

Hood County News

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Best interest of the child

NO CONTEST: Jay Upham leaves the Hood County Justice Center in April for the short walk to adult probation after entering a "no contest" plea for assaulting his wife. Upham said he took the plea rather than risk a year in jail during which he

would have had no access to his children. He said his wife tackled him from behind as he attempted to walk away from an argument. When she grabbed him by the genitals, he said, he lifted her chin and made a fist, ordering her to let go. However,

Upham said he did not harm her. Although the couple's 12-year-old twins wanted to remain in their father's care, county court-at-law judge Vincent Messina awarded custody to their mother. The boys now live with her in Waxahachie.

KATHY CRUZ | HOOD COUNTY NEWS

Fathers challenge abuse claims, primary custody given to women

JUSTICE SHOULD be for all, not for some. EDITORIAL, 4A.

BY KATHY CRUZ
HOOD COUNTY NEWS

The woman broke into tears as she testified about her husband's abuse, relating from the witness stand how he had threatened to chop up her body and mail it, piece by piece, to her family. He had victimized her, she said, in ways similar to that of her first husband.

Her testimony was dramatic, but in sharp contrast to

the wink she gave to another female sitting in a pew of the courtroom at the Hood County Justice Center. The gesture did not go unnoticed by her husband's attorney, who demanded to know to whom the wink was intended.

"My advocate," the woman answered, referring to a volunteer who provides moral support for women who say they have been abused.

Sitting next to the advocate was a woman who had driven

the self-proclaimed abuse victim from a shelter where she had been given free room and board for the past month. Also present was her attorney. He was representing her for free, a service he often provides for abused women.

"All my needs," the woman testified from the stand, "are being met."

The woman left the courtroom that April day having kept primary custody of the toddler her husband hadn't seen

or held since mother and child went behind the shelter's protective gates weeks earlier.

What the judge, the advocate and the shelter representative likely didn't know was that the woman's claims of abuse at the hands of her first husband – the same types of allegations she was now making in Hood County against husband number two -- had been proven false.

In fact, it was she – not he -- who had been found guilty of domestic violence.

PLEASE SEE CUSTODY | 6A

WHAT IT MEANS

DURING the past year, several men have contacted the Hood County News claiming that they have been treated unfairly in custody cases and claims of spousal abuse.

SOME attorneys who were too fearful to speak on the record said they feel men are sometimes treated unfairly in the justice system.

A FACTOR in some divorce cases are claims of abuse, which often result in protective orders being issued against

men. The orders remain on their records permanently.

SOME women who claim abuse seek help from Mission Granbury. Staffers are required by the Texas Administrative Code to inform clients of rights and options, which include protective orders.

BOTH judges who rule on protective orders and custody issues have wives who have been involved with Mission Granbury, causing some to question whether there is a conflict of interest.



Council to decide sales tax question

BY KATHY CRUZ
HOOD COUNTY NEWS

Granbury City Council member Mitch Tyra went to bat for the Acton Nature Center this week, but it won't be known until Aug. 17 whether he struck out.

At the insistence of Tyra, who was supported by colleague Tony Allen, the seemingly reluctant council agreed to place on the next council agenda a vote on an "Interlocal Cooperation Agreement" proposed by Hood County Development District 1 (HCDD 1).

The district was formed for the betterment of the Acton area and was primarily intended as a way to raise funds for

PLEASE SEE RIFT | 2A



MARY VINSON | HOOD COUNTY NEWS

INVESTIGATION COMMENCES: Sheriff Roger Deeds (far left) and two of his officers examine a vehicle after it had been stopped by deputies on Contry Creek Road Tuesday night after two people were injured in a shotgun shooting in Indian Harbor. Two suspects from the vehicle are in custody, and both of the shooting victims have been released from area hospitals.

Who needs sleep? It's football season!

BY RICK MAUCH
HOOD COUNTY NEWS

The Granbury Pirates aren't wasting any time as the time arrives for them to begin pre-season football practices.

Literally. At 12:01 a.m. Monday, the team will walk onto the turf at Pirate Stadium to begin workouts. It will be their second annual Monday Madness.

"We're all excited. For one thing, it's a chance to get out

of the heat," said Pirate coach Scotty Pugh.

"But mostly this is something the players can call their own. It gives them that sense of something special just for them.

"There's not been that many traditions that have held up here over the years. We want some tradition."

There will be folks in pajamas. Others will be carrying a cup of coffee as they try to stay awake.

Motive of shootings unclear

BY MARK WILSON
HOOD COUNTY NEWS

Investigators with the Hood County Sheriff's Office and the Texas Rangers are still trying to determine a possible motive in a shotgun shooting Tuesday night in Indian Harbor that sent two people to area hospitals.

Two Indian Harbor men, Raymond Joe Taylor and Caleb Eric Fonseca, are in custody in the Hood County Jail, charged

SHOOTING SUSPECTS



Fonseca



Taylor

in the crime, captain Jerry East said.

