar.
5. Hearing officers may not accept referral fees and are not permitted to practice law or perform weddings.
6. Hearing officers must have the experience and ability to review arrest warrants, search warrants, emergency mental health warrants for probable cause.
7. Hearing officers must be able to effectively admonish juvenile and adult defendants.

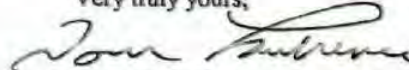
8. As a judicial officer, a hearing officer's actions on and off the bench are subject to the Texas Code of Judicial Conduct. Under the Code, judicial officers must also be circumspect concerning many aspects of their private life, including but not limited to, personal business affairs, financial dealings, and interactions with third parties concerning matters that might have a negative impact on the judiciary.
9. A hearing officer's conduct off the bench should never cast doubt as to the individual's fitness to hold the position.
10. Hearing officers are the delegates of the fifty-three judges trying criminal cases in Harris County. As representatives of the courts, hearing officers shall scrupulously follow the law.
11. Hearing officers are at-will employees.

This information is in no way meant to discourage you, but to ensure that before you go any further in the application process, you are aware of the commitment the position requires. The position of Harris County Criminal Hearing Officer is unique in Texas law and wields important duties and responsibilities. While rewarding, the time constraints of the job may have unanticipated repercussions on an office holder's personal and family life. If you feel you may not be able to make the necessary adjustments, please contact the committee immediately.

To better acquaint you with the position and help you prepare for your interview, a copy of the statutes governing Harris County Criminal Hearing Officers and the Texas Code of Judicial Conduct are enclosed.

The committee looks forward to seeing you in the near future.

Very truly yours,



Judge Tom Lawrence
Chair, Search Committee



ROBERT PELTON
LAWYER
4001 N. Shepherd Drive, Ste. 200
Houston, TX 77018
(713) 524-8471
1-888-834-3696 Facsimile

December 1, 2017

Eric Vinson
Executive Director
State Commission on Judicial Conduct
300 West 15th Street
Austin, Texas 78701

Dear Mr. Vinson:

I am writing to you on behalf of Joseph Licata. I have known Judge Licata for over 30 years. We are colleagues and personal friends. We have worked on cases together and we have been together socially. At all times Mr. Licata has been a gentleman and very professional in all his legal dealings with accused citizens. I have seen Mr. Licata go above and beyond the call of duty to help unfortunate citizens who have found themselves in the legal jungle.

I am aware of the accusations against Mr. Licata and have read articles and personally reviewed the tapes that generated this complaint.

I am the Founder and Chairman of the Texas Criminal Defense Lawyers Association Ethics Committee and a past president of the Harris County Criminal Lawyers Association.

In my 42 years as a lawyer I can rate Mr. Licata as one of the most honorable, professional, kind and compassionate people I have ever known. Dealing with confused, scared individuals takes great patience and I believe Mr. Licata was doing the best to explain to this lady and others how the system works.

Sincerely,


Robert Pelton

RP/sb

HARRISCO_CourtOrder 001744

SCJC 000021

SCARDINO & FAZEL

ATTORNEYS AT LAW
4801 WOODWAY DRIVE, SUITE 165-E
HOUSTON, TEXAS 77056
713/229-9292
713/229-9931 FAX

ROBERT A. SCARDINO
ALI R. FAZEL
ANTHONY SCARDINO

ROBERT@SFLAWTX.COM
ALI@SFLAWTX.COM
ANTHONY@SFLAWTX.COM

December 6, 2017

Eric Vinson
Executive Director
State Commission on Judicial Conduct
300 West 15th Street
Austin, Texas 78701

Re: Joseph Licata

Dear Mr. Vinson,

My name is Robert Scardino. I have lived in Houston, Texas all of my life. I am 74 years old and have practiced law since 1972. I am licensed in Texas and Federal courts. I am married and practice with my son, Anthony Scardino. I have no criminal history.

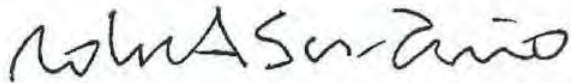
I have known Joe Licata for over twenty years. Our relationship is mostly professional in that we both practice criminal law primarily and I would see him in the courthouse and in courts weekly. I often had the pleasure of discussing various legal and social issues with Joe and with other lawyers over the years therefore I know his reputation in this legal community and it is excellent.

I was appointed to represent a defendant charged with Capital Murder several years ago and Joe was appointed as my second chair. I found his work ethic to be very good and he was greatly responsible for making a record that caused the case to be reversed.

Since Joe has sat as a Magistrate judge I have heard nothing negative regarding his performance. I have not experienced any behavior nor have I heard of any that would indicate he harbors any bias or prejudice and any incident otherwise would not be consistent with the man I know or his reputation.

I am available to testify in the event it is required.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Scardino". The signature is fluid and cursive, with the first name "Robert" and last name "Scardino" being the most prominent parts.

Robert A. Scardino

RAS:bbs



MARSHALL TAHERI LAW GROUP

THE GALLERIA, POST OFFICE BOX 460001

HOUSTON, TEXAS 77056-8001

*A U.S. based global litigation law firm
Successfully representing individuals and corporations since 1974*

MARSHALL TAHERI, ESQ.
AV-RATED ATTORNEY

LICENSED TO PRACTICE BEFORE:
THE SUPREME COURT OF THE UNITED STATES
SUPREME COURT OF THE STATE OF NEW YORK
SUPREME COURT OF THE STATE OF TEXAS
DISTRICT OF COLUMBIA
COURT OF APPEALS, WASHINGTON, DC
UNITED STATES COURT OF
INTERNATIONAL TRADE, NEW YORK
UNITED STATES TAX COURT, WASHINGTON, DC
ADJUNCT PROFESSOR OF LAW 1980-2011
LIFE FELLOW: HOUSTON BAR FOUNDATION
MEMBER: AMERICAN ASSOCIATION FOR JUSTICE
THE ASSOCIATION OF TRIAL LAWYERS OF AMERICA
RECOGNIZED BY:
WHO'S WHO IN AMERICA
WHO'S WHO IN AMERICAN EDUCATION
WHO'S WHO IN AMERICAN LAW
WHO'S WHO IN THE WORLD

TELEPHONE: 713.871.0000
FACSIMILE: 713.871.1111

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HOUSTON, TX 713.871.0000
LOS ANGELES, CA 310.557.0000
NEW YORK, NY 212.247.0000
WASHINGTON, DC 202.333.0000

December 5, 2017

The Honorable Eric Vinson
Executive Director
State Commission on Judicial Conduct
300 West 15th Street
Austin, Texas 78701

Re: Judge Joseph Licata III

Dear Mr. Vinson:

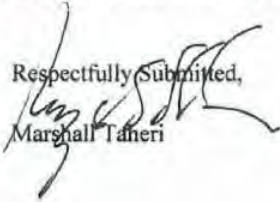
I am writing this letter in support of my colleague and dear friend, Judge Joseph Licata III, Harris County Criminal Law Hearing Officer, who I have known since 1988.

Judge Licata and I share the same law school alma mater where I also taught for more than thirty (30) years. Also, during the late 1980's, he shared my law office suite and I saw him on a daily basis. He is a gentleman and attorney with great integrity and pride.

I have viewed the videos posted online that are the subject of the Honorable Commissioner's review. I am confident that these short hearings are not representative of Judge Joseph Licata III's typical demeanor or judicial temperament. In the many years that I have known him, he has always exemplified patience, dignity, and courteous behavior. Judge Joseph Licata III is a true professional.

If you require any additional information, then please do not hesitate to call me at 713.871.0000.

Happy Holidays!

Respectfully Submitted,

Marshall Taheri

HARRISCO_CourtOrder 001747

SCJC 000024

Deborah A. Gottlieb

ATTORNEY AT LAW
3714 AUDUBON PLACE
HOUSTON, TEXAS 77006

TELEPHONE (713) 526-9575

FAX (713) 524-2672

November 30, 2017

To whom it may concern,

I am a lawyer and have been practicing law for forty (40) years. I have also sat as a visiting misdemeanor judge for brief periods in the 1990's.

I have known Jill Wallace for thirty (30) years as a colleague and a friend. We have worked on numerous cases together and I have consulted with her on legal issues.

To be frank, Jill Wallace is not only an excellent lawyer and judge, she is a moral compass. When myself or other colleagues have legal or personal questions regarding ethics, Jill Wallace is the person to consult. She is honest, forthright, and fair. She is one of those rare people who knows what is morally and legally right. She has the core values that we all aspire to practice in all circumstances.

I trust her judgment in every respect. Ms. Wallace has fought to protect the constitutional rights of citizens accused of crimes and has upheld the principles of the state at all phases of her career and life.

Sincerely,



DEBORAH A. GOTTLIEB

DAG/rb

KURT GUMBERGER
ATTORNEY AT LAW
1118 MILFORD
HOUSTON, TEXAS 77006
713-240-0404

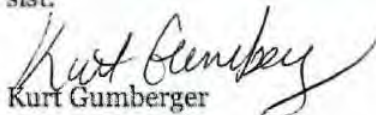
It is a privilege and an honor for me to provide a reference letter for Jill Wallace.

I have known Ms. Wallace since 1982 when we were in law school together. Ms. Wallace comes from a family of lawyers, each of whom having earned the utmost respect in the legal community: her brother a respected lawyer/mediator, and her father a former Senator, Judge on the Court of Appeals, Justice of the Texas Supreme Court and Texas Railroad Commissioner.

Since 1988 I have practiced criminal defense work in Harris County, Texas, and in 2001 Judge Mike Anderson hired me as staff attorney for the 262nd Judicial District Court of Harris County, Texas. Since his retirement I have worked for his successor, Judge Denise Bradley. My duties include representing indigent defendants who are currently on probation and those who are charged with new offenses, and generally addressing legal problems of indigent defendants appearing in court. For many years Ms. Wallace volunteered her time and expertise in assisting me in defending indigent clients accused of criminal offenses. She received no remuneration for her services, and through her assistance, dedication and unwavering devotion to the practice of law, we managed to protect the liberty of, and exonerate, quite a few defendants by obtaining more than a few "Not Guilty" verdicts for our clients.

During the past 30 years I have frequently requested her counsel and have relied upon her judgment on legal, as well as personal matters. She has always exhibited an exuberance and passion for the law, and even more importantly, for justice, which is abundantly clear to those who have watched her zealously defend her clients. During the years Ms. Wallace was in private practice she devoted her time to the assistance of the poor, vulnerable and oppressed. For many years she has served as attorney ad litem to juveniles, representing the interests of children drawn into the legal system when their parents abused or neglected them. She championed and defended the mistreated with a passion rarely seen and she vigorously represented her clients, standing up for them when on one else would. Her character and morals are unimpeachable and I will always be proud to call her a colleague and friend.

If more information is requested, specific or general, I would be more than happy to assist.


Kurt Gumberger

JAMES P. WALLACE, JR., P.C.
ATTORNEY AT LAW & MEDIATOR

213A W. 8TH STREET
GEORGETOWN, TEXAS 78626
(512) 930-4848
FAX: (512) 863-9381
E-mail jwallace@gtlawco.com

December 6, 2017

Eric Vinson
Executive Director
State Commission on Judicial Conduct
300 West 15th Street
Austin, Texas 78701

Dear Mr. Vinson:

I write to you on behalf of Jill Wallace Buchanan. I am Jill's brother and I have known Jill all of her life. Even as a child Jill was, and as a lawyer and Magistrate continues to be, the one of the most dedicated, direct and honest people I know. She genuinely cares about the people she comes in contact with. Jill has routinely exhibited these characteristics in her professional work as well as her personal life. Although she no longer has a private practice, I still value her professional advice.

I have viewed the videos posted online and that are the subject of the commission's review. I feel confident that these short hearings are not representative of Jill's typical demeanor or judicial temperament. In all the years I have known Jill I have only known her to be patient, dignified, compassionate and courteous. Jill has always been completely professional in her endeavors.

Thank you for the opportunity to share my insight about Jill with you. If you need anything more from me please do not hesitate to contact me.

Sincerely,



James P. Wallace, Jr.

State Commission on Judicial Conduct



Honorable Eric Hagstette
1201 Franklin 7th Floor
Houston, TX 77002

Re: CJC No. 17-0350-AJ

Dear Judge Hagstette:

As you are aware, the State Commission on Judicial Conduct exercises jurisdiction over allegations of judicial misconduct. Article V, Section 1-a, Paragraph (7) of the Texas Constitution provides that: "The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf, and make such preliminary investigations as it may determine." Enclosed herewith, please find a copy of a complaint filed by Senator John Whitmire of Austin, Texas (marked as Exhibit C-1). In addition, please find enclosed a CD with a copy of related video-recordings (marked as Exhibit CJC-1).

As you know, our inquiries at this point are confidential, and it has been our experience that the majority of complaints can be resolved on the basis of information received from the judge. In order for us to complete the investigation into this matter, we ask that you respond to the questions contained in item **QJ-1**, attached hereto.

If you need more space, please feel free to attach additional pages. After responding to the questions, please feel free to submit any comments, explanations, or justifications you believe appropriate. Additionally, please personally sign, date and verify your answers before a notary public.

In making this request, the Commission makes no prejudgment that you have done anything improper, and we look forward to resolving this matter as expeditiously as possible. We appreciate your helping us to carry out our responsibilities and request your written responses by **March 21, 2017**.

If you have any questions or if we may be of assistance to you, please do not hesitate to contact this office.

Sincerely,

Kelly Gier
Commission Counsel

KG/
Enclosures: Complaint (C-1), Videos (CJC-1) and QJ-1

QJ-1
CJC No. 17-0350-AJ
LETTER OF INQUIRY: HONORABLE ERIC HAGSTETTE

Brief background of Hearing Officer Position:

The position of Harris County Criminal Law Hearing Officer is created and governed by Chapter 54 of the Government Code. *See* TEX. GOV'T CODE ANN. §§ 54.851–61. Hearing Officers have limited, concurrent jurisdiction with the District Courts and County Criminal Courts at Law, and concurrent criminal jurisdiction with the Justice Courts.

Hearing Officers are appointed by a nine member board made up of three judges of the district courts of Harris County trying criminal cases, three judges of the County Criminal Courts at Law, and three Justices of the Peace in accordance with § 54.852 of the Government Code. Each Hearing Officer is appointed for a one year term that can be renewed, at the board's discretion, each year. The same board can terminate a Hearing Officer at any time.

