UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PEARL BEALE, As Personal Representative of the Estate of Givon Pendleton and Legal Representative of Givon Pendleton, *and*	:	
BRADLEY RAYMOND AUTMAN **Florence High USP** **5880 Hwy 67 S** **Florence, CO 81226,**	:	
***Plaintiffs*,**	:	**Civil Action No. 04-959 (RMU)**
v.	:	**TRIAL BY JURY DEMANDED**
THE DISTRICT OF COLUMBIA	:	
and	:	
ODIE WASHINGTON, Individually and in His Official Capacity **Director, DC Department of Corrections** **1923 Vermont Avenue, NW** **Suite 202A** **Washington, DC 20001,**	:	
MARVIN L. BROWN, Individually **Warden (Retired), DC Jail** **1901 D Street, SE** **Washington, DC 20003,**	:	
DENNIS HARRISON, Individually and in His Official Capacity **Deputy Warden for Programs, DC Jail** **1901 D Street, SE** **Washington, DC 20003, *and***	:	
STEVEN A. SMITH, Individually and in His Official Capacity **Warden, DC Jail** **1901 D Street, SE** **Washington, DC 20003**	:	
Defendants.	:	

FIRST AMENDED COMPLAINT

(Civil Rights Violations, Negligence, Survival Action, and Wrongful Death)

I. Background

1. Pearl Beale and Bradley Raymond Autman, by counsel, bring this action against the District of Columbia and its officials responsible for the operations of the District of Columbia Jail (the "Jail").

2. Ms. Beale brings this suit as the mother of decedent Givon Pendleton. Mr. Pendleton was murdered while he was a pretrial detainee at the District of Columbia Jail (the "Jail") on December 11, 2002. His assailant, an inmate named Dominic Jones, stabbed him to death in retaliation for asking for his ration of milk; Mr. Jones, a known gang leader with a history of misconduct within the Jail and awaiting trial for two murders (of which he was later convicted and sentenced to prison for more than 100 years), was at the time of the stabbing in charge of distributing milk to other inmates during their evening meal. No correctional officer witnessed Mr. Pendleton's murder, and at least one of the three guards assigned to provide security in the cellblock was out of the housing unit on a break at the time of the stabbing.

3. Mr. Pendleton's murder was the first event in a tragic and bloody stretch at the Jail. Two days later, a second inmate, Mr. Autman, was stabbed in the neck by another inmate. Again, no correctional officer witnessed the attack, and at least one of the three officers assigned to provide security in the unit was out on a break when the attack occurred. Mr. Autman was hospitalized as a result of the stabbing.

4. Just three days after the murder of Mr. Pendleton and one day after the stabbing of Mr. Autman, a third inmate, Mikal Gaither, was stabbed at the Jail and died the next day. Like Mr. Pendleton and Mr. Autman, Mr. Gaither was stabbed in his housing unit by another inmate outside the presence of guards, and while at least one of the three officers assigned to provide security was away on a break.

5. These three attacks came soon after District officials had increased the population of the Jail by more than 600 inmates (or by nearly 40% over the existing population) following the termination of a court-imposed population cap that had been part of a long-standing consent decree. The three stabbings were the result of unconstitutional conditions at the Jail as well as negligence of District officials in operating that facility. The actions of District officials in overpopulating the Jail while maintaining a shortage of staff, a lack of training, and dangerous policies and procedures for staffing, classification, and security were taken not only negligently, but also with deliberate indifference to the safety and security of inmates at the Jail.

6. On December 10, 2003, Ms. Beale filed a lawsuit in Superior Court against the District for claims arising from Mr. Pendleton's murder, including various counts of negligence, wrongful death, and constitutional violations. In the months after she filed that action, Ms. Beale and her counsel learned of an earlier lawsuit that had been filed in federal court by Pearl Gaither, who is the mother of Mikal Gaither – the inmate murdered in the Jail just days after Mr. Pendleton, and under eerily similar circumstances. In addition, Ms. Beale and her attorney retained a second law firm, Covington & Burling, to assist her counsel and to represent her on a *pro bono* basis. Understanding that the issues presented in these cases may affect the entire prisoner population, the District of Columbia Prisoners' Legal Services Project also joined Ms. Beale's legal team. Because the principal issue in this case is whether District officials maintained the Jail in violation of the United States Constitution – and because the factual background and legal issues underlying this case are common to both it and *Gaither* – Ms. Beale and her counsel refiled the Superior Court complaint in this Court on June 10, 2004. Plaintiff petitioned for and received a stay in the Superior Court case, and she intends voluntarily to dismiss from that action all claims she can pursue here.

7. Ms. Beale now files this First Amended Complaint, which joins Mr. Autman as a co-plaintiff; names defendants Odie Washington, Marvin Brown, Dennis Harrison, and Steven

A. Smith in various capacities; and adds additional and more detailed causes of action for constitutional violations by the District and the individual defendants.

