

SECRETS BEHIND CLOSED DOORS: VIOLENCE AGAINST WOMEN

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She didn't want to die, but 35-year-old Crystal Brame died anyway on a sunny afternoon in the small town of Gig Harbor, Washington. On April 23, 2003, Crystal became another domestic violence statistic - a wife shot to death by her husband of twelve years. He then turned the weapon on himself, making it a murder suicide. While tragic, the fact that a husband fatally assaulted his wife isn't that unusual. Domestic violence isn't unusual. According to studies, 5.3 million Americans are victims of domestic violence every year, and the great majority of them are women. By some estimates some, four million women experience serious assault by a partner. Race is not indicative of who is more at risk for domestic violence than another. It is statistically consistent across racial and ethnic boundaries. Age is not indicative either as victims can experience domestic violence at any age.

However, this really wasn't just any act of random domestic violence because Crystal's 44-year-old husband was David Brame, the Chief of Police for the City of Tacoma, the second largest city in the state of Washington. Brame had used his police revolver to kill his wife in front of their two children, ages five and eight, in a shopping center parking lot before turning the gun on himself. The day before this shooting, a Seattle newspaper had published an article disclosing the fact that Crystal had filed a divorce action. The article went on to describe allegations of long-standing domestic violence which Brame had inflicted upon her.

The murder/suicide became an instant national media story and remained so for the next two and a half years. There was ongoing local and national news coverage. Within weeks, CBS's *48 Hours* ran a lengthy two-part series covering the history leading up to the Brame shooting. National magazines published articles on the story as well, and there was even a book written about the case.

Moreover, this is really not just a story about domestic violence, but also about the role of trial lawyers in the legal system, whose professional obligation has been said to be, "to comfort the afflicted and afflict the comfortable."¹ It is also a story about Crystal's family and their extraordinary courage, as well as their determination to find out the truth hidden behind closed City doors. Crystal's parents had made a deathbed promise to her that they would do everything they could to see that this did not happen to other women. They never wavered on their promise, even when they were offered millions of dollars to drop the matter. Rather than accepting any money, they insisted on obtaining the facts

11 This is an adaptation from something written a hundred years ago about the role of newspapers by Finley Peter Dunne, one of the great journalists of his day.

first and discovering who bore responsibility for David Brame having been allowed to continue as a police officer despite the City's knowledge that he was unfit for duty.

I became involved in this case when Crystal's family contacted me about helping them. I spent hours with Crystal's parents, Lane and Patty Judson, who had assumed the care of the Brame's two young children. I had many meetings in the family home with the Judsons and the two children, as well as with Crystal's sister and brother-in-law, Julie and David Ahrens, trying to understand their perspective and help them decide what could be done to achieve their goal in this tragedy.

The children and family were seeing psychologists to deal with the trauma of losing their mother and daughter. However, I felt they needed to confer with someone who was professionally trained in psychodrama. Katlin Larimer agreed to come out and meet with the family. She was invaluable in helping them deal with their emotions, as well as providing me with a better understanding of what each of the family members were going through. This helped me see the case in a new perspective - not just as a civil lawsuit, but from their viewpoint. It allowed me to step back and understand the Judson's objectives in the case and what they wanted to accomplish for their daughter, Crystal.

It became very clear through the media investigation and reports that this shooting had been unnecessary and preventable. Information obtained by the media indicated that David Brame should never have been given a badge and a gun, let alone have been appointed as Chief of Police. While the City was outwardly professing a desire to have full disclosure, it became abundantly clear that there was a "circling of the wagons" going on at City Hall with regard to accountability and responsibility. After evaluating our options, it was decided that the only way we would ever have a chance at knowing all of the facts leading up to the shooting would be to file a lawsuit and subpoena testimony under oath. Because Washington State does not allow for punitive damages, the claim was made for compensatory damages only. As such, only the two surviving minor children were entitled to file damages claims.

The required preliminary administrative claim form against the City of Tacoma was served upon them, after which we had to wait sixty days before filing a lawsuit, as is provided by Washington law. On the eve of the fifty-ninth day, the City indicated that it would be willing to consider paying eight million dollars (\$8,000,000.00) to fully settle the case in an effort to prevent the filing of a lawsuit. With no other procedures available for discovering the hidden truth, the family declined the City's offer to settle the matter.

