

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ELISHEBA RENE HARRIS,)
Administratrix of the Estate of)
DESHAYLA E. HARRIS, Deceased,)

Plaintiff,)

v.)

CITY OF VIRGINIA BEACH,)
2401 Courthouse Drive)
Virginia Beach, VA 23456)

Serve: Mark D. Stiles, Esq.)
Office of City Attorney)
2401 Courthouse Drive)
Building 1, Room 260)
Virginia Beach, VA)
23456)

JOHN DOE,)

Defendants.)

COMPLAINT

Case No. _____

Jury Trial Demanded

COMES NOW the Plaintiff, Elisheba Renee Harris, Administratrix of the Estate of Deshayla Eunique Harris, Deceased, by counsel, and moves this Court for judgment against Defendant the City of Virginia Beach (“Virginia Beach”), and John Doe, an unidentified Defendant, on the following grounds:

INTRODUCTION

This civil case arises from the unlawful shooting and killing of Deshayla Harris on the evening of March 26, 2021 near the Oceanfront in Virginia Beach, Virginia, by an unidentified person who, upon information and belief, is either a Virginia Beach Police Department Officer ("VBPD"), or another party, John Doe. While the shooter remains unknown currently after nearly two years, some evidence reasonably points to the shooter potentially being a VBPD Officer. In the event Ms. Harris was not killed by a VBPD Officer -- a determination that has been severely hampered by the stunning lack of transparency exhibited by VBPD and City Officials, VBPD's gross negligence in fomenting and exacerbating the chaotic conditions that led to Ms. Harris's death, including, but not limited to, their failure to adequately and properly staff a densely-populated area, properly train and supervise officers, failure to secure the initial crime scene(s), failure to establish an organized command post and presence and create a safety zone for innocent civilians and failure to give instructions and direct innocent bystanders to safety.

Gunfire broke out at the Virginia Beach Oceanfront Resort Area (“Oceanfront”) on March 26, 2021. VBPD failed to create a command post and presence at the initial

shooting scene, leading to several more volleys of gunfire in a densely-populated pedestrian area. On information and belief, VBPD Officers rushed to the crime scene, in some instances pointing their weapons through the windows of occupied cars, to investigate the source of the shooting. VBPD failed to secure the area, establish a safety zone for innocent bystanders to flee and take cover and direct innocent bystanders to safety as more gunfire erupted. As a third round of gunfire rang out, and in the presence of VBPD officers, one bullet struck Deshayla in the back of her head, killing her as she and a friend tried to escape the chaotic scene surrounding her. The causal nexus of Deshayla's death traces either directly to an unidentified VBPD Officer, or through the gross negligence of the VBPD which breached its duty to protect Deshayla and made worse the chaotic and orderless conditions that led to her unlawful killing.

There is sufficient public evidence to support a reasonable belief that Deshayla may have been killed by a police-issued firearm. However, due to the continuous efforts of VBPD and the City of Virginia Beach to withhold information, the Plaintiff cannot – at this stage and without the benefit of any discovery – know every fact and circumstance of Deshalya's unlawful killing ... Information vital to uncovering the exact facts and circumstances of Deshalya's death is in the exclusive possession and control of the Defendants. The Plaintiff's several attempts to access information regarding her daughter's killing have been unduly delayed, or outright refused. The Court should not reward and incentivize Defendants to withhold information until the Plaintiff is left with no legal remedy to redress her injuries.

Deshayla's mother, Elisheba Renee Harris, Administratrix of the Estate of Deshayla Harris, Deceased, brings this action on behalf of her daughter's estate to vindicate Deshayla's rights under state and federal law to be free of arbitrary deadly violence perpetrated by the police, as well as to be free of foreseeable and preventable deadly violence made possible by the gross negligence of the Virginia Beach Police Department.

JURISDICTION

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as it involves claims under federal law, namely 42 U.S.C. § 1983.
2. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367(a) over the state law claims, including claims alleged pursuant to Virginia Code § 8.01-50, *et seq.* (wrongful death statute), or, alternatively, pursuant to Virginia Code § 8.01-25, *et seq.* (survival statute).
3. Pursuant to Virginia Code § 15.2-209, written notice of this claim was timely provided to the City Attorney's Office for the City of Virginia Beach within six months after the cause of action accrued. A copy of the Notice of Claim is attached hereto as Exhibit A.

