

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

**FILED**

**MAR 19 2010**

**Clerk, U.S. District and  
Bankruptcy Courts**

Kimberly Trimble, *Individually, and as* )  
*Personal Representative of the Estate of Erika* )  
*Peters, deceased<sup>1</sup>; and Next Friend and Acting Personal* )  
*Representative of the Estate of Erik Harper, deceased;* )  
*and Next Friend and Acting Personal Representative of* )  
*the Estate of Dakota Peters, deceased; and as Legal* )  
*Guardian of J.C. and A.M., minors.* )  
13615 Hollow Log Drive )  
Upper Marlboro, Maryland 20774 )

PLAINTIFF )

v. )

District of Columbia Government )  
Honorable Mayor Adrian Fenty )  
John A. Wilson Building )  
Suite 419 )  
350 Pennsylvania Avenue NW )  
Washington, D.C. 20004 )

JURY DEMAND

And )

Cathy L Lanier, Individually, and in her )  
Capacity as Chief, District of Columbia )  
Metropolitan Police Department )  
300 Indiana Ave, NW )  
6<sup>th</sup> Floor )  
Washington, D.C. 20001 )

And )

Janice Quintana, Individually, and in her )  
Capacity as Director, District of Columbia )  
Office of Unified Communications )  
East Campus, St. Elizabeths Hospital Facility )  
2720 Martin Luther King Jr Ave., SE )  
Washington, D.C. 20032 )

And )

**Case: 1:10-cv-00460**

**Assigned To : Roberts, Richard W.**

**Assign. Date : 3/19/2010**

**Description: PI/Malpractice**

<sup>1</sup> Kimberly Trimble is the sister of the deceased, Erika Peters. Bobby and Sandra Harper are the parents of Erika Peters and the maternal grandparents of Erik and Dakota, deceased children of Erika Peters. Kimberly Trimble is appointed Personal Representative of the Estate of Erika Peters in lieu of and at the direction of her parents.



441 Fourth Street NW )  
6<sup>th</sup> Floor South )  
Washington, D.C. 20004 )

And )

Joseph Randolph Mays )  
DCDC 322594 )  
c/o D.C. Jail )  
1901 D Street, SE )  
Washington, D.C. 20003 )

DEFENDANTS )

\_\_\_\_\_ )

COMPLAINT

1. This is an action arising under the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments to the United States Constitution and the Civil Rights Laws of the United States, 42 U.S.C. §1983, as well as the common law of negligence.

INTRODUCTION

2. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.

3. Plaintiff's decedents are Erika Peters, an adult female, and Erik Harper and Dakota Peters, both minor children of Erika Peters. As alleged in greater detail below, on the morning of March 21, 2009, Plaintiff's decedents were viciously assaulted and murdered by defendant Joseph Randolph Mays at 2000 Maryland Ave., NE, Apartment 104, the residence he shared with plaintiff's decedents. All decedents died from multiple stab wounds inflicted by way of a knife. Sometime during the onslaught, one or more calls to the DC 911 Call System were made. On one of these calls, apparently from the residence, a child was heard screaming frantically. The call taker eventually caused a dispatch of a police unit to the address. Upon arrival at the scene,

the police heard further frantic screaming through the apartment door. Repeated knocks on the door and telephone calls to the apartment were unanswered. It was not until at least one hour had passed that approval to breach the door of the apartment was received. Upon entering the apartment, ten (10) year old Dakota Peters lie dying with multiple stab wounds thorough out his body just inside the door, and his mother and eleven (11) year old brother Erik had expired, also due to multiple stab wounds.

4. The plaintiff's decedents each died from the wounds they received at the hands of defendant Joseph Randolph Mays.

#### JURISDICTION AND VENUE

5. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.

6. This court has jurisdiction under 28 U.S.C.A. §§1331, 1332, 1343, and 1367. This court has subject supplementary jurisdiction over this action pursuant to §§11-921 and 12-101 of the District of Columbia Code. This court has personal jurisdiction over Defendants pursuant to §§13-422, 13-423, and 16-2702 of the District of Columbia Code. Venue is proper under 28 U.S.C.A. §1391, since all or a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this judicial district. For the same reason, the court has personal jurisdiction over each of the defendants.

#### THE PARTIES

7. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.

8. The plaintiff is the duly appointed Personal Representative of the Estate of Erika Peters, her deceased sister. Plaintiff is also the Acting Personal Representative of the Estates of Erik Harper and Dakota Peters, both deceased nephews of the Plaintiff. Plaintiff is also the Aunt and Next

friend of J.C., a minor, and Aunt and Legal Guardian of A.M., a minor. Both J.C. and A.M. are Erika Peters' survivors.