8. This Amended Complaint also directly links the District's constitutional violations with respect to Mr. Pendleton and Mr. Autman to its official policy or custom of operating the Jail with deliberate indifference to its inhabitants' safety and security, including by overpopulating the facility while maintaining a shortage of staff, a lack of training, and dangerous policies and procedures for staffing, classification, and security. Moreover, the Amended Complaint alleges that the constitutional requirements prohibiting deliberate indifference to the safety and security of Mr. Pendleton and Mr. Autman, and guaranteeing prisoners due process, were clearly established at the time of the events in question such that reasonable prison officials would have understood that the actions alleged herein violated those rights. As a result, the conduct of the individual defendants – Messrs. Washington, Brown, Harrison, and Smith – subjects them to individual liability for their constitutional violations.

II. Jurisdiction

9. This is a civil action seeking damages and other relief for the death of Givon Pendleton and stabbing of Bradley Raymond Autman. This action arises under 42 U.S.C. § 1983, 42 U.S.C. § 1988, the United States Constitution, the common law, and §§ 12-101 and 16-2701 of the District of Columbia Code.

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343. Venue is proper under 28 U.S.C. § 1391(b).

III. Parties

11. Plaintiff Pearl Beale is an adult resident of the state of Maryland. She was duly qualified as Personal Representative of the Estate of Givon Pendleton, deceased, Court of Maryland for Prince George's County, Administration No. 64154, having been appointed on

December 30, 2002. Plaintiff Beale is the mother of the decedent and is empowered to maintain this cause of action pursuant to DC Code § 12-101.

12. Plaintiff Bradley Raymond Autman is an adult resident of the District of Columbia who is currently incarcerated in the United States Penitentiary in Florence, Colorado. Mr. Autman was incarcerated in the Jail during times relevant to this action. In compliance with the requirements of the Prison Litigation Reform Act, Mr. Autman exhausted such administrative remedies as were available to him at the Jail. *See* 42 U.S.C. § 1997e(a).

13. Defendant District of Columbia is a municipal corporation. It has, and at all relevant times to this action had, responsibility for persons incarcerated under its authority. The Jail – which is also known as the Central Detention Facility – is a prison facility located within the District of Columbia. It is used by the District of Columbia Department of Corrections ("DC DOC") to house both pretrial detainees and persons who have been sentenced under the laws of the District of Columbia.

14. Defendant Odie Washington is the Director of the DC DOC, and held that position at all relevant times. Defendant Washington is sued in both his official and individual capacities.

15. Defendant Marvin L. Brown was the Warden of the District of Columbia Jail at the time of the attacks on Messrs. Pendleton and Autman. Defendant Brown is sued in his individual capacity.

16. Defendant Dennis Harrison was the Associate Warden of Operations at the Jail at the time of the attacks on Messrs. Pendleton and Autman, and is currently the Deputy Warden for Programs at the Jail. Defendant Harrison is sued in both his official and individual capacities.

17. Defendant Steven A. Smith was the Associate Warden of Operations at the Jail at the time of the attacks on Messrs. Pendleton and Autman, and is currently the Warden of the Jail. Defendant Smith is sued in both his official and individual capacities.

IV. Factual Allegations

18. The DC DOC is charged by DC Code § 24-211.02 with responsibility for the safekeeping, care, protection, instruction, and discipline of all persons housed in its penal institutions, including decedent Givon Pendleton and plaintiff Bradley Autman.

A. *Campbell v. McGruder* and the Population of the Jail

19. For the past thirty (30) years, the District of Columbia has been operating and maintaining its prison facilities in a hazardous and unsafe condition.

20. In the 1970s, two lawsuits – *Campbell v. McGruder* and *Inmates of DC Jail v. Jackson* – sought redress for unconstitutional conditions at the Jail. *Campbell* was filed on behalf of pretrial detainees confined to the Jail. *Jackson* was filed on behalf of sentenced prisoners housed at the Jail. U.S. District Court Judge William B. Bryant held that the Jail was so overcrowded and that the conditions of confinement were so inhumane that the Jail was being operated in violation of the Eighth Amendment's prohibition against cruel and unusual punishment.

21. For many years thereafter, the District consistently violated the District Court's orders in *Campbell* and *Jackson*, and failed to bring the Jail up to minimum constitutional standards. In 1985, the Court found that the conditions at the Jail continued to violate prisoners' constitutional rights:

> Time and again, defendants [the District] have requested the Court to defer to their accumulated wisdom, to stay its hand and to give them more time. Time and again, these requests have been honored in the hope and expectation that defendants would solve these problems expeditiously and effectively. However, instead of matters improving, they have deteriorated.

Memorandum and Order at 50, *Campbell v. McGruder*, No. 71-1462 (D.D.C. July 13, 1985).

22. The Court's findings were based on many factors, including evidence that prisoners were confined in cells with non-functioning toilets and sinks, basic supplies were denied to many inmates, medical care was grossly deficient, and assaults and stabbings were regular occurrences.

23. As a result of defendant's maintenance of these unconstitutional conditions, Judge Bryant signed a consent order in 1985 that, *inter alia*, imposed an inmate population cap of 1,694.

