

EXHIBIT B-3

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MARANDA LYNN O'DONNELL, <i>et al.</i> ,	§	
on behalf of themselves and all others	§	
similarly situated,	§	
	§	
Plaintiffs,	§	CIVIL ACTION NO. 4:16-cv-01414
	§	(Consolidated Class Action)
v.	§	
	§	
HARRIS COUNTY, TEXAS, <i>et. al.</i> ,	§	
	§	
Defendants.	§	
	§	

DECLARATION OF GENESIS DRAPER

1. My name is Genesis Draper.

2. I am currently the Chief Public Defender for the Harris County Public Defender's Office. Before that, I served as judge for Harris County Criminal Court at Law No. 12 from 2019 to 2025. Prior to taking the bench, I worked as an assistant public defender and trial lawyer.

3. When I took office, I became a Defendant in the above-captioned lawsuit, which was filed in 2016 against parties including the 16 CCCL judges serving at that time. I worked with the other defendant judges to reach a settlement and Consent Decree that addressed what I considered to be grievous constitutional flaws in Harris County's system of justice for people accused of misdemeanors.

4. Based on my experience both as a CCCL judge and as Chief Public Defender, eliminating the Consent Decree, and the General Order Bond releases it requires, would be a disaster for the entire jail and court system in Harris County.

5. Harris County has never conducted bail hearings for 100% of the people arrested in the County. There has always been a mechanism for prompt, pre-hearing release. Prior to Rule 9, for misdemeanors, pre-hearing release depended on whether the person could pay the amount required by the bail schedule. Since Rule 9, for misdemeanors, pre-hearing release depends on a person's charge and certain criminal history considerations.

6. No system is perfect, and all pretrial practices inherently involve some distribution of risk. But requiring the Public Defender Office, Pretrial Services, and the Harris County Sheriff's Office to manage tens of thousands of additional people each year will create cascading backlogs at multiple points in the process, potentially pressuring attorneys and courts to conduct dozens more bail review hearings every single day, ultimately leading to more people unnecessarily detained in the jail.

I. My Professional Background.

7. I have been licensed to practice law since 2008. For 18 years, I have worked as a public defender, trial lawyer, professor, and judge.

8. I am currently the Chief Public Defender for the Harris County Public Defender's Office, where I lead one of the largest public defense systems in the country, ensuring high-quality, client-centered representation for people facing criminal charges who cannot afford counsel.

9. Prior to my appointment as Chief Public Defender, I served as Judge of Harris County Criminal Court at Law No. 12. I was appointed in 2019, elected in 2022, and served as presiding judge of all 16 County Criminal Courts at Law. I stepped down in 2025 before taking my current position.

10. During my six-year tenure as a judge, I helped revise Harris County's indigent defense plan, reduced the time from arrest to trial, advocated for greater fairness in misdemeanor

courts, and served two terms as Presiding Judge, guiding countywide policy and operations for the criminal courts.

11. I also served as an adjunct professor at the University of Houston Law Center, teaching advanced trial advocacy.

12. Before becoming a judge, I worked as a public defender for 12 years, including for the Harris County Public Defender's Office and the Office of the Federal Public Defender for the Southern District of Texas.

II. Vacating the Consent Decree Could Force CCCL Judges to Hold Dozens of Additional Bail Hearings Each Day for People Charged with Low-Level Offenses.

13. When I took the bench in March 2019, I became a defendant in this lawsuit. At that time, a newly elected group of CCCL judges was in the middle of settlement talks with the County, Sheriff, and Plaintiffs in this case. I joined those discussions.

14. I was familiar with Harris County's bail system from my years of experience as a local public defender. I had seen firsthand how, before the federal court's 2017 preliminary injunction in this case, misdemeanor pretrial release depended almost entirely on access to money.

15. Specifically, a person arrested on a misdemeanor charge was assigned a secured bond amount based on a bail schedule created by the misdemeanor judges. People with money paid and walked out of the jail within hours of arrest, regardless of the seriousness of the charge. Because of their financial resources, they were permitted to return to their homes, families, and jobs while their cases were pending. Over 30% of people each year were released after arrest after paying a cash amount, before going to a hearing.

16. People who could not afford to pay the bond in their case remained in jail and went to a perfunctory bail proceeding, also called magistration, in which a hearing officer generally confirmed or raised the bail amount set by the schedule. Arrestees were instructed not to speak and

were routinely denied personal bonds because they were homeless. These people were typically jailed until their cases were resolved (most commonly, by pleading guilty at their first appearance in exchange for a sentence of time-served and immediate release).

17. I believed this system discriminated based on wealth and violated the Constitution's promise of due process and equal protection. So I was pleased that the settlement talks I joined focused on permanently reforming Harris County's broken and unconstitutional misdemeanor bail system.

