



“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

Boots on the ground

Dallas County’s Community Prosecution Unit (CPU) reaches out to local schools and neighborhood leaders to change citizens’ negative perceptions of law enforcement and prevent future crime.

As assistant district attorneys, our jobs begin once a crime has already occurred. With every prosecution we are trying to redress a wrong—often a violent one—perpetrated by one of our citizens.

If you are anything like me, you love this job because you get tremendous satisfaction out of doing justice. We see the results of our hard work in many places: a crime victim’s teary gratitude at the end of a trial; a child victim’s hug once you’ve told her that her abuser will never touch her again because he was just sentenced to 50 years in prison; the restored faith of a victim with a colorful past who was treated fairly and justly by the criminal justice system. It is those moments of victory that spur many of us to keep announcing, “State’s ready.”

Despite all the sweet victories, I had always wished I could do more. For in every courtroom victory, I wonder how much better it would have been for the victim and the defendant if the defendant’s life had changed course before he committed the crime. Was there anything I could do to help that happen? In September 2012 just such an opportunity presented itself when our Criminal District Attorney, Craig Watkins, asked me to



By Rachael Jones
Assistant Criminal
District Attorney in
Dallas County

implement his vision for a Community Prosecution Unit (CPU).

What is community prosecution?

One of the major problems we face as prosecutors is people’s distrust of law enforcement. Too many times people are hesitant to come forward when they’ve witnessed a crime or when they themselves are victimized because they don’t trust police. This distrust exists for a multitude of reasons: being raised with corrupt law enforcement in their countries of origin, inadequacy of police response in their neighborhood, or feeling that people are profiled because of their race. As a trial court prosecutor for 10 years, I had way too many cases in which

I knew there were 25 witnesses to a crime but only one came forward. Many children never want to become police officers because of the negative reputation peace officers have in their circles.

Because community prosecution is defined as developing programs that answer the needs of the community, at the outset we wanted to focus on various crime prevention strategies with three targeted approaches: 1) being ambassadors between the community and the

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Annual Campaign in full swing

Just a quick reminder if you have not already done so: We are looking to finish our Annual Campaign on a high note in December, so please consider taking that envelope stapled in the middle of the July-August 2014 *Texas Prosecutor* and making a donation to your Foundation. As you can see below, we have a lot of good things going on for the profession, but we need your help to keep up the momentum.

Thanks to Annual sponsors

We'd like to thank two sponsors for supporting our Annual Criminal & Civil Law Update in South Padre. **Prosecutor By Karpel**, a browser-based criminal case management program, sponsored Wednesday



By Rob Kepple
TDCAA Executive Director in Austin

Thanks to the support of the Criminal Justice Section of the State Bar, you can now fulfill the *Brady* training requirement (mandated in §41.111 of the Texas Government Code) by completing the one-hour course for free on the TDCAA website, www.tdcaa.com. In addition, completion of the course earns you one hour of ethics credit—again, for free.

And if you know of a criminal defense attorney who is handling a prosecution as a special prosecutor or prosecutor *pro tem*, please let that attorney know about the requirement to take the course; he or she is welcome to take it for free on our website.

When you take the online course, you will notice three segments of roundtable discussions with experienced prose-



night's opening reception. And **Texas Community Supervision Alternatives**, a community-based supervision and monitoring alternative for court system, sponsored Thursday's lunch. We are grateful for your support!



cutors. These discussions touched upon some tough areas of the job and had some great advice for prosecutors, both new and experienced. These talks were so good that the Foundation is seeking funding to create a second online training devoted to the roundtable discussions. (We have a lot of film footage of those discussions that never made

*Recent gifts to the Foundation**

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* Gifts received between August 1 and October 2, 2014 ❁

it into the final *Brady* video! It just needs to be professionally edited and uploaded to our website.) If you or someone you know is interested in giving toward that project, please give me a call at 512/474-2436.

A new era of training

Many of you attended the leadership and management track at the Annual Criminal and Civil Law Update—it

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Annual Conference wrap-up—and its future

By all accounts we had a very successful Annual Criminal and Civil Law Update in September at South Padre. The highlight, according to the seminar evaluations, was **Chris Halsor**, the Traffic Safety Resource Prosecutor at the Colorado District Attorneys' Council, who gave us an entertaining and sobering look into Colorado's recent marijuana legalization (not to be confused with decriminalization). From a law enforcement and prosecution perspective, what's happened in Colorado is, well, a mess—and it's something we must be prepared to discuss and debate in the future.

Plenty of tracks were well-received, including management, trial skills, and evidence. And the proof was in the number of folks who filled the seminar rooms to capacity, even as the sunshine and sea breezes whispered, "Come to the beach ..."

As to the future of our September annual conference, we are always working to find the best facilities (hotels as well as convention centers) at the best cost. We are a big group, now topping over 1,000 at these seminars, but we don't have the deep pockets that many trade organizations do, which translates to hosting our big annual conference on the Texas coast during hurricane season (hotel rates are lower then, as you can

imagine). In a 2008 survey, you told us that you still wanted the Annual Update near the water, so we have been alternating between South Padre, Corpus Christi, and Galveston ever since.

But trouble with hotels, the convention center, and shuttle buses in South Padre, both for our staff and our members, prompted us to conduct another online survey just this past month to find out your priorities when it comes to our Annual. And some of the responses surprised us. For example, you either love going to South Padre, or you hate it—there's no middle ground. And many of you said that a more central city would be a fine spot for a future Annual Update.

So we are in the process of evaluating our options for those September conferences whose locations are not yet settled (2017 and beyond) and hope to have news on that front in the next issue of this journal. Stay tuned.

TDCAA leadership report

First of all, thanks to the Board Members who will be completing their service at the end of December: Chair of the Board **David Escamilla** (CA in Travis County), Region 2 Director **Randy Reynolds** (DA in Pecos County), Region 4 Director



By Rob Kepple
TDCAA Executive
Director in Austin

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was wildly popular. Indeed, we have heard loud and clear that prosecutor's offices need and want training on how to manage people. After all, prosecutors get elected or promoted because they are good lawyers and prosecutors, not necessarily because they know how to lead and manage an office of employees. And we have heard from even the one-person offices that this type of training is a must—you may not manage employees, but as the elected county or district attorney you are still a leader in the local criminal justice community.

I am convinced that the quality of justice in Texas can be elevated if we improve, top to bottom, how we lead and manage the people in our offices and in law enforcement. Remember that many cases in any given office are in the hands of courtroom prosecutors with less than three years of experience and those young peace officers on patrol at night and on weekends. Those prosecutors and officers deserve strong leadership and steady guidance.

The question is how we meet that need. TDCAA has done isolated regional seminars and breakouts at bigger conferences devoted to leadership and management topics, but we can see that our members require more such training. We need a sustained effort to transform our offices over the long haul, but right now, the resources just don't exist for such an initiative. This is an area where the Foundation will play a vital role in bringing a new type of training (and the long-term strategy and support it needs) to your office. We are working on both. ✱

Mark Skurka (DA in Nueces County), Region 7 Director **Maureen Shelton** (CDA in Wichita County), Criminal District Attorney at Large **Joe Shannon** (CDA in Tarrant County), and County Attorney at Large **Daphne Session** (CA in Houston County). These folks did a great job keeping us on track this year to add more training and services.

The TDCAA membership elected its leadership for 2015 at our Annual in South Padre. Please welcome to the Board new members who will begin their service in 2015: Secretary/Treasurer **Randall Sims** (DA in Potter County), Region 1 Director **Wally Hatch** (DA in Hale County), Region 2 Director **Bill Helwig** (CDA in Yoakum County), Region 4 Director **Jose Aliseda, Jr.** (DA in Bee County), Region 7 Director **Mike Fouts** (DA in Haskell County), Criminal District Attorney at Large **Jack Roady** (CDA in Galveston County), and County Attorney at Large **Vince Ryan** (CA in Harris County). Thanks for your willingness to serve!

Mandatory *Brady* training

If you haven't taken your mandatory *Brady* training, you have until December 31 to get it done, and we've made it easy. You can go to the TDCAA website at www.tdcaa.com and take a one-hour course to make the deadline. Because of a generous gift from the Criminal Justice Section of the State Bar, the training is free.

By all accounts the video has received rave reviews: "The webinar format is *very* beneficial for those of us with heavy caseloads" and "Overall I can't remember a better produc-

tion from TDCAA, and that means a lot since typically your worst production is no less than 8.75 on a 10 scale. I think this was appropriately polished." So take a look and see what you think.

And remember, even if you have already taken the mandatory *Brady* training elsewhere, participating in this online training also earns an hour of MCLE ethics credit—again, for free.

Prosecutor of the Year

The Criminal Justice Section of the State Bar, upon the recommendation of the TDCAA Board of Directors, gives the State Bar Prosecutor of the Year award each year at the TDCAA Annual Criminal & Civil Law Update. The 2014 Prosecutor of the Year is **Steven E. Reis**, District Attorney in Matagorda County, where he has served since 1993. (He's pictured below on the left with TDCAA President **Rene Peña** on the right.)

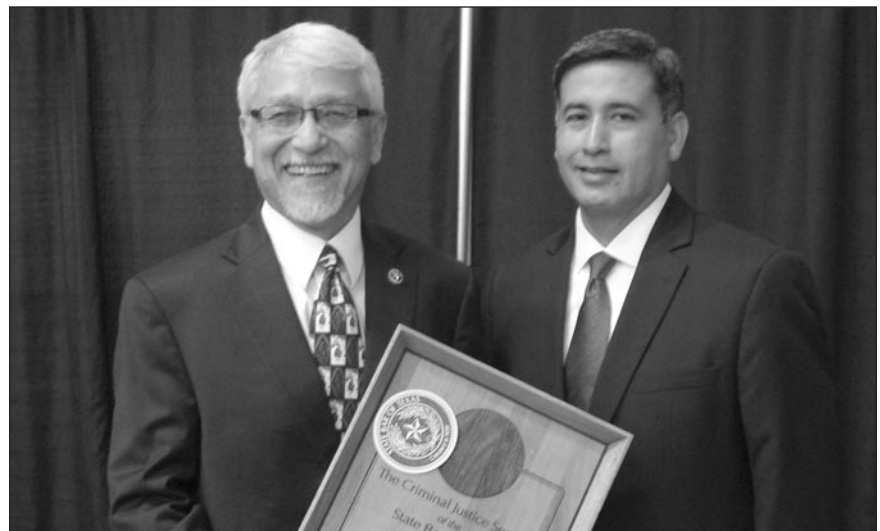
He has an impressive résumé of teaching, writing, and community involvement. He caught some attention when he agreed to spend time with a reporter to discuss the deci-

sion to seek death in a capital case—from the perspective of a small-town DA. Talking to the media about the death penalty always seems like a dicey deal, but Steve consented once the reporter agreed to really spend time in Bay City, even going with Steve to the local coffee shop and Rotary Club.

