

**OKLAHOMA COMMISSION ON CHILDREN AND YOUTH
OFFICE OF JUVENILE SYSTEM OVERSIGHT**

Report Release Date: September 23, 2008

**Review of the Death of Liliana Rodriguez
of Oklahoma County, Oklahoma**

Dates and Outcome of Investigations and Actions Taken by the Oklahoma County Department of Human Services; Actions Taken by the Oklahoma County District Attorney; Dates and Summary of Judicial Proceedings and Rulings of the Oklahoma County District Court

General Information

On July 31, 2008, the Office of Juvenile System Oversight (OJSO) received a request for a public report regarding the death of Liliana Rodriguez. The child died on July 20, 2008. On July 21, 2008, a criminal felony Murder in the First Degree-Child Abuse charge was filed against Herman Vail Bailon, the stepfather of Liliana. On July 30, 2008, a criminal felony Murder in the First Degree-Child Abuse charge was filed against Elizabeth Guerrero, the mother of Liliana. The following is a summary of the actions taken by the Oklahoma Department of Human Services (OKDHS); the actions taken by the district attorney; judicial proceedings; and the rulings of the court, as authorized by 10 O.S. §7005-1.9, B, D, and E (below).

Authorization

Title 10, Section 7005-1.9, B, D, and E, of the Oklahoma Statutes, states:

B. In cases involving the death or near death of a child when a person responsible for the child has been charged by information or indictment with committing a crime resulting in the death or near death of the child, there shall be a presumption that the best interest of the public will be served by public disclosure of certain information concerning the circumstances of the investigation of the death or near death of the child and any other investigations within three (3) years of the death or near-death and one (1) year after the death or near-death concerning that child, or other children while living in the same household.

D. 1. At any time subsequent to seven (7) days after the date the person responsible for the child has been criminally charged, the Oklahoma Commission on Children and Youth shall, upon request, release certain information to the public within sixty (60) days of the request as follows:

a. a confirmation shall be provided by the Commission as to whether a report of suspected child abuse or neglect has been made concerning the alleged victim or other children while living in the same household and whether an investigation has begun,

b. confirmation shall be provided by the Commission as to whether previous reports of suspected child abuse or neglect have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department [OKDHS] and the Commission in response to any previous report of child abuse or neglect, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,

c. the dates of any judicial proceedings prior to the death or near death of the child,

d. recommendations submitted by the Department [OKDHS] and the Commission shall be provided in writing including recommendations made at the hearing as they relate to custody or placement of a child, and

e. the rulings of the court.

2. Specific recommendations made by the Commission described in any progress reports of a pending case submitted to the court may be disclosed by the Commission.

E. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of child abuse or neglect, and shall not identify the name of the child victim's siblings or other children living in the same household, the parent or other person responsible for the child or any other member of the household, other than the person criminally charged.

Identifiers:

Child's Name: Lilitiana Rodriguez
Date of Birth: November 16, 2005

Alleged Perpetrators: Herman Vail Bailon and Elizabeth Guerrero

Other children in the home: Herman Bailon had one biological child and one stepchild who lived in the hotel with him. The children were present in the hotel room at the time of Lilitiana's death. Elizabeth Guerrero is the biological mother of all three children.

The Oklahoma Commission on Children and Youth (OCCY) did not become aware of this case until after Lilitiana's death.

Summary of Actions Taken by the Oklahoma Department of Human Services; Actions Taken by the District Attorney; Judicial Proceedings; and the Rulings of the Court:

The OJSO determined there was no child welfare history in Oklahoma regarding the family, prior to Liliana's death on July 20, 2008. However, OKDHS received documentation from the Minnesota Department of Human Services that indicated Elizabeth Guerrero's parental rights had been terminated on three other children in Minnesota on April 15, 2003.

First Referral to the OKDHS (July 19, 2008)

The OKDHS received a referral regarding Liliana Rodriguez and Herman Bailon on July 19, 2008. The reporter stated that Liliana was brought into a hospital emergency room by an emergency medical services unit at 1:15 p.m. and was not breathing. Reportedly, Liliana was in a hotel with her stepfather (Herman Bailon) and was unresponsive and did not have a heartbeat when the emergency medical services unit arrived. Bailon stated that Liliana was eating Ramen noodles when she choked, stopped breathing, fell out of her chair, and her nose began to bleed. Bailon contacted the front desk for assistance, and then Bailon and the hotel clerk attempted cardiopulmonary resuscitation (CPR) on Liliana. When CPR did not work, the hotel clerk called the emergency medical services unit. The reporter related that Liliana must have undergone some kind of trauma because of the bruising and blood everywhere.

The OKDHS assigned the referral as a Priority I investigation and initiated the investigation on July 19, 2008. The OKDHS documentation indicated that the child welfare worker made contact with Guerrero at the local hospital, where Liliana had been admitted. The OKDHS documented that a physician had stated the child had numerous injuries: occipital skull fracture, subdural hematoma, subarachnoid bleed, blood in her ventricles, and a bruise on her hip.

Protective Custody (July 19, 2008)

Bailon's biological child and stepchild were placed in protective custody by an order of the Oklahoma County Juvenile Court.

OKDHS Report to the District Attorney

According to the OKDHS documentation, the Oklahoma City Police Department interviewed Bailon regarding Liliana's death. The OKDHS documented that Bailon had admitted to becoming angry with Liliana and slapping her in the head a couple of times and then "yanking" her out of a chair and throwing her to the floor. Documentation indicated that Bailon thought he had gone too far, so he picked up Liliana, shook her "hard", while he yelled, "Don't go! Don't go!"

The OKDHS documentation indicated that Guerrero was at work at the time of the incident. However, Guerrero had previously witnessed bruising to Liliana's sister and had instructed Bailon to be more careful; yet, Guerrero continued to allow Bailon to care for the children.

Criminal Felony Charge Filed (July 20, 2008)

A criminal felony charge of Murder in the First Degree-Child Abuse was filed on July 20, 2008, against Liliana's stepfather, Herman Bailon.

Criminal Felony Charge Filed (July 30, 2008)

A criminal felony charge of Murder in the First Degree-Child Abuse was filed on July 30, 2008, against Liliana's mother, Elizabeth Guerrero.

OKDHS Investigative Findings

The OKDHS characterized the abuse as "shocking and heinous" in the death of Liliana, pursuant to OKDHS policy OAC 340:75-3-2. The OKDHS investigative finding was Confirmed-Court Intervention Requested as to Abuse-Near Death to Liliana, Abuse-Throwing, Abuse-Beating, Abuse-Death to Liliana, all by Bailon, and Neglect-Threat of Harm to Liliana's two siblings by Bailon. The OKDHS ruled the allegation of Neglect-Failure to Protect as Confirmed-Court Intervention Requested in regard to Liliana and her two siblings by Guerrero; the OKDHS ruled the allegations of Failure to Protect-Inadequate Physical Care and Abandonment and Abuse as confirmed against Liliana's biological father.