After evaluating numerous factors, it was decided to file the lawsuit in state court, without alleging any

civil rights violation. A jury trial was requested. We asserted allegations of negligence on the part of the City of Tacoma for its hiring of David Brame, its promoting him to the position of Chief of Police, and its failure to take his gun and badge away from him in spite of ample facts that this course of action was warranted. The filing of the lawsuit was followed by weeks and months of obstructionist tactics, foot dragging and delays. Over the period of time the case was in litigation, the City of Tacoma allocated nearly two million, seven hundred fifty thousand dollars (\$2,750,000.00) toward its defense. Approximately two million dollars (\$2,000,000.00) was allocated to an outside defense firm with ties to the City. Another four hundred thousand dollars (\$400,000.00) was allocated to a criminal defense firm for Assistant Chief of Police, Catherine Woodard. Yet another three hundred seventy-five thousand dollars (\$375,000.00) was allocated to another criminal defense firm to represent defendant Tacoma City Manager, Ray Corpuz. On top of all that, Pierce County had its own separate budget set up for defense of these claims.

The City removed the case to Federal court, but we were successful in remanding it back to State court, after which weeks were spent trying to find a judge within Pierce County who would agree to accept the case. Some judges declined to take the case due to conflicts. Others were asked by the City to hold hearings as to whether or not they were biased (a procedure not sanctioned by statute, but which resulted in additional judges simply opting out). Without a judge, discovery continued to stall.

After many weeks of delay and no trial judge, it was clear to us that we would be denied discovery rights unless we had a judge to make rulings on the multitude of objections being raised. We therefore requested a voluntary dismissal of the lawsuit and revised our complaint to include Pierce County as a defendant. The allegations against Pierce County were based upon the fact that deputies had responded to an earlier 911 call from Crystal, but had failed to act. We also added as a defendant the Mayor of Tacoma, who had made public statements to the media about the non-liability of the City, the Assistant Chief of Police, Catherine Woodard, who had been involved in helping David Brame in his divorce suit, and the Tacoma City Manager, Ray Corpuz, who had appointed David Brame as Chief of Police and who had refused to suspend him even when the head of the City's Human Resources Division urged that it be done the day before the shooting. The amended complaint was then filed in adjoining King County, where we were successful in obtaining a judge.

What followed was a discovery war. Attorney Andrew Hoyal of our office worked nearly full time on discovery matters and motion issues in this case. My partner, David Beninger, also devoted long hours as well. The City propounded 51 requests for production. We produced for inspection approximately 2000 photographs, over 70 videotapes, and numerous documents. The volume of materials being

exchanged required us to obtain a large conference room specifically for the production of documents. There were over 70,000 pages of documents produced, 50 banker boxes of discovery material, hundreds of witnesses named, over 35 motions, 8 dispositive motions, an appeal for discretionary review of discovery disputes, as well as the interviewing of many witnesses and experts. The three of us were working on the case as trial lawyers but, at times, we had five attorneys working on various different aspects of the case. We were also forced to retain an appellate firm to assist with the motions and intermediate appeal being filed by the defendants. We had developed a system of computerized indexing for the 70,000 plus pages of documents, with both internal and external support staff to manage all the documentation being produced. We had paralegals and legal assistants assigned to case organization, preparation and management. In addition to the firm files, I prepared and maintained notebooks of materials for my own reference, which ended up consisting of twelve banker boxes. It was two and a half years before settlement was eventually reached.

There were numerous ongoing investigations into the facts leading up to the shooting. The principle investigation was at the request of the Attorney General, wherein they had directed the Washington State Patrol to make an investigation of possible criminal conduct by the Tacoma Police Department and City officials in the period of time leading up to this shooting. This six month investigation resulted in a report consisting of over twenty volumes of material being generated. The report included numerous statements that had taken by the Washington State Patrol detectives, as well as volumes of documents and other material. In addition, the Gig Harbor Police Department and the Pierce County Sheriff's Office conducted investigations which produced lengthy reports. Other investigations were performed by the Washington Association of Sheriffs and Police Chiefs, the FBI, and various citizen groups.

After having completed its six month initial investigation, the Washington State Patrol was then directed to make an internal investigation of actions of the Tacoma Police Department and other City officials regarding their pre-shooting conduct. Some thirty-three allegations of wrongdoing were made against various individuals as part of the investigation. After weeks of further investigation, additional volumes of investigative reports were turned over to the City Manager, Ray Corpuz, who refused to make them public. This sparked lawsuits being filed based upon the Freedom of Information Act, as well as motions being filed requesting the court to order the production of the investigative reports. The Police Union objected to any disclosure of documents. In a move not unlike President Nixon producing empty volumes of tape recordings in the Watergate scandal, the City Manager produced a set of reports that had more redacted text and blacked out pages than disclosed information. The trial judge ruled that the report should be made public, but the City and Union appealed. After further delay, the court's order ultimately was upheld and the reports were made public without the prior redactions.

Numerous expert witnesses were retained, as well as trial consultants. Several focus groups and mock jury studies were conducted. A private investigator was retained to assist us in the discovery and preparation of the case. A media consultant was hired to advise the family and our firm with regard to media issues.