In Harris County, one of the seven Hearing Officers (until the end of 2016, there were only five Hearing Officers) is on duty at all times, including holidays, weekends, and during severe weather events. I am unaware of any time, since the first Hearing Officers were appointed, that there was not a Hearing Officer on duty.

The primary responsibility of Hearing Officers is to conduct the first hearing after a criminal defendant is arrested and, at that hearing, to determine whether probable cause exists. Every single hearing is videotaped, but "Probable Cause Court" is not a court of record. If probable cause is found, the Hearing Officer is charged with setting bail and determining eligibility for a personal bond. A personal bond is a bond without any up front financial conditions to release and is subject to supervision by the Pre-Trial Services agency. At this hearing, we also ask whether the defendant would like a court-appointed lawyer. If the defendant responds affirmatively, we pass this information along to the court of record. The court is assigned *before* we see the defendant.

This first hearing, commonly referred to as a probable cause, PC, or 15.17 hearing, is conducted via videolink or video teleconferencing, with the defendants typically in a courtroom at the jail and the Hearing Officer, clerk, pretrial services officer, and Assistant District Attorney in the Criminal Justice Center. Harris County is currently developing a program to provide a public defender at these hearings, with that program set to begin on July 1, 2017. Harris County will be the first large county in Texas to provide a public defender at this stage.

1. Please provide the dates of your judicial services.

October 2005 until the present.

2. Who appointed you to the associate judge position?

The position of Harris County Criminal Law Hearing Officer is not the same as that of an associate judge. The associate judge position is created and governed by Chapter 54A of the Government Code. The position of Harris County Criminal Law Hearing Officer, which is my position, is created and governed by Chapter 54 of the Government Code. *See* TEX. GOV'T CODE ANN. §§ 54.851–61.

I was appointed to the Hearing Officer position by the nine member board described above. My contract has been renewed each year since 2005 for a one year term. The Board meets annually to consider Hearing Officer reappointments. Upon reappointment, Hearing Officers take a new oath of office.

3. Please describe the factors you consider when setting a bond for a suspect charged with an offense, whether misdemeanor or felony. Please provide any documentation that guides your decision making, including in your response any guidelines or limitations placed on your discretion by the Court to whom each defendant is assigned.

In reviewing and setting bond, I consider the factors set out in article 17.15 of the Code of Criminal Procedure, all available facts and information, and the accused's demeanor. To assist me, Pretrial Services usually prepares a report that includes the results of a risk assessment and an interview with the defendant, assuming the defendant consented to the interview and was available (i.e., not in the hospital, etc.). Pretrial Services also attaches to the report the results of a criminal history search. During the probable cause hearing, I review the information provided by Pretrial Services. In addition, an Assistant District Attorney reads the factual allegations of the case, which I also consider.

In light of all of the factual information available and Texas law, I also regard any rules, preferences, and policies of the assigned trial court judge to whom the case is assigned (cases are assigned cause numbers and courts before the probable cause hearing, so I know which judge will get each case). My previous experience as both a prosecutor and a defense attorney also helps inform my decisions. I have spent much of my career working in criminal law and, where appropriate, I draw on this experience.

4. Have you ever been given a directive by any judge (County Court at Law or District Judge) that restricts your discretion in any way as a magistrate? If so, please describe the restrictions placed upon you by each such judge, and the time period the described restrictions were in place. If you have documents reflecting this directive, including emails, memos, letters, and the like, please provide the Commission with all documents responsive to this request received from a judge in the last two years.

Until March 27, 2017, several of the District Court Judges did not permit Hearing Officers to grant personal bonds, instructing that personal bond applications be referred to the assigned trial court for consideration. Most of the District Court Judges also had specific rules to follow in consideration of bond. Included with this response are representative copies of charts outlining the specific instructions issued to the Hearing Officers. These individual rules were removed effective March 27, 2017.

The County Criminal Court at Law Judges historically had similar rules. These rules were passed to the Hearing Officers through the years through email, written notes, and word of mouth. For example, when a new Hearing Officer would start, they were informed of the various practices and preferences of each County Criminal Court at Law Judge. The County Criminal Court at Law Judges' preferences were never formalized in the same way as the District Court Judges, and, in the last few years, there was some lack of clarity as to what rules were still in place and which ones were no longer effective. In an August 2016 letter, the County Criminal Court at Law Judges clarified that the Hearing Officers are to exercise full discretion, guided only by Texas law and the Local Rules. I understood this letter to mean that all previous instructions were no longer in effect.

It is my understanding that part of the Commission's inquiry relates to the exercise of discretion as it relates to issuing personal bonds. It is true that prior to March 27, 2017, the District Court Judges had specific rules regarding personal bonds. A number of the District Court Judges wanted to consider eligibility for personal bond in the first instance rather than delegating that decision to the Hearing Officers. Referring this consideration in accordance with the instructions of the judge whose court the

case is pending is appropriate, as, with respect to Felonies and Class A and B misdemeanors, my jurisdiction is "limited concurrent jurisdiction." *See* TEX. GOV'T CODE ANN. § 54.858(a). In other words, as the cases I see already are assigned to a particular court and judge, I believe that judge has the choice as to what matters to refer to the Hearing Officers, and District Judges have within their discretion to not refer consideration of a personal bond. Moreover, the Government Code specifically allows the court to review and alter my decisions. *See id.* § 54.858(b) ("This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law Hearing Officer.").

If the Commission believes that the Hearing Officers should be more independent, cases could be assigned to a specific court *after* the probable cause hearing. However, because cases are currently assigned to a specific court *before* the probable cause hearing, it is entirely appropriate to refer decisions to the assigned judge in accordance with their instructions. Unfortunately, this solution is not within the control of the Hearing Officers.

5. Please review the enclosed video recording (CJC-1). During one magistration, you appeared to raise a defendant's bail from \$1,000 to \$2,000 because she responded to your questions with the word "yeah" instead of "yes."

Prior to answering the commission's specific questions, I think some context would be helpful: In conducting hearings, I try to speak very clearly and to be respectful of all defendants. I remind myself that I am seeing none of them on their best day. Specifically, it is my practice to refer to defendants as "Mr.," "Sir," "Ms.," or "Ma'am." I also say "please" and "thank you." In turn, I expect defendants to conduct themselves with at least a minimum level of respect and decorum, although I do not ask to be referred to as "sir," "judge," "your honor," or any such honorific.

As explained above, the defendants appear by video, which does not provide me a good view of the defendant. The screen upon which I view the docket is approximately 10 inches x 18 inches. One quarter of the screen shows the *entire* courtroom in which all defendants are located; one quarter is my own face; one quarter is the Assistant DA; and the remaining quarter is blank. Because of the small size of the Defendant's image, I am unable to read a defendant's lips as an aid to hearing what is being said. Further, the audio is not perfect. The defendant's microphone picks up background noise, including talking, sneezing, coughing, fidgeting, and snoring. These background noises often will drown out or make difficult to hear what is being said, which can be frustrating. On my end of the link, I am very careful not to rustle papers any more than I have to as I know this will make it difficult for the defendant to hear what I am saying. My speaker is small and sometimes not clear, sometimes "cutting out" and frequently making it necessary to request that a defendant repeat a response.

There is also about a one second delay between the audio and the video, so that, on the video, the speaker's lips do not stop moving until about one second after the audio stops. The result is that, on video, it often appears that speakers are interrupting one another.

Given the technical challenges, it is imperative that I receive clear "yes" or "no" answers from the defendants. Because of this, before the beginning of a docket, defendants are instructed to respond with a clear "yes" or "no." If a defendant forgets, I will remind the defendant that I need a "yes" or "no." Further, I am required by law to ask certain questions, such as whether the accused wants a court appointed attorney, and I am statutorily charged with relaying such a request to the trial court. I very much want to be sure I understand the response. Given the imperfections of the audio system, I do not want to risk misunderstanding the response if it is "uh huh" or "uh uh" or even "yeah" unless it is accompanied by other words that make clear the response.

Furthermore, these are serious proceedings. I find responses such as “uh huh” or “yeah” to be an indication of a lack of respect for the judicial system. From my experience, I also know that disrespect from one defendant often leads to disrespect from others on the docket, causing a chain-reaction. I have seen dockets deteriorate to a dangerous point. On occasion, fights have broken out among defendants and between defendants and jailers. At times, defendants shout at me, the jailers, and each other. I have been called some very ugly and nasty names. Defendants have felt free to cuss me and walk off during the hearing, even while I am addressing the defendant. I try very hard to prevent this from happening and, on occasion, have raised my voice to make clear that I will not tolerate this behavior. In my experience, it is easier to maintain order if I take a firm hand at the first sign of a problem.

After reviewing Ms. Jackson’s video, if I had this to do again, I would try for a less harsh and short tone. Court personnel can tell you that I am, almost without exception, extremely patient in hearings. Out of approximately one-quarter million hearings over the years, the times I have raised my voice are few. It is no secret that the pretrial system in Harris County has come under close scrutiny lately, largely due to the *ODonnell* litigation. However, in the course of *ODonnell*, Plaintiffs and others, after reviewing thousands of hours of videos, managed to find only a few hearings to criticize which did not show me at my best. It is safe to assume that if other “bad” videos existed, Plaintiffs would have identified them and likely collaborated with another group—such as the Texas Organizing Project—to publicize such videos in the way that this video was publicized. I believe the fact that so few “bad” videos have surfaced is strong evidence that all other hearings are routine and that my conduct, as a whole, is unobjectionable.

- (a) Please describe whether that bond increase comports with the Criminal Code of Procedure Art. 17.15.

I believe the increase in bond comports with article 17.15 of the Texas Code of Criminal Procedure. In my view, Ms. Jackson was disrespectful. Ms. Jackson did not seem to take the situation seriously and, as such, it is reasonable to infer that she may not take seriously her obligation to return to court. One of the factors in article 17.15 to be considered is that “bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.” Given Ms. Jackson’s lack of respect and her attitude during the hearing, a moderate increase in the bond hopefully demonstrated to her and the other defendants the seriousness of the situation and further reiterated the need to comply with reasonable conditions and requests. In other words, if Ms. Jackson lacks the basic respect to answer a question with a simple “yes” or “no,” choosing instead to argue about the request, it is less likely that she will comply with the conditions of bail or bond. Moreover, raising the bond from \$1,000 to \$2,000 did not make the bond oppressive. *See* TEX. CODE OF CRIM. PROC. art. 17.15.

- (b) Please describe whether that bond increase comports with Canons 2A and 3B(4).

I believe my conduct comports with both Canons 2A and 3(B)(4). Canon 2A requires that “a judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” As set forth above, I complied with the law, specifically 17.15, in raising Ms. Jackson’s bond from \$1,000 to \$2,000. As discussed above, by requiring Ms. Jackson to follow a simple instruction and answer a question with a clear “yes” or “no,” I believe I am giving the impression to all those present in the courtroom at the time, and the public at large, that these are serious proceedings that should be respected. I believe demanding such respect “promotes public confidence” in the judiciary. I also believe that there should be consequences for one’s actions, including consequences for showing a disregard for the judicial process. By imposing consequences, I hope this instills confidence in the judicial system and shows that judges are in control of their courtroom and taking their job seriously. I do not believe the public would have much confidence in me as judge if they believed I let the accused run my courtroom.

Canon 3(B)(4) requires that “a judge shall be patient, dignified and courteous.” I do not believe my conduct or tone crossed the line. I was patient and courteous. I requested a simple “yes” or “no” three times. Then, in a stronger tone, while being yelled at, explained what I needed. Furthermore, I am also required to abide by Canon 3(B)(3), which requires that “a judge shall require order and decorum in proceedings before the judge.” I believe my conduct was a balance of these Canons. I was respectful and professional, while still maintaining order in my courtroom. Hindsight is 20/20. I am not claiming that how I handled Ms. Jackson’s hearing was exemplary. I am always striving to improve and learn and striving to be exemplary, as I am sure all of us are. But I do not believe my conduct approached a violation of the Canons of Judicial Ethics.

6. Please review the enclosed video recording (CJC-1), showing the magistration of Willie Love Watson, and answer the questions below.

- (a) Did you believe that you had discretion to issue Mr. Watson a Personal Release (“PR”) bond? If not, why not?

I had the discretion to issue Mr. Watson a personal bond. Mr. Watson was arrested for the misdemeanor offense of driving while license invalid. The County Criminal Court at Law Judges do not prohibit approval of personal bonds for this offense.

In my opinion, Mr. Watson was not a good candidate for a personal bond. At the time of the hearing, I reviewed Mr. Watson’s Pretrial Services packet, and I have re-reviewed it in preparing this answer. The criminal history summary shows that Mr. Watson has been arrested 11 times with a felony conviction and two misdemeanor convictions. And importantly for bail setting purposes, Mr. Watson lives in Longview, Texas, hundreds of miles from Harris County. He listed the length of time he has been in Harris County as “0 Day.” He appears to have no ties to the local community whatsoever. He also provided no reference contact information to use to verify his information, as required under Harris County Pretrial Services policies. He did not know his employer.

Ultimately, I exercised my discretion to lower Mr. Watson’s bond, but did not approve a personal bond.

- (b) Please describe whether your demeanor with Mr. Watson comports with Canons 2A and 3B(4).

I believe my demeanor comports with both Canons 2A and 3B(4). I was respectful and courteous to Mr. Watson and was sincere in saying that I hoped he could secure release on his own. I have empathy for Mr. Watson and hoped he would post his bond quickly. (Mr. Watson secured release through a plea two days later). The comment was not meant to be sarcastic or snide. If the words were taken as such, I am sorry. Certainly, they were not meant that way.

7. Please provide the Commission with any additional information that you believe to be relevant. You may include sworn statements or affidavits from individuals in support of your responses.

I think it is important for the Commission to fully understand the realities of being a Harris County Criminal Law Hearing Officer. From 1993 until late 2016, only five Hearing Officers served at any one time, handling cases from all District Courts trying Criminal Cases, all Criminal Courts at Law and all Justice Courts—a total of 54 courts. A Hearing Officer is on duty 24 hours a day every day of the year, including holidays. A job description by the board of judges made clear the Hearing Officers are “at will employees,” that the Hearing Officers are the “delegates” of the judges trying criminal cases, and that, while on duty, Hearing Officers are not to leave the premises for any reason, including meals.

