

FACTS

3. On June 29, 2010 Wallace was a residential patient of the Scholze Center which is an adolescent residential treatment facility associated with CADAS. CADAS is a drug and alcohol treatment facility in Chattanooga, Tennessee.
4. On June 29, 2010, Wallace ran away from CADAS and was arrested by a Chattanooga police officer. Wallace was charged with burglarizing a car in downtown Chattanooga, Tennessee at 12:15 A.M. on June 30, 2010. Wallace was taken by the police to the Hamilton County Juvenile Detention Center (detention center), arriving shortly before 1:29 A.M. The detention center is a juvenile detention facility owned and operated by Hamilton County.
5. An admission form was prepared by an employee of the detention center on June 30, 2010 at 1:29 AM. A copy of the admission form is attached hereto as "Exhibit I". The detention center employee called and informed someone at the Scholze Center that Wallace had been admitted to the detention center. This notification occurred at 2 A.M., approximately 1/2 hour after Wallace arrived at the detention center. According to the admission form, Hamilton County was aware that Wallace had run away from the inpatient drug and alcohol treatment facility; that he had been arrested late at night for burglarizing a car; and that he had a history of substance abuse. The form indicates that a drug test was to be done at the "next visit".
6. On July 1, 2010, Wallace was being held in the "overflow" wing of the detention center. There was one other child in that wing. When officers came to take the two children to school, Wallace declined to go. The other child was taken to school. Thereafter, Wallace was the only occupant in the "overflow" wing.

7. Detention center personnel checked on Wallace at approximately 3:40 P.M. Nothing out of the ordinary was observed. No detention center personnel observed Wallace again until 5:00 P.M. or later. At that time, the employee discovered that Wallace had hung himself in his cell with a sheet. He was dead.

8. Employees of the detention center are governed by extensive, written policies. Policy number I.0 is the "mission statement" for the detention center. It states that one of the missions of the detention center is to "ensure the safety of all juvenile residents and staff members". A copy of Policy I.0 is attached hereto as "Exhibit 2."

9. Policy number I.3 states "ensuring the safety of the residents and staff is the top priority of the juvenile detention center. All matters appearing to compete or conflict with this priority are secondary in nature and may wait while the top priority is insured" and "the purpose of this policy is to accentuate the importance of safety. All policies designed to ensure safety should be given priority over all other duties." A copy of Policy I.3 is attached hereto as "Exhibit 3".

10. Policy number I.5 concerns resident supervision. It states "[d]etention officers shall ensure that all residents are under constant observation while both in or out of their rooms. While in their rooms, all new residents will be visually monitored a minimum of every 15 minutes for the first six hours of their residency. Thereafter all residents will be visually monitored a minimum of every 30 minutes" It further states "a resident who is a suicide threat, threat of self harm or is emotionally or mentally distraught shall be placed on special or precautionary surveillance. This resident will be under constant visual observation. At the discretion of the shift supervisor, this time limit may be adjusted." A copy of Policy I.5 is attached hereto as "Exhibit 4".

11. Tennessee law requires the following of detention center employees :

- “Child care staff must provide continual supervision of all children in placement, including at a minimum the following levels of visual contact:
- Every fifteen (15) minutes for all incoming children for the first six (6) hours.
- Every fifteen (15) minutes for all children housed in the secure rooms;
- Every thirty (30) minutes for children in non-secure rooms;

I2. Children exhibiting homicidal/suicidal ideation should be under constant direct supervision or at a minimum shall be observed every fifteen (15) minutes.” Tennessee Regulation I400-02-08¹.

