
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JEFFERY M. FLECKENSTEIN, individually,	:	Civil Action No.: 1:14-cv-01085-YK
<i>and as the Administrator of the</i>	:	(Filed June 4, 2014)
ESTATE OF CHERYLANN J. DOWELL;	:	
JEREMY M. FLECKENSTEIN; and	:	District Judge: Yvette Kane
JUSTIN A. FLECKENSTEIN;	:	
Plaintiffs,	:	CIVIL ACTION – LAW
v.	:	JURY TRIAL DEMANDED
ROSS W. CRAWFORD;	:	
JANE/JOHN DOE 1-20;	:	
MARY E. SABOL;	:	
DANA M. BRIENZA;	:	
KIM MCDERMOTT;	:	
K. EYSTER;	:	
ALBERT J. SABOL;	:	
MARK S. CHRONISTER;	:	
PAUL D. HOKE;	:	
CHRISTOPHER B. REILLY;	:	
YORK COUNTY PRISON BOARD OF INSPECTORS; and	:	
YORK COUNTY, PENNSYLVANIA;	:	
Defendants.	:	

FIRST AMENDED COMPLAINT

AND NOW come the Plaintiffs, Jeffery M. Fleckenstein, individually, and as the Administrator of the Estate of CherylAnn J. Dowell; Jeremy M. Fleckenstein;

and Justin A. Fleckenstein; by and through their attorney, Devon M. Jacob, Esquire, of the law firm of Jacob Litigation, and aver as follows:

Introduction

From 2009 through 2012, Ross William Crawford was arrested numerous times for committing violent crimes against CherylAnn Jennifer Dowell, his estranged girlfriend. After each incident, Crawford would post bail, get released from Prison, return to Ms. Dowell's home, and hurt her. The public record that tells Ms. Dowell's story reads like a murder mystery – only without the mystery. The tragic ending to Ms. Dowell's story was foreseeable, and but for the deliberate indifference of the Defendants, preventable. Sadly, this First Amended Complaint tells the final chapter of Ms. Dowell's story.

Jurisdiction and Venue

1. This action is brought pursuant to 42 U.S.C. § 1983.
2. Jurisdiction is founded upon 28 U.S.C. § § 1331, 1343 & 1367.
3. Venue is proper in this Court, as all Defendants are located within the Middle District of Pennsylvania, and the cause of action arose in the Middle District of Pennsylvania.

Parties

4. Plaintiff, Jeffery M. Fleckenstein, is the biological twin son of the decedent, CherylAnn J. Dowell, and is the Administrator of the Estate of CherylAnn J. Dowell. Mr. Fleckenstein is an adult who currently resides in White Hall, Maryland.

5. Plaintiff, Jeremy M. Fleckenstein, is the biological twin son of the decedent, CherylAnn J. Dowell. Mr. Fleckenstein is an adult who currently resides in Clearwater, Florida.

6. Plaintiff, Justin A. Fleckenstein, is the biological son of the decedent, CherylAnn J. Dowell. Mr. Fleckenstein is an adult who currently resides in White Hall, Maryland.

7. Defendant, Ross W. Crawford, is an adult who is currently incarcerated in the York County Prison, which is located in York, Pennsylvania.

8. Defendants, Jane/John Doe 1-20, are adult individuals, who, during all relevant times, were employed by York County, Pennsylvania, and/or the Pennsylvania Unified Judicial System, who were responsible for supervising inmate Ross W. Crawford. All of Defendants Jane/John Doe 1-20's actions or inactions were taken under color of state law. They are sued in their individual capacity.

9. Defendant, Mary E. Sabol, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, as the Warden of the York County Prison. All of Defendant Sabol's actions or inactions were taken under color of state law. She is sued in her individual capacity.

10. Defendant, Dana M. Brienza, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, and/or the Pennsylvania Unified Judicial System, as a Probation Officer. All of Defendant Brienza's actions or inactions were taken under color of state law. She is sued in her individual capacity.

11. Defendant, Kim McDermott, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, and/or the Pennsylvania Unified Judicial System, as a Probation Officer. All of Defendant McDermott's actions or inactions were taken under color of state law. She is sued in her individual capacity.