VENUE

4. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial part of the acts and omissions giving rise to Plaintiffs claims occurred in this district.
5. Assignment to the Norfolk Division of the Eastern District of Virginia is proper pursuant to Eastern District of Virginia Local Rules 3(B)(4) and 3(C) because a substantial part of the acts and omissions giving rise to Plaintiffs claims occurred in

this division.

PARTIES

6. Plaintiff Elisheba Renee Harris, Administratrix of the Estate of Deshayla Harris, Deceased, at the time of the incident described herein, was an adult over the age of 18 and a resident of the Commonwealth of Virginia.
7. Plaintiff is the mother of Deshayla Eunique Harris, who was an adult over the age of 18 and a resident of the Commonwealth of Virginia at the time of her unlawful killing on March 26, 2021. A copy of Deshayla Harris's Death Certificate is attached hereto as Exhibit B.
8. Deshayla was a twenty-eight-year-old Black female at the time of her death.
9. Deshayla was an aspiring entertainer with a bright and prosperous future ahead of her, having already starred in Season 17 of "Bad Girls Club" on the "Oxygen" network.
10. Plaintiff was qualified and duly appointed as Administratrix of the Estate of Deshayla Harris, Deceased, by the Virginia Beach Circuit Court on May 24, 2021. A copy of the Certificate of Qualification is attached hereto as Exhibit C.
11. Defendant Virginia Beach is a municipal corporation operating under the laws of the Commonwealth of Virginia.
12. At all relevant times, Virginia Beach operated and controlled the VBPD and was the public employer of any Virginia Beach Police Officers on duty at the Oceanfront on March 26, 2021.
13. John Doe is an individual, upon information and belief, who fired the firearm round that unlawfully killed Deshayla. Upon information and belief, John Doe may possibly be a

VBPD Police Officer.

FACTUAL ALLEGATIONS

14. On the evening of March 26, 2021, Deshayla Harris was peacefully socializing with friends and arrived at the Virginia Beach Oceanfront at approximately 10:30 p.m.
15. March 26, 2021 was a warm Friday night, the first since COVID-19 restrictions had been lifted.
16. March 26, 2021 was also the first night that the newly-appointed sergeant leading the VBPD Oceanfront precinct had been in charge there.
17. The crowd at the Oceanfront was much larger than usual, with 300% more people present than on a typical night
18. The VBPD was minimally staffed and had approximately 12 total officers on duty at the Oceanfront the evening of March 26, 2021.
19. Deshayla was walking the boardwalk with four other friends.
20. Suddenly, people began running towards Deshayla and her friends from behind, but they did not know why.
21. In the melee, Deshayla became separated from her friends and called one of them to find out where she was and whether she was safe.
22. Deshayla reached her friend, both confirmed they were safe, and they then located one another and began walking together again.
23. Deshayla and her friends walked toward the boardwalk where there were fewer people and less commotion.
24. At approximately 11:20 p.m., Virginia Beach Police were called to the Oceanfront

- to investigate a report that gunshots had been fired.
25. There would be a total of three shooting incidents that occurred evening at the Oceanfront.
 26. From the relative safety of the boardwalk, Deshayla and her friends took some pictures and began to relax.
 27. Minutes later, Deshayla and her friends observed many police cars rush past them, now in the vicinity of 19th Street.
 28. At this point, Deshayla and two female friends concluded the situation was unsafe, decided to leave the Oceanfront, and began to walk toward the parking lot where one of Deshayla's female friends had parked her car.
 29. At approximately 11:48 p.m. Deshayla and her friends arrived at the intersection of 19th Street and Pacific.
 30. Deshayla and her friends observed a group of VBPD cars to their right near the traffic light. Some officers were on foot, others were in their cars. At no time did officers give safety commands to Deshayla and her friends, establish a safety zone for innocent bystanders or direct Deshayla and her friends to safety.
 31. Deshayla and her female friends walked past bushes and a parking lot to a friend's car parked on the far right side of the street.
 32. Suddenly people began shooting on the opposite side of the street.
 33. It was very loud as many rounds were flying around Deshayla and her friends. People were screaming, and cars were crashing.
 34. Deshayla and her friends turned and jumped into the bushes seeking cover from the chaos surrounding them.