24. The District's failure to operate its incarceration facilities according to constitutional minimums was not confined to the Jail. In 1986, inmates at the District's now-defunct Occoquan Facility of the Lorton Correctional Complex filed a class action alleging that the health and safety conditions at Occoquan also violated the Eighth Amendment. Judge June Green of this Court agreed, finding that

> the present conditions relating to prisoner safety and mental health objectively violate the Eighth Amendment. . . . [T]he combination of understaffing, crowding classification deficits, plant deterioration, idleness and environmental and safety deficiencies have a mutually enforcing effect that exposes the Plaintiffs to a constitutionally unacceptable risk of violent assault and death. . . . These conditions violate contemporary standards of decency.

Memorandum at 5, *Inmates of Occoquan v. Barry*, No. 86-2128 (D.D.C. Dec. 15, 1995). The Court also specifically criticized defendants for the use of "staff assignment rosters [that] are misleading because they indicate two, sometimes three officers in each dormitory when, in reality, it is much less due to officers being 'pulled'" out of the unit. *Inmates of Occoquan v. Barry*, 717 F. Supp. 854, 864 (D.D.C. 1989).

25. The consent order and various rulings in *Campbell*, the Court's numerous opinions and orders in *Inmates of Occoquan*, expert reports, numerous lawsuits, and the legal

landscape with respect to prison conditions that developed over the 1980s and 1990s clearly established to the District and its officials the constitutional requirements for conditions at the Jail, and defendants Washington, Brown, Harrison, and Smith knew or should have known of these requirements, and were bound by them.

26. Even with the Court-imposed population cap, the District continued to defy numerous court orders designed to remedy the unconstitutional conditions at the Jail. Finally, in 1993, the Court appointed a Special Officer to assist in ensuring compliance with its orders. In her February 1994 status report, the Special Officer documented that the District remained in "substantial noncompliance" with the Court's orders. The District did not dispute the Special Officer's findings and agreed to be held in contempt of court as part of a 1994 Consent Order. The Consent Order set forth a remedial plan with specific timetables to achieve compliance with constitutional requirements. Again, however, the District failed to comply. In light of the District's chronic noncompliance, which was particularly egregious in regard to medical and mental health care services, in 1995 the Court appointed a Receiver for medical care at the Jail.

27. In June 2002, the District asked the Court to lift the population cap in *Campbell*. In support of this request, the District stated that "the Department of Corrections has substantially improved the conditions at and operation of the Central Detention Facility [the Jail] and there are no systemic on-going unconstitutional conditions that would justify the continued imposition of a population limitation . . . ." Defendant's Motion to Terminate the Population Limitation at 1, *Campbell v. McGruder*, No. 71-1462 (D.D.C. June 7, 2002). In so doing, the District represented that it had implemented and/or would develop adequate staffing, security, and classification procedures in light of the increase in population. Moreover, in 2002, defendant Washington submitted a declaration to the Court in a related case indicating the "critical staffing complement" at the Jail that he averred would be filled at all times, including three officers on the day and evening shifts for all cellblocks that were double-celled.

Declaration of Odie Washington ¶ 5-6, *Fraternal Order of Police v. Williams*, No. 02-461 (D.D.C. 2002).

28. On June 24, 2002, without the benefit of an evidentiary hearing, the Court terminated the population cap at the Jail that had been imposed in *Campbell*.

29. Within months, defendants knowingly increased the daily population at the Jail to over 2,300 inmates, overwhelming already deficient operating systems.

30. Despite this inmate population increase of almost forty percent (40%), there was no corresponding increase in the number of correctional staff assigned by defendants to provide security to prisoners at the Jail. Conditions were so dangerous that correctional officers brought suit in federal court to compel an improvement in the health and safety conditions at the Jail, which had been worsened by overcrowding.

B. Deficiencies in Classification, Staffing, and Security

31. Even before the inmate population ballooned in 2002, the Jail had operated for many years without an inmate classification system to evaluate and assign safe housing and supervision to pretrial detainees. Inmates charged with nonviolent misdemeanors were housed alongside convicted violent felons, and no effort was made to separate predatory pretrial detainees charged with murders and other violent crimes from those charged with less serious or non-violent offenses. Although classification systems are routinely used by jails to assign inmates to the most appropriate level of custody and security, to make housing assignments, and to protect vulnerable inmates from predatory prisoners, the District consistently refused to conduct this basic screening process for pretrial detainees.

32. The District also repeatedly failed to provide sufficient staffing, to implement necessary security procedures at the Jail, and to improve the training and supervision of Jail employees.

33. The security measures in place at the Jail were severely lacking. Such inadequacies included, but were not limited to, the failure to control contraband, install metal detectors, and conduct and document frequent and unannounced housing unit, inmate, and cell shakedowns.

34. Additionally, Jail employees were inadequately trained and supervised by the District and its correctional officials. Although the inadequacy of training and supervision was ongoing, defendants failed to improve the quality of the training programs or require greater supervision of prison guards.

35. These deficiencies were well known to the DC DOC management, including all defendants. A 1995 study (*DC Jail Comparison of Staffing Recommendations*) warned that the District must provide adequate relief at meal breaks in order to ensure that there would never be a reduction in guard coverage. In a 1996 report on the Department of Corrections (*District of Columbia Department of Corrections Study*) by the National Institute of Corrections, Dr. James Austin concluded that the DC DOC must develop a classification system for its pretrial population, which accounted for seventy percent (70%) of the Jail population.