12. Defendant, K. Eyster, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, and/or the Pennsylvania Unified Judicial System, as a Probation/Parole Supervisor. All of Defendant Eyster's actions or inactions were taken under color of state law. She is sued in her individual capacity.

13. Defendant, Albert J. Sabol, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, and/or the Pennsylvania Unified Judicial System, as the Chief of the York County Adult Probation and Parole Department. All of Defendant Sabol's actions or inactions were taken under color of state law. He is sued in his individual capacity.

14. Defendant, Mark S. Chronister, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, as a Commissioner. Commissioners are responsible for approving the County's annual budget, overseeing all county programs and employees, and setting County policy. All of Defendant Chronister's actions or inactions were taken under color of state law. He is sued in his individual capacity.

15. Defendant, Paul D. Hoke, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, as a Commissioner. Commissioners are responsible for approving the County's annual budget, overseeing all county programs and employees, and setting County policy. All of Defendant Hoke's actions or inactions were taken under color of state law. He is sued in his individual capacity.

16. Defendant, Christopher B. Reilly, is an adult individual, who, during all relevant times, was employed by York County, Pennsylvania, as a Commissioner.

Commissioners are responsible for approving the County's annual budget, overseeing all county programs and employees, and setting County policy. All of Defendant Reilly's actions or inactions were taken under color of state law. He is sued in his individual capacity.

17. Defendant, York County Prison Board of Inspectors, manages the operation of the York County Prison. All of its actions or inactions were taken under color of state law.

18. Defendant, York County, Pennsylvania (hereinafter "County") is a County in the Commonwealth of Pennsylvania, with a population of approximately 435,000. The County was created on August 19, 1749, from part of Lancaster County. Most or all of the Individual Defendants were employed by York County, during all relevant times, and acting pursuant to the policies, practices, and customs adopted or ratified by York County.

Factual Background

19. From 2009 through 2012, Ross William Crawford was arrested numerous times for committing violent crimes against CherylAnn Jennifer Dowell, his estranged girlfriend.

20. The violent crimes included but were not limited to aggravated assault, arson, burglary, and making terroristic threats.

21. In 2010, Crawford was accused of taking Ms. Dowell hostage, assaulting her, and setting a fire at her home.

22. In March of 2011, Crawford pleaded guilty to terroristic threats, criminal mischief, and harassment, for breaking into Ms. Dowell's home and threatening to assault her with a fireplace poker.

23. In a negotiated plea agreement, Judge Michael E. Bortner sentenced Crawford to three years probation, and ordered him to have no contact with Ms. Dowell.

24. At an August 23, 2011, hearing for violating the conditions of the previous sentence, Judge Bortner sentenced Crawford to six to 12 months of incarceration, three years of probation, and again directed Crawford to have no abusive contact with Ms. Dowell.

25. On or about March 8, 2012, Crawford was arrested for disorderly conduct and harassment in an incident yet again involving Ms. Dowell, and on March 14, 2012, Crawford was detained at the York County Prison ("Prison").

26. York County Prison records contain a notation, dated March 15, 2012, which provides in relevant part the following:

Crawford claims the victim of both incidents is Jennifer Dowell. He should not be allowed to have contact with this individual at this time. Ross was arrogant and outgoing. He sort of rubbed me the wrong way and he apparently has the same effect on others as well. He was

convicted of a battery offense in Indiana in the past. He was also written-up while here previously for fighting[.]

27. On the same date, Prison records also contain a notation that provides, “Recommend Violence Prevention.”

28. On the same date, Prison records further contain a notation, “History of Domestic Violence: Yes . . . Violence Indicated: Yes.”

29. On May 14, 2012, Crawford was found guilty of disorderly conduct and harassment.

30. On May 21, 2012, Judge Bortner determined that the criminal convictions were a violation of Crawford’s parole conditions, and issued a Sentencing Order that provided the following:

We find the Defendant in violation. He is sentenced to the unserved balance of 396 days with reparole after six months of house confinement.

Furthermore, Case 4868, Count 4, that is a sentence of three years’ [sic] probation. He is to receive credit from March 14th, 2012. That is 69 days, and he is repared forthwith.