Having only five Hearing Officers, with only one on duty at a time, has created significant hardships. "Probable Cause Court" has not closed during my tenure as a Hearing Officer, not even during floods and hurricanes. When one Hearing Officer takes vacation, it is the responsibility of the others to cover that Hearing Officer's duties, by working extra days. While we have occasionally had the benefit of a retired judge filling in, for many years there was no such relief available, and substitutes continued to be the exception. Also, because of the difficulties it would cause to the other Hearing Officers, from 2005 up until 2017, none of us have taken a sick day. In fact, Hearing Officers have presided even while sick and it is not unknown for a Hearing Officer to vomit at work, even while on the bench, because taking a sick day would impose too great a burden on the other Hearing Officers. Necessary surgeries and other medical procedures are scheduled for days off or months in advance in order to ensure coverage of the court.

In late 2016, Harris County hired two additional Hearing Officers. The addition of these Hearing Officers has helped, but we are still understaffed.

Hearing Officers handle a variety of functions, although the primary functions are to preside at "Probable Cause" hearings and to dispose of Class C misdemeanor cases arising out of the Justice Courts. For this purpose, there are twelve dockets scheduled every 24 hours, roughly every two hours, day and night. Throughout the 24 hours, between dockets, and sometimes in conjunction therewith, Hearing Officers also perform magistrates' duties with regard to those arrested on warrants issued in other states and other counties within Texas. Throughout the 24 hours, Hearing Officers also review applications for arrest warrants, search warrants, "blood warrants" and mental health warrants, issuing the warrants when appropriate. In many cases, these functions are performed with a peace officer present who must wait for the availability of the Hearing Officer on duty. Throughout the 24 hour day, Hearing Officers also are asked to determine Probable Cause off docket in situations in which a defendant will not be in Probable Cause Court within the statutory time limit for such a determination, *see* TEX. CODE OF CRIM. PROC. art. 17.003, and to release on personal bond those defendants for whom Probable Cause was not determined within the time limit.

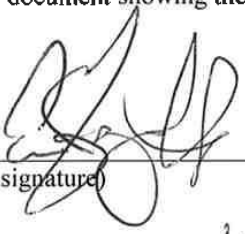
Each docket takes about an hour. On an ordinary day, each docket includes 20 to 30 defendants, although there may be as many as 45. I expect to see approximately 100 arrestees during my work day. In my more than eleven years as a Hearing Officer, I estimate I have seen close to one-quarter million people on Probable Cause and Justice of the Peace dockets.

Probable Cause dockets are conducted by videolink. I have set forth the technical difficulties above. As the Probable Cause docket begins, I read the assembled defendants their rights, as set out in the Code of Criminal Procedure, and inquire whether they understand the rights. I explain most are there for a probable cause hearing and then explain what that is, emphasizing that the hearing is not a trial. I explain that, in the event that probable cause is found, I will review the bond that has been attached to the case and will consider each for a personal bond. I explain the process for requesting a court appointed lawyer. As I cannot appoint lawyers, I explain that a request for a court appointed lawyer will be forwarded to the trial judge.

It is not uncommon for an accused to swear at a Hearing Officer, to call a Hearing Officer names, or to show total disregard for a Hearing Officer and the judicial process. This reality is part of the job that I believe all the Hearing Officers accept. Over the course of a long shift, with dockets every two hours, and a large number of defendants, even the best intentioned person can get frustrated and fatigued. I have viewed the videos identified by the Commission as it relates to the complaint against me, as well as the complaints against my fellow Hearing Officers. I have also reviewed videos selected by Plaintiffs' counsel in the *ODonnell* litigation. From all these videos, I have come to the conclusion that all the Hearing Officers do a professional job in a very difficult situation. All people are fallible; all people at

one time or another have a less than perfect moment. Most people, however, are not videotaped during that moment. We are. In the videos I have reviewed, I have not seen one that I believe falls well below appropriate judicial standards. Granted, a small handful of unflattering videos viewed in isolation can leave a bad impression. But when those isolated incidents are put into context that the Hearing Officers hold twelve sometimes volatile dockets a day every day of the year, with up to 45 people on each docket, in conjunction with an always unpredictable volume of other business, they are not so shocking.

Finally, if the Commission is concerned about the Hearing Officers' judicial independence, as discussed above, this is not an issue that can be remedied by the Hearing Officers. The Hearing Officers serve many masters. The Hearing Officers exercise the discretion they can within the bounds set. To the extent any constraints existed, such as some District Judges asking that consideration for personal bonds be referred to them (which has been abrogated), these constraints are within the law. I am aware of no law requiring, in a case pending in District Court, that the Hearing Officer make the determination of eligibility for personal bond. Conversely, the *Roberson* order, attached, requires that eligibility for a personal bond be considered at the probable cause hearing in misdemeanor cases. In 2016, statistics show 25% of misdemeanor defendants who appeared before a Hearing Officer were approved for a personal bond, plainly showing that the Hearing Officers, indeed, are exercising their discretion. Moreover, since the misdemeanor judge's August letter, the Hearing Officers have collectively issued many more personal bonds. A document showing the increase in personal bonds is included herewith.


(Judge's signature)

4/19/17
(Date)

Eric S. Hagstette
(Printed Name)

**QJ-1
VERIFICATION
CJC No. 17-0350-AJ**

State of Texas §
County of Harris §

BEFORE ME, the undersigned authority, on this day personally appeared Eric S. Hagestette, who by me being first duly sworn, on his oath deposed and said that the above responses to the Commission's inquiries are based on personal knowledge, and are true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 19 day of April, 2017.

[Signature]
(Judge's signature)

4/19/17
(Date)

Eric S. Hagestette
(Printed Name)

Lizzie Griffith - Lizzie Griffith, Deputy District Clerk.
NOTARY PUBLIC



HARRISCO_CourtOrder 001759

Documents Included with Response

- Exhibit A: Representative correspondence with other judges
- Exhibit B: August 8, 2016 Letter from County Criminal Court at Law Judges to Hearing Officers
- Exhibit C: March 23, 2017 Letter from District Courts Judges Trying Criminal Cases to Hearing Officers
- Exhibit D: Harris County Criminal Courts at Law Rules of Court (Aug. 12, 2016)
- Exhibit E: Harris County Criminal Courts at Law Rules of Court (current)
- Exhibit F: Felony bail schedule and felony judges' representative instructions¹
- Exhibit G: 2016 Percent of Misdemeanor Arrest Population Receiving a Personal Bond²
- Exhibit H: Harris County Pretrial Services 2016 Annual Report³

¹ Individual instructions abrogated by March 23, 2017 letter.

² The percentages reflected are based on the total population of misdemeanor arrestees. However, arrestees who bond out prior to being considered by a Hearing Officer are not included. Therefore, the number of personal bonds granted as a percentage of those actually appearing before a Hearing Officer is even higher.

³ One issue with the Report is that some statistics are presented based on the defendant (who may have multiple cases) and some are based on the case.

State Commission on Judicial Conduct



Honorable Jill Wallace
1201 Franklin 7th Floor
Houston, TX 77002

Re: CJC No. 17-0351-AJ

Dear Judge Wallace:

As you are aware, the State Commission on Judicial Conduct exercises jurisdiction over allegations of judicial misconduct. Article V, Section 1-a, Paragraph (7) of the Texas Constitution provides that: "The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf, and make such preliminary investigations as it may determine." Enclosed herewith, please find a copy of a complaint filed by Senator John Whitmire of Austin, Texas (marked as Exhibit C-1). In addition, please find enclosed a CD with a copy of related video recordings (marked as Exhibit CJC-1).

As you know, our inquiries at this point are confidential, and it has been our experience that the majority of complaints can be resolved on the basis of information received from the judge. In order for us to complete the investigation into this matter, we ask that you respond to the questions contained in item **QJ-1**, attached hereto.

If you need more space, please feel free to attach additional pages. After responding to the questions, please feel free to submit any comments, explanations, or justifications you believe appropriate. Additionally, please personally sign, date and verify your answers before a notary public.

In making this request, the Commission makes no prejudgment that you have done anything improper, and we look forward to resolving this matter as expeditiously as possible. We appreciate your helping us to carry out our responsibilities and request your written responses by **March 21, 2017**.

If you have any questions or if we may be of assistance to you, please do not hesitate to contact this office.

Sincerely,

Kelly Gier
Commission Counsel

KG/

Enclosures: Complaint (C-1), Videos (CJC-1) and QJ-1

QJ-1
CJC No. 17-0351-AJ
LETTER OF INQUIRY: HONORABLE JILL WALLACE

Brief background of Hearing Officer Position:

The position of Harris County Criminal Law Hearing Officer is created and governed by Chapter 54 of the Government Code. *See* TEX. GOV'T CODE ANN. §§ 54.851–61. Hearing Officers have limited, concurrent jurisdiction with the District Courts and County Criminal Courts at Law, and concurrent jurisdiction with the Justice Courts.

Hearing Officers are appointed by a nine member board made up of three judges of the district courts of Harris County trying criminal cases, three judges of the County Criminal Courts at Law, and three Justices of the Peace in accordance with § 54.852 of the Government Code. Each Hearing Officer is appointed for a one year term that can be renewed, at the board's discretion, each year. The same board can terminate a Hearing Officer at any time.

In Harris County, one of the seven Hearing Officers (until the end of 2016, there were only five Hearing Officers) is on duty at all times, including holidays, weekends, and during severe weather events. I am unaware of any time, since the first Hearing Officers were appointed, that there was not a Hearing Officer on duty.

The primary responsibility of Hearing Officers is to conduct the first hearing after a criminal defendant is arrested and, at that hearing, to determine whether probable cause exists. Every single hearing is videotaped, but "Probable Cause Court" is not a court of record. If probable cause is found, the Hearing Officer is charged with setting bail and determining eligibility for a personal bond. A personal bond is a bond without any up front financial conditions to release and is subject to supervision by the Pre-Trial Services agency. At this hearing, we also ask whether the defendant would like a court-appointed lawyer. If the defendant responds affirmatively, we pass this information along to the court of record. The court is assigned *before* we see the defendant.

This first hearing, commonly referred to as a probable cause, PC, or 15.17 hearing, is conducted via videolink or video teleconferencing, with the defendants typically in a courtroom at the jail and the Hearing Officer, clerk, pretrial services officer, and Assistant District Attorney in the Criminal Justice Center. Harris County is currently developing a program to provide a public defender at these hearings, with that program set to begin on July 1, 2017. Harris County will be the first large county in Texas to provide a public defender at this stage.

1. Please provide the dates of your judicial services.

December 26, 2005 through the present.

2. Who appointed you to the associate judge position?

The position of Harris County Criminal Law Hearing Officer is not the same as that of an associate judge. The associate judge position is created and governed by Chapter 54A of the Government Code. The position of Harris County Criminal Law Hearing Officer, which is my position, is created and governed by Chapter 54 of the Government Code. *See* TEX. GOV'T CODE ANN. §§ 54.851–61.

HARRISCO_CourtOrder 001762

I was appointed to the Hearing Officer position by the nine member board described above. My contract has been renewed each year since 2005 for a one year term. The Board meets annually to consider Hearing Officer reappointments. Upon reappointment, Hearing Officers take a new oath of office

3. Please describe the factors you consider when setting a bond for a suspect charged with an offense, whether misdemeanor or felony. Please provide any documentation that guides your decision making, including in your response any guidelines or limitations placed on your discretion by the Court to whom each defendant is assigned.

In reviewing and setting bond, I consider the factors set out in article 17.15 of the Code of Criminal Procedure and all available facts and information. To assist me, Pretrial Services usually prepares a report that includes the results of a risk assessment and an interview with the defendant, assuming the defendant consented to the interview and was available (i.e., not in the hospital, etc.). Pretrial Services also attaches the results of a criminal history search to the report, which often lists prior failures to appear. In both setting bond and considering eligibility for a personal bond, I look very closely at failures to appear within the last two years. In addition, an Assistant District Attorney reads the factual allegations of the case, which I also consider.

In light of all of the factual information available and Texas law, I also regard any rules, preferences, and policies of the assigned trial court judge to whom the case is assigned (cases are assigned cause numbers and courts before the probable cause hearing, so I know which judge will get each case). My previous experience as defense attorney also helps inform my decisions. I have spent much of my career working in criminal law and, where appropriate, I draw on this experience.

4. Have you ever been given a directive by any judge (County Court at Law or District Judge) that restricts your discretion in any way as a magistrate? If so, please describe the restrictions placed upon you by each such judge, and the time period the described restrictions were in place. If you have documents reflecting this directive, including emails, memos, letters, and the like, please provide the Commission with all documents responsive to this request received from a judge in the last two years.

Until March 27, 2017, several of the District Court Judges did not permit Hearing Officers to grant personal bonds, instructing that personal bond applications be referred to the assigned trial court for consideration. Most of the District Court Judges also had specific rules to follow in consideration of bond. Included with this response are representative copies of charts outlining the specific instructions issued to the Hearing Officers. These individual rules were removed effective March 27, 2017.

The County Criminal Court at Law Judges historically had similar rules. These rules were passed to the Hearing Officers through the years through email, written notes, and word of mouth. For example, when a new Hearing Officer would start, they were informed of the various practices and preferences of each County Criminal Court at Law Judge. The County Criminal Court at Law Judges' preferences were never formalized in the same way as the District Court Judges, and, in the last few years, there was some lack of clarity as to what rules were still in place and which ones were no longer effective. In an August 2016 letter, the County Criminal Court at Law Judges clarified that the Hearing Officers are to exercise full discretion, guided only by Texas law and the Local Rules. I understood this letter to mean that all previous instructions were no longer in effect.

It is my understanding that part of the Commission's inquiry relates to the exercise of discretion as it relates to issuing personal bonds. It is true that prior to March 27, 2017, the District Court Judges had specific rules regarding personal bonds. A number of the District Court Judges wanted to consider eligibility for personal bond in the first instance rather than delegating that decision to the Hearing

Officers. Referring this consideration in accordance with the instructions of the judge whose court the case is pending is appropriate, as, with respect to Felonies and Class A and B misdemeanors, my jurisdiction is "limited concurrent jurisdiction." *See* TEX. GOV'T CODE ANN. § 54.858(a). In other words, as the cases I see already are assigned to a particular court and judge, I believe that judge has the choice as to what matters to refer to the Hearing Officers, and District Judges have within their discretion to not refer consideration of a personal bond. Moreover, the Government Code specifically allows the court to review and alter my decisions. *See id.* § 54.858(b) ("This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law Hearing Officer.").