The article that resulted was impressive. It is entitled "To Kill? Or Not to Kill?," and you can read it at www.texasobserver.org/to-kill-or-not-to-kill. It offers a balanced and insightful view of two Matagorda County capital cases, one where Steve pursued the death penalty and one where he let the defendant, Francisco Castellano, plead to other charges in exchange for life in prison. Perhaps more interesting than the death penalty discussion is what the article reveals about the qualities of a successful district attorney:

"There were plenty of people who think I made the wrong decision," he says [in the article]. Those people felt that Reis shouldn't have robbed a jury of the ability to decide Castellano's punishment. And Reis indulged that line of rea-

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soning. “What makes me think that I’m God and can take that decision away from somebody?” he said, summarizing what might go through a juror’s mind. “One elected guy, who never won a jury trial ever, who has a history of working as a deckhand on a tugboat, a janitor, a reporter, a loan shark, who is a failure at real estate, who finally becomes a lawyer and doesn’t like it, becomes a prosecutor and doesn’t win a case, and *he’s* going to decide whether I get to kill this guy? Who the hell is *he*?”

He’s just the right guy for the job of DA, I would say.

Steve Jobs had—for the past two. “I am very honored and humbled to receive the Lone Star Prosecutor Award,” he says. “I’m sure there are hundreds of prosecutors in this great state that are more deserving than myself. And I’ve had a *lot* of help—from my wife and family, to my coworkers, to my doctors and nurses, and my boss, Jim. But most importantly, the good Lord. I can count at least a half-dozen miracles with this cancer that have no explanation other than by the hand of God.

“It’s been a long road and an

honor, but it is also a challenge. Many assistant prosecutors have risen through the ranks to become an elected prosecutor, only to discover how different the job can look once you have the final say on how the office is run, how cases are prosecuted, and how justice works on a day-to-day basis in the jurisdiction.

It is with that introduction that I honor those who have made the commitment to make a career of being an elected district or county attorney, and why at the annual conference the TDCAA Board of Directors recognized the dean of Texas district attorneys, **Rene Guerra**, the Hidalgo County Criminal District Attorney. Rene will finish his career at the end of December with 33 years of service as the elected criminal district attorney, and as such is the longest serving felony prosecutor in Texas. It was proper to recognize that kind of commitment to the citizens of the state.

After Rene’s retirement, the new dean will be **Bruce Curry**, the DA of the 216th Judicial District in Kerr County, who by then will have served 30 years.

You might wonder how I know the longevity of elected DAs, CDA, and C&DAs but not *county* attorneys. Well, TDCAA’s database is only about 15 years old so we don’t know the start date of any of our members who were hired before 2000. But every felony prosecutor has always been paid by the comptroller’s office—and that office has good records of just how long the comptroller has been paying folks.

Who is the dean of Texas county attorneys? If you think you qualify or know someone who might, please let me know! ❁



Lone Star Prosecutor

Also at the Annual, **Jim Nichols**, Bell County Attorney (pictured above at right) presented the Lone Star Prosecutor Award to his first assistant, **Mark Danford** (pictured above at left). This award is given to those prosecutors “in the trenches” whose work and commitment to excellence might be overlooked by those outside the profession. Mark won the award for his dedication to prosecution—a job he’s been doing for 18 years—while fighting Stage Four neuroendocrine pancreatic cancer—the same disease that Apple CEO

interesting journey; it’s been bad—but there have been a lot of good things too. I’m very blessed to still be here and be able to work; it could very well look different right now.”

It’s worth noting that November is Pancreatic Cancer Awareness Month, so it’s timely to mention Mark’s fight against the disease. His spirit is seeing him through to a good outcome, and we are all better for it. Thanks, Mark, for what you do; you honor the profession with your service.

The dean of Texas DAs

Being an elected prosecutor is an

Reflecting on the past year

It has been a humbling experience to serve in the capacity of president of TDCAA for 2014. In looking back, I have come to realize that who we are as members of this extraordinary organization is in great part due to the hard work and dedication of the TDCAA staff. These men and women are truly committed to the pursuit of justice in our great state. So, I take a moment to thank Rob Kepple for his vision and leadership as our executive director. It is with great appreciation and thanks that I also recognize the following: Shannon Edmonds for his hard work in governmental affairs, Senior Staff Counsel Diane Burch Beckham for her considered advice to TDCAA, W. Clay Abbott for his commitment to training prosecutors and law enforcement in developing solid DWI cases, Training Director Jack Choate for expanding our training opportunities, Jon English for his superb research abilities, Director of Operations William Calem for overseeing the budgetary process, Manda Herzog for her outstanding job as our meetings planner, and Communications Director Sarah Wolf who has managed to keep me in check when these President's Columns were due. To the remainder of the staff—Quinnell Blake, Kaylene Braden, Tammy Hall, Jordan Kazmann, Jalayne Robinson, Patrick Kinghorn, and Dayatra Rogers—thank you for all that you do!

The TDCAA leadership in the



By Rene Peña
District Attorney in
Atascosa, Frio,
Karnes, La Salle,
and Wilson
Counties

upcoming years promises to remain strong and insightful. Next year's president, Staley Heatly, District Attorney for the 46th Judicial District based in Wilbarger County, is seasoned and prepared to lead TDCAA through a legislative session where there will be many challenges. Incoming President-Elect for 2015, Bernard Ammerman, District Attorney for Willacy County, served as chairman of the Border Prosecution Unit and brings to TDCAA an important perspective in relation to criminal enterprises along the border. And certainly, David Escamilla, County Attorney of Travis County, deserves special thanks for his service as outgoing Chairman of the Board and for his excellent leadership.

Over the past year TDCAA has shined the spotlight on two areas deserving of our focused time and attention: domestic violence and border prosecution. I have used my President's Columns to highlight key aspects of prosecution that I believe are important in our jobs. Simultaneously, I used it as a forum to provoke thought and to further ignite our collective critical thinking. In this article, I reflect on those key aspects.

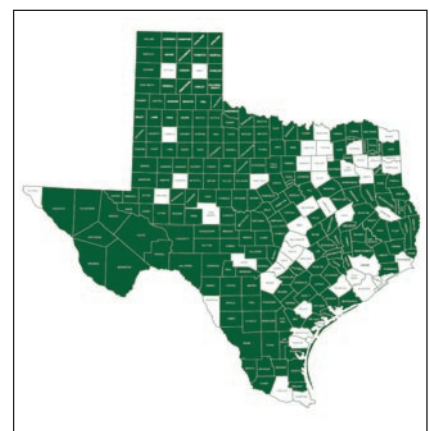
As the 81st District Attorney and President of TDCAA, I speak continuously about cartels, prison gangs, and local threat groups, along with money laundering, drug dealing, assault, aggravated assault, kidnapping, sexual assault, and murder—crimes typically associated with

organized criminal activity on the border. Over the course of this past year, and in large part due to my participation in Next to the Jury Box, the collaborative effort between TDCAA and the Texas Council on Family Violence (TCFV), I have come to realize that many of these same serious crimes are being committed in homes across Texas.

Domestic violence

This revelation was underscored for me in TCFV's annual report, "Honoring Texas Victims." (The full report can be accessed at www.tcfv.org.) This report, released in October, is the only comprehensive analysis of adult, female fatalities committed by a male intimate partner. As documented in that report, 119 women lost their lives. The two youngest victims were 19; the two eldest were 85. Clearly, these statistics show that domestic violence can continue through a woman's entire lifespan. The report graphically identifies the counties where a fatality occurred by coloring them white; counties free of fatalities are green (see the map below). This kind of graphic imagery gives us a unique

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perspective in understanding that fatal domestic violence occurs in both rural and urban counties and reveals the areas in our state where we must redouble our efforts to end these tragic outcomes. “Honoring Texas Victims” indicates that 17 other victims were killed in these fatal domestic violence incidents (five children and 12 other adults). Another five children were seriously injured, while 55 children witnessed the murder. The totality of domestic violence crimes, from misdemeanors to felonies, attacks the very fabric of our society with the same destructiveness as organized criminal activity by cartels and prison gangs. Society must change its thinking from seeing these fatalities as inevitable and seemingly random in nature, to recognizing that these crimes are predictable, identifiable, and preventable.

In Next to the Jury Box, I joined great colleagues including Rob Kepple, Jennifer Tharp, Mark Skurka, Jaime Esparza, Mack Martinez, Jane Waters, James Stainton, Katherine McAnally, and several others to dissect the challenges and complexities of trying domestic violence cases. We hosted two summits over the year; the first summit’s purpose was to invite expertise and perspective from rural communities. We learned much and realized more forums to continue developing strategies are necessary. The second summit focused on urban and growing communities. We learned challenges are similar yet simultaneously distinct by jurisdiction. The dialogue was rich and the determination to find solutions great. We will continue to build on this work in the coming

year. I am confident that by continuing with this approach and by continuing to elevate discussion on family violence, we can turn the tide. In our Texas communities, family violence is “invisible in plain sight.” Let us use our collective strength to change it.

Border security

In the case of Texas’s safety, border security is a state and national priority. The Texas-Mexico border is 1,260 miles long and presents unique issues and safety concerns for law enforcement and citizens who live nearby. The cooperative efforts of the cartels, prison gangs, and street gangs have gained national attention, and politicians and citizens alike now realize border violence is not limited to the border. Texas realized a problem with border security and took the lead in combating border violence when the Legislature and Governor’s Office created the Border Prosecution Unit (BPU) in 2009. As criminal organizations become more complex and sophisticated, the BPU continues to respond with efficient collaboration between law enforcement, prosecutors, and our federal partners. By having a prosecutor assigned to assist law enforcement from the investigative stage to the courtroom, the BPU has been able to successfully dismantle criminal organizations rather than merely taking a single defendant off the street. Many of these investigations have involved collaboration between our federal partners, the Department of Public Safety, and our local partners due to the nationwide activity of the criminal organizations. The Border Prosecution

Unit has also placed a focus on training both prosecutors and law enforcement. To assist with all the training needs this year, TDCAA graciously agreed to coordinate and facilitate training sessions for the BPU. As the criminal element becomes more sophisticated, we must continue to learn how to combat every new criminal advance and to proactively anticipate what those advances might be.

