

# Jurors wrestled with sentence

Value of the Treaty Oak called vital factor in Cullen sentence

By Jim Phillips

American-Statesman Staff

Three jurors in the Treaty Oak trial said Friday that their hardest job was trying to compromise on a sentence for Paul Stedman Cullen, who received a nine-year prison term but could have gotten up to 99 years.

"There were those who thought, 'It's just a tree,' and others who thought the issue is not it was just a tree, but it was a crime against society," said juror Sally Harris.

"We had a real split decision in the very beginning," she said. Some of the 12 jurors wanted to assess a five-year sentence with no fine, while others wanted at least 40 years and the maximum \$10,000 fine.

"There were some who did not

want to come down lower than, say, 20 years, and some didn't want to go any higher than five," she said.

The jury closed the gap, and after almost five hours of deliberations agreed on nine years and a \$1,000 fine.

"We were trying to be responsible to Paul, but we were also trying to be responsible to society," Harris said.

Another juror, Carolynne Kay Krueger, said, "We did what was best for Paul and what was best for the crime he committed.

"He's already had four convictions," she said. "He needs to realize that what he did was wrong, because a wrong was done."

Cullen was convicted of poisoning Treaty Oak by pouring the herbicide Velpar around the centuries-old live oak early last year. Be-

cause he has been imprisoned previously, he faced up to life or 99 years in prison.

Testimony at the trial indicated Cullen poisoned the tree as part of an occult ritual in which he was trying to rid himself of love for a woman and protect the same woman. Cullen also was described in testimony as trying to "get even" with the state because of prison work he had done planting and tending crops and trees.

Asked her opinion of Cullen, Krueger said, "I just think he's a very different person from what I'm normally exposed to. He's got some problems he needs to deal with."

Krueger said she thought Cullen, by poisoning the tree, was "reach-

See Treaty Oak, B5

## Treaty Oak jurors discuss sentence

Continued from B1

ing out. I think he needs attention."

District Attorney Ronnie Earle agreed, at least to the point of saying Cullen enjoyed the attention.

Asked why he thought Cullen turned down a plea bargain in which he would have served some jail time and then been on probation, Earle replied: "I think he wanted to go through with the trial. I think he liked the attention."

Earle said the plea bargain would have required Cullen to work on environmental projects while in jail, and perform community service work on more environmental projects while he was on probation.

"The jury was not allowed to fashion the kind of punish-

ment" that was offered in the plea bargain, Earle said. "The law did not permit that, and the law needs to be changed to allow some flexibility in sentencing."

"I think that the jury did the very best that they could with what they had."

Earle said he thinks the poisoning of Treaty Oak "in some way is reflective of what's happening with the environment in general."

"What we are doing to our own house, so to speak, is pretty senseless."

"And what this guy did was pretty senseless. The closer we got to him and what he did, the more senseless both the act and he seemed to be, and that is a pretty apt description of what all of us are doing to our envi-

ronment. We're acting pretty senseless."

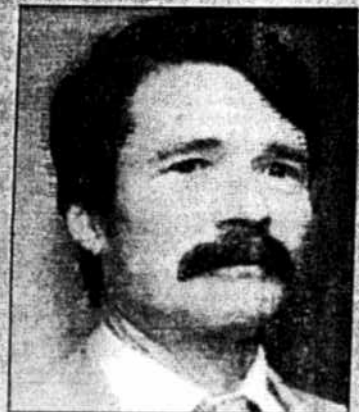
Harris said the jurors also struggled with Cullen's motive.

She said the jury tended to concentrate on Cullen's anger at the prison system rather than the occult reasons cited during the trial because it "seemed to be more logical."

"And I think all of us were trying to find logical reasons for things there weren't logical explanations for."

"Why would a person harm something that was this beautiful, and was a living thing, and didn't relate to his life in any way except that he could use it as a symbol of destruction?"

Another juror, who asked not to be identified, said, "It was more than just a tree to me. It didn't have a lot of intrinsic val-



Paul Stedman Cullen received a 9-year term but could have gotten up to 99 years.

ue just because it was Treaty Oak. It was life. It wasn't human life, but it was life.

"I wish my family and I had had an opportunity to enjoy it before it was destroyed."

"It was a beautiful tree."

# The Houston Post

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FRIDAY, May 11, 1990

## 9 years for attack on tree

### Ex-convict sentenced in Treaty Oak case

ASSOCIATED PRESS

AUSTIN — The jury which Wednesday night found ex-convict Paul Stedman Cullen guilty of poisoning the historic Treaty Oak in an occult ritual decided Thursday night that he should be sentenced to nine years in prison.

Cullen's attorney, Terry Kirk of Austin, said his client wanted to appeal the sentence. But Kirk said he was ecstatic about it.

"I'm pleased, but I'm not really surprised because this is Austin, my hometown," Kirk said. "This jury balanced the value of the Treaty Oak with the value of a human being."

Jury deliberations began after Cullen's father, retired Air Force Col. Paul Cullen Sr. of Lawton, Okla., and sister, Elizabeth Love of Plano, as well as an elderly friend, pleaded for leniency.

"He's been the kindest person, ever," the friend, 88-year-old Cora Pearson, of Elroy, said.

Love, who sobbed as she testified to her brother's character, described him as a "kind and compassionate person. I've never known him to harm a living thing except himself."

Cullen, 46, described by his own defense lawyers as a "loser," faced life in prison due to a prior burglary conviction.

Assistant District Attorney LaRu Woody said the poisoning of the tree was a very "strange act, a very bizarre act that makes it perhaps even more frightening" than a violent crime against a person.

She said Cullen had served prison time in Richmond, Va., and Texas and had been convicted of possession of marijuana in California and drunk driving in Texas.

# Cullen gets 9 years for poisoning

Continued from A1

throw Paul away, and say he's garbage." A former girlfriend of Cullen's, Kathi Giganti, said, "It could have been worse. I was surprised. I thought he was going to get a lot longer sentence."

Assistant District Attorney Kent Anschutz said, "We are happy with their decision. It was a tough case and, yes, we are satisfied. The case needed and deserved the attention of the community in a city like Austin that is environmentally concerned."

Anschutz said jurors told him after the trial that they set the sentence as if Cullen would have to serve all of the time rather than be released on parole.

"Based on my knowledge, I would have given a harsher sentence, but it wasn't up to me to decide," Anschutz said.

Jurors told attorneys that deliberations began with suggested sentences ranging from five to 50 years.

Richard Stolp, the jury foreman, would not confirm those figures, but said, "The decision we made tonight was difficult and took a lot of time, and there were a lot of different opinions expressed."

"We just kind of invented it as we went along."

"We did deal with the fact that this was a material object, although obviously important, it still wasn't a human being."

Asked his thoughts on Cullen, Stolp said, "I would say that he's a very angry individual, and I am personally saddened that he had to take out some of his anger on the Treaty Oak."

Perkins said after the trial he thought the sentence was fair "in the sense that there is really no standards against which you can judge this."

"Nothing like this has ever happened before and hopefully will never happen again."

Final arguments to the jury by two prosecutors and two defense attorneys included only one firm suggestion for a sentence; Kirk recommended a 10-year sentence. The

# Cullen gets 9 years, fine in oak case

By Jim Phillips  
American-Statesman Staff

Paul Stedman Cullen was sentenced Thursday to nine years in prison after a jury spent almost five hours deciding the appropriate sentence for poisoning a historic tree during an occult ritual.

The sentence was a relief to Cullen's attorneys and friends because Cullen could have received up to life in prison for the crime. The jury also fined Cullen \$1,000.

District Judge Bob Perkins, after formally sentencing Cullen, told him "everyone still finds this crime unfathomable. In terms of rationale, not one can figure it out. It makes it that much more of a crime."

Cullen, 46, was convicted by the same jury Wednesday night of felony criminal mischief for the poisoning in early 1989 of Treaty Oak, a centuries-old Austin landmark. About two-thirds of the tree has

been declared dead. Several weeks ago, Cullen turned down a plea bargain in which he would have received probation and been released from jail.

Because Cullen has been in jail since June 29, 1989, he could be paroled on the nine-year sentence in a few months.

Cullen's attorneys said the conviction would be appealed. Cullen could be released on bond until the appeal is decided.

He still faces as much as 10 years in prison on a federal indictment that charges him with possession of a firearm by a felon.

Terry Kirk, one of Cullen's attorneys, said, "I'm ecstatic. I was scared at punishment, but I didn't have to be. It represents a balanced approach. The jury balanced the value of the Treaty Oak with the value of a human being."

"It would have been easy to

See Cullen, A10



Staff photo by David Kennedy

Paul Stedman Cullen, 46, leaves the courtroom after being sentenced to nine years in prison and fined \$1,000 jail since June. Cullen could be paroled in a few months.

Cullen's attorneys emphasized that the crime was not violent and was not likely to be committed again.

"This tree is beautiful," Richard Jenkins said. "There are other trees."

"Not one drop of human blood has been shed," he said. "Please don't be seduced by the voices of vengeance."

Kirk told the jury, "Don't adopt the 'hang him, make him drink Velpar approach.'"

"How much is a tree worth?" he asked. "What is a human life worth? How do you measure this man's soul?"

"Your verdict is not going to send a message as far as (other) potential tree murderers. That's not going to deter people who have problems, people who are bitter, people who are losers."

Prosecutor Laru Woody told the jury, "We're not claiming this is an act of normal violence. Yet, it was a reer of tree poisoning."

Three character witnesses testified for Cullen before the attorneys' arguments, including his father, Paul S. Cullen.

The elder Cullen testified, "He's not harmful to other people. He's never been an armed burglar, or a drug dealer or rapist...."

"There is no reason to punish him to deter him from doing these things again. And certainly I think it's beyond my imagination that he would go out and indulge in a ca-

act of normal violence. Yet, it was a reer of tree poisoning."

Cullen has been held in Travis County Jail since June in lieu of \$20,000 bail.

Cullen's earlier convictions were for burglary in Virginia and possession of marijuana in California in the 1960s, and for driving while intoxicated and burglary in Texas in the 1980s.

Cullen has been held in Travis County Jail since June in lieu of \$20,000 bail.

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Thursday

May 10, 1990  
15 cents

# Austin American-Statesman

## Weather

Sunny and fair. High in the mid-80s. Low near 60. Details, A12.

# Cullen guilty of poisoning Treaty Oak

By Jim Phillips

American-Statesman Staff

Almost one year after the bizarre poisoning of Treaty Oak perplexed the nation, a jury found Paul Stedman Cullen guilty of trying to kill the landmark tree in an occult ritual.

Cullen, 46, faces from five years as a prisoner to 20 years or life. He will

be sentenced today by the jury.

Cullen showed no reaction when the verdict was read, but his mother and a former girlfriend began crying.

Treaty Oak was poisoned with Velpar, a liquid herbicide designed to kill hardwoods, early in 1989, garnering national attention and outrage. Much of the tree is dead, but about a third of the live oak is

Elizabeth Cullen Love of Plano, Cullen's sister, said. "What is there to say, except he didn't do it. How do you prove that in a crime like this?"

"He talks big, he tells tall tales, but he's a kind and gentle person," she said.

A former girlfriend who testified for Cullen at the trial, Kathi Giganti, said, "I just know he's innocent. I believe with all my heart he was railroaded."

About 100 pieces of evidence, including a lengthy tape-recorded conversation in which Cullen claimed to have poisoned the tree, were introduced during the trial.

A state's expert witness had testified that Velpar was found in the bed of Cullen's pickup when he was arrested. And, an acquaintance of Cullen said that he admitted poisoning the tree as part of an occult ritual.

For the defense, another expert questioned the reliability of the Velpar tests, and a surprise witness said she saw two men other than Cullen pouring something around the tree in February or March 1989.

In closing arguments to the jury, Cullen's attorneys continued to try to portray him as a lonely loser who lied that he poisoned the tree to impress a woman.

## KEEPING WATCH OVER THE VICTIM

"It's going to get better before I do," says the man who has been the tree's guardian angel. **B1**

Assistant District Attorney Kent Anschultz said, "We're pleased certainly. We'll be moving on tomorrow to the punishment phase."

A friend of Cullen who watched the entire trial, Paula Smyth, said, "The one thing we can pray for now is they will not give him a life sentence. They let drunks and rapists out on the streets."

Cullen was charged with felony criminal mischief in June and has been in jail in lieu of \$20,000 bond. He had been living in the back end of a 20-foot truck on a farm in El-

roy, a small community in southeast Travis County.

The crime normally carries a range of punishment of two years on probation to 20 years in prison. Cullen faces the longer sentence, and is not eligible for probation, because of a prior prison sentence for burglary.

After the verdict, Cullen's father, See Cullen, A16

"That's the key to this entire case," defense attorney Kirk told the jury. "I think you can hear (Cullen's) low self-esteem by listening to the tape. He wanted her to think that he was somebody."

The woman who taped the conversation, Cindy Blaco, testified for the prosecution that Cullen poisoned the centuries-old Austin landmark in a ritual intended to rid himself of his love for a counselor at a methadone clinic. Blaco, who knew Cullen because they both received methadone treatment at the clinic, said Cullen also wanted to protect the counselor and "get even" with the state for time he had served in prison.

Kirk also stressed the testimony of Wanda Garcia, who said that she witnessed two men, not Cullen, pouring something around the tree. She said the men were not city employees.

Prosecutor Anschultz responded to Garcia's testimony by saying, "That woman was a very odd duck."

"I don't know what it is, but that woman has some kind of hidden agenda," he said. "There was something going on there that we don't know."

John Giedratitis, Austin's city forester and the man responsible for directing treatment of Treaty Oak since the poisoning was discovered, said late Wednesday, "There wasn't much question in my mind, given the evidence, that this person did this."

However, Giedratitis said he is very interested in what the jury decides the crime is worth.

"How serious a crime is this?" he asked. "It's not a crime against a person, but it's not really a crime against property."

"This is something in between. There is no other case like this, ever. People commonly regard trees as property, but when you think about it, how can you own a living thing?"

"These people have a very, very hard job ahead of them. They have to figure out what a living thing is worth. They have to figure out what 4 or 5 or 600 years of growth is worth."

Treaty Oak Giedratitis said, "belongs to everybody. It's a commonly held object that belongs to everybody that is alive."

"No one ever tried anyone like this, for a tree, before. It's an unusual, strange case, and I think the jury really has its work cut out for it."

