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The Public Duty Doctrine

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Mary Matthews v. Pickett County

Mary Matthews v. Pickett County, 996 S.W.2d 162 (Tenn. 1999), is the most cited Tennessee case regarding liability for failure to arrest a Respondent who violates an order of protection.

The court held that an order of protection creates a special duty to protect the victim named on the order and that special duty includes protection of the victim's property. The complainant can win personal injury *and* property damages if the Petitioner shows that the deputies breached their duty to arrest the Respondent when the Respondent violated an order of protection, and that the Petitioner was harmed as a result.

The public duty doctrine gives officers immunity for injuries caused by breach of a duty owed to the general public.

EXAMPLE: Officer Bob pulls over drunk driver and recognizes Buddy, who is only a few blocks from home. Officer Bob lets Buddy go on his promise to go straight home, but Buddy heads for another bar, running over Valerie Victim on the way. Officer Bob clearly breached his duty to protect the public at large, but Valerie Victim will not win her lawsuit against Officer Bob or the county *because she was not a foreseeable victim*. When Officer Bob breached his duty to protect the public by failing to arrest Buddy, he did not know this *particular* Victim was a block away and could be harmed by his failure to act.

The public duty doctrine did not protect the officers in *Matthews* because the order was not issued to protect the public at large but *solely to protect Mary Matthews*, whose calls for help indicate she relied on the court's order to keep her safe from Winningham. Her reliance created a special duty exception to the public duty doctrine, an exception that applies when a public official undertakes to protect an individual, and that person relies on the official to do so.

The special duty exception creates a special relationship between the parties, in this case the government and Ms. Matthews. The officers had a duty protect her by arresting Winningham if there was reason to believe he had violated a valid order of protection. The court held that if the breach of that duty allowed Winningham freedom to burn down Ms. Matthews' house, the deputies and the county are liable for her harm.

The Tennessee Supreme Court makes it clear by this ruling that, if the government violates its special duty to safeguard a party named by an order of protection, and the individual is harmed as a result, compensation can be awarded for personal injury *and* property damage.

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