If the Commission believes that the Hearing Officers should be more independent, cases could be assigned to a specific court *after* the probable cause hearing. However, because cases are currently assigned to a specific court before the probable cause hearing, it is entirely appropriate to refer decisions to the assigned judge in accordance with their instructions. Unfortunately, this solution is not within the control of the Hearing Officers.

5. Please review the enclosed video recording (CJC-1). During the magistration of Mr. English, he said he was coming from work. You responded with, "No, you don't have to say anything, Mr. English. You get to say that to your court appointed lawyer." Please describe whether your magistration of Mr. English comports with the Criminal Code of Procedure Art. 17.15. Also, please describe whether your demeanor with Mr. English comports with Canons 2A, 3B(4) and 3B(8).

The Commission only provided a very short clip, less than four seconds, of Mr. English's hearing, so it is difficult to tell the context of that comment. I have, however, reviewed the entire hearing. A copy of the complete video is provided with this response.

Before addressing the Commission's specific questions, I think some background is important. My primary function is determine whether probable cause exists. Aside from Class C cases, my role is not to judge guilty or innocence nor is it to pass on the merits of the case. The facts provided by the assistant district attorney are enough to determine whether probable cause exists. Moreover, I generally have all of the information before me that I need to determine whether to issue a personal bond and where to set bail. In instances where I do not, I will ask the accused a question. In such instances, the accused is encourage to speak, but I will try and limit them to answering only the question and not use the opportunity as an invitation to discuss the merits of their case.

It is important for the Commission to understand that at these hearings the accused are not represented by counsel. Moreover, they are not only appearing before me, they are also appearing before the district attorney. It is my experience that if the accused is given free rein to speak, they will often do more harm than good to their case. I have watched defendants make incriminating statements in these hearings. Therefore, I generally discourage the accused from speaking and will attempt to keep them from engaging in a lengthy dialogue. But I do not maintain an absolute bar on the accused speaking. If the accused has a question, and I genuinely believe that it is a question and that they do not want to discuss the merits of their case, I will let them speak. Furthermore, starting in July 2017, a public defender will be present at these hearings. The public defender will likely instruct the accused not to speak, but, more importantly, can be a conduit to convey any information that the accused feels necessary, but do so in a way that will not harm the accused's case.

After reviewing this hearing, I believe if complied with article 17.15. In the pretrial services packet, I generally have all of the information before me that I need to determine whether to issue a personal bond and where to set bail. I see nothing in the video showing that I did not comply with article 17.15.

HARRISCO_CourtOrder 001764

I also believe that my conduct comports with Canons 2A and 3B(4). Canon 2A requires that I act in a manner that “promotes public confidence in the integrity and impartiality of the judiciary.” Knowing that the accused are unrepresented, and knowing that accused could readily say a something in front of the prosecutor that could incriminate themselves, I believe limiting general statements by the accused, which it appears that Mr. English wanted to do, promotes the integrity and impartiality of the judiciary. It would be patently unfair to the accused to allow them to incriminate themselves. Moreover, as noted above, I do allow genuine questions of the accused. While my practice to try and limit what the accused says in these hearings may seem unfair, it truly is in the best interests of the accused. As noted above, starting in July a public defender will represent the accused. I will reexamine my practices and likely allow the public defender to speak for the accused.

Canon 3B(4) requires that I be “patient, dignified and courteous to litigants.” I do not believe that my conduct fell below what is required. What is evident from the entire video (as opposed to the four second clip provided by the Commission) is that I had concluded with Mr. English’s hearing. Mr. English then states, “I have to say something Ma’am, I was coming from work . . .” Mr. English sought to discuss the actual merits of his case. As I told Mr. English, the appropriate person to speak with about the merits of his case was his court appointed lawyer. My role is merely to find whether probable cause exists. I was not, however, disrespectful in any way to Mr. English during this brief exchange. I needed to interject in an abrupt manner to keep Mr. English from speaking and potentially incriminating himself.

6. Please review the enclosed video recording (CJC-1). During the magistration of Anthony Wayne Goffney, he appears to have mental health issues. Please explain what steps you took to assist him with his mental health illness. Also, please describe whether your demeanor with Mr. Goffney comports with Canons 2A and 3B(4).

It is not evident from the video that a pretrial services agent is present in the courtroom. At the very beginning of the hearing, I turn to the pretrial services agent and note that something appears to be terribly wrong with Mr. Goffney. Pretrial services took note of this and Mr. Goffney was later evaluated. Also, my interaction with Mr. Goffney is very limited. Before he appears before me, Mr. Goffney interacted with law enforcement officers, jail staff, and pretrial services. My contact with the accused is the shortest and most impersonal. In this case, and in all other cases where it is obvious, I will make a note for pretrial services to follow-up. There is nothing more I could have done for Mr. Goffney.

I believe that my conduct fully comports with Canons 2A and 3B(4). It was difficult to understand Mr. Goffney, and I was very patient with him. I believe my demeanor towards Mr. Goffney was completely appropriate. Moreover, I must keep my docket moving. I had already noted to pretrial services that Mr. Goffney had a mental health issue. Continuing to prod Mr. Goffney for clearer answers would have been unproductive and would have only served to embarrass him.

7. Please provide the Commission with any additional information that you believe to be relevant. You may include sworn statements or affidavits from individuals in support of your responses.

I think it is important for the Commission to fully understand the realities of being a Harris County Criminal Law Hearing Officer. From 1993 until late 2016, only five Hearing Officers served at any one time, handling cases from all District Courts trying Criminal Cases, all Criminal Courts at Law and all Justice Courts—a total of 54 courts. A Hearing Officer is on duty 24 hours a day every day of the year, including holidays. A job description by the board of judges made clear the Hearing Officers are “at will employees,” that the Hearing Officers are the “delegates” of the judges trying criminal cases, and that, while on duty, Hearing Officers are not to leave the premises for any reason, including meals.

HARRISCO_CourtOrder 001765

Having only five Hearing Officers, with only one on duty at a time, has created significant hardships. "Probable Cause Court" has not closed during my tenure as a Hearing Officer, not even during floods and hurricanes. When one Hearing Officer takes vacation, it is the responsibility of the others to cover that Hearing Officer's duties, by working extra days. While we have occasionally had the benefit of a retired judge filling in, for many years there was no such relief available, and substitutes continued to be the exception. Also, because of the difficulties it would cause to the other Hearing Officers, from 2005 up until 2017, none of us have taken a sick day. In fact, Hearing Officers have presided even while sick and it is not unknown for a Hearing Officer to vomit at work, even while on the bench, because taking a sick day would impose too great a burden on the other Hearing Officers. Necessary surgeries and other medical procedures are scheduled for days off or months in advance in order to ensure coverage of the court.

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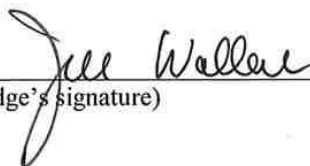
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HARRISCO_CourtOrder 001766

one time or another have a less than perfect moment. Most people, however, are not videotaped during that moment. We are. In the videos I have reviewed, I have not seen one that I believe falls well below appropriate judicial standards. Granted, a small handful of unflattering videos viewed in isolation can leave a bad impression. But when those isolated incidents are put into context that the Hearing Officers hold twelve sometimes volatile dockets a day every day of the year, with up to 45 people on each docket, in conjunction with an always unpredictable volume of other business, they are not so shocking.

Finally, if the Commission is concerned about the Hearing Officers' judicial independence, as discussed above, this is not an issue that can be remedied by the Hearing Officers. The Hearing Officers serve many masters. The Hearing Officers exercise the discretion they can within the bounds set. To the extent any constraints existed, such as some District Judges asking that consideration for personal bonds be referred to them (which has been abrogated), these constraints are within the law. I am aware of no law requiring, in a case pending in District Court, that the Hearing Officer make the determination of eligibility for personal bond. Conversely, the *Roberson* order, attached, requires that eligibility for a personal bond be considered at the probable cause hearing in misdemeanor cases. In 2016, statistics show 25% of misdemeanor defendants who appeared before a Hearing Officer were approved for a personal bond, plainly showing that the Hearing Officers, indeed, are exercising their discretion. And personally, according to figures provided by Pretrial Services, in 2016 of 6,797 misdemeanor pretrial application presented to me, I granted 1,625 personal bonds, or granted personal bonds in 23.9% of cases.


(Judge's signature)

4-21-17
(Date)

Julie Wallace
(Printed Name)

**QJ-1
VERIFICATION
CJC No. 17-0351-AJ**

State of Texas §
County of Harris §

BEFORE ME, the undersigned authority, on this day personally appeared Joe Winters, who by me being first duly sworn, on his oath deposed and said that the above responses to the Commission's inquiries are based on personal knowledge, and are true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 21st day of April, 2017.

Jill Wallen
(Judge's signature)

4.21.17
(Date)

Jim Wallace
(Printed Name)


NOTARY PUBLIC



Documents Included with Response

- Exhibit A: Representative correspondence with other judges
- Exhibit B: August 8, 2016 Letter from County Criminal Court at Law Judges to Hearing Officers
- Exhibit C: March 23, 2017 Letter from District Courts Judges Trying Criminal Cases to Hearing Officers
- Exhibit D: Harris County Criminal Courts at Law Rules of Court (Aug. 12, 2016)
- Exhibit E: Harris County Criminal Courts at Law Rules of Court (current)
- Exhibit F: Felony bail schedule and felony judges' representative instructions¹
- Exhibit G: 2016 Percent of Misdemeanor Arrest Population Receiving a Personal Bond²
- Exhibit H: Harris County Pretrial Services 2016 Annual Report³
- Exhibit I: Full video of Mr. English's magistration (provided electronically)

¹ Individual instructions abrogated by March 23, 2017 letter.

² The percentages reflected are based on the total population of misdemeanor arrestees. However, arrestees who bond out prior to being considered by a Hearing Officer are not included. Therefore, the number of personal bonds granted as a percentage of those actually appearing before a Hearing Officer is even higher.

³ One issue with the Report is that some statistics are presented based on the defendant (who may have multiple cases) and some are based on the case.

State Commission on Judicial Conduct



Honorable Joseph Licata III
1201 Franklin
Houston, TX 77002

Re: CJC No. 17-0352-AJ

Dear Judge Licata:

As you are aware, the State Commission on Judicial Conduct exercises jurisdiction over allegations of judicial misconduct. Article V, Section 1-a, Paragraph (7) of the Texas Constitution provides that: "The Commission shall keep itself informed as fully as may be of circumstances relating to the misconduct or disability of particular persons holding an office named in Paragraph A of Subsection (6) of this Section, receive complaints or reports, formal or informal, from any source in this behalf, and make such preliminary investigations as it may determine." Enclosed herewith, please find a copy of a complaint filed by Senator John Whitmire of Austin, Texas (marked as Exhibit C-1). In addition, please find enclosed a CD with a copy of related video recordings (marked as Exhibit CJC-1).

As you know, our inquiries at this point are confidential, and it has been our experience that the majority of complaints can be resolved on the basis of information received from the judge. In order for us to complete the investigation into this matter, we ask that you respond to the questions contained in item **QJ-1**, attached hereto.

If you need more space, please feel free to attach additional pages. After responding to the questions, please feel free to submit any comments, explanations, or justifications you believe appropriate. Additionally, please personally sign, date and verify your answers before a notary public.

In making this request, the Commission makes no prejudgment that you have done anything improper, and we look forward to resolving this matter as expeditiously as possible. We appreciate your helping us to carry out our responsibilities and request your written responses by **March 21, 2017**.

If you have any questions or if we may be of assistance to you, please do not hesitate to contact this office.

Sincerely,

Kelly Gier
Commission Counsel

KG/
Enclosures: Complaint (C-1), Videos (CJC-1) and QJ-1

QJ-1
CJC No. 17-0352-AJ
LETTER OF INQUIRY: HONORABLE JOSEPH LICATA III

Brief background of Hearing Officer Position:

The position of Harris County Criminal Law Hearing Officer is created and governed by Chapter 54 of the Government Code. *See* TEX. GOV'T CODE ANN. §§ 54.851–61. Hearing Officers have limited, concurrent jurisdiction with the courts they serve in Harris County—the District Courts, County Criminal Courts at Law, and Justice Courts.

Hearing Officers are appointed by a nine member board made up of three judges of the District Courts of Harris County trying criminal cases, three judges of the County Criminal Courts at Law, and three Justices of the Peace in accordance with § 54.852 of the Government Code. Each Hearing Officer is appointed for a one year term that can be renewed, at the board's discretion, each year.

In Harris County, one of the seven Hearing Officers (five until the end of 2016) is on duty at all times, including holidays, weekends, and during severe weather events. I am unaware of any time, since the first Hearing Officers were appointed that there was not a Hearing Officer on duty. Every single hearing is videotaped, but we are not a court of record.

Hearing Officers handle a variety of functions, although the primary functions are to preside at "Probable Cause" hearings and to dispose of Class C misdemeanor cases arising out of the Justice Courts. For this purpose, there are twelve dockets scheduled every 24 hours, roughly every two hours, day and night. Throughout the 24 hours, between dockets, and sometimes in conjunction therewith, Hearing Officers also perform magistrates' duties with regard to those arrested on warrants issued in other states and other counties within Texas. Throughout the 24 hours, Hearing Officers also review applications for arrest warrants, search warrants, "blood warrants" and mental health warrants, issuing the warrants when appropriate. In many cases, these functions are performed with a peace officer present who must wait for the availability of the Hearing Officer on duty. Throughout the 24 hour day, Hearing Officers also are asked to determine Probable Cause off docket in situations in which a defendant will not be in Probable Cause Court within the statutory time limit for such a determination, *see* TEX. CODE OF CRIM. PROC. art. 17.003, and to release on personal bond those defendants for whom Probable Cause was not determined within the time limit.

Each docket takes about an hour. On an ordinary day, each docket includes 20 to 30 defendants, although there may be as many as 45.