9. The plaintiff is a resident of Prince Georges's County, Maryland.

10. Defendant District of Columbia, is a municipal corporation and controls and manages the District of Columbia Metropolitan Police Department ("MPD"), the Office of Unified Communications ("OUC"), the District of Columbia Child and Family Services Agency ("CFSA"), all agencies of the District of Columbia Government and all defendants herein.

11. At all times relevant herein, Defendant Cathy L. Lanier, was Chief of the District of Columbia Metropolitan Police Department (MPD).

12. At all times relevant herein, Janice Quintana was Director of the District of Columbia Office of Unified Communications (OUC).

13. At all times relevant herein, Roque Gerald was Director of the District of Columbia Child and Family Services Agency (CFSA).

14. Defendants Lanier, Quintana and Gerald are sued in their individual as well as official capacities.

15. Defendant Officers #1 through #4 are officers of the D.C. Metropolitan Police Department who responded to the event referred to herein and are sued in their individual as well as official capacities.

16. Defendant Joseph Randolph Mays is charged with the death of Erika Peters, Erik Harper and Dakota Peters and is sued individually.

**LEGAL AND FACTUAL BACKGROUND COMMON TO ALL COUNTS**

17. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.
18. On March 21, 2009, the Defendant District of Columbia Metropolitan Police Department received a 911 call from an apartment home located at 2000 Maryland Ave, NE. Apt 104, Washington, D.C.. The caller, who was obviously a child, could be heard screaming for several seconds directly into the phone before becoming silent. After which, a man's voice could be heard saying, "I told ya'll to quit [expletive] with me", or words to that effect. Though the 911 operator tried to get someone to speak to her, by repeatedly saying "hello?" no words were spoken to the call taker.
19. Thereafter, the call taker relayed the information to a dispatcher who caused police units to respond to the scene.
20. The family who lived in this apartment was well known to the Defendant MPD. They have been called to that location on past occasions concerning domestic violence allegations and allegations of child abuse.
21. When police finally arrived on the scene, one of the officers could hear through the door to the apartment what sounded like a child screaming "No, stop, don't!". Repeated knocking on the door to the apartment and attempts to reach someone inside by calling the residence were to no avail, and no further sounds were heard from inside the apartment.

14. Upon information and belief, one officer on the scene then contacted the 911 operator to ascertain more information as to the nature of the call from this apartment. The officer was informed that it was a "child screaming, possibly playing".
15. Despite the foregoing history, known to the District of Columbia, and despite knowing that an apparent assault involving a child is continuing inside the apartment (or at the very least, a child is home alone and therefore at risk), and for reasons that are inexplicable, the officers did not force entry to the apartment for at least an hour despite knowing someone, quite likely a child could be injured inside.
16. When they finally did breach the apartment door, Dakota Peters, age 10 was immediately discovered on the floor just inside the door, bleeding. He died just minutes after he arrived at a local hospital. Erika and her 11 year old son, Erik were found next, apparently already dead from multiple stab wounds. Defendant Joseph Mays was discovered on the scene and later charged with 3 counts of 1<sup>st</sup> degree murder. All three decedents died of multiple stab wounds to various parts of their bodies.
17. On or about June 9, 2009, Plaintiff provided notice to the District of Columbia, pursuant to DC Code 12-309. See attached letter.
18. As Personal Representative of the Estate of Decedent Erika Peters, deceased, and Acting Personal Representative of the Estates of Erik Harper, deceased and Dakota Peters, deceased, and on behalf of her living surviving nephew and neice, both minors Plaintiff makes claims against the Defendants, both jointly and severally, for all damages recoverable pursuant to the Survival Act, D.C. Code 12-101 and the Wrongful Death Act, D.C. Code 16-2701.

**VIOLATION OF 42 USC 1983  
(EQUAL PROTECTION)  
FAILURE TO PROTECT VICTIMS OF DOMESTIC VIOLENCE,  
TO ADEQUATELY TRAIN OR SUPERVISE**

19. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.

20. The Defendants Metropolitan Police Department and the District of Columbia, acting through its agents, the MPD, the Office of Unified Communications, owed a duty to the public and to individual citizens, arising under federal law as well as the U.S. Constitution and local law, to protect victims of domestic violence and to insure that adequate properly trained and prepared officers and other employees are deployed for public safety. All acts alleged throughout this Complaint by the District of Columbia were done under color of state law.

21. Upon information and belief, the MPD has one or more policies, practices, and customs which result in domestic assault crimes being treated differently from non-domestic assaults. Since women are most often the victims of domestic violence, the policy, practice, and custom also reflect an intention to discriminate against women or, at the very least a deliberate indifference to the rights of women and children who are or may be domestic violence victims.

22. The execution of these policies, practices, and customs results in domestic assault crimes being responded to in a less aggressive, less thorough fashion than in non-domestic assaults, and proximately caused the injuries and deaths to plaintiff's decedents.