And, he added, "It's not going to be over because the jury says 'a' or 'z.' The tree is still out there, and it's still struggling."

Staff writer Roggie Rivers contributed to this report.



Staff photo by David Kennedy  
Paul Stedman Cullen is led out of court after the guilty verdict in the Treaty Oak poisoning trial.

## Cullen is guilty in Treaty Oak poisoning

Continued from A1  
Paul S. Cullen, said "They convicted an innocent man."

# Austin American-Statesman

**Thursday**  
May 10, 1990  
35 cents

## Weather

Sunny and fair. High in the mid-80s. Low near 60. Details, A12.

# Cullen guilty of poisoning Treaty Oak

By Jim Phillips  
American Statesman Staff

With less than four hours of deliberation, a jury found Paul Stedman Cullen, guilty of poisoning the landmark Treaty Oak in an occult ritual.

After more than a week of testimony, the jury got the case just before 5:30 p.m.

## TREATY OAK'S 'ANGEL'

It's going to get better before I do," says the man who has kept a vigil on the ailing Treaty Oak. B1

Treaty Oak was poisoned with Velpar, a liquid herbicide, early in 1989, garnering national attention and outrage. Much of the tree is dead, but about a third of the live

oak is still producing leaves.

Cullen, 46, was charged with felony criminal mischief in June and has been in jail in lieu of \$20,000 bond. Cullen had been living in the back end of a 20-foot truck on a farm in Elroy, a small community in southeast Travis County. Because of a prior prison sentence for burglary, Cullen could face up to life in prison.

About 100 pieces of evidence, including a lengthy tape-recorded conversation in which Cullen claimed to have poisoned the tree, were introduced during the trial.

The attorneys in the case, during final arguments to the jury, concentrated on the credibility of the two main witnesses for each side.

A state's expert witness had testified that Velpar was found in the

bed of Cullen's pickup when he was arrested last June. And, an acquaintance of Cullen said that he admitted poisoning the tree as part of an occult ritual.

For the defense, another expert questioned the reliability of the Velpar tests, while a surprise witness said she saw two men other than Cullen pouring something around the tree in February or

March 1989. Cullen's attorneys continued to try to portray him as a lonely loser who claimed he poisoned the tree to impress a woman.

"That's the key to this entire case," defense attorney Terry Kirk told the jury. "I think you can hear (Cullen's) low self-esteem by listening to the tape. He wanted her to

See July, A6

## Continued from A1

think that he was somebody."

The woman who taped the conversation, Cindy Blaco, testified that Cullen poisoned the centuries-old Austin landmark in a ritual designed to rid himself of his love for Blaco, who knew Cullen because they both received methadone treatment at the clinic, said Cullen also wanted to protect the counsel or and "get even" with the state for time he had served in prison.

Kirk described Blaco as having a "rotting conscience and a gangrene heart," and said she lied to obtain a \$10,000 reward offered in the case.

"Cindy Blaco has 10,000 reasons to come in here and testify against Paul, and all of them have dollar signs on them," he said. Referring to Blaco's claims that Cullen read books on witchcraft, Kirk said, "The only witch in this case is Cindy Blaco."

Blaco received \$500 from the Crimestoppers tip program, but the other reward money has not been distributed.

Kirk also stressed the testimony of Wanda Garcia, who said that she witnessed two men pouring something around the tree. She said the men were not city employees, and said neither was Cullen.

"If that's not enough of a reasonable doubt, then I don't need to be here," Kirk said.



Staff photo  
Paul Stedman Cullen, a 46-year-old ex-convict, was found guilty of felony criminal mischief in the poisoning of Austin's landmark Treaty Oak tree.

Assistant District Attorney Kent

Anschutz summed up Garcia by saying, "That woman was a very odd duck."

"I don't know what it is, but that woman has some kind of hidden agenda," he said. "There was something going on there that we don't know."

Anschutz said he was not suggesting Garcia was lying, but said she might have been people collecting pecans or acorns from the small city park in the 500 block of Baylor

Street. He told the jury that the defense arguments were "a call to you to speculate ... on things that aren't in evidence."

Assistant District Attorney Laru Woody told the jury that the defense claim that Cullen was lying to impress Blaco was not believable.

"What a coincidence," she said. "The same person who brags about it and talks about it also has (Velpar) in his truck."

# Tree's travails

People gathered around ailing oak say they support jury's guilty verdict

By Melissa Tarkington  
American-Statesman Staff

As a jury deliberated Wednesday night on a verdict for the man who is accused of poisoning the Treaty Oak, a handful of people gathered at the tree.

And when the verdict came back — guilty — they expressed their approval.

"I feel good about the decision," said Diane Wade, 39, of Dallas. "I'm glad he was found guilty. Hopefully this decision will deter anything like this from happening again."

Wade and two co-workers from Dallas who travel to Austin on business several times each year said they have visited the Treaty Oak each time they were in town.

"I've been following the case since it first happened," said Jann Caldwell, 34, of Dallas. "I even brought my little boy all the way from Dallas just to see the tree. I can feel its presence every time I come near it."

David Simpton, 39, of Dallas, said he was so upset about the damage to the tree that initially he did not want to get out of the car. It would just be too emotional, he said.

"Look what this guy has done

to this tree," he said. "I think we've lost some history because of this. The tree signifies the transition between generations. It's sad. It's emotional. Something that connects history like this, we should take care of it."

Simpton, who said he was pleased to see the people who gathered around the tree looking at the gifts that children had left, commented on how pretty the moon looked shining through the massive oak's remaining leaves.

"It's really refreshing that with so many bad things going on, people come together for the tree," he said.

Ed Bustin, 61, who has lived across the street from the Treaty Oak for 60 years, said he is "tickled to death" by the verdict.

"My main concern is just getting the right person," Bustin said. "Because what he would do for an encore is completely unpredictable. I was glad to see the trial part wind down. I was reasonably sure that they had the right man — they didn't want me on the jury."

Staff writer Reggie Rivers contributed to this report.

# Tree Trial Nears End

BY SHAWN MALONE

Is the state's key witness in the Treaty Oak trial credible? If Paul Cullen is guilty of poisoning the tree, should he be sentenced to prison for life? These and other questions are being considered in this, the second week of Cullen's trial on criminal mischief charges.

Without Cindy Blaco, this trial might never have taken place. She befriended Cullen, accepted an offer to let him drive her to and from the regular medical visits they made to their clinic, and was puzzled at first by his interest in news reports after the Memorial Day weekend last year; the reports said the century-old landmark tree was showing signs of poisoning.

Blaco approached police and agreed to wear a concealed microphone and transmitter, so that police could secretly tape her next conversation with Cullen. On the tape played for jurors last Friday, Cullen talks about poisoning the tree. Blaco also testified that he had told her he poisoned the tree to help him forget a woman: "When he saw the tree dying, he would feel his love for Suzanne dying," she said.

Thanks to Blaco's cooperation, police arrested Cullen 10 months ago. She testified last week that when she heard of his arrest, she called to warn his lawyers that he would suffer methadone withdrawal if he were not provided with continuing doses of the drug. She says it was guilt that compelled her to lie to the lawyers about her motive for cooperating with police — she brought up hot check charges that had been brought against her. She told three of Cullen's lawyers at two separate meetings that she was motivated by fear that if she refused to cooperate with prosecutors on the Treaty Oak case, "they would file charges." In court, she retracted the story.

Defense lawyers also took another tack to cast doubt on Blaco's testimony: reward money. Blaco has testified to receiving \$500 of the more than \$10,000 in reward money offered after the Treaty Oak poisoning attracted attention.

Blaco testified about occult rituals described in library books — books Cullen was reading. She testified about seeing the herbicide Velpar in the bed of Cullen's pickup truck (Velpar was poured around the base of Treaty Oak).

If the jury does convict, there remains the question of punishment. Because of prior convictions, he could be sentenced to life in prison. Some potential jurors were excused before the jury was impaneled because they doubted they could choose such a strict punishment for property crime. At least one child molester has made his plea bargain, served his time, and was released — all during the 10 months Cullen has been waiting for his trial to begin.

The trial could end this week.

# Austin's love for poisoned tree is evergreen

By Linda S. Wallace  
Inquirer Staff Writer

AUSTIN, Texas — This is a story about the love between a city and a tree.

The city is Austin. The centuries-old tree is called the Treaty Oak. Since 1937, the year Austin residents shelled out \$1,000 during financially strapped times to buy the tree and the plot it stood upon, the two have grown older together.

The fondness at first stemmed from a sense of shared history. Legend has it that Stephen F. Austin, the father of Texas, signed a treaty with Indians here. But later, Austin residents such as John Giedraitis grew to love the tree for their own reasons: He proposed to his wife there.

One year ago, the Treaty Oak was in full splendor, its foliage green and full. But no more. Around Memorial Day of 1989, city officials discovered that someone had fed poison to the Treaty Oak and that the tree was dying.

Paul Stedman Cullen, a 46-year-old feed-store clerk, was arrested and charged with

criminal mischief in the poisoning.

Prosecutors have attempted to prove during his trial, which is under way in the state district court here, that Cullen dosed the tree with herbicide in a magic ritual designed to impress a woman. Cindy Blaco, a state witness and a friend of Cullen's, said he admitted to her that he poisoned the tree after Blaco commented that she sure would like to shake the hand of the "dumb, stupid guy who did it."

Richard Jenkins, Cullen's attorney, questioned whether Blaco was testifying to collect the \$11,000 in rewards being offered to find or convict the culprit.

He said his client was innocent and yesterday he attempted to discredit scientific experiments that found traces of the tree poison on items in Cullen's possession.

The testimony unfolded in a nearly empty courtroom. The residents who have rallied around the tree were not in court but instead were a few blocks away at the tree itself.

Ed Bustin, who lives across the street from the tree, was keeping his daily vigil by the tree's side, tending to its needs.

Philadelphia Inquirer

"Everybody knows he's guilty," growled Bustin. "We are all waiting for the hanging." Bustin considers the tree a friend, but so too do other people in Austin and around the world.

"There has always been something special about this tree. People who saw this tree never forgot it," said Giedraitis, now urban forester for the city of Austin. "It is a special tree to those it touched in the past. Now it is a special tree to all the world."

And so it is. People from distant lands have sent or brought get-well cards and letters to the tree.

"There have been visitors from every state and from at least 30 countries," said Bustin, who is counting.

"Treaty: From you I've learned to be strong and to continue trying thru all odds. I still see your beauty," wrote someone whose first name was Julia. A card signed by Nick, from the Mediterranean island of Cyprus, said, "Get well soon." Along with their prayers, people brought homemade chicken soup. They have left ribbons, friendship bracelets and beads.

They have come here, alone and in groups, to pray and to talk to the tree, now nearly two-thirds dead.

Whether all the encouraging words and attention has helped is something science lacks the instruments to measure, said Giedraitis.

But this, he knows. The part of the tree extending toward the sidewalk where visitors gather has defied the odds and lived. The part of the tree roped off to the public and furthest from view has died.

"I am convinced it's one-half miracle and one-half science," said Giedraitis.

More than \$100,000 has been spent on science's contribution, made by the tree doctors and others who gather at the tree, trying to flush away the poison and restore the oak's vigor.

But the results so far have been marginal. Austin's tree has lost its glamour, but people here will tell you it's the best tree around.

"Even in death, this tree continues to give to us," Giedraitis said. "It gives us knowledge. And it teaches us about spirit."

# Treaty Oak witness tells of watching men at tree

By Jim Phillips  
American-Statesman Staff

A surprise defense witness testified Tuesday that she saw two men other than Paul Stedman Cullen pouring several jugs of liquid around the base of Treaty Oak at about the time the landmark tree was poisoned with liquid herbicide.

Defense attorneys rested their case late Tuesday without calling Cullen to the stand. The jury is expected to begin deliberating Cullen's guilt or innocence sometime today.

The surprise witness, Wanda Garcia, testified late in a series of 17 defense witnesses who represented an effort to cast doubt on the state's claim that Cullen poisoned the tree as part of an occult ritual.

Garcia said she was walking past the centuries-old tree in the 500 block of Baylor Street in February or March 1989 when she saw the men pouring a substance around Treaty Oak. She said the men were not city employees, and said neither man was Cullen.

She said she never called police, prosecutors or Austin park officials after the poisoning became known and Cullen was arrested in June. Garcia said she told her attorney in August what she had seen, but never reported the incident in part because she had numerous personal problems last year.

When asked whether Cullen was one of the men, Garcia had the defendant stand, take off his coat and turn sideways before she said she was certain he was not one of the people she saw.

Assistant District Attorney Kent Anschutz asked Garcia if she had "practiced that line-up fiasco" before her testimony, which Garcia denied.

Garcia said about five empty buckets were strewn about the grass around Treaty Oak as the men were pouring the liquid. At one point she said the men were applying poison, but did not say how she knew what was in the containers.

The last defense witness was  
See Witness, B3

Wednesday, May 9, 1990 Austin American-Statesman

## Witness surprises court with Treaty Oak testimony

Continued from B1

Cullen's father, Paul S. Cullen, who testified that he had made a sign reading "Apollyon and the Wheel," which his son had hung in the rear of his pickup. Prosecutors had mentioned the sign several times in an effort to link Cullen to occult beliefs or witchcraft. Apollyon was the name given to the angel of the bottomless pit in the Book of Revelation, and the name has since become synonymous with the devil.

The senior Cullen, a 30-year Army retiree, said he made the sign and placed it in his windshield as a joke, but said the joke apparently was lost on the residents of Lawton, Okla., where he lives.

"I took it out, I guess, after a conversation with a chaplain," he testified. He said he offered the sign to his son, who said "We'll try the joke down there" in Austin.

Cullen is accused of pouring liquid Velpar, a herbicide used to kill hardwood trees, around the live oak.

A state witness, Cindy Blaco, said Cullen told her he was trying

to perform an occult ritual. After Blaco went to police, she secretly recorded a conversation in which Cullen discussed poisoning the tree.

Defense attorneys, who have suggested Cullen was lying to try to impress Blaco, called a number of witnesses Tuesday who testified that Cullen was not interested in the occult but was given to telling outrageous lies.

Other defense witnesses were put on the stand to show that Blaco might have been motivated by the rewards offered for solving the case, or by jealousy over a relationship Cullen had with another woman.

District Judge Bob Perkins would not allow the jury to hear two witnesses from Baytown, where a historical live oak and another nearby oak have been poisoned with Velpar. The defense was trying to suggest that those trees were poisoned by the same person who poisoned Treaty Oak, and were poisoned after Cullen was already jailed in Austin.