Hearing Officers' primary responsibility is to conduct the first hearing after a criminal defendant is arrested and, at that hearing, to determine whether probable cause exists. If probable cause is found, the Hearing Officer is charged with setting bail conditions and determining eligibility for a personal bond. A personal bond is a bond without any up front financial conditions to release. At this hearing, we also ask whether the defendant would like a court-appointed lawyer. If the defendant responds affirmatively, we pass this information along to the court of record. The court is assigned *before* we see the defendant.

This first hearing, commonly referred to as a probable cause, PC, or 15.17 hearing, is conducted via video, with the defendants typically in a courtroom at the jail and the Hearing Officer, pretrial services agent, and Assistant District Attorney in the Criminal Justice Center. Harris County is currently developing a program to provide a public defender at these hearings, with that program set to begin on

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July 1, 2017. Harris County will be the first large county in Texas to provide a public defender at this stage.

1. Please provide the dates of your judicial services.

March 2011 through the present.

2. Who appointed you to the associate judge position?

The position of Harris County Criminal Law Hearing Officer is not the same as an associate judge. The associate judge position is created and governed by Chapter 54A of the Government Code. The position of Harris County Criminal Law Hearing Officer, which is my position, is created and governed by Chapter 54 of the Government Code. See TEX. GOV'T CODE ANN. §§ 54.851–61. The following judges were on the board who appointed me as a Hearing Officer per § 54.852: Brown, Hughes, Ross, Richie, Mendoza, Hill, Ridgeway, Williamson, Delgado.

3. Please describe the factors you consider when setting a bond for a suspect charged with an offense, whether misdemeanor or felony. Please provide any documentation that guides your decision making, including in your response any guidelines or limitations placed on your discretion by the Court to whom each defendant is assigned.

In reviewing and setting bond, I consider the factors set out in article 17.15 of the Code of Criminal Procedure, all available facts, and the accused's demeanor. To assist me, Pretrial Services usually prepares a report that includes the results of a risk assessment and an interview with the defendant, assuming the defendant consented to the interview and was available (not in the hospital, etc.). Pretrial Services also attaches a criminal history search to the report. I review the information provided by Pretrial Services during the probable cause hearing. In addition, an assistant district attorney reads the facts of the case, which I also take into account.

In light of all of the factual information available and Texas law, I also regard any rules, preferences, and policies of the assigned trial court judge to whom the case is assigned (cases are currently assigned cause numbers and courts before the probable cause hearing, so I know which judge will get each case).

4. Have you ever been given a directive by any judge (County Court at Law or District Judge) that restricts your discretion in any way as a magistrate? If so, please describe the restrictions placed upon you by each such judge, and the time period the described restrictions were in place. If you have documents reflecting this directive, including emails, memos, letters, and the like, please provide the Commission with all documents responsive to this request received from a judge in the last two years.

Until March 27, 2017, some of the District Court Judges did not permit Hearing Officers to grant personal bonds, instructing that personal bond applications be referred to the assigned trial court for consideration. Most of the District Court Judges also had specific rules to follow in consideration of bond. Included with this response are representative copies of charts outlining the specific instructions issued to the Hearing Officers. These individual rules were removed on March 27, 2017.

The County Criminal Court at Law Judges historically had similar rules. These rules were passed to the Hearing Officers through the years by email and word of mouth. For example, when a new Hearing Officer would start, they were informed of the various practices and preferences of each County Criminal

Court at Law Judge. The County Criminal Court at Law Judges' preferences were never formalized in the same way as the District Court Judges, and, in the last few years, there was some lack of clarity as to what rules were still in place and which ones were no longer effective. In an August 2016 letter, the County Criminal Court at Law Judges clarified that the Hearing Officers are to exercise full discretion in setting conditions of release, guided only by Texas law and the Local Rules. I understood this letter to mean that all previous instructions were displaced.

It is my understanding that part of the Commission's inquiry relates to the exercise of discretion as it relates to issuing personal bonds. It is true that prior to March 27, 2017, the District Court Judges had specific rules regarding personal bonds. For many judges, they wanted to be the ones to consider eligibility for personal bond in the first instance. Referring this consideration in accordance with the instructions of the judge whose court the case is pending is appropriate, as my jurisdiction is "limited concurrent jurisdiction." *See* TEX. GOV'T CODE ANN. § 54.858(a). In other words, I believe each judge has the choice as to what matters to refer to the Hearing Officers, and a District Judge is within their discretion to not refer consideration of a personal bond. Moreover, the Government Code specifically allows for the court to review and alter my decisions. *See id.* § 54.858(b) ("This section does not limit or impair the jurisdiction of the court in which the complaint, information, or indictment is filed to review or alter the decision of the criminal law Hearing Officer.").

If the Commission believes that the Hearing Officers should be more independent, a simple solution would be to assign the case to a specific court after the probable cause hearing. However, because currently cases are assigned to a specific court before the probable cause hearing, if directed (although not within the control of the Hearing Officers), I will refer decisions to the assigned judge in accordance with their instructions.

5. Please review the enclosed video recording (CJC-1). During the magistration of Robin Clearey, she said getting arrested was nothing new to her. You responded by saying, "It's nothing to me either. It's job security." Please describe whether this statement comports with Canons 2A and 3B(4).

Before addressing the Commission's specific question about Ms. Clearey's video, I think it is important to provide some context, including Ms. Clearey's pertinent criminal history which may not be available to the commission. Ms. Clearey was on my Class C docket for three cases that were in warrant from Precinct 4 position 1. She was booked in on May 12, 2016 on the following cases: (i) TR41C3871603—no stop lights; (ii) TR41C3871602—expired registration; and (iii) TR41C3871601—no driver's license. Ms. Clearey, however, also had an outstanding Class B case out of County Criminal Court at Law No. 14 for driving while license invalid with previous conviction for suspension. The bond was set by the District Attorney on the Class B case at \$3500. This case was not before me at this time.

Ms. Clearey pled guilty on her three Class C cases and was credited with time served. Accordingly, she owed nothing on these tickets. I then, as I usually do, informed her that the Driving While License Invalid (DWLI) carries a surcharge with the Texas Department of Public Safety and she would need to check with them to possibly work out a payment plan so that her license would not be suspended. I also informed her that even though she owed nothing on the Class C cases, she would have to post bond on her Class B case out of County Criminal Court at Law No. 14 in the amount of \$3500, which had been set by the district attorney's office. Because she was not on my docket for this case, I could only inform her of the charge and the amount of the bond, I could not change this bond. I can only address cases actually pending before me, and Ms. Clearey's Class B was not before me.

Moreover, Ms. Clearey had a lengthy criminal history, particularly as it related traffic offenses. As of today, she has fourteen traffic related offenses. Generally, it appeared that she would get a ticket, ignore

it, get arrested, and then take time served. I believe this pattern is what Ms. Clearey refers to in the video as "I am always arrested, in and out, in and out, in and out . . . this is nothing to me, this is every day." Indeed, as of today, she has two outstanding cases in warrant for failure to maintain insurance and operating a vehicle without license plate out of Precinct 4 Position 1. Ms. Clearey also had other non-traffic offenses, including five misdemeanors and one felony.

As to the Commission's specific questions, I believe my conduct comports with the Canon 2A and 3B(4). I was courteous to Ms. Clearey. She had a question as to why her Class B case was different than her Class C case. I tried to explain the difference to her. In fact, I spent a great deal of time with Ms. Clearey trying to help her avoid the situation that got her in this trouble in the first place by informing her of the surcharge and explaining how to get her license in order to avoid future issues with her license. Ms. Clearey then walks off stating that it was "nothing to her." I understood this comment as an indication that Ms. Cleary had no desire to change or rectify her situation, and an acknowledgment that she would rather continue her pattern of getting arrested and accepting time served. It is frustrating as a judicial officer when a person, whom you are genuinely trying to help, is disrespectful and ambivalent to the serious situation they are in. That is why I commented that if it was nothing to her, it was nothing to me.

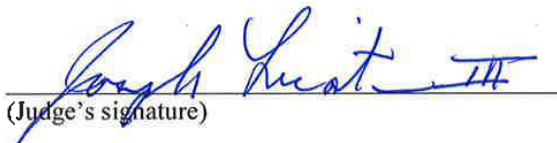
The comment about "job security," however was not directed at Ms. Clearey, but was a comment made to Justice of the Peace clerks who are in the room but cannot be seen on the video. However, this comment, though not directed at Ms. Clearey, is regrettable. After reviewing the video, I wish I had not said that. However, I do not believe that one off-hand comment, after the accused has shown so little respect for me and the judicial system, and after she had already walked off, is a breach of the Canons of Judicial Ethics. Though I strive for perfection in the performance of my duties, that is sometimes unachievable and is not required by the Canons. I believe on the whole my exchange with Ms. Clearey showed a great deal of patience, professionalism, and compassion. I strive to be the best Hearing Officer I can be, which means treating all those who appear before with the utmost respect.

6. Please provide the Commission with any additional information that you believe to be relevant. You may include sworn statements or affidavits from individuals in support of your responses.

I think it is important for the Commission to fully understand the realities of being a Harris County Criminal Law Hearing Officer. Since 1993, until late 2016, only five Hearing Officers have served at any one time, handling cases from all District Courts trying Criminal Cases, all Criminal Courts at Law and all Justice Courts—a total of 54 courts. A job description by the committee made clear the Hearing Officers are "at will employees," that the Hearing Officers are the "delegates" of the judges trying criminal cases (53 in number, at that time), and that, while on duty, Hearing Officers are not to leave the premises for any reason, including meals.

Only having five Hearing Officers created significant hardships. "Probable Cause Court" has not closed since I have been a Hearing Officer, not even during floods and hurricanes. When one Hearing Officer takes vacation, it is the responsibility of the others to cover that Hearing Officer's duties by working extra days. While we have occasionally had the benefit of a retired judge filling in, for many years there was no such relief available, and substitutes continue to be the exception. Also, because of the difficulties it would cause to the other Hearing Officers, from 2011, when I started, up until 2017, none of us have taken a sick day. In fact, judges occasionally vomit while on the bench because taking a sick day would impose too great a burden on the other Hearing Officers. Necessary surgeries and other medical procedures are scheduled for days off or months in advance in order to ensure coverage of the court. At the end of 2016, the judges hired two additional Hearing Officers. The addition of these Hearing Officers has helped, but we are still understaffed.

It is not uncommon for the accused to swear at a Hearing Officer, call a Hearing Officer names, or show a total disregard for a Hearing Officer and the judicial process. This reality is part of the job that I believe all the Hearing Officers accept. Over the course of a long shift, with numerous dockets, and a large number of defendants, even the best intentioned person can get frustrated and fatigued. I have viewed the videos identified by the Commission as it relates to the complaint against me, as well as the complaints against my fellow Hearing Officers. I have also reviewed videos selected by Plaintiffs' counsel in the *O'Donnell* litigation. From all these videos, I have come to the conclusion that all the Hearing Officers do an admirable and professional job in a very difficult situation. All people are fallible; all people at one time or another have had a less than perfect moment. Most people, however, are not videotaped while doing so. In all the videos I have reviewed, I have not seen one that I believe falls well below the expectation. Granted, when a small handful of unflattering videos viewed in isolation can leave a bad impression. But when those isolated incidents are put into to context of the fact that the Hearing Officers hold twelve dockets a day every day of the year, with 30 to 45 people on each docket, they are not so shocking.


(Judge's signature)

(Date)


(Printed Name)

**QJ-1
VERIFICATION
CJC No. 17-0352-AJ**

State of Texas §
County of Harris §

BEFORE ME, the undersigned authority, on this day personally appeared Joseph Licata, III, who by me being first duly sworn, on his oath deposed and said that the above responses to the Commission's inquiries are based on personal knowledge, and are true and correct.

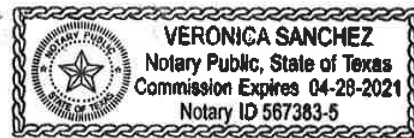
SUBSCRIBED AND SWORN TO BEFORE ME, on this the 21st day of April, 2017.

Joseph Licata, III
(Judge's signature)

4-21-17
(Date)

Joseph Licata, III
(Printed Name)

Veronica Sanchez
NOTARY PUBLIC



Documents Included with Response

- Exhibit A: Representative correspondence with other judges
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¹ Individual instructions abrogated by March 23, 2017 letter.

² The percentages reflected are based on the total population of misdemeanor arrestees. However, arrestees who bond out prior to being considered by a Hearing Officer are not included. Therefore, the number of personal bonds granted as a percentage of those actually appearing before a Hearing Officer is even higher.

³ One issue with the Report is that some statistics are presented based on the defendant (who may have multiple cases) and some are based on the case.

EXHIBIT A

January 4, 1999

TO ALL HEARING OFFICERS:

Judge Joan Huffman (183rd) called at 3:10 pm today and instructed as follows:

- 1. No pre-trial bonds;**
- 2. No lowering of bonds**
- 3. Bonds may be raised within our discretion**

Carol Carrier

Note for Garrett, Jim

From: Huffman, Judge Joan
Date: Fri, Mar 5, 1999 1:28 PM
Subject: RE: Bond clarification
To: Garrett, Jim

Sorry I did not respond sooner, but my computer has been out for a couple of days. For clarification: please do not lower a bond below the published bond schedule or below the amount originally set by the assistant district attorney, **UNLESS** the assistant district attorney at the probable cause hearing specifically requests that it be lowered because it has been incorrectly set.

Thank you.

From: Garrett, Jim on Mon, Mar 1, 1999 12:26 AM
Subject: Bond clarification
To: Huffman, Judge Joan

Judge Huffman, when you told Carol Carrier how you wanted us to do things for your court, she reported that your instructions were not to lower any bonds in your court. Does that mean not to lower a bond below the published bond schedule amount or does it mean not to lower the bond even if it has been set incorrectly according to the asst. DA working the probable cause hearing? Thanks in advance for the guidance. Jim Garrett- Hearing Officer

Jordan, Judge Darrell (CCL)

From: Hagstette, Eric (CCL)
Sent: Friday, February 24, 2017 1:54 PM
To: Jordan, Judge Darrell (CCL)
Cc: Villagomez, Blanca (CCL); Wallace, Jill (CCL); Nicholas, Ronald (CCL); Licata, Joe (CCL); Spence, Connie (CCL); StJulian, Courtney (CCL)
Subject: RE: Personal bonds

Judge,

I've reviewed today's docket, focusing on all cases that are less than two weeks old no matter the bond set, which includes No Bonds and a \$50,000 bond which was posted. I left some post its on the docket to indicate the cases I reviewed and a code which will reflect the findings regarding the bond – a total of approximately 25 cases.

