

# Questions surround

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HUNTSVILLE — The question plagues the Ellis Unit prison farm of the Texas Department of Corrections the same way the Trinity River sometimes covers thousands of fertile acres with its flood waters.

What would cause a prisoner to kill the warden and a top assistant in the middle of the prison farm, in the open, with witnesses watching?

Investigators say they do not have a concrete answer to that — and to many other questions as well — as they continue to probe the confusing and still largely unexplained events surrounding the April 4 deaths of Warden Wallace M. Pack, 54, and Billy M. Moore, 49, farm manager of the sprawling prison facility, in an area called the Bottoms.

TDC officials have called the killings, one by shooting, the other by drowning, cold-blooded murder. They are pushing for capital murder indictments.

The defendant, Eroy Edward Brown, 30, said without explanation at a hearing last week that he acted in self-defense. His lawyers say this will be the major focus of his defense.

As recently as last year a self-defense plea would have been viewed as the desperate act of lawyers trying to bolster an indefensible case in hopes of avoiding the death sentence. But that was before U.S. District Judge William Wayne Justice of Tyler ruled in December that TDC staffers routinely beat prisoners. His findings, bitterly disputed by TDC, gave credibility to allegations of inmate abuse.

Brown's lawyers, Jerry B. Register and William T. Habern, have not given specifics. However, they are expected to argue that Brown acted out of fear that the two veteran officials were going to beat him as a disciplinary measure.

Meanwhile, the TDC has had considerable difficulty piecing together its account of the shooting and has tried to restrict media scrutiny of the incident.

A few hours after the shooting, Justice of the Peace Walter Cooksey told reporters that Brown had been smoking marijuana. TDC officials said that was not true. Cooksey later said he had been told that by a TDC guard on the scene.

Some prisoners have said the Bottoms had a reputation as a place where guards beat prisoners. TDC officials have vehemently denied those reports, just as they vehemently denied all allegations of brutality aired before Judge Justice.

While allowing reporters to view the shooting scene, TDC officials barred them from a Monday court hearing for Brown held at the prison hospital in Huntsville, where he is recovering from a foot wound suffered in the altercation.

The department, which normally allows reporters substantial access to its facilities, also has refused to allow any interviews with Ellis prisoners, although officials acknowledged that there was no security risk involved. Reporters had hoped, for instance, to determine

whether inmates shared the official TDC view about the Bottoms.

TDC spokesman Rick Hartley all but conceded the department was trying to control the flow of news about the case.

"We don't feel it would be in the department's interest," he said. "The facts regarding this matter have been adequately disclosed."

Although substantial questions remain in the case, this much is known.

On April 4, a rainy Saturday, Pack showed up for work at the Ellis compound. A 19-year TDC veteran who started out as a prison guard, Pack was working hard at the position he had held only three weeks. Previously, he had been assistant warden at the nearby Wynne Unit.

Moore, who had advanced through the ranks in 13 years from prison guard to farm manager, was also on the grounds but not at work. Investigators and TDC officials said he was fishing in the Bottoms at a large farm reservoir about 50 yards from where the main road through the farm crosses Turkey Creek, a 15-foot-wide waterway. The bridge is four-tenths of a mile north of the prison compound.

In his own way, Brown was a TDC veteran, too. Currently 3½ years into a 12-year sentence for aggravated robbery in Fort Worth, Brown, from Waco, had served two earlier stints on burglary charges totaling eight years.

He was a Class Two trusty, meaning he could work on the farm outside the prison compound under the supervision of guards. He was assigned to the tractor shop, which is located in the Bottoms next to the main prison road a mile beyond Turkey Creek.

Most prisoners do not work on Saturday and Sunday. Walter Pinegar, a investigator with the Walker County district attorney's office, said Brown was working voluntarily that day. However, the TDC's Hartley said Brown was part of a squad of inmates, numbering perhaps two dozen, who drew mandatory weekend duty.

According to Pinegar, when it began raining around noon, the TDC guard, Bill Adams, told the other inmates they could go inside a nearby building for shelter. Pinegar said he was told that alone among the group, Brown wanted to keep working and was "acting strangely."