18. In February 2019, just before I took the bench, the CCCL Judges voted to adopt Amended Local Rule 9, which would later become the centerpiece of the Consent Decree and settlement in this case.

19. Rule 9 made two major changes to the misdemeanor post-arrest process in Harris County. First, it requires the County release most misdemeanor arrestees on unsecured financial conditions, called "GOBs," promptly following arrest. Second, for people who were not promptly released, either because they are charged with a more serious misdemeanor or because they are arrested while already on community supervision, Rule 9 guarantees a full adversarial bail hearing consistent with constitutional principles of due process. At that hearing, the hearing officer is required to set attainable release conditions unless they find by clear and convincing evidence that no conditions other than detention can adequately protect the community and guard against flight from prosecution. Arrestees who remain detained following their initial bail hearing are entitled to prompt appointment of counsel and a bail review hearing in the trial court the next business day.

20. Most importantly, Rule 9 requires all people charged with misdemeanors to be treated the same, regardless of how much money they make.

21. In August 2019, the parties moved for preliminary approval of a Consent Decree which incorporated Local Rule 9. After a final fairness hearing, the Court entered the Consent Decree in November 2019.

22. In my position as CCCL Judge, I helped ensure the Consent Decree was implemented at the trial court level. I gave unsecured bonds to GOB-eligible people who were mistakenly detained past magistration. I helped to ensure that my colleagues were holding the next-day bail review hearings guaranteed by the Consent Decree. And I urged my colleagues to follow the constitutional standards incorporated in the Decree before depriving any defendant of their liberty.

23. Compared to the County's prior dependence on money bail, the Consent Decree's charge-based system is a more rational way for identifying people who should see a judge before being released. Based on the cases I presided over, I believe the Consent Decree has protected the rights of misdemeanor arrestees while ensuring defendants appear in court and cases are efficiently and fairly resolved.

24. As a judge, I saw how rare it was that a misdemeanor defendant actually attempted to flee prosecution. In my experience—and especially in misdemeanor court—people charged with crimes did not seek to evade justice. Instead, they are often leading chaotic lives and struggling with addiction or to make ends meet. Court dates were not always the greatest emergency for people who were unsure whether they would have shelter that night or food for themselves and their children.

25. Sometimes people must choose between appearing in court for a scheduled court date or attending a medical appointment or a shift at a new job that will be the difference between paying rent that month or being homeless. I always preferred that person kept their job and

rescheduled the court date, even if they were not able to call and reschedule the court date in advance. I just asked them to appear and explain the situation to me as soon as possible.

26. I understand that the Attorney General and four of the sixteen CCCL Judges have moved to vacate the Consent Decree. In addition to causing severe backlogs and other problems within the post-arrest process handled by multiple agencies within the Joint Processing Center, vacating the Consent Decree would severely hamstring the work of the CCCL judges.

27. As a CCCL Judge, I conducted bail hearings for people who remained detained after magistration. That alone was an enormous task, and one I took extremely seriously, as it involved the pretrial liberty of presumptively innocent individuals. Bail hearings always took priority over the other work on my docket, such as scheduling conferences, accepting guilty pleas, sentencing, and even trials.

28. Without the Consent Decree's mechanism for pre-hearing release, every person arrested in Harris County would need to be detained until magistration. With thousands more people detained until magistration every year, it is certain that more people would be detained *after* magistration. Because the cultural and political forces that led to the prevalence of money bail prior to the Consent Decree are still active, the hearing officers are likely to revert to their past practices of reflexively imposing unaffordable secured bond where pretrial detention is unsupported by the evidence. More people will be detained until preliminary appearance in the trial court, and CCCL judges could easily be forced to hold dozens of additional bail hearings every day, before they can conduct any other proceedings on their already over-full dockets.

29. Based on my years of experience, preventing the judges from using the GOBs as a pre-hearing release mechanism will eliminate a crucial triage tool, overwhelm the jail and the courts, and result in more people being detained unnecessarily. Without the Consent Decree's

substantive and procedural protections, bail hearings will begin to resemble the quick, perfunctory proceedings that existed when the case was filed. The jail will become even more overcrowded and dangerous, and indigent misdemeanor defendants will plead guilty to crimes they may not have committed. The old unconstitutional system will re-emerge.

III. Vacating the Consent Decree Would Place Immense Strain on the Public Defender's Office's Ability to Provide Ethical and Constitutional Representation.

30. Since 2025, I have held the position of Chief Public Defender for the Harris County Public Defender's Office (PDO). In that role, I oversee a budget of over \$50 million dollars and a staff of approximately 360 people tasked with ensuring effective, high-quality, client-centered representation for people facing criminal charges in Harris County who cannot afford counsel.