35. From the bushes, one of Deshayla's female friends felt someone in the bushes under her. She had been laying on the lower half of Deshayla's body.
36. The friend said to Deshayla, "Stay down; don't move."
37. As suddenly as it started, the gunfire stopped.
38. Deshayla's friend said "You good, Shay? Shay, you good, baby?"
39. Deshayla was unresponsive.
40. Deshayla's friend repositioned herself to find Deshayla's upper body completely exposed. The friend then saw Deshayla's blood trickling onto the pavement.
41. Deshayla's friend exclaimed, "HELP ME!" while pointing to Deshayla.
42. A police officer on foot came towards her and the friend said, "I think my friend is shot; I think she's dead."
43. The officer removed Deshayla from the bushes, positioned her on her back, and began checking for a pulse.
44. Suddenly, the gunfire began again.
45. Deshayla's friend answered Deshayla's phone, which was ringing.
46. The friend told Deshayla's friend on the other end of the line that "I think Shay got shot. I think she's dead."
47. Deshayla had been struck in the back of her head with one bullet round.
48. On information and belief, there is reason to believe Deshayla may have been struck by a VBPD Officer's bullet. Additionally, for the past two years – and despite repeated requests from DeShayla's family and their legal counsel – VBPD and the City of Virginia Beach have failed to turn over the Ballistics Report related to the

fatal shooting of Deshayla.

49. The police wrapped Deshayla's head with gauze and several officers stood around her and her friends with guns drawn.
50. Deshayla's friend who had called was on-site crying hysterically as Deshayla's phone began to ring incessantly with calls from friends and family members.
51. Soon thereafter, the Emergency Medical Technicians ("EMTs") who had arrived and were attempting to revive Deshayla by performing CPR pronounced her dead at the scene and walked away.
52. Deshayla died from her wounds at approximately 12:05 a.m. on March 27, 2021 in a Virginia Beach parking lot.
53. Plaintiff called Deshayla's phone and asked to speak with her daughter.
54. Deshayla's friend explained the situation and Plaintiff exclaimed, "Not my Shay! Not my Shay!" The friend then facetedimed Plaintiff, so she could see Deshayla's body.
55. At this point, a VBPD officer took possession of Deshayla's phone.
56. At all relevant times, Deshayla was not speaking or acting in a manner that would suggest that she posed *any* threat, let alone a *deadly* threat.
57. At all relevant times, Deshayla was neither resisting nor evading arrest.
58. At all relevant times, Deshayla was unarmed, peaceful and completely innocent.
59. Upon information and belief, no VBPD Officers identified themselves or issued any warning prior to firing into a crowded and highly-populated area where Deshayla stood on as an innocent bystander.
60. Upon information and belief, VBPD Officers failed to attempt to stop or otherwise

determine Deshayla's identity prior to firing their police-issued firearms into the crowded North lot of the 300 block of 20th Street.

61. During the incident, VBPD Officers failed to make any reasonable effort to address and/or diffuse the situation in a non-violent or non-lethal manner.
62. During the incident, VBPD Officers failed to establish a command post and presence, give safety instructions or create a safety zone for innocent bystanders to flee to or take cover or obtain any meaningful controls over the chaotic scene after the first Oceanfront shooting incident on March 26, 2021.
63. VBPD has never published nor produced body camera footage of Deshayla's unlawful killing, despite numerous FOIA requests filed by Plaintiff.
64. As a result of the actions and/or omissions of the City of Virginia Beach and its agents, Ms. Harris died at or near the scene on or about the evening of March 26, 2021 or the morning of March 27, 2021.
65. Donovan Lynch was also killed at the Oceanfront the night of March 26, 2021 or morning of March 27, 2021 after VBPD Officer Solomon Simmons, III fired multiple ammunition rounds from his service weapon, two of which fatally struck Donovan.
66. Donovan Lynch's estate sued Virginia Beach and VBPD Officer Solomon Simmons (the "Lynch Case").
67. Chief Paul Neudigate was deposed in the Lynch Case and testified that Deshayla Harris was killed by a 9-millimeter full metal jacket round. Exhibit D.
68. In the same deposition, nearly two years after Deshayla's unlawful killing, Chief Neudigate testified he had no knowledge of the identity of the killer. Exhibit D.

