

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

DWIGHT RUSSELL, *et al.*,
Plaintiffs,

v.

Civil Action No. 4:19-cv-226

Honorable Lee H. Rosenthal
United States District Judge

HARRIS COUNTY, TEXAS, *et*
al.,
Defendants.

Amended Motion for Leave to File *Amicus Curiae* Brief by Senator Paul Bettencourt, Representative Sam Harless, Representative Dan Huberty, Representative Briscoe Cain, Representative Dennis Paul, Representative Tom Oliverson, M.D., Representative Jim Murphy, Representative Lacey Hull, and Representative Valoree Swanson

Senator Paul Bettencourt (Senate District 7), Representative Sam Harless (District 126), Representative Dan Huberty (District 127), Representative Briscoe Cain (District 128), Representative Dennis Paul (District 129), Representative Tom Oliverson, M.D. (District 130), Representative Jim Murphy (District 133), Representative Lacey Hull (District 138), and Representative Valoree Swanson (District 150) (the “Elected Officials”) respectfully move for leave to file an *amicus curiae* brief

in opposition to the Report of Sheriff Ed Gonzalez January 12, 2021 and Request for Emergency Hearing.¹

Senator Paul Bettencourt represents District 7 in the Texas State Senate. District 7 includes approximately 954,933 Texas residents of Harris County, Texas.² These residents live in the cities of Houston, Bunker Hill Village, Hedwig Village, Hunters Creek Village, Jersey Village, Piney Point Village, Tomball, and unincorporated areas of Harris County.³ The population of Senate District 7 is twenty percent of the Harris County population.⁴

Representative Sam Harless represents District 126 in the Texas House of Representatives – approximately 190,040 individuals.⁵ Representative Dan Huberty represents District 127 in the Texas House of Representatives –

¹ Amicus Curiae Brief by Senator Paul Bettencourt, State Representatives Sam Harless, Dan Huberty, Briscoe Cain, Dennis Paul, Tom Oliverson, James Murphy, Dwayne Bohac, Valoree Swanson, Russell v. Harris County, No. 4:19-cv-226 (S.D. Tex.), ECF No. 78.

² See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/senate/dist7/profile.pdf>).

³ See Cities and Census Designated Places (CDPs) by District, Texas Legislative Council (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/senate/dist7/r6.pdf>).

⁴ See District Population Analysis with County Subtotals (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/senate/dist7/r4.pdf>).

⁵ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist126/profile.pdf>).

approximately 194,473 individuals.⁶ Representative Briscoe Cain represents District 128 in the Texas House of Representatives – approximately 188,188 individuals.⁷ Representative Dennis Paul represents District 129 in the Texas House of Representatives – approximately 186,922 individuals.⁸ Representative Tom Oliverson, M.D. represents District 130 – approximately 218,557 individuals.⁹ Representative Jim Murphy represents District 133 – approximately 192,356 individuals.¹⁰ Representative Lacey Hull represents

⁶ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist127/profile.pdf>).

⁷ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist128/profile.pdf>).

⁸ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist129/profile.pdf>).

⁹ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist130/profile.pdf>).

¹⁰ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist133/profile.pdf>).

District 138 – approximately 186,793 individuals.¹¹ Representative Valoree Swanson represents District 150 – approximately 212,803 individuals.¹²

The Elected Officials believe that this brief may be of assistance to the Court because it outlines the constituent concerns of the representatives of approximately 1,570,132 individuals – one-third of the total population of Harris County, Texas.¹³ Accordingly, the Elected Officials respectfully request that the Court grant their amended motion for leave to file the accompanying brief and consider their arguments during its deliberations.

Respectfully submitted,

/s/ Gary M. Polland
Gary M. Polland
Texas Bar Number 16095800
Federal ID Number 4715
Polland & Associates PC

¹¹ See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist138/profile.pdf>).

¹² See Analysis by Texas Legislative Council, Research Division, 2014-2018 American Community Survey (ACS) 5-Year Summary File (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist150/profile.pdf>).

¹³ See District Population Analysis with County Subtotals (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist126/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist127/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist128/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist129/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist130/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist133/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist138/r4.pdf>); (<https://wrm.capitol.texas.gov/fyiwebdocs/PDF/house/dist150/r4.pdf>).

1533 West Alabama Street
Houston, Texas 77006
Telephone: 713.621.6335
Facsimile: 713.622.6334
pollandlaw@yahoo.com
Attorney for Senator Paul Bettencourt

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Amended Motion for Leave to File *Amicus Curiae* Brief by Senator Paul Bettencourt, Representative Sam Harless, Representative Dan Huberty, Representative Briscoe Cain, Representative Dennis Paul, Representative Tom Oliverson, M.D., Representative Jim Murphy, Representative Lacey Hull, and Representative Valoree Swanson has been sent to all interested parties via the CM/ECF filing system on January 21, 2021.

