

Texas Department of Public Safety

PIO NEWS

Note: In an effort to make this clip pack more user friendly, we've come up with two broad categories: **News you can use and What happened.** We will be culling through the scores of clips we gather each week and only reproduce those we think you can benefit from. PIO will be clipping and filing all stories involving the DPS. If you are interested in a particular story or issue, contact us at (512) 424-2080 and we'll fax or mail it to you.

DPS Employee Information Hotline -- (512) 424-7777 P10 e-mail address -- pio@txdps.state.tx.us

Compiled by the DPS Public Information Office

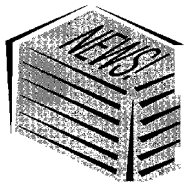
Issued weekly: NOVEMBER 17, 2003

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Newspaper abbreviations:

AAS	Austin American-Statesman
DMN	Dallas Morning News
HC	Houston Chronicle
SAEN	San Antonio Express News
FWST	Fort Worth Star-Telegram
WSJ	Wall Street Journal
NYT	New York Times
USAT	USA Today



Indomitable Jacqui Saburido tells her story to Oprah

Young woman who nearly lost her life to a drunken driver makes talk-show debut

By Diane Holloway

The theme for Wednesday's "Oprah" - is "Split-Second Decisions That Changed a Life," and surely no one has been more affected by such a decision than Jacqui Saburido.

On Sept. 19, 1999, just three weeks after Saburido came to Austin from her native Venezuela to study English, she was riding in a car with friends on RM 2222 when a drunken driver struck the vehicle. Reginald Stephey, a Lake Travis High School student, had decided to get behind the wheel of his GMC Yukon after a night of partying.

Saburido was pinned in the car and burned so severely, over 60 percent of her body, that rescue workers initially thought she was dead. Her face was destroyed. Two other passengers were killed. Stephey was unhurt. Two years later he was convicted of intoxication manslaughter and is serving a seven-year sentence in prison.

First up and featured more prominently than other guests on Wednesday's "Oprah" is Saburido, who talks about what happened to her and what her life is like now. Taped Oct. 29 in Chicago, the show includes an appearance by Reginald's mother, Jean Stephey, who wept and apologized for her son's actions.



Yeli Villar

"The greatest moment for me was when Jacqui hugged Jean Stephey and comforted her," said David Hafetz, the former Austin American-Statesman reporter who wrote a 16-page story about Saburido in this newspaper last year called "Chasing Hope" and attended the taping. "That's how Jacqui goes on. She's able to forgive and not be bitter. She really is a super woman."

A spokeswoman for Oprah Winfrey's Harpo Productions said Jean Stephey tells the talkshow host that if she could change anything about that fateful night, she would have told her son to call her for a ride.

Saburido's story came to Winfrey's attention in part through Hafetz's story, which appeared May 12, 2002, in a special section of the American-Statesman. Winfrey flew Hafetz to Chicago for the taping, although he is not interviewed on the show. He sat in the audience next to Jacqui's father, Amadeo Saburido, and several other people who have been part of Jacqui's post-wreck life and recovery.

The segment begins with a video, some of which was shot in Austin, that includes interviews with rescue and medical personnel who tended to Jacqui. There is also a taped interview with Reggie Stephey and footage of Jacqui and her father at their home in Louisville, Ky. The segment uses some of the still photos of Jacqui that were shot by American-Statesman photographer Rodolfo Gonzalez for Hafetz's story.

This isn't Saburido's first TV appearance. She filmed spots for an ad campaign against drunken driving that aired nationwide last fall and again in July. Hafetz said Jacqui had an especially good time filming her talk-show debut in Chicago.

"We got together the night before the taping, and she was excited about riding around in a limo," Hafetz said. "She had a suite at the Four Seasons and went touring in Chicago after the taping. She's so much fun to be around."

After the accident, Jacqui, now 24, spent several months in a bum unit in Galveston, where she underwent multiple surgeries. She and her father, who is her full-time caretaker, moved to Louisville to be near a team of doctors who are still trying to help her.

Jacqui now has improved vision in her left eye and partial vision in her right eye. She lost most of both hands in the fire, but operations have separated parts of the stumps so she can do more for herself. Amadeo, who left his air-conditioning business in Venezuela to live with his daughter, is relieved to see improvement.

"Taking care of her is his life's work, and he worries about the future," Hafetz said.

Hafetz, who left the American-Statesman in July to pursue free-lance work in New York, is thinking about writing a book about Jacqui. He has stayed in touch with her, talking on the phone with her at least once a month.

"I think Jacqui's in my life to stay, at least I hope so," Hafetz said. "It's moved way beyond reporting - she's a good friend. Being around her naturally changes you. Initially it gives you a dose of reality: Whatever problems you have probably aren't that serious. She goes through depression and struggles, but she genuinely enjoys her life every day. And that infectious joy stays with you."



When Jacquie Saburido visited 'Oprah,' the show flew in David Hafetz, right, who wrote about her for the American-Statesman. The segment uses photos by the Statesman's Rodolfo Gonzalez, left.

Tough seat belt law could have saved 12,000, study says

By DEE-ANN DURBIN
Associated Press

WASHINGTON - A private safety group estimates that more than 12,000 people died from 1995 through 2002 because their states lacked laws that allow police to ticket motorists solely for failing to buckle up.

Twenty states, including Texas, and the District of Columbia have such primary seat belt laws. In 29 other states, police can issue tickets for failure to wear a seat belt only after they stop a motorist for another violation. New Hampshire has no seat belt law.

As a result of the National Safety Council study released today, federal officials are renewing a recommendation first made in 1995 that all states pass primary belt laws.

"It is tragic that 30 states have failed to act to implement this safety countermeasure that costs nothing but could save so many," said Ellen Engleman, head of the National Transportation Safety Board.

The study found that during the eight-year period, seat belt use increased by an average of 15 percentage points in states that had primary seat belt laws. States with primary belt laws had an average use rate of 78 percent, compared with 63 percent in states without such laws.

Researchers then estimated the number of deaths attributed to states' lack of primary seat belt laws. They combined the information on seat belt use with government data that shows belts are 45 percent effective in preventing deaths in cars and 60 percent effective for sport utility vehicles and other light trucks.