An 18-year-old pregnant

woman, her unborn child and a 19-year-old man survived the injuries they received from the shotgun blasts that came from an undetermined distance, according to East. The victims were in a vehicle at the time of the shootings, along with a 35-year-old woman who was not injured, East said. All three are also Hood County residents, he added.

The pregnant woman was re-

PLEASE SEE SHOOTINGS | 2A

GRANBURY FOOTBALL

Date	Opponent	Time
Aug. 20	at Stephenville (scrim.)	TBA
Aug. 27	Saginaw	7:30 p.m.
Sept. 3	Byron Nelson	7:30 p.m.
Sept. 9	at Carrollton Turner	7 p.m.
*Sept. 24	Cleburne	7:30 p.m.
*Oct. 1	at Joshua	7:30 p.m.
*Oct. 8	Everman	7:30 p.m.
*Oct. 15	at Arlington Seguin	7:30 p.m.
*Oct. 22	Crowley	7:30 p.m.
*Oct. 29	Burleson	7:30 p.m.
*Nov. 5	at Mansfield Summit	7:30 p.m.

* = District 7-4A game

TOLAR FOOTBALL

Date	Opponent	Time
Aug. 14	at Comanche (scrim.)	10 a.m.
Aug. 19	Dublin (scrim.)	6 p.m.
Aug. 27	at Olney	7:30 p.m.
Sept. 3	Maypearl	7:30 p.m.
Sept. 10	Clifton	7:30 p.m.
Sept. 17	at Itasca	7:30 p.m.
*Sept. 24	Crawford	7:30 p.m.
*Oct. 1	at Hamilton	7:30 p.m.
*Oct. 8	Hico	7:30 p.m.
*Oct. 15	at Millsap	7:30 p.m.
*Oct. 22	Rio Vista	7:30 p.m.
*Oct. 29	at Cisco	7:30 p.m.

* = District 4-2A Division II game

124th Year Number 99
Local, zone(s): 2 sections 32 pages plus supplements
State: 2 sections 32 pages

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S'MORES FOR EVERYONE: Satisfy your sweet tooth on National S'mores Day Tuesday with these ideas. 1B.



Best Interest of the Child

CUSTODY: Men claim bias

FROM PAGE ONE

UNBALANCED SCALES

Some men – both locally and across the nation – say they are victims of a society and court systems that are quick to believe women’s claims of abuse and perpetuate outdated stereotypes that women are the better parents.

Across the country, fathers’ rights groups and law firms that specialize in helping men get custody of their children have popped up to fight a court system that traditionally has favored women in custody disputes.

One of those law firms is St. Louis-based Cordell & Cordell, which has offices in Dallas, Fort Worth and Austin. Attorney Dorothy Ripka, who serves as team leader of the firm’s Texas offices as well as its Oklahoma branch, said there is “a stereotype, a prejudice (against men), that has existed for a long, long time.”

“But stereotypes just aren’t appropriate in determining what’s in the best interest of the child,” she said.

The claimed injustices against dads by the courts has continued despite sobering statistics surrounding children from homes where no father is present.

According to Children’s Justice, a national shared parenting advocacy group, youngsters from fatherless homes are responsible for 63 percent of youth suicides, 71 percent of pregnant teens, 90 percent of all homeless and runaway children, 70 percent of juveniles in state-operated institutions and 85 percent of all imprisoned youths.

A check of Hood County divorces over a five-year period showed that in cases of joint custody, women provided the primary residence for children in 266 cases, compared to only 50 for men. In cases involving sole custody, the scorecard was women – 57, men – 8.

However, about 80 percent of the cases are settled in mediation, not from the bench, according to district judge Ralph Walton and county court-at-law judge Vincent Messina. Both judges hear the cases, and it is the luck of draw as to which case lands in which court.

Some local fathers and attorneys who have represented men in custody disputes said they feel that the bias that has taken place for years in courtrooms across the country also has a hold on Hood County. Women, they claim, typically are granted primary custody, even when they are unemployed, have had run-ins with the law or been investigated for child abuse or neglect.

Said one local man who has fought unsuccessfully for custody of his child: “I guarantee you, there are a lot of dads out

there who can show a whole lot more love than a mom.”

THREE MEN AND THEIR BABIES

In normal circumstances, the three men who had children with Stephani Mann would be natural enemies. Instead, they formed bonds as, together, they fought Mann and the court system for custody of their children.

It was, however, to no avail. In the spring of 2009, after two days of testimony during which the men grew increasingly confident that they would prevail, Messina ruled that the children would stay with their mother.

Andy Carnes, an area manager for a Cresson-based company that is part of the Barnett Shale, was the only one of the three who had actually been married to Mann. He joined the military in 1997 and re-enlisted after the Sept. 11 terrorist attacks, serving in the airborne infantry and receiving 23 commendations.