23. As a result of the policies, practices and customs of the District of Columbia and its agents, insufficiently trained and supervised officers and other employees of the District of Columbia were deployed in a public safety emergency, resulting in an inexcusable and deadly delay in responding to life-threatening situations.

24. As a result of the policies, practices and customs of the District of Columbia and its agents, the Defendant District of Columbia utterly failed in fully investigating 911 calls for assistance from the home of Plaintiff's decedents and proximately resulted in their deaths.

**FAILURE TO PROTECT VICTIMS OF DOMESTIC VIOLENCE  
AND CHILD ABUSE, TO ADEQUATELY TRAIN OR SUPERVISE  
(COMMON LAW NEGLIGENCE)**

25. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.

26. The Defendants District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, and CFSA owed a duty of reasonable care in responding to emergency calls, particularly those suggestive of domestic violence and child abuse. Title IV of the District of Columbia Code mandates a thorough and complete investigation of all complaints made to the hotline regarding allegations of harm to children.

27. Defendant DC Child and Family Services Agency ("CFSA") is a department of the District of Columbia which operates as the child welfare agency for the District of Columbia and administers a Child Protection Services function.

28. Pursuant to Title IV of the D.C. Code, CFSA was required to thoroughly and properly investigate the allegations and, at a minimum, determine what if any services might be required to insure the safety of the child and any other children in the home.

29. Sometime in 2007 or 2008, Defendant CFSA received a number of hotline complaints regarding Defendant Mays' abuse of children at the family home. The agency initiated an investigation and opened a Child Protection case after it was reported that defendant Mays violently shook his toddler child, injuring her.

30. However, upon information and belief, the investigation was poorly conducted and failed to identify disturbing details that should have alerted the agency that this family's risk assessment was unacceptably high.

31. At that point, Defendant District of Columbia and CFSA were well aware of this family and the danger defendant Mays posed to the children in the home. However, rather than monitor this case closely, as was expected and required of the agency, the case was inexplicably and prematurely closed without apparent resolution.

32. CFSA has a well-documented history of poor investigations of child abuse and neglect hotline complaints. CFSA's policies, practices, and customs have resulted in a large number of complaints, including one or more concerning alleged child abuse involving Defendant Joseph R. Mays, that either went unanswered or insufficiently answered, to the detriment of Plaintiff's decedents.

33. Defendants' dilatory and inadequate investigations of child abuse complaints and inadequate provision of services to children and families in need of protection was a breach of its duty and,

evidences a deliberate indifference to the rights of women and children who are or may become domestic violence victims and/or victims of child abuse and neglect.

34. As a direct and proximate result of the failure of the District of Columbia and its agents to properly execute the mandates of Title IV of the District of Columbia Code, plaintiffs' decedents were assaulted and killed.

35. Defendants District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, and CFSA owed a duty of reasonable care in its hiring and maintainance of employees.

36. Defendants District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, and CFSA breached that duty by unreasonably hiring and maintaining officers and employees they knew or should have known were deficient in performing their duties.

37. As a direct and proximate result this breach, Defendants District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, and CFSA officers and employees negligently performed the duties they were assigned to and the plaintiffs' decedents were thereby injured and died from their wounds.

38. Defendants District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, and CFSA owed a duty of reasonable care in

properly training and supervising its employees so as to adequately prepare them to serve the public in the manner intended by law.

39. Upon information and belief, the Defendants' training regimen and supervision was wholly inadequate and resulted in many loss opportunities to render effective assistance, including the opportunity in this case to properly classify this situation as an emergency and to authorize an immediate breach of the premises under these circumstances.

40. Upon information and belief, the Defendants Metropolitan Police Department and the District of Columbia, acting through its agents, the MPD, the Office of Unified Communications breached that duty by first failing to properly classify the 911 call or calls referred to herein and second, failing to appropriately handle the calls so as to insure that responding officers had sufficient information upon arrival at the scene.

41. As a direct and proximate result of the failure of the District of Columbia and its agents to properly execute the mandates of Title IV of the District of Columbia Code as well as Defendants' failure to adequately and properly oversee, train and supervise its employees in the manner in which they are to carry out their official functions, an inexcusable chain of events occurred that resulted in unspeakable violence perpetrated upon a mother and her two children, who should have been protected under law.