# State rests Treaty Oak poison case against Cullen

By Jim Phillips  
American-Statesman Staff



A witness testified that Paul Stedman Cullen had Velpar in his truck.

the tree was poisoned. That testimony bolstered the state's contention that Cullen poisoned the landmark in a ritual designed to rid himself of his love for the counselor.

Today, attorneys for Cullen, 46, will present testimony that is expected to include a chemist who will challenge the findings of the Du Pont chemist who said Cullen's truck contained numerous traces of the herbicide Velpar. Treaty Oak

was poisoned with Velpar last year and is now clinging to life.

Du Pont chemist Richard Summers testified that several soil samples, paper, a garden spade and a frying pan in the bed of Cullen's pickup all contained various levels of Velpar.

"It will leave a trail of death wherever it is poured," said Summers, who works at the La Porte plant, the only place the herbicide is manufactured.

Defense attorney Richard Jenkins tried to suggest the samples could have been contaminated, and questioned the reliability of several procedures used by Summers.

Earlier Monday, Suzanne Coers, the counselor with whom Cullen supposedly had fallen in love, gave her testimony. Cullen had signed a release allowing her to discuss information that otherwise would be considered confidential.

Of the love letter Cullen had

written, she said, "It scared me. It made me feel uncomfortable."

Coers refuted earlier testimony that she had told Cullen she needed protection from an Indian and said she was not aware if Cullen had taken any of personal items of hers to perform a ritual at the tree.

Cindy Blaco, who received methadone treatment at the same clinic that Cullen did, had testified that Cullen said he was poisoning the

See State, B2

B2

Austin American-Statesman

Tuesday, May 8, 1990

## State rests its case in Treaty Oak trial

Continued from B1

tree, in part, to protect Coers from an Indian. Blaco also said Cullen told her he obtained several of Coers' belongings to use in a ritual that included placing the articles in a "magic circle" he had made with Velpar.

Blaco concluded her testimony Monday saying she agreed to secretly tape a conversation with Cullen "because a wrong has been done ... and it needs to be corrected."

When the defense cross-examined Blaco, Jenkins tried to suggest she made the tape in an effort to collect \$11,000 in reward money. Blaco received \$500 from the Crimestoppers tip program but the \$11,000 has not been distributed. The defense also attempted to show that Cullen was attracted to Blaco and was claiming to have poisoned Treaty Oak to impress her.

"He was turning this loneliness to Suzanne (Coers), not me," Blaco said.

Also Monday, prosecutors had a librarian read a portion of a book titled *The Black Arts* that details occult practices. Blaco testified that Cullen had read the book.

The portions that were read Monday referred to drawing circles around powerful plants before digging them up, and to a Biblical demon named Apollyon.

The jury had been shown pictures of Cullen's truck that included a sign he had in his rear windshield that read, "Apollyon at the Wheel."

Apollyon, from a word meaning "to destroy," was a name given to the angel of the bottomless pit in the book of Revelation. The name has since become another name for the devil.

In a jailhouse interview with the *Austin American-Statesman* in December, Cullen was asked why he had the sign.

"That has a very simple explanation," he said, but he would not reveal the explanation. "Not right now," he said. "To do so would put the explanation in the hands of the prosecution."

Cullen's attorneys would not say Monday whether they expect Cullen to testify.

Cullen faces up to life in prison if he is convicted of the criminal mischief charge for which he is being tried.

# CITY & STATE

Tuesday, May 8, 1990 Austin American-Statesman

# Fates of poisoned mighty oak, suspect hang in the balance

By Paul Weingarten

Chicago Tribune

AUSTIN, Texas—Just after 9 on a recent morning, a gaggle of 2nd graders spilled out of a school bus and clustered in front of the most famous and beloved tree in Texas, the Treaty Oak. A city forester described how the 60-foot live oak was reputed to be the spot where the father of Texas, Stephen F. Austin, signed the first treaty between the Indians and white settlers in the 1820s. How it was thought to be about 100 years old when Columbus reached America. How it had been proclaimed "the most perfect specimen of a tree in North America."

Then he called for questions. "Why," one girl asked, "did somebody poison the tree?"

Almost a year after the bizarre crime that incensed Texans and ignited an outpouring of grief and sympathy from tree lovers all over the world, that question has again seized the spotlight, as the trial of the man accused in the poisoning began here last week.

Paul Stedman Cullen, 46, is charged with felony criminal mischief for allegedly spreading the powerful herbicide Velpar around the base of the Treaty Oak in March 1989. Cullen's lawyer maintains that he is innocent, but if convicted he could face life in prison because he has a prior conviction for burglary.

In the days of rage after Cullen was arrested last June, some suggested life behind bars would be too lenient for the 46-year-old feed store clerk. He should

## Assignment:

Austin

got the death penalty, some declared, or be lynched from the Oak's highest branch.

These days the mood is more subdued. Now an aura of mourning surrounds the stately tree. For many the Treaty Oak has become a symbol of the wounded environment, an emblem, a Texas Monthly writer said, "of our ruined and innocent Earth."

Most residents do not struggle to make sense of a senseless crime anymore. Instead, they pray the tree will survive.

Its prognosis remains grim, experts say. The once-magnificent oak droops now; half its canopy is bare. It may be another year before the tree's fate is known, city foresters say. In a recent sampling, the tree's leaves showed no trace of Velpar, which foresters interpret as a hopeful sign.

"The tree is two-thirds dead, and it ain't coming back," said Bill Edelbrock, a forester for the Parks and Recreation Department. "In terms of being the greatest and the best, it's gone. In terms of that tree surviving, it's more hopeful. But it will never be the same tree."

In its plight, the great oak also has become a secu-

lar shrine in Texas. Visitors from across the state and country make the pilgrimage to a side street on the outskirts of downtown where the oak stands. Some clip poems, get-well wishes, clothing and friendship bracelets to a green twine strung on a barrier in front of the tree. Some leave cash in envelopes or bottles. One well-wisher placed a can of Campbell's chicken soup at the base of the tree.

"We're praying for you," a woman scrawled on the back of an envelope.

"We love you, please get better," another scribbled on a scrap of a Dairy Queen napkin.

Sentiment has been so strong that Cullen's attorney feared he could not get a fair trial here.

"This city basically has been transformed into a city of druids, tree-worshippers," Terrence Kirk told reporters. "People that never heard of the Treaty Oak before, wouldn't know the Treaty Oak from a cactus, are now clamoring for blood."

The poisoning was discovered last Memorial Day when the tree's leaves were already withering and the grass at its base had died. For weeks, foresters worked feverishly to save the tree. They injected activated charcoal into the ground around the tree to bind the herbicide and prevent the tree from absorbing it. They excavated and replaced the contaminated soil, cut some roots to prevent the tree from absorbing more poison. Shade screens were mounted on telephone poles to protect the tree from the summer sun, and it was misted with water to ease

heat stress. A saltwater solution was pumped into the tree to counteract the poison, followed by a jolt of sugar water for energy. Texas billionaire H. Ross Perot has picked up the \$100,000-plus tab for the treatment.

Amateur tree doctors continue to barrage foresters with suggestions for unorthodox treatments. Last week a caller suggested pouring coffee around the tree.

Now, in the Travis County Courthouse a few blocks from the Oak, Cullen is on trial. The question remains: Why would anybody do something like this?

In trial testimony, Cindy Blaco, a friend of Cullen's, said he told her that he poisoned the tree as part of a black magic ritual to protect a friend and to "get even with the state for sometime in the past when he had been made to take care of trees." Cullen also wanted to kill the tree as a gesture of unrequited love for a woman, Blaco testified.

Cullen expressed some regret over the poisoning, Blaco said, telling her that if he had it to do over again, "I think I would not."

Defense attorney Kirk portrayed Cullen as a pathetic ex-convict "of low self-esteem" who had lied in the tape-recorded confession.

Whatever the truth, a 500- to 600-year-old tree struggles for its life. And city foresters are prepared for the worst. They have snipped six cuttings from the tree and are nurturing them so that even if the great oak dies, it will remain immortal.

Saturday

May 5, 1990

35 cents

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# Austin American-Statesman

## Weather

Mostly cloudy, 20 percent chance of rain. High, mid-70s. Low, mid-50s. Northeast wind 10 to 15 mph. Details, A26.



Staff photo  
Attorneys for Paul Stedman Cullen have said the tape was an attempt to impress the woman who made the recording.

By Jim Phillips

American-Statesman Staff

Paul Stedman Cullen poisoned the Treaty Oak in a ritual he hoped would end his love for a counselor at a methadone clinic, protect her from another man and help Cullen gain revenge on the State of Texas for work he was forced to perform in prison, according to testimony from an acquaintance.

Cindy Blaco secretly taped a lengthy conversation with Cullen last June in which Cullen said he had thrown away all the evidence

## Tape blames oak attack on infatuation

### Excerpts from Cullen recording:

"I think I have learned, you know, my lesson here... Yeah, leave the... things alive. If I can get away with this, I'll be satisfied."

More excerpts, A18

from the poisoning.

"The only evidence is my own mouth," Cullen was recorded saying.

Cullen's conversation with Blaco provided some of the most

poisoning of the centuries-old Austin landmark. If convicted, he faces up to life in prison.

Cullen's attorneys have said the statements by Cullen were lies he told in an attempt to impress Blaco.

Blaco said she met Cullen last year when they both were receiving methadone at a Texas Department of Mental Health and Mental Retardation clinic. Methadone is often given to people recovering from heroin or other addictions. Blaco said she was getting the drug for medical rea-

See Oak, A18

# Oak poisoned in ritual to end love, woman testifies

Continued from A1

sons related to a long-term illness. Blaco testified that she was once with Cullen when he said he was looking for a live oak tree, and said she had seen Velpar in his truck. Treaty Oak was poisoned with Velpar, a herbicide.

After she realized that Cullen may have poisoned the tree, Blaco went to the police, who asked her to make the recording.

On the tape, Blaco asked, "Why didn't you pick a public service company and blow it up or something? Why did you have to pour poison around a stupid tree and kill it?"

"I don't know," Cullen said. "But how in retrospect . . . At first it didn't seem like a good idea, you know? But he added: 'What the hell? It's only a tree. It will make life easier for it . . . But now, with all the publicity, it seems maybe even better than a public utility company.'"

A minute later, Cullen said, "I think I have learned, you know, my lesson here. . . . If I can get away

## Excerpts from the Cullen tape

**Blaco to Cullen:** "Why didn't you pick a public service company and blow it up or something? Why did you have to pour poison around a stupid tree and kill it?"

**Cullen:** "I don't know. But now, in retrospect . . . At first it didn't seem like a good idea, you know." But he added: "What the hell? It's only a tree. It will make life easier for it . . . But now, with all the publicity, it seems maybe even better than a public utility company."

**Cullen adds:** "They call it Treaty Oak, but there was no treaty ever signed under it that I know of, you know. It's just — the most important thing that ever happened to it is that a somebody tried to poison it."

**"That's the tree's claim to fame right there. Now everybody gets to gather around and show what a great place Austin is by how much we care for our trees."**



Staff photo by Taylor Johnson  
Cindy Blaco testified Friday that she taped a conversation with Paul Stedman Cullen.

with this, I'll be satisfied. I'll even call it even for TDC and everything else.

"It's too bad the tree is the thing that ultimately has to suffer," he said.

Cullen was sent to a Texas Department of Corrections prison for violating probation he received for

the tree dying, he would see his love for (the counselor) dying."

The ritual or other occult beliefs are not mentioned on the tape. Cullen also said in the conversation that he likes trees, and probably would not poison Treaty Oak if he had it to do over again.

And, he told Blaco that he did

not think the police would get enough evidence to make an arrest.

"There's no more evidence to be gained," he said on the recording. "I mean, if they don't have enough evidence by now on a suspect, they are not going to get any more."

He also disputed the historical value of Treaty Oak.

"They call it Treaty Oak, but there was no treaty ever signed under it that I know of, you know. It's just — the most important thing that ever happened to it is that a somebody tried to poison it."

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"Apartment complexes. I call that pollution right there. Yeah, Austin's such a wonderful place to be, they even care for trees. Something very hypocritical about all this."

On the tape, Cullen said he poisoned the tree in part because of his love for his counselor, but also

because of the work he was forced to do at prison.

"I wasn't thinking too rational. We are not talking about rational thoughts here."

"What's done is done. But in a way, it's a good thing in that it does bring out — and it has made some people think about — their priorities."

Cullen also talked about his childhood, his stormy relationship with his father, including abuse and threatened abandonment, and his efforts as a child "to fit in, and I couldn't."

Blaco asked: "So your strange thinking as a child had led you to murder a tree?"

"Yes," Cullen said, adding that he hoped Treaty Oak survived and that he was "a little bit" mad at himself for the poisoning.

Discussing death, Cullen said, "I think actually I'm on pretty good terms with the Lord. . . . I'm a true believer that there is a judgment day. I don't dread it, you know. He'll say, 'No, it's all right, Paul. He'll say, 'I understand.'"

# Austin American-Statesman

**Saturday**

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"The only evidence is my own mouth," Cullen was recorded saying.

Cullen's conversation with Blaco provided some of the most

damaging evidence against him Friday when a tape of most of about two hours of conversation with the woman was played for Cullen's jury. The jury will decide next week whether Cullen is guilty of felony criminal mischief in the

poisoning of the centuries-old Austin landmark. If convicted, he faces up to life in prison.

Cullen's attorneys have said the statements by Cullen were lies he told in an attempt to impress Blaco.

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See Oak, A18

A18 Austin American-Statesman • Saturday, May 5, 1990

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Continued from A1

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"I don't know," Cullen said. "But now, in retrospect... At first, it didn't seem like a good idea, you know?" But he added, "What the hell? It's only a tree. It will make life easier for it... But now, with all the publicity, it seems maybe even better than a public utility company."

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Staff photo by Taylor Johnson  
Cindy Blaco testified Friday that she taped a conversation with Paul Stedman Cullen.

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And, he told Blaco that he did

Friday, May 4, 1990

# Treaty Oak witness admits lying

## Witness retracts reason for tape

By Jim Phillips

American-Statesman Staff

The state's main witness against Paul Stedman Cullen admitted Thursday that she has said she agreed to record a conversation with Cullen because of possible hot-check charges against her, but said that story was a lie.