Earlier this summer, Carnes initiated a third attempt to wrest custody of his 7-year-old daughter Camryn from his ex-wife, who has been found neglectful of her children by Child Protective Services (CPS), according to court documents.

The latest battle was sparked by a letter from licensed professional counselor Paula Schirman stating that Mann failed to follow through on court-ordered counseling to deal with issues of depression and anger management.

In a letter dated March 4 of this year, Schirman stated: “My prior recommendation that she

(Mann) have primary conservatorship of her children was based partially on her agreement to continue working on her therapeutic issues. In view of

the fact that she abruptly ended her therapy, I can no longer maintain that recommendation in good faith.”

Despite already being out more than \$20,000 in legal fees, Carnes said that his fears for his daughter’s safety and well-being have made him feel that he has no choice but to jeopardize his family’s finances by taking Mann to court yet again.

“I won’t quit fighting,” Carnes said. “But, mentally, I can’t take it much longer.”

The other men with whom Mann had children are Cody Walker, a pipeline welder and father of Brayden, 4; and Caleb Phillips, a researcher and college professor with a Ph.D. in genetics, father of Noah, 9.

Phillips declined to speak on the record about his experience with the Hood County court system, saying that his attorney had advised him that doing so could harm future efforts to gain custody of his son.

Carnes and Walker, however, said they are so angry they will



FAMILY OF FIVE: Andy and Amanda Carnes stroll downtown Granbury after watching the annual Fourth of July parade with Camryn (left) and the couple’s two daughters, Preslee (middle) and Makenna. In a letter that is part of the court file, county court-at-law judge Vincent Messina praised Carnes, but said he was awarding pri-

mary custody to Camryn’s mother, Stephani Mann, out of concern for “three closely bonded siblings.” Mann has three children, all by different fathers. Carnes said he feels the judge showed no concern for Camryn’s relationship with her half-sisters.

no longer be silent.

“I’m doing this so that maybe I can help somebody else,” Carnes said about speaking out.

The thick case file housed at the district clerk’s office contains exhibit photographs of Mann partying and striking sexually suggestive poses with other women, as well as MySpace message postings that detail heavy drinking.

In her court testimony, Mann said that a fake MySpace page had been created about her, featuring photos that “I didn’t even know were taken.”

Court documents chronicle a “psychotic episode or anxiety attack” that landed Mann in a hospital emergency room in November 2008. That situation – which was the second time Mann had come to the attention of CPS, according to court transcripts – left Brayden in the care of Walker, and Carnes taking Camryn as well as Noah, whose father was living out of state at the time. According to transcripts, Carnes regularly took Noah for weekend visitations at the same time he had his daughter, serving as a father figure for the boy.

Though some of Mann’s Internet postings declare love for her children, a CPS intake report said that she left them “in the care of inappropriate caregivers” and that she provided “inadequate supervision of young children that could lead (to) serious injury or death of the children.”

Sonja Samms, a former roommate of Mann’s who took the stand during last year’s custody battle, testified that she witnessed Mann allowing Camryn to climb into bed with her and make overnight guests.

She also testified that Mann would visit online dating sites and websites with explicit sexual content in the presence of her three children, and said that their friendship ended when Mann walked around the house nude in front of Samm’s 18-year-old son.

Carnes and Walker said they do not believe that things have gotten better in Mann’s household or that their children are in a wholesome environment.

In June, as Mann and Carnes were gearing up for another court battle, a posting was made to Mann’s Facebook page boasting about spending child support money on pedicures and meals at a sushi restaurant.

In response to a friend’s question about her weekend plans, this reply was posted: “Well my baby daddys treated me enough today and I’m outta money,



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THE WAR AT HOME: Andy Carnes is taking his ex-wife, Stephani Mann, back to court for the third time in an attempt to win custody of their 7-year-old daughter. The little girl was born on the day her father deployed for Iraq in April 2003. Carnes said he carried his infant daughter’s photo inside his helmet. He said he feels that money he pays every month for child support is not always used for her benefit.

haha!”

Mann and her children live in government subsidized housing in Stephenville, according to Walker, Carnes and court documents. Her court testimony has included details about receiving public assistance, such as food stamps and Medicaid.

During last year’s court battle, Carnes’ lawyer entered into evidence a posting from Mann’s MySpace page in which she praised her former husband for his attitude toward fatherhood. Mann acknowledged in her sworn testimony authoring the message.

“I am blessed that my ex-husband is a wonderful father,” the entry read. “He definitely fulfills his responsibility as a father beyond what is asked of him.”

But high praise, a steady job, a stable marriage and distinguished military service apparently weren’t enough to convince the judge that it was in Camryn’s best interest to be removed from her mother and two half-brothers.