31. The public record reflects the fact that at the time, pursuant to court order, Crawford was not to have any contact with Ms. Dowell until May 20, 2015.

32. As the Warden of the York County Prison, Mary E. Sabol is the head administrator of the Prison.

33. Warden Sabol is responsible for the day-to-day operations of the prison, as well as the long-range goals, programs, and finances.

34. Warden Sabol is also responsible for keeping inmates secure within the prison, and keeping the public safe from the inmates.

35. Warden Sabol is further responsible for ensuring that correctional officers and supervisors are properly trained and supervised.

36. Despite the fact that the May 21, 2012, Sentencing Order did not require Crawford's immediate release from the Prison, Prison records indicate that on May 21, 2012, at 7:03 PM, Warden Sabol and Jane/John Doe (who was/were subject to Warden Sabol's direct supervision) released Crawford from the Prison.

37. In violation of the Court's Order, Prison records indicate that Crawford was released into the general community and not to house arrest as ordered.

38. Moreover, prior to releasing Crawford, Warden Sabol and Jane/John Doe knew that Prison employees who were required to perform Initial Screenings and Risk Assessment Tools for inmates were not properly trained to do so, and in fact, were not properly doing so.

39. As a result of Warden Sabol's and Jane/John Doe's deliberate indifference, Initial Screenings and Risk Assessment Tools for Crawford contained

incorrect information, and did not provide Prison officials with an accurate assessment of the threat that Crawford posed to Ms. Dowell.

40. Furthermore, Warden Sabol and Jane/John Doe knew that when released, Crawford would not be properly confined to house arrest as ordered, and would not be properly supervised in the community.

41. They knew this because they decided not to ensure that Crawford had a proper parole plan in place prior to releasing him.

42. They also knew this because they decided not to notify Probation/Parole of Crawford's sentencing and immediate release.

43. At the time, they knew that in York County, it typically took one to two weeks to set an inmate up on house arrest with electronic monitoring.

44. Under the system at the time, when someone was sentenced to house arrest, an alarm base was plugged into a phone line in the inmate's home.

45. The alarm base was then connected to an ankle bracelet that was placed on the inmate.

46. If the inmate left the property during an unexcused absence, the house alarm tripped, and the inmate was immediately hunted down and arrested.

47. Warden Sabol and Jane/John Doe released Crawford into the community before the house alarm system was set up.

48. Prior to releasing Crawford into the community, Warden Sabol and Jane/John Doe knew that Crawford had physically harmed Ms. Dowell and knew or should have known that he intended to harm her again.

49. Warden Sabol and Jane/John Doe had an obligation to notify Ms. Dowell of Crawford's impending and actual release but decided not to do so.

50. Specifically, Warden Sabol and Jane/John Doe had an obligation to comply with all requirements of the Pennsylvania Statewide Automated Victim Information and Notification, and the Pennsylvania Crime Victims Act, but did not do so, as Ms. Dowell had anticipated and expected, before releasing Crawford.

51. The decision not to notify Ms. Dowell of Crawford's impending and actual release placed Ms. Dowell in significant danger, because in reliance on the domestic violence victims system that Ms. Dowell was led to believe was in place in York County, she decided that while Crawford was incarcerated in the Prison, she did not need to take extra security precautions to protect herself from being assault and murdered by Crawford.

52. Essentially, Ms. Dowell relied on the Defendants' representations, and York County policies, practices, and customs, that were supposed to ensure that she would be notified of Crawford's impending and actual release.

53. Ms. Dowell did not know that the Defendants had implemented a policy and practice of not following their own victim notification policies and procedures, and of not providing victims of violent crimes with the information necessary to ensure that they would be timely notified.

54. During the relevant period of time, the York County Adult Probation and Parole Department (“Probation/Parole”) was administered by Chief Albert J. Sabol, who was appointed by the President Judge of the York County Court of Common Pleas.

55. Probation/Parole is responsible for, among other things, proper supervision and monitoring of inmates in the community.

56. Inmates who are sentenced to house arrest are supervised and monitored by Probation/Parole.

57. The Probation/Parole Domestic Violence unit is comprised of probation officers who supervise inmates who have been convicted of a domestic violence related offense where the victim is/was an intimate partner.