In this regard, we must understand the criminal enterprise model. Mexico has lost a generation of young men, young women, and children to criminal enterprise whose sole purpose is to profit at any cost. We must be vigilant that Texas, and the rest of our nation, does not lose a generation to drug use or crimes that are directly attributable to the criminal enterprise. We should realize that this is not simply a Mexican problem. It is one of supply and demand. So long as there is American demand for the cartels’ illegal goods, someone will step up to provide it.

In rural Texas, the criminal enterprise sets up its operations in small communities. The purpose is to grow demand for its product: illicit drugs, human trafficking, and sex trafficking. Their efficiency is rooted within the security threat group model. They are a highly structured enterprise with a clear chain of command and a written constitution.

There are 12 security threat groups (STGs) of concern to the state. Of the 12, the Hispanic STGs comprise the largest. Logically, then, we can understand the connection between the cartels and the STGs because these gangs are based in the familial and cultural ties to the bor-

A branch of VINE you might not know about

der. The cooperation between the Hispanic STGs has led to more transnational organized crime across Texas. For instance, in the detection of crime, we must distinguish between a criminal alien who commits crimes on both sides of the border and those aliens or immigrants who may be victims of human trafficking or sex trafficking. In particular, we must be ever mindful of the exploitation and trafficking of children.

Today the challenges to prosecutors are monumental. As prosecutors, we have the authority to change lives positively. And we have the moral and legal duty to do so. As we seek justice, we must remember that we are not only required to zealously represent the state of Texas, but also that we protect victims while being fair to defendants. Thus, when we invoke all three standards, we find justice in our system of laws. As prosecutors and members of law enforcement, we can affect justice in a profound way. We have people's lives in our hands. We speak for the weakest among us, for those who cannot speak for themselves. We tell their stories in a court of law. We are the standard bearers of a civilized society, leaders in our communities in an effort to suppress crime, ever mindful of our sworn duty to the people. So who we are as prosecutors and members of law enforcement are the protectors and administrators of justice. I am humbled to be a part of you and this family known as TDCAA. God bless you all. ❄

In my travels as TDCAA's Victim Services Director, I am privileged to visit with victim assistance coordinators (VACs) all across our great state. Recently I found out that VACs might not be utilizing an important resource at our disposal, and I wanted to alert y'all to its existence.

Many Texas jurisdictions already point crime victims to Texas VINE (Victim Information and Notification Everyday) so they can be updated on any changes to a defendant's jail or custody status. And that's wonderful. But did you know that VINE will also notify crime victims about court events? It requires a second registration—signing up for jail/custody updates doesn't automatically register a person for court updates too—which may be why some VACs aren't aware of this helpful tool. And remember that Art. 56.08 of the Texas Code of Criminal Procedure *requires* prosecutors to give crime victims notice of any scheduled court proceedings, changes to that schedule, and filings for continuances, so utilizing VINE for this purpose—a tool you probably already appreciate and use—just makes sense.

As a victim assistance coordinator for nearly 23 years in Wood County, I was constantly searching for ways to keep crime victims up-to-

date on what was happening with their court cases. I found that taking a moment to register victims for VINE on the front end of a case saved me much time in the long run—and satisfied our requirement under Art. 56.08(b).

Here's how I used to do it (not everyone has to do it my way, but I offer my example in case it's helpful to anyone else out there): After indictment or filing a new criminal case or during the first contact I made with victims, I asked if they would like to receive notification of any scheduled court proceedings. If they said yes, I offered to register them for VINE courts notification myself. If they agreed, I'd hop on www.vinelink.com and register them right then and there while we were on the phone, being sure to find out if they wanted to be notified by phone, email, text, or all three. (Check out the screen capture and caption on page 10, which walks through the VINELink homepage.) It took only a few minutes of my time, and it ensured that a crime victim was registered and ready to receive updates as s/he requested.

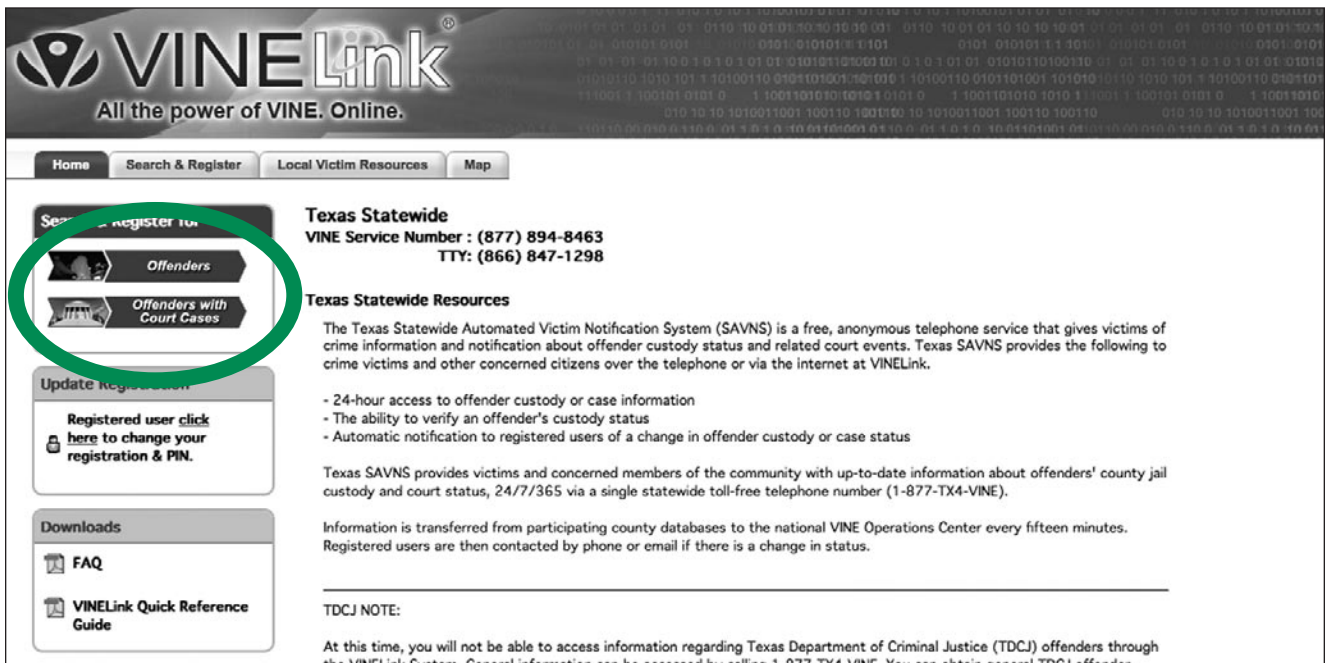
At the end of the registration process, the VINE system generates a dated confirmation receipt that states, "You have successfully registered," which I printed and marked with the victim's name, address, phone number, and email address for

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By Jalayne Robinson,
LMSW
TDCAA Victim Services
Director

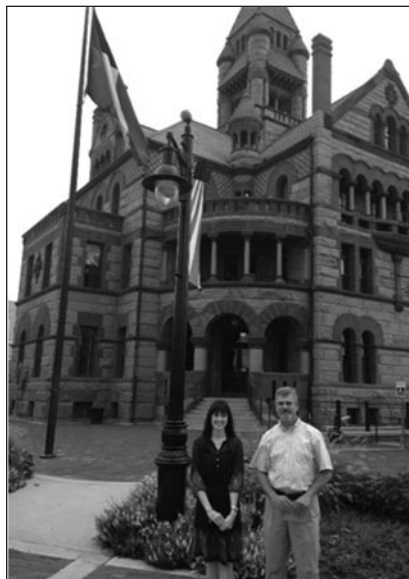
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The above image is a screen capture from VINELink's Texas homepage (www.vinelink.com/vinelink/siteInfoAction.do?siteId=44900). In the green circle are two buttons that crime victims use to register for automatic notifications. To register for notifications of jail/custody changes, victims must click on the Offenders button (which is on top); to register for notifications for court dates, victims must click on the Offenders With Court Cases button (on the bottom). Registration for both takes just a few minutes but ensures that crime victims will be notified of court dates and any custody changes.

future reference. Then I slipped the confirmation receipt in the work product folder of the criminal file so that the prosecutors on the case could see that the victim had been given the opportunity to receive notice of scheduled court proceedings. I told victims that if their addresses or phone numbers ever changed that they should notify our office. And of course, if they ever didn't understand a court date notification, they could call and I would gladly explain.

VINE may help your office satisfy Art. 56.08(b), but remember that it will *not* assist with Art. 56.08(b-1), which has to do with victim notification of the existence and terms of any plea bargain agreement presented to the court. VACs will still need to call or otherwise notify crime victims of plea bargains.



ABOVE LEFT: Assistant District Attorney Peter Morgan with Victim Assistance Coordinator Lindsay Smith in front of the Hopkins County Courthouse in Sulphur Springs. ABOVE RIGHT: Criminal District Attorney Danny Buck Davidson with Victim Assistance Coordinator Ginger Hawkins in front of the Panola County Courthouse in Carthage.

In-office VAC visits

In recent weeks, my TDCAA travels have taken me to Carthage and Sul-

phur Springs (see a couple of photos, above, of those I visited) to assist VACs with in-office consultations

Part of another criminal statute crumbles under First Amendment scrutiny

for their prosecutor-based victim services projects. In-office consultations give help to VACs so they may successfully carry out their duties pursuant to Chapter 56 of the Texas Code of Criminal Procedure. Thank each of your offices for allowing TDCAA to offer support to your victim services programs!

Please email me at Jalayne.Robinson@tdcaa.com for inquiries or support or to schedule an in-office consultation.

