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COMING SUNDAY

Stage

A former rodeo cowboy who runs the only stagecoach "stop" in town is having trouble keeping the heads on his hired hands. Read about Rex Loftis's plight and what he proposes to do about it in Sunday's Reporter-Telegram.

Rage

Carol Chidlaw Miller, the Midland legal secretary who brought the Tall City its first "Speaking Out" column a year ago, speaks out again this Sunday. Her topic is a favorite irritant at this time of year — income taxes.

Cage

If you own a cat (be honest, that cat really owns you), you'll probably enjoy reading some interesting facts about the feline creatures, people who love cats and the West Texas Cat Club. Learn all about cats in Sunday's Lifestyle section.

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Cement silhouettes

Working under a dust-filled Midland sky Thursday afternoon, construction worker Taing Nhoi pours concrete into a wheelbarrow atop Midland City Hall. City Hall is being expanded by two floors, with completion tentatively set for Oct. 1. It is one of several downtown construction projects now under way.

Staff Photo by Paul Gilbert

Executive privilege, EPA relationship still unclear

Related story, Page 2A

WASHINGTON (AP) — The administration is now hedging on just what President Reagan meant when he promised not to assert executive privilege over documents Congress is seeking for investigations of the Environmental Protection Agency.

The White House on Thursday said the president was in no way dropping his claim of executive privilege.

At his press conference, Reagan said, "I can no longer insist on executive privilege if there's a suspicion in the minds of the people that maybe it is being used to cover some wrongdoing."

But deputy press secretary Larry Speakes said Thursday that the president envisioned turning documents over to the Justice Department for review of possible wrongdoing, not to Congress.

The president's statement was "absolutely not" intended to waive executive privilege, Speakes said, adding that the issue was part of on-going discussions with Rep. Elliott H. Levitas, chairman of the House Public Works subcommittee.

The refusal of the administration to turn over dozen of documents to Levitas in December led to an historic contempt of Congress citation against EPA Administrator Anne Gorsuch.

The administration is now offering to let Levitas and the ranking Republi-

can member of the committee see the documents and make excerpts available to other members of the subcommittee. Negotiations between Levitas and the administration were expected to resume today.

"We're very confident an agreement will be worked out," said Justice Department spokesman Tom DeCair. "It just remains for Levitas and (Deputy Attorney General) Edward C. Schmults to get together and nail it all down."

The negotiations were taking place as two House subcommittee chairmen promised more revelations today of mismanagement at the EPA. Reps. James Scheuer, D-N.Y., and Mike Synar, D-Okla., scheduled a news conference to discuss failings in the \$1.6 billion "superfund" hazardous waste clean up program.

Scheuer and Synar are heading two of the six congressional investigations of the embattled EPA into allegations the superfund was manipulated for political purposes, that "sweetheart" deals were struck with polluters and that EPA officials violated conflict-of-interest laws.

In another development, sources

inside and outside EPA said Thursday that John P. Horton, the EPA assistant administrator for administration, was under investigation for allegedly using a government secretary and phone for private business.

In addition, the FBI and the Justice Department are conducting their own probes. All the activity was triggered after Reagan last week fired Rita M. Lavelle, head of the hazardous waste program.

Michael Brown, named acting assistant administrator to replace Ms. Lavelle, confirmed Thursday night that Mrs. Gorsuch has referred several items to the Justice Department to investigate.

Brown did not disclose what they were. EPA sources, who would talk only on condition that they not be named, said they dealt with allegations made against Ms. Lavelle including the handling of settlement efforts to clean up toxic wastes at a dump in Riverside, Calif., and the harbor at Waukegan, Ill., possible perjury by Ms. Lavelle concerning an EPA whistleblower and allegations that documents sought by Congress were either shredded or removed from Ms. Lavelle's offices.

Ms. Lavelle, who was subpoenaed by a House Energy and Commerce subcommittee, failed to appear Thursday

Adelman 'still slugging'

WASHINGTON (AP) — Arms control nominee Kenneth L. Adelman, coming out fighting with President Reagan in his corner, says he can't remember ever calling arms reduction talks a "sham."

The 36-year-old Adelman also urged the Senate Foreign Relations Committee, which delayed a vote on his nomination Wednesday, to let the full Senate vote so the administration can "get on with the serious business of seeking real arms reductions."