58. The probation officers are supposed to utilize a departmental risk and needs scale, as well as a Lethality tool, to determine the proper level of supervision.

59. Chief Sabol, Eyster, Brienza, McDermott, and Jane/John Doe 1-20 (who was/were under the direct supervision of Chief Sabol) either deliberately and

knowingly did not properly use the risk or needs scale and/or the Lethality tool, or ignored the level of supervision that they determined that Crawford required.

60. The Probation/Parole Intermediate Punishment unit consists of probation officers whose work is two-fold: (1) interviewing offenders as to their social and family histories, researching a defendant's prior criminal record, and gathering victim's statements and restitution figures for use by the Court in sentencing, and (2) direct supervision of inmates.

61. Chief Sabol, Eyster, Brienza, McDermott, and Jane/John Doe 1-20 either deliberately and knowingly failed to interview Crawford and perform the necessary due diligence to ensure that Crawford could be safely and properly supervised on house arrest, or deliberately and knowingly ignored the information that was readily available to them regarding Crawford's violent criminal history involving Ms. Dowell, and the obvious continuing danger that Crawford presented to her welfare.

62. The Intermediate Punishment unit oversees inmates on house arrest and who are (or should be) subject to electronic monitoring.

63. Should the inmate fail to abide by the terms of the Intermediate Punishment sentence, the inmate is supposed to be immediately re-incarcerated.

64. Upon discovering that Crawford had been released from the York County Prison, Chief Sabol, Eyster, Brienza, McDermott, and Jane/John Doe 1-20 deliberately and knowingly ignored the obvious threat that Crawford posed to Ms. Dowell, and decided not to timely set up Crawford's required electronic monitoring and/or return him to the York County Prison.

65. Moreover, Chief Sabol, Eyster, Brienza, McDermott, and Jane/John deliberately violated Crawford's Sentencing Order by knowingly permitting Crawford to leave house arrest.

66. On May 21, 2012, Brienza noted in Crawford's Probation/Parole records that he was notified through "Court Coverage" of the following:

CL SENTENCED TO 6 MOTH [sic] HOUSE ARREST, ON C CR-4868-2010 REPAROLED FORTHWITH IN 69 DAYS CREDIT. CL TO REPORT TO PROBATION ASAP. CR-4868-2010 3 YEARS PROBATION RE-IMPOSED.

67. On May 22, 2012, Brienza further noted in Crawford's Probation/Parole records, "New Harassment Charges – Same Vic."

68. Brienza also noted, "Called cl back. Explained to cl that he will meet with me one more time and then he will trans. to Em officer for the duration of his house arrest. Scheduled apt for 5/23/12@ 11 to do new conditions."

69. On May 23, 2012, Brienza noted, "Cl reported directed . . . Had cl fill out new condition and payment agreement for \$50.00 . . . Cl's mom will be paying

for his house arrest. . . . No Vic contact . . . Made apt for 5/31/12@ 3. IF CL IS SET UP ON HOUSE ARREST BY THEN WILL NOT MEET.”

70. On May 29, 2012, Brienza noted, “SUB. SUPPLEMENTAL, UPDATED CREDIT TIME SHEET, GAVE FILE TO SUP [Eyster] FOR HOUSE ARREST OFFICER [McDermott.]”

71. Brienza further noted in Crawford’s Probation/Parole records,

Once the sentencing information was received a supplemental was completed. I had Supervisor Eyster go over the supplemental with me, to confirm it [sic] accuracy. At that point a completed supplemental was submitted to support staff and Mr. Crawford’s file was give [sic] to Supervisor Eyster to be transferred to a house arrest officer.

72. On May 29, 2012, Brienza also noted, in relevant part, “ADDITION--> Special Condition: Special Condition HOUSE ARREST, Assigned on 5/21/2012, by officer BRIENZA, DANA M . . . “ADDITION--> Special Condition: Special Condition NO CONTACT WITH VICTIM[.]”