31. The PDO has administrative staff and seven operational divisions – Mental Health, Appellate, Trial, Juvenile, Holistic Services, Immigration and Wrongful Convictions. The Mental Health Division is designed to provide specialized defense services to mentally ill defendants charged with misdemeanors, with attorneys supported by social workers who connect defendants with mental health services and research cases for mitigation purposes.

32. Our office represents 100 percent of people who appear at article 15.17 hearings, or “magistrations,” following arrest. After magistration, some people retain private counsel. Of those who cannot afford counsel, some are appointed a private lawyer who takes court-appointed cases and others are appointed an attorney from our office. We currently represent approximately 32 percent of people in misdemeanor courts following magistration, with a goal of expanding our services to represent at least 50 percent by 2030.

33. The Harris County PDO was founded in 2011. It has never co-existed with a system in which every person arrested for a misdemeanor or felony charge in Harris County is detained until a bail hearing. There has always been a mechanism for siphoning a substantial number of

arrestees out of the detention system shortly after arrest in order to allow County agencies, courts, and other involved actors to focus their time and resources on those who remain. Prior to the federal court's injunction, the sorting mechanism for early release was access to a cash amount determined by a preset bail schedule. Now, following Rule 9 and the Consent Decree, pre-hearing release is determined based on the person's charge and whether they were under community supervision at the time of arrest.

34. The Consent Decree has revealed the effect pretrial detention has on the outcome of a person's criminal case. Since it went into effect, and more people charged with misdemeanors are released on unsecured bond for the pendency of their case, a significantly lower rate of people end up pleading guilty in their cases. This phenomenon reinforces what most public defenders already knew—that many people were pleading guilty to misdemeanor charges solely to get out of jail, in cases that may have been weakened by valid defenses or evidentiary issues and would have been dismissed if they had the opportunity to fight the case from home.

35. As I mentioned earlier, the Consent Decree requires most people charged with misdemeanors be promptly booked and released on an unsecured bond, also known as a GOB. I've been told that one potential outcome of the pending motions to vacate the Consent Decree would be that the judges would no longer be allowed to use the GOBs to control and organize the post-arrest system. I've also been told that roughly 28,000 people received GOBs last year. If 28,000 people were no longer promptly released on GOBs and suddenly had to be detained through magistration (and often, beyond), the PDO's work would be affected on nearly every level. The additional workload would completely undermine our ability to provide zealous and effective representation to our clients.

36. First, the additional cases would undermine the work of the PDO's Bail Division. Since 2017, the Bail Division has represented every person who is detained until magistration, unless they decline our assistance. If the Division suddenly had to interview and represent an additional 28,000 people a year, roughly 77 people each day, its staff could not adequately do their job. As it is, the Division's staff are strained to complete all the necessary interviews, adequately counsel their clients, and represent them in the magistration hearings. They do not have the staff, space, or time to assume responsibility for the thousands of people currently released on GOBs as well.

37. Second, the additional cases would strain and push the Trial Division staff working in the misdemeanor courts to their breaking point. Trial Division attorneys spend more time and resources on a client who is detained at their initial appearance than a client who is released. Securing a client's pretrial release is always a priority. Attorneys representing clients jailed on unaffordable bail will typically move quickly to prepare bail motions, request hearings, and present argument and evidence at those hearings. It is also more time-consuming to prepare an effective defense with a detained client. For example, reviewing paper or video evidence with a released client is as simple as meeting in the PDO office or at the client's home. For a detained client, reviewing the same evidence requires speaking into a telephone through a glass barrier in a semi-confidential setting or, for video review, seeking a court order granting access to a contact visitation room. If more people charged with low-level misdemeanors are detained until initial appearance, the Trial Division will be forced to spend more time on bail litigation, case preparation, and other tasks for these low-risk clients who, under the previous system, were automatically released. The result will be less time—and lower quality of representation—for *every* client.

38. Beyond the effects that vacating the Consent Decree would have on the PDO's work, I know that preventing the prompt release of 28,000 people a year will have disastrous implications for those people's families and children, housing, employment, health, access to counsel, outcome of the criminal accusations against them, and even future criminal involvement, to say nothing of the public expenditures on pretrial incarceration.

39. It is my opinion, based on my time as a judge and a public defender, as well as on my knowledge of the hearing officers and magistration hearings, that the Consent Decree has been a remarkable success. The Consent Decree ensures that Harris County's scarce resources are focused on cases where release conditions—and in certain select cases, pretrial detention—are most likely to be appropriate. And it guarantees the constitutional rights of all people who pass through the post-arrest system.

40. However, the forces that would lead to backsliding on the Consent Decree's constitutional guarantees still exist. The federal court order remains necessary to guard against the constitutional defects that it was originally put in place to address.

I declare under penalty of perjury that the foregoing is true and correct to the best of my ability.



Genesis Draper
Tex. Bar No. 24052099
Chief Public Defender
Harris County Public Defender's Office

09/01/2026

Date