As you know, when the DA accepts a charge, a bond is assigned to the case at DA Intake, using the County Court at Law bond schedule. The defendant can post that bond at any time. Defendants in misdemeanor cases do not get to PC to be seen by a hearing officer until approximately 24 hours after the arrest, if then. In the vast majority of cases, we do not, and cannot, consider personal bonds until that appearance. Occasionally, if Pre-Trial Services is able to identify a good candidate at HPD, an application will be "early presented" to us for consideration. We encourage PTS to do this as much as possible. That being said, the early presents are a small fraction of the applications we consider, the majority being considered in conjunction with the PC hearing after the defendant is booked in the HCJ. If the defendant posts a surety bond before appearing in PC, we will not see that person at all and, of course, there is no need to consider a personal bond.

Of the 25 cases I reviewed, I saw that 15 of the defendants posted a surety bond before appearing at PC; therefore, we never saw those defendants and, of course, would not consider them for personal bonds. I assigned to these cases a code representing "Posted Bond Before PC". **PBB P/C**

I concluded that hearing officers approved personal bonds for at least 7 defendants, including one who was approved for a personal bond, but posted a surety bond before the personal bond was filed. To these cases I assigned a code representing "Pre-Trial Bond at P/C by hearing officer" **PTR@P/C**

I found 3 defendants who appeared at PC but who were not granted personal bonds for reasons I cannot readily ascertain, although in one case I can see the bond was raised from \$500 to \$5000, presumably because of something reflected in the criminal history or otherwise. It is possible the defendants were approved, but the required verification has not yet come through. There could be a variety of other explanations. To these cases, I assigned a code representing "Seen at P/C, but no PTR bond approved" **P/C NPTR**

I also flagged "new" cases not receiving personal bonds with reasons I can ascertain why no bond was approved. Parole holds, CPI, bond surrenders, felonies also filed, out of state warrants without a bond are all reasons listed. I note that, at P/C, we do not ever see bond surrenders, bond revocations, or CPI's.

I am returning your 2/24 docket with post its attached to each case with the codes outlined above.

If you have further questions or comments about any of this, do not hesitate to call the hearing officer on duty at x 4379 or e-mail any or all of us.

I was pleased to meet you earlier and wish you many good things during your tenure as Judge.

Villagomez, Blanca (CCL)

From: Fields, Judge Mike (CCL)
Sent: Tuesday, January 29, 2013 8:18 AM
To: Villagomez, Blanca (CCL)
Cc: Fields, Judge Mike (CCL)
Subject: Re: Bonds set at the 8888888 or 7777777

You're absolutely right! And please don't forget the interlocks on dwi's.

Michael R. Fields

✉ On Jan 29, 2013, at 7:58, "Villagomez, Blanca (CCL)" <Blanca.Villagomez@ccl.hctx.net> wrote:

> Buenos Dias Judge,
>
> Just to be sure I understand - If a case comes to pc out of your court with the 888 or 777 we are to leave or set at \$50,000 and instruct them to appear before you immediately. If the cases involve drugs or alcohol they are to refrain from the use and follow all of your other instructions. Does this apply to bf's, mrp's and maj's also? I don't want to annoy you with all of the specifications but, I do want us to get it right.

>
> Thanks,
> Blanca
>
> -----Original Message-----
> From: Fields, Judge Mike (CCL)
> Sent: Monday, January 28, 2013 10:21 PM
> To: Hagstette, Eric (CCL)
> Cc: Fields, Judge Mike (CCL); Villagomez, Blanca (CCL); Wallace, Jill (CCL); Nicholas, Ronald (CCL)
> Subject: Re: Bonds set at the 8888888 or 7777777

>
> Thanks Eric. And thanks again to all of you for the hard work you do.

>
>
>
> Michael R. Fields

> On Jan 28, 2013, at 22:18, "Hagstette, Eric (CCL)" <Eric.Hagstette@ccl.hctx.net> wrote:

>
>> Judge,
>>
>> If the defendant is back in jail strictly for a bond revocation, we will not see that person at all. We do see bond forfeitures, MRP's and MAJ's along with new cases. If the defendant has a new case along with his bond revocation, we only see the new case, not the case in which bond has been revoked. About the only time we see the 8888 is for family assault cases with bonds of \$50,000 and also for possible undocumented aliens. We see 9999 or 7777 rarely and usually then only for serious felony cases with aggravating facts of some sort.

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>>
>> If bonds are being set on your bond revocations, I cannot see how it is happening here, but we will all take note of your e-mail.
>>
>> Eric Hagstette
>>
>> -----Original Message-----
>> From: Fields, Judge Mike (CCL)
>> Sent: Saturday, January 26, 2013 11:42 PM
>> To: Wallace, Jill (CCL); Nicholas, Ronald (CCL); Licata, Joe (CCL); Villagomez, Blanca (CCL); Hagstette, Eric (CCL)
>> Subject: Bonds set at the 8888888 or 7777777
>>
>> Hey Judges,
>>
>> On occasion, you will see bonds out of Court 14 set at either the 8's or the 7's. Typically, that means that the bond has been revoked for violation of bond conditions. What I am attempting to accomplish is a face to face discussion with the defendant before reducing the bond. If, for some reason, there is a need to reduce the defendant's bond before I get a chance to see them, please set the bond at 50,000 and order the defendant to appear in court immediately after posting said bond. If the case involves alcohol or drugs, please order the SCRAM device (and or the drug patch as appropriate) and reiterate to the defendant that they are not to use drugs or alcohol while on bond. Thanks.
>>
>>
>>
>>
>>
>> Michael R. Fields
>>
>>

Amended Local Rule 12:

RULE 12. APPROVAL OF PERSONAL BONDS

- 12.1. Whether to approve or deny a personal bond is up to the reviewing magistrate's sound discretion.
- 12.2. In general, personal bonds are favored in the following types of cases, absent good cause to deny a personal bond:
 - 12.2.1. theft by check;
 - 12.2.2. driving while license suspended or invalid;
 - 12.2.3. gambling offenses;
 - 12.2.4. illegal dumping;
 - 12.2.5. fictitious vehicle license plate or registration;
 - 12.2.6. prostitution;
 - 12.2.7. violation of laws regulating sexually oriented businesses;
 - 12.2.8. public intoxication;
 - 12.2.9. driving without a license;
 - 12.2.10. class B criminal trespass, if the defendant has no prior convictions or community supervision for a Class B or greater offense;
 - 12.2.11. class B retail theft, if the defendant has no prior convictions or community supervision for a Class B or greater offense; and
 - 12.2.12. possessing a drug or marijuana (except possession of synthetic cannabinoids or Class A possession of marijuana), if the defendant has no prior convictions or community supervision for a Class B or greater offense.
- 12.3. In general, personal bonds are disfavored where the defendant has demonstrated a risk to reoffend or harm society, examples of which might be where:
 - 12.3.1. the defendant is charged with an offense alleged to have occurred while on bond for another offense;
 - 12.3.2. the defendant is charged with multiple offenses (unless both are favored for personal bond under the above criteria; not including offenses punishable by fine only);
 - 12.3.3. the defendant is charged with an offense alleged to have occurred while the defendant was on community supervision;
 - 12.3.4. the defendant appears to be a danger to himself/herself or others; or
 - 12.3.5. the defendant has shown an unwillingness to follow bond conditions in the past.
- 12.4. In general, personal bonds are disfavored where the defendant has previously failed to appear in court as instructed.

Amended Local Rule 12:

RULE 12. APPROVAL OF PERSONAL BONDS

- 12.1. Whether to approve or deny a personal bond is up to the reviewing magistrate's sound discretion.
- 12.2. In general, personal bonds are favored in the following types of cases, absent good cause to deny a personal bond:
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 - 12.2.3. gambling offenses;
 - 12.2.4. illegal dumping;
 - 12.2.5. fictitious vehicle license plate or registration;
 - 12.2.6. prostitution;
 - 12.2.7. violation of laws regulating sexually oriented businesses;
 - 12.2.8. public intoxication;
 - 12.2.9. driving without a license;
 - 12.2.10. class B criminal trespass, if the defendant has no prior convictions or community supervision for a Class B or greater offense;
 - 12.2.11. class B retail theft, if the defendant has no prior convictions or community supervision for a Class B or greater offense; and
 - 12.2.12. possessing a drug or marijuana (except possession of synthetic cannabinoids or Class A possession of marijuana), if the defendant has no prior convictions or community supervision for a Class B or greater offense.
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 - 12.3.3. the defendant is charged with an offense alleged to have occurred while the defendant was on community supervision;
 - 12.3.4. the defendant appears to be a danger to himself/herself or others; or
 - 12.3.5. the defendant has shown an unwillingness to follow bond conditions in the past.
- 12.4. In general, personal bonds are disfavored where the defendant has previously failed to appear in court as instructed.

District Court Bail Schedule

Case 4:19-cv-00226 Document 32-7 Filed 03/27/20 in TXSD Page 64 of 212

Offense

All capital felonies.....	No Bond
All murders not particularly specified below	\$50,000.00
All first degree felonies not particularly specified below	\$20,000.00
All second degree felonies not particularly specified below	\$10,000.00
All felony DWI's not particularly specified below	\$10,000.00
All third degree felonies not particularly specified below	\$ 5,000.00
All fourth degree (State Jail) felonies not particularly specified below.....	\$ 2,000.00

Bail

Repeat Offenders

Habitual	No Bond
<u>Prior felony conviction and accused of a felony involving the use of a deadly weapon</u>	<u>No Bond</u>
First degree felony with previous conviction	\$30,000.00
Second degree felony with previous conviction	\$20,000.00
Felony DWI with previous felony DWI conviction	Double bond amount for each previous felony DWI conviction.
Third degree felony with previous conviction.....	\$10,000.00
Fourth degree (State Jail) felony with previous conviction	\$ 5,000.00
Fourth degree (State Jail) felony with more than one previous conviction	\$15,000.00

Defendant on Bail for any Felony Charge with:

First degree felony	No Bond
Second degree felony.....	No Bond
Third degree felony	No Bond
Fourth degree (State Jail) felony.....	No Bond

Particular Situations

Multiple Counts.....	Separate standard bail for each offense in the transaction.
Person on felony probation for any grade of felony	No Bond
Any 3g offense or where deadly weapon alleged	\$30,000.00
<u>Any defendant with deportation history or undocumented presence in United States</u>	<u>\$35,000.00</u>
Motion to Revoke Probation.....	No Bond
Motion to Adjudicate Guilt.....	At the Judge's Discretion
Large quantities of controlled substance or	Double the value of large quantities of the controlled substance or property.

HARRISCO_CourtOrder 001786

Licata, Joe (CCL)

From: Hagstette, Eric (CCL)
Sent: Thursday, March 07, 2013 7:35 PM
To: Shelsy, Marshall (CCL)
Cc: Villagomez, Blanca (CCL); Wallace, Jill (CCL); Nicholas, Ronald (CCL); Moore, Bill (HCDA); Licata, Joe (CCL)
Subject: Bond Schedule

Marshall,

Long time, no see! I hope all is well with you.

The reason for this message is that there seems to be great confusion at DA Intake concerning the new bond rule for new cases filed while a defendant already is on bond.

As I understand it, if the defendant is on bond already for a misdemeanor, and picks up a new case, the bond for the new case shall be double the existing bond, or \$5000, whichever is more. Meaning:

Original Bond	Bond for New Case
\$500	\$5000
\$1000	\$5000
\$1500	\$5000
\$2000	\$5000
\$2500	\$5000
\$3000	\$6000
\$3500	\$7000
\$4000	\$8000
\$4500	\$9000
\$5000	\$10000
Etc.	

After a second bond is posted, bond for any subsequent case will be double the bond on the previous case.

I hear the DA's office is all over the place on the meaning of the rule. I have heard that earlier today, a misdemeanor bond was set at \$60,000 because the defendant was out on a \$30,000 felony bond. I did not take the new rule to apply to existing felony bonds, but I see that the wording of the new rule is not clear on that point, and the example you gave in an e-mail is clear as far as it goes, but does not address this point. Some clarification might be needed.

Thanks for your help.

Eric Hagstette

HARRISCO_CourtOrder 001787

J-4

SCJC 000064

000279

Garrett, James (CCL)

To: New Hearing Officers
Subject: Things you need to know

The following items are things you need to know. The list is not all inclusive but contains everything I can think of at the moment: (1) Read the canon of judicial ethics because you are bound by them. Also read the statute that created Harris County Hearing Officers. This sets the limitations of your jurisdiction. (2) Bonds- Generally follow the published bond schedule. However, you have a lot of discretion as to bond amounts in most cases. In addition to the normal bond schedule, here is a list of particular items from some of the courts-- 174th- If a defendant gets a new dope case and has ever been convicted of any kind of felony, you are to set their bond at no bond and Godwin will set the bond. 337th.- Evading arrest in MV. Bond is to be no less than 5,000. 182- You cannot lower a bond in Barrs court. You can raise the bond if necessary. 351st- Ellis bond for state jail habiutals is 25,000 instead of the normal 15,000. (3) You may never,never, ever give a PR bond to a defendant in any of the District courts. This would probably get you fired. So don't. Just refer everyone to the judge of the court or the presiding judge. (4) You have the authority to approve or deny PR bonds in all the county courts. However, when J. Bull is on the bench in CC#11 (normally 8am -4pm Mon-Friday) mark her applicaations as referred and pretrial people will take the applications to her and she will decide who gets PR bonds. Nights and weekends you approve or deny. (5) Remember that you are a Harris County Criminal Law Hearing Officer and Not a judge. You will be referred to as judge by cops, and all court personnel and this is fine because you are preforming a judicial function. Just do not refer to yourself as judge around any of the elected judges. They are touchy on this subject. (6) You will be called on to do Magistrate warnings per CCP 15.18. Parole violations do not require a magistrate warning because they are not new cases. You will warn people who have been arrested on warrants in civil cases. (7) You will be called on to sign a majority of the arrest and search warrants issued in Harris county. Read them and be sure the warrant is correct and contains all the required elements before you sign it. The DA's get sloppy from time to time. (8) You will do out of state fugitive cases. Read the Uniform treaty on extradition. (9) On mental health warrants which we do on weekends and at night during the week read them carefully and be sure all of the elementss are satisfied before signing the warrant. Also, you may not issue a mental health warrant for anyone younger than 16. Parents or guardians must voluntarily commit 15 or younger children to a mental health facility.(10) Richard Carper is the chief JP clerk and is the person to answer questions about mental health procedures and class C cases.