Adelman's opponents earlier produced a 1981 New York Daily News article in which Adelman was quoted as saying arms control talks were a "sham," but his policy "would be to do it for political reasons."

At a new conference in New York Thursday, Adelman said, "I have no recollection of making any such a statement at any time."

Adelman, deputy U.S. ambassador to the United States, also said the statements in the Daily News "are not consistent with my views."

"My views favoring strong arms control with real reductions have been consistent throughout my adult life," Adelman said. Discussing the article, he said: "When these kinds of misrepresentations occur in public policy matters, they need to be cleared up quickly. I hope I did so here."

The foreign relations committee



Kenneth L. Adelman

delayed a vote on Adelman's nomination as head of the Arms Control and Disarmament Agency after members said the lineup was 9-8 against Adelman.

Meanwhile, Sen. Larry Pressler, R-S.D., who opposes Adelman's nomination, predicted Reagan's nominee will be confirmed if Reagan and GOP lead-

ers succeed in getting his name to the Senate floor.

"If the president insists, he can have Adelman," Pressler said, guessing there would be 30 votes to 40 votes against the nominee in the full 100-member Senate.

Reagan has said he would try to persuade reluctant senators to support Adelman, even if he has to "make them feel the heat" to do so. And on Thursday, White House spokesman Larry Speakes said the president remains "solidly behind" Adelman and has no plans to withdraw his name.

Senate Majority Leader Howard H. Baker Jr., R-Tenn., said, "It is my plan to get it (the nomination) to the floor. I am confident we can get it to the floor."

Adelman was nominated Jan. 12 to succeed Eugene V. Rostow, who resigned at the president's request.

Sen. Alan Cranston, D-Calif., the first member of the committee to use the Daily News column against Adelman, said he was "very skeptical" of the nominee's claim not to remember. Cranston has asked to have Adelman called before the committee to explain the interview.

"It is unfortunate that the president and Mr. Adelman were unwilling to accept the olive branch that has been offered by the Senate Foreign Relations Committee and instead insist on confrontation," Cranston said.

Council, zoning board affirm goals

By LANA CUNNINGHAM Staff Writer

Midland City Council reaffirmed its faith in a growing downtown office district and the need to keep it competitive not only with other cities but with suburban office areas during a special meeting Thursday morning.

With the council and Planning and Zoning Commission members packed into the basement conference room at City Hall, the group heard reports on the Master Plan for the Central Business District. Speakers were J.T. Dunkin of J.T. Dunkin and Associates; Dan

Sefko, urban planner with J.T. Dunkin; and Jack Hatchell, a street and traffic specialist.

With projections for Midland's population to continue growing along with more office buildings sprouting up downtown, the specialists recommended the council begin working to make Lamesa Road a major thoroughfare into downtown. Toward the end of the morning conference, Dunkin tossed out the concept of developing green areas to make downtown more aesthetically pleasing.

The Central Business District (CBD) was delineated as those blocks bounded

by Cuthbert Avenue, Lamesa Road, Front Street and D Street. Within that sector, only 2 1/2 percent is considered retail; much of the rest is office, said Sefko.

TODAY, THAT TRACT has 6.1 million square feet of office space, which translates to 25,000 office workers, he said.

"We wanted to find out how much development could cover downtown under existing zoning," Sefko explained.

Looking at today's population of 90,000 and a working force of 59,000,

Sefko said those figures reflect the character of a city.

In this CBD, the planning firm projected a maximum of 13.6 million square feet of office space with a potential of 54,000 workers. Sefko estimated that as the city's population goes up, more offices will spring up, taking workers out of the downtown area. Whereas 68 percent of the city's office space is located downtown, that percentage would drop with increasing suburban offices.

(See COUNCIL, Page 2A)

Morgan said the cannonballs and mortar rounds were strewn over a 10-foot-square area.

"We looked hard for the cannon, but it wasn't there," Morgan said.

Carroll Lewis, a Houston historian, said several cannonballs have been found in downtown Houston because a supply ship sank and a Civil War munitions plant were looted after Union troops occupied the city.

Cannonballs, mortar rounds found at Houston site

HOUSTON (AP) — A construction crew unearthed 75 cannonballs and mortar rounds — many still containing live explosives — that historians believe came from a Confederate supply ship pillaged after sinking in 1862, police said.

The rounds were found about noon Thursday on a National Car Rental Systems lot.

Ron Luce, the firm's manager, said a Coyote Construction Co. crew was

excavating a drainage ditch about three-feet deep when "they just started popping up."