Although there were many points of disagreement, the most contentious issue involved the assertion of work product and whether the City was entitled to the production of documents which plaintiffs' attorneys had gathered in the preparation of their case. We had gathered a large volume of materials related to Police practices, domestic violence, and other areas related to the subject of the lawsuit. The City claimed it was entitled to view these documents and materials. The motions were filed so frequently, and were so hotly contested, that the trial judge finally set aside the first and third Thursday mornings of each month to hear motions relating to this case only, interrupting on-going trials if necessary. In a period of less than one year, there were fifteen hearings presented before the trial judge, each of which would usually last an hour or more, and address one or more motions or issues relating to the litigation. The City then moved for sanctions and terms based on what it felt were discovery violations. Finally, the Court decided to appoint a retired judge to act as Special Master and address all discovery matters.

A key part of the City's defense strategy was to lay blame for the death of Crystal Brame on other persons or entities. It claimed that these other entities were at fault for the shooting. It chose to point the finger at unnamed "family members, close friends, relatives and associates of Crystal and David Brame", the "*Seattle Post-Intelligencer* and other media", Crystal's divorce attorney, Crystal's psychologist, the adjoining City of Gig Harbor, Pierce County, Crystal's sister and brother-in-law, and even Crystal's own parents. We moved for summary judgment requesting the dismissal of these claims and were eventually successful, but only after five months, four hearings, and several depositions.

In addition to these major motions, there were other significant discovery battles. Pierce County propounded contention interrogatories on nearly every allegation made against it, each of which we objected to and argued. When we finally were able to start discovery depositions these became especially contentious with Pierce County. At one point, counsel for Pierce County objected to questioning of a witness over 100 times during a two hour deposition. The witness answered only forty-six questions. This conduct forced the plaintiffs to move for an order governing deposition conduct. The propriety of the motion was debated at more than one hearing and extensively briefed before the court entered an order limiting objections to deposition questions.

Other discovery issues involved the fact that the City employed a witness coach to advise its witnesses on style and presentation aspects of testifying. We learned that the City spent over \$25,000.00 coaching the Mayor, City Council members and other witnesses. We sought further discovery on this

issue, while the City asserted that the advice given to these witnesses was protected by attorney-client privilege. There were even disputes about our use of the video camera during videotaped depositions.

The facts that came out showed a long history of improper conduct within the City administration and Police Department. While the overwhelming number of rank and file within the City Police Department were dedicated officers doing their jobs, there were cliques within the department administrators that were a source of wrongdoing, and there was a pervasive atmosphere of political infighting.

The investigation and discovery revealed that when David Brame had applied to become a police officer, he took the required psychological tests, but failed. Two additional tests were then administered. Strangely, these tests had disappeared, and the City indicated they could not produce them. However, later in the litigation the City suddenly discovered the “missing” psychological tests. It was claimed that they had been found in the back of a file cabinet. The first test showed that the initial test given to Brame at the time of his application indicated that his personality would make him a potential danger to himself, his fellow officers, and the community. The second test, one which Brame himself had paid for, indicated that he had passed. However, the psychologist giving the third test concluded he should not be hired. Nevertheless, David Brame, whose father and other relatives were members of the police force, was hired anyway.

Within months of being hired, Brame was accused of rape by a City employee he had taken out on a date. Brame confessed his guilt to one officer, and the detectives involved in internal investigation concluded the charge was valid. However, the prosecuting attorney was never notified of this fact, nor was any outside agency asked to become involved. The matter was dropped with no action being taken, and the charge was never made public. In fact, several years later, in a lawsuit filed by a Police Officer against the Department, the rape allegation resurfaced when it was brought up during deposition by the plaintiff. The City Attorney immediately took steps to seal the deposition and prohibit any further reference to the matter.

The investigations showed that David Brame had been appointed Chief of Police by City Manager Ray Corpuz, even though the City’s Human Resources Department recommended against it. He had strong Union support. It turned out Brame had been assigned as the investigating officer when the City Manager and his wife had been accused of insurance fraud. His involvement had been helpful to them in the investigation. The State Patrol report had revealed a culture within the City and Police Department which was corrupt with internal politics.

After being appointed as Chief, Brame ran the department by intimidation. In his office hung a picture of Marlon Brando from the movie *The Godfather*. Sexual harassment was his common practice. The

reports reveal that he ran a department in which he inflicted punishment on anyone who opposed him, and demanded total loyalty in order to be considered for promotion. This situation was known throughout the Department and within the City administration, but was not acted upon.

