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Dave's Dilemma

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By Alan Prendergast April 18, 2002

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When a public official takes on duties that appear to be at cross purposes, it's said that the job requires him to wear "many hats." If that's the case, then Dave Thomas sports more headgear than a marching band.

As three-term district attorney of Jefferson County, Thomas is the lead prosecutor in the metro area's most populous county, the avenger of wrongs and seeker of justice, the voice of the victimized and the defenseless.

As the top law-enforcement official in the county, with nearly three decades of experience working with cops, Thomas is also the primary keeper of police secrets, privy to intimate details of criminal investigations — the good, the bad and the boneheaded mistakes — that will never be aired in a courtroom.

As chief instigator of the Columbine Records Review Task Force, Thomas has cast himself as a crusader for openness, vowing to fight for public release of confidential government documents pertaining to the murders at the high school on April 20, 1999, in an effort to resolve the long-running battle between victims' families and the hard-bunkered, auto-fabulating Jefferson County Sheriff's Office.

And as a declared candidate for Congress, Thomas is not a man seeking to stir up controversy or make fresh enemies. He is, rather, seeking to make nice and build a constituency for what many regard as a long-shot bid in the 7th Congressional District's Democratic primary against party heavyweights Mike Feeley and Bob Hagedorn.

Thomas's multiple missions are on a collision course this week as the third anniversary of the Columbine massacre approaches. With new information about the shootings on the verge of release and embarrassing details leaking out despite Thomas's efforts to control the flow, the DA is going to need his many hats just to ward off the storm of criticism that is raining down on him from disappointed Columbine families and their supporters.

"I think he realizes that, politically, he's in a bad place right now," says Brian Rohrbough, whose fifteen-year-old son Dan was killed outside of Columbine.

One conundrum facing Thomas is what to do with the 1,200-page report on the Rohrbough shooting prepared by the El Paso County Sheriff's Office. The Jeffco sheriff requested the independent inquiry after Brian Rohrbough went public with his claims that Dan had been shot by a Denver police officer and that Jeffco had lied to him about its investigation ("**There Ought to Be a Law**," March 7). Last week, Thomas declared that the massive report would take time to review and wouldn't be made public before the April 20 anniversary, out of respect for victims' families. But the Rohrbough family has pressed for its release, and as a result, a summary of the report is being released this week.

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The El Paso report isn't expected to challenge Jeffco's official position, that Dan Rohrbough was killed by one or both of the teenage gunmen, Eric Harris and Dylan Klebold. But according to sources close to the investigation, El Paso's findings do contradict Jeffco's account on a key point: The Colorado Springs detectives are convinced that Klebold didn't walk down a set of stairs and shoot Rohrbough at close range, "killing him instantly," as the Jeffco sheriff's May 2000 report declares. (For close to two years, Brian Rohrbough has maintained that the physical evidence doesn't support Jeffco's version of the shooting.)

El Paso's team also reportedly took a close look at shots fired in and possibly out of a window in the faculty lounge, not far from where Rohrbough fell. The gunfire isn't mentioned in Jeffco's report; in fact, a police bullet found in the lounge doesn't even appear on Jeffco's evidence maps of the crime scene.

Thomas has declined to comment on the report until it is released. But its deviation from Jeffco's version could create headaches for months to come. If the largest criminal investigation in the state's history could so badly misstate basic facts about a victim's murder, what else did Jeffco get wrong? And what should Dave Thomas — who was quick to clear police officers of any wrongdoing at Columbine, issuing letters of absolution even before ballistics results were available — do about it?

As if the El Paso report wasn't enough of a problem, Thomas also has to endure the displeasure of Columbine families over his role in *Columbine: Understanding Why*, an hour-long "psychiatric autopsy" of Klebold and Harris that aired on the A&E cable network on April 15. The show had its genesis in Thomas's request that a group of mental-health experts, the Threat Assessment Group (TAG), study Klebold and Harris in order to develop recommendations to help prevent future school shootings. A&E agreed to fund the effort in exchange for rights to a documentary on the project.

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Two years ago, before A&E became involved, Thomas asked Columbine families for their opinions regarding the proposed autopsy, and several said they were skeptical of its value and direction. "I would never proceed with this if there was significant opposition to it," the DA assured Lisa Rohrbough, Dan's stepmother, in an e-mail written in June 2000. But according to TAG's own production chronology, at that point Thomas had already given the team the go-ahead to proceed.