Sgt. Bobby Morgan of the Houston Police Department's bomb squad said officers removed 65 cannonballs, ranging from the size of a baseball to a bowling ball, and about 10 mortar-style rounds 10 inches by 4 inches.

Morgan said the ammunition would be detonated at an undisclosed location

because much of it still contained black powder, which if kept dry retains its blasting capability even after more than a century.

Historians believe the cannonballs date back to the Civil War because they were round, like those used for muzzle-loading cannons. Morgan said. That type became obsolete soon after the war and was replaced by cylindrical, breech-loaded shells, he said.

INSIDE TODAY



Hopeful heart

\$500,000 in cardiac catheterization equipment "is not economical for me, but is very valuable for my patients," says Dr. Piyush V. Patel.

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Among the top contenders for the 55th Academy Awards are the movies "Gandhi," "E.T. the Extra-Terrestrial," "Missing," "Tootsie," and "The Verdict."

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Bridge.....9A	Energy.....7B	Obituaries.....2C
Classified.....8C	Entertainment.....4C	Solomon.....4A
Comics.....8A	Lifestyle.....3C	Sports.....1B

Weather

Fair and warm tonight. Windy and warm Saturday. Details on Page 2A.

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Ex-police officer released, posts bond on charges

By RICHARD ORR
Staff Writer

Ex-police officer Lonnie Payne was released from custody Thursday after posting \$5,000 bond on felony charges of abusing a prisoner during a shoplifting arrest earlier this month.

Payne, 32, was indicted Wednesday on a state civil rights statute and faces a maximum 20-year sentence and \$10,000 fine. Officials — including Chief of Police Wayne Gideon — say it's the first time in memory that a Midland police officer has been indicted on a brutality complaint.

The complaint was lodged with the sheriff's department by George Benavides, a 20-year-old Odessa man arrested for allegedly attempting to steal \$32 worth of meat from the M-System Food Store at Scharbauer Drive and A Street Feb. 8.

The same grand jury that indicted Payne also indicted Benavides on a misdemeanor theft charge.

Payne was suspended without pay, according to Gideon, pending the outcome of several investigations that led to his indictment. He was then stripped of his badge and gun and dismissed from the force.

He surrendered himself for processing at the county jail shortly before 11 a.m. Thursday and was released after posting bond, which was set by State District Judge Vann Culp.

A \$1.2 million lawsuit against Payne

and M-System has been filed by Midland attorney Sandy Torres. Payne was working as a part-time security guard for the store at the time of Benavides' arrest.

The suit and the indictment allege Payne used unnecessary force in arresting Benavides, who originally was charged with robbery. He was treated at Midland Memorial Hospital for injuries allegedly suffered during the arrest.

During a press conference Thursday, Sheriff Dallas Smith said Benavides' injuries "consist of a non-displaced fracture of the second vertebra of the neck, a fracture of the nasal bone and numerous bruises of the face, neck and back."

Texas Rangers — along with the sheriff's department, the district attorney's office and the internal affairs division of the police department — investigated the complaint and helped present the case to the grand jury, according to District Attorney Vern Martin.

Commenting on the indictment, Gideon said: "No one regrets this more than I do. But we will not tolerate or condone this type of activity."

Payne, who had been with the department since July 1980, could not be reached for comment. He previously worked for the Abilene police force, has 13 years' experience in law enforcement and worked as a canine officer for the Midland force.



Staff Photo by Cody Bell

Fatigued firemen

City firemen spent more than two hours at the scene of a pasture fire Thursday afternoon that broke out about 1:30 p.m. along the Rankin

Highway about four miles south of Interstate 20. No injuries or major property loss were reported.

Promoter: Suit against Ozzy 'unconstitutional'

By ED TODD
Staff Writer

Ector County's play in trying to thwart British rock 'n' roll singer Ozzy Osbourne's scheduled March 8 performance in Odessa is "unconstitutional," contends a defendant in a federal suit against Osbourne's company and promoter.

At the bidding of Ector County commissioners, County Attorney Steven Groh last Feb. 9 filed the complaint in seeking a declaratory judgment from U.S. District Judge Lucius D. Bunton on the rights of the parties and requested that the court "declare the contract terminated."

The commissioners had bowed to pressure of Odessans for decency and others who contend that Osbourne worships the devil, and in past performances has mutilated animals by allegedly biting the head off of a bat and doing other acts which some Odessans might find offensive.