69. According to VBPD Operational General Order 5.02, VBPD Officers are permitted to purchase their own firearm to carry on duty, indicating multiple makes, models, calibers, and magazine capacities. On information and belief, the only publicly available copy of Order 5.02 and all information relating to approved firearm makes, models, calibers, and magazine capacities are fully redacted. Exhibit E.
70. Plaintiff filed numerous Freedom of Information Act ("FOIA") inquiries with the VBPD between 2021 and 2023, seeking the Ballistics Report that VBPD drafted in connection with Deshayla's death. Exhibit F.
71. On March 10, 2023, the Plaintiff requested, through her undersigned counsel, the same Ballistics report. However, VBPD and the City of Virginia Beach have continued to withhold from the Plaintiff and the public the Ballistics Report that VBPD drafted in connection with Deshayla's unlawful shooting death. Exhibit G.
72. On or about July 23, 2021, Virginia Beach produced a public copy of the police report to Plaintiff but refused to provide any additional documents citing police policy against producing material without a valid subpoena or court order. Exhibit H.
73. Production of Deshayla's Ballistics Report is likely to have considerable probative value in answering whether the bullet that killed Deshayla was fired from a VBPD weapon.
74. It is within Virginia Beach's capacity to provide Deshayla's Ballistics Report to Plaintiff and her counsel.
75. Virginia Beach has advanced the theory that Deshayla was an innocent bystander killed by a member of the public, not a VBPD Officer. Nonetheless, for nearly two years Virginia Beach has continued to withhold evidence that could support or undermine their public statements about – and other aspects of – Deshayla's

unlawful killing.

COUNT I- GROSS NEGLIGENCE

76. Plaintiff realleges and incorporate paragraphs 1 - 75, as if fully set forth herein.
77. Count I is brought against officers present at the waterfront on the evening of March 26, 2021 in their individual capacities and in their official capacity as police officers of the VBPD.
78. During the incident in question, it was the duty of all officers present at the Oceanfront as a sworn police officer in the Commonwealth of Virginia to act with reasonable care and due regard for persons within the community, including Deshayla.
79. Defendant City of Virginia Beach has continuously refused to provide any information to exonerate their officers of any involvement in the unlawful shooting death of Deshayla Harris.
80. Regardless of the identity of Deshayla Harris's shooter, VBPD's abject and inexplicable failure to establish a command post presence on the Oceanfront, and to provide no instructions, warnings, or directions to safety, was the proximate cause of Deshayla Harris's unlawful killing.
81. In the event that discovery of information withheld by VBPD and the City of Virginia Beach for the past two years establishes that Deshayla Harris was not shot by a VBPD Officer, the gross negligence, inaction, recklessness and breach of a duty to care for Deshayla, and other innocent bystanders, created the environment that led to her unlawful killing.
82. If evidence and information withheld by VBPD and the City of Virginia Beach for

the past two years – or any other evidence obtained through discovery – establishes that a VBPD Officer did, in fact, shoot Deshayla Harris, VBPD then breached said duty in at least the following particulars:

- a. Failed to make a reasonable inquiry into Deshayla's identity or motivation prior to using deadly force, even though Deshayla was innocent of any offense, was not acting in a threatening manner, and was in the process of fleeing for her own safety.
- b. Failed to identify themselves as VBPD prior to firing their weapons in a highly-populated area;
- c. Failed to attempt to stop or halt actual suspects, or use other non-lethal force to ascertain the situation prior to using deadly force;
- d. Failed to make a reasonable effort to determine whether Deshayla posed a viable threat prior to firing their weapons;
- e. Failed to exhaust all other reasonable alternatives before possibly using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or less lethal force;
- f. Failed to use only that level of force necessary to successfully accomplish legitimate police functions and/or objectives and which was commensurate with the level of threat presented;
- g. Failed to use a reasonable type and degree of force based upon the facts of the situation and that was commensurate with the level of threat presented; and
- h. Breached their duty to Deshayla such other respects that will become known

through the course of discovery.