Dr. Austin found numerous dangerous deficiencies at the Jail including, without limitation:

a) no objective classification system for the pretrial population (p. 18);

b) a need to develop an objective classification system for the pretrial population (p. 31);

c) no system-wide standards for inmate housing units (p. 37); and

d) major deficiencies in the majority of housing units:

(i) substantial overcrowding (p. 37);

(ii) limited staff to provide security supervision and response capability (p. 37);

(iii) inadequate sight lines (p. 37);

(iv) inappropriate assignment of inmates relative to their custody levels (p. 37);

(v) circulation and movement control systems that did not allow for constant supervision of inmates when they were outside of their assigned cells (p. 37);

(vi) staffing in open areas that was insufficient to provide appropriate observation of inmates (p. 38); and

(vii) the absence of closed circuit televisions, which were a necessity for adequate supervision and security because of the design of the facility, in many areas that were not visible to the officers (p. 67).

36. In 1997, a follow-up report (*Assessment of the District of Columbia Department of Corrections*), which was funded by the Federal Bureau of Prisons and conducted by the National Institute of Corrections, again highlighted dangerous security deficiencies at the Jail:

a) the absence of a classification system for pretrial detainees, who were the majority of the inmates (p. 65); and

b) the DOC's failure to adopt the new classification forms and procedures or implement any of the other recommended tasks, but rather to continue to operate under its antiquated classification system established in 1987 (p. 66).

37. In the two (2) years leading up to the murder of Givon Pendleton – at the same time that District officials were successfully seeking to persuade the Court to lift the population cap imposed by *Campbell* and subsequently increasing the number of inmates by nearly 40% – urgent warnings to District officials about life-threatening conditions at the Jail became more frequent and ominous.

a) April 13, 2001: William H. Dupree, chairman of the Fraternal Order of Police Department of Corrections Labor Committee, wrote to defendant Washington that the administration's plan to "increase the inmate population at the DC Jail . . . while simultaneously eliminating security posts and decreasing the work force . . . will present a major risk to the safety of . . . inmates confined at that facility."

b) September 29, 2001: A study (*District of Columbia Department of Correction Staffing and Overtime Assessment*) prepared by Security Response Technologies, Inc. warned that the District must "implement the

proposed critical minimum staffing complement as the CDF's base roster of mandatory posts." (p. 2)

c) November 9, 2001: Mr. Dupree wrote to Mayor Williams concerning "an urgent safety and security matter at the DC Jail. . . . The Department of Corrections is in the process of implementing a very irresponsible plan that not only violates the Court ordered ceiling at the DC Jail, but compromises the safety of both staff and inmate populations."

d) November 12, 2001: James F. Wallington, an attorney representing the Fraternal Order of Police Department of Corrections Labor Committee, wrote to the Special Officer requesting assistance in seeking "a temporary restraining order directing the Office of the Mayor . . . and the Director of the DC Department of Corrections to cease the intentional overcrowding at the DC Jail. As of Sunday, November 11, 2001, the Department of Corrections has failed to increase the correctional officer staff at the DC Jail to address the immediate influx of inmate population."

e) November 14, 2001: Correctional Officer Irving Robinson, who was assigned to the DC Jail, wrote that "it is my observation that the overcrowded conditions at the DC Jail pose an immediate threat to staff and inmates."

f) November 16, 2001: Mr. Dupree swore in an affidavit that "again the Department has deceived the employees of the Department of Corrections and their representatives in a matter which clearly places the health and safety of employees and the public at risk . . . . [B]ased upon my experience as a correctional officer, I am of the opinion that these overcrowding conditions will only get worse and lead to serious injury or death . . . ."

g) May 21, 2002: The Special Officer appointed by the U.S. District Court noted that DOC Director Washington, in a March 25, 2002, Declaration filed with the Court, had sworn that all posts on the "Critical Staffing Complement" would be filled at all times. However, according to shift rosters, cellblocks with an inmate population of 100 inmates or greater were not consistently staffed with three (3) officers. (pp. 5-6)

h) June 4, 2002: The same Court-appointed Special Officer again complained that "[a]ccording to the shift rosters and the cellblock logs, there have been numerous instances when cellblocks containing greater than 100 inmates have not been assigned three (3) officers. . . . I feel strongly that the Department of Corrections should adhere to its representations made in the Declaration filed with the Court." (p. 5)

i) November 13, 2002: Pamela Chase, Chairperson of the Fraternal Order of Police Department of Corrections Labor Committee testified before the DC Council Committee on the Judiciary at an oversight Hearing of the DC Department of Corrections that staffing shortages had created "reoccurring breaches in public safety and embarrassing incidents within the

Department of Corrections . . . . Essential equipment and staffing have been sacrificed . . . placing lives at risk . . . immediate action must be taken."

j) November 26, 2002: The Honorable Kathleen Patterson, the District of Columbia City Council Judiciary Committee chairperson, and Ward 6 Councilmember Sharon Ambrose, wrote to Mayor Williams that "we are very concerned that the conditions appear to be worsening . . . at the DC Jail due to overcrowding . . . . In sum, we fear for the physical safety of inmates, staff and the public at large."