Though he allowed Mann to retain custody of her children, Messina ordered that she continue with counseling, refrain from consuming alcohol or illegal drugs in the presence of her children and not have unrelated male guests in her home between the hours of 10 p.m. and 7 a.m. Shortly after Messina’s rul-



COURTESY

IN HIS FACE: Though in the middle of yet another custody battle with her ex-husband, this photo and message about spending child support money on pedicures and sushi were recently posted to Stephani Mann’s Facebook page. The photo shows a thank-you message allegedly written on a hibatchi at a sushi restaurant. The postings could be seen by any member of the public with access to Facebook.



LOSING BATTLE: Cody Walker snapped this photo of his then 3-year-old son Brayden, showing a second-degree sunburn on his arm that occurred shortly after the child’s mother, Stephani Mann, was granted primary custody. When Brayden was an infant, CPS opened a file on Mann after she left the baby unattended and he pulled a pillow over his face. Brayden was blue when Mann checked on him, according to documents in the court file. Walker and two other fathers who had children with Mann formed friendships and went to court together in a failed bid for custody.

Despite already being out more than \$20,000 in legal fees, Carnes said his fears for his daughter’s safety have made him feel that he has no choice but to jeopardize his family’s finances by taking Mann to court yet again.

est custody challenge. Mann claimed that previous psychological evaluations of her had found “no evidence of any gross incompetence,” and that Schirman had not found anything that would “suggest that I would intentionally, physically or emotionally harm any of the children.”

Carnes and Walker said they have battled with Mann because they truly fear for their children’s safety. Within weeks of the court ruling last year, Brayden received a severe sunburn while in the care of his mother on Memorial Day weekend. CPS documents in

the court file state that Mann admitted she had not used sunscreen on the toddler.

It was Walker who took the boy for medical attention. Hospital emergency room forms documented the burn as “second degree.”

After Walker notified CPS about the sunburn, the agency filed a petition in the matter with Walton’s district court, noting that “Ms. Mann has been reported for neglect and found neglectful several times by CPS.”

Ultimately, however, CPS dropped the case, leaving Mann the victor and both Walker and

In a counter-petition filed with the district clerk on May 3 after Carnes initiated the lat-

Best Interest of the Child



HELP WITH HOMEWORK: Jay Upham (center) helps twins Dillen (left) and Dalton with their homework last October, just

days before the boys were sent to live with their mother in another county. Both boys had asked to remain in their father's

care. A court order forced them to leave their friends at Acton Middle School and Acton Baptist Church.

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COURT OF LAST RESORT

Over the past year, several fathers frustrated with the justice system have turned to the Hood County News for help.

JUNE 2009: Just weeks after losing a custody battle, Cody Walker e-mails the newspaper a photo showing the second-degree sunburn his 3-year-old son received while in the care of his mother.

OCTOBER 2009: Accused by his wife of abuse and facing the loss of his 12-year-old twin sons, Jay Upham phones the newspaper, saying: "I feel like I've got nowhere else to turn."

MARCH 2010: Erich Klein, who lives in the Metroplex, e-mails the HCN in hopes of helping the Hood County man embroiled in a bitter divorce and custody battle with Klein's ex-wife. Allegations of abuse that had been made against Klein by his ex-wife ultimately were discounted. In July, she files new CPS allegations against both men on the same day.

APRIL 2010: Local schoolteacher Tom Peterson e-mails the newspaper after he is denied all contact with his son following claims of drug use made to CPS by his ex-wife. Peterson and his attorney are challenging mouth swabs used by CPS that allegedly proved that he used illicit drugs. Drug tests done through adult probation and private labs showed Peterson to be drug-free. Peterson finally was allowed to see his 7-year-old son this week, after almost four months of having no contact with the boy.

CUSTODY: Fathers say family violence allegations, bias separate them from kids

FROM PAGE 6A

Carnes once again feeling bitter toward "the system."

An outraged Walker e-mailed a photo of the sunburned toddler to Messina, the attorneys who had been involved in the case and the Hood County News. It was that e-mail - followed, coincidentally, by phone calls and e-mails from other fathers frustrated with the court system - that caused the newspaper to begin looking into the courts' handling of custody cases.

"I don't have faith in the system anymore," said Walker, who has married and is now living in Johnson County. "It damn sure ain't fair, but there's nothing you can do about it."

Though Walker's job forced him to travel during Brayden's first year and Phillips lived for a time in Indiana while earning a Ph.D. at Purdue University, Carnes apparently made himself available for both children - even coaching Noah's soccer team. Messina himself praised the war veteran in a letter that is part of the court file. The letter, dated April 3, 2009, said that Carnes was to be "highly commended for his actions and behavior."

"After two days of testimony, I am convinced that but for the necessity of dealing with the needs and best interests of three closely bonded siblings, he (Carnes) would indeed have been named the primary custodial parent of Camryn Brooke Carnes," Messina's letter stated.