83. The aforesaid conduct and actions of VBPD officers present during the incidents of March 26, 2021 demonstrated such an indifference to Deshayla, her life and her constitutional rights as to constitute an utter disregard of caution or prudence, amounting to a complete neglect of her safety. The gross negligence, as described herein, is conduct that would shock the conscience of fair-minded people.
84. As a direct and proximate result of VBPD's aforesaid conduct, Deshayla died on March 27, 2021.
85. As a further direct and proximate result of the conduct of VBPD and Virginia Beach, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.
86. Plaintiff is a statutory beneficiary of Deshayla Harris, Deceased.

COUNT II-42 U.S.C. § 1983-FAILURE TO PROPERLY TRAIN AND SUPERVISE

(Virginia Beach's Custom and Policy)

87. Plaintiff realleges and incorporates paragraphs 1 – 86, as if fully set forth herein.
88. Count II is brought against the City of Virginia Beach.
89. Upon information and belief, prior to Deshayla's death, Virginia Beach had a custom or policy of failing to properly train, instruct, and/or supervise its police officers, as to the proper circumstances under which to draw a firearm and/or use deadly force, or as to the proper techniques for exhausting all reasonable

alternatives before using deadly force, including but not limited to professional presence/identification, verbalization, soft control techniques, intermediate techniques, hard control techniques, and/or non-lethal force.

90. Upon information and belief, Virginia Beach was aware that its inadequate policies and practices made it substantially more likely that innocent individuals like Deshayla would be subjected to unreasonable and/or deadly force by Virginia Beach Police Officers.

COUNT III - 42 U.S.C. § 1983 - EXCESSIVE FORCE

91. Plaintiff realleges and incorporates paragraphs 1 - 90, as if fully set forth herein.

92. Count III is brought against the yet to be identified shooter reasonably believed to be a VBPD Officer acting in his official capacity as a police officer of the VBPD.

93. VBPD Officers possibly used lethal force against Deshayla, who was innocent, and posed no danger to law enforcement officers, herself, or anyone else.

94. Provided Ms. Harris was shot by a VBPD Officer, the shooting constituted an excessive and unreasonable use of force under the totality of the circumstances, and it deprived Deshayla of remedies, privileges and immunities guaranteed to every citizen of the United States, including, but not limited to, rights guaranteed by the Fourth and Fourteenth Amendments of the United States Constitution.

95. At all relevant times, VBPD Officers were acting as agents, servants, and/or employees of Virginia Beach.

96. In their individual and official capacities, officers involved in the March 26, 2021 incident at the Oceanfront acted within the scope of their employment as VBPD officers and under pretense and color of state law.

97. As a direct and proximate result of Virginia Beach Police Department's probable unreasonable and wrongful use of force that violated Ms. Harris's civil and constitutional rights, Ms. Harris died on March 27, 2021.
98. Provided Ms. Harris was struck by a bullet from a police-issued firearm, the acts of VBPD and its officers were beyond the scope of their jurisdiction, without authority of law, and in abuse of their powers.
99. Provided Ms. Harris was struck by a bullet from a police-issued firearm, no reasonable officer in the position of the officers present at the Oceanfront on March 26, 2021 would have acted in the wrongful manner they did, by firing into Deshayla's back, as she posed no threat, was not a suspect, and was retreating from a chaotic scene.
100. Provided Ms. Harris was struck by a bullet from a VBPD-issued firearm, VBPD acted willfully, knowingly, and with specific intent to deprive Ms. Harris of her constitutional rights secured by 42 U.S.C. § 1983, and by the Fourth and Fourteenth Amendments to the United States Constitution.

COUNT IV-ASSAULT AND BATTERY

101. Plaintiff realleges and incorporates paragraphs 1 - 100, as if fully set forth herein.
102. Count IV is brought against Virginia Beach Police Department, and its agents in their individual capacities and in their official capacities as police officers of the VBPD.
103. In the event Deshayla Harris was shot by a bullet fired from a VBPD-issued firearm, VBPD officers committed an assault and battery against Deshayla, i.e., by discharging at least one bullet from a police-issued weapon that struck Deshayla in

an offensive manner against her will, and/or by placing Deshayla in reasonable fear that she may receive further imminent bodily harm and/or injury.

104. Said conduct on the part of the yet to be identified shooter reasonably believed to be a VBPD Officer was committed without legal justification or excuse.