38. At the same time that they were receiving these warnings, District officials saw first-hand the consequences of its unconstitutional policy of operating an overcrowded, understaffed Jail without adequate procedures for classification, staffing, and security. Significant Incident Reports from the Jail in the months immediately before and after the population cap was lifted in June 2002 reveal increasingly violent, chaotic, and dangerous conditions, including repeated instances of undeterred inmate-on-inmate violence. Each of the individual defendants – Washington, Brown, Harrison, and Smith – were members of the chain of command during this time period. As a result, they knew or should have known of these Incident Reports and were aware of the increasingly violent and dangerous conditions at the Jail.

C. December 11-14, 2002

39. The problems at the Jail culminated in two murders and a third near-fatal stabbing over a four-day span in December 2002.

40. On December 11, 2002, while incarcerated in the Southeast One cellblock at the Jail, Givon Pendleton was brutally attacked by inmate Dominic Jones. Jones stabbed Mr. Pendleton repeatedly with a metal weapon, believed to be a street knife, that likely had been smuggled into the institution. Mr. Pendleton died from his injuries.

41. On December 13, 2002, a second inmate – plaintiff Bradley Raymond Autman (a military veteran with a prosthetic leg) – was stabbed in the neck by another prisoner at the Jail. Mr. Autman survived the attack, although he sustained serious injuries.

42. On December 14, 2002, a third inmate – Mikal Gaither – was stabbed at the Jail. Like Mr. Pendleton, Mr. Gaither died from injuries he sustained in the attack.

43. The circumstances surrounding the stabbings of Messrs. Pendleton, Autman, and Gaither were remarkably similar to one another and followed a well-documented pattern of inmate violence at the Jail. Both Messrs. Pendleton and Gaither were pretrial detainees who were murdered by predatory inmates with histories of aggravated violence against other inmates, and while both assailants were being preventively detained on murder charges. All three individuals were stabbed with knife-like weapons that had either been smuggled into the institution or fashioned inside it, and the weapons used against two of the victims were not even recovered after the crimes. The weapon used to kill Mr. Gaither was recovered only after another inmate directed guards to its location. Each stabbing took place outside the presence or sight of any correctional officer in a cellblock, overcrowded with misclassified inmates, and after one of the critical officers assigned to the housing unit had abandoned his security post without first securing a relief officer.

44. An investigation into the murder of Mr. Pendleton followed his death. According to the District Metropolitan Police Department affidavit in support of the arrest warrant for Dominic Jones, Mr. Jones "was known to Detective Michael Irving as a defendant charged with shooting and killing of two individuals in an unrelated murder case . . . . The investigation revealed that the defendant is a member of a group called the 'Muslim Brotherhood.'"

45. This was at least the second inmate assault that had been committed by Mr. Jones in the Jail: on April 10, 2002, Mr. Jones – along with other inmates being held on murder charges – assaulted an inmate in the Southwest Three cellblock at the Jail. That inmate was hospitalized for head injuries. An informant at the time advised correctional staff that Mr. Jones and the other assailants were part of a group of Muslims that had been strong-arming inmates in the unit.

46. Despite his multiple murder charges, history of violence, and known gang affiliation within the Jail, defendants had at the time of the murder placed Mr. Jones in charge of dispensing meals and beverages to other inmates. Mr. Jones stabbed Mr. Pendleton to death in retaliation for Mr. Pendleton asking for his daily ration of milk.

47. The autopsy report documented that Givon Pendleton suffered the following injuries:

a) Stab wound to left lateral chest with perforation of heart and lung;

b) Stab wound to left side of head;

c) Stab wound to left posterior neck;

d) Stab wound to left mid-chest;

e) Stab wound to right mid-chest;

f) Stab wound to left abdomen;

g) Stab wound to left lateral back;

h) Stab wound to left mid-back;

i) Stab wound to left arm; and

j) Stab wound to left elbow.

48. No prison guard saw, heard, or was present in the vicinity of the assault to supervise or monitor the inmates, or to deter the murder of Mr. Pendleton by Mr. Jones.

49. At the time of the murder, there were 153 prisoners housed in the Southeast One cellblock, but – despite defendant's sworn representations with respect to critical staffing levels – only two guards in the unit.

50. Mr. Autman was stabbed just two days later in the Southeast Two cellblock. After that attack, prison officials conducted cell searches to identify the assailant and locate any weapon that may have been used during the assault. Neither search was successful. Mr. Autman was seriously wounded and hospitalized as a result of the injuries he sustained. As with Mr.

Pendleton, no officer witnessed the attack, and at least one of the three guards assigned to the unit was out on a break at the time of the stabbing.