HARRISCO_CourtOrder 001788

Villagomez, Blanca (CCL)

From: Shelsy, Marshall (CCL)
Sent: Monday, February 25, 2013 7:55 AM
To: Villagomez, Blanca (CCL)
Subject: Amended Bail Schedule
Attachments: 2013 BAIL SCHEDULE TO POST.doc

The judges modified the bail schedule by adding a provision that doubles bail each time a defendant already released on bond commits a new misdemeanor offense. It appears in the shaded boxes. The schedule is effective at 12:01 a.m. on March 1st.

Example:

A defendant charged with DWI is released on a \$500 bond. Two weeks later, he is arrested for Class B theft. Bond on the new offense is \$5,000. The original bond remains at \$500.

If while on both these two bonds, he is arrested and charged with a third misdemeanor, his bond on the third offense is \$10,000.

Bond on a fourth offense would be \$20,000.

Email me with any questions.

thanks

Marshall A. Shelsy, 
Staff Attorney,
Office of County Court Management
1201 Franklin Street, Suite 7000
Houston, Texas 77002
Office # (713) 755-7734
Fax# (713) 755-8931
Email: marshall_shelsy@ccl.hctx.net
On the web at <http://www.ccl.hctx.net/>

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HARRISCO_CourtOrder 001789

J-4

SCJC 000066

000281

Garrett, James (CCL)

From: Hughes, Judge Jean (CCL)
Sent: Monday, December 10, 2001 9:23 AM
To: Garrett, James (CCL)
Subject: RE: Bond to be determined situations

3 my understanding is all cases since a misdemeanor should not be at no bond. when it goes into the computer as a NO BOND, what is actually suppose to be on the docket sheet is "to be determined" and then ya'll do a review and set a bond our bond schedule is \$5000 for MRP/MAJ

-----Original Message-----

2 **From:** Garrett, James (CCL)
Sent: Monday, December 10, 2001 7:48 AM
To: Hughes, Judge Jean (CCL)
Subject: RE: Bond to be determined situations

Is it safe to assume that this message refers only to new cases and not to MRP/MAJs and BFs? Some of our Hearing Officers are under the assumption that bond is to be set on MRP/MAJs and BFs by the Hearing Officer after the trial court has set the bond on such a case at No Bond. I have always been under the impression that we are never to change a bond set by the trial court. Your guidance will be appreciated.

-----Original Message-----

1 **From:** Hughes, Judge Jean (CCL)
Sent: Friday, December 07, 2001 11:17 AM
To: Garrett, James (CCL); Carrier, Carol (CCL); Villagomez, Blanca (CCL); Dixon, Howard (CCL); Lewis, Travis (CCL)
Cc: CTY Criminal Judges (CCL); Wessels, Bob (CCL); Shelsy, Marshall (CCL); Heuitt, Ken (District Clerk)
Subject: Bond to be determined situations

At our judges meeting yesterday, we discussed situations that may arise if a persons bond has been, for any reason, entered into the computer as "no bond". The judges decided as follows to guide you through your decision making process:

If the computer indicates NO BOND, you are to set one after reviewing the following information plus any additional information that may be available to you or you can have someone provide for you:

1. Review our bond schedule
2. Check DIMS or have state check facts and determine if there is any extraordinary circumstances that may require a higher bond. Is there a violation of a protective order?
3. Check prior criminal history as well as history of bond forfeitures in ANY courts. What was the case set for - initial appearance, motions, trial? Take that into consideration
4. Be sure it is not a clerical error. Unfortunately, we've been experiencing those more frequently. Carefully research the JIMS screen for history of settings and any other activity.
5. If an attorney appears at the probable cause court, he must have an opportunity to be heard and be allowed to file any papers with the clerk on duty at probable cause. The clerk has the duty to accept and file any motions or other paperwork. They should then forward it directly to the clerk of the court handling the case - not microfilm.
6. If you still have further questions, please call the judge from the court in which the case is pending and if you are unable to contact that judge, call the presiding judge then co-presiding judge. We will provide you next week with an updated list of all phone numbers. You can also contact Marshall or Bob if you have problem and they can also assist you in contacting a judge if you are unable to do so.

You are there to use your best discretion in making decisions but do not hesitate to call on us if you need to do so.

FYI - January 1, 2002, the new presiding judge will be Judge Analia Wilkerson, Ct 9, and co-presiding is Judge Don Jackson, Ct 3.

Thanks,
Judge Jean Hughes
Presiding Judge

HARRISCO_CourtOrder 001790

Garrett, James (CCL)

From: Hughes, Judge Jean (CCL)
Sent: Monday, December 10, 2001 9:23 AM
To: Garrett, James (CCL)
Subject: RE: Bond to be determined situations

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You are there to use your best discretion in making decisions but do not hesitate to call on us if you need to do so.

FYI - January 1, 2002, the new presiding judge will be Judge Analia Wilkerson, Ct 9, and co-presiding is Judge Don Jackson, Ct 3.

Thanks,
Judge Jean Hughes
Presiding Judge

Lee, Carrie

From: Smith, Myra (DCA)
Sent: Thursday, September 02, 2004 2:23 PM
To: PTSA PSD ALL (DCA)
Subject: FW: Pre-trial bond conditions / defendants under 21

Importance: High

FYI

Judge Karahan sent an email message to Judge Garrett in February 2004 requiring that curfews are to be decided by him. However, the other conditions still stand. Please adhere to conditions # 2 and # 3.

-----Original Message-----

From: Karahan, Judge Jay (CCL)
Sent: Tuesday, November 11, 2003 3:21 PM
To: Garrett, James (CCL)
Cc: Martinez, Carmen (DCA); Ramos, Donna (CCL)
Subject: Pre-trial bond conditions / defendants under 21
Importance: High

James,

I respectfully request that Court 8 defendants under 21 years of age appearing at PC court, who are being considered for PR bonds, be placed on pre-trial conditions as follows:

1. **Curfew 7 pm - 7am**, unless gainfully employed or attending classes at school during that period.
2. **Random urinalysis**, fees waived if unemployed or full-time student
3. DWI defendants only - installation of **ignition interlock device and proof of insurance** in order to drive motor vehicles

Jay

Jay Karahan

Judge, County Criminal Court at Law No. 8
Harris County, Texas

Harris County Criminal Justice Center
1201 Franklin Street, 9th Floor
Houston, Texas 77002
713 / 755-6208

Surname _____
Mother's maiden name _____
First name _____
DOB in day, month year format _____
Place of birth to include municipality _____
state _____ and country _____

HARRISCO_CourtOrder 001792

J-4

SCJC 000069

000284

Charlie Brossman
Coordinator



Dan Castaneda
Official Court Reporter

JUDGE DIANE BULL
HARRIS COUNTY CRIMINAL COURT AT LAW #11

February 22, 1995

Judge James Garrett
Chief Hearing Officer
301 San Jacinto
Houston, Texas 77002

Dear Judge Garrett,

Please instruct the probable cause hearing officers to withhold their rulings on all pre-trial release applications for defendants in County Criminal Court No. 11.

Thank you for your consideration.

Sincerely,

Diane Bull
Judge, County Criminal Court No. 11

HARRISCO_CourtOrder 001793

SCJC 000070

000285

Charlie Brossman
Coordinator



Dan Castaneda
Official Court Reporter

JUDGE DIANE BULL
HARRIS COUNTY CRIMINAL COURT AT LAW #11

March 7, 1995

Mr. Jim Garrett
Chief Hearing Officer
301 San Jacinto Street
Houston, Texas 77002

Dear Mr. Garrett

Evidently some confusion was caused by my previous memo. To clarify, if I am available, (i.e. normal working hours) I prefer to make the rulings on all requests for pre-trial release for defendants in Criminal Court No. 11. Otherwise, of course, continue your current policy of review for pre-trial release when I am not available.

Sincerely,

Diane Bull
Diane Bull

To all Concerned:

On Mondays through Friday, Hearing officers will review CC 11 applications between the hours of 5:00 PM and 8:00 AM.

Hearing officers will review CC 11 applications from Fridays 5:00 PM continuously until Monday 8:00 AM.

Jim Garrett

Charlie Brossman
Coordinator



Dan Castaneda
Official Court Reporter

JUDGE DIANE BULL
HARRIS COUNTY CRIMINAL COURT AT LAW #11

March 7, 1995

Mr. Jim Garrett
Chief Hearing Officer
301 San Jacinto Street
Houston, Texas 77002

Dear Mr. Garrett

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Sincerely,

Diane Bull
Diane Bull

3/7/95

To all Concerned:

On Mondays through Friday, Hearing officers will review CC 11 applications between the hours of 5:00 PM and 8:00 AM.

Hearing officers will review CC 11 applications from Fridays 5:00 PM continuously until Monday 8:00 AM.

Jim Garrett

EXHIBIT B

OFFICE OF COURT MANAGEMENT
HARRIS COUNTY CRIMINAL COURTS AT LAW



JUDGES

Hon. Paula Goodhart
County Criminal Court
At Law Number 1

Hon. William Harmon
County Criminal Court
At Law Number 2

Hon. Natalie C. Fleming
County Criminal Court
At Law Number 3

Hon. John Clinton
County Criminal Court
At Law Number 4

Hon. Margaret S. Harris
County Criminal Court
At Law Number 5

Hon. Larry Standley
County Criminal Court
At Law Number 6

Hon. Pam Derbyshire
County Criminal Court
At Law Number 7

Hon. Jay Karahan
County Criminal Court
At Law Number 8

Hon. Analia Wilkerson
County Criminal Court
At Law Number 9

Hon. Dan Splut
County Criminal Court
At Law Number 10

Hon. Diane Bull
County Criminal Court
At Law Number 11

Hon. Robin Brown
County Criminal Court
At Law Number 12

Hon. Don Smyth
County Criminal Court
At Law Number 13

Hon. Mike Fields
County Criminal Court
At Law Number 14

Hon. Jean Spradling Hughes
County Criminal Court
At Law Number 15

Hon. Linda Garcia
County Criminal Court
At Law Number 16

STAFF

Ed Wells
Court Manager

Peyton Peebles
Staff Attorney

Hiana Mize
Office Manager

Hon. Blanca Villagomez,
Hon. Eric Hagstette,
Hon. Joseph Licata,
Hon. Ronald Nicholas,
Hon. Jill Wallace,
Criminal Law Hearing Officers, Harris County, Texas

Re: Magistration duties and discretion

Judges Villagomez, Hagstette, Licata, Nicholas, and Wallace:

We are committed to making criminal justice in Harris County efficient, fair, and legal for all those involved, balancing the interests of the accused with those of public safety. Please know that as we strive for that goal in the 16 statutory county criminal courts, we are mindful that you strive for the same goal in your courtroom.

We believe that, as criminal law hearing officers and Texas magistrates, you have full discretion to perform your duties under the Government Code and the Code of Criminal Procedure with respect to cases appearing before our courts. This includes determining bail amounts¹ and granting personal bonds in cases you deem appropriate.² To facilitate the latter in appropriate cases, our courts have determined that Pretrial Services need only verify an arrestee's information through one reliable source rather than two. We also recently acknowledged in our local rules that certain situations might inherently favor a personal bond whereas others might inherently disfavor one (see attached local rule amendment). These considerations might work well in your court as well.

¹ See TEX. CODE CRIM. P. ANN. art. 17.15 (Vernon 1993):

The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense and the community shall be considered.

as well as *Roberson v. Richardson*, No. H-84-2974 (S.D. Tex. Nov. 25, 1987) (requiring a magistrate to consider a promulgated initial bail schedule amount as a factor, along with the factors appearing in article 17.15, in determining an appropriate amount of bail).

² See TEX. CODE CRIM. P. ANN. art. 17.03 and 17.031 (Vernon 1990) (giving Texas magistrates the authority to release defendants on personal bonds in many instances); see also TEX. CODE CRIM. P. ANN. art. 2.09 (Vernon 1993) (Harris County criminal law hearing officers are Texas magistrates).

HARRISCO_CourtOrder 001797

Please understand that our Local Rules are intended to: (1) provide a procedural framework to carry out existing statutory law; or (2) restate existing statutory law. One exception to statutory law is that the Local Rules specify that the clerk's office will apply the initial bail schedule amount when originally filing the charge. *Roberson* requires a magistrate to consider the initial bail schedule amount as a factor when determining the appropriate bail amount for each case. That amount must be taken into consideration along with other statutory factors:

1. The amount is high enough to ensure appearance in court;
2. The amount is not oppressive given the circumstances;
3. The amount takes into consideration the nature of the offense and the circumstances under which it was allegedly committed;
4. The amount takes into consideration the accused's ability to make bail, upon which you may take proof; and
5. The amount considers the future safety of a victim of the alleged offense and the community.

TEX. CODE CRIM. P. ANN. art. 17.15 (Vernon 1993) (reproduce in footnote 1). The clerk should then enter the bail amount ultimately determined by the magistrate. Nothing in our Local Rules is intended to limit your discretion in deciding when a personal bond is appropriate or in assessing the appropriate bail amount.

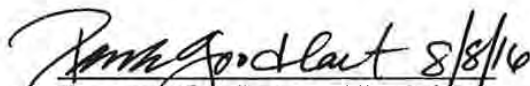
We are working with the district courts and relevant Harris County agencies to implement the Arnold Foundation's Public Safety Assessment tool as quickly as possible. In conjunction with the Pretrial Services interview information you receive now, this tool should help ensure that bail is assessed at a meaningful amount for each defendant and that risk and flight concerns are addressed with appropriate conditions. We continue to ask Harris County to increase resources for its Pretrial Services department, given that we feel: (1) the information they provide is so very important to determining bail issues; and (2) it must be able to effectively supervise defendants released on personal bonds. We trust you feel the same with respect to those arrestees brought before you.