According to transcripts, the fathers said they would be committed to preserving the sibling relationships. Carnes said he felt that Messina did not take into account the fact that Camryn has two half-sisters - the daughters he had with his current wife, Amanda.

For Carnes, defending his country in Iraq was nothing compared to the war he is being forced to fight at home.

"We're going to end up," he said, "burying one of these kids."

SILENT VOICES

In the summer of 2009, when she and her husband decided to part ways, Windy Gandy-Upham turned to social services, receiving free shelter and a free attorney.

In October, as his personal nightmare was unfolding, Jay Upham turned to the local newspaper.

"I feel like I've got nowhere else to turn," Gandy-Upham's husband said, as he faced the impending loss of his 12-year-old twin boys due to a claim of abuse by his wife.

Upham, who has a prison record, said he never got to take the stand to testify before the judge ruled that the boys would move with their mother to an-



FATHER AND SON REUNION: Jeremy Bratcher carries his son, Josh, to the car for the pair's first visit in more than a month after they were reunited last April at the Hood County Law Enforcement Center. Earlier that week, county court-at-law judge Vincent Messina allowed Sarah Varnado Bratcher to maintain primary custody, but ordered weekend visitations for Jeremy. Father and son were parted after Sarah took the toddler and entered a woman's shelter.

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other county.

"My attorney said the judge had already made his decision. I was pretty much told to lay on a railroad track," he said.

Upham, whose wife sought help from Mission Granbury, was slapped with a protective order and forced to participate in the 24-week Battering Intervention Prevention Program (BIPP) offered through adult probation.

The protective order cost him \$450; BIPP was another \$240.

Then there were court costs, plus a state-mandated \$100 donation to the local women's shelter. He also received six months probation.

Upham's court-appointed attorney who represented him on the protective order said that a Mission Granbury representative was poised to testify that he had admitted to choking

Jay Upham

his wife. Upham denies it. His mother, Glenda Palacios, also disputes Gandy-Upham's claim that Palacios assaulted her.

"I'll never have her in my home again," said Palacios, who can hardly speak about her grandsons without starting to cry.

Upham said he was tackled from behind by his wife when he attempted to walk away from an escalating argument. They both fell to the floor, he said. When his wife grabbed hold of his genitals, Upham said, he lifted her chin with one hand, raised his other in a fist and told her to let go. He said he did not hit her.

"We did get into an argument, but it only got physical on her part," Upham said.

The picture that Dillen and Dalton Upham painted of their father last October when a reporter came to visit is different from the portrait of abuse that had been presented in a Hood County courtroom.

"He tells us that he loves us every night. He's a loving per-

son," Dalton said, just days before he and his brother were scheduled to leave Hood County and start a new life no one asked them if they wanted.

The boys said that they loved their mother and wanted to visit her, but preferred to continue living with their dad and grandparents. The three had been living in Palacios' home, and life was steady and predictable.

"She cleans up after us and does our laundry. She gets on us when we do something bad," said Dalton. "It's a nice place to live."

According to a sheriff's department call log, Gandy-Upham requested that deputies check on the boys in the days after the alleged incident with her husband. The log listed her address as the local shelter.

A deputy's report filed on May 28, 2009, stated: "Children are fine and happy with their father and Paternal Grandparents."

Ultimately, Gandy-Upham attempted to have the protective order dropped, according to Upham, but the county attorney's office refused. Gandy-Upham did not respond to a certified letter seeking her comment for this story.

Deanna Belknap, an assistant county attorney, said it is a phenomenon of domestic violence that women often return to their abusers, or attempt later to have charges against them dropped. The county attorney's office, she said, is committed to holding offenders accountable.

Dillen and Dalton said they would have expressed their feelings about their father in court, but were never asked to take the stand or speak privately with the judge in chambers.

Palacios said that Upham's Fort Worth attorney had filed a Motion to Confer - a document alerting the judge that the children in a custody matter want to be heard - and the boys had filled out a form stating their preference to live with their father. However, there is no Motion to Confer document in the court file. According to Messina, in Texas children 14 and older are allowed to express a preference in custody cases.

At that time, Dillen and Dalton were 12.

Following the custody decision, the attorney from Legal Aid of North West Texas who had been representing Gandy-Upham free of charge - a service that is routinely provided to local shelter clients - filed a motion to withdraw from the case, citing an inability to communicate with her client.

Upham said he is not surprised that his wife didn't follow through with the divorce.

"She got what she wanted," he said. "She wanted the boys."

As the day neared for Dillen and Dalton to be taken away, they devised a plot to foil the court order by running away or hiding in the janitor's closet at school. They refused to pack their belongings or say goodbye to their friends.

But when the appointed hour came, boyish bravado surrendered to harsh reality.

The Upham boys left Hood County quietly, in the back of their mother's dark brown Scion.

BRATCHER VS. BRATCHER

On Tuesday, March 30, an e-mail appeared in an inbox at the Hood County News.