DV Awareness month

October is Domestic Violence Awareness month. If your office coordinated activities or public awareness events during this month, please submit photos and a short write-up for publication in our next *Prosecutor*. ❁

Last October, the Court of Criminal Appeals struck down the sexually explicit communications portion of the Online Solicitation of a Minor statute in *Ex parte Lo*.¹ Now, part of another Penal Code offense—the improper photography statute—has been struck down for violating the right of free speech.²

Although the improper photography statute covered a lot of behavior, among the most offensive within its scope was the taking of photos underneath a woman’s skirt (behavior that is apparently so prevalent, it has its own nickname: “upskirting”). Contrary to some reports,³ this most recent decision by the Court of Criminal Appeals, *Ex parte Thompson*,⁴ did not decree that there is a constitutional right to take upskirt photos. Upskirting can still be criminalized. But because of the way the legislature wrote the law, until the legislature acts, there is no currently valid law to prohibit some upskirting (though if it occurs in a bathroom or private dressing room, that’s still illegal because the court did not strike down that part of the statute).

Also, if a defendant broadcasts or transmits an upskirt photo, that behavior, too, might still be constitu-

tionally prohibited. The court expressly said it was not addressing the constitutionality of the ban on broadcasts or transmissions of non-consensual visual images.⁵ But for upskirting in a public place and other intrusive photography (even peep-

ing-Tom-type photography into a person’s home), the legislature will have to redraft the statute to ensure that such conduct remains criminal. At the same time, the court held that other conduct (such as taking non-consensual pictures of what people have themselves exposed to the public) cannot be criminalized because this sort of photography is protected “speech.” It has been difficult for me

personally to reconcile the idea that taking non-consensual photographs for sexual gratification should be constitutionally protected over the privacy interests of the person photographed. But I have ultimately come to believe that under a properly worded statute, the most important of these privacy interests can still be fully protected without the statute running afoul of the constitution.

The statute and the case behind *Thompson*

The improper photography statute is



By Emily Johnson-Liu
Assistant Criminal District Attorney in Collin County

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essentially separated into two subsections: photography and recordings conducted in bathrooms or private dressing rooms (which involves one set of elements) and photography and recordings conducted everywhere else (which involves another set of elements).⁶ Defendant Ronald Thompson challenged only the subsection applying to everywhere else. And he did so in a facial challenge raised in a pre-trial habeas corpus petition. This means that there is not a lot known about the underlying case because the defendant was challenging the law as a whole—not just how it applied to his particular case. But we do know from the indictment that the defendant was accused of 26 counts of photographing others without their consent and with the intent to arouse or gratify his own sexual desire.⁷ The indictment alleged that Thompson was at a water park and that some of the people he photographed without their consent included at least one “young female” and one female who had been photographed underwater.⁸ Thompson was also accused of photographing (on the same day) the buttocks of an unknown female in a bathroom or private dressing room—which involved the part of the statute left untouched by the court’s decision in *Thompson*.

The trial judge ruled that the law was constitutional, but the San Antonio Court of Appeals disagreed. That court found that while the government has an important interest in protecting citizens from covert photography that may invade their expectation of privacy, the law was not narrowly written to serve that interest. In short, it did not survive

the intermediate scrutiny that courts apply to laws restricting free speech.⁹

The Court of Criminal Appeals went further than the court of appeals, finding that not only was the statute overbroad (meaning that it improperly restricted speech at its outer edges) but also that the core of the statute (non-consensual photography when the photographer’s mind was in the gutter) unconstitutionally treads on the right of freedom of expression.

The problem: a really broad statute

As it was written, §21.15(b)(1) of the Penal Code makes it a crime to photograph or videotape another person without the person’s consent and with the intent to arouse or gratify the sexual desire of any person.¹⁰ That’s it. The photograph might take place on a public street, and it might capture no more than what the subject of the photo had knowingly exposed to the public.

The prosecutors in *Thompson* tried a number of arguments to preserve the statute. They argued that not every photograph was expressive or communicative and consequently, the free speech clause of the First Amendment might not even come into play. The voyeur’s camera, it could be argued, may just be a tool that enhances his vision and supplants his memory, not a means of expressing himself. But this argument was rejected. The prosecutors also argued for a narrow interpretation of the statute—that the phrase “without the other person’s consent” should exempt photos taken under circumstances where the other per-

son has gone out into public and thereby has necessarily “consented” to some measure of public view. This, too, was rejected.

And the argument that this was not the kind of speech worth protecting also failed. The State had argued that requiring that the photo be made for sexual gratification removed it from constitutional protection. After all, not all speech or visual images are constitutionally protected. The government can regulate obscenity and child pornography, for instance, where the value of such speech is “exceedingly modest.”¹¹ Prosecutors likewise argued that non-consensual photography for the purpose of sexual gratification invaded the substantial privacy interests of others in an essentially intolerable manner. Here, the court agreed, but only in part. The court found that substantial privacy interests are invaded in an intolerable manner where peeping-Tom and upskirt photography is involved.¹² But this was not *generally* true for all non-consensual photography because privacy interests become limited in the public sphere. As the court explained, “A person who walks down a public street cannot prevent others from looking at him or her with sexual thoughts in their heads. ... Protecting someone who appears in public from being the object of sexual thoughts seems to be the sort of ‘paternalistic interest in regulating the defendant’s mind’ that the First Amendment was designed to guard against.”¹³ For me, the element of sexual gratification made non-consensual photography that much more exploitive and reprehensible. But the court saw the sexual gratifi-

cation element as thought control—the element that made non-consensual photography all the more worthy of constitutional protection. This was the part of the decision that was the hardest for me to accept. I could see how the statute might be difficult to enforce, that it might sweep in photographers who actually had no bad intent. I had a much harder time with the idea that this particular bad intent was worth protecting, particularly when another person's privacy interests were implicated.

But with such a broad statute and no specific reference in the statute to privacy interests, the court's concern over criminalizing thought won out over what the court saw as tenuous privacy interests.¹⁴ Taking photographs of swimmers at a water park and of those swimmers' body parts exposed to the public, the court suggested, is constitutionally protected by the freedom of speech.

I envisioned many circumstances where there still could be substantial privacy interests at stake, even when a person steps out into public and dons a swimsuit. Digital cameras with zoom features can magnify what is otherwise not visible to the casual observer. Cell-phone video cameras with freeze-frame capability may allow a photographer to slow down what otherwise might have gone unnoticed by an observer in real time. A view up the bottom of a man's swimming trunks might, for example, expose a man's private areas when he flies off the end of a slide, feet first, in front of a video camera. And while a person might assume the risk of a possible wardrobe malfunction at the bottom of a water-

slide when she chooses to wear a particular swimsuit, is it just as reasonable to expect that someone will be filming at that particular place and time, creating a record of what otherwise would have been only a momentary embarrassment? When a person is photographed or filmed without her consent, she forfeits control over the image she presents to the world. And when children are filmed for the photographer's sexual gratification, there is an even greater degree of intrusion on substantial privacy interests.

The Court of Criminal Appeals was not deciding all of these questions, though. The judges were presented with a very broad statute in the abstract and could not find substantial privacy interests that in nearly all applications would trump the right of people to have dirty thoughts (or to not have their government regulate their thoughts). And so this part of the statute was struck down.

While there may be further litigation in the case, such as a petition for certiorari to the United States Supreme Court, it is likely the Texas Legislature can avoid the constitutional concerns raised in *Thompson* by redrafting the statute. But any revised statute should take into account that a victim may have very real privacy interests at stake, even when he or she appears in public. The federal statute is a good model: It eliminates any requirement of sexual gratification and defines when a person's expectation of privacy is reasonable, even in public. The statute makes it a crime to intentionally photograph, film, or broadcast a person's naked or undergarment-clad

private parts, without that person's consent and under circumstances that a reasonable person would believe that the area would not be visible to the public, "regardless of whether the person is in a public or private place."¹⁵

Like prosecutions of online solicitation of a minor, until the legislature enacts a constitutional statute, past, present, and future prosecutions under this part of the improper photography statute are in jeopardy and may be flat-out invalid. Some prosecutions will have to be dismissed because there was no valid statute criminalizing the defendant's conduct. The hard truth remains that conduct like upskirt photography in public, which would be criminal under any version of the statute, may—for a time—go unpunished. The fact that the legislature later corrects a statute that is overbroad will not save a conviction for an offense committed when the statute was unconstitutional.¹⁶ It is a heavy price to pay. But with input from prosecutors, the next legislature can appropriately redraw the online solicitation and improper photography laws to protect victims and safeguard the long-term viability of our convictions through statutes that steer clear of free-speech concerns. ❁

Editor's note: This marks Emily Johnson-Liu's last article for the As The Judges Saw It column, to which she has contributed with great wisdom and sharp-eyed legal insight for five years. We are grateful for her summaries of recent court opinions and forecasts of their effects on Texas prosecutors, all written under deadline and with such

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A Q&A with a few TDCAA members

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clarity that even the non-lawyers
among us—myself included—can
understand. That is no small feat, and
we will miss her.*

Endnotes

1 *Ex parte* Lo, 424 S.W.3d 10 (Tex. Crim. App. 2013).

2 Tex. Penal Code §21.15(b)(1).

3 See, e.g., "Texas court upholds right to take 'upskirt' pictures," *The Guardian* (Sept. 19, 2014), www.theguardian.com/world/2014/sep/19/texas-court-upholds-right-to-take-upskirt-photos.

4 *Ex parte* Thompson, No. PD-1371-13, 2014 WL 4627231 (Tex. Crim. App. Sept. 17, 2014).

5 See *Thompson*, 2014 WL 4627231, at n.3.

6 Tex. Penal Code §21.15(b)(1) (everywhere else) & 21.15(b)(2) (bathrooms and private dressing rooms).

7 See Appendix B, State's brief on the merits in *Ex parte* Thompson in the Court of Criminal Appeals.

8 *Id.*

9 *Ex parte* Thompson, 414 S.W.3d 872, 880-81 (Tex. App.—San Antonio Aug. 30, 2013).

10 Tex. Penal Code §21.15(b)(1).

11 *New York v. Ferber*, 458 U.S. 747, 762 (1982).

12 See *Thompson*, 2014 WL 4627231, at *14.

13 *Thompson*, 2014 WL 4627231, at *10.

14 *Id.* at *15.

15 18 U.S.C. 1801.

16 *Massachusetts v. Oakes*, 491 U.S. 576, 586 (1989) (Scalia and four others, concurring and dissenting in part).

