



THE TEXAS PROSECUTOR

The Official Journal of the

Texas District & County Attorneys Association

Volume 35, Number 6 • November/December 2005

“It shall be the primary duty of all prosecuting attorneys ... not to convict, but to see that justice is done.”
Art. 2.01 Texas Code of Criminal Procedure

The senseless starvation of a little boy and the trial of his grandmother

The story of an injury to a child case that caused an uproar in San Antonio and the Texas legislature

By *Chris DeMartino*

Assistant Criminal District Attorney in Bexar County

On Christmas Eve, 2003 in San Antonio, a 4-year-old boy named Jovonie Ochoa lay in bed at his grandmother's house while other family members celebrated the holiday season with food, gifts, and good cheer. Unlike most children, he did not have fanciful dreams of opening Christmas presents or playing games with his sisters and cousins. For Jovonie Ochoa, Christmas Day would not arrive. He would not survive the night.

At about 4 o'clock Christmas morning, emergency medical responders received a dispatch call for a boy in cardiac arrest. When the responders arrived at the house of the boy's grandmother, Maria Palacios, they saw that Jovonie Ochoa showed no signs of life. Beyond the fact that he was not breath-



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ing, the emergency medical technicians cast their gaze on a boy who was so emaciated that EMT Craig Allen described him as a "skeleton with skin," not "human like." EMT David Waterson testified that Jovonie looked like "individuals who were in concentration camps ... during World War II."

Once Jovonie was brought to the emergency room at a local hospital, several nurses were so disturbed by his skeletal appearance that they wept in grief over this little boy. When EMT Allen asked Maria Palacios for the name of the unconscious boy laying on her living room floor, she responded, "I don't know," so the little boy was listed as John Doe on the EMS report.

At the time of his death, 4-year-old Jovonie Ochoa weighed approximately

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Child abuse prosecutors get extra help from a new website.....page 24

Excerpts from two new TDCAA books: *Mental Defenses* and *Prosecutorial Ethics*.....pages 26 and 30



PLEASE READ THIS!

Everything you need to know about TDCAA's Annual Criminal & Civil Law Update in September, which was shortened by a threatening Hurricane Rita and a mandatory evacuation order, is on page 8. We've listed our policies for refunds, reimbursement, CLE, and other training opportunities.

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I hear a new story everyday. There's the one about the prosecutor with 13 family members from Louisiana living with her. And I talked to one of the secretaries whose church is feeding 320 people everyday; another secretary's church is taking care of 164 people with no home. Then I drive through Houston and my neighborhood and I see all of the Louisiana license plates. You can tell those from Louisiana when they're driving around: They're the ones in front of you driving 20 mph, and when you get close enough you see the Louisiana license plate and the folks inside trying to make sense out of a map. I give them a thumbs up as I pull around them.

When I'm driving home everything looks the same, a bit more crowded maybe, and then I notice the people walking and the wristbands, which are worn by evacuees in the Astrodome, Reliant Center, and the Convention Center. If it weren't for the wristbands, you wouldn't know something was different. They are just like everyone else and could be my friend, my neighbor, or my relative. I take a deep breath as I drive up in my driveway, walk into my house, and sleep in my bed. I think about the people I work with and their amazing generosity and know they don't mind that annoying lady at the office with her hand out.

Things slowly get back to normal, and I listen to the radio while I'm working and hear a news brief about another hurricane brewing and wonder what will happen.



CRIMINAL LAW

By *Barbara J. Elias-Perciful*
Director of Texas Lawyers for Children

Texas Lawyers for Children

A valuable research and collaboration website is free to government attorneys

District and county attorneys across the state now have a new way to bring thousands of hours of research to their desktops instantly. Texas Lawyers for Children (TLC) offers a comprehensive, Internet-based online legal research center and collaboration tools designed for Texas judges and attorneys handling child abuse and neglect cases. Materials for the TLC website are gathered from outstanding practitioners statewide on an ongoing basis. TLC is pleased to announce that all government attorneys in Texas are eligible to receive a free annual subscription to the website if they subscribe in 2005.