Erich Klein, a federal law enforcement officer living in the Metroplex, wrote the newspaper about the ordeal he endured after being accused by his former wife of abusing her and their two daughters. CPS, he said, finally exonerated him, coming to the conclusion that the allegations were baseless. The Hood County News later obtained CPS documents confirming the not-guilty findings.

Klein's reason for contacting the newspaper wasn't to talk about his own ordeal, but to warn that his ex-wife's new husband - a Hood County man - was likely about to experience the same hellish nightmare he had endured.

He was right.

That man is Jeremy Bratcher. It was Bratcher's wife, Sarah, who testified that he had threatened to chop her into pieces, and who had winked at her advocate from the stand. It was Sarah who sought help from Mission Granbury, and spent weeks living in a shelter. And it was Sarah who, in August of 2007, was found guilty of assault-physical contact after she failed to appear in Lewisville Municipal Court to answer to charges that she had shoved Klein in the chest in front of witnesses as he held their 2-year-old daughter.

"By 'assisting' her in one of their 'safe houses,' they're facilitating the violation of a court order requiring this 'victim' to not hide her son from his father," Klein wrote in his e-mail

to the Hood County News.

By the time Messina ordered that Sarah Varnado Bratcher turn the toddler over to his father for weekend visitations, Jeremy Bratcher had not seen his son for a month.

The war of the Bratchers brought together in a Hood

County courtroom forces that had never before converged: An attorney who questioned whether Mission Granbury might be perpetuating wrongful accusations against men by providing blind assistance to women

who might not be telling the truth; the presence of a reporter who had written articles critical of the agency's management; and a judge whose wife was, at that time, acting executive director of Mission Granbury.

Before the divorce was final - but not before Messina had issued a protective order that could permanently remain on Jeremy Bratcher's record - the Hood County divorce case chalked up another first:

After years of ruling on protective orders requested by Mission Granbury clients, the judge who had written the agency's by-laws and whose wife was involved in the agency's management recused himself.

Twenty-one days later, the judge's wife resigned from Mission Granbury.

"THE COURT FINDS THAT FAMILY VIOLENCE HAS OCCURRED"

Some divorce cases on file in the district clerk's office at the justice center contain documents stating: "The court finds that family violence has occurred and that family violence is likely to occur in the future."

The manner in which courts arrive at that conclusion may be little more than a woman's say-so - a distinct difference from criminal cases in which wrong-

ful acts must be proven beyond a reasonable doubt. Some say that women can easily gain the upper hand in divorce and custody battles simply by claiming their mates abused them and asking the judge to issue a protective order.

Protective orders are civil actions forbidding one party from approaching another. They become criminal matters if violated. Emergency protective orders can be issued by justices of the peace in situations where the authorities believe a couple should be separated immediately.

Ripka, with Cordell & Cordell, called protective orders "the most abused process in our

court system."

"People use it to get a leg up in the court system all the time. It becomes a he said/she said. You have to prove something didn't happen."

The fact that both judges' wives have been involved with Mission Granbury - a charity that provides advocacy for abused women and assistance in seeking protective orders - has cemented in some people's minds the notion that the courts are biased against men. Though Messina's wife has been a paid employee of the agency, Walton's wife has served as a volunteer board member. Her term expires at the end of this month.

Both judges said that their wives' connection to the agency has held no sway in their rulings, and they said they do not feel they have had a conflict of interest when ruling on protective order cases that had Mission Granbury involvement.

The problem may be in the perception, both among lawyers and men whose wives have received assistance from the agency.

Ripka said the judges' rulings on cases involving Mission Granbury do not violate judicial canons of ethics.

However, she said: "I understand the feelings that people have as far as there being a conflict of interest. It feels wrong. It smells wrong. It is part of the information that I would want my client to know, and the public is entitled to know of that association."

In an open records request to the county attorney's office, the Hood County News asked for the number of protective order requests submitted by Mission Granbury clients, including the courts' disposition on those requests. The county attorney's office refused to provide the data, and asked for an opinion from the attorney general's office as to whether responding to the request would violate confidential communication. That ruling is pending.

The Hood County News did not request the names or any

other personal information of the individuals seeking protective orders.

One person closely connected to the justice system who also has had interaction with Mission Granbury said:

"It's all about the money - the fines and fees - and looking good to the community."

Though some lawyers said they feel the judges are fair in their rulings, others who did not want to speak on the record said they feel there is a bias. One attorney who was preparing to represent a Mission Granbury client who said she had suffered abuse at the hands of her husband expressed confi-

PLEASE SEE CUSTODY | 8A

The war of the Bratchers brought together in a Hood County courtroom forces that had never before converged.