Editor's note: In this new standing column, we asked several TDCAA members to answer a few questions (some about prosecution, some not). We hope to run this column in every issue of the journal, so anyone who would like to submit his or her answers to these same questions can email them to the editor at sarah.wolf@tdcaa.com. All respondents will receive a free TDCAA T-shirt as a token of thanks.

Krispen Walker Assistant District Attorney in Orange County

How long have you worked in a prosecutor's office?

Thirteen years. I spent about three years as the juvenile prosecutor, and for the last 10 years I've been assigned to the 163rd District Court.

What do you enjoy about your job?

One of the best aspects of my job as a prosecutor is that I have the opportunity to meet people from all walks of life. Every day I meet someone new or hear something I've never heard before. My job is *never* boring. I also love the teamwork involved in prosecuting cases.



Krispen Walker +

If you weren't in a prosecutor's office, what would your dream job be (and why)?

If I weren't a prosecutor, I would love to be a photographer. After a long day in court, I love to get outside and take photos. Composing shots of flowers, landscapes, or my pets takes my mind away from the stresses of the office.

What's the best advice you've been given?

The best advice I've ever received is to quit overthinking everything. I actually got this advice from my horseback-riding instructor and once I heeded it, I was able to accomplish

a horseback riding goal that I had been striving for. I try to keep myself in check and recognize when my mind is overanalyzing. It can be very, very easy to overthink a case when it's always best to keep it simple.

What was your best day on the job?

One of my best days on the job came several years ago. My jury had returned a punishment verdict of 99 years in an aggravated sexual assault case in which the defendant had sexually abused his two stepdaughters over a period of several years. Several of the jurors wanted to meet the two girls afterwards. The interaction between the girls and the jurors was

absolutely amazing. The girls were visibly changed once justice was finally served for them.

What was your worst day on the job?

It's always stressful sitting at the table in the courtroom waiting for the jury to return a verdict. After a particularly difficult aggravated sexual assault trial, the jury returned a verdict of not guilty. When the foreman read those words, the teenage victim, who was the niece of the defendant, dropped to her knees and wailed. Her cry still haunts me.

What do you know now that you wish you knew when you started out?

When I started as a prosecutor, I knew that people lived differently than the way I had been raised, but I had no idea how differently some people lived. I wasn't quite prepared for some of the situations that I would encounter or things that people would tell me about their lives. After 13 years, however, the experiences I have shared with victims, witnesses, and even defendants have helped me to better understand the different circumstances of people's lives.

What do you like to do outside of work?

In my spare time, I enjoy gardening, horseback riding, photography (of course), and reading. I also spend quite a bit of time with my three dogs Charley, Jack, and Pearl.

*M. Renae Whitsitt
Hood County Assistant County
Attorney*

How long have you worked in a prosecutor's office?

I began working in the Hood County Attorney's Office in December 2013, so I have been working here for about 11 months.

What do you enjoy about your job?

There is so much to enjoy about this job. I enjoy working with the people in our office. I also enjoy being able to follow a case from beginning to end. I have the opportunity to follow a case from intake all the way through to conviction. I also have the opportunity to work on the revocation and appeal when those issues arise. It is fulfilling and provides a sense of closure when you are able to see the whole picture.

If you weren't in a prosecutor's office, what would your dream job be (and why)?

In law school, I had a list of back-up careers, including writing jingles and being an auctioneer because those things sounded fun. Right now, I can't imagine a job better than here, but if I had to pick something else to do it would likely be teaching English and/or debate in a high school.

What's the best advice you've been given?

Never to take yourself too seriously.

What was your best day on the job?

It is difficult to choose a best day among many good days. My best day on the job would likely be getting my first conviction in a driving while intoxicated jury trial.

What was your worst day on the job?

The bad days are often related to cases and hearings that I should have approached differently. My worst day was probably the day I had my first bench trial. I

failed to elicit testimony to prove up an essential element of the case and received a not-guilty verdict.

What do you know now that you wish you knew when you started out?

I wish I would have known how much I would enjoy working as a prosecutor. In law school, I never imagined myself as a prosecutor. Had I known then what I know now, I would have focused on more clerkships and internships relating to prosecution. Having a little more background knowledge would have been tremendously helpful in my first few months.

What do you like to do outside of work?

I enjoy working with the children and college students at my church. I also enjoy running, going to the local drive-in theater, and singing karaoke.



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Yvonne Patton
Assistant District Attorney in Travis County

How long have you worked in a prosecutor's office?
Eight years.



What do you enjoy about your job?

Rarely is there a dull moment. I also like walking in every day knowing that I am able to seek justice for victims.

If you weren't in a prosecutor's office, what would your dream job be (and why)?

I would own a daycare/spa for dogs because I love dogs and enjoy seeing them pampered.

What's the best advice you've been given?

When people show you who they are the first time, believe them.

What was your best day on the job?

Having a child victim on the stand repeatedly deny being abused after being coached by an unprotective mother, and despite the denials, the jury returned a guilty verdict against the abuser. They saw through the lies and did the right thing.

What was your worst day on the job?

Having a defendant, who was on trial for aggravated sexual assault of a child, disappear during trial and flee the country.

What do you know now that you wish you knew when you started out?

Working in the criminal justice system requires an extreme amount of patience, and if you don't have it, you will learn to develop it.

What do you like to do outside of work?

Traveling, reading, and exercising.

Virginia Jones
Grand Jury Prosecutor in Galveston County

How long have you worked in a prosecutor's office?

5½ years

What do you enjoy about your job?

My favorite part of my job is getting to know the grand jurors. I have learned so much about people during my time in the grand jury division. Another thing I really enjoy is communicating with victims and having the opportunity to be their voice.

If you weren't in a prosecutor's office, what would your dream job be (and why)?

This is hard because I have two passions. I am a competitive runner and have been plagued with numerous injuries, so I would be interested in a job that involves sports injury rehabilitation and biomechanics. I also have a heart for missions, so I would really like to move overseas and do

full-time ministry and service work for victims of trafficking, abuse, or neglect.

What's the best advice you've been given?

It is a simple one: Be more patient.

What was your best day on the job?

When I was able to cross-examine a defense witness who was using religion and the Bible to justify lying and covering up an indecency with a child case.

What was your worst day on the job?

When I was told by a man I respect that I might not be cut out to be a prosecutor.

What do you know now that you wish you knew when you started out?

That you spend a lot of time preparing for trials that end up in a plea.

What do you like to do outside of work?

Travel. Run. Race. Travel to run in a race. ✨



Photos from our Prosecutor Trial Skills Course in Austin



Photos from our Annual Criminal & Civil Law Update in South Padre





Award winners at our Annual Update

TOP PHOTO: The C. Chris Marshall Award, which honors outstanding faculty, was given to two worthy recipients this year: Erik Nielsen (on the left), former TDCOA training director and currently counsel at the State Commission on Judicial Conduct, and Christy Jack (on the right), an assistant criminal district attorney in Tarrant County. Kathy Braddock (center), an assistant district attorney in Harris County and TDCOA's training committee chair, presented the award.



MIDDLE PHOTO: Three people were awarded Professional Victim Assistance Coordinator certificates this year: Lisa Mehrhoff (at left), victim assistance coordinator in the Parker County Attorney's Office; Adina Morris (at right), a victim assistance coordinator in the Palo Pinto County District Attorney's Office; and William Groos (not pictured), victim assistance coordinator in the Bexar County Criminal District Attorney's Office. Jalayne Robinson, TDCOA's Victim Services Director, is pictured in the middle.



BOTTOM PHOTO: TDCOA President Rene Peña (at left) was honored with the president's plaque as he finishes up his term as the association's leader. David Escamilla (at right), Travis County Attorney and TDCOA Board Chair, presented Peña with the award.



Continued from the front cover

Boots on the ground (cont'd)

DA's office, 2) creating pretrial diversion programs, and 3) educating our next generation. These three areas allowed us to gain valuable research, forge community partnerships, create strategic plans, and make a difference with immediate "boots on the ground."

Our community prosecution unit was funded for a chief (me), four prosecutors assigned to different regions of the county, and one investigator. Since then, we have added a program manager and community relations manager to fill our growing needs.

Ambassadors to the community

Our first mission was to become the cheapest six-person PR campaign that ever existed. We began attending every crime watch and town hall meeting and meeting with every elected official to introduce ourselves. Far too many people have no idea what prosecutors do or the challenges we face, and we must educate them. (We also hoped this PR campaign might prompt more citizens to answer summons to jury duty; the response rate in Dallas County is dismal.) We attended city development meetings for troubled neighborhoods and planning meetings to offer suggestions on drug-free zone enhancements, and we discussed what enhanced punishment ranges could mean for repeat offenders. We encouraged people to attend our office's Citizen Prosecutor Academy, which walks students through the criminal justice process from begin-

ning to end (read an article about it at www.tdcaa.com/journal/reaching-out-local-citizens, which was published in the January–February 2013 issue of this journal). Through numerous presentations we have educated the community on crime prevention strategies, criminal law, punishment ranges for violations, and help for victims of crime. We created a brochure that discusses animal cruelty laws, penalty ranges for violations, and the reporting process. This brochure was published in both English and Spanish because several Latin American countries do not have analogous animal cruelty laws, and some behaviors that are violations in Texas are actually socially acceptable in some Dallas residents' countries of origin. We have worked with community organizations to educate the elderly population on scams that target the aging population and resources they can turn to for help. We have also educated parents on the newly enacted laws against cyber-bullying and how to keep their children safe from online predators and bullies. And we have helped to start a county-wide gang task force so that intelligence can be shared by school districts and independent cities. Our goal was to send a message that the Dallas County Criminal District Attorney's Office and the justice system are intended to work for everyone, while also improving the quality of law enforcement and increasing public safety.

Because the attorneys in the CPU don't have dockets, we are able to be out in the community educating people. (It would be great if every

prosecutor could do this type of everyday outreach, but somebody has to try cases!) It didn't take long for us to realize that this work is a full-time job, and it is just one part of what we do. Through our presence we have served as liaisons between our office and the community at large and various public, private, and law enforcement agencies. Our attendance and participation at these meetings has helped to streamline communications for more efficient and effective prosecutions and to build partnerships and foster better relationships within the county criminal justice system.