Based on the calculations, researchers estimated that 12,178 people died from 1995 through 2002 because states failed to put in place primary seat belt laws; the estimates ranged from 33 in Rhode Island to 1,333 in Florida. Further, researchers predicted 1,400 additional deaths in 2004 should no new primary seat belt laws take effect.

"We have a vaccine for the leading cause of death for Americans ages 2 through 33 -safety belts," said Dr. Jeffrey Runge, the head of the National Highway Traffic Safety Administration and an emergency room physician.

Some opponents of primary belt laws say they could lead to racial profiling, Florida's Senate president, Jim King, says his state does not need the law because Florida has a seat belt use rate of nearly 80 percent under its secondary law.

"For me, this has been and will continue to be an opposition of Big Brother-hood," King said.

Jonathan Adkins, a spokesman for the Governors Highway Safety Association, said his group supports primary belt laws but does not favor focusing too much on seat belts at the expense of speeding and other issues.

"If every state had a primary seat belt law, we would be in better shape than we are now, but we'd still have a long way to go," Adkins said.

The report had some anomalies. Vermont's seat belt use rate was about 85 percent in 2002, eighth highest, even though it has a secondary belt law. Vermont officials credited a new education campaign combined with more visible law enforcement that year.

On the other hand, Louisiana's belt-use rate was less than 70 percent in 2002 despite passage of a primary belt law in 1995. Ben Pressburg of the Louisiana Highway Safety Commission blamed the numbers on men age 18 to 35 who drive pickups without buckling up.

Prosecuting DWIs may get tougher

By Guillermo Contreras

EXPRESS-NEWS STAFF WRITER

Texas' highest criminal court has set the stage for a potentially far-reaching ruling that might make convicting drunken drivers more difficult.

The Texas Court of Criminal Appeals recently affirmed a lower court ruling that tossed out the driving while intoxicated conviction of San Antonio businessman Hossein Bagheri, saying the trial court erred in allowing testimony seeking to show he was drunk more than an hour before he was given a breath test.

Defense lawyers say the 7-2 ruling, which resulted from an appeal filed by the state, means prosecutors now must prove that Intoxilyzer results are reliable, scientific evidence and that extrapolations establishing a defendant's blood-alcohol content earlier, when the person was driving, are valid for the specific defendant.

At the heart of the matter is whether a breath

See **DECISION/4B**

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test -- usually given long after the police stop - accurately shows a person's alcohol content when the person was driving.

The way the state's DWI law is worded, the state must show intoxication at the time of driving, not when the readings were taken, according to St. Mary's University law professor John Schmolesky.

He said that because alcohol gets in the bloodstream slower in some people than others, it's possible a person's alcohol level could be below the legal limit when the person was driving, but be above the limit when the readings are taken.

The ruling is important, defense lawyers say, because it sets the backdrop for a ruling in a separate, highly anticipated case - Stewart vs. State - that could add more fuel to DWI defenses.

George Scharmen, Bagheri's lawyer, said the Nov 5 opinion on its own could affect "every single breath-test case in Texas," including DWI cases involving a death or injury

"(Prosecutors) have to show what the test results would have been at the time of driving," Scharmen said. Breath-test results are "not admissible if they can't scientifically, and in a reliable way, show that."

But Assistant District Attorney Julie Wright, chief of the DWI Task Force in the Bexar County district attorney's office, said the ruling does not rise to that level. District attorneys don't need to change anything in their DWI prosecutions, she said.

"I really don't think it has any importance to anything other than the parties of that case," Wright said. "It doesn't have the 'From now on, you will do this.'"

But some lawyers say common sense dictates that if the same issues arise in future cases, the convictions will be overturned.

"If they continue the same thing they did on the Bagheri case, you're going to get the same ruling by the court," said San Antonio lawyer Robert A. Valdez, whose practice is 90 percent DWI cases.

Professor Schmolesky who is also editor of the State Bar Criminal Digest, said if prosecutors want to use Intoxilyzer readings to show a person was drunk earlier, their expert witnesses will have to know things like a person's height and weight, what time he ate, when he drank, whether he takes prescription medicine, and other variables.

In many cases, police don't get those details, and the high court's ruling could mean prosecutors will have to rely on circumstantial evidence, such as sobriety tests.

"I don't think that it puts (prosecutors) out of business, but it could make the Intoxilyzer evidence useless in a lot of cases, and that's going to make it harder to get DWI convictions," Schmolesky said.

Court records said police stopped Bagheri in the early morning hours of May 5, 1999, because an officer saw him speeding and driving erratically in his Mercedes on a San Antonio interstate. He failed field sobriety tests, but Bagheri testified that other factors, such as fatigue, affected those results.

In a breath test taken more than an hour after he was stopped, Bagheri blew more than 0.10 percent, the legal limit in 1999, and was charged with drunken driving.

During Bagheri's trial, a breath-test supervisor for Bexar County testified that based on test results of 0.107 percent to 0.113 percent, a person may have had an alcohol level between 0.107 and 0.143 one hour earlier.

Bagheri was convicted.

But the 4th Court of Appeals in San Antonio overturned his conviction, saying the supervisor's testimony was only about a hypothetical situation - not specifically about Bagheri -and didn't take into account personal factors.

The high court agreed.

Valdez said the Bagheri case is an indicator of how the Texas Court of Criminal Appeals may rule in the Stewart case.

"I believe this will help them decide the Stewart case favorably (for defendants)," he said.

Schmolesky said the decision in the Stewart case is more likely to say whether "you always have to have ... the scientific stamp of approval."

"We're going to get more clarity when we get the Stewart decision," he said. "In response, you might see a legislative change in the law so it wouldn't require extrapolation, because the change would be that a person is intoxicated if their level exceeds the limit within a certain time of driving."

In the Stewart case, a San Antonio woman was charged with DWI in 1999 after she was administered two breath tests that showed she exceeded the limit. The tests were given about 80 minutes after she was stopped.

Defense attorneys argued that police and prosecutors could not prove, based on the breath tests, how intoxicated she was when she was pulled over.

Both sides already have presented their arguments to the high court: a decision is expected soon.