51. The overcrowding, understaffing, and substantial and unreasonable risk to detainee and inmate safety described above became known to the highest policymakers in the District government and to corrections officials through court orders, studies, technical and expert reports that were provided to the District, testimony and documents generated at City Council oversight hearings, lawsuits filed against the District, settlements entered into by the District, adverse verdicts delivered against the District by juries, a long line of inmate assaults at the Jail, and by other means. These documents and events clearly established to defendants the constitutional requirements for conditions at the Jail.

52. Despite their longstanding awareness of the conditions of confinement at the Jail and the clearly established constitutional requirements for the facility, defendants adopted a custom or policy with respect to the operations of the Jail that was deliberately indifferent to, and recklessly disregarded, the safety and security of the detainees and inmates housed there. Defendants' actions caused a substantial and unreasonable risk to inmate and detainee safety, and resulted in the murders of Mr. Pendleton and Mr. Gaither, and the near-fatal stabbing of Mr. Autman.

53. The overcrowding, understaffing, and deliberate indifference to the substantial and unreasonable risk to inmate and detainee safety described above continued at the Jail even after the murders of Mr. Pendleton and Mr. Gaither and the stabbing of Mr. Autman, and the conditions of confinement at the Jail today remain unconstitutional. District officials have taken constitutionally insufficient measures to remedy these conditions.

First Cause of Action:

(42 U.S.C. § 1983 – Violation of Eighth Amendment
Alleged by Plaintiff Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

54. Plaintiffs hereby incorporate paragraphs 1 through 53, *supra*, as set forth herein.

55. At all relevant times, defendants operated the Jail under color of state law and – having incarcerated Mr. Autman at the facility, stripped him of all means of self-protection, and foreclosed his access to private aid – were constitutionally required to provide him and other inmates with protection from substantial and unreasonable risk of harm.

56. Inmates housed in the Jail were subject to a substantial and unreasonable risk of violent injury as a result of the unconstitutional conditions at the Jail, which included historic and pervasive violence, overcrowding, a shortage of staff, a lack of staff training, negligent supervision of correctional officers, and inadequate policies and procedures for staffing, classification, and security. Defendants were repeatedly made aware of these constitutionally infirm and dangerous conditions, but they purposely and consistently failed to take action to remedy those conditions. To the contrary, defendants adopted a pattern, practice, custom, or policy of acting with deliberate indifference and reckless disregard for the safety, security, and protection of inmates, and/or acted in violation of clearly established constitutional requirements for prison conditions.

57. To date, defendants have failed to remedy these unconstitutional conditions.

58. Defendants' continual failure to address these conditions was and is the result of a conscious and deliberate decision or reckless disregard.

59. Defendants' pattern, practice, custom, or policy of deliberate indifference to, or reckless disregard for, the substantial and unreasonable risk of harm to inmate safety at the Jail

directly and proximately caused Mr. Autman's injuries, thus depriving him of his Eighth Amendment right to be free of cruel and unusual punishment, in violation of 42 U.S.C. § 1983. Plaintiff Autman experienced bodily pain and mental anguish, and suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Second Cause of Action:

(42 U.S.C. § 1983 – Violation of Fifth Amendment
Alleged by Plaintiff Beale
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

60. Plaintiffs hereby incorporate paragraphs 1 through 59, *supra*, as set forth herein.

61. At all relevant times, defendants operated the Jail under color of state law and – having incarcerated Mr. Pendleton at the facility, stripped him of all means of self-protection, and foreclosed his access to private aid – were constitutionally required to provide him and other pretrial detainees with protection from substantial and unreasonable risk of harm.

62. Pretrial detainees housed in the Jail were subject to a substantial and unreasonable risk of violent injury as a result of the unconstitutional conditions at the Jail, which included historic and pervasive violence, overcrowding, a shortage of staff, a lack of staff training, negligent supervision of correctional officers, and inadequate policies and procedures for staffing, classification, and security. Defendants were repeatedly made aware of these constitutionally infirm and dangerous conditions, but they purposely and consistently failed to take action to remedy those conditions. To the contrary, defendants adopted a pattern, practice, custom, or policy of acting with deliberate indifference and reckless disregard for the safety, security, and protection of pretrial detainees, and/or acted in violation of clearly established constitutional requirements for prison conditions.

63. To date, defendants have failed to remedy these unconstitutional conditions.

64. Defendants' continual failure to address these conditions was and is the result of a conscious and deliberate decision or reckless disregard.

65. Defendants' pattern, practice, custom, or policy of deliberate indifference to, or reckless disregard for, the substantial and unreasonable risk of harm to pretrial detainee safety at the Jail directly and proximately caused Mr. Pendleton's injuries, in violation of the Fifth Amendment and 42 U.S.C. § 1983. Decedent Pendleton experienced bodily pain and mental anguish, and suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Third Cause of Action:

(42 U.S.C. § 1983 – Violation of Fifth Amendment
Alleged by Plaintiff Beale
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

66. Plaintiffs hereby incorporate paragraphs 1 through 65, *supra*, by reference.

67. As a pretrial detainee, decedent Pendleton had not yet been found guilty and thus could not be subjected to punishment.

68. Defendants subjected decedent Pendleton to jailhouse conditions so dangerous, horrible, and cruel that they amounted to punishment rather than to reasonable effectuation of legitimate municipal objectives.