Pretrial diversion

The second area we focused on was to create a means to divert low-level offenders who entered the criminal justice system because of a momentary lapse in judgment or giving in to peer pressure so that they would not be saddled with a criminal history the rest of their lives. Our felony diversion program, A Second Chance Initiative, is meant for the exceptional defendant who deserves but doesn't meet the qualifications for an existing county diversion program but whom, we believe, can be saved.

One example is a defendant who would otherwise qualify for the statutory drug court in every way, except that she is a full-time college student in another city or has to travel several weeks of the year for her job. This inability to stay within five miles of Dallas County several days of the week disqualifies an otherwise

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worthy candidate. In response, we have partnered with treatment providers outside of Dallas to overcome these barriers so that deserving individuals have the same opportunity to earn a clean record upon successful completion of the diversion program.

A second example involved a bullying incident by two high school students that escalated into a felony theft charge. When we began this program, an absolute condition was that complainants had to agree to the diversion. Thus far the complainants have been extremely happy to know that there is such an option. Many felt guilty about involving the police and were comforted by this option as long as they were made whole and the perpetrator suffered some consequence. In this bullying case, one of the perpetrators' conditions included helping the CPU explain the ramifications and consequences they suffered as a result of their bad judgment to other middle school and high school students. (Because the defense attorneys could not attend the talk, we had it in writing that the CPU could communicate with their clients about the incident on the day of the presentation and regarding scheduling without defense counsel present.)

On presentation day I was working with John and Jackie (whose names have been changed to protect their identities) before the presentation. I told them to speak from the heart and talk about how their crimes and the consequences have affected them. Jackie grew up in a supportive, loving environment. As she described sitting in a jail cell and being expelled from school, she was

naturally embarrassed. John, on the other hand, was not as fortunate. Unlike Jackie, jail was the least of his problems. He was a graduating senior with a full scholarship to a four-year college, and that scholarship was his way out of an impoverished, unstable life. When he was charged with a felony, he lost his scholarship, and that upward trajectory for his life was over—all because of two girls fighting over a guy in a schoolyard.

As the tears began to fall down his face and he fell to the chair, I realized this was one of those moments that nothing could prepare me for. There was never anything that John wished he could take back more than those few minutes in that schoolyard that cost him so much. He had lived on his own and had been putting himself through community college and working an hourly job with no one's help—he could have taken a much easier path and just given up, but he was determined to make something of himself and not let this one mistake define him. We practiced his speech a few times and then it was show time—and he hit it out of the park. Several parents of the kids attending thanked the CPU, John, and Jackie for sharing their stories. John couldn't turn back the clock and change what he did that day in the schoolyard, but perhaps he changed the direction of others' lives that day.

When it was done I told him that he had done a great job. Speaking to those students was the last condition of his dismissal and he said, "Thank you, Ms. Rachael, but I am sad." I asked him why, thinking he should be elated he was finally done. "Because I won't see you any-

more," he answered. John saying that he was sad that he wouldn't see his prosecutor anymore tells me that his second chance was just. It was certainly what I would call one of the justice moments, a *community justice* moment.

Educating the next generation

The third prong of our strategy is to work with children. We wanted to change their negative views of law enforcement and redirect the "school-to-prison pipeline" that exists throughout our communities. This strategy requires a multi-faceted approach to educate, innovate, and expose. We have to educate kids about the law and the consequences of violating it; to be effective we have to use innovative programs; and throughout all our efforts we are constantly thinking of ways to expose these kids to new opportunities that they might not otherwise know about. We are continually showing them the positive side of law enforcement.

At the conclusion of its first year, the CPU had given more than 300 presentations, reaching almost 10,000 of our county's youngest residents. These presentations cover a wide variety of topics: animal cruelty laws, drug and alcohol abuse, bullying and cyber-bullying, truancy, "consensual" statutory rape, teen dating violence, and illegal use of social media. Children are often not aware that being a spectator at a cock-fight or dog-fight is illegal or that teen dating violence actually exists until it's too late or it happens to them. It is hard for teenagers to

recognize that their actions have consequences. We hope that these presentations will not only educate them on the laws but also on the life-long consequences of violating a law.

Though parents, teachers, and school personnel could also present some of the same information, we are more effective for many reasons. First, as lawyers and law enforcement officers, we can give an accurate interpretation of the law. Second, we use real-life cases as examples to bring the point home to the audience. Many kids think these things will never happen to them, but when we highlight cases that mirror the age and situation of those in our audience, we make it more real.

Our presentations have also included participating in a number of career days across the county. During those presentations we discuss what our office does and what prosecutors do, and we include a crime-prevention component such as discussing animal cruelty laws or drug addiction. Though career day presentations seem like such a small thing, to many of these kids it is the only exposure they get to a productive career path. When CPU prosecutors ask many of the junior high boys in our programs, "What do you want to do when you grow up?," their answers are often a rapper, professional ball player, or drug dealer. We have found that these presentations are extremely helpful in elementary schools to start indoctrinating children to respect law enforcement and follow the law. We tell them that laws are just rules outside school and that they exist to keep everyone safe; we also explain the roles of police and prosecutors. (The

elementary kids always love playing with our badges.) There are so many career days that it is impossible for regular trial prosecutors to attend them; only through the fully staffed CPU are we able to attend these events and give our presentations.

The CPU has developed four programs for children (discussed below) that have two goals: First, we seek to help those kids headed down a negative path and who will possibly be exposed to drug abuse and criminal activity find a new path to a successful, productive citizenship. Second, we want to give children positive exposure to law enforcement. Many of these kids have negative opinions about anyone associated with law enforcement and the criminal justice system. Such a belief has a much larger impact upon their minds than one might think. For example, these kids will not be as likely to report crimes; they will be less likely to come forward as witnesses to a crime; and of course, they may be more likely to commit crimes themselves. Each of these negative influences contributes to our crime rate and makes it less likely that criminals are held accountable for their actions.

Junior Prosecutor Academy (JPA)

The JPA was founded in the belief that two things will help children stay out of trouble: career goals and respect for the law. The Junior Prosecutor Academy's mission is to expose participants to the vast array of careers in the criminal justice field. Each academy provides age-appropriate material and interactive presentations. The crime scene investi-

gation class covers what a crime scene detective does, and students get to actually work with the tools. We discuss the various jobs associated with crime scenes including police, forensic biologists, and firearms examiners. Students then learn how to introduce crime scene evidence in the courtroom by playing lawyer, witness, and judge. They hear about the dangers of alcohol and drug use, especially as it relates to driving while intoxicated. Students use intoxication goggles to do field sobriety tests and very quickly see how their perception and senses would be affected by alcohol and drug use.

Given the increase in school-related violence and its association with mental illness, we added a presentation from our office's mental health prosecutor, Cindy Stormer. Her presentation minimizes the negative stigma associated with mental illness and encourages participants to be supportive and to help those who are mentally ill.

High school students hear a presentation on a capital murder case in which the victim gave a total stranger a ride and how he sexually assaulted her, brutally beat her to death, and set her body on fire. Not only does this case demonstrate the dedication of the police and prosecutors involved on behalf of the victim but it also reminds students, who are now of driving age, why we teach them never to give rides to strangers. We also have a DA investigator present on the dangers of gang membership and gang prosecutions. To provide a balanced approach, we ask an exoneree to explain to the students his case and subsequent exoneration,

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and he spends some time teaching them about lessons he has learned the hard way. Finally, we conclude each academy with a graduation ceremony to validate their participation and increase future participation.

The power of a program such as this to change lives can be seen in Steve's story (his name has been changed for anonymity). While at one of the schools signing kids up for the program, we saw Steve with a roll of \$20 bills, something you wouldn't expect for a junior high student. Based on that and some other information, we were pretty sure that Steve was running drugs for someone. Steve decided to participate in JPA. Surprisingly, he came to every class. During the academy we monitored his school participation and were informed that on his standardized test one of the questions asked him to write about something positive in his life. Steve wrote about the Junior Prosecutor Academy and the impact it had upon him. At graduation he said he wanted to be a prosecutor.

Mock Trial Academy

This program was developed for different ages of children to experience various careers within the criminal justice system through a mock trial. Last year we hosted a Junior Prosecutor Academy and incorporated a mock trial, but when we saw how much the students loved the mock trial, we decided to just do a Mock Trial Academy this summer. Though several high schools have mock trials already, ours gives students the experience without having to try out for the team while also exposing them to positive interaction with law

enforcement. The trial was held on the final day of the academy, and students were able to invite guests to watch. Afterward we celebrated with cake and certificates.

Our elementary school mock trial has been a huge success. We provide a script of an entire trial where Curly Pig is charged with the attempted murder of B.B. Wolf. This allows for kids to split up the roles of lawyers and witnesses. Rather than creating the questions for witnesses from scratch, they get to spend time practicing the script and focusing on their performance. Again, it is about exposing children to the positive side of law enforcement and potential legal careers. Even if they choose not to become a lawyer, at least we have given them some confidence to stand and speak in public. Having more self-confidence certainly can reduce the likelihood of them being victims of crime and caving to peer pressure.

Reading is Lawesome

This program was developed after a meeting with the principal at Gabe P. Allen Elementary School, where there are a high number of students with one or more parents incarcerated and many who are economically disadvantaged. Going into the meeting, we planned to pitch putting on a Junior Prosecutor or Mock Trial Academy. However, when speaking with principal Connie Hovseth, it became obvious that their needs were much more basic. She explained that she had 33 third-graders who were two grade levels behind in their reading skills. They stayed after school three days a week and attended Saturday school. Most

did not have books at home or parents who speak English; therefore, this extra time at school is the only time they have outside of the regular school day to read in English. The goal was to catch them up to have a fighting chance on the fifth-grade tests so they could be accepted into one of the magnet schools. Ms. Hovseth needed people to sit and read with the children for one hour one day a week.

As we all know, many people who turn to crime do not finish high school. If these students didn't catch up with their peers, they were that much more likely to drop out of school and start committing crimes. Thus, Reading is Lawesome was created by fellow community prosecutor Brittany Dunn, and we began reading with these students for an hour a week. (That's Brittany and a student in the photo on the opposite page.) Many of the kids openly shared that their moms or dads were in prison, and they planted trees in their courtyard in memory of students who had died. One year they planted seven trees for friends they had lost to drive-by shootings.