Justice Department to probe reliability of police body armor",

By CURT ANDERSON

ASSOCIATED PRESS

WASHINGTON - The Justice Department launched an intensive review Tuesday of the reliability of police body armor, which officials say can lose strength over time and put officers' lives in danger.

The initiative will focus on vests made with the bullet-resistant material Zylon, manufactured by Toyobo Co. Ltd. in Japan and used in many types of body armor.

Chuck Canterbury president of the Fraternal Order of Police, wrote Monday to Attorney General John Ashcroft that the company has acknowledged Zylon may lose 20 percent of its strength within just two years. The vests carry a five-year warranty.

Ashcroft said the review is intended to "ensure the reliability of bullet-resistant vests worn by officers as they patrol our streets and keep our communities safe."

Vests have saved an estimated 2,700 officers' lives over 30 years Ashcroft said. FBI statistics also show 324 officers who were wearing body armor have been fatally shot over the past decade, 120 of those in the upper torso that is protected by the vest.

In 2002, one officer was fatally shot through his vest, with a high-powered round from a .30-30 rifle, according to the FBI.

Questions about the vests have led some police executives to warn their officers against wearing them, which Canterbury said actually makes things more dangerous.

If the Justice Department finds Zylon does degrade quickly, the FOP wants the government to stop certifying the vests and force their makers to replace them.

Announcement of the review comes one day after the Massachusetts attorney general filed a lawsuit seeking to stop sale of Zylon-based vests in that state. Other states have launched investigations into the vests.

About 30 companies produce and sell vests containing Zylon. One firm, Second Chance Body Armor Inc. of Central Lake, Mich., recalled its vests and offered police agencies replacement upgrades.

Sens. Patrick Leahy D-Vt., and Ben Nighthorse Campbell, R-Colo., wrote Tuesday to Ashcroft that the review should look at whether any companies knowingly sold defective vests.

"Close doesn't count when the lives of police officers are on the line," Leahy said.

Trucking industry concerned about rules for more safety

The first Sunday of 2004 will be a landmark day for the U.S. trucking industry.

That's the day the U.S. Transportation Department's new hours-of-service rules for truck drivers begin. It's the first major change since the rules were set in 1939.

The effects will be far-reaching: even to consumers. How much they feel the change, however, depends on how well trucking companies and their customers cooperate.

The new rules are meant to provide more rest for truck drivers. Ordered by Congress, the change is the result of concerns, a worthy goal given the thousands of accidents that occur yearly.

The change actually increases the amount of allowed driving time per day from 10 hours to 11. Daily driving times are expected to fall, though, because the required daily rest periods will rise to 14 hours instead of 10.

Truck drivers usually begin their day with a truck inspection. At that point, under the new rules effective Jan. 4, a 14-hour duty clock begins.

If the driver puts in 11 hours of driving that day, that leaves only three hours for loading and unloading, eating, breaks, fueling and talking with dispatchers.

The duty clock, in effect, does not stop. When the 14 hours are up, the driver must take a rest.

Until Jan. 4, drivers can work 15 hours on duty - 10 of that driving - before taking an eight-hour rest.

The new rules put a big squeeze on drivers' schedules, and industry leaders are predicting loss of productivity, the need to hire more truck drivers at a time in which a driver shortage already is critical, and higher costs that will be passed on to the shipping companies.

Bee Trucking Inc. in San Antonio already is discussing the changes with its customers to better coordinate loading and deliveries. That could reduce the effect of the new rules.

"Customers with poorly planned or inefficient dock procedures will clearly affect the available hours for our drivers to actually drive," states a letter Bee Trucking recently sent to customers.

"Every excessive hour spent waiting is one less hour for driving. "Bee Trucking will obviously be more aware of customers that require significant time for loading and unloading," the letter adds.

"We will be reaching out to these businesses to discuss ways to improve our drivers' time at their docks. Failing that, compensation for our lost productivity, such as detention charges, may be inevitable."

Bee Trucking President Rick Staller said the companies are studying the new rules.

"We're looking at our customers individually, and we will take this almost trip by trip. We are all trying to be prepared," he said.

Bee Trucking is suggesting shipping companies make sure dock staffers are trained accordingly, available to sign documents and ready to load and unload equipment promptly.

Drivers exceeding the hours-of-service rules may be placed out of service until they accumulate enough rest time. Drivers out of compliance and carriers may be fined \$550 to \$11,000 per violation, depending on the severity of the violation. Criminal penalties also are possible for willful violations.

Some trucking companies already have performed internal studies of the new rules by applying them to daily logs of their drivers. Productivity losses of up to 20 percent are being estimated.

The trucking services most likely to be affected by the new rules are multi-stop loads and just-in-time freight.

If productivity is lost, new drivers must be hired, and Staller said Bee Trucking already is trying to hire additional drivers. A study by FTR Associates states that 180,000 extra drivers are needed next year in the trucking industry.

Bee Trucking, a 25-year-old company with 140 drivers, may not like some of the consequences, but it understands the need for the new rules.

"No one wants tired drivers on the road," Bee Trucking's letter to customers states. "Drivers can become fatigued after excessive hours of 'on duty' time, which includes not only driving but also the time spent waiting for freight to be loaded or unloaded."

The greater the awareness of the new rules by shipping companies, the better the new rules will work as intended. Although somewhat higher costs may trickle down to consumers, the roads might be safer.

See HENDRICKS/6E



DAVID
HENDRICKS

Elementary, Watson: Scan, a Palm, Find a Clue

By SHAILA K. DEWAN

For more than a century, the fingerprint has been the quintessential piece of crime scene evidence. But fingerprints are only a tiny part of the story. All of a person's "friction ridged skin" is distinctively patterned: soles, palms and even the writer's palm, as the outer side of the hand is called.

Surveys of law enforcement agencies indicate that at least 30 percent of the prints lifted from crime scenes - from knife hilts, gun grips, steering wheels and window panes - are of palms, not fingers.

That is why in April, the New York Police Department began having prisoners place their whole hand, not just their fingertips, on the glass platen of a scanner when their prints are captured. Beginning next month, the department will be able to do computerized matches of the 100,000 palm prints it has already collected. As the database grows, it will become one of the largest of its kind.