105. As a direct and proximate result of the yet to be identified shooter's –reasonably believed to be a VBPD Officer – aforesaid conduct, Deshayla was injured on March 26, 2021, and died on March 27, 2021.

106. As a further direct and proximate result of the conduct of the still unidentified shooter reasonably believed to be a VBPD Officer and Virginia Beach, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses; sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices, and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code § 8.01-52.

107. Plaintiff is a statutory beneficiary of Deshayla E. Harris, Deceased.

COUNT V - SURVIVORSHIP

108. Plaintiff realleges and incorporates paragraphs 1 - 107, as if fully set forth herein.

109. Count V is brought against The City of Virginia Beach, and a yet to be identified shooter reasonably believed to be a VBPD officer present during the March 26, 2021 Oceanfront incident in their individual capacity and in their official capacity as a police officer of the VBPD.

110. Provided Deshayla Harris was struck by a bullet from a police-issued firearm, the aforesaid acts and omissions of VBPD officers proximately caused Deshayla

to suffer great pain and anguish from the time she was shot until the time of her death on March 27, 2021.

111. On information and belief, VBPD officers merely wrapped gauze around Ms. Harris's head, and checked her pulse prior to the arrival of Emergency Medical Services.

112. As a direct and proximate cause of the aforesaid acts and omissions of the VBPD, the Estate of Deshayla Harris is entitled to damages for the significant pain and suffering that Deshayla endured while still alive.

COUNT VI- VIRGINIA CODE§ 8.01-50, et seq. - WRONGFUL DEATH

113. Plaintiff realleges and incorporates paragraphs 1- 112, as if fully set forth herein.

114. Count VI is brought against the City of Virginia Beach and a yet to be identified shooter reasonably believed to be a VBPD officer present during the March 26, 2021, incident on the Oceanfront in their individual capacity and in their capacity as police officers of the VBPD.

115. Provided the assailant's bullet was fired from a police-issued firearm Deshayla's death was caused by the wrongful, reckless, grossly negligent, and/or excessive use of force by sworn officers of Virginia Beach Police Department.

116. Had Deshayla survived what may be Virginia Beach Police's wrongful, reckless, grossly negligent, and/or excessive use of force, she would have been entitled to maintain an action against it and recover damages in respect thereof.

117. As a further direct and proximate result of VBPD and the City of Virginia Beach's aforesaid acts and omissions if a VBPD weapon killed Deshayla Harris, Plaintiff claims additional damages for medical expenses; reasonable funeral expenses;

sorrow, mental anguish, and solace, including loss of society, companionship, comfort, guidance, kindly offices and advice; compensation for reasonably expected loss of income of the decedent; and such other damages as set forth pursuant to Virginia Code§ 8.01-52.

118. Plaintiff is a statutory beneficiary of Deshayla E. Harris, Deceased.

COUNT VII - PUNITIVE DAMAGES

119. Plaintiff realleges and incorporates paragraphs 1 - 118, as if fully set forth herein.

120. Count VII is brought against the City of Virginia Beach, and a yet to be identified shooter, reasonably believed to be an unknown officer in his individual capacity and in his official capacity as a police officer of the VBPD.

121. If Deshayla's death was caused by the VBPD, the acts and omissions of VBPD and the City of Virginia Beach that directly and/or proximately caused Deshayla's death, including but not limited to the application of deadly force against Deshayla, constituted acts and omissions which under the circumstances amounted to a willful, wanton, reckless, malicious, brutal, and violent disregard of the rights and safety of Deshayla and for which an award of punitive damages is warranted.

122. As a direct and proximate result of the aforesaid conduct, Deshayla was deprived of her civil rights as guaranteed under the United States Constitution, and state and federal statutes; and Deshayla died on March 27, 2021.

123. As a further direct and proximate result of the conduct of VBPD and the City of Virginia Beach as aforesaid, plaintiff claims an award of punitive damages pursuant to Virginia Code§ 8.01-52.