Each week we read with them and talked to them about what we do as prosecutors. At the conclusion of the school year they took a field trip to the courthouse where they got to see where we worked and have a graduation ceremony. They were so excited that they even created an impromptu mock trial in which they sentenced the teacher to "life" for stealing a computer.

Knowing that most had no books at home, we also took up an internal office collection to buy books. We had enough for each stu-



dent to take five books home in a monogrammed Reading is Law-some shoestring backpack for the summer vacation. The teachers and principal love the program because it gives kids positive interaction with law enforcement so that they know that not all people who carry guns are bad people. Additionally, it gave these kids a career goal and exposed them to something that they would not ordinarily experience.

One could argue that we, as lawyers, shouldn't be wasting our time reading with children. But community prosecution is about developing programs that meet the needs of the community, and these children needed help reading. At the end of the day this was just the avenue by which we exposed them to the positive side of law enforcement. We always look for clues to see if what we are doing is working, and I was rewarded on career day last year with the highest compliment I have ever received. A little girl from my

reading group arrived at school in a blazer she had borrowed from her mom with her sleeves rolled up (as it was way too big for her). The teacher told her, "You look so pretty in your black and white outfit." She responded, "Thank you! I look like Rachael." That day she had nicknamed herself "Little Rachael." Coming from that neighborhood, she probably wouldn't have been looking up to a prosecutor had she not been around a group of us during such a pivotal point in her life.

Justice in Schools

Justice in Schools specifically targets middle school children who have several risk factors for committing crimes as an adult: behavioral issues in school, failing at least one grade level, truancy, and referrals to the juvenile justice system. For one hour a week we meet with these students for a "community building circle" that has a structured process to facilitate open conversation. So much of

what these kids hear about is what they are doing wrong, and they do not feel they have a voice in what occurs in their lives. During Justice in Schools it is their turn to talk, and we provide a supportive environment in which they quickly learn that they are not alone in their daily struggles. The circle's success is grounded in two philosophies:

- empathy builds better understanding, which in turn builds better relationships, and
- helping others aids the helper as much as it does the recipient.

In the circle, they learn to respectfully listen to each other and to give support and advice through their shared experiences, giving the students a sense of accomplishment and self-worth in the process. Our program manager, Renee Breazeale, has been an invaluable resource in developing Justice in Schools because she is a certified trauma counselor and licensed chemical dependency counselor. So many of the kids have traumatic issues that they are dealing with, and she has been a great resource to help us navigate healthy boundaries and guide the children to appropriate resources. Having staff with mental health training and substance abuse counseling is truly a necessity for any community prosecution model.

We have even used a modification of this process for conflict resolution between students. Many of the students look forward to our time, telling us, "I like being here because we talk about life," and the students have started to help each other by keeping each other's behaviors "in check." We also use this time to keep the students focused on their

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TDCAA training on the horizon

Here are a few TDCAA seminars coming up in the next few months. See our website, www.tdcaa.com, for more info.

Elected Prosecutor Conference, December 3–5, 2014, at the Westin Domain Hotel, 11301 Domain Dr., in Austin. This conference is open to all elected prosecutors and their first assistants; it also includes a newly elected prosecutor boot camp for those taking office January 1. The host hotel, the Westin, is now full, and overflow is available at the Hyatt Place Austin/ Arboretum for \$139 plus tax per night. Call 877/242-3654 and reference the “TX District & County Attorneys Association” block to get the rate. Registration for the conference is online only at www.tdcaa.com/training.

Prosecutor Trial Skills Course, January 4–9, 2015, at the Radisson Hotel & Suites, 111 E. Cesar Chavez, in Austin. This course is available to newly hired attorneys with less than six months of experience in a prosecutor’s office. Call 512/478-9611 or 800/333-3333 and reference the “TDCAA Prosecutor Trial Skills” block to get the \$109-plus-tax room rate. The cutoff date for reservations is December 12. Registration for this seminar is online only at www.tdcaa.com/training.

Mandatory Brady Training is online at <http://tdcaa.litmos.com/online-courses> and is free to all prosecutors and special prosecutors. It provides the one hour of mandatory *Brady* training required by the legislature as well as an hour of MCLE ethics. ❄

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futures through short- and long-term goals. As I stated earlier, when we ask the kids what they want to do for a career, it is usually a ball player, rapper, or drug dealer. They believe that these are literally the only options open to them. When I hear them talking, it makes me wonder how many young men sitting in our prisons today thought the same thing when they were that age. We must do something to change their perception of life; otherwise we can’t hope to reduce crime.

Well-rounded approach

It is probably more evident now why we focus on all three of these areas. First, we have to reach children before they enter our criminal justice system. Second, we should provide a mechanism to redirect those who had a momentary lapse in judgment with a second chance, when appropriate, so that their entire life won’t be destroyed with a criminal record. Finally, we have to enlist the public’s help in doing all of this through collaborative partnerships and educating them on what the DA’s office does.

Our work is not without frustration. There are days when I wonder, *Is it working?* When those days happen I try and remember the starfish story. Remember this one? In it, a grandfather is walking along the seashore with his young grandson, and there were hundreds of starfish washed up on the sand. The grandfather watched as his grandson began throwing them one by one back into the ocean. He said, “Son, what are you doing?” The grandson replied, “I’m saving them.” Touched by his grandson’s kindness, the grandfather

said, “Well, that’s noble of you, son, but you will never be able to save them all.” And his little grandson replied, “I know.” And as he picked up another one and tossed it into the ocean, he said, “But I saved this one ... and this one ... and this one ...”

We can’t stop all the children from eventually sitting in the defendant’s chairs, but one child at a time we are changing the direction of their lives. Let’s hope that all those we have saved will go on to become prosecutors, police officers, judges, crime scene investigators, and teachers. How many more lives will they continue to change because someone stopped along the way to save them?

Dedication

This story is dedicated to all the current and past members of the Dallas County Community Prosecution Unit for their efforts and dedication to not only make our community a better place to live but also for their time and dedication to the youngest citizens of our community: Hilary Blake, Renee Breazeale, Tara Cunningham, Corwyn Davis, Brittany Dunn, Alix Emerson, Mindy Fancher, Rolando Garcia, Sanford Holmes, Jennifer Kinder, Seancory Patton, James Tate, and Haim Vasquez. Special thanks also go to Criminal District Attorney Craig Watkins, First Assistant Heath Harris, and our supervisor, Special Fields Bureau Chief Russell Wilson, for their leadership and unwavering support of our efforts. ❄

There is no honor among thieves, and that is a good thing for prosecutors

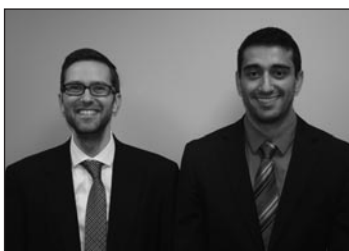
How to utilize the testimony of an accomplice witness

In every prosecutor's career, there will come a day when the prosecution will need to call an accomplice witness to testify against a co-defendant on trial. For those prosecutors for whom that day has not yet come, this article is designed as a primer on the potential pitfalls attendant to accomplice witness testimony, including pre-trial issues of negotiation and notice of plea agreements; suggestions on how to ensure the cooperation of an accomplice at trial; the corroboration requirement for accomplice witness testimony enumerated in the Code of Criminal Procedure; and charging issues that accompany the use of accomplice witness testimony.

Who is an accomplice?

The Texas Court of Criminal Appeals has defined "accomplice" as "a person who participates in the offense before, during, or after its commission with the requisite mental state."¹ The Texas Court of Criminal Appeals has further held that mere presence at the crime scene will not make a person an accomplice, nor will being aware of the crime and failing to disclose it, even if that witness intentionally conceals the

crime.² "An accomplice must have engaged in an affirmative act that promotes the commission of the offense that the accused committed."³



By Jason Bennyhoff
(at left), Assistant District Attorney in Fort Bend County, and
Daryoush Behbood
(at right) Law Student, University of Texas School of Law

There are two types of accomplices: 1) accomplices as a matter of law, and 2) accomplices as a matter of fact.⁴ A witness who is or could be indicted for the same offense as the accused or for a lesser-included offense arising from the same transaction is an accomplice as a matter of law.⁵

When there is no doubt that a witness is an accomplice as a matter of law, the court must instruct the jury that the witness is an accomplice as a matter of law.⁶ Where there is conflicting evidence as to whether a witness is an accomplice as a matter of law or where it is not clear that the witness is an accomplice, the trial court should leave it to the jury to decide whether a witness is an accomplice as a matter of fact.⁷

Even if an accomplice as a matter of fact cannot be charged with the offense, the person must still engage in an affirmative act that promotes the commission of the offense. For instance, in *Druery*, neither the

defendant's girlfriend nor his friend were accomplices as a matter of fact even though they were both present during the murder, helped dispose of the gun and body, and received payment after the murder.⁸ This is because the purported accomplice "must still be susceptible to prosecution for the [offense] itself by having affirmatively assisted in committing the offense."⁹ For example, when a person assists another to steal firearms, and the other person subsequently uses those firearms to commit a murder, the person may be found to be an accomplice as a matter of fact.¹⁰

Ensuring accomplice witness cooperation

Oftentimes, an accomplice will not testify for the State against a co-defendant without a plea agreement for his own charges in place. In such a scenario, the prosecutor has several options to ensure the accomplice's cooperation at trial. Where possible, the prosecutor can enter into an agreement with the accomplice for his truthful testimony at his co-defendant's trial. In this option, the accomplice enters a plea of guilty to his charges and sentencing is set for some time after the co-defendant's trial. If the accomplice testifies truthfully at his co-defendant's trial, the prosecutor negotiates and recommends an agreed sentence.¹¹ This option allows the prosecution to secure a guilty plea and still leave

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sentencing open dependent upon the accomplice's cooperation at trial. However, many prosecutors find themselves unable to take advantage of this plea bargaining option because many judges refuse to reset sentencing for an extended period of time, which may be necessary given the co-defendant's case(s) may take months or even years to come to trial.

Another option where probation or deferred adjudication is viable is that the accomplice's truthful testimony at the co-defendant's trial can be made a condition of his probation. This method can both resolve the case and ensure the accomplice's cooperation, as he will no doubt be loathe to find his probation revoked for failing to testify truthfully.