Cindy Blaco, an acquaintance of Cullen who taped a lengthy conversation in which Cullen claimed he poisoned Treaty Oak, testified she had told several lawyers that she feared she would be charged with writing hot checks.

But Blaco said that story was invented because she felt guilty about the recording and wanted to justify

it to Cullen through his attorneys.

She said she had been told Cullen was "devastated" that she had helped police, and she wanted to come up with an excuse that would explain her actions to Cullen.

Cullen, 46, is charged with criminal mischief in the poisoning of Treaty Oak. He faces up to life in prison because of a prior felony conviction.

Blaco's testimony came outside the presence of the jury while attorneys were arguing before District Judge Bob Perkins about what portions of her testimony would be heard by the jury today.

Blaco also testified that she first went to police in an effort to help Cullen because she was convinced he had told several people that he was responsible for pouring herbicide around the tree. Blaco said she was sure some of those people had notified police.

"When Paul gets alcohol in him, he talks a lot and doesn't care who he's talking to," she said.

Earlier Thursday, Austin police Sgt. John Jones, the investigator on the case, told the jury that when Blaco first came to him in June, she revealed several things about the incident that had not been reported by news media.

Jones said he became convinced Blaco was telling the truth because she described the pattern in which the herbicide Velpar was poured near the tree, and because she said the attack occurred in February, which fit the available scientific evidence.

Blaco told police that Cullen was performing a ritual involving a "magic circle," which in occult belief is supposed to provide power and protection.

Jones testified that four books

on the occult, which Blaco said Cullen had checked out from a library, were taken apart and finger-printed page-by-page in an unsuccessful attempt to find Cullen's prints. Jones said finding identifiable prints on book pages is very difficult, and said he could not be certain the books that were checked were the same copies Blaco said she had seen.

While cross-examining Jones, Cullen's defense attorneys tried to show that Blaco may be trying to receive more than \$11,000 in rewards for testifying against Cullen, and suggested she already had received \$500 from Crimestoppers.

Defense attorney Terry Kirk also had Jones testify that in a search of Cullen's home, police found no Velpar and no books that contained information about magic circles.

## LETTER FROM TEXAS

# The Treaty Oak Trial: A Triumph of Grace Over Legal Vengeance

AUSTIN It has rained virtually every other day since early February, making springtime in Austin a season of wild and kaleidoscopic growth. The cedars and oaks provide a lush green canopy for the city, and pathways along the creeks and boulevards are bursting with red, yellow and blue wildflowers. Everything that survived the brutal December frost is alive and flourishing—except the ancient, beloved sentinel of Texas, the Treaty Oak. More than half of it is dead, leafless, barren.

A year has passed since the centuries-old giant, named Treaty Oak for the legend that Texas founder Stephen F. Austin signed a treaty under its generous boughs, was brutally poisoned and a worldwide death-watch began. As so often happens, the tree became more a symbol of life as it started to die than it ever was during its generations of full health. Visitors make the pilgrimage to Treaty Oak a required part of the Austin itinerary. Grade school classes pay regular visits. Elderly women from Grand Saline leave personal notes for the tree on clothe-pous attached to the chain fence that surrounds it.

Perhaps no living thing in Texas has been the subject of more prayers and vigils and the inspiration for more gooey, sentimental poetry. Few trees have ever prompted more interesting debate about the inconsistencies of human nature. Why is it, some ask, that H. Ross Perot would devote his money to saving the Treaty Oak at the same time that his companies are bulldozing dozens of junipers in the nearby Hill Country? And why is it, others ask, that thousands mourn for a tree and few grieve for the destitute people of east Austin? Not many poor, sick people have received such tender, expert and expensive medical care as this single oak has in the last year.



Paul Stedman Cullen, formerly of northern Virginia, shown being led into Austin police station June 29 after his arrest, could face life in prison.

Despite all of that, a glance at the Treaty Oak forces one simple conclusion: The tree looks like a goner. John Giedraitis, the city forester, refuses to pronounce it dead. "There is an old saying among foresters," he said, "As soon as you declare something dead, it lives forever." But he noted that it takes many years for a great tree to die, and what he has seen this spring since the Treaty Oak emerged from its months of winter dormancy leaves him with little hope of a miracle recovery.

Another part of the Treaty Oak tragedy is being played out this week in courtroom 331 at Travis County courthouse a few blocks uphill from the little city park that harbors the withering tree. There the trial of Paul Stedman Cullen is proceeding. Cullen, 46, a drifter who grew up in northern Virginia, has been charged with intentionally poisoning the tree by pouring the potent herbicide Velpar around it in what was described as a ritual act. He has been in jail without bond since his arrest 11 months ago. If convicted, he could face life in prison.

The prosecution's case, according to opening statements, relies heavily on testimony of a woman who recorded Cullen admitting to her that he poisoned the tree. The woman also will testify, according to Assistant District Attorney Laru Woody, that Cullen was interested in the occult and "magic circles." The Velpar originally was poured in a circle around the oak's base. Although police did not find Velpar in the

rural trailer where Cullen lived during the time of the poisoning, they say traces of the herbicide were found on the floor of his truck.

It is a measure of the Treaty Oak's prominence in Texas that selecting a jury took two days. Dozens of prospective jurors said they knew too much and had strong feelings about the case. Others said they could not imagine sentencing someone to life in prison for hurting a tree. In this case, at least, Texans appear more interested in grace than legal vengeance. More people can be found down at the tree, praying, than up in the courtroom seeking revenge.

Cullen has entered a plea of not guilty. Two weeks ago, according to his attorney, he rejected a plea bargain that would have placed him on probation and freed him from jail. A former heroin addict who has diabetes, Cullen looks thin and wan in the courtroom but intensely interested in the testimony, which has been largely technical explanations from chemists and arborists on how the tree was poisoned and how it has responded, or failed to respond, to intense efforts to save it.

On a placard in front of the tree yesterday, Cynthia M. Owen left a poem in which she assumed to be speaking for the Treaty Oak. One stanza asks:

*Tell me, friend, should I be mad  
At Mr. Paul Stedman Cullen?  
Or perhaps should I feel glad  
For my years far outnumber his.*

Giedraitis usually visits the tree each day. But this week he was at the courthouse as a witness. He testified that it might take four or five years before large limbs start falling off the Treaty Oak.

"So you're not willing to give the tree a decent burial yet?" asked defense attorney Richard Jenkins.

"No," Giedraitis said. "I'm not."

—David Maraniss

# Attorneys joust over scenarios of how Treaty Oak got poisoned

**By Jim Phillips**  
American-Statesman Staff

Paul Stedman Cullen's defense attorneys spent most of Wednesday trying to show jurors there are other possible explanations for the poisoning of Treaty Oak, while prosecutors attempted to rule out those same possibilities.

Also Wednesday, the attorneys began negotiating over which portions of a tape-recorded conversation with Cullen should be excluded from the version the jury will hear.

Much of the testimony concerned scientific evidence about the presence of the herbicide Velpar in Treaty Oak and the soil around it, and about the fact that city employees and others who worked on the tree did not use Velpar in their work.

During cross-examination of the witnesses, defense attorney Richard Jenkins tried to suggest that Treaty Oak might have been poisoned by nearby underground storage tanks, or that the tree poisoning could have been the work of disgruntled city employees.

Cullen, 46, faces up to life in prison if convicted of criminal mischief in the poisoning of the centuries-old city landmark. Velpar was poured around the base of the live oak and in a circle just east of the tree about a year ago.

Because the state's case is in part circumstantial, much of the testimony has centered on trying to show that other possible explanations for the poisoning are unlikely. As part of that effort, city employees testified Wednesday that the city did not purchase Velpar or keep it in stock for the past few

years.

There also was testimony about the cost of efforts to save the tree, and a tree appraiser said Treaty Oak was worth \$42,000 before the poisoning, but is now "a total loss."

The taped conversation between Cullen and a acquaintance, Cindy Blaco, includes references by Cullen to using drugs, his prior incarceration in prison, and a hypothetical discussion about stealing, attorneys said. The conversation also ranged into the trials of Julius and Ethel Rosenberg and Sacco and Vanzetti, and included a reference to "blowing up public service or utility companies," according to attorneys and court documents.

The attorneys are going to decide which portions of the conversation they agree should be heard by the jury, and District Judge Bob Perkins will rule on any disputes. Blaco may testify today.

# Poisoning confession called a lie

Suspect described as loser as Treaty Oak trial opens

By Jim Phillips  
American-Statesman Staff

Paul Stedman Cullen's tape-recorded claim to have poisoned Treaty Oak was not a confession but "rather a person of low self-esteem who is really trying to impress this girl," Cullen's defense attorney argued Tuesday.

Terry Kirk, in opening statements to Cullen's jury, described his client as a loser and an ex-convict "given to telling outrageous lies."

Kirk's comments came just after a seven-woman, five-man jury was selected to hear Cullen's trial. Cullen, 46, faces up to life in prison if convicted of damaging Treaty Oak by pouring the herbicide Velpar around the tree last year.

Assistant District Attorney Laru Woody said in her opening statement that witnesses would include a woman who wore a radio transmitter during a conversation with Cullen in which he admitted poisoning the tree. The woman also will testify that Cullen was interested in the occult, and specifically in "magic circles," Woody said. In occult belief, magic circles are thought to provide power and protection to those trying to place a curse or call upon spirits for help.

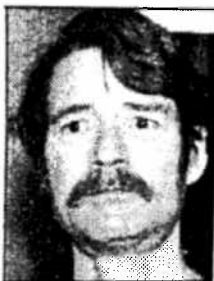
An expert witness also will testify that dirt in the back of Cullen's pickup contained traces of Velpar, she said.

Kirk then told the jurors that, considering the apparent weight of the evidence, they may be asking themselves "What is he doing here asking for a jury trial?"

However, Kirk said, Cullen does not discuss anything about magic circles or the occult on the tape, and police were unable to find any occult-related books or writings in a search of his home in southeastern Travis County last summer.

Kirk also said a defense expert will testify that there is no proof that Cullen ever had Velpar in his truck.

Cullen is accused of poisoning the centuries-old live oak as part of a ritual. Police were told Cullen poured Velpar around Treaty Oak and in a "magic circle" just east of the tree in an effort to cast a spell or place a



Paul Cullen

## Treaty Oak confession is a lie, suspect's lawyer says

Continued from B1

curse. In an affidavit filed with the search warrant in June, police said an informant had said Cullen had books and papers concerning "magic circles" and the occult. The materials referred to placing of a curse on someone or protecting a person "by placing poison around a tree" and around personal articles of the person, the affidavit said.

Testimony began with Austin City Forester John Giedraitis detailing the discovery of the poisoning and efforts to save Treaty Oak.

Giedraitis testified that although

Treaty Oak is still alive, the fact that most of its major limbs are dead means that "for all intents and purposes, for appraising (its monetary value), it is destroyed."

Defense attorney Richard Jenkins challenged a statement by Giedraitis that he was convinced the poisoning was intentional as soon as test results showed Velpar was used. With the jury out of the courtroom, Giedraitis said he did not think anyone could accidentally pour the herbicide around the tree in the small city park that contains Treaty Oak.

"It would be very unusual for someone to be picnicking with Velpar," he said.

# Potential jurors questioned for Treaty Oak trial

## Some express reservations on penalties

By Jim Phillips  
American-Statesman Staff

Attorneys today will continue questioning prospective jurors in the trial of the man charged with poisoning Treaty Oak after several jurors said Monday that they did not think they could sentence a man to life in prison for criminal mischief.

Paul Stedman Cullen, 46, is charged with criminal mischief causing damage in excess of \$20,000, and faces a maximum sentence of life or 99 years in prison because he was imprisoned in the mid-1980s for a burglary conviction.

At least six prospective jurors from an original panel of 65 said in court that they would have some reservations considering the maximum sentence if Cullen is convicted.

Assistant District Attorney Kent Anschutz asked each panel member individually if they could consider the full range of punishment in the case. Most of Anschutz's other questions were asked of the panel as a whole.

The questioning of jurors began shortly after 2 p.m. Monday, and is expected to conclude today. After the 12-member jury is selected, testimony in the trial, which may last two weeks, will begin.

Four potential jurors were excused from the trial after indicating they were biased in the case. Their opinions about the case were discussed privately with attorneys and District Judge Bob Perkins before Perkins decided to release them from the jury panel.

Anschutz then questioned the panel members about their ability to be impartial, and asked if they knew any of the potential witnesses in the case.

When the prospective jurors were asked whether they could consider life in prison, one panel member said, "I couldn't give someone life in prison or 99 years for criminal mischief."

Another said, "Crimes against people I can understand. A crime against property I might have a hard time with" assessing the maximum sentence.

Defense attorneys Richard Jenkins of Dallas and Terry Kirk of



File photo

Paul Stedman Cullen could face a maximum sentence of life or 99 years in prison if found guilty of poisoning Treaty Oak.

Austin will question panel members today, after which each side can eliminate 10 people from the panel before the jury is selected.

Treaty Oak was poisoned more than a year ago, when the herbicide Velpar was poured around the base of the city landmark. The tree is still struggling to survive the attack.

Cullen was arrested last June and charged with poisoning the tree as part of a ritual.

# Treaty Oak trial set to start today

By Jim Phillips  
American-Statesman Staff

More than a year after Treaty Oak was poisoned and 10 months after Paul Stedman Cullen was charged in the case, the trial that could send Cullen to prison for life is set to begin.

Today, attorneys will start selecting jurors to hear the criminal mischief trial of Cullen, a 46-year-old two-time prison inmate who has said he is eager to prove his innocence.

The attack on Treaty Oak, an Austin landmark for 150 years, shocked city residents and touched people around the world. Many sent get-well cards to the tree or

stopped by to write messages or leave tokens of good will. The bizarre case sparked national publicity and became a rallying cry for those urging greater efforts to save the environment, culminating in an Earth Day feature in *Life* magazine.

Cullen, who was living in the back of a truck near the southeastern Travis County community of Elroy when he was arrested, was charged with poisoning the tree during a ritual. The arrest caused an initial outcry from some who suggested Cullen could get a taste of frontier justice from one of the tree's sturdier limbs, but also brought defenders who said life in prison was a ludicrous sentence for

harming a tree.

Extraordinary efforts to save the centuries-old live oak have continued since the poisoning was discovered over Memorial Day weekend last year. City officials said at the time that the Velpar that was poured around the base of the tree and in a circle east of the tree had been in the soil since at least March.