Ector County is arguing that it has a right to cancel the contract and not suffer a penalty, since Osbourne's past performances have violated local ordinances and state law, including breach of contract.

In his response, promoter Randy Shelton of Stardate says he has "promoted concerts with Mr. Osbourne in the past and that none of the

alleged acts in the performance have occurred and none will in the future."

The contract, which Shelton signed Jan. 10, prohibits any "illegal, indecent, obscene or immoral" act on stage during the 8 p.m. March 8 concert in the Ector County Coliseum. Ector County agreed to provide 15 security guards and one emergency medical technician.

Osbourne's company, Blizzard Productions Inc., has yet to respond to the Ector County suit.

In his defense and in showing why the contract should not be canceled, Shelton is saying that:

—Ector County's attempt to void the show is unconstitutional and is

in violation of the First Amendment, which guarantees freedom of speech and the right of people peaceably to assemble, and the Fourteenth Amendment, which protects a person's life, liberty and property.

—Neither Shelton nor his agents "have done any acts in violation of the terms of the contract and have never threatened any future violation of the contract."

—Past Osbourne performances promoted by Shelton have not included "the alleged acts."

—Ector County's "mere claim" of Osbourne's "past alleged relevant conduct" presents no factual, rea-

sonable and legal basis for anticipating for future "alleged relevant conduct."

In that regard, says Osbourne's promoter, Ector County "may not legally or constitutionally exercise prior restraint on defendant's First Amendment Rights to perform the concert and not susceptible to courses of action for breach of contract."

Shelton's Stardate is asking the judge to dismiss the Ector County complaint or to find that the contract is valid and binding and that any breach of the contract "would be actionable under law."

Worn flags anger duo

"It's disgraceful," Barbara Larsen seethed after she had played nine holes of golf with her partner, Rita Boe.

But it wasn't the golf game which angered her.

Rather, it was the tattered flags — Old Glory and the Texas standard — fluttering in the wind at the city's Hogan Park Golf Course. Both were about half their original sizes. They had been worn thin by the wind, sand and rain.

"It's disrespectful," Ms. Larsen steamed. "They're just pieces of cloth to those people."

Ms. Larsen she was going to drill Hogan golf pro Rex Worrell on flag care and customs but didn't get around to it; he was out of town, anyway.

"I grew up respecting the flag," she said, "...and honoring God, country and whatever comes third. I'm so disgusted, I don't know what to do."

So, she called the newspaper to share her concern. In turn, a reporter sighted the flags and confirmed the golfer's observations. The reporter called Worrell, who was unavailable; the golf course's Rick Haywood, who had retired for the day; and, finally, Wayne Kohout, the city's parks and recreation director, who answered the telephone.

"We need to follow protocol," said Kohout, who said he'd have the honored flags lowered and new ones hoisted.

And the new waving flags may help improve Ms. Larsen's golf game, though she declined to reveal her score or handicap. The flags distracted her.

"It probably messed up my partner's golf game," she said, "because I was always talking about it."

Former accounts collector files suit against MMH

By ED TODD
Staff Writer

Bobby Jackson, former collector of accounts for Midland Memorial Hospital, is charging the hospital with racial discrimination in a suit filed in federal court in Midland.

He is alleging that he lost his hospital job "because of his race — black," though his immediate supervisor's reasons for his job termination were "fallacious and untrue."

Jackson, 35, on Thursday declined to say what those reasons were, but did say he had collected about \$750,000 on delinquent accounts in the eight months he was a collector. Requests or demands for payment on delinquent accounts were made by letter or telephone, he said.

Jackson said he was asked to resign in November 1981, but didn't and was fired.

Jackson, who claims that his civil rights have been violated, got permission to sue the hospital from the Equal Employment Opportunity Commission (EEOC) last November after the commission, he said, had tried to negotiate with the hospital in reinstating Jackson in the job. After that failed, the EEOC granted Jackson permission to take the hospital to court.

Ray Branson, MMH president, declined to comment on Jackson's suit. He said the hospital's policy is not to comment on active litigations.

However, Ted Kerr, the hospital's attorney, said the hospital would deny Jackson's allegations of racial discrimination and any violations of his civil rights.

Hospital letters and memos dealing with Jackson indicate that Jackson had on-going conflicts with John Harrison, the hospital's former collection supervisor. Harrison resigned his job about the time Jackson was fired.