The cost of image storage and computerized matching equipment once limited database entries to fingertips. But technological advances have enabled law enforcement agencies across the country - about 30 so far, based on information provided by companies that sell the systems - to build their own palm databases. The Los Angeles metropolitan area began using one last month. Miami, Palm Beach, Philadelphia and Indianapolis have created databases this year. And Harris County, Tex., which includes Houston, has a database in the works.

Using palm prints for identification concerns some defense lawyers, who point out that the reliability of fingerprint matching has come into question in the courts in recent years, and that there is even less data available on palm prints. But proponents of using palm prints note that none of the dozens of fingerprint challenges have succeeded. There is as yet no national repository for palm prints, but the Federal Bureau of Investigation, is currently assessing three system's, including one by Sagem Morpho, the biometrics company based in Tacoma, Wash., that designed New York's database and scanners.

Police departments have long taken palm prints with ink, either routinely or case by case. But computerized databases are expected to, exponentially increase the number of matches, as they did with fingerprints. Since 1999, when the F.B.I. computerized its fingerprint database, its crime lab has matched about 1,200 crime scene prints, more than five times the number found in 15 years of laborious manual matching, said Stephen Meagher, the head of the lab's latent print operation.

Though statistics on palm data are hard to come by, the law enforcement agencies using palm databases have reported good results, said Steven Nash, the chairman of the International Association for Identification, adding that many detectives have run prints from older cases.

One city that has kept a count is Indianapolis, which has come up with a match in 15 percent of its palm searches, according to statistics provided by Identix, the company that created the system. That is not as high as the 31-percent success rate for the city's fingerprint database. But there are only 16,000 palms in the system thus far, compared to 300,000 fingerprint records.

Investigators are hopeful that the palm technology will help solve more property crimes, many of which depend on fingerprints for resolution. Property crimes nationally are solved at a much lower rate than violent crimes - 16.5 percent compared to 46.8 percent, according to F.B.I. statistics. "It's worth every cent, and especially the victims are going to think that," said Sgt. Donna Wright, an investigator for the Palm Beach County Sheriff's Office who has gotten two hits so far from running palm prints on burglaries. "A burglar goes out and probably commits 300 or 400 crimes a year."

Police Commissioner Raymond W. Kelly of New York said through a spokesman: "This is cutting edge technology that gives our detectives another powerful tool to help solve crimes."

At the police academy in Manhattan last week, Officer Maximilian Velazquez stood by a row of new ILS2 palm scanners, each one about the size of a video arcade machine. The department has 83 of what will eventually be 140 scanners - at least one for every precinct, courthouse, transit and housing bureau. When officers book an arrest, the machine prompts them through the print collection process. Fingers, thumbs and palms are positioned on the glass in sequence, as the print images appear, much magnified, on the screen.

The best thing about the new machines, said Officer Velazquez, a coordinator in the computer training unit, is that it rejects faulty prints, gently scolding with messages like "finger rolled too slowly" or "finger shifted vertically."

Just as with the old scanners, each set of prints is transmitted directly to the department's database, where the computer brings up possible matches and a fingerprint examiner at police headquarters makes the final determination as to whether it is a hit. With the new database, examiners could conceivably make a match from a fraction of a palm print smaller than a dime.

While a few departments have had palm print database for several years, New York will be one of the first to have a system that uses live, or inkless, scanners that feed directly into the database, said James E. Simon, the head of the N.Y.P.D.'s Central Records Division, (The department has used live scanners for fingers since 1997.)

While the scanners offer images of astonishing resolution, significant chunks of the fingerprint record keeping system seem stuck in the dark ages. For instance, the city scans in fingerprints and transmits them to the state, which then makes hard copies and mails them to the F.B.I., which rescans them into the national database. When three people were murdered in an apartment over the Carnegie Deli in Manhattan in 2001, the police ran a check on one suspect and learned that he had been arrested in Georgia. The palm print card from that arrest was carried to New York by a special courier, said Barbara Thompson, a spokeswoman for the Manhattan district attorney, Robert M. Morgenthau. The card matched a palm print found on duct tape used to bind the victims.

The palm database is part of an upgrade to the New York police department's print archive, including the digitization of 2 million ink fingerprint cards dating back to 1981, which were not searchable by suspect or arrest number. The database project will cost \$5.9 million over the next five years, Mr. Simon said. The 140 new scanners will cost an additional \$5.8 million.

Why undertake a project like this when DNA profiling is advancing so quickly? "DNA is subject to destruction," Mr. Simon said, adding that 340 World Trade Center victims were first identified by fingerprints, and 50 of them remain identified only by fingerprints.

Some defense lawyers raise the same objections to palm print identifications as they have to fingerprints "The criminal courtroom is no place to experiment with a scientific method that may incriminate someone," said Steven D. Benjamin, the co-chairman of the forensic evidence committee of the National Association of Criminal Defense Lawyers.

But even if the scientific basis of palm matching is questioned, Edward J. Imwinkelried, an evidence expert and professor at the School of Law at the University of California at Davis, said that judges will most likely still admit it as "nonscientific expertise," just as they have sometimes done with fingerprints.

Mr. Meagher, of the F.B.I. crime lab, said that the scientific underpinnings of palm print identification are the same as those of fingerprint identification, and he does not expect either to be successfully challenged. "It wouldn't surprise me if four or five years from now we were having the same conversation about adding footprints" to the database, he said.

Finding a Match With More Than a Thumb

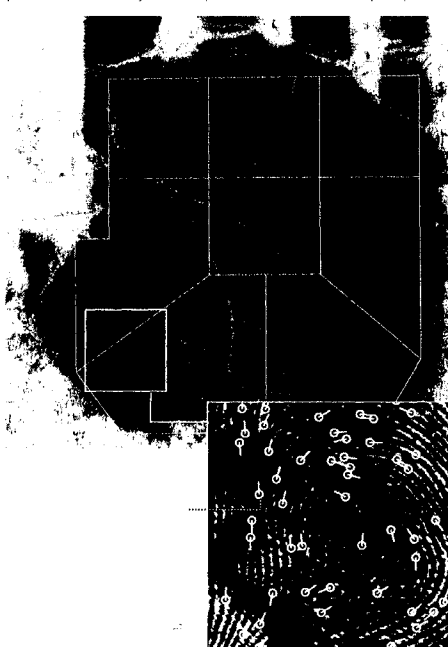
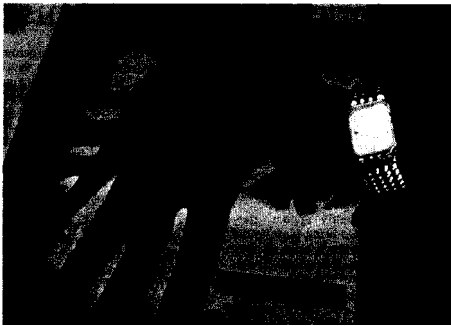
A palm print taken from a crime scene is scanned into a computer. Using features in any of eight sections of the palm, the computer compares the print to a New York City Police Department database of other claim prints.