69. Defendants' pattern, practice, custom, or policy of housing pretrial detainees in a facility that was and is characterized by historic and pervasive overcrowding, a shortage of staff, a lack of staff training, and dangerous policies and procedures for staffing, classification, and security constitutes punishment in violation of the clearly established rights of pretrial detainees under the Due Process Clause of the Fifth Amendment and 42 U.S.C. § 1983.

Fourth Cause of Action:

(42 U.S.C. § 1983 – Violation of Fifth Amendment
Alleged by Plaintiffs Beale and Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

70. Plaintiffs hereby incorporate paragraphs 1 through 69, *supra*, as set forth herein.

71. By taking decedent Pendleton and plaintiff Autman into custody and holding them there against their will, and by restricting decedent Pendleton and plaintiff Autman's ability to defend themselves from injury to their life, liberty, and bodily integrity, defendants incurred an affirmative duty to protect decedent Pendleton and plaintiff Autman's safety and general well-being.

72. Defendants grossly ignored their responsibilities and breached this duty. By persistently perpetuating and refusing to remedy the unconstitutional and dangerous conditions at the Jail – of which they had been aware for many years and on which they had been advised by both courts and experts to act on numerous occasions – defendants exhibited and continue to exhibit a custom and policy of deliberate indifference or reckless disregard, and/or acted in violation of clearly established constitutional requirements for providing security in prisons.

73. Defendants' pattern, practice, custom, or policy of deliberate indifference to, or reckless disregard for, the substantial and unreasonable risk of inmate violence and injury at the Jail constitutes conduct so egregious or outrageous that it shocks the contemporary conscience; such conduct deprived decedent Pendleton and plaintiff Autman of substantive due process under the Fifth Amendment, in violation of 42 U.S.C. § 1983.

Fifth Cause of Action:

(42 U.S.C. § 1983 – Violation of Fifth and Eighth Amendments
Alleged by Plaintiffs Beale and Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

74. Plaintiffs hereby incorporate paragraphs 1 through 73, *supra*, by reference.

75. At the time of the murder of Mr. Pendleton and the stabbing of Mr. Autman, the Jail was staffed by guards who were inadequately supervised and trained.

76. Because the guards were inadequately supervised and trained, and were too few in number, they failed properly to monitor, supervise, and secure the area, and left their security posts with no relief officer to prevent or deter the attacks upon decedent Pendleton and plaintiff Autman. The staff assignment rosters were drafted in such a way that it was impossible to provide continuous coverage in housing units during staff breaks.

77. At all relevant times, defendants were aware of an ongoing deficiency in the city's training program for Jail guards and in the supervision of those guards on the job. Despite their awareness of this continuing problem, defendants failed to improve the quality of the training programs or require greater supervision of Jail employees.

78. The need for more or different training and more supervision of Jail personnel was so obvious, and the inadequacy so likely to result in the violation of the constitutional rights of pretrial detainees and inmates, that the District of Columbia and its correctional officials acted with deliberate indifference in failing to remedy the need.

79. Defendants adopted a pattern, practice, custom, or policy of acting with deliberate indifference to and reckless disregard for the need for adequate training and supervision of the Jail employees.

80. To date, defendants have failed to address adequately these unconstitutional conditions.

81. Defendants' continual failure to address the lack of adequate training and supervision was and is the result of a conscious and deliberate decision or reckless disregard.

82. Defendants' pattern, practice, custom, or policy of deliberate indifference to, or reckless disregard for, the need for adequate training and supervision of Jail employees directly and proximately caused Mr. Pendleton's death and Mr. Autman's injuries, thus depriving them of their constitutional rights under the Fifth and Eighth Amendments, respectively, in violation of 42 U.S.C. § 1983. Decedent Pendleton and plaintiff Autman experienced bodily pain and mental anguish, and they suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Sixth Cause of Action:

(Negligent Contraband Control – Survival Statute
Alleged by Plaintiffs Beale and Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

83. Plaintiffs hereby incorporate paragraphs 1 through 82, *supra*, by reference.

84. The Department of Corrections of the District of Columbia was under a statutory and common law duty to provide for the safekeeping, care, protection, instruction, and discipline of all persons housed in its penal institutions, including decedent Givon Pendleton and plaintiff Bradley Autman.

85. Defendants knew or should have known that, due to their lack of prison security measures including, but not limited to, the failure to control contraband, install metal detectors, and conduct and document frequent and unannounced housing unit, inmate, and cell shakedowns, it was reasonably foreseeable that residents, including Messrs. Pendleton and Autman, would be attacked by other residents with lethal and prohibited weapons.

86. As a direct and proximate result of the above-described negligence, decedent Pendleton and plaintiff Autman were assaulted with a metal knife or shank, resulting in the death of Mr. Pendleton and serious bodily injury to Mr. Autman. They experienced bodily pain and

mental anguish, and they suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Seventh Cause of Action:

(Negligent Monitoring and Supervision of Inmates – Survival Statute
Alleged by Plaintiffs Beale and Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

87. Plaintiffs hereby incorporate paragraphs 1 through 86, *supra*, by reference.

88. Defendants knew or should have known that, due to the lack of security measures including, but not limited to, the failure to assign adequate staff to watch, hear, monitor, and supervise properly resident activity and movement, it was reasonably foreseeable that residents, including decedent Pendleton and plaintiff Autman, would be attacked by other residents with lethal and prohibited weapons.