Velpar, which is produced by Dupont to kill hardwood trees, works up through the roots and into the leaves, where it inhibits photosynthesis. Treaty Oak went through six sets of leaves last year in an effort to shed the herbicide from its system. Much of the tree is now dead, although one section of Tre-

ty Oak may survive.

Dallas billionaire H. Ross Perot offered last summer to pick up the city's costs of combating the poison, and tens of thousands of donors have been spending on consultants, treatments, tests and other efforts to save the tree. Massive sun screens were built around most of the tree last summer, and spring water was trucked in to spray on Treaty Oak's limbs. The small park that was purchased by the city in 1936 to prevent the tree from being cut down lured thousands of well-wishers to the 500 block of Baylor Street.

Pre-trial motions and other courtroom complications have delayed Cullen's trial for months.

Cullen, who faces a possible life sentence because of a prior prison sentence for burglary, has remained jailed in lieu of \$20,000 bond.

In a jailhouse interview in December, Cullen said he was eager for the trial to begin and said he was confident he would be acquitted.

In the trial, Cullen will be represented by Dallas attorney Richard Jenkins and Austin lawyer Terry Kirk.

"He's chomping at the bit," Jenkins said of Cullen. "He's been disappointed every time it's been

See Treaty, B4



Paul Stedman Cullen is accused of poisoning centuries-old Treaty Oak.

## Treaty Oak poisoning trial to open today

Continued from B1

passed."

When Cullen was arrested, police said an informant told them that Cullen had bought Velpar to kill a tree, and had driven around West Austin early last year looking for a suitable tree. Sources said Cullen was thought to have read a library book called *The Black Arts*, which contains suggestions on how to perform various rituals.

After searching Cullen's pickup, police said lab tests showed traces of Velpar in the bed of the truck.

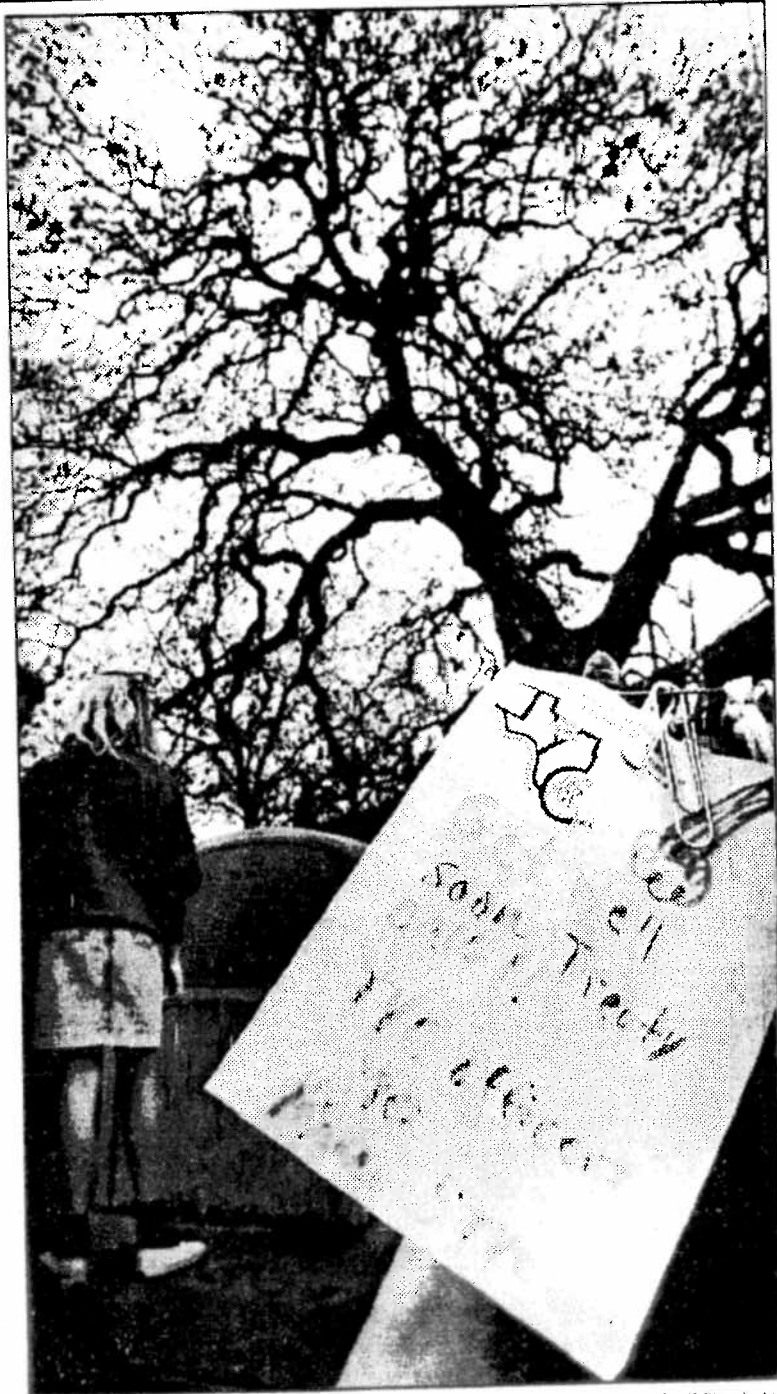
Prosecutors have subpoenaed several police officers, lab technicians who perform tests on the leaves and soil around the tree, and an Austin library employee who could testify that Cullen had a library card. Officials from the Texas Department of Agriculture, which tracks wholesale Velpar orders and performed some of the tests on Treaty Oak, also have been subpoenaed.

Jenkins has subpoenaed Du Pont employees and an official with the Texas Forestry Association, asking for information on the total of \$11,000 in rewards that were offered in the case. Jenkins, who has suggested that testimony against Cullen might be prompted by the reward money, also asked the officials to bring records showing whether anyone has claimed the money.

The defense attorney also has subpoenaed park officials from the City of Baytown, where another landmark oak tree last fall was discovered to have been poisoned with Velpar.

Jenkins refused to discuss the subpoenas last week.

The trial, which is expected to last up to two weeks, will be heard in District Judge Bob Perkins' court.



Staff file photo

Letters and posters urge the Treaty Oak to get well soon, but much of the tree is dead. Treaty Oak has gone through at least six sets of leaves since last spring, when it absorbed a heavy dose of the herbicide Velpar.

# Austin American-Statesman

Tuesday

April 24, 1990

35 cents

☆☆



Though two-thirds of its canopy is dead, Treaty Oak is fighting for life, 10 months after its poisoning was

discovered. Visitors to the small park on Baylor Street still leave get-well messages for the tree.

Staff photo by Mike Boroff

## TREATY OAK'S DAY AFTER

### Hope for the Earth mirrored by prayers for tree's recovery

By Pamela Ward  
American-Statesman Staff

**W**e have been talking to the tree for 10 months now, saying little prayers and leaving it love notes as if this oak had a soul, and a heart.

We have been behaving as if the legendary and beloved Treaty Oak somehow might summon the strength to stretch its magnificent branches our way and rustle its leaves in acknowledgment.

If it's comfort we want from the tree, it isn't obliging.

If it's hope we seek — a sign that the tree will overcome the deliberate poisoning that strangles — it's not forthcoming.

If it's forgiveness we want, it's probably too late.

Treaty Oak is more dead than alive. On Monday, one day after that celebration of worldwide environmental hope called Earth Day 1990, Treaty Oak struck an eerie pose of pessimism against Austin's overcast skies.



Staff file photo

### Earth Day redux

Austin Clean Sweep will put household chemicals in their places Saturday. D1

Austin's own Darden Smith and Timbuk-3 brighten a 5½-hour Planet Party benefit. D5

Recyclers clean up on trash awareness. B1

Pro-environment demonstrators picket East and West Coast stock exchanges. C8

Spring has laid a plush new carpet of grass beneath the towering live oak that is reputed to have been the spot where Stephen F. Austin signed the first boundary treaty with the Indians.

Through the decades, Treaty Oak's wide

See Hope, A9

4/24/90 AAS  
**Hope stays alive, but Treaty Oak is close to death**

Continued from A1

canopy has sheltered brides and grooms, family reunions and picnicks from the sweltering sun of summer. But this spring, its canopy is like an umbrella minus its canvas.

Save for one major extremity that sprouts new leaves, the tree of Texas legend no longer can be described as grand. The live oak whose picture (from an earlier day) hangs in the Hall of Fame of Forestry in Washington, D.C., no longer could win the pronouncement: "The most perfect specimen of a tree in North America."

Treaty Oak is apocalyptic in appearance. Two-thirds of the crown is dead, says John Giedraitis, the city's urban forester.

New laboratory results offer some hope for only one of the tree's three major limbs. Analysis of its new leaves shows the deliberately poured poison, Velpar, is undetectable, or barely traceable. Yet, even if that one extremity — the north-west limb — does survive — (and the scientists will withhold their verdict until late summer) — it will live as an aberration, in contrast to rotting, naked limbs that stretch southward and eastward.

Experts from near and far have been inspecting and attending to the tree now for almost a year, ever since the poisoning was discovered. But now, it is apparent even to visitors with no scientific training that Treaty Oak is all but lost.

It is obvious in the notes that are attached to the chain that fences the oak. Some of the messages are dated "Earth Day 1990."

Where earlier messages overwhelmingly were full of inspiration, there now is gloomy competition.

"A sadness fills the heart and soul, to see such beauty which once was whole," wrote M.S.S. of Maine. "Forgive mankind for selfishness, and know that you are loved no less Live on in our hearts."

"Trees can live without us," says another note, unsigned, "but we can't live without trees."

And on the Day After Earth Day, there was this undated message, in a child's handwriting:

"Dear Treaty Oak,  
Roses are red,  
Violets are blue,  
You are dying  
But I don't want you to."  
Love, Janie

## Baytown tree gets manure cure

BAYTOWN (AP) — An ailing oak tree that is a local landmark is making a remarkable turnaround thanks in part to some horse manure.

Experts said Friday that concentrations of Velpar, a powerful herbicide found in the huge tree, have dropped dramatically. The oak, they said, has about an 80-percent chance of surviving.

"This is the miracle that we were hoping for," city Parks Director David Ondrias said.

Velpar also was used to poison Austin's Treaty Oak.

If the poison had been doing its work, a new crop of leaves that sprouted a month ago would already have been showing signs of distress by spotting or yellowing — but that has not occurred, he said.

Baytown officials said the tree's survival was enhanced by an enzyme treatment with horse manure that helped break down the poison. Also, the tree was helped by heavy spring rains that helped flush out the poison.

Officials don't know how the tree was poisoned.

# CITY & STATE

Thursday, April 5, 1990 Austin American-Statesman

## Treaty Oak suspect charged in federal firearms violations

By Jim Phillips  
American-Statesman Staff

An attorney for Paul Stedman Cullen said Wednesday that his client's refusal to accept a plea bargain for the poisoning of Treaty Oak is at least partially responsible for federal firearms charges filed against his client this week.

Had he accepted the offer by the Travis County district attorney's office, Cullen would have been placed on probation instead of facing up to life in prison, the attorney said.

Richard Jenkins of Dallas, one of Cullen's attorneys, said Wednesday prosecutors had threatened to have Cullen indicted on the federal charges and to have him re-indicted

on stiffer state charges if he refused to accept the plea bargain.

Federal prosecutors denied that the indictment of Cullen is part of any retaliation or was at the urging of state prosecutors.

The indictment charges Cullen with possession of a firearm by a felon, and making a false statement to a firearms dealer. If convicted of both charges, which stem from a .22-caliber rifle found in Cullen's truck when he was arrested in June, Cullen would face up to 15 years in federal prison.

"We didn't take it, so I guess this is their revenge," Jenkins said. "The total threat was they were going to indict at the state level in such a way that the minimum would be 25 years, (and) instigate federal prosecution of

See Treaty Oak, B4

B4

Austin American-Statesman

Thursday, April 5, 1990

## Treaty Oak poisoning suspect charged in firearms violations

Continued from B1

Mr. Cullen, also.

"They apparently made good only on the second part of that threat."

Laru Woody, an assistant Travis County district attorney, called Jenkins' assertion that this week's federal indictments were retaliation ridiculous. She would neither confirm nor deny an offer for a plea bargain.

Cullen is charged with felony criminal mischief by causing more than \$20,000 damage to Treaty Oak, poisoned about a year ago. His trial is set for April 30.

The charge would normally carry a maximum sentence of 20 years in prison, but because Cullen was imprisoned several years ago for an Austin burglary, he faces up to life in prison. The minimum sentence is five years in prison.

If Cullen were to be indicted as a habitual criminal, a charge that

would have to include a prison term Cullen served in Virginia in the 1960s, he would face 25 years to life in prison. He has not been indicted under the habitual law.

Because of the prior prison sentence in Texas, attorneys have said that if Cullen is convicted by a jury, and has his sentence assessed by that jury rather than a judge, he could not receive probation, but would face prison time.

Cullen's other lawyer, Terry Kirk of Austin, has said that Cullen's sentence will be set by the jury, if he is convicted.

Jenkins said Cullen turned down the plea bargain because he "didn't want to take the probation or plead guilty."

"He said 'Nope, I didn't do it, I'm not going to take any deal,'" Jenkins said.

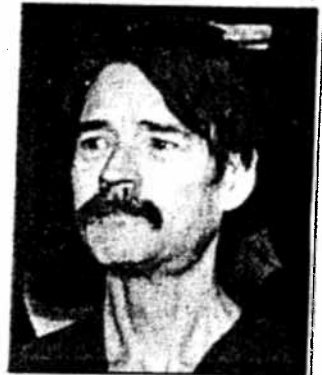
Jenkins said he did not recall the exact terms of the offer, but said "it involved some community service

work."

The defense attorney would not comment on whether Cullen might be put on the stand, before his trial began to testify about the plea offer, and his refusal to accept it. Attorneys who fail to convince their clients to accept an apparently fair plea bargain will sometimes put the defendants on the stand to testify about their refusal to take the deal even though their attorney recommended it be accepted.

Such testimony is seen as protection against later charges that the attorney did not provide effective legal assistance to the defendant.

Of the federal charges, Jenkins said he did not know how Cullen would plead. Police recovered a .22-caliber semiautomatic rifle with a banana clip from Cullen's truck when he was arrested June 29. The indictment charges Cullen, a convicted felon, with possessing the gun, which carries up to 10 years in prison, and with making a false



Paul Stedman Cullen turned down a plea bargain for probation in the Treaty Oak case, his lawyer said.

statement when buying the gun in September 1988, which is punishable by up to five years in prison. The indictment alleges that Cullen lied when he said in a written statement that he had not been convicted of a felony.