In an open letter, dated July 31, 1981, in response to Harrison's "personnel warning memorandum," Jackson countered Harrison's "half-truths and lies." Conflicts, according to Jackson, included:

—Harrison suspected Jackson of not being on the job or on the hospital grounds. "I again informed him of my whereabouts...."

—In a sarcastic manner, Harrison "made reference to the way I dress

and commented on "my being over-qualified for my job and wanted to know 'just what I was doing at MMH anyway.'"

—Jackson sensed that Harrison was trying to provoke him. "In nearly every confrontation I've had with him, I've been reminded that if I don't do this and if I don't do that, I can and will be terminated. So maybe I have been difficult to work with — Who wouldn't be? — under this type of pressure."

—Rather than getting disturbed over the hospital's collect-letter system, Jackson said he became "upset when I was told to sign letters that would make me look like a fool as a collector." Jackson said he wanted to check the

letters for accuracy before signing them.

—Jackson allegedly upset other collectors. "I admit they did get upset but only because both collectors have very recently been reprimanded because of incorrect information on letters sent out with their signature(s) on them."

—Jackson admitted resting his feet on his desk. "This has happened numerous times," he wrote. "I subconsciously do it when I'm thinking about something." Jackson said what annoyed him was Harrison's demand that he remove his feet off the desk. "He literally screamed a command at me."

(See FORMER, Page 2C)



Staff Photo by Cody Bell

Dr. Piyush V. Patel explains how a cardiac catheterization can treat heart disease.

Midland doctor wants to purchase cardiac catheterization equipment

By GAIL BURKE
Staff Writer

A \$500,000 purchase will crimp a Midland physician's pocketbook, but Dr. Piyush V. Patel hopes to put a dent in heart disease with the diagnostic equipment.

Patel, a cardiologist and internist, said the cardiac catheterization equipment planned for his office "is not economical for me, but is very valuable for my patients."

The equipment, used to diagnose heart disease and decide if surgery is necessary, makes it possible for the doctor to pass a catheter, a small flexible tube, through a vein in the arm or leg and into the chambers of the heart. The test is used to take blood samples, determine heart pressure and detect cardiac abnormalities. Patel will insert the fine catheter through the groin area to the heart and will view the procedure with a fluoroscope.

"It's not only a diagnostic tool, but can also be therapeutic," Patel said. "Nowadays, some diseases of the heart can be treated by doing a catheterization. A very recent technique used is putting a deflated balloon-tipped catheter into the coronary artery, placing it where the lesion is. Then, inflate the balloon, so it opens the lesion and then deflate the balloon right away."

A cardiac catheterization is a delicate, expensive test. Patel, who has additional training in invasive heart procedures, will offer the service in his office. He said the test can be done for half of what it costs in the hospital.

"It's a fairly safe procedure that I can do on an outpatient basis."

Before a new medical service or equipment costing more than \$400,000 can be brought into the community, a certificate of need application is usually filed with the Texas Health Facilities Commission in Austin. The THFC is charged with ensuring that health services and facilities are made available to all citizens of the state in an orderly and economical manner.

"It's not only a diagnostic tool, but can also be therapeutic. "Nowadays, some diseases of the heart can be treated by doing a catheterization. A very recent technique used is putting a deflated balloon-tipped catheter into the coronary artery, placing it where the lesion is."

Because this equipment is for Patel's private practice, he has requested the commission rule the application is not necessary.

A THFC hearing is scheduled today to decide whether the equipment can be acquired without the certificate of need application procedure.

"I have requested Midland Memorial Hospital (to purchase this equipment), but at this time they don't have any space and don't have any plans," Patel said. "I'm the only one who is qualified (in Midland) to do this test. I have so many patients who need this test and they ask me to do it, but I must send them where it is available."

"I'm prepared to pay part of the cost (with MMH), but they do not have any plans for this kind of procedure," he said. "I'm prepared to run in loss, because this will be beneficial to the patients."

If the THFC rules in his favor, Patel said the equipment could arrive by the end of March. Then, he will do some remodeling and if "there's not too much paperwork for that, I'll be able to start offering the service by this summer."

Meanwhile, Patel has been granted medical privileges at Medical Center Hospital in Odessa.

"My patients have been going to Odessa, Houston and Lubbock," he said. "Now that I have privileges in Odessa, my patients will get their test done there by me."