Best Interest of the Child

The Experts



Dorothy Ripka,
attorney, Cordell & Cordell



Ralph Walton,
district court judge



Vincent Messina,
county court-at-law judge



Rob Christian,
district attorney



Deanna Belknap,
assistant county attorney



Larry Grady, group leader,
Battering Intervention
Prevention Program

CUSTODY: Judges defend conflict of interest claims, issuance of protective orders

FROM PAGE 7A

dence about the outcome of the case. "All I have to say," he said, "is 'Mission Granbury.'"

One man against whom a protective order was issued said his attorney warned him about speaking to a reporter about the assistance his wife received from the agency.

"He said, 'You'd better be careful what you say. The judge is big on Mission Granbury,'" the man recounted.

Bratcher and his attorney, James Winegardner, are challenging whether his protective order should be allowed to stand in light of Messina's recusal from the divorce case. The ruling from visiting judge Vickie Isaacks is pending.

Dan Coates, Mission Granbury's board president, said the Texas Administrative Code requires agency staff to offer to accompany clients "in their pursuit of legal options" and must provide advocacy, including explaining the client's "rights and options."

"Protective orders would fall under victims' rights and options," Coates said.

One local attorney called protective orders a "political malaise" for judges because the magistrates know that denying a woman's request for protection could not only be risky for the woman, but for themselves as well. One wrong decision could be career suicide.

Last February in Florida, Brevard County Circuit Court judge Dean Moxley came under national fire after he denied a woman's request for a protective order, and she was shot and killed by the man she said had been stalking her. According to some media reports, the woman's attempts to seek protection through the courts may have been what pushed her alleged stalker over the edge into violence.

Most judges err on the side of caution, even though there is no guarantee that court orders will prevent violence. Across the nation, there have been cases in which those who succeeded in getting protective orders were nonetheless killed by the person against whom they sought protection.

According to Messina, a case in which the court has an opportunity to prevent domestic violence but doesn't is "truly the nightmare that no judge wants to ever have to live through." It is Messina's court where most protective order hearings take place.

"Judges always have a choice to issue or not issue a protective order based on the evidence they hear at the trial," he added.

But sometimes the only "evidence" a judge hears at trial comes from a woman who may stand to gain from claims that her husband abused her.

Messina acknowledged that

in cases involving protective orders, there is a "significantly lower burden (of proof) than in a criminal case," and "sometimes all a court has is the testimony of the parties."

According to Walton, protective orders are not issued if the evidence is "insufficient."

"The reality is that in the vast majority of cases, there is evidence of family violence or that it is likely to occur and, accordingly, a PO is appropriate," he said.

It could be that the only persons truly protected by such orders are judges who must face re-election by a public increasingly concerned about domestic violence. According to the Texas Council on Family Violence, 73 percent of Texas residents believe that domestic abuse is a serious problem, and 74 percent said that they or someone close to them had experienced some form of it.

Over the past decade - largely prompted by the murder and sexual assault of 11-year-old Sarah Patterson of Granbury -- a concerted effort has been made in Hood County to clamp down on domestic violence.

It was through the collaboration of local mental health professionals, advocates and law enforcement that the Battering Intervention Prevention Program was started through adult probation in 2008. Today, it is one of only 27 such accredited programs in the state.

Larry Grady, who heads the program, said that the majority of men who are sent to him from the courts are not chronic offenders who are a danger to society, but rather men who

reacted inappropriately in emotional altercations with their wives or girlfriends. Oftentimes, he said, they are confused about appropriate male behavior and need guidance on coping with stress and communicating in non-physical ways. Nevertheless, he said, an intervention is necessary when a situation has escalated to the point of physical contact.

There are women who could benefit from a similar program, he said.

In situations where both parties get physical, the "first contact rule" comes into play, Grady said, and the person to first make contact with authorities and report abuse is the person who doesn't end up in handcuffs. Many times, he added, men are too embarrassed to report that they have been assaulted by their wives or girlfriends.

Though protective orders may do little in the long run to truly ensure the safety of those who have requested them, those who end up with the orders on their records may forever feel their effects.

Belknap, the assistant county attorney, said a protective order can be discovered, depending on the thoroughness of a background check. The orders remain on a person's permanent record, causing some men to fear losing their jobs or their ability to coach their children's sports teams.

Messina said he makes a ruling "based on what I see and hear in the courtroom from people who have been sworn under the penalty of perjury to tell the truth."

A charge of perjury, however, may be an empty threat for those who stand to gain from being less than truthful.

"They (perjury prosecutions) are rare," said district attorney Rob Christian. "Though I have prosecuted people for tampering with evidence and tamper-

'I have never prosecuted someone for perjury.'

Rob Christian
District attorney

'It feels wrong. It smells wrong. But as far as I'm aware of, there are no violations of the judicial canons of ethics.'