I3. Hamilton County breached its duty, under law and its own policies, to observe and protect Wallace. When he was admitted to the detention center, its personnel had knowledge that Wallace has been admitted to Scholze Center for treatment of drug and alcohol problems, that he had run away from the facility and that he had tried to burglarize a car. Hamilton County therefore knew or should have known that Wallace was a suicide threat, threat of self harm or was emotionally or mentally distraught. It therefore should have placed him “on special or precautionary surveillance” as required by its policies and should have had visual contact with him every 15 minutes. Even if Hamilton County had not known that Wallace was a suicide threat, threat of self harm or was emotionally or mentally distraught, it should have observed him every 30 minutes as required by law and its own policies. It should not have left him completely alone in the “overflow wing” for at least an hour and 20 minutes. And it should have taken steps to assure that

¹ See also T.C.A. §41-4-140.

there were no items in his cell, including but not limited to, a sheet with which he could kill himself.

COUNTY I – NEGLIGENCE

- I4. Paragraphs I-I3 are hereby incorporated by reference.
- I5. Hamilton County owed a duty of care to protect the safety of Wallace.
- I6. Hamilton County breached this duty in the following manner:
 - a) It did not make a reasonable inquiry of the Scholze Center to determine the state of Wallace’s mental and emotional condition.
 - b) It put Wallace in its “overflow wing”, occupied by only one other juvenile.
 - c) It left Wallace alone in the “overflow wing” when it removed the other juvenile from the “overflow wing.”
 - d) It failed to observe Wallace for an unreasonable amount of time, despite the fact that Wallace was left alone in the “overflow wing.”
 - e) It allowed Wallace to have access to a sheet which was used by Wallace to hang himself.
- I7. Hamilton County’s negligence directly, proximately and legally caused injury and death to Wallace.

COUNT 2 – NEGLIGENCE PER SE

- I8. Paragraphs I-I7 are hereby incorporated by reference.
- I9. Hamilton County violated T.C.A. §41-4-140 and Tennessee Regulation I400-02-08.
20. These violations of Tennessee law, individually and collectively, directly, proximately and legally caused injury and death to Wallace.

COUNT 3 – NEGLIGENT SUPERVISION

21. Paragraphs I-20 are hereby incorporated by reference.
22. Hamilton County negligently hired, trained and supervised those employees of the detention center who were responsible for Wallace's wellbeing while incarcerated in the detention center.
23. Hamilton County's failure to properly hire, train and supervise it's detention center employees who were responsible for Wallace's wellbeing while incarcerated in the detention center directly, proximately and legally caused injury and death to Wallace.

COUNT 4 – LOSS OF CONSORTIUM

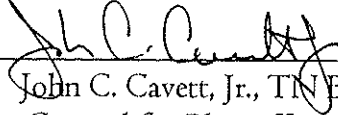
24. Paragraphs I-23 are hereby incorporated by reference.
25. Hamilton County's negligence and negligence per se caused loss of consortium of Wallace to the plaintiff.

WHEREFORE, the plaintiff requests that:

1. The Court conduct a hearing in this matter.
2. The Court award damages in the amount of \$1,000,000.00 for the mental and physical suffering of Wallace prior to his death.
3. The Court award damages in the amount of \$2,000,000.00 suffered as a result of Wallace's death, including but not limited to, the pecuniary value of Wallace's life.
4. The Court award damages in the amount of \$750,000.00 for loss of consortium of Wallace.
5. The Court award any and all other relief allowed by law or equity.
6. The Court order Hamilton County to pay the costs of this action.

Respectfully submitted,

CAVETT & ABBOTT, PLLC

By: 
John C. Cavett, Jr., TN BPR #9388
Counsel for Plaintiffs
801 Broad Street, Suite 428
Chattanooga, TN 37402
(423) 265-8804 / (423) 267-5915 fax

HAMILTON COUNTY JUVENILE DETENTION CENTER
ADMITTANCE FORM

FILE NO. 94128
37090

JDC

~~ADMISSION~~
ADMISSION

NAME LAST Wallace FIRST Austin MIDDLE Dakota SOCIAL SECURITY NO. 150-910-051
 ADDRESS STREET 911 Pineville Rd CITY Chatt. TN STATE TN ZIP 37425 DATE OF INTAKE 7/6/10 TIME OF INTAKE 1:30
 RACE W SEX M EYES Blue HAIR Brown HEIGHT 5'6" WEIGHT 155 AGE 15 D.O.B. 7/9/94 PLACE OF BIRTH New Jersey
 SCHOOL AND GRADE Not Attending PHONE

