

## ‘The Tortured History’

Residents in the District’s group homes are still dying from neglect.

BY BRENDAN SMITH

Melonie Nelson died in a D.C. group home, gasping for air while she choked to death on a fistful of bologna that she grabbed from the refrigerator and stuffed into her mouth.

But her death last October should not have surprised the group home’s operator, D.C. Health Care, or the D.C. Department of Disability Services, which supervises more than 2,000 residents with developmental disabilities and places them in homes run by contractors.

Nelson’s death could have been prevented if not for a litany of errors made by D.C. Health Care, according to an independent investigation by University Legal Services, the federally mandated advocate for disabled residents in the District.

An eating plan filed more than a year before Nelson choked to death on Oct. 30 noted she would stuff food in her mouth without chewing, and she needed “close supervision and monitoring in order to avoid coughing, choking, or aspiration.”

Instead of close supervision, the 41-year-old Nelson was left alone in the kitchen of the group home at 4919 North Capitol St., N.E., even though one-on-one supervision was required. When she started choking, the two staffers on duty didn’t properly perform the Heimlich maneuver or attempt CPR, the ULS report states.

Paramedics who responded to a 911 call found Nelson’s mouth stuffed with bologna because the group home employees still hadn’t cleared her airway, the report states.

Nelson—a former Special Olympics contestant with a wide smile and a love of dancing—was mentally disabled and had bipolar disorder and a seizure disorder.

Her death is hardly an isolated incident. More than 90 people with developmental disabilities have died in D.C. group homes during the past three years. Twenty-three of them have died in the past eight months alone.

Citing privacy statutes, the D.C. Attorney General’s Office has blocked the release of the names of the dead residents. Nelson’s name is the first to be revealed publicly.



COURTESY OF MARIE SAUNDERS

**FAMILY FIRST:** Melonie Nelson (right) with her sister Barbara Bradley in 2005.

Nelson’s mother, Marie Saunders, filed a \$15 million lawsuit this month in D.C. Superior Court against the District and D.C. Health Care, claiming wrongful death, gross negligence, and fraud. Hers is in the only lawsuit to be filed thus far over the recent deaths.

“It was like a slap in the face as hard as you could. Died? I said, ‘How?’” Saunders says about that terrible day. “It just didn’t seem real. It seemed like they were playing a game on me. I still can’t believe it, even though it’s been months.”

Saunders hopes the suit will force changes to save other families from suffering the grief that still keeps her awake at night.

“I pray something can be done to stop these people,” she says. “They need to fix the problems, because I lost my daughter.”

But the problems haven’t been fixed for more than three decades. A federal class action filed in 1976 on behalf of more than 650 developmentally disabled residents still hasn’t been resolved by the Department of Disability Services, formerly the Mental

Retardation and Developmental Disabilities Administration.

The department has been plagued by mismanagement, lax oversight of group homes, cover-ups and record-tampering by D.C. officials in death investigations, and the department's ongoing refusal to remove people from dangerous group homes where residents have died and more keep dying under questionable circumstances.

The problems have been noted and documented by an independent court monitor and U.S. District Judge Ellen Segal Huvelle, who fired an 85-page broadside at the District for "the tortured history in this case" in the class action now called *Evans v. Fenty*.

In her March 30 ruling, Huvelle found the District in "systemic, continuous, and serious noncompliance with many of the Court's orders." She also found compelling evidence that the District's failures still "jeopardize class members' health, safety, and welfare, contributing to deaths and hospitalizations that defendants' own investigators have found were preventable."

### CLEANING HOUSE

Despite her damning critique, Huvelle stopped short of appointing a receiver to take control of the Department of Disability Services. She noted that her ruling was based on the record in the case before Mayor Adrian Fenty took office in January, and she has agreed to give his administration at least six months to make good on a long list of promises.

Peter Nickles, Fenty's general counsel, says he will start "cleaning house" next month at DDS, where he expects "some tremendous improvement" or else "heads will roll."

Nickles says he has given notice to labor unions and the District's personnel office about plans for wide-scale terminations of DDS employees beginning next month. He also may ask Huvelle to temporarily suspend collective bargaining agreements to speed up the terminations.