The computer marks the origin and direction of the grooves, and finds possible matches. A Police Department examiner then compares the prints that match most closely to determine if one of them is from the same hand.

Source: N. Y. P. D. Central Records Division

The New York Times

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In boxes, of rolls, lots of dough

Troopers find about
\$6 million during
routine stop of truck

Associated Press

CORPUS CHRISTI-- Boxes of heat-and-serve dinner rolls being hauled in an 18-wheeler turned out a different kind of dough for state troopers making a routine traffic stop in South Texas.

After checking the driver's paperwork, the Department of Public Safety troopers inspected the cargo area and discovered 11 boxes filled with packaged money estimated at \$6 million.

"We haven't gotten an official count yet," DPS Capt. David Doyle told the *Corpus Christi Caller-Times*. "They are doing a hand count."

Capt. Doyle said each package was marked with the amount it contained, and the amount seems to correspond with what troopers have counted so far.

Officials are withholding the name of the truck driver because the investigation is ongoing and because they fear the man's life or the lives of his relatives could be in danger, Capt. Doyle said.

The 18-wheeler was pulled over Wednesday about 11 miles north of Alice on U.S. Highway 181. The two troopers who conducted the stop specialize in commercial vehicle safety inspections and pulled the truck over for an inspection, Capt. Doyle said.

"They interviewed the driver, and the paperwork and whatnot didn't add up," he said. "This truck wasn't where it should have been and doing what it should have been doing." Troopers had to unload the cargo, remove the money and, reload the dinner rolls, a process, that took more than six hours, with help from Alice Police Department officers and deputies from the Jim Wells County Sheriffs Department.

The money was taken to the DPS office in Austin.

CONROE AAS Plane crash kills two

Two people were killed when one of two airplanes practicing dogfighting maneuvers crashed just west of Lake Conroe on Wednesday, the Federal Aviation Administration said.

FAA spokesman John Clabes said the second T-34 aircraft returned to the ground safely after the 10:20 a.m. crash.

The airplanes are owned by Texas Air Aces, Inc., a private Houston organization that employs former combat pilots who teach aerobatics, formation flight and dogfighting. The business also sells rides on mock combat flights.

A man who answered the phone at Texas Air Aces confirmed the two planes were affiliated with the organization but declined to comment or identify himself.

Witnesses told Texas Department of Public Safety troopers that the two airplanes were doing dogfight maneuvers over the lake when the wing of the plane that crashed appeared to fall off or be clipped, and it crashed in a pasture, according to Trooper Bob Kerns in Montgomery County.

Further details were not immediately available as troopers continued investigating the crash. Clabes said investigators from the FAA and the National Transportation Safety Board were en route.



BrettCoomer

DPS trooper under investigation

A state trooper acted inappropriately and violated policy by watching a DVD movie in a patrol car while on duty outside the Capitol, Texas Department of Public Safety officials said Friday.

"All Capitol troopers have ... been reminded they must maintain a high level of vigilance," the agency said in a statement.

Video shot Thursday by Austin TV station KXAN shows trooper Cynthia Salinas with a portable DVD player in her patrol car. The trooper was watching a movie while in the driver's seat with all four doors closed.

A DPS supervisor originally said that as long as the trooper was paying attention to her job, she also could view a movie.

But the agency's statement issued Friday said the action violated policy.

Salinas, a state trooper since July 2002, remains on duty, and no disciplinary action has been taken against her, said DPS spokesman Tom Vinger.

"But the matter is still being looked into," Vinger said.

1 set of remains found in attic was baby boy

Officials are still uncertain how long the 3 infants discovered in Brownwood home have been dead.

SAEN, 11-19-03,

ASSOCIATED PRESS

BROWNWOOD - One of three babies whose remains were found in the attic of a rural Brown County home was a boy, but it's unclear how long the infants have been dead, authorities said.

Dr. Harrell Gill-King, forensic anthropologist at the University of North Texas in Denton, released a preliminary report Friday indicating that the remains could be up to 30 years old, according to the Travis County medical examiner's office.

But Brown County sheriff's investigator Scott Martin said Tuesday that Gill-King said he did not report that the bodies were three decades old.

Gill-King declined to comment Tuesday, referring questions to Brown County authorities.

A couple found the bodies in a trash bag in an upstairs crawl space Oct. 23 while renovating their house, which they bought in 2000.

One of the infants' remains was mummified, while the other two infants were "largely skeletal" and appear to be older, said Dr. Robert Bayardo, chief medical examiner at the Travis County medical examiner's office.

Bayardo also said the infants were in different stages of decomposition but were the same size, indicating all were born full-term.

The home near Bangs was built in 1987.

Investigators have questioned about two dozen people, including the previous homeowners and some of their children, Sgt. Nick Hanna of the Texas Rangers said Tuesday. Some have agreed to submit DNA samples, he said.

Officials have said DNA testing on the babies' remains will take six to eight weeks.

"We'd like to clear this up tomorrow if possible. This is not possible," Hanna said. "These babies have been dead for a while - at least several years, maybe a few decades."

Making a difficult call

11-16-03

Police don't want to over-use system when a parent takes a child

by TERRILANGFORD
Staff Writer

Nearly two days after Chuck Wood used a stun gun on his estranged wife and took his 7-month-old son, police say, an Amber Alert was issued, notifying police nationwide that a child had been abducted and was in danger. But it wasn't the reported use of a weapon, Mr. Chuck Wood's run-ins with police or the protective order barring him from the family's Grand Prairie home that cleared the way for Braeden Wood's picture to be transmitted using the Amber Alert system. Not even a police officer's testimony that Mr. Wood was a "danger" put Braeden into the Amber Alert category. Instead, it was Mr. Wood's defiance, relayed through an attorney, that prompted Monday's Amber Alert. "He would rather die than give up the child," Grand Prairie police Detective John Brimmer recalled.