FATHER David Wallace ADDRESS New Jersey PHONE (609) 774-9499
 OCCUPATION

MOTHER Heather Stern ADDRESS Knoxville PHONE (865) 766-5000
 OCCUPATION

LIVES WITH 911 Pineville Rd. ADDRESS 911 Pineville Rd. PHONE 767-6415
 REFERRED BY CPD AGENCY Cooley NAME 999 ADMITTED BY [Signature]

CHARGES Aggravated Burglary of an Auto PETITION NUMBER WICM768920110
 CHARGES CONTINUED

NOTIFICATION TIME 7/6/10 DATE 7/6/10 PERSON CONTACTED [Signature] BY [Signature] REMARKS

REMARKS [Signature]

REMARKS TIME SECURED 0202 BY Everett ROOM ASSIGNMENT 0-1
 ATTORNEY P.D. C. Codes PROBATION OFFICER BOND

DATE	TIME	DISPOSITION
<u>7-6-10</u>	<u>1:30</u>	

RELEASED AND AMOUNT AND TYPE COURT DATE TIME
 Sponsoring Company
 Released To Relationship
 Address



LEASING AUTHORITY DATE TIME BY 000028
 PROPERTY RETURNED IF NOT RETURNED STATE REASON MEDICATION RETURNED
 YES NO YES NO

Hamilton County Juvenile Court Detention Center Personnel Policy & Training Manual

Subject: Mission Statement

Issue Date: August 30, 2010

MISSION STATEMENT:

Consistent with protecting the rights of individuals, as enumerated by the laws of Tennessee and the U.S. Government, and in compliance with all pertinent rules and regulations, it is the mission of the Hamilton County Juvenile Detention Center through its actions, policies, and procedures, to:

- Securely maintain juveniles for the Hamilton County Juvenile Court without regard for religion, race, national origin, sex, economic status, or political belief.
- Ensure the safety of all juvenile residents and staff members.
- Treat all juvenile residents in a humane and respectful manner.



Hamilton County Juvenile Court Detention Center Personnel Policy & Training Manual

Subject: Safety Policy

Issue Date: August 30, 2010

POLICY:

Ensuring the safety of the residents and staff is the top priority of the Juvenile Detention Center. All matters appearing to compete or conflict with this priority are secondary in nature and may wait while the top priority is ensured.

PURPOSE:

The purpose of this policy is to accentuate the importance of safety. All policies designed to ensure safety should be given priority over all other duties. An example of a policy which would take priority is resident searches prior to entering the secure areas of the Detention Center.

PROCEDURE:

All matters involving the safety of a resident or staff member shall be given top priority while performing ones job. All other matters shall wait while the safety of a resident or staff member is ensured.



Hamilton County Juvenile Court Detention Center Personnel Policy & Procedure Manual

Subject: Resident Supervision

Issue Date: August 30, 2010

References: *See Point System*

POLICY:

The primary mission of the Detention Center is the safe, secure and humane confinement of the residents. It is the policy of the Hamilton County Juvenile Detention Center that all residents shall be under constant observation while both in or out of their rooms.

PROCEDURE:

The primary function of the Detention Officer is to supervise residents in order to maintain a safe, secure and humane environment.