73. On June 1, 2012, Eyster noted in Probation/Parole records the following, “MODIFY/ASSIGN--> PO Officer Modified from: BRIENZA, DANA M To: MCDERMOTT, KIM on 6/1/2012.”

74. On June 4, 2012, Brienza noted in Crawford’s Probation/Parole records, “No Vic.”

75. Prior to Crawford being released from Prison, it was known by all of the Defendants that it was common practice for inmates subject to house arrest to not have the required electronic monitoring set up and installed at the time when they entered house arrest.

76. This practice and policy resulted from the deliberate failure of Defendant Commissioners Mark S. Chronister, Paul D. Hoke, and Christopher B. Reilly, to properly prioritize and fund Probation/Parole when they adopted the yearly County budget, which resulted in a lack of manpower, equipment, and resources, being committed to Probation/Parole.

77. The Defendant Commissioners failed to properly fund Probation/Parole even after being provided with information regarding the financial needs of the agency that would be required in order to safely and properly accomplish the agency's mandate.

78. The Defendant Commissioners knew or should have known that the funding that they allocated to Probation/Parole would be insufficient to safely and properly house violent inmates outside of the York County Prison in situations including house arrest.

79. Despite knowing the dangerous situation that their policymaking decisions created, they represented otherwise to the courts and to the public.

80. The Defendants' collective representations led judges to believe that it was safe to continue to sentence inmates to house arrest.

81. The York County Board of Prison Inspectors failed to properly supervise the York County Prison, which resulted in the creation and implementation of policies and practices that permitted dangerous inmates to be released to house arrest without proper electronic and/or in-person monitoring and supervision.

82. Compounding the problem further, the York County Board of Prison Inspectors failed to implement policies and practices that would ensure that crime victims were timely notified of the impending and/or actual release of dangerous inmates.

83. Compounding the problem yet further, the York County Board of Prison Inspectors failed to adopt policies and data management practices that would ensure that affordable technological advancements would be implemented.

84. Such advancements in computer hardware, software, and databases would have eliminated illegible, inaccurate, duplicative, and voluminous handwritten records that failed to clearly display accurate information about Crawford that would have alerted Prison decision-makers that further precautions were required to ensure Ms. Dowell's safety before releasing Crawford.

85. The Defendants' creation and implementation of these policies and practices endangered Ms. Dowell by creating the opportunity, without Ms. Dowell's knowledge, for Crawford to kill her, which is exactly what occurred.

86. When the Defendants released Crawford from Prison to house arrest, they knew that they were actually setting him free, at least for a few weeks.

87. During his few weeks of freedom, Crawford entered Ms. Dowell's home, and killed her by way of blunt force trauma to her head.

88. When Crawford killed Ms. Dowell, she did not present a physical danger to him or to anyone else.

89. Crawford did not kill Ms. Dowell in self-defense or in the defense of others.

90. Crawford did not have a lawful privilege to use any force, let alone deadly force, against Ms. Dowell.

91. On June 8, 2012, police officers with the Northern York Regional Police Department, arrested Crawford for the first-degree murder of Ms. Dowell.

92. Crawford killed Ms. Dowell, while he was a sentenced inmate, in the custody of the Defendants, under house arrest, subject to the supervision of the deliberately indifferent York County Defendants – meaning, while he was a free man.

COUNT I

**Plaintiff Estate of CherylAnn J. Dowell v. Defendants (excluding Crawford)
State Created Danger Theory of Liability
Fourteenth Amendment – Pursuant to 42 U.S.C. § 1983**

93. Paragraphs 1-92 are stated herein by reference.

94. The State Created Danger Doctrine is a narrow exception to the general rule that the Due Process Clause of the Fourteenth Amendment does not impose an affirmative obligation on states to protect their citizens from private harms. See Henry v. City of Erie, 728 F.3d 275, 286 (3d Cir. 2013); Phillips v. County of Allegheny, 515 F.3d 224, 235 (3d Cir. 2008) (citing DeShaney v. Winnebago Cnty. Dept. of Soc. Servs., 489 U.S. 189, 195-96 (1989)).

95. The Doctrine generally provides that a state may be held liable where it “acts to create or enhance a danger that deprives the plaintiff of his or her Fourteenth Amendment right to substantive due process.” Morrow v. Balaski, 719 F.3d 160, 177 (3d Cir. 2013).