The case of Braeden Thomas Wood - missing since Nov. 8 - raises a thorny issue surrounding the Amber Alert system. When dealing with warring and divorcing couples, law enforcement officials say, it's difficult to decide which abduction cases qualify for Amber Alerts and which do not.

It should be used if law enforcement is convinced that the life of the child is in danger," Detective Brimmer said.

How to determine that is hardly a science.

In 2002, Gov. Rick Perry launched the Texas Amber Alert Network, based on the plan established in Arlington after the 1996 abduction and slaying of 9-year-old Amber Hagerman. That case remains unsolved. The program calls on radio and television stations to immediately alert the public when a child has been kidnapped and is in danger.

While most abductors are not strangers, Amber Alert criteria urge law enforcement officials to avoid using it everytime an estranged parent takes a child from his or her spouse.

"The toughest thing in law enforcement, I've said for years, is to stand on the porch of a missing child and tell the parents your case doesn't meet the criteria for us to activate the plan," said Tarrant County Sheriff Dee Anderson, one of the Amber Alert program's chief architects.

It doesn't help that a glance at www.beyondmissing.com, where Amber Alerts for missing children nationwide are listed, shows many cases in which a warring spouse or ex-spouse took a child from the parent who has custody.

"I think the rules on the Amber Alert need to be carefully looked at," said Tricia Wood, who has yet to hear from her husband, Charles Leon "Chuck" Wood.

On Nov. 8, police say, her 37-year-old husband came through an unlocked back door, stun gun in hand, and demanded to know where Braeden was.

"The police knew exactly who they were looking for," Mrs. Wood said. "I don't want to criticize them, but I really wish the criteria could be changed. When it's your child, it's your child."

She said she is grateful to Grand Prairie police for their help so far. It's just hard, she said, when your own child is missing to be told he doesn't qualify.

Judge's questions

A judge also questions the Amber Alert decision-making process. "It shouldn't matter if they're related to one another. If the protective order is in place, the Amber Alert can be issued," said state District Judge Susan Rankin, who oversees divorce and custody disputes, including the Woods' divorce.

A permanent protective order is issued only if a family judge considers the child's life to be at risk. Such an order should make a child eligible for an Amber Alert, she said. "We don't take a lighthearted approach to keeping parents from their child," said Judge Rankin, whose court, through an associate judge, issued the protective order in the Wood case on Oct. 10.

Even Mr. Wood's former attorney, Charles Rich, worries that precious moments may have been lost because of the delay in putting Braeden's name on the Amber Alert list.

"Chuck had 36 hours with nothing to stop him," Mr. Rich said. "If they [police] had issued the Amber Alert Saturday night and his cellphone was still on, imagine how many of his friends and colleagues could have talked to him and at least find out what was going on."

But police officers worry that if they issued Amber Alerts for all missing children with protective orders, the success of the Amber Alert system would be compromised. Simply put, there are too many feuding parents who abduct their own children.

"Everyone thinks that the minute a child is missing now, that the [Amber] plan should be activated, no matter what," Sheriff Anderson said. "And that's just not how it was designed. It is designed for the most serious child-abduction situations."

In most cases, police say, parents who take their children from estranged spouses do not intend to hurt the children.

"If it's a parent wanting to get his child back or her child back, that's usually not to do the child harm. It's because they love that child and they feel like that child should be with him," Detective Brimmer said.

Stormy history

In June, sixteen months into the marriage, Mrs. Wood filed for divorce. Court testimony and police reports detail a series of physical confrontations between the two, including some that resulted in police calls to the couple's Grand Prairie home.

In court documents, Mrs. Wood said her husband was so threatening that her two children by a previous marriage were frightened of him, forcing her to ask her ex-husband to take custody of their children early for the summer.

In a hearing in August on Mrs. Wood's application for the protective order, Grand Prairie police Officer Peggy Jane Carr, one of several officers familiar with the Woods' problems, was asked by Mrs. Wood's attorney, Randall Antonson, if Mr. Wood posed a threat.

Officer Carr answered yes.

Despite the acrimony, Grand Prairie police said they believe Braeden will be returned safely. Authorities are hoping that Mr. Wood, who was fired from his job as a charter pilot for inconsistencies on company credit cards a week before the abduction, may have felt pressured by the divorce, the protective order and the loss of his job.

Heavy fog in Hill Country blamed for 2 wrecks, 5 dead

11-17-03

Car, big rig crash 12 miles apart on Interstate 10.

BY ZEKE MACCORMACK

EXPRESS NEWS STAFF WRITER

KERRVILLE -- Dense fog in the Hill Country proved deadly Sunday morning as five motorists perished in two wrecks just 12 miles apart on Interstate 10-

Three El Paso men died about 4:30 a.m. when their Chrysler sedan hit a sign stanchion on I-10 in Comfort as they drove home from boxing bouts in San Antonio.

Poor visibility, excessive speed and wet roads were cited by the Department of Public Safety as factors in that crash, which killed driver Christopher Frietsch, 22, and passengers Ricardo Lujan, 34, and Anil K. Sbarsat, 27.

Heavy fog also was blamed for a 7:40 a.m. accident in Kerr County that killed two Florida men whose big rig plunged into a ravine and flipped

See **TWO/513**

JOHN DAVENPORT/STAFF

Gary McClung of Midway Wrecker Service in Kerrville walks past a big rig that plunged off of Interstate 10 and landed on a steep slope. The two men in the truck died Sunday morning.



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Two wrecks kill 5 in morning fog

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several times.

Frank L. Fernandez, 30, was at the wheel of the rig hauling vegetables when it grazed a truck parked on the 1-10 shoulder.

Fernandez and Pedro Guellmes, 41, both of Hialeah, Fla., were pronounced dead at the scene near the 514 mile marker

Low-lying clouds clung to the hills above Kerrville at noon as two wreckers slowly coaxed the rig's battered remnants up the rocky hillside littered with peppers, ginger, shards of fiberglass, and pools of oil and blood.