DDS became "a dumping ground" for rejects and misfits cast off by other D.C. departments, and "only 20 percent or so of the work force [at DDS] has actually applied to work there," says Nickles, who has represented D.C. prisoners and juvenile offenders in other class actions before he became Fenty's general counsel.

The District also has rehired the Columbus Organization, an independent contractor, to handle new death investigations and reopen prior death investigations that are suspect because they were completed in-house by DDS.

Last August, court monitor Elizabeth Jones found that eight death investigations previously completed by Columbus were

tampered with by D.C. officials, who deleted facts exposing the culpability of the District. Jones also found that recommendations for improving health practices needed to prevent more deaths were also tampered with.

The District is also drawing up a list of problem providers that will be considered for possible cancellation of contracts and



DIEGO M. RADZINSKI/PHOTO

**DEATH IN THE HOME:** D.C. Health Care operates 13 group homes, including the facility (above) on North Capitol Street where Melonie Nelson, a 41-year-old mentally disabled woman, choked to death.

removal of residents, though Nickles concedes the District still hasn't found new providers where residents could be moved.

It all sounds good, but so far it's been mostly talk and little action, says ULS Legal Director Sandy Bernstein. ULS is co-counsel for the plaintiffs in the class action and is still seeking the appointment of a receiver to take over DDS.

"We see a lot of plans and a lot of policies and good intentions, but we're still not seeing outcomes for class members," she

says. "We hope that things improve, but there's not a lot out there to support that hope."

### BUILDING A STONEWALL

While Nickles is frank about his reform plans, DDS officials aren't talking about Nelson's death or any of the myriad problems at the group homes.

DDS Acting Director Judith Heumann, appointed this month by Fenty, and Acting General Counsel Mark Back both refused repeated interview requests.

Back, who also serves as acting chief of DDS's troubled investigations unit, said in an e-mail last week it would take him two weeks to respond to document requests filed by *Legal Times* under the D.C. Freedom of Information Act.

"Ms. Heumann will not be available for an interview, and neither she nor any other agency personnel will be answering your non-FOIA questions," Back wrote.

It remains unclear why DDS's internal investigation of Nelson's death has not been completed seven months after her death. DDS continues to contract with D.C. Health Care, which runs 13 group homes.

Developmentally disabled people are still being sent to the group home where Nelson died, even though DDS officials have not explained whether any improvements have been made to prevent more deaths.

Babu and Gracy Stephen, the couple who owns and operates D.C. Health Care, didn't respond to requests for comment.

While officials responsible for investigating Nelson's death aren't talking, former D.C. Health Care employee Marshila Davis has spoken up, even though she says it cost her her job. Davis says she refused to go along with a whitewashed report by



**HAPPIER TIMES:** Before she spent two decades bouncing through D.C. group homes, Melonie Nelson grew up in the Fort Totten neighborhood. A family photo shows her (center) with her parents and two older sisters. She also competed regularly in track, basketball, and volleyball in the Special Olympics.



PHOTOS COURTESY OF MARIE SAUNDERS

her employers that attempted to absolve D.C. Health Care of any wrongdoing in Nelson's death.

Davis says she was suspended without pay in November a few days after Nelson's death, and she still hasn't been allowed to return to work as a group home manager. She is now collecting unemployment benefits.

D.C. Health Care's report concluded, "It appeared that the staff handled the situation to the best of their abilities and performed the necessary life-saving techniques in an attempt to provide first aid to Ms. Nelson to the best of their ability."

Davis, who worked for D.C. Health Care for about four years, says the company's report contains lies and misrepresentations. Within hours of Nelson's death, Davis says a supervisor called her at another group home where she was working and ordered her to tell investigators she was the third staff member who was supposed to be on duty at DC-12, the group home on North Capitol Street where Nelson choked to death.

"He told me to lie and say my car had broke down, but I never went to that house. I was at DC-10 where I was working," she says. "He told me if I wanted my job that I would tell those people I was the third person [on duty]."

D.C. Health Care kept bouncing Davis and other employees through group homes to conceal staff shortages caused by low pay and turnover, she says. In the days after Nelson's death, D.C. Health Care also fired many other employees with criminal records, even though background checks should have been completed before they were hired, Davis says.

Although she wasn't present at the home when Nelson died, Davis says training in lifesaving techniques was inadequate or nonexistent.

"None of us have been trained. They just send you to a house," she says.