The TLC website, www.TexasLawyersforChildren.org, features an online legal resource center and collaboration tools specifically targeting issues arising in child abuse and neglect cases. The resource center provides hundreds of case summaries linked to the cases' full text, a brief bank, more than 200

legal forms (downloadable in Word format for easy editing), articles, manuals, medical and psychological references, practice tips, a conference calendar, links to Texas statutes, and much more. To make the site quick and easy to use, all information is organized by topical coding; Subscribers select a particular topic to find the correct point of law with-

out having to wade through irrelevant information. The TLC online legal resource center currently covers more than 600 topics and subtopics relating to child abuse and neglect. Subscribers, however, are not limited to what is currently available on the website and may suggest additional topics for research. The resource center also focuses on bringing new developments in the law to subscribers' attention quickly. Online now are Sampson & Tindall's *Legislative Update* from the 79th Legislative Session, Senate Bill 6 in its final form, TLC's analysis of SB 6, recent Supreme



Barbara Elias-Perciful

Court rulings that affect the child welfare community, and more.

One of the most exciting services on the website is the newly established Colleague Connection. Through this private e-mail networking list, subscribing attorneys can e-mail questions, ideas, or suggestions to other TLC subscribers and receive e-mail responses from attorneys all over the state. Another tool for collaboration is the expert witness databank, which allows subscribing attorneys to locate other attorneys who have encountered various expert witnesses in litigation.

Launched in May 2004, the TLC website is already used by hundreds of attorneys and judges. District and county attorneys across Texas are responding to the site enthusiastically. "I found in minutes what could have taken hours. It's an enormously valuable asset!" says Shane Phelps, first assistant DA in Brazos County. Texas judges have also praised the site: "Fantastic site! This is a resource for family and juvenile law that you won't believe," comments the Hon. Guilford L. "Gil" Jones, District Judge of the 33rd Judicial District Court. Professor John Sampson remarks, "It's a powerful tool for cases involving children." The TLC website is endorsed by the State Bar Committee on Child Abuse and Neglect, the Texas Court Improvement Project, and the Texas Children's Justice Act Project.

Prosecutors in other states who have seen the TLC site have been so impressed that they are now working with TLC to create similar sites. "I wish every state could have such a comprehensive resource," says Howard

Davidson, the Director of the ABA Center on Children and the Law.

TLC's multidisciplinary Advisory Committee, which assists in locating and providing some of the materials for the website, is comprised of leading professionals in the fields of law, medicine, and psychology. The Advisory Committee includes, among others, Charles Childress, Nancy Kellogg, M.D., Cecilia Longoria, David Montague, and John Sampson. Other major contributors of legal materials for the website include Sandra Hachem, Duke Hooten, Lana Shadwick, the Tarrant County DA's Office, and the DFPS Office of General Counsel.

TLC's own team of attorneys who have compiled and prepared information for the site also bring years of experience and insight to this project: Cathy Morris, former Chief Attorney for Field Operations of DFPS in the State Office, responsible for developing resources for and administering the entire legal staff in the field, also served as an assistant DA representing CPS in civil cases and as a regional attorney and managing attorney for DFPS. Beecher Threatt previously served as the Director of the Texas Legal Resource Center on Child Abuse and Neglect and, prior to that, worked in private practice representing children and parents as an ad litem in CPS cases. Lucynda Wood, currently a regional attorney for DFPS, previously served as the special prosecutor for the Northern Panhandle Child Protection Court after working for DFPS as a regional attorney. As TLC's Director, my background includes specializing in child abuse law as an ad litem for chil-

dren in CPS cases, handling major tort claims for child abuse victims, and serving on the State Bar's Committee on Child Abuse and Neglect for 10 years.

The TLC website is the latest project of Texas Loves Children, Inc., a Dallas-based nonprofit organization that has provided resources and continuing legal education programs on child abuse and neglect issues to judges and attorneys in the Dallas metroplex since 1995. The website is funded by the Texas Children's Justice Act Project, a federal grant administered by the Texas Center for the Judiciary.

For more information or to subscribe online, go to www.TexasLawyersforChildren.org, or contact TLC at 800/993-5852.