96. To state a claim under the Doctrine, a Plaintiff must plead the following four elements:

- (1) the harm ultimately caused was foreseeable and fairly direct;
- (2) a state actor acted with a degree of culpability that shocks the conscience;
- (3) a relationship between the state and the plaintiff existed such that

the plaintiff was a foreseeable victim of the defendant's acts, or a member of a discrete class of persons subjected to the potential harm brought about by the state's actions, as opposed to a member of the public in general; and

(4) a state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted at all.

Sanford v. Stiles, 456 F.3d 298, 304-05 (3d Cir. 2006).

97. Ms. Dowell's murder was foreseeable and fairly direct:

- a. Crawford was incarcerated for violating terms of probation/parole that resulted from prior violent crimes that he had committed against Ms. Dowell.
- b. The violation of his probation/parole again resulted from a crime being committed against Ms. Dowell.
- c. The Commonwealth knew that Crawford would likely hurt or kill Ms. Dowell, which is why the Commonwealth imposed a no contact order on Crawford.

98. A state actor acted with a degree of culpability that shocks the conscience:

- a. The state actor Defendants knew that they had failed to properly fund Probation/Parole and that electronic monitoring of persons on house arrest could not be accomplished;
- b. The state actors Defendants knew that they had failed to properly fund Probation/Parole and that proper supervision of persons on house arrest could not be accomplished;
- c. The state actors Defendants knew that proper supervision of persons on house arrest could not be accomplished but led judges to believe

otherwise, resulting in persons being sentenced to house arrest;

- d. The Commonwealth knew that Crawford would likely hurt or kill Ms. Dowell and imposed a no contact order on Crawford.
 - e. Despite knowing that Crawford would hurt or kill Ms. Dowell, the Defendant state actors failed to notify Probation/Parole of Crawford's release;
 - f. Despite knowing that Crawford would hurt or kill Ms. Dowell, the Defendant state actors failed to notify Ms. Dowell of Crawford's release;
 - g. Despite knowing that Crawford would hurt or kill Ms. Dowell, the Defendant state actors failed to require that Crawford have a proper parole plan in place before he was released; and
 - h. Despite knowing that Crawford would hurt or kill Ms. Dowell, the Defendant state actors released Crawford into the community knowing that he would not be properly supervised or monitored for several weeks.
99. A relationship between the state and the Plaintiff existed such that the

Plaintiff was a foreseeable victim or a member of a discrete class of persons subjected to the potential harm:

- a. Crawford was incarcerated for violating terms of probation/parole that resulted from prior violent crimes that he had committed against Ms. Dowell.
- b. The violation of his probation/parole again resulted from a crime being committed against Ms. Dowell.
- c. The Commonwealth knew that Crawford would likely hurt or kill Ms. Dowell, which is why the Commonwealth imposed a no contact order on Crawford.

- d. The Defendant state actors knew or should have known that if they represented to the court that they could properly supervise and monitor inmates in situations of house arrest, judges would sentence inmates to house arrest;
- e. All of Crawford's violent crimes targeted Ms. Dowell only;
- f. Not only was it foreseeable to the Defendant state actors that their aforementioned conduct would result in Ms. Dowell's injuries, it was a certainty that she would be harmed or killed.

100. A state actor affirmatively used his or her authority in a way that created a danger to the citizen or that rendered the citizen more vulnerable to danger than had the state not acted at all:

- a. The Defendant state actors allocated public funds to programs other than Probation/Parole, thereby creating the aforementioned situation;
- b. The Defendant state actors led judges to believe that house arrest was a viable and safe sentencing option;
- c. Despite having discretion with respect to Crawford's release date, the Defendant state actors released Crawford from prison without a proper parole plan;
- d. Despite having discretion with respect to Crawford's release date, the Defendant state actors released Crawford from Prison without a proper supervision plan in place;
- e. Despite having discretion with respect to Crawford's release date, the Defendant state actors released Crawford from Prison without notifying probation/Parole;
- f. Despite having discretion with respect to Crawford's release date, the Defendant state actors released Crawford from Prison without notifying

Ms. Dowell;

- g. Despite having discretion with respect to Crawford's release date, the Defendant state actors released Crawford from Prison without electronic monitoring in place.
- h. The Defendant state actors developed an inmate supervision plan that did not meet standards in the industry and that they knew would result in Crawford not remaining under house arrest;
- i. The Defendant state actors met with Crawford in the community and permitted him to leave their sight and custody without electronic monitoring; and
- j. The Defendant state actors met with Crawford in the community and permitted him to leave their sight and custody knowing that they could not ensure that he would remain under house arrest.