Jenkins said Cullen "used it basically to shoot rattlesnakes on the little ranch where he lived and worked ... target shooting with a 22 rifle."

# Prosecutors get delay in start of Treaty Oak trial

By Jim Phillips  
American-Statesman Staff

The trial of the man suspected of poisoning Treaty Oak was delayed until April 30 after prosecutors asked Monday for more time to prepare.

Paul Stedman Cullen, charged with felony criminal mischief for allegedly pouring herbicide around the tree as part of a ritual a year ago, has been in jail and awaiting trial since his arrest in June.

Cullen, who faces a possible sentence of life in prison because of a prior conviction for burglary, is being held in lieu of \$20,000 bail.

Cullen's trial was set to begin Monday, but prosecutors filed a motion to delay the trial until they have more time to gather scientific evidence and other data from witnesses.

Defense attorneys did not oppose the motion, and said they will use the extra time to gain access to the state's scientific evidence rather than taking up extra time during the trial.

The evidence consists largely of tests run at a laboratory last summer to determine that Velpar was used to poison the tree, and subsequent tests to monitor the tree's condition. Also likely to be in dispute is a test that showed traces of

Velpar were found in Cullen's pickup.

Assistant District Attorney Kent Anschutz said the laboratories are in three different cities. Several recent jury trials he had prosecuted prevented him from gathering all the evidence, he said.

Defense attorney Terrence Kirk complained to reporters about the delay, but did not object to the state's motion. Anschutz had requested a trial setting of April 16, but Kirk asked for the later date because of a conflict.

Treaty Oak, a centuries-old live oak that was purchased by the City of Austin more than 50 years ago to prevent its destruction, has been struggling to survive the Velpar poisoning.

Test results on the West Austin landmark showed a month ago that the level of Velpar remained very high in the tree's leaves and twigs, dashing hopes that it might have been able to eliminate the poison over the winter.

The tree went through six sets of leaves last year in a desperate attempt to rid itself of the herbicide. Treaty Oak was dormant through the winter, but put out new leaves early this month. Samples of those leaves are now being tested to determine if they also acquired a high level of the poison.

Saturday, February 24, 1990

## Trial set March 26 in Treaty Oak case

By Berta Delgado  
American-Statesman Staff

The trial for a man who has spent eight months in jail accused of poisoning the centuries-old Treaty Oak has been set for March 26.

State District Judge Bob Perkins set the trial date Friday during a pretrial hearing for Paul Stedman Cullen, who was jailed June 29 on a felony charge of criminal mischief.

Police allege that Cullen, 46, poured the herbicide Velpar around the base of the tree during a cult ritual.

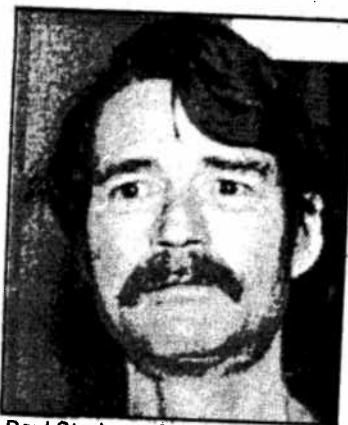
Experts do not know whether the tree will survive.

Perkins tentatively ruled Friday that evidence seized from Cullen's pickup, including dirt samples that prosecutors say have traces of Velpar, will be admissible in court.

Defense attorneys have argued over the past several months that the evidence was obtained without Cullen's consent.

Perkins said he will study the issue further, and could change his mind about the ruling.

Perkins also ordered prosecutors to return personal property — including books, job applications, resumes, and a certificate of title for the pickup — that was taken during a search for



Paul Stedman Cullen has been in jail since his arrest in June.

evidence at Cullen's home.

Terry Kirk, one of Cullen's attorneys, called Perkins' decision to return property a "partial vindication."

Kirk argued during the hearing that the property seized was not mentioned in the search warrant and that the state "can't seize everything just because it might be useful to their case in some way."

The charge against Cullen, criminal mischief causing more than \$20,000 damage, carries a maximum punishment on conviction of 20 years in prison and a \$10,000 fine. Because of a prior felony conviction, Cullen faces up to life in prison if convicted.

# All for the love of an old oak tree

*A huge battle is  
being waged  
against the deadly  
poison within the  
tree by people from  
across the nation.*



Long before the white man came to the harsh, rich land now called Texas, Indian tribes honored a special oak tree with superstitious awe and reverence. Legend says this tree was a source of love and life.

Indian maidens brewed a "love tea" of its delicate leaves. They believed that their lovers would remain faithful to them forever if the women drank the tea while gazing at a full moon. If this ritual was performed during tribal wars, they believed their warriors would return home safely.

Today, this tree is the only survivor of the "Council Oaks," under which Stephen F. Austin, the "Father of Texas," reportedly signed the first boundary-line agreement between the white man and the Indians. This living monument became known as Treaty Oak.

Now, this huge live oak, thought to be more than 500 years old, was poisoned earlier this year by someone who poured gallons of the herbicide Velpar at the base of it. Police have a suspect in custody: Paul Stedman Cullen, a 45-year-old drifter and farm-supply worker who lives alone in a makeshift mobile home southeast of Austin. Investigators have revealed that the poisoning may have been part of witchcraft practices and that the suspect may have been attempting to cast a magic spell to protect a woman or to resolve a rivalry over a woman. Cullen was indicted by the Travis County grand jury in August.

When the poisoning was discovered this past spring, Du Pont, producer of the herbicide, had offered a \$10,000 reward for information leading to the conviction of the poisoner, and the Texas Forestry Association offered an additional \$1,000. In addition, Dallas billionaire H. Ross Perot and others, who chose to remain anonymous, pledged to bear "any and all expenses . . . to try to save this very special oak tree," Austin Mayor Lee Cooke reported.

Experts from across the nation — including leading plant physiologists and other officials with the U.S. Forestry Service — have been racing the clock to save the tree. The Texas Senate and House have even applauded the efforts of four companies and their assistance with a resolution. The resolution honored the Permian Corp., Utopia Spring Water, the Texas Tank Truck Carrier Association and the Odeen Hibbs Trucking Co. for providing 2,000 gallons of sodium-free, non-chlorinated spring water a day for the tree. The companies also removed wastewater and contaminated soil from around the tree's roots.

There is no revelation as to when certain victory, or defeat, will be known in the fight for this tree, once heralded by the American Forestry Association's Hall of Fame for Trees as the perfect specimen of a North American tree. What is certain is that the Treaty Oak, once revered as the source of love and life, is indeed loved. The flowers and get-well cards that surround it today reveal that.

Or, perhaps, the experts and the victim itself know the only source that can save Treaty Oak from a sinful attack of black magic:

God "planted a garden . . . and out of the ground the Lord God caused to grow every tree that is pleasing to the sight . . ."

*Lisa Roskens*

Lisa Roskens  
is copy editor for NURSERY MANAGER  
magazine



# Arbor Age

*Serving the tree industry professional*

## ASCA Members Lead Treaty Oak Task Force



It may be two or three years before the tree's fate is known.

Dr. Arthur Costonis and Jack Siebenthaler, both of Florida, are the lead consultants on a 22-member task force convened to treat the poisoned Treaty Oak in Austin, TX. Costonis is a member of the American Society of Consulting Arborists (ASCA) and Siebenthaler is the organization's executive director. ASCA member Thomas Perry, of North Carolina, also served on the task force.

The group was summoned by Austin's urban forester, John Giedraitis, after the giant tree had been intentionally poisoned with the selective herbicide Velpar. A 46-year-old farm equipment salesman was arrested in connection with the case, and is in custody pending grand jury action.

"Arthur and I were assigned to sit in on the June 26 organizational meeting of the task force, participate in it, and then sift through the information, formulate a plan and supervise its execution," said Siebenthaler. Costonis made two trips to Austin to supervise the effort to save the tree.

Siebenthaler said the live oak, *Quercus virginiana* is on its fourth flush of leaves this season and he is hoping this flush will remain. He says active treatment will continue through September, but it may be two or three years before the tree's fate is known.

The cost of the treatment is being borne by industrialist H. Ross Perot. Siebenthaler says the measures taken so far include removal of contaminated soil and replacement with sand, bark and peat; injection of activated charcoal to attract and bind the poison, and bacteria to consume the chemical; trucked-in spring water sprayed down from high in the tree at regular intervals; soil aeration and addition of compost and nitrogen fertilizer. In addition, a big sun screen was suspended 50 feet high to block the sunlight, and contaminated leaves were collected and destroyed.

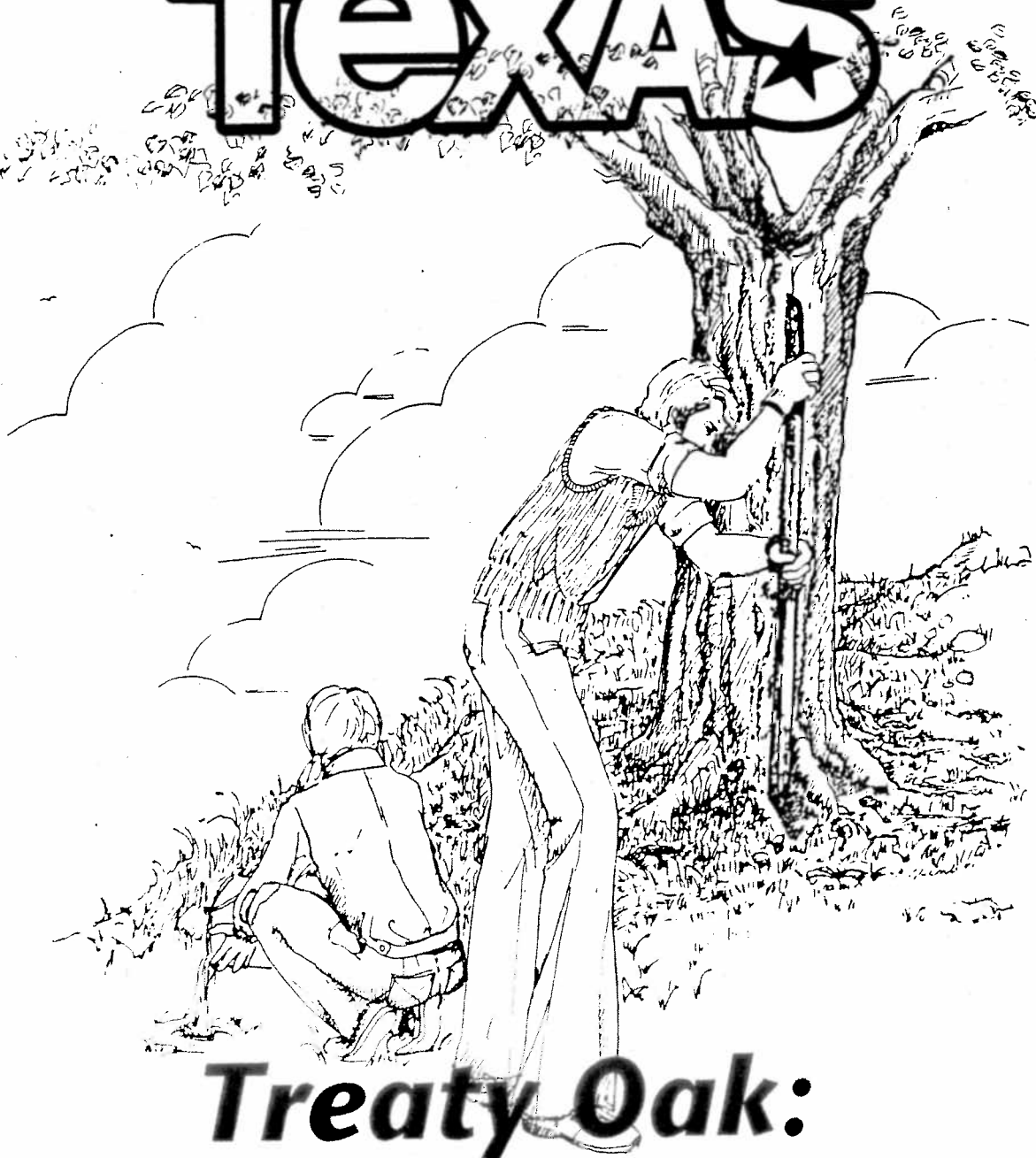
The Treaty Oak's DBH is 50.5 inches, height 50 feet, and canopy spread approximately 90 feet. Siebenthaler and Costonis estimate the tree to be 350 years old, and its value to be almost \$30,000. It is the sole survivor of a group of live oaks called the Council Oaks, and is said to be the tree under which Texas patriot Stephen F. Austin made peace with the Indians.

"We will not speculate about the prognosis at this point," said Siebenthaler. "However, we are proud of the cooperative effort between the private sector consulting arborists and the public sector urban foresters. Each person's specialized knowledge was incorporated into a treatment plan which is being implemented under John Giedraitis' direction. While I hope such a task force is never necessary in other parts of the country, it is good for everyone involved with trees to know the scope of resources available to them."

Bob Ray, ASCA president, said ASCA members will soon have new brochures available to them, listing specializations of Society members. They will be encouraged to send the brochures to urban foresters, tree wardens, and other public officials charged with tree management to advise them of the resources available from ASCA members when situations such as the Treaty Oak poisoning arise.

Oct/Nov 1989 • Austin's oldest independent magazine

# NEW TEXAS



***Treaty Oak:  
A symbol of hope***



# Treaty Oak: Symbol of hope

*"Planting a tree is an act of peace...a vote of confidence in the future"*  
- John Giedraitis, City of Austin Forester

**TREES OFFER US A TRUE ABUNDANCE** of gifts, more than we know, and still we destroy them when they get in the way of our short-sighted, self-seeking plans. Recently, one very disturbed man chose to destroy a beloved tree in a malicious way that dramatized our belief that nature is our rightful slave. The would-be thief, trying to steal the spirit of the Treaty Oak, left that symbol of massive strength and gentleness gasping for breath, swimming in poison so potent that half a cup would have sufficed—a gallon was used. The great oak cried in her desperation, begging us to wake up and save her fellow trees—and the planet.