Where probation is either not available or not desirable, the options are somewhat less persuasive but can nonetheless still be effective. For instance, the accomplice can be sentenced to confinement and be required, as a condition of his plea, to give a sworn statement on the record wherein he gives a full account of his trial testimony and also acknowledges that a failure to testify truthfully will result in the plea bargain being voided. This method can ensure both the consistency of the accomplice's testimony and the State's ability to void his plea bargain should he fail to testify truthfully.

Regardless of the method for resolving the accomplice's case, an accomplice's sworn statement on the record can be a useful tool in ensuring that he testifies truthfully at his co-defendant's trial and *consistently* with his previous in-court statement.

"Consistently" is emphasized here because this statement, being under oath and on the record, gives the State an instrument on which to base a perjury charge should the accomplice's trial testimony deviate from his previous statement. This statement can also be used as impeachment should the accomplice testify inconsistently with his previous statement on the stand or should he refuse to testify as previously agreed.¹²

Testimony must be corroborated

Even the most junior prosecutors are familiar with the general rule that a defendant's guilt can be proven by the testimony of a single witness.¹³ While this is the general rule, a greater degree of proof is required when dealing with accomplice witness testimony because accomplices are presumed to be biased and untrustworthy.¹⁴

The Texas Code of Criminal Procedure mandates that accomplice witness testimony be corroborated before a conviction may be based upon it.¹⁵ However, the code requires only that there be "other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense."¹⁶ Keep in mind that this standard requires only *some* evidence tending to connect a defendant to the crime; it does not require that every word an accomplice says must be corroborated, as defense counsel will often argue.¹⁷

While the corroboration standard is not a demanding one, it does

have an additional wrinkle: Accomplices cannot corroborate one another.¹⁸ The corroborating evidence must come from some other source, such as testimony that the defendant attempted to procure a false alibi.¹⁹ Other examples of corroborating evidence, in a murder case for instance, can include: evidence that the defendant and accomplices were seen with a gun hours before the murder; evidence that the defendant made a plan to meet with the accomplice before the murder; and evidence that the defendant was seen wearing a piece of the victim's property.²⁰ These are all examples of evidence "tending to connect" the defendant to the crime.²¹

Discovery issues

A plea bargain with an accomplice, which requires his testimony at trial, is a matter that must be disclosed to the defense.²² Failure to disclose this evidence, which is inherently favorable to the defendant, violates due process.²³ Furthermore, the existence of the plea bargain is *per se* impeachment material and therefore must be made known to the defense for the State to satisfy its duties under *Brady*.²⁴ A plea bargain with an accomplice must also be disclosed to the jury.²⁵ The jury must know that the accomplice has an interest in testifying against the defendant to protect the defendant's due process rights.²⁶

Further, the contents of any statement made by an accomplice, and any transcript thereof, would be required to be disclosed under the revamped discovery statute in Art. 39.14 of the Texas Code of Criminal Procedure.²⁷

Charging issues

When the State relies on accomplice witness testimony, the defense is entitled, even without a request, to a jury charge on accomplice witness testimony where the evidence establishes that the witness is an accomplice.²⁸ That charge should instruct the jury in accordance with Article 38.14 of the Code of Criminal Procedure that the accomplice witness's testimony must be corroborated.²⁹ Failure to give an instruction on accomplice witness testimony is error.³⁰ While the error in failing to give such an instruction can be found harmless on appeal,³¹ a prosecutor who argues against such an instruction and then hopes the error will be found harmless on appeal may find himself in for an unpleasant conversation with his appellate division and possibly have his case reversed.

Furthermore, different jury instructions are necessary for accomplices as a matter of law and accomplices as a matter of fact.³² Where a witness is an accomplice as a matter of law, the jury should be instructed that the witness is an accomplice.³³ However, the trial court's duty to instruct the jury that a witness is an accomplice as a matter of law does not arise unless there is "no doubt" in the record that the witness is an accomplice.³⁴

Where it is unclear if the witness is an accomplice, the trial court should allow the jury to decide it as a matter of fact, and the jury should be given instructions defining the term "accomplice."³⁵ Where there is a question of whether a witness is an accomplice as a matter of fact, the

jury should also be charged that if it finds that the witness is an accomplice, the jury should then apply the corroboration requirement to that witness's testimony.³⁶ Remember, there must be some evidence in the record of an affirmative act on the witness's part to assist in the commission of the charged offense before an instruction on whether the witness is an accomplice as a matter of fact is justified.³⁷

While accomplice witness testimony carries with it inherent risks, in the right case it can be a useful tool. Prosecutors should therefore approach this issue with caution but not shy away from using accomplice witness testimony when necessary. Please feel free to contact me if I can be of any assistance. ❄

Endnotes

1 *Smith v. State*, 332 S.W.3d 425, 439 (Tex. Crim. App. 2011).

2 *Id.*; *Druery v. State*, 225 S.W.3d 491, 498 (Tex. Crim. App. 2007).

3 *Smith*, 332 S.W.3d at 439.

4 *Id.*

5 *Id.*; *Paredes v. State*, 129 S.W.3d 530, 536 (Tex. Crim. App. 2004).

6 *Paredes*, 129 S.W.3d at 536.

7 *Id.*; *Druery*, 225 S.W.3d at 498-99.

8 *Id.* at 499-500.

9 *Id.* at 500.

10 *Ramey v. State*, No. AP-75678, 2009 WL 335276 at *9-10 (Tex. Crim. App., Feb. 11, 2009) (not designated for publication).

11 See *Castillo v. State*, 221 S.W.3d 689, 694-95 (Tex. Crim. App. 2007) (rejecting claim that prosecutor's offer of leniency in plea bargaining to accomplices in exchange for truthful testimony

violated ethical rules).

12 See Tex. R. Evid. 801(e)(1)(A) (defining as "not hearsay" a statement by a witness which is inconsistent with the declarant's testimony and was given under oath subject to a penalty of perjury).

13 See *Lee v. State*, 206 S.W.3d 620, 623 (Tex. Crim. App. 2006) (discussing continuing viability of the "one witness rule" in the context of State's voir dire).

14 *Blake v. State*, 971 S.W.2d 451, 463 (Tex. Crim. App. 1998).

15 Tex. Code Crim. Proc. Art. 38.14.

16 *Id.*

17 *Castillo*, 221 S.W.3d at 691 (holding that non-accomplice corroborating evidence need not directly link the defendant to the crime, nor must it alone prove the defendant's guilt beyond a reasonable doubt) (internal citations and quotations omitted); *Gribble v. State*, 808 S.W.2d 65, 71 n. 13 (Tex. Crim. App. 1990) (accomplice testimony need be corroborated only to the degree that the corroborating evidence tends to connect the defendant to the offense committed, and does not need to prove the *corpus delicti* of the crime).

18 *Chapman v. State*, 470 S.W.2d 656, 660 (Tex. Crim. App. 1971); *Burks v. State*, No. 03-12-00181-CR, 2014 WL 1285731 at *4 (Tex. App.—Austin Mar. 26, 2014 no pet.) (not designated for publication).

19 *Brown v. State*, 270 S.W.3d 564, 568 (Tex. Crim. App. 2008).

20 *Castillo*, 221 S.W.3d at 693.

21 Tex. Code Crim. Proc. Art. 38.14.

22 See *Smith v. State*, 541 S.W.2d 831, 834-35 (Tex. Crim. App. 1976) (citing *Brady v. Maryland*, 373 U.S. 83 (1964)).

23 *Id.*

24 See *Carroll v. State*, 916 S.W.2d 494, 500-01 (Tex. Crim. App. 1996) (holding that although the witness had no agreement with the State regarding his pending criminal charge, the defendant's rights to confrontation were violated when the trial court disallowed questioning regarding the witness' pending criminal charge).

25 *Napue v. Illinois*, 360 U.S. 264, 270 (1959).

26 *Id.*

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27 See Tex. Code Crim. Proc. Art. 39.14(a) (requiring production of “written or recorded statements of the defendant or a witness. . .”) and Tex. Code Crim. Proc. Art. 39.14(h) (requiring production of “any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the State.”)

28 *Herron v. State*, 86 S.W.3d 621, 631 (Tex. Crim. App. 2002).

29 *Id.* at 631-32.

30 *Id.* at 631.

31 *Id.* at 633-34.

32 *Zamora v. State*, 411 S.W.3d 504, 510 (Tex. Crim. App. 2013).

33 *Id.*

34 *Druery*, 225 S.W.3d at 498.

35 *Id.* at 498-99.

36 *Zamora*, 411 S.W.3d at 510.

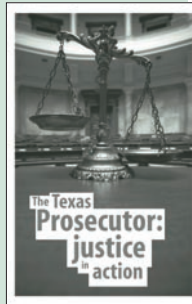
37 *Druery*, 225 S.W.3d at 499.

Electronic versions of the Code of Criminal Procedure and Penal Code available

Two of TDCAA’s code books, the 2013–15 Code of Criminal Procedure and Penal Code, are now available for purchase from Apple, Amazon, and Barnes & Noble (for iPads, Kindles, and Nooks, respectively). Because of fewer space limitations in electronic publishing, these two codes include both ~~strikethrough~~ underline text to show the most recent legislative changes and annotations. Note, however, that these books contain single codes—just the Penal Code and Code of Criminal Procedure—rather than all codes included in the print version of TDCAA’s code books. Also note that the e-books can be purchased only from the retailers. TDCAA is not directly selling e-book files. ❄

Prosecutor booklets available for members

We at the association recently updated our 12-page booklet that discusses prosecution as a career. We hope it will be helpful for law students and others considering jobs in our field. Any TDCAA member who would like copies of this brochure for a speech or a local career day is welcome to email the editor at sarah.wolf@tdcaa.com to request free copies. Please put “prosecutor booklet” in the subject line, tell us how many copies you want, and allow a few days for delivery. ❄



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Case Preparation for Investigators, a brand-new book by TDCAA, takes readers through the steps of preparing for trial. From investigation through presenting evidence at trial, *Case Preparation* is a must-have resource for all prosecutor-office investigators and others who work on preparing cases for trial. The book contains sample forms on a CD-Rom (including sample oaths, subpoenas, pen packet requests, HIPAA requests, bench warrants, and more). Its six chapters include an overview, digital resources, getting evidence, government resources, evidence at trial, and trial preparation.

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