Dorothy Ripka
Cordell & Cordell law firm



GUILTY UNTIL PROVEN INNOCENT: Attorney James Winegardner confers with client Jeremy Bratcher minutes after county court-at-law judge Vincent Messina granted a request for a protective order brought by Bratcher's wife, Sarah. Al-

legations of abuse made by Sarah Varnado Bratcher against her first husband in Denton County were later ruled out by authorities. On the same day in July, according to Bratcher, she filed fresh complaints with CPS against both men.

VIEWS FROM THE BENCH

County court-at-law judge Vincent Messina

On custody rulings:

"The fact of the matter is this: In a custody dispute involving intractable parents the judge is going to be a genius to the prevailing party and a goat to the losing party, pure and simple."

On children's preferences:

"I NEVER allow a child to be put on the stand to voice a preference in the presence of their parents. I cannot imagine a more destructive thing that could occur. The bitterness and hurt feelings would last a lifetime. I do speak with child (sic) often in chambers about their preference. Those are tricky because you have to have training to ask the right questions to determine whether or not one parent has coached the child."

On how he decides custody:

"I look at the age and maturity of the kids, the party who has been the primary caregiver of the kids, any drug or alcohol problems or substance abuse problems of any parent, whether acts of family violence have occurred in the family or in the presence of the kids, emotional stability, financial stability, which parent has placed the needs of the child above their own needs, (and) consistency in care giving."

District judge Ralph Walton

On how he approaches custody:

"First and foremost, do what is in the best interest of the children. Listen to both sides, and the children, if they desire to be heard, and then do what you think is in the long term best interest of the children."

On protective orders:

"Judges are inclined to err on the side of caution in the issuance of a PO (because) a judge's worst nightmare is that the PO is not issued and further violence or even death occurs."

On the possibility that men are sometimes falsely accused:

"I would not say that I am concerned about it because I trust in my years of experience and discernment to be able to ferret out when an applicant has an ulterior motive in seeking a PO to use as a tool in a custody case. That being said, I am certainly aware that on very rare occasions applicants may attempt to use the PO process to advance their custody efforts. When that becomes apparent, the abuse of the system by the applicant in seeking the PO will usually adversely affect their case."

"Frankly, I do not remember a case in which I felt the applicant was abusing the PO system to advance his/her custody case."

Source: E-mail communications between the judges and the Hood County News

ing with witnesses, I have never prosecuted someone for perjury."

So what is there, then, to prevent some women from lying on the stand, particularly when they have a cadre of well-intentioned public servants and community volunteers eager to rescue them from abuse?

Perhaps nothing. In 1998, at about the time community leaders in Hood County were discussing ways to combat growing cases of domestic violence, a conference was held in Winnipeg, Canada, to examine false allegations in family law.

A woman named "Terri" told the assembly that she had taken advantage of a shelter's services,

making false allegations against her husband. A shelter staffer, she said, took her claims at face value, and "began coaching her on how to gain the upper hand in divorce court," according to a report in the National Post.

Just as protective orders may be abused by those with a vendetta or a determination to win custody at all costs, taxpayer money and resources are wasted when false allegations are made to CPS.

According to Marissa Gonzalez, public information officer for Region 3 of the Texas Department of Family and Protective Services, only about 24 percent of abuse allegations made to CPS are proven valid.

By law, caseworkers must investigate every claim. Filing a false report is a crime, but since the Family Code states that anyone making a report in good faith is immune from civil or criminal liability, proving malicious intent likely would be a battle few prosecutors would be willing to fight.

"It would be very difficult for the state to prove that a person made a CPS report in bad faith," said Christian, the DA. "The law is structured to encourage the reporting and the investigation of child abuse and neglect."

Granbury schoolteacher Tom Peterson is fighting drug allegations made to CPS by his former wife that he claims are false. Peterson is challenging the accuracy of the mouth swabs CPS uses to determine illicit drug use. Drug test results from adult probation and two private labs showed him to be drug free.

Peterson, who this week

was allowed to see his 7-year-old son for the first time since April, sold his late father's antique gun collection to hire a Fort Worth-based attorney.

"If my father were still here, he'd say screw the guns, let's go get the child,"

Peterson said.

Last month, Bratcher phoned the Hood County News to give an update on his divorce case.

Dalton Upham, 13

Sarah, he said, had filed child abuse allegations against him with CPS, as well as fresh accusations against Klein, her first husband. The reports, he said, were filed on the same day.

LEARNING TO ADJUST

In June, eight months after the Upham twins moved from Hood County, both boys came back to visit their father. They spoke to the Hood County News about how they have adjusted to their new life.

"It was depressing at first because I had to leave all my friends," recounted Dalton.

Both boys reported that they have acclimated to their new school and have made friends. They haven't been back to church, they said, but their mom promised that they would find a church home soon.

The boys said that their dad's regular trips to Waxahachie at their mom's request, plus their periodic trips to Hood County, have helped ease the pain of separation.

Of their mother's new casual attitude about their father's presence, Dillen said: "She doesn't care. She knows he's not going to hurt us."

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