It is the tendency of humans to search for meaning in events, perhaps to ward off the belief that we are at the mercy of the gods, random victims of their whims. Is there some important metaphor in the poisoning of the venerable Treaty Oak which can transmute the tragedy into a parable about the value of all living things? In a time when it is common knowledge that the world's irreplaceable rain forests are being pulled down to make room for cattle which will become the world's fast food, in a time when, even in Austin, 2% of the tree canopy annually (60,000 trees) is lost, why has the fate of one tree become an international byword?

The Treaty Oak story has stirred the world's hearts—arborists, tree lovers, and the curious show up daily in a steady stream to love, cry, and cajole the tree back to health. No one has seen anything like it. As visitors pay their respects to the lovely matri-

arch, tree experts conferr, dig, haul, hang by ropes, measure, and worry.

Steven Redding, an outspoken Pennsylvania professor-turned-arborist, has a gift for intuitive understanding of trees. He once fasted nearly to death to save a grove of centuries-old white oaks from a water-diversion project. The Treaty Oak's condition compelled him to come to its aid, fasting and keeping a round-the-clock vigil under its branches for a week in July.

Tuning into the tree, Redding sensed its anguish, heard it

***"An unbelievable strength and a mission to raise awareness"***

moan, and cried with it. One night, he and the tree's security guard both heard it whistle. Under such extreme conditions, no tree could be expected to last this long, yet the Treaty Oak has "an unbelievable strength and a mission to raise awareness," says Redding. Concerned people everywhere agreed that the love of people sending healing prayers was keeping her going.

But even that outpouring may not be enough. Steven said he saw the tree's spirit leave, the day the City drilled over 100 holes and injected a saline solution, in a desperate last-ditch effort. Others have declared that the tree is still rallying, and it seems to have put out yet another set of leaves in its attempt to detoxify. If one of Austin's favorite residents is dead, or dying, the world will likely grieve with us. If she is pronounced alive next spring, the victory will be sweet.

In either event, Treaty Oak Park may get expanded. Another traveling tree lover, cross-country bicyclist/nature lobbyist Caroline Killeen of Arizona, planted the idea of buying the asphalt lot south of the tree to give the oak more healthy root space. Some enthusiastic Austinites are also considering the park extension. Amazingly, on the day of Caroline's press conference at the tree, The University of Texas put on a display of 16 models for Treaty Oak Park, designed by architecture students.

Like Redding, Killeen believes that outsiders can sometimes point to a problem or solution that escapes the notice of those who see it every day. For 24 years, she has bicycled across the country, planting trees for peace, for the Bicentennial, and now H.O.P.E. (Healing of Planet Earth) trees to encourage reforestation of the Earth. On September 29, Killeen and a small band of supporters planted a H.O.P.E. tree (a bur oak) in Zilker Park. Unofficially, it is the first of a planned one million trees to be planted in the City of Austin by the year 2000—a project called ReLeaf Austin, an idea that's catching on nationwide. Global ReLeaf has the goal of planting 200 million trees in the US.

If the planet Earth can be visualized as a living organism, trees can be seen as one of the major systems of its body. Life cannot be sustained without the process of photosynthesis any more than a human being can live without lungs. A thriving tree will process carbon dioxide at the rate of about 48 pounds per year. Put another way, for every ton of new wood that grows, about 1.47 tons of carbon dioxide are removed from the air and 1.07 tons of life-giving oxygen is produced. Trees around homes and in communities are particularly valuable because of their effect in breaking up "heat islands" by shading buildings and concrete, and lowering peak energy needs for air conditioning: three well-placed trees around a house can cut home air conditioning energy needs by 10-15%.

Besides absorbing carbon dioxide and producing oxygen, trees absorb other gaseous pollutants and particles. High winds and loud noise lose some of their damaging and irritating power when filtered through trees, and soil in which they are planted retains its moisture, forestalling desertification. Trees clean, filter,

### ***"The first of one million trees to be planted in Austin by the year 2000"***

and detoxify the air, protect life beneath their branches, provide food and many other substances used by humans and animals, anchor the soil, beautify the landscape, nourish us, calm us, and inspire us.

Trees are the only form of life which can save us from the frightening prospect of global warming (called the "greenhouse effect") which is caused mostly by runaway increases in carbon dioxide. The 1980's have produced the five hottest years of this century. The first five months of 1988 qualified it as the hottest year on record. Present global temperatures are the highest since mankind has been keeping records. The rate of global warming in the past two decades is higher than at any other time in the history of humankind—three times faster than was predicted by climatologists.

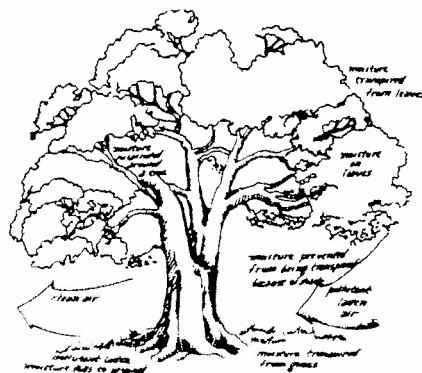
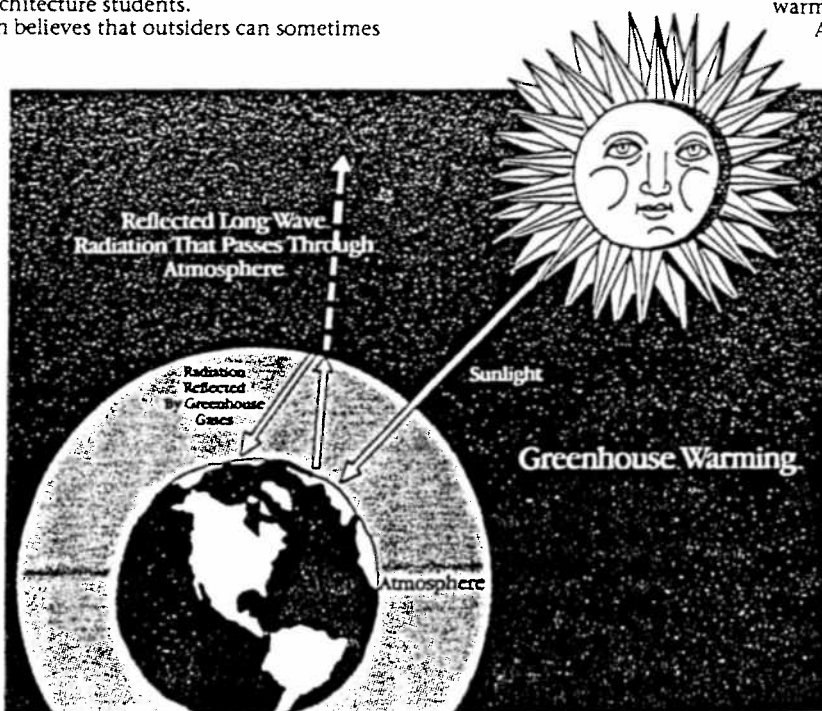
Carbon dioxide in the atmosphere acts like the glass in a greenhouse. The sun's rays penetrate readily, hit the earth, and are reflected as longer-wave heat. Carbon dioxide bounces the heat waves back toward Earth, trapping heat that would otherwise radiate into space. Other greenhouse gasses do likewise, but carbon dioxide is estimated to cause about half of the global warming phenomenon.

Are the greedy vandals of the rain forests the principal villains—the dastardly deliverers of Earth's creatures into the furnace? No. Actually, worldwide energy use is the main contributor to atmospheric carbon dioxide. In 1987, the world's people burned enough fuel to release about 5.4 billion tons of carbon dioxide into the air, 2-5 times the amount contributed by extensive clearing and burning of tropical forests. The United States, with only one-twentieth of the world's population, produces nearly a quarter of the annual global carbon dioxide from burning fossil fuels. Urban areas, with their expanses of concrete, build up heat islands

that are 5-9 degrees hotter than surrounding areas.

Scientists estimate the level of atmospheric carbon dioxide could double in a relatively few years, if present trends continue. If that happens, average temperatures in portions of the United States could rise by 6-12 degrees Fahrenheit in a few decades.

The recent poisoning of the 600-year-old Treaty Oak has attracted national attention. The fact that Austin is losing trees 10 times faster than they can be replaced has gained less notice. Another close-to-home problem is Oak Wilt disease which has infected 32 Texas counties and has destroyed hundreds of thousands of trees. Austin has lost over 10,000 live oaks to the disease in the past 20 years.

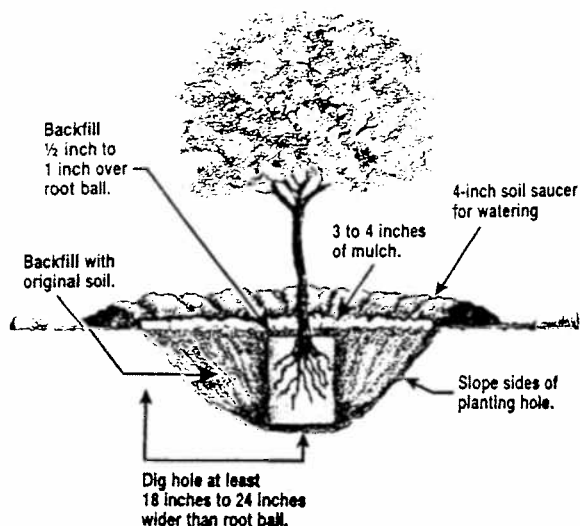


Is there something that can be done quickly to ease the situation? Something simple that anyone can do in time to make a difference, without waiting for the world's governmental bodies to take action? There is. We can each plant a tree, or several trees. If you have no idea how to start, take heart. Help is available right here in Austin.

One program through which you can assist in the reforestation of our city is called Neighborwoods. Originated by the Save Our Oaks Fund, Inc. (SOFI) and now co-sponsored by Treefolks and the City of Austin Parks and Recreation Department, this program provides education, research and community development, and allows neighborhood groups to buy trees for their neighborhoods at reasonable prices. Several varieties of trees have been selected from high-quality stock and come from Texas growers to help insure the survival of trees which are adapted to our environment. These groups will be the ones helping to direct the goal of planting one million trees in Austin by the year 2000. Can't be done? On April 10, 1872, the first Arbor Day in the state of Nebraska, that state's citizens planted over one million trees. That's right. In one day.

## **"Austin is losing trees 10 times faster than they can be replaced"**

You're ready to plant, but you don't know what to do first? That's where those Treefolks come in again. Treefolks, Inc., is a local non-profit organization dedicated to the planting and care of trees. Through the Neighborwoods program, they assist with the planting of trees in private yards and provide for their care and nourishment. They also network to connect tree sources, tree-planting volunteers, and tree-planting sites in a manner that will create a cooler, greener city.



Fall is the perfect time to plant trees in Austin and the City of Austin has a beautiful *Tree Planting Guide for Austin* available which can be obtained from the City Forester's Office. It was created to answer some of the most commonly asked questions about tree planting in the Austin area: where to plant; what to plant; how to plant; when to plant; detailed spacing instructions; and, an exceptionally-attractive tree fold-out which will look great on *your* wall.

## **"A network connecting tree sources, tree-planting volunteers, and tree-planting sites"**

Kenneth Gaede, president of Treefolks, says, "Making things right in the environment is not something we can point our finger at government and industry about and say, 'Clean up your act!' Treefolks believe that we all must get involved because we are all responsible. since we are all part of the problem...because we all breathe air...we can all be a part of the solution. Planting

## **"Trees can live without us, but we cannot live without trees"**

trees is one way to get involved. We recommend that you plant a tree commemorating someone you love or a meaningful event in your life, such as a child's birth or a marriage.

"Trees were here long before we were, and they had a major role in establishing this oxygen-rich atmosphere that we take for granted. Trees can live without us, but we cannot live without trees."

When is the best time to plant a tree? Fifty years ago. But, the next best time is *now*. Thank a tree that you are able to breathe, eat fruits and nuts, sit in a comfortable chair, work at a desk, sleep under a dry roof, or even read *New Texas* in the shade. The trees are our foremost ally in breathing life back into our weakened Earth. Trees can teach us humans a lot—we need to give them a chance to speak and we must also learn to listen. ☺

*Belva McKann is a freelance writer who has won awards for promotional and feature writing and has worked with the Texas Parks & Wildlife Magazine and the PBS documentary series, "Made in Texas." Alice McMullin is a freelance writer in Austin who has been instrumental in helping with the local environment and with this article.*

## **RESOURCES**

*New Texas Magazine* is providing to the community of Austin and Texas a "Treaty with Nature" which will be a pledge dedicated to the Treaty Oak—or to whatever person, event, or cause you wish. It will include the list of "101 Ways to Help the Environment Now." This project is being assisted by local environmental groups, including the Lone Star Green and Treefolks, and we wish to thank them and also call for help from other interested groups. Let us know if you would like to help. We will also be sponsoring tree plantings in the Austin area to help offset the impact on the environment that we, as a business, create by the use of the paper required to bring you our publication.

Contact Treefolks at 1710 Eva Street, Austin, 78704. Or call 512/447-9706 and talk to Kenneth Gaede, president of the group. Treefolks will have a booth and tree planting demonstrations at the Live Oak Festival, Saturday, October 14 in Stacy Park; public tree plantings during the week of October 9-15 including a tree planting event scheduled for Tuesday, October 10, at Settlement Home, 1600 Peyton Gin Rd.

The Third Annual Live Oak Festival, which this year will be a tribute to the Treaty Oak, is co-sponsored by *New Texas Magazine*. The festival offers activities for all ages and is Austin's only fundraising event to fight the dreaded Oak Wilt disease found throughout the city. Proceeds from the festival and the homes tour go to SOFI (444-2610). There will be a Friday the Thirteenth Kick-off Party and Street Dance on October 13, the Festival itself in Stacy Park October 14, and a Historic Homes Tour October 15. The Festival features music, comedy, arts and crafts, children's activities, games, and food and beverage from a variety of South Austin restaurants.

Help proclaim the Live Oak Festival with 126 2nd graders and Woody the Live Oak. These children will all be parts of an oak tree and sing the Live Oak song. George Humphrey will present a proclamation to Live Oak Festival members and the Travis Heights Elementary School—which is celebrating its 50th anniversary. Come join the singing and fun in Stacy Park on October 12th at 11:00 am.