"It's been a while since we've had two multi-fatal accidents in two locations," said DPS Sgt. John Stafford, peering over the grim scene.

A dense fog advisory by the National Weather Service covered a swath of the region early Sunday, stretching from Burnet to Uvalde. After 1 a.m., visibility on I-10 was described as a few hundred feet.

Comfort resident Patricia Espinoza counted herself lucky to get home safely from a wedding in Fredericksburg about that time.

"I was seared," Espinoza, 17, recalled Sunday afternoon. "It was extremely foggy. I couldn't even see the little lines on the road. "

Sgt. Stafford said trucker Moises Diaz of Florida had legally parked on the shoulder of 1-10, and activated his truck's emergency flashers, just 10 minutes before being hit by Fernandez's truck.

"He parked there because he couldn't see because of the fog, and the rest area was full," Stafford said of Diaz. "Visibility was almost zero."

Officials theorized that the front right wheel of the doomed truck was punctured - sending it out of control -as it scraped along the length of Diaz's parked truck.

Because of the thick fog, the accident scene in Comfort wasn't located until 7 a.m. A Kendall County deputy answered the initial 911 call from someone who heard the crash at 4:29 a.m., officials said.

Todd Setliff, with the Department of Public Safety, said the delay likely didn't affect the chances of survival for the three men.

"They appeared to have died on impact," Setliff said.

The car failed to negotiate a left curve on 1-10, skidded into the median and hit the steel beam just 26 feet off the road at the 523 mile marker

Setliff said the men apparently attended Saturday's professional boxing matches at the Alamodome. The mother of one victim described her son as a big boxing fan, he said, and boxing paraphernalia - including posters - were discovered at the crash site.

Boerne resident Bill Bates was stunned by the sight of the crash in Comfort he passed about 7:30 a.m.

"It cut the car completely in two," said Bates, 49.

METROPOLITAN

2 judges testify in fake drug trial

They say arrests in false
cocaine bust hinged
on word of detective

11 - 2 1 -03

By **MATT STILES**
and **ROBERT THARP**
StaffWriters

Two judges testified Thursday that they would not have signed arrest warrants for three men charged after bogus cocaine busts in 2001 without the word of former Dallas police Detective Mark Delapaz.

The Dallas County judges told jurors in Mr. Delapaz's federal criminal trial that the statements by police informants involved in the cases would not have been enough probable cause to make arrests.

U.S. prosecutors rested their case against Mr. Delapaz on Thursday, setting the stage for his defense team to begin calling witnesses.

The two magistrates said they signed arrest warrants based on Mr. Delapaz's statements in police reports that he saw the drug transactions or that he and other officers were working in an "undercover capacity."

"If that had not been in there, I would not have signed the arrest warrant," testified Janice Henshaw, a local lawyer and part-time magistrate at the Dallas County jail.

Mr. Delapaz, a 13-year police veteran, is charged with lying in police reports and to prosecutors about whether he saw the drug transactions in some of the 2001 drug cases in which seized cocaine turned out to be billiards chalk. Prosecutors argue that his statements violated the civil rights of the arrested people by sending them to jail.

He also is charged with lying to the FBI last summer during a three hour interview as part of the federal investigation into the cases. Mr.

Delapaz faces 10 years in prison if convicted. Several informants employed by the Dallas police narcotics investigators have testified that they duped Mr. Delapaz into believing that the drug transactions had happened and that the cocaine was real.

From April to September 2001, at least 24 Dallas arrests involved the fake cocaine and methamphetamine. At least 80 cases involving Mr. Delapaz and the informants were dismissed as a precaution.

Dallas police narcotics Detective Larry Moses, the first witness for the defense, testified primarily about Mr. Delapaz's reputation. Officer Moses told jurors that he has known Mr. Delapaz about eight years and considers him honest.

Under cross-examination, prosecutors asked Officer Moses his opinion of a police officer who would lie in a police report and send innocent people to jail. Officer Moses replied that he refused to believe that his friend was capable of that unless he was mistaken.

I know Mark Delapaz," he said. "I would never think he would do something like that."

Prosecutors also questioned why Mr. Delapaz wrote in arrest reports that Officer Moses was present in an "undercover capacity" during two of the questionable arrests when he was not. Officer Moses replied that he helped out on the cases but was not at the scene and that his name was likely included as being present because of the computerized format used in compiling the reports.

E-mail mstiles@dallasnews.com and rtharp@dallasnews.com

2 burglary suspects tracked down after they fail to turn off cellphone

DMN 11-22-03

Associated Press

WICHITA FALLS -When authorities dialed the number of a stolen cellphone this week, two burglary suspects answered, then apparently didn't know how to turn the phone off.

The open cell line allowed an Oklahoma deputy sheriff to listen in as the pair, according to officials, plotted other crimes. It gave law enforcement an inadvertent global positioning system that helped track the suspects to the Texas Panhandle - where they were arrested.

Jefferson County, Okla., assistant District Attorney Dennis Gay identified the men Thursday as Scott Lee Maddox, 19, of Douglasville, Ga., and Chris Baker, 20, whose address was unknown. Both men face three counts of aggravated robbery.

After a pickup, a four-wheeler, a rifle, DVD player and a cellphone were stolen Tuesday from two houses near Ringling, Okla., Deputy Sheriff Clint Smith dialed the phone number. The suspects answered and taunted the deputy but apparently didn't know how to operate a cellphone, Mr. Gay said. That meant Deputy Sheriff Smith was able to listen as the two men drove into Texas toward Wichita Falls, all the while discussing plans to rob other houses and possibly shoot a Texas Department of Public trooper who was behind them, Mr. Gay said.

Getting clues from what the men talked about, Deputy Smith contacted police departments in Texas, Mr. Gay said. A description of the men was obtained after the suspects left a Vernon gas station without paying.

According to the Amarillo Police Department, the two men, were arrested Wednesday night on Interstate 40 after an officer noticed a vehicle matching a description circulated by DPS.