124. Plaintiff is a statutory beneficiary of Deshayla E. Harris, Deceased.

COUNT VIII – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

125. Plaintiff realleges and incorporates paragraphs 1- 124, as if fully set forth herein.

126. As of this filing, VBPD has made no arrests for the unlawful killing of Deshayla E. Harris.

127. For nearly two years, the Plaintiff has diligently pursued justice for her daughter, requesting documents and information regarding her daughter's killing, and the last moments of her short life.

128. For nearly two years, VBPD and the City of Virginia Beach have refused to release to the Plaintiff a Ballistics report, or any other requested documents regarding the fruitless and outrageously delayed investigation into the murder of Deshayla E. Harris.

129. Plaintiff was not allowed to identify Deshayla at the scene or thereafter and was provided no information on the time of death, the position of the body, or how long Deshayla laid dead on the street in public view.

130. VBPD confiscated Deshayla's phone at the scene of the crime, and once returned, Plaintiff realized VBPD had scrubbed and deleted all social media from the device, depriving Plaintiff the photographs, mental impressions, and memories of her daughter.

131. VBPD failed to send any on-call clergy member or community services officer to check on the mental health or well-being of the Plaintiff in the immediate aftermath of the unlawful killing of Deshayla E. Harris.

132. On information and belief, VBPD did not make the proper effort to inform the Plaintiff of Deshayla's death. The Plaintiff was notified by one of Deshayla's friends via FaceTime.

133. VBPD, its agents, and the City of Virginia Beach have intentionally withheld nearly all information regarding Deshayla Harris's murder from the Plaintiff.

134. VBPD and the City of Virginia Beach have withheld over twenty-five hours of body

worn camera (“BWC”) and surveillance footage, and numerous reports and files requested by the Plaintiff. Exhibit H.

135. VBPD, its agents, and the City of Virginia Beach, have outrageously delayed the investigation into Deshayla Harris’s murder for so great a period of time that the likelihood of a successful arrest appears nearly impossible.

136. The reckless inaction of VBPD, its agents, and the City of Virginia Beach has left the Plaintiff in the intolerable position of having to live the rest of her life believing her daughter’s killer will never face any consequences for their unlawful actions.

137. As a result of VBPD and the City of Virginia Beach’s gross negligence in diligently pursuing the investigation into Ms. Harris’s unlawful killing, the Plaintiff has suffered from severe, constant, and unending emotional, physical, and other distress.

138. As a result of VBPD and the City of Virginia Beach’s actions the Plaintiff, and her surviving children, have required regular mental health counseling for Post Traumatic Stress Disorder (“PTSD”) and other adverse mental health ailments cause by the outrageous conduct of the Defendants.

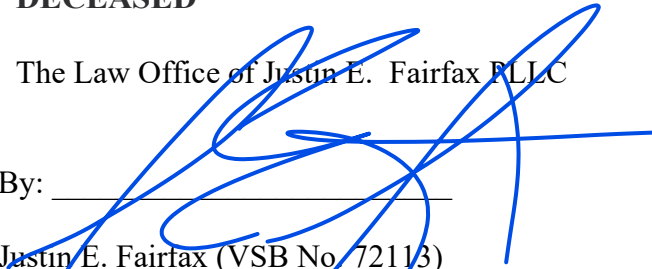
139. As a further direct and proximate result of the conduct of VBPD and the City of Virginia Beach’s as aforesaid, plaintiff claims an award of punitive damages pursuant to Virginia Code§ 8.01-52.

WHEREFORE, Plaintiff, Elisheba Renee Harris, Administratrix of the Estate of Deshayla E. Harris, Deceased, by counsel, demands judgment against Defendants, the City of Virginia Beach and John Doe, for damages in the amount of Fifty Million Dollars (\$50,000,000.00), together with the cost of this action, attorneys ‘fees, prejudgment interest from March 26, 2021, and any other relief this Court deems just, proper and equitable. Plaintiff

further requests punitive damages be awarded against Defendants individually and in their official capacities as law enforcement officers for the City of Virginia Beach, in the amount of Three Hundred Fifty Thousand Dollars (\$350,000.00). Finally, Plaintiff demands a trial by jury.

**ELISHEBA RENEE HARRIS,
ADMINISTRATRIX OF THE
ESTATE OF DESHAYLA E. HARRIS,
DECEASED**

The Law Office of Justin E. Fairfax PLLC

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Dated: March 24, 2023

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Dated: March 24, 2023