Another group is planning their own tribute. "Treaty Oak: a new age Tribute" is a multi-media show featuring Austin new age composer and multi-instrumentalist Fred Mitchim and nationally-acclaimed Austin modern dancer Ann Mary Carney. Presented by EuroExport Entertainment and co-sponsored by *New Texas Magazine*, the tribute will be at the Hillside Theatre in Zilker Park on Oct 12th at 8 pm. Admission is free (452-2701).

The City of Austin Forester's Office phone number is 476-6485. Ask for John Giedraitis.

The Belize Rain Forest Programme, PO Box 1088-J, Vineyard Haven, Mass 02568, accepts tax-deductible contributions. For \$50, you can buy one acre of rain forest in Belize to be part of a preserve which will not be messed with as long as the Belize Rain Forest Programme is in existence.

# 101 Ways to Help the Environment Now

1. Recycle newspapers, aluminum, glass, and tin
2. Recycle motor oil
3. Use cloth diapers
4. Reuse egg cartons and paper bags
5. Avoid using Styrofoam—it can't be recycled
6. Avoid disposable plates, cups, and utensils.
7. Use rags instead of paper towels
8. Use cloth napkins instead of paper ones
9. Recycle unneeded items
10. Use the back of discarded paper for scratch paper
11. Be responsible and creative with leftover food
12. Use the water from cooking vegetables to make soup
13. Mend and repair, rather than discard and replace
14. Invest in well-made, functional clothing
15. Buy bulk and unpackaged rather than packaged goods
16. Purchase goods in reusable or recyclable containers
17. Buy organic, pesticide-free foods
19. Use non-toxic pesticide control
20. Compost your food scraps
21. Grow your own food (even in small kitchen gardens)
22. Get yourself a plot in the Community Gardens
23. Eat foods from low on the food chain, not meat
24. Avoid highly-processed foods
25. Support food and living cooperatives
26. Discover where the food and goods you buy come from
27. Buy locally-grown produce and other foods
28. Volunteer to maintain local parks and wilderness areas
29. Buy living Christmas trees
30. Plant trees in your community
31. Learn about the plants and animals in your bioregion
32. Learn about the cultural diversity of your bioregion
33. Explore and learn about your bioregion
34. Discover your watershed and work to protect it
35. Oppose the use of roadside defoliants in your bioregion
36. Use non-toxic, biodegradable soaps and detergents
37. Put in a water-conserving showerhead
38. Learn where your waste and sewage goes
39. Keep hazardous chemicals in spill-proof containers
40. Turn off the water while you brush your teeth
41. Put a water conservation device in your toilet tank
42. Shop by phone first, then pick up your purchase
43. Learn where the energy for your home comes from
44. Support your local utility's conservation program
45. Hang your clothes out to dry
46. Be sure your home is well-insulated and weather-sealed
47. Heat and cool your home responsibly with renewable energy
48. Don't burn green wood
49. Put a catalytic converter on your wood stove
50. Turn off lights when not in use
51. Turn down the temperature of your hot water heater
52. Lower your thermostat and wear warmer clothes
53. Raise your thermostat and wear cooler, all-cotton clothes
54. Take shorter showers
55. Buy energy-efficient electrical appliances
56. Buy a fuel-efficient car or ride the city bus
57. Conserve gas by walking, bicycling, and carpooling
58. Use rechargeable batteries
59. Research socially-responsible investments
60. Support local credit unions
61. Support local shops and restaurants, not chains
62. "Adopt a grandparent" from the local senior center
63. Volunteer to cook for senior citizens
64. Hold a community potluck to meet your neighbors
65. Volunteer to help with neighborhood children
66. Organize a "community watch" program on your street
67. Pick up litter along highways and near your home
68. Sponsor a clothes swap
69. Become involved with community projects and events
70. Organize or participate in community sports
71. Speak out about your values in community groups
72. Participate in sister-city and cultural exchanges
73. Educate yourself on global issues
74. Support politically-active groups
75. Participate actively in peace and justice causes
76. Learn how your senators and representatives vote
77. Be an active voter—attend town meetings
78. Vote for candidates who support these values
79. Write letters and call your representatives
80. Become involved in your child's school
81. Organize or join a neighborhood toy co-op
82. Encourage your child's natural talents and interests
83. Teach your children ecological wisdom
84. Listen to their needs and support their dreams
85. Teach your children to respect and love animals as friends
86. Communicate openly and honestly with friends and co-workers
87. Acknowledge someone who provides quality service
88. Work to understand people with different views
89. Work to unlearn cultural sexism and racism
90. Be conscious of the struggles of oppressed people
91. Acknowledge spirituality in yourself and others
92. Explore ways to reduce stress in your life
93. Practice preventative health care
94. Exercise regularly and eat nutritious foods
95. Bring more quiet times into your life
96. Learn about the medications you put into your body
97. Practice responsible family-planning
98. Learn First aid and emergency procedures
99. Take time to play, relax, and go into nature
100. Decrease TV-watching and increase creative learning
101. Have fun and be joyful!

*The Treaty with Nature is presented to you by New Texas Magazine, Austin's oldest independent magazine and is co-sponsored by Lone Star Green and TreeFolks*



# A Treaty with Nature

As a heartfelt commitment to help preserve the Earth's environment,

I, \_\_\_\_\_, pledge to follow one or more  
of the guidelines listed on this Treaty or create positive goals  
of my own. In so doing, I connect myself with a global network  
of individuals working together—with a hope for the future—  
to provide a better and healthier way of life for all. I hereby agree  
to a Treaty with Nature, knowing that I can make a difference.

Personal goal: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date



## LIVE OAK FESTIVAL TOUR OF HOMES

1 9 8 9

### 1989 LIVE OAK FESTIVAL TOUR OF HOMES

Welcome to the third annual Live Oak Festival Tour of Homes! The Tour of Homes is rapidly becoming one of Austin's finest traditions and owes much to the hard work of all the volunteers and merchants who have seen it grow to such popularity. Special thanks should go to those people who are always behind the scenes working tirelessly to see this event take shape: Patricia Linn, Bob O'Brien, and Erna Brauer for the research, organization, and the legacy they have given to this event.

Three new homes on this year's tour are significant because they are the first homes shown west of Congress Avenue, signifying our greater interest in bringing to the public significant architectural representations from other neighborhoods of South Austin.

Lastly, let us all remember the hope, energy and interest that has been generated in this community and in the nation in response to the poisoning of the Treaty Oak, and its continued struggle to survive. The proceeds from the Tour of Homes go directly to the preservation of our city's greatest treasures, its oak trees, and to the prevention of the spread of oak wilt. Your participation in this wonderful tour directly impacts the tree quality of our neighborhoods through re-planting, trenching and cutting to help maintain the beauty of the oak trees that surround these magnificent homes.

**L I V E O A K**



*Treaty Oak*  
A TRIBUTE

**FESTIVAL**

*Oct. 14 & 15* **1 9 8 9** *Stacy Park*

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**OCT. 13: KICK OFF PARTY**  
**5:00pm — Magnolia Cafe,**  
**So. Congress**  
**Live Music & Costume Style Show**

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**OCT. 14: FESTIVAL IN STACY PARK**  
**Art & Food Booths, Free Speech**  
**Debates, Entertainment such as Esther's**  
**Follies, Austin on Tap, Rosie Flores, etc.**  
**Children's Activities.**

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**OCT. 15: HISTORIC HOME TOUR**  
**2-6pm Start at Opera House**  
**6:30 Art Auction — Sunset Studios**  
**206 E. Live Oak**

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**FREE ADMISSION**

- Art Contest — All ages call 445-6699
- Volunteers Needed — For info call 444-2610

Benefits Oak Wilt Research & Control

*Thanks to our sponsors:*  
*Z-102, Shiner/Corona, Shoreline Grill, Austin Light,*  
*Austin Chronicle, Historical Society of Austin*

# Vigil at Treaty Oak



ACCORDING TO Stephen Redding, a mystical arborist who lived on a farm in Pennsylvania called Happy Tree, the Treaty Oak expired at 5:30 in the afternoon on Tuesday, July 25. Redding felt the tree's soul leave its body. He heard its last words—"Where are my beloved children?"

Redding had read about the bizarre plight of the Treaty Oak in the *Philadelphia Inquirer*, and he had come to Austin to help ease the tree's suffering, to be with it in its terrible hour. The Treaty Oak by that time was an international celebrity. People in London, Tokyo, and Sydney had heard the story of how Austin's massive, centuries-old live oak—once showcased in the American Forestry Association's Tree Hall of Fame—had been *poisoned*; how a feed-store employee named Paul Cullen allegedly had poured a deadly herbicide called Velpar around the base of the tree in patterns that suggested some sort of occult mischief. It was an act of vandalism that the world immediately perceived as a sinister and profound crime. As the Treaty Oak stood there, helplessly drawing Velpar through its trunk and limbs, its leaves shriveling and falling, it became an unforgettable emblem of our ruined and innocent earth.

Stephen Redding—a big man with dark swept-back hair and a fleshy, solemn face—was only one of many people who felt the tree calling out to them in anguish. Over the years Redding had been in and out of jail for various acts of civil disobedience on behalf of threatened trees, and he hinted darkly that the

*Only in  
Austin would  
scientists and  
psychics join  
forces to relieve  
the suffering of a  
sacred tree.*

✱

B Y

S T E P H E N

H A R R I G A N



car wreck that had left him dependent on a walker may not have been an accident ("It was very mysterious—a dark night, a lonely intersection"). In preparation for his visit to the Treaty Oak, Redding fasted for six days, allowing himself only a teaspoon of maple syrup a day ("My means of partaking a little bit of the lifeblood of the tree kingdom"). On his second night in Austin, he put his hand on the tree's root flare and felt its slow pulse. He tied a yellow ribbon around its trunk and planted impatiens at its base. For almost a week he camped out below the tree, criticizing the rescue procedures that had been prescribed by a task force of foresters, plant pathologists, chemists, and arborists from all over the country. Finally Redding grew so pesty that the city decided to escort him away from the tree. That was when he felt it die.

"It was so intense," he told me in his hotel room a few days later. "I just kind of fell back on my cot without the energy even to sit. I felt like someone had dropped a sledge on my chest."

"I heard that you saw a blue flickering flame leave the tree," I said.

"I'd prefer not to speak about that. If you want to enter the rumor, that's okay. I don't want to confirm it. You could suggest that rumor has it that it looked like a coffee cup steaming. And if the rumor also said there was a hand on the loop of the coffee cup you could say that too."



I WAS SURPRISED TO REALIZE, after an hour or so of hearing Redding expound upon the feelings of trees and the secret harmony of all living things, that I was listening not just with my usual journalist's detachment but with a



kind of hunger. Anyone who went by to pay respects to the Treaty Oak in the last few months would recognize that hunger: a need to understand how the fate of this stricken tree could move and outrage us so deeply, how it could seem to call to each of us so personally.

When I read about the poisoning, I took my children by to see Treaty Oak, something I had never thought to do when it was in good health. The tree stands in its own little park just west of downtown Austin. Although in its present condition it is droopy and anemic, with its once-full leaf canopy now pale and sparse, it is still immense. It has the classic haunted shape of a live oak—the contorted trunk, the heavy limbs bending balefully down to the earth, the spreading crown overhead projecting a pointil-

*"It's hard to sit here,"  
said a tree scientist, "and  
think this tree doesn't have  
some sort of spirit. This  
thing is alive!"*



listic design of light and leaf shadow.

The historical marker in front of the tree perpetuates the myth that Stephen F. Austin signed a treaty with a tribe of Indians—Tonkawas or Comanches—beneath its branches. The marker also states that the tree is six hundred years old, an educated guess that may exaggerate the truth by two hundred years or so. But the tree is certainly older than almost any other living thing in Texas, and far older than the idea of Texas itself. Stephen F. Austin may not have signed his treaty beneath the Treaty Oak, but even in his time it was already a commanding landmark. According to another legend, the tree served as a border marking the edge of early Austin. Children were told by their mothers they could wander only as far as Treaty Oak.



Beyond the tree was Indian country.

It was a cool evening in early June when we went by Treaty Oak that first time. I looked down at the kids as they looked up at the tree and thought that this moment had the potential to become for them one of those childhood epiphanies that leave behind, in place of hard memory, a mood or a shadowy image that would pester them all their lives. The several dozen people who had gathered around the tree that evening were subdued, if not downright heart-sick. This thing had hit Austin hard. In its soul Austin is a druid capital, a city filled with sacred trees and pools and stones, all of them crying out for protection. When my neighborhood supermarket was built, for instance, it had to be redesigned to accommodate a venera-

Dallas psychic Sharon  
Capehart performed an  
energy transfer on Treaty  
Oak and found the secret  
of the tree's past life.



ble old pecan tree, which now resides next to the cereal section in a foggy glass box. Never mind that Austin had been rapaciously destroying its environment for years. The *idea* of trees was still enshrined in the civic bosom. In Austin an assault on a tree was not just a peculiar crime; it was an unspeakable crime, a blasphemy.

"Oh, poor thing," a woman said as she stood in front of the ailing oak. Like everyone else there, she seemed to regard the tree as if it were a sick puppy rather than an implacable monument of nature. But you could not help personifying it that way. The tree's inanimate being—its very *lack* of feeling—only made it seem more helpless. Someone had left flowers at its base, and there were a few cards and brave efforts at



poems lying about, but there was nowhere near the volume of weird get-well tokens that would come later. On the message board that had been set up, my children added their sentiments. "Get well Treaty Oak," my seven-year-old daughter wrote. "From a big fan of you."



WOULD IT LIVE? THE answer depended on the experts you asked, and on their mood at the time.

"The Treaty Oak was an old tree before this happened," John Giedraitis, Austin's urban forester, told me as we stood at the base of the tree a few days after Stephen Redding had declared it dead. "It's like an old lady in a nursing

For John Giedraitis  
the battle to save the  
mighty oak was personal.  
He had proposed to his  
wife beneath its branches.



home who falls down and breaks her hip. She may survive, but she'll never be the same afterward."

Giedraitis was sipping from a Styrofoam cup half filled with coffee. "If this were a cup of Velpar," he said, holding it up, "about half of the liquid that's in here would have been enough to kill the tree. We think this guy used a whole gallon."

The Treaty Oak poisoning had thrust Giedraitis from his workaday position in an unsung city bureaucracy into a circus of crisis management. His passionate way of speaking had served him well in countless television interviews, and now when he walked down the street in Austin, people turned to him familiarly to inquire about the welfare of the tree. He replied usually in guarded language. in a [ CONTINUED ON PAGE 167 ]