About six months after she started working in a group home, D.C. Health Care finally sent her to a CPR class, but Davis admits she slept through the entire class because she already had been working for 24 hours in a row. Somehow, she still passed the course.

"In my records, I have a CPR license, but I don't know how to do that," she says.

Davis says Nelson frequently stole food because she was always hungry after being put on an extreme diet, even though she wasn't overweight. Nelson's mother says her daughter lost more than 60 pounds in the year before her death, dropping to 120 pounds because of the strict diet.

"A lot of clients at D.C. Health Care steal food," Davis says.

According to the ULS investigation, Nelson stole food on at least six occasions in the months before her death, and an eating plan from 2005 warned that she repeatedly stuffed food in her mouth "without regard for chewing and swallowing before putting more food into her mouth."

The report is considered confidential by ULS for privacy reasons, but it was forwarded to DDS and to Saunders' lawyers, Sidney Schupak and Brian Kinsley at Ashcraft & Gerel.

*Legal Times* obtained a copy of the report from Schupak, who says D.C. Health Care's fraudulent actions in its internal investigation are part of the reason the suit seeks \$10 million in punitive damages against the company. The District, which is immune from punitive damages, is being sued for \$5 million in compensatory damages.

"Quite frankly, I think they need to lose their contract," Schupak says about D.C. Health Care. "Clearly under any kind of litmus test, she wasn't getting appropriate care. It wasn't an accident. It was an incident just waiting to happen."

Davis says she last saw Nelson three days before her death when Nelson was so drugged up on medications she could barely walk. "Melonie was like I never saw her before," Davis says. "She was so drugged out, shaking and everything."

Nelson was prescribed nine different medications in the months before her death, according to the ULS report. A side effect from her psychotropic medications—which could cause clenching and abnormal movements of the jaw—may have increased her risk for choking.

Davis says D.C. Health Care concocted a bogus reason for suspending her, claiming she "aided and abetted" another employee who threw a cup of water to get the attention of an uncontrollable

resident running around naked in the street.

Davis says she no longer wants to return to work for D.C. Health Care and is looking for an attorney to file a wrongful termination lawsuit. She says she is still upset about Nelson's death, which she believes could have been prevented.

"I treated those clients like they were my children or my relatives," she says. "I feel as though D.C. Health Care was at fault. If they had had more staff, she would still be here."

### MELONIE'S LIFE

Saunders, a 69-year-old grandmother with curly shoulder-length hair and black-framed glasses, says her daughter Melonie had a happy childhood with her three sisters and a brother growing up in Northeast Washington, where Saunders still lives.

Nelson suffered brain damage at birth when the umbilical cord wrapped around her neck, cutting off oxygen flow to her brain for seven or eight minutes.

Saunders says she didn't have trouble raising Melonie until she tried to assert her independence as a headstrong 17-year-old teenager.

"She told me she wanted to see the world, see the city," Saunders says. "She wanted to be independent so bad, but I couldn't give her that."

Melonie tried on her own anyway. She rode Metro buses to the end of the line, ending up in Maryland or Virginia, where she



**STEPPING UP:** Marie Saunders (center) has filed a \$15 million lawsuit over her daughter's death in a D.C. group home and is being represented by attorneys Brian Kinsley (left) and Sidney Schupak.

would wander around or ask for free food in a McDonald's where she would sit in a booth until closing time.

A McDonald's employee or someone on the street would call police, who grew tired of the repeated trips bringing her back home. "This got to be a big problem for us," Saunders says. "I was afraid she would be molested or murdered or anything out there."

Saunders realized she couldn't care for her daughter any longer. Her ex-husband hadn't paid child support in years, and she couldn't afford private care, so she entrusted Nelson to

the D.C. government. "I didn't know what else to do," she says.

Saunders says Nelson was bounced through group homes for more than 22 years until her death in October. "They throw those kids around with anyone who will take them," she says.

Saunders—who frequently visited her daughter and took her home for holidays and family occasions—says she petitioned a judge to have her removed from another group home where she was fighting with female residents. In 2003, she was sent to the group home where she died.

Saunders says no D.C. officials have contacted her about any investigation of her daughter's death. "I'd like to see the District step up to the plate and take responsibility for their actions," she says. "But I'm just one old grandmother who is trying to do the right thing."

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