/s/ Gary M. Polland
Gary M. Polland

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As the elected representatives of at least one-third of all Harris County residents, including law abiding citizens and crime survivors, Senator Paul Bettencourt (Senate District 7), Representative Sam Harless (District 126), Representative Dan Huberty (District 127), Representative Briscoe Cain (District 128), Representative Dennis Paul (District 129), Representative Tom Oliverson, M.D. (District 130), Representative Jim Murphy (District 133), Representative Lacey Hull (District 138), and Representative Valoree Swanson (District 150) (the “Elected Officials”) file this renewed objection to

the release of accused persons based on insufficient bonds that do not protect the people of Harris County.

Public safety concerns in Harris County are at dire levels. Houston has seen a sharp rise in homicides in 2020 – 380 murders through December 4, up from 256 over the same period in 2019.¹ Houston Police Chief Art Acevedo is providing the homicide division of the Houston Police Department with more investigators and additional overtime funds.² In December, Governor Abbott directed the Texas Department of Public Safety to provide support to the Houston Police Department in their efforts to address an “alarming rise in road rage-related shootings in the city of Houston.”³ At least 90 people killed in Harris County from 2018 to present were killed by Harris County defendants on various bonds.⁴ Dog walking is not even safe in Houston.⁵

¹ Scott Calvert and Zusha Elinson, *Police are Solving Fewer Murders During Covid-19 Pandemic*, THE WALL STREET JOURNAL (Dec. 26, 2020), <https://www.wsj.com/articles/police-are-solving-fewer-murders-during-covid-19-pandemic-11608994800>.

² *Id.*

³ Press Release, Governor Greg Abbott, Governor Abbott Deploys DPS Resources To Houston To Combat Violent Crime, Rise In Road Rage Shootings (Dec. 9, 2020), <https://gov.texas.gov/news/post/governor-abbott-deploys-dps-resources-to-houston-to-combat-violent-crime-rise-in-road-rage-shootings>.

⁴ Andy Kahan (@akahancrimesto1), TWITTER (Jan. 19, 2021, 6:34 PM), <https://twitter.com/akahancrimesto1/status/1351689422308323333>.

⁵ T.J. Parker, *Spring Branch-area tenants on edge after armed robbery led to dog being shot and killed*, ABC 13 EYEWITNESS NEWS (Jan. 20, 2021), <https://abc13.com/dog-fatally->

The current revolving door at the Harris County courthouse is alarming. There is a backlog of cases in the criminal courts and there are no provisions to move the cases forward.⁶ (“The overall backlog of criminal cases in Harris County district courts sits at 47,224 pending cases as of November, including 4,602 family violence felonies, 800 murders, 3,931 serious assaults, more than 1,500 sex crimes against children and tens of thousands of other cases all waiting for a resolution.”).

The Sheriff’s statements are alarming because he is entrusted with protecting all Harris County citizens by enforcing the law. There are no statutory limits on the potential jailed persons. And, certainly, there are other options aside from wholesale release, including the procurement of additional jail space and cooperation with the Harris County legislators during this legislative session. The Texas Legislature’s 87th regular session began on January 12, 2021 and will end on May 31, 2021.

The Elected Officials continue to stand against the dangerous release of accused felony offenders from the Harris County Jail without any

shot-armed-robbery-killed-villas-at-bunker-hill-spring-branch-robbed-gunpoint-while-walking/9847022/#:~:text=HOUSTON%2C%20Texas%20(KTRK)%20%2D%2D,it%20was%20shot%20to%20death.&text=The%20dog%20was%20shot%20twice%20before%20the%20suspects%20ran%20off.

⁶ Ted Oberg and Sarah Rafique, *Victims wait as courts face unprecedented COVID-19 delays*, ABC 13 EYEWITNESS NEWS (Dec. 18, 2021), <https://abc13.com/harris-county-crime-backlog-court-houston-victims/8777694/>

consideration of law enforcement officers and crime survivors, as this will assuredly continue a crime wave in Harris County. This Court should deny the Sheriff's request to release accused felony offenders from the Harris County Jail.

Respectfully submitted,

/s/ Gary M. Polland

Gary M. Polland

Texas Bar Number 16095800

Federal ID Number 4715

Polland & Associates PC

1533 West Alabama Street

Houston, Texas 77006

Telephone: 713.621.6335

Facsimile: 713.622.6334

pollandlaw@yahoo.com

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