**FAILURE TO APPROPRIATELY  
RESPOND TO CITIZEN REQUEST FOR ASSISTANCE**  
(common law negligence)

42. The plaintiff realleges and incorporates the above paragraphs as if expressly set forth herein.
43. The District of Columbia Metropolitan Police Department and the District of Columbia, acting through its agent, the MPD, OUC and CFSA owed a duty of reasonable care in responding to 911 calls, hotline calls and other calls for emergency assistance
44. Upon information and belief, the Defendants do not however have a consistent effective policy, practice, and custom concerning the gaining of entry to a home immediately, upon credible information suggesting a person inside is in imminent peril and in need of immediate assistance.
45. The lack of such a policy amounts to a deliberate indifference to the rights of domestic violence victims and child abuse victims, unreasonably subjecting them to deadly delays in emergency assistance. Such an unreasonable delay contributed to the vicious injury and deaths of plaintiff's decedents.
46. The failure to act promptly in discovering the danger faced by the plaintiff's decedents in the matter was the direct and probable result of the Defendant District of Columbia's failure to properly train its officers and employees in how to respond to situations in which a child is obviously in grave distress.
47. The execution of the policies, practices and customs referred to herein resulted in an inexcusable delay and violated the statutory and constitutional rights and proximately caused the injuries and eventually deaths of a mother and her two children.

48. As a result of the failure of the District of Columbia and its agents to adequately and properly oversee, train and supervise its employees in the manner in which they are to carry out their official functions, an inexcusable and deadly delay in responding and fully investigating 911 calls for assistance from the home of Plaintiff's decedents occurred and led to the deaths of each of them.

49. Upon information and belief, the Defendants breached that duty by negligently, carelessly and wrongfully failing to properly investigate the hotline calls made in 2007 and/or 2008 concerning abuse to one or more of the children residing in the home. Upon information and belief, the Defendants failed to provide and monitor the follow through of services to the family after conducting its investigations. Said breach of Defendants' duties resulted in a continuing pattern of child abuse by the Defendant Joseph R. Mays, which culminated in, and was the proximate cause of the extensive injuries and deaths complained of herein.

50. As a result, each of Plaintiff's decedents met their deaths through a vicious attack by Defendant Joseph R. Mays which could have been avoided by fully investigating the prior complaints and monitoring services provided to the family. This breach proximately caused the injuries and the deaths of plaintiff's decedents.

51. Upon information and belief, the Defendants Metropolitan Police Department and the District of Columbia, acting through its agents, the MPD, the Office of Unified Communications breached that duty by first failing to properly classify the 911 call or calls referred to herein and second, failing to appropriately handle the calls so as to insure that responding officers had sufficient information upon arrival at the scene.

**SURVIVAL ACTION UNDER DC CODE SECTION 12-101**

52. The plaintiff, as Administrator of the Estate of the decedent repeats, realleges and incorporates the above paragraphs as if expressly set forth herein and further allege that the decedents' right of action for injuries prior to their deaths caused by the negligent conduct of the Defendants survives in favor of the duly appointed representative of the Estates of Erika Peters, Erik Harper, and Dakota Peters.

53. The plaintiff further alleges that as a direct and proximate result of the Defendants' wrongful and negligent conduct, the decedents experienced pre-death fright, extreme pain and suffering, fear and anticipation of impending injury and death, as well as severe emotional distress and psychic trauma prior to their deaths..

54. The plaintiff further alleges that as a direct and proximate result of the Defendants' wrongful and negligent conduct, the decedents' estates lost the probable future earnings and other economic and non-economic damages recoverable under the applicable District of Columbia law.

**WRONGFUL DEATH UNDER DC CODE SECTION 16-2702**

The plaintiff, as Administrator of the Estate of the decedent repeats, realleges and incorporates the above paragraphs as if expressly set forth herein and further allege that as a direct and proximate result of the negligence and wrongful acts of the Defendants, the next of kin beneficiaries of the decedents – including minor children incurred funeral and burial expenses, lost their share of the decedent's anticipated future earnings, lost the pecuniary value of services, including the loss of maternal care, education, training, guidance and advice, expected to be

performed by the decedent, and lost any and all other damages recoverable under the wrongful death statute.

WHEREFORE, Plaintiff Kimberly Trimble, as the duly appointed Personal Representative of the Estate of Erika Peters, requests judgment against the Defendants, jointly and severally, in the full and just amount of Twenty Million Dollars (\$20,000,000.00), plus interests and costs.

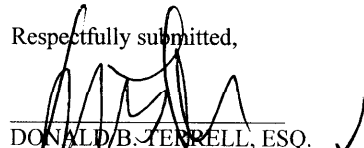
WHEREFORE, Plaintiff Kimberly Trimble, as the legal guardian of the minor child, A.J.M. demand judgment against the Defendants, jointly and severally, in the full and just amount of Ten Million Dollars (\$20,000,000.00), plus interests and costs.

WHEREFORE, Plaintiff Kimberly Trimble, as the legal guardian of the minor child, A.J.M. demand judgment against the Defendants, jointly and severally, in the full and just amount of Ten Million Dollars (\$20,000,000.00), plus interests and costs.

JURY DEMAND

The Plaintiff hereby demands a trial by jury with respect to each claim in this Complaint.

Respectfully submitted,

  
DONALD B. TERRELL, ESQ. ✓  
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*Counsel for Plaintiff*