Spokesman Hartley said Adams cited Brown for failure to perform assigned duties, a relatively minor disciplinary infraction that nevertheless can result in the withdrawal of prison privileges. However, Pinegar said he was told that Brown had become upset over an earlier denial of a furlough — a short visit away from the prison unit — and demanded to see Moore. Pinegar said he has not seen any of the paperwork that is supposed to be filed within 24 hours of any disciplinary infraction.

Hartley said he could not confirm if Brown had been denied a furlough, which requires approval of the warden and supervisors of the prisoner.

In any event, Adams and Brown climbed into Adams' vehicle and drove toward the reservoir where Moore was fishing. Both Pinegar and Hartley said Brown at that point was not handcuffed or otherwise restrained. The two

nesses, followed by MOORE, fished

# Prison farm slayings

vehicles met on the north side of the Turkey Creek bridge in a large dirt area formed by the intersection of the main road with a small side road from the west. Moore pulled his small flatbed truck off the road pointing north. Pinegar said Adams let Brown out and returned to the tractor shed. Brown apparently got in Moore's vehicle on the passenger side.

The intersection is about 300 feet from a garden house where three inmates, James Edward Solomon, 42, Levi Duson, 39, and Henry Kelley, 51, were working. They had a clear view of most of what was to transpire.

How long Moore and Brown remained in the car is unclear. At some point, though, Pack left the compound, got into his 1980 Plymouth Fury and drove out the main road to meet them.

What prompted Pack to leave the compound is also a question TDC officials have not clearly answered.

On Sunday afternoon, the day after the shooting, Keith Wall, another TDC spokesman, said Pack just happened along during a routine inspection. Two hours later, TDC Director W.J. Estelle said Moore had summoned Pack.

Pinegar, himself a former TDC employe, said he has established to his satisfaction that Moore called the prison compound on the radio and said, "Call the warden. Tell him to get in his car and come to the garden shop."

Also puzzling investigators is the whereabouts at that point of Pack's gun, a TDC-issued .38-caliber Smith and Wesson Model Bodyguard, which holds five bullets. According to Pinegar, each morning during his three weeks at Ellis, Pack had checked in the weapon at the "picket," or guard tower, before entering the compound, following a TDC policy forbidding the introduction of weapons into the compound, and each night checked it out when leaving for his home in Huntsville.

However, Pinegar said Pack did not check in his gun the morning of April 4, raising the suggestion that he kept it on his person or in his car.

Pack reached the Turkey Creek bridge about 12:35 p.m., stopping his car next to Moore's vehicle on the side away from the garden house.

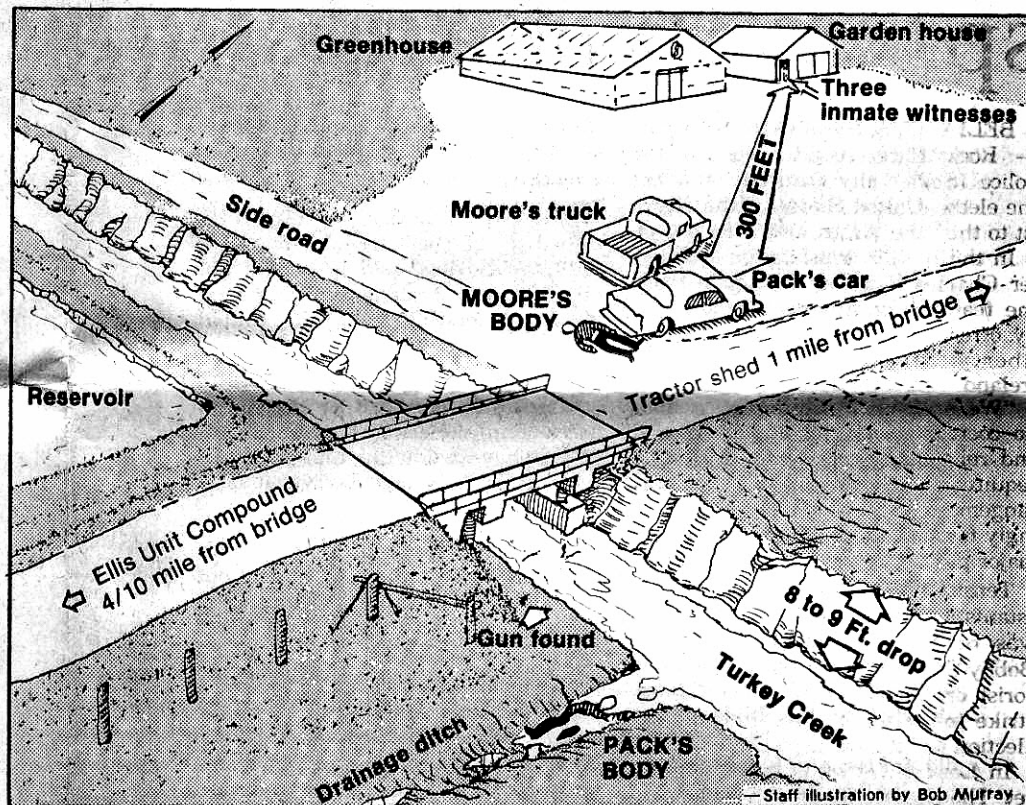
According to Pinegar, both officials got out of their vehicles to confer. During this time Brown remained in Moore's car. Pinegar said the inmate witnesses told him that Brown played "peekaboo" with them by hiding behind a coat and then slowing pulling the coat away, revealing his head, and then hiding again.