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The psychological profilers were unable to speak with the parents of the gunmen, obtain their medical records or view the so-called "basement tapes," the videos Harris and Klebold made discussing their attack plans, which are currently sealed by court order. In one oddball scene, Thomas is featured calling a district court judge, pleading for permission to let the profilers see the tapes. A lawsuit filed by TAG seeking to make the tapes available to "professionals," but not the general public, is still pending.

Last Saturday, at a four-hour presentation to the media and interested parties, the TAG team struggled gamely to show that its findings have more meat on them than the documentary would suggest. Alternately praising the district attorney's office ("an agency that is truly invested in seeking the truth") and his own colleagues ("the most competent group of investigators anyone could assemble to answer Dave Thomas's questions"), project director Steven Pitt tried to make the case that TAG had plumbed the depths of the killers' psyches. Aside from some hints of animal torture, though, the team's account of Klebold's and Harris's backgrounds and behaviors offered nothing that hasn't been previously reported.

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But then, the threat-assessment group had set out to assess only certain kinds of threats. One area of inquiry the group conspicuously ignored was any contact authorities had with Klebold and Harris prior to the attack on the school, including

the pair's year-long participation in a juvenile diversion program (supervised by Thomas's office) and the bungled 1998 sheriff's investigation of Harris's Internet death threats. Dave Thomas didn't ask them to look into such matters, Pitt explains, much less probe what could be learned from the failed intervention efforts.

For his part, Thomas seems pleased with the TAG's numbingly obvious findings — for example, that Klebold and Harris were angry and suicidal young men, out for infamy and revenge. “It causes us all to do a great deal of introspection,” he says. “I think that's good.”

While the response to the psychiatric autopsy was underwhelming, Thomas's records task force has received some pretty scathing reviews, too. As several Columbine family members pointed out during the group's first meeting last month, the panel includes several officials with a stake in *not* disclosing records, including Assistant County Attorney Lily Oeffler (who has opposed numerous family and media records requests in court), sheriff's investigator Kate Battan (ditto) and Assistant District Attorney Kathy Sasak. One Columbine parent, John Ireland, has since joined the task force, but the group has resisted efforts to include Randy Brown, a vocal critic of Thomas and the sheriff's office, to assist their mission.

How successful the panel will be in rooting out more Columbine documents is hard to say; no one seems to know exactly what's left to be found. A month ago, Battan told the task force that the sheriff's office has released close to 17,000 pages and that the 5,000 pages left in the vault consist mostly of medical records, autopsy information, crime-scene photos and other court-sealed documents. Last week, the sheriff's office announced that it would release another 5,000 pages — but it turns out that these are an entirely different 5,000 pages than the 5,000 pages Battan was talking about. Three years after Columbine, Jeffco is still unable to come up with an accurate count of which documents the agency has regarding the tragedy — or even a rough estimate within, say, 5,000 pages.

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Thomas's own position on the question of disclosure, like much of his Columbine involvement, is a puzzle. Months ago, *Westword* filed an open-records request with his office, urging the DA to lead the way by releasing his own as-yet-undisclosed records dealing with the diversion program. Thomas's office declined, citing a strict interpretation of the juvenile code. Had Klebold and Harris survived the attack on Columbine and been charged with homicide as adults, their juvenile records would be available to anyone. Because they didn't live to see felony charges, their diversion records remain sealed.

Even if more documents of significance emerge from the records hunt, they probably won't answer the most haunting questions about Columbine. Those

answers might come from persuading the keepers of the secrets to talk. But Thomas, a man of secrets himself, has declined to call a grand jury to investigate police misconduct over Columbine, saying there's no evidence to support such a move. Instead, he's offered to conduct an informal inquiry to find out why police failed to follow up on the Brown family's complaints about Eric Harris a year before the attack.

Thomas made that promise to victims' families four months ago. The inquiry has been "on hold" ever since, pending the outcome of the El Paso investigation. Once that report is released, Thomas may be inspired, once again, to switch hats — and enter Year Four of the post-Columbine era suitably attired.

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Alan Prendergast is a former staff writer at *Westword* and is now a senior contributor. He writes about various topics but primarily focuses on news. He's contributed to *Rolling Stone*, *Los Angeles Times*, *Outside*, *USA Today*, *Men's Journal* and other publications and is the author of two nonfiction books, *Gangbuster: One Man's Battle Against Crime* and *The Poison Tree: A True Story of Family Violence and Revenge*. He's earned numerous accolades for his work including the Eugene Pulliam National Journalism Writing Award and two national feature writing awards from the Society of Professional Journalists.

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