The report also revealed a long pattern of domestic violence in his home. He totally controlled all the finances in the home. He demanded full accounting of the little amount of money he allowed his wife to have, and even checked the mileage on her car. He was verbally and physically abusive. He had choked his wife, threatened her life, and otherwise maintained a reign of total control.

Crystal had made a 911 call months before the shooting concerning her husband's actions with his police revolver, which was responded to by the Gig Harbor Police Department as they were living within Gig Harbor at the time. When it was discovered that it involved Tacoma's Chief of Police, no report was ever filed and nothing was ever done. In the meantime, Brame, fearing public disclosure about his domestic violence, began to claim that it was his wife who was physically abusing him. He complained to the Gig Harbor Chief of Police about it, but insisted no report be made. He had an Assistant Chief of Police photograph a bruise which he claimed his wife had inflicted, and otherwise tried to cover himself by making false stories against his wife. No one within the law enforcement community, or the City, did or said anything about any of this information.

Finally, Crystal had had enough and left the family home with their two children, moving into her parents' home and filing for divorce. Brame's mental state deteriorated after the filing of the divorce. People who worked with him in the City Attorney's office, and even the Assistant Chief of Police, were concerned enough to advise the City Manager about problems with Brame. The fact that he had made threats against his wife and committed domestic violence were also disclosed to the City Manager, who took no action. He insisted Brame was doing a good job.

Not long after filing for divorce, Crystal agreed to meet with the City Police Chaplin and her husband. She related the reasons for the divorce. No report was ever made of this meeting and nothing was ever done.

David Brame arranged for the Assistant Chief and other Police Department friends to attend a preliminary divorce hearing with him, which they did in uniform on city time. Then, shortly after the hearing, Brame brought the Assistant Chief of Police with him to Crystal's parents' home to get the children for visitation. As a result of a confrontation during this visit, Crystal called 911. The Pierce County Sheriff's Office took the call. Among other things, she reported his death threats. No report was ever filed and no action was ever taken by police officials, even though the Tacoma Police Department was advised.

When a newspaper published Crystal's divorce papers containing the allegations of domestic violence, it contacted the City Manager for a response. He insisted it was a "private matter" and would not be taking any action. The Tacoma City Mayor had the same response. Once again, nothing was done.

The situation had deteriorated to the point that, the day before the shooting, the head and assistant head of the City's Department of Human Resources met with the City Attorney to recommend that Chief Brame be suspended and his gun and badge be taken away. But nothing was done. Later, the City Attorney would insist that no recommendation had been made. However, the Human Resources Director insisted it had, and a short time later he was fired.

This is only part of the total picture of what had been going on. As these facts began to unfold after the shooting, the Assistant Chief of Police, who had been named acting Chief by the City Manager, was fired when her role in this matter became public knowledge. Then, the City Manager himself was forced into retirement as these facts came out. The publicity was intense and the City was in turmoil.

After months of extensive pre-trial work, Pierce County agreed to a partial settlement of the case. This settlement called for the creation of a family violence awareness center to be fully staffed and funded. An initial \$300,000.00 was to be spent toward the development of this center. Our firm waived any fees in connection with this settlement.

As could be expected, the City objected to the proposed settlement being offered by Pierce County. However, it was ultimately approved. As a result of this settlement and the public's attitude toward the case, there was increased pressure on the City, who remained in a state of denial throughout the litigation. As discovery continued, the City agreed to a final settlement after extensive negotiations. The terms were unusual. In addition to paying twelve million (\$12,000,000.00) in cash, the City stipulated that we would have the right to continue to take the depositions of witnesses, without restriction, as well as have rights of discovery. It was agreed the Special Master would continue in that role with the right to make enforceable orders regarding discovery. The City agreed to write a letter of apology to the family. The City also agreed to support pending legislation against domestic violence, and to review, as well as improve its Code of Ethics. It further agreed to implement Citizen Review Committees to review matters regarding police actions. It agreed to create a Citizen Advisory Board and to adopt revisions regarding the auditing process of the Police Department. It also agreed to establish new policies regarding psychological testing of police applicants. Most importantly, it agreed to make public all discovery materials and depositions.

In the meantime, Crystal's family had been tireless in their efforts to get Federal legislation adopted which would enhance domestic violence prevention. As a direct result of their efforts, Congress, in December of 2005, passed the Crystal Judson Brame Domestic Violence Protocol Program as part of

legislation which will extend the 1994 Violence Against Women Act (VAWA). This program is designed to provide Federal grants to law enforcement agencies in order to deal with situations involving domestic violence, and to fund positions for persons who can act as advocates for victims of domestic violence. The Crystal Judson Domestic Violence Center has been dedicated and is now in operation. Lane Judson has been speaking around the state to various groups and organizations about domestic violence.

We have now completed taking the depositions of key people involved in this matter, all of which are posted on our website.