Man guilty in 1982 killing of clerk

By RON NISSIMOV
Houston Chronicle

DNA tests only link to crime

In March 2001, prison authorities collected some of Glenn Thomas Prince's DNA as a condition of his pending parole later that year.

Instead, officials in October 2001 used Prince's DNA to charge him with capital murder for the brutal killing of a convenience store clerk in Pasadena that occurred almost 20 years before.

On Friday, a Harris County jury convicted Prince of killing Cao Thanh Nguyen, 22, on March 13, 1982, at what was then a U-Tote-M store at 402 S. Richey.

Prince, 41, was given an automatic life sentence by state District Judge Mike Anderson. He will be eligible for parole in 40 years.

"He was brutally slain, Harris County prosecutor Renee Magee said of Nguyen. "His throat was slit, he was stabbed numerous times and his chest was stomped on to the point that his heart was ruptured."

Magee said Prince apparently stole between \$30 and \$60.

Harris County District Attorney Chuck Rosenthal said he and his staff did not seek the death penalty against Prince because the only evidence linking him to the killing was his DNA. The convenience store did not have a surveillance video camera, and there were no witnesses.

"We felt it would be a very difficult case to prove," Rosenthal said, "Generally, in situations where the facts of guilt or innocence are tentative, we're not all that prone to move for seeking the death penalty."

Jurors deliberated for about two hours before returning the verdict in the one-week trial, Magee said.

Pasadena police found drops of blood on Nguyen's body and the floor of the store that did not belong to the victim. The drops were later analyzed by the Texas Department of Public Safety in Austin to create a DNA profile, which was then submitted to a DNA database. Magee said the Pasadena police department regularly contracts with DPS to test DNA.

Prince was scheduled to be paroled in December 2001 from the Texas Department of Criminal Justice's Smith Unit in Lamesa, in West Texas. He was serving a 10-year sentence for three charges of aggravated robbery with a deadly weapon and one charge each of indecent exposure and theft.

Because of the indecent exposure conviction, Prince was a registered sex offender and was required to submit a DNA sample before going on parole, Magee said. His DNA profile was submitted to the database in August 2001, and three days later he was linked to the 1982 murder.

Prince's defense attorney, Jim Leitner, told jurors that even if the blood spots belonged to his client, prosecutors had failed to show he committed the killing or the robbery. He questioned the accuracy of DNA tests in general in the wake of problems processing such evidence at the Houston Police Department and, to a lesser degree, DPS.

Jurors were allowed to hear about two of Prince's aggravated robbery convictions from 1992 in which he used a knife and a crowbar to threaten clerks at other stores.



Prince

Another ex-JP in La Salle is probed

He admits taking
money and says he
intended to pay it back.

SAEN, 11-20-03

By **JESSE BOGAN**

EXPRESS-NEWS BORDER BUREAU

COTULLA - A former La Salle County justice of the peace is keeping a tradition alive in his precinct - being investigated for alleged theft of funds while in office.

Three justices of the peace and two administrative assistants have been charged with money-related crimes since 1996. At least two other justices of the peace were charged in the 1970s and '80s.

All but one incident came from the Precinct No. 1 judge's office, which accepts cash, cashier's checks, money orders and credit cards for paying fines, many of them from speeding tickets written along Interstate 35.

"It seems to be like a legacy" La Salle County Judge Joel Rodriguez Jr. said.

"It seems that in almost every situation the person that stole intended to pay back, but as time kept going on they are unable to do so. Meaning, they are borrowing from the kitty," he said. "They get deeper and deeper and deeper, and there's no way to get out of it."

The latest from Precinct No. 1 to be arrested is Jos6 "Chepo" Yanez, who admitted taking money and said he intended to pay it back. He was charged Oct. 2 with theft between \$5,000 and \$20,000 and is out on bond.

A LaSalle County 'grand jury last week deferred a decision on the case until an audit determines the amount of missing money officials said. ,

"I went through a lot of financial hardships," Yanez said Monday at an auto repair shop here. "I've ' never done this before. I am sorry this happened. It's not something I did intentionally because I had a habit of doing this - it's something that happened."

After serving as justice for nearly four years, he resigned in October when questioned about missing entries for a stack of traffic tickets, most, of which were paid in cash to Texas' Department of Public Safety troopers, Sheriff Jerry Patterson said.

Yanez, sometimes would pick them up from DPS officials without reporting them, but DPS also kept a record, and the amounts reported "just didn't match," Patterson said. '

Records are being checked to see if warrants 'were issued against a paid traffic ticket -something we are hoping won't happen," he said.

Texas Ranger 'Doyle Holdridge, who's leading the investigation, said Yanez admitted taking \$8,000 to \$10,000.

"I've known the guy probably 15 Years," Holdridge said, adding Yanez was a La Salle County sheriffs deputy before being elected judge. "In fact, he was a friend of mine."

District Attorney Lynn Ellison also was a bit stunned by the arrest

"He's really a nice guy," Ellison said. "I think that everybody that knew him is just kind of shocked. You just kind of go, 'Duuuhh.'"

Prosecution decisions will depend on the audit, but Yanez could make a "good faith showing" by making restitution payments now, because "La Salle County is really hurting for cash," Ellison said.

According to court records:

*Justice of the Peace Mabry L. Chiles was convicted in 1979 for official misconduct and misapplication of government property.

* Justice of the Peace Pilar Martinez Jr. pleaded guilty to official misconduct in 1986.

* Justice of the Peace William Peters pleaded guilty to aggravated perjury in 1996. His assistant, Violeta Gonzalez, pleaded guilty to theft by a public servant.

*Elda Bustamante, an administrative assistant in the same office, entered a pretrial diversion program in 1998 for misdemeanor theft.

* Precinct No. 3 Justice of the Peace Luis Linares pleaded guilty in 1998 to theft of between \$5,000 and \$20,000.

All the cases involved money and all the sentences required probation and payment of restitution, but no jail time.

"It shouldn't have happened at all," County Treasurer Marissa Mancha said. "And once it happened a first time, it shouldn't have happened again."

Rodriguez, the county judge, said he's going to ask his commissioners if they will appropriate funds for a county auditor, which is not required because the county's population is less than 10,000.

"It's not that we are letting it happen," he said. "We are addressing it, but I guess another method opened up."

jbogan@express-news.net