

DC TRIAL

TRIAL LAWYERS ASSOCIATION OF METROPOLITAN WASHINGTON, D.C.
VOLUME VI, No. 2 (DECEMBER 2002)



TLA-DC

*Catherine McNeil, Personal Representative
of the Estate of Nicole McNeil v. District of
Columbia, Superior Court of the District of
Columbia.*

Plaintiff's decedent, Nicole McNeil, was the 19-year-old mother of two small children. She was viciously stabbed to death outside her home by an ex-boyfriend who had been ordered to stay away from her under the terms of a civil protection order issued by the D.C. Superior Court.

On the night of the murder, Nicole's mother, Catherine McNeil, had placed several 911 calls to the Metropolitan Police Department (MPD), seeking protection from the ex-boyfriend, who was lurking outside her home. MPD dispatchers miscoded the call, and the responding officer simply drove past the premises, without stopping. Despite several follow-up 911 calls, MPD failed to dispatch additional police officers to the scene and apparently "dropped" the follow-up 911 calls from the system. When plaintiff's decedent arrived home a couple of hours later, the killer emerged from the bushes, grabbed her and dragged her down an alley where he stabbed her 33 times.

Plaintiff brought survival, wrongful death and constitutional claims against the District of Columbia, alleging that the domestic violence statute and the civil protection order created a special relationship between the decedent and the District, which imposed a duty on the MPD to protect her, thereby trumping the public duty defense normally applicable to the police's "failure to protect" lawsuits. Plaintiff's constitutional claims were based upon the MPD's documented custom and policy of failing to fulfill its statutory duty to protect known domestic violence victims. The case settled shortly after suit was filed and before any formal discovery.

Settlement: \$315,000.00 (present value), structured to pay out over \$800,000.00.

Plaintiff's and Defense Experts: Withheld.

Plaintiff's Counsel: TLA-DC member, Douglas R. Sparks.

Defendant's Counsel: Teresa J.A. Quon, Assistant Corporation Counsel.

SPECIAL REMARKS: It is believed that this was the first successful lawsuit in the Washington metropolitan area seeking damages for the police's failure to protect a domestic violence victim from injuries inflicted by an ex-boyfriend who had been the subject of a civil protection order. When plaintiff's counsel was retained, the six months period for giving notice to the Mayor had already expired. Plaintiff argued that witness statements in MPD homicide investigative reports noted the existence of a civil protection order and that these substituted for the six months notice letter to the Mayor. Plaintiff's counsel enlisted the assistance of numerous advocacy groups to assist in proving an MPD custom and policy of neglecting domestic violence victims.