Suddenly, Brown got out of Moore's truck and started around toward Pack, Pinegar said, and the warden pointed as if to order the inmate back into the truck.

Brown ignored the directive and moved toward Pack, running into Moore, Pinegar said. The two grappled, Pinegar said, while the warden hurried to the back of his car, opened the trunk and removed a box believed to contain handcuffs — or his gun.

Brown broke away from Moore and swung around the car to the side away from the witnesses, followed by Moore, Pinegar said. Pack

# at Huntsville



moved around the other end and, together, they trapped Brown.

Pinegar said the witnesses, with Moore's truck between them and Pack's car, lost sight of Brown's head. They next saw him on their side of Pack's car, suggesting that the inmate had slid through the front seat.

At that point, Pinegar said, the witnesses said they heard a volley of shots, but did not know who was doing the firing. He said they saw Pack go down with what later turned out to be a severe but non-fatal wound of the right arm caused by a bullet that entered through the hand and exited above the elbow.

The witnesses then saw the gun in Brown's hand, Pinegar said. Moore came around the vehicle, saw Brown with the gun and immediately backed up to the rear of Pack's car, his back to the witnesses. According to the investigator, Brown grabbed Moore, shouted, "I'm tired of your s---," and fired once into the farm manager's head at point-blank range. Moore slumped to the ground, fatally injured.

The warden regained his footing, Pinegar said, and Brown and Pack became involved in a scuffle. He said the witnesses were not sure if Pack was trying to get away.

In the struggle, the two men moved away from the witnesses, across the road in front of the bridge and over the edge of about an eight-foot drop to Turkey Creek where they disappeared from view.

One of the witnesses called the prison compound and reported trouble. Assistant Warden James Williamson and another TDC staffer responded within minutes. They arrived to see Brown climbing out of the gully, a handcuff dangling from one wrist, Pinegar said.

In his right front pocket, Brown had Pack's wallet, containing about \$35 and some identification and credit cards, Pinegar said, adding

that the inmate had been shot in the middle of his right foot.

Officials found Pack's body face down in three feet of water in a drainage ditch feeding into Turkey Creek about 40 feet from the bridge on the side away from the witnesses. They said his face had been pushed deeply into the mud. "It took two investigators to disengage the body," Pinegar said.

The gun was recovered on the edge of Turkey Creek midway between the bridge and the drainage ditch after investigators built a temporary dam to drain the creek.

All five bullets in Pack's gun had been fired, investigators said, although they could only account for four — one each into Moore, Pack and Brown and a fourth into the right rear section of Pack's car.

Many questions remain, some of which may never be answered:

✓ What did Moore and Brown discuss before Pack arrived?

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✓ Why didn't Pack check in his gun that morning?

✓ Where did Pack keep the gun when he arrived at Turkey Creek — in his trunk, in the glove compartment, on the front seat or in his hand?

✓ Who took the weapon from Pack's car?

✓ Did Pack or Moore fire any of the shots? (Pinegar said their bodies were not tested to see if they had fired the weapon.)

✓ Who fired the unaccounted-for fifth shot?

✓ Who fired the shot that entered Brown's right foot, Brown or Pack?