101. As a direct and proximate cause of the Defendants' actions, Ms. Dowell suffered immense physical pain, humiliation, fear, physical injuries, and death.

102. Moreover, Ms. Dowell's family suffered mental anguish and a loss of companionship, comfort, financial support, and guidance.

COUNT II

Plaintiff Estate of CherylAnn J. Dowell v. Defendant York County, Pennsylvania, and York County Prison Board of Inspectors Fourteenth Amendment – Pursuant to 42 U.S.C. § 1983 – Municipal Liability

103. Paragraphs 1-102 are incorporated herein by reference.

104. "Local governing bodies . . . can be sued directly under § 1983 for monetary, declaratory, or injunctive relief where . . . the action that is alleged to be

unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." Monell v. Dep't of Soc. Servs., 436 U.S. 658, 690 (1978).

105. The Defendant policymakers of the Defendant County either participated in, authorized, or acquiesced in, the unlawful conduct discussed herein; adopted, implemented, and enforced, policies and practices that did not comport with state and federal law; or failed to adopt, implement, and enforce, policies and practices that comport with state and federal law.

106. The Defendants maintained policies, practices, and customs, which were the moving force that resulted in Ms. Dowell's constitutional and statutory rights being violated.

107. Moreover, the Defendants were on notice of a need for further training related to the issues discussed herein, but failed to provide the training, which resulted in Ms. Dowell's constitutional and statutory rights being violated.

108. It is believed that discovery will reveal, and therefore averred, that the Defendants failed to implement a policy, enforce a policy, or train the Individual Defendants on the following:

- a. The standards that must be met in order to properly and safely run a house arrest program;
- b. What to do if an inmate's sentencing condition(s) will result in an

increased danger to a known crime victim;

- c. The standards that must be met before releasing a known dangerous inmate from Prison;
- d. The standards that must be met in order to safely supervise and monitor an inmate sentenced to house arrest;
- e. The standards that must be met in order to keep victims of domestic violence safe;
- f. The requirements of the Pennsylvania Statewide Automated Victim Information and Notification; and
- g. The requirements of the Pennsylvania Crime Victims Act.

109. Liability also exists when “an individual has reasonably relied on agency regulations promulgated for his guidance or benefit and has suffered substantially because of their violation by the agency.” U.S. v. Caceres, 440 U.S. 741, 752-53 (1979).

110. Ms. Dowell reasonably relied to her detriment on the Defendants’ policies and regulations related to domestic violence, victim notification, house arrest, electronic monitoring, and the incarceration and release of inmates.

111. Had the Defendants followed their own policies, Ms. Dowell would not have been killed.

112. Had Ms. Dowell known that the Defendants did not intend to follow their own policies, she would have taken other measures to ensure her safety.

113. It is believed that discovery will reveal, and therefore averred, that the Defendants failed to implement an effective process to ensure that policies and training of the Defendants were followed by its employees.

114. It is believed that discovery will reveal, and therefore averred, that when it has been determined that employees have violated the constitutional or statutory rights of persons, failed to follow policies and practices, or when the Defendants have settled civil lawsuits, the Defendants have not required employees to receive corrective or additional training.

115. It is believed that discovery will reveal, and therefore averred, that the Defendants did not investigate, discipline, or retrain the Individual Defendants for the conduct discussed in this Complaint.

116. It is believed that discovery will reveal, and therefore averred, that the Defendants did not revise or adopt policies to prevent the harm discussed in this Complaint from occurring again.