1. It is critical that officers know the exact number and location of all youth under their supervision at all times. Census counts of youth shall be taken, called into the shift supervisor and documented, at a minimum:
 - At the beginning and end of each shift. There shall be no resident movement at the beginning or the end of each shift until the census is complete and the shift supervisor has confirmed the census.
 - Randomly, at least once one each shift.
 - Following any emergency or other abnormal situation to include power outages, evacuations, or attempted escapes.
 - Following any type of census change during a shift.
2. Detention Officers shall ensure that all residents are under constant observation while both in or out of their rooms.
 - While out of their rooms, all residents will be under continuous observation. No resident or group of residents will be left unobserved by a staff personnel while a resident is out of his room.
 - While in their rooms, all new residents will be visually monitored a minimum of every 15 minutes for the first 6 hours of their residency. Thereafter all residents will be visually monitored a minimum of every 30 minutes.
 - Special monitoring as prescribed by the situation or the shift supervisor will require constant visual monitoring.

EXHIBIT

4

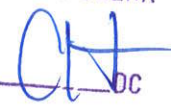
3. **Regular Surveillance:** While outside of their rooms, the residents shall be kept in a group as much as is practical and never be left without at least one staff member observing the group. No resident should be allowed to leave the group without escort. Staff shall provide continual supervision of all residents while outside their room.
4. **General Room Surveillance:** ~~Anytime a resident is confined to their room, whether sleeping, disciplinary or other reasons, they will be visually observed according to the following schedule:~~
 - A. ~~Every 15 minutes for all new residents for the first 6 hours.~~
 - B. ~~Every 30 minutes for all residents detained beyond six hours*~~
 - C. ~~Constant visual observation for all special or precautionary situations.*~~

Room surveillance will be conducted at regular intervals on the hour, half-hour and quarter hour. ~~All scheduled surveillance will be properly recorded.~~ The shift supervisor will monitor and ensure that all surveillance is conducted. In the event of extraordinary circumstances the shift supervisor may delay or cancel a scheduled surveillance. In this event proper documentation must be provided by the supervisor.

An officer, in the course of completing checks, shall ~~make visual contact~~ with the resident to the extent that the officer may verify the resident is breathing. ~~In the event an officer cannot see a resident to this extent, the officer shall make radio contact with the shift supervisor and enter the room.*~~

5. **Special or Precautionary Surveillance:** A resident who is a suicide threat, threat of self harm or is emotionally or mentally distraught shall be placed on special or precautionary surveillance. This resident will be under constant visual observation. At the discretion of the shift supervisor, this time limit may be adjusted.
6. **Periodic Surveillance:** Anytime a Detention Officer assigned enters the wing, they should perform a quick spot check of all residents confined to their room. These periodic spot checks do not have to be recorded unless the staff member notes something unusual or out of the ordinary.
7. **Lead Officer Surveillance:** The Lead Wing Officer shall make random surveillance of all residents confined to their room. This surveillance shall be properly documented.
8. **Additional Surveillance Requirements:**
 - When residents are in a group setting, Detention Officer should position themselves so that at least one officer is standing in front of the group and the other officers are positioned to the rear or side.
 - When residents are in a group setting, only one resident should be allowed to stand and move about at a time. No resident should be allowed to stand or move without first raising their hand and receiving permission to do so.

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

FILED IN OFFICE
2011 JUN 22 PM 2:10
AULA T. THOMPSON, CLERK
BY: 

DAVID T. WALLACE, individually and as)
parent and next friend of the deceased,)
AUSTIN DAKOTA WALLACE, a minor,)
Plaintiff,)
vs.)
HAMILTON COUNTY, TENNESSEE,)
Defendant.)

Docket No. 11C783

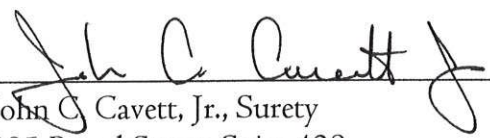
Div. _____

COST BOND

I hereby acknowledge and bind myself for the payment of all non-discretionary costs that may be adjudged against the Plaintiffs in the event said Plaintiffs shall not pay the same.

Witness my hand this 21st day of June, 2011.

CAVETT & ABBOTT, PLLC

By: 

John C. Cavett, Jr., Surety
801 Broad Street, Suite 428
Chattanooga, TN 37402
423/265-8804