89. As a result, Mr. Jones was able to acquire a metal knife or shank, which he used to stab repeatedly decedent Givon Pendleton without sight or sound supervision or deterrence by correctional personnel, in violation of commonly accepted prison security standards. In addition, Mr. Autman was stabbed by a metal knife or shank – by an unidentified assailant – without a correctional officer hearing, deterring, or witnessing the incident in violation of commonly accepted prison security standards.

90. As a direct and proximate result of this negligence, decedent Pendleton and plaintiff Autman were assaulted with a metal knife or shank, resulting in the death of Mr. Pendleton and serious bodily injury to Mr. Autman. Both experienced bodily pain and mental anguish, and they suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Eighth Cause of Action:

(Negligent Overcrowding – Survival Statute
Alleged by Plaintiffs Beale and Autman

Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

91. Plaintiffs hereby incorporate paragraphs 1 through 90, *supra*, by reference.

92. Shortly after the Court-ordered population cap of 1,674 inmates at the Jail was lifted in June 2002, District officials – including all defendants – significantly increased the population of the Jail. At the time of the murder of Mr. Pendleton and the attack on Mr. Autman, the Jail was crowded with more than 2,300 inmates.

93. Despite the rapid increase in the Jail population, there was no corresponding increase in the assignment of correctional staff to provide security at the Jail.

94. Defendants had been repeatedly warned of the dangers to inmates that would result from overcrowding.

95. Defendants knew or should have known that, due to the lack of security measures including, but not limited to, the failure to reduce overcrowding and/or to assign adequate numbers of correctional officers to supervise the excessive numbers of residents; the failure to control contraband and to install metal detectors; the failure to monitor and supervise properly resident activity and movement; and the failure to conduct and document frequent and unannounced housing unit, inmate, and cell shakedowns, it was reasonably foreseeable that residents, including decedent Pendleton and plaintiff Autman, would be attacked by other residents with lethal and prohibited weapons in the crowded cellblocks.

96. As a direct and proximate result of the above-described negligence, decedent Pendleton and plaintiff Autman were assaulted with a metal knife or shank, resulting in the death of Mr. Pendleton and serious bodily injury to Mr. Autman. They experienced bodily pain and mental anguish, and they suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Ninth Cause of Action:

(Negligent Supervision and Training – Survival Statute
Alleged by Plaintiffs Beale and Autman
Against Defendant District of Columbia – Defendants Washington, Harrison, and Smith in their individual and official capacities – Defendant Brown in his individual capacity)

97. Plaintiffs hereby incorporate paragraphs 1 through 96, *supra*, by reference.

98. At the time of the murder of Mr. Pendleton and stabbing of Mr. Autman, the Jail was staffed by guards who were inadequately supervised and trained.

99. Because the guards were inadequately supervised and trained, and were too few in number, they failed properly to monitor, supervise, and secure the area, and left their security posts with no relief officer to prevent or deter the attacks upon decedent Pendleton and plaintiff Autman. The staff assignment rosters were drafted in such a way that it was impossible to provide continuous coverage in housing units during staff breaks.

100. As a direct and proximate result of the above-described negligence, decedent Pendleton and plaintiff Autman were assaulted with a metal knife or shank, resulting in the death of Mr. Pendleton and serious bodily injury to Mr. Autman. They experienced bodily pain and mental anguish, and they suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

Tenth Cause of Action:

(Wrongful Death Statute
Alleged by Plaintiff Beale
Against Defendant District of Columbia)

101. Plaintiffs hereby incorporates paragraphs 1 through 100, *supra*, by reference.

102. As a direct and proximate result of the above-described negligence, decedent Givon Pendleton died on or about December 11, 2002. There were no intervening or superseding causes contributing to his death.

103. As a further direct and proximate result of the above-described negligence and the ensuing death of Givon Pendleton, plaintiff and decedent's next of kin suffered the loss of decedent's services, companionship, comfort, care, love, affection, attention, assistance, financial support, future earnings, and other pecuniary benefit that they would have derived had plaintiff's decedent survived.

Prayer for Relief

WHEREFORE, plaintiffs pray that this honorable Court:

a) Issue a judgment against defendants, jointly and severally, awarding each plaintiff compensatory damages in the amount of $10 million;

b) Issue any other legal or equitable relief that that the Court deems proper;

c) Award plaintiffs attorneys' fees and the costs of this action;

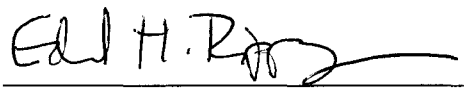
d) Award plaintiffs punitive damages as allowed by applicable law; and

e) Award plaintiffs all such other and further relief to which they may be justly entitled.

Jury Demand

Plaintiffs hereby demand trial by jury of this matter.

Respectfully submitted,



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