117. If it is ultimately determined that an investigation, discipline, training, or policy revision occurred, it is believed that discovery will reveal, and therefore averred, that the investigation, discipline, training, or policy revision, was triggered by the threat or filing of civil litigation (so as to be a defense to the litigation), as opposed to when the Defendants first learned of the incident discussed herein.

118. The Defendants' policies and practices caused the Plaintiff to suffer the constitutional and statutory injuries described herein.

119. Moreover, it is believed that discovery will reveal, and therefore it is averred, that the Defendants' policies and practices caused other persons to suffer similar constitutional and statutory injuries.

120. As a direct and proximate cause of the Defendants' actions, Ms. Dowell suffered immense physical pain, humiliation, fear, physical injuries, and death.

121. Moreover, Ms. Dowell's family suffered mental anguish and a loss of companionship, comfort, financial support, and guidance.

COUNT III

Plaintiff Estate of CherylAnn J. Dowell v. Defendants Survival Action

122. Paragraphs 1-121 are stated herein by reference.

123. Plaintiff Estate of CherylAnn J. Dowell claims damages for the pain and suffering unlawfully caused Ms. Dowell during the events in question until the time of her death.

124. Plaintiff Estate claims damages for the loss of her enjoyment of her life and for the pain and suffering that led to her death.

125. Ms. Dowell's claims in life survive her death.

126. As a direct and proximate cause of the Defendants' actions, Ms. Dowell suffered immense physical pain, humiliation, fear, physical injuries, and death.

127. Moreover, Ms. Dowell's family suffered mental anguish and a loss of companionship, comfort, financial support, and guidance.

COUNT IV

Individual Plaintiffs v. Defendants Wrongful Death

128. Paragraphs 1-127 are stated herein by reference.

129. "Pennsylvania's Wrongful Death Act, 42 PA. CONS. STAT. § 8301, allows a spouse, children or parents of a deceased to sue another for a wrongful or neglectful act that led to the death of the deceased," and it allows, as damages, "the value of the decedent's life to the family, as well as expenses caused to the family by reason of the death," Hatwood v. Hospital of the University of Pennsylvania, 55 A.3d 1229, 1235 (Pa. Super. Ct. 2012) (quoting Slaseman v. Myers, 455 A.2d 1213, 1218 (Pa. Super. Ct. 1983)).

130. These damages include "the value of his services, including society and comfort." Id. (quoting Rettger v. UPMC Shadyside, 991 A.2d 915, 932-33 (Pa. Super. Ct. 2010)).

131. As a direct and proximate cause of the Defendants' actions, which caused the wrongful death of Ms. Dowell, Ms. Dowell's family suffered a financial

loss associated in large part with lost services, society, guidance, companionship, and comfort.

WHEREFORE, Plaintiffs respectfully request that judgment be entered in Plaintiffs' favor as follows:

- A. That this Court declare that the Defendants' actions violated Ms. Dowell's constitutional and statutory rights;
- B. Compensatory damages including but not limited loss of companionship, comfort, society, financial support, and guidance caused by the death; and the survivor's emotional suffering.
- C. Punitive damages (except against Defendant County);
- D. Reasonable attorney's fees and costs;
- E. A jury trial; and,
- F. Such other financial or equitable relief as is reasonable and just.

Jury Trial Demand

Plaintiffs respectfully request a trial by jury on all claims/issues in this matter that may be tried to a jury.

Respectfully Submitted,



Date: July 18, 2014

DEVON M. JACOB, ESQUIRE

Pa. Sup. Ct. I.D. 89182

Counsel for Plaintiffs

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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JEFFERY M. FLECKENSTEIN, et al., : **Civil Action No.: 1:14-cv-01085-YK**
 Plaintiffs, : **(Filed June 4, 2014)**
 : **District Judge: Yvette Kane**
 :
 : **CIVIL ACTION – LAW**
ROSS W. CRAWFORD, et al., : **JURY TRIAL DEMANDED**
 :
 :

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below I electronically filed the foregoing with the Court using the CM/ECF system, which sent notification of such filing to the following person(s):

MICHAEL W. FLANNELLY, ESQUIRE
Email: mwflannelly@york-county.org



DEVON M. JACOB, ESQUIRE

Date: July 18, 2014