As you know, the Harris County Commissioner's Court recently approved two more hearing officer positions. The nine-member board with authority to appoint hearing officers (with Commissioner's Court approval) is already reviewing applications to choose the two best candidates for statutory 1-year terms.³

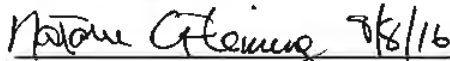
³ See TEX. GOV'T CODE, ANN. § 54.852 (Vernon 1993):

- (a) A board composed of three judges of the district courts of Harris County trying criminal cases, three judges of the county criminal courts at law, and three justices of the peace in Harris County may appoint criminal law hearing officers, with the consent and approval of the commissioners court, to perform the duties authorized by this subchapter. A quorum is two-thirds of the members of the board.
- (b) The board shall ensure that the criminal law hearing officers appointed under this subchapter are representative of the race, sex, national origin, and ethnicity of the population of Harris County.
- (c) A criminal law hearing officer serves a one-year term and continues to serve until a successor is appointed.
- (d) A criminal law hearing officer appointed under this subchapter may be terminated at any time in the same manner as appointed.
- (e) A criminal law hearing officer may not engage in the private practice of law or

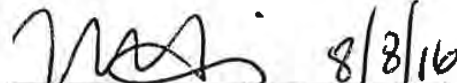
Hopefully you find this information helpful.


Hon. Paula Goodhart, Presiding Judge
County Criminal Court at Law No. 1


Hon. William Harmon, Presiding Judge
County Criminal Court at Law No. 2


Hon. Natalie Fleming, Presiding Judge
County Criminal Court at Law No. 3


Hon. John Clinton, Presiding Judge
County Criminal Court at Law No. 4


Hon. Margaret Harris, Presiding Judge
County Criminal Court at Law No. 5

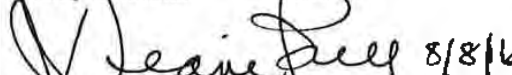

Hon. Larry Standley, Presiding Judge
County Criminal Court at Law No. 6

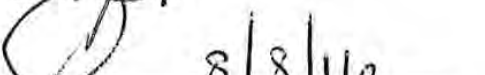

Hon. Pam Derbyshire, Presiding Judge
County Criminal Court at Law No. 7


Hon. Jay Karahan, Presiding Judge
County Criminal Court at Law No. 8


Hon. Analia Wilkerson, Presiding Judge
County Criminal Court at Law No. 9


Hon. Dan Spjut, Presiding Judge
County Criminal Court at Law No. 10


Hon. Diane Bull, Presiding Judge
County Criminal Court at Law No. 11


Hon. Robin Brown, Presiding Judge
County Criminal Court at Law No. 12


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County Criminal Court at Law No. 13


Hon. Mike Fields, Presiding Judge
County Criminal Court at Law No. 14


Hon. Jean Spradling Hughes, Presiding Judge
County Criminal Court at Law No. 15


Hon. Linda Garcia, Presiding Judge
County Criminal Court at Law No. 16

- serve as a mediator or arbitrator or otherwise participate as a neutral party in any alternate dispute resolution proceeding, with or without compensation.
- (f) A criminal law hearing officer is subject to proceedings under Article V, Section 1-a, of the Texas Constitution.

HARRISCO_CourtOrder 001799

Amended Local Rule 12:

RULE 12. APPROVAL OF PERSONAL BONDS

- 12.1. Whether to approve or deny a personal bond is up to the reviewing magistrate's sound discretion.
- 12.2. In general, personal bonds are favored in the following types of cases, absent good cause to deny a personal bond:
 - 12.2.1. theft by check;
 - 12.2.2. driving while license suspended or invalid;
 - 12.2.3. gambling offenses;
 - 12.2.4. illegal dumping;
 - 12.2.5. fictitious vehicle license plate or registration;
 - 12.2.6. prostitution;
 - 12.2.7. violation of laws regulating sexually oriented businesses;
 - 12.2.8. public intoxication;
 - 12.2.9. driving without a license;
 - 12.2.10. class B criminal trespass, if the defendant has no prior convictions or community supervision for a Class B or greater offense;
 - 12.2.11. class B retail theft, if the defendant has no prior convictions or community supervision for a Class B or greater offense; and
 - 12.2.12. possessing a drug or marijuana (except possession of synthetic cannabinoids or Class A possession of marijuana), if the defendant has no prior convictions or community supervision for a Class B or greater offense.
- 12.3. In general, personal bonds are disfavored where the defendant has demonstrated a risk to reoffend or harm society, examples of which might be where:
 - 12.3.1. the defendant is charged with an offense alleged to have occurred while on bond for another offense;
 - 12.3.2. the defendant is charged with multiple offenses (unless both are favored for personal bond under the above criteria; not including offenses punishable by fine only);
 - 12.3.3. the defendant is charged with an offense alleged to have occurred while the defendant was on community supervision;
 - 12.3.4. the defendant appears to be a danger to himself/herself or others; or
 - 12.3.5. the defendant has shown an unwillingness to follow bond conditions in the past.
- 12.4. In general, personal bonds are disfavored where the defendant has previously failed to appear in court as instructed.

DEC - 2 1987

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

NOV 25 1987

JESSE E. CLARK, CLERK
BY DEPUTY: *B. J. J. J.*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LARRY ROBERSON; ET AL.

VS.

NEEL RICHARDSON; ET AL.

§
§
§
§
§
§

CIVIL ACTION NO. H-84-2974

ORDER

Pending before the Court is the parties' stipulation regarding attorneys' fees. The Court

ORDERS this stipulation is hereby approved in all respects.

DONE in Houston, Texas, this 25th day of November, 1987.

J. Deanda
JAMES DeANDA
UNITED STATES DISTRICT JUDGE

DEC -2 1987

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED

NOV 25 1987

JESSE E. CLARK, CLERK
BY DEPUTY: *B. James*

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LARRY ROBERSON, et al.,

Individually and as
Class Representative

Plaintiffs,

v.

NEEL RICHARDSON, et al.,

Defendants.

CIVIL ACTION

NO. H-84-~~8659~~

2974

AGREED FINAL JUDGMENT

On this day came on to be heard the above-entitled and numbered cause. The parties appeared in open court by and through their attorneys of record and announced that all claims, causes of action, and matters in controversy actually asserted, have been compromised and settled; and prayed that the Court render an Agreed Final Judgment in accordance with the terms set forth herein.

The parties announced that their intention in consenting to entry of the herein contained judgment, and the reason for the herein contained orders, is to insure that Plaintiffs are afforded all of the rights, privileges and immunities guaranteed by the Constitution and laws of the United States of America and the State of Texas, including, but not limited to, the right to a prompt, fair and reliable determination of Probable Cause as set out in *Gerstein v. Pugh*, 420 U.S. 103 (1978), a meaningful review of alternatives to pre-scheduled bail amounts as set out in *Rainwater v. Pugh*, 572 F.2d 1053 (5th Cir. 1978)(*en banc*), and the right to the prompt appointment of counsel.

The parties further announced that the reason for the herein contained judgment is to afford each member of the Plaintiffs' class a Probable Cause and bond hearing before a duly elected Judge of a State District Court, County Criminal Court at Law, Statutory County Court at Law authorized to hear criminal matters, County Court, Justice of the Peace, special Judge pursuant to Vernon's Annotated Texas Civil Statutes, Government Code, Sec. 75.403, or such persons who may be temporarily appointed or designated to lawfully preside on behalf of a court, but in no case shall such person or persons not be a resident of Harris County, Texas, licensed to practice law for at least four (4) years and a member in good standing of the State Bar of Texas (hereinafter referred to as a "Judicial Officer"), and the appointment of counsel. All of the foregoing shall be in accordance with the provisions of this Judgment.

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It is, therefore, ORDERED, ADJUDGED and DECREED that the Judges of the Statutory County Criminal Courts at Law of Harris County Texas ("the Judges"), shall cause each person accused of a Class "A" or "B" misdemeanor offense filed in the Statutory County Criminal Courts at Law of Harris County, Texas, to be taken before¹ a Judicial Officer, as soon as a Judicial Officer is available after the accused is placed in a jail operated by or under the authority of the Sheriff of Harris County, Texas, or other detention facility operated by or under the authority of the Sheriff of Harris County, Texas, whereupon the accused shall be afforded a hearing that will entail an examination of whether "Probable Cause" (which is defined as a reasonable ground, based upon the facts and circumstances, sufficient to warrant a prudent man to believe that the accused has committed each element of the offense charged and the accused is culpable, it being understood that if there is a sufficient defense established by testimony or documentation of the arresting agency, then there is no Probable Cause) exists for the accused's further detention, set bail and review the accused's suitability for release on an alternative to prescheduled bail amounts. At the hearing the Judicial Officer shall:

- (A) Inform the accused in clear, understandable language, of the accusation against him and of any complaint or information filed against him;
- (B) Inform the accused of his right to retain counsel; of his right to remain silent; of his right to have an attorney present during any interview with peace officers or prosecutors; of his right to terminate police interrogation at any time; of his right to request the appointment of counsel if he is an indigent (a person who is not financially able to employ counsel); and that any statement made by the accused can and will be used against him at trial.
- (C) Determine whether Probable Cause exists to warrant further detention of the defendant on the charges pending. The Judicial Officer shall determine the existence of Probable Cause based upon witness testimony (or affidavits), the arresting officers testimony, the Judicial Officer's analysis of a written offense report, or of written field notes/reports prepared by the arresting officer. The Judicial Officer shall enter the basis for his findings on the record by completing a form regarding the findings

¹ "Taken before" shall mean either physically bringing the accused before the Judicial Officer in person or by the use of high speed two way audio/video transmission technology. In circumstances where audio/video technology is utilized (in that the accused is located in a holding facility other than the facility in which the Judicial Officer is located) said system will cause the entire hearing to be recorded on video tape. If this technology is implemented, a copy of the recording will be the record and will be maintained for 120 days after the hearing.

and orders made by the Judicial Officer and including the same with the papers of the case. If the Judicial Officer determines there is not Probable Cause, the accused shall immediately be discharged from custody (detention).

(D) Where the Judicial Officer finds Probable Cause for further detention, he shall: (1) enter such finding on the record, and (2) set the amount of bail required of the accused for release and determine the accused's eligibility for release on personal bond or alternatives to prescheduled bail amounts. Such bail determinations shall be according to the following criteria:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with;
2. The nature of the offense for which Probable Cause has been found and the circumstances under which the offense was allegedly committed are to be considered, including both aggravating and mitigating factors for which there is reasonable ground to believe shown, if any;
3. The ability to make bail is to be regarded, and proof may be taken upon this point;
4. The future safety of the victim may be considered, and if this be a factor, release to a third person should also be considered; and
5. The Judicial Officer shall also consider the accused's employment history, residency, family affiliations, prior criminal record, previous court appearance performance and any outstanding bonds.

It is further ORDERED that the Judges shall also cause the Judicial Officer to be available for conducting the hearings described in this order for persons accused of Class "C" misdemeanor offenses upon which the accused is booked into the Harris County Jail.

It is further ORDERED that for a period of three years from entry of this order, if a hearing has not been held within 24 hours of an arrest, the Judges shall cause records to be maintained showing the accused's name, the case number and the arresting agency, and shall make such records available to Plaintiffs' counsel on request. In the event a particular arresting agency shows a pattern of failing to produce accused persons for the hearings required within 24 hours of arrest, this Court shall enter an additional order requiring the defendants to immediately notify Plaintiffs' counsel when an accused is brought by such agency before the Judicial Officer after 24 hours from arrest has elapsed.

It is further ORDERED that the bail determinations made by the Judicial Officer shall not be changed but for good cause shown. The basis for, and the finding of good cause, shall be entered upon the record.

It is further ORDERED that the Judges shall provide Judicial Officers who will be continuously on duty to conduct the hearings referred to in this order during the 15 hours of each week day, and for 15 hours each day on weekends, during which times the Judges are not available to preside. The illness or absence of a Judicial Officer shall not absolve the Judges of responsibility to provide Judicial Officers under this Order.

It is further ORDERED that the Statutory County Criminal Courts at Law of Harris County, Texas, shall implement and maintain a bond schedule for all misdemeanor offenses within their jurisdiction. This schedule shall establish the initial amounts of bail required in each type or category of offense. At the Probable Cause hearing the Judicial Officer shall use the Bail Schedule, in addition to the criteria in Section D, in determining the appropriate bail in a given case. The Judicial Officer shall have the authority to order the accused released on personal bond or released on other alternatives to prescheduled bail amounts. The Judges shall direct the Pretrial Services Agency to make every effort to insure that sufficient information is available at the time of the hearings required herein for the Judicial Officer to determine an accused's eligibility for a personal bond or alternatives to prescheduled bail amounts.

It is further ORDERED that the Judges shall appoint counsel prior to any adversarial judicial proceedings (any proceeding held in the court in which the case is filed), or where the Judge concludes that the interests of justice require representation, for all accused indigents who do not refuse the appointment of counsel. The Judges may not deny appointed counsel to an accused solely because the accused has posted, or is capable of posting bail. Appointments shall not be revoked, rescinded, withdrawn or terminated when an accused has posted bail, but for good cause shown, and such a finding and the basis therefore shall be entered on the record. The posting of bond by the accused is not good cause for the revocation, rescission, withdrawal or termination of the appointment of counsel for an accused. In considering whether an accused is entitled to appointed counsel the Judges shall consider factors including, but not limited to, the following:

1. the accused's income,
2. significant property owned by the accused,
3. outstanding obligations of the accused,
4. necessary expenses of the accused,
5. the number and ages of any dependents of the accused, and
6. whether the accused has posted or is capable of posting bail.

It is further ORDERED that the provisions of this Order shall be implemented on or before, March 1, 1988.

This Agreed Final Plaintiffs' Original and Amended Petitions, and the implementation of this Agreed Judgment concludes all matters contained therein. The United States District Court retains exclusive jurisdiction to effectuate the relief set out herein and to issue such other orders as are necessary.

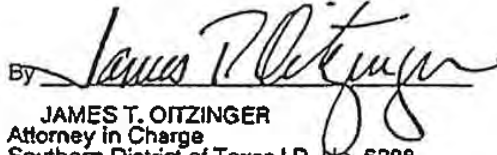
All relief not expressly granted herein is denied.

SIGNED at Houston, Texas, on this 25th day of November 1987.


JUDGE PRESIDING
U.S. District Judge

APPROVED AS TO FORM AND
SUBSTANCE:

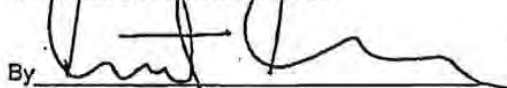
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