

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

Report Release Date: February 4, 2010

**Review of the Near Death of E.A. of
Oklahoma County, Oklahoma**

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

General Information

On August 12, 2008, the Office of Juvenile System Oversight (OJSO) was alerted to the near death of E.A., a child who was two years seven months old. The child had been left overnight in the care of Kimberly Tate Chriswell, an in-home child care provider at Kim's Home Away From Home day care. When E.A.'s biological mother picked him up from the day care the following morning, he was unable to walk. Chriswell's mother, Rhonda Tate, was caring for E.A. when he was picked up, and Rhonda Tate could not explain E.A.'s injuries. E.A. was taken to the hospital where he presented with a broken shin, perforated stomach, blood in his spleen, and multiple scrapes and bruises. On December 15, 2008, child neglect charges were filed against Kimberly Tate Chriswell and Rhonda Tate. The following is a summary of the actions taken by the Oklahoma Department of Human Services (OKDHS); the actions taken by the district attorney; judicial proceedings; and the rulings of the court, as authorized by 10A O.S., Section 1-6-105, B, D, and E (previously numbered as 10 O.S., Section 7005- 1.9) below.

Chriswell was an in-home day care provider as well as a kinship foster parent for her niece. Chriswell's two biological children lived in her home at the time of E.A.'s injuries. Chriswell's mother, Rhonda Tate, assisted with the children's care. The OJSO reviewed the child welfare case record, the kinship foster home record, and the day care licensing record.

Authorization

Title 10A, Section 1-6-105, B, D and E, of the Oklahoma Statutes, states:

B. When a person responsible for a child has been charged by information or indictment with committing a crime resulting in the death or near death of the child, there shall be a presumption that the best interest of the public is served by public disclosure of certain information concerning:

1. The circumstances of the investigation of the death or near death of the child;
and

2. Any other investigations concerning that child, or other children while living in the same household, within:

a. three (3) years of the death or near-death, and

b. one (1) year after the death or near-death.

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

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

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

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

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

e. the rulings of the court.

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

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

the child, or any other member of the household, other than the person criminally charged.

Identifiers:

Child's Name: E.A.
Date of Birth: December 16, 2005

Alleged Perpetrators: Kimberly Tate Chriswell
Rhonda Tate

The Oklahoma Commission on Children and Youth did not become aware of this case until after the child's most recent near-death incident.

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

[The OKDHS Division of Child Care referred to in this report is now named Oklahoma Child Care Services.]

[Kimberly Tate Chriswell will be referred to as Kimberly Tate in the following information. The documentation reviewed by the OJSO referred to her as Kimberly Tate.]

OKDHS Division of Child Care Site Visit (July 26, 2007)

The OKDHS day care licensing unit conducted a visit at Kimberly Tate's home in reference to her application as an in-home day care provider. The OKDHS day care licensing unit report indicated that Tate had not maintained a file that contained the results of criminal history background checks conducted by the Oklahoma State Bureau of Investigation (OSBI), copies of photograph identification cards, and copies of social security cards on herself and her assistant caregiver (Rhonda Tate). The OKDHS day care licensing unit report also indicated that smoking materials were accessible to the children in the home, the fire extinguisher had an expired inspection tag, thermometers had not been placed in the refrigerator and the freezer to monitor food temperatures, and the home did not have a first aid guide. The household members listed were Kimberly Tate and her two children, Tate's sister, and her sister's child.

OKDHS Division of Child Care Report of Follow-up Site Visit (August 22, 2007)

The OKDHS day care licensing unit conducted a follow-up visit at Kimberly Tate's home. The report documented there were no areas of noncompliance. According to the report, Kimberly Tate's sister and her sister's child had moved from Tate's home.

Application for Day Care Home (August 5, 2007)

Kimberly Tate submitted an application with the OKDHS Division of Child Care for approval as a child care home.

Six-Month Permit by OKDHS Licensing Unit (August 30, 2007)

The OKDHS day care licensing unit granted Kimberly Tate a six-month permit to operate as a day care home for a maximum of seven children.

OKDHS Electronic Message Regarding Kinship Placement (September 13, 2007)

Documentation indicated that an OKDHS licensing unit administrator sent an email message to the OKDHS foster care unit assigned to the Tate kinship foster home case. The email was regarding the kinship placement of Kimberly Tate's niece in Tate's home. According to the administrator, the OKDHS licensing unit worker assigned to Tate's case had observed Tate as acting overwhelmed with caring for her two biological children. Documentation indicated that the OKDHS licensing unit administrator had advised that Tate's sister would not be allowed to visit Tate's niece during child care hours or when children were attending Tate's day care home. Documentation also indicated that the OKDHS licensing unit was concerned that Tate had stated that her sister had been wrongly accused of child abuse. According to documentation, Tate did not have children in her care on this date, but that her day care home would be open twenty-four hours a day, if necessary. The OKDHS licensing unit documented that Tate was advised that if her sister was found on the premises that negative action regarding her in-home day care case would be warranted. The OKDHS documented that Tate stated that she understood and that Tate advised that any visitation between her sister and her sister's child would be conducted outside of Tate's home.

OKDHS Approval of Kinship Placement (September 14, 2007)

Kimberly Tate was approved as a kinship foster parent for her sister's child on September 14, 2007. Documentation indicated that the child's mother was incarcerated for alleged child abuse.

OKDHS Division of Child Care Monitoring Report (November 7, 2007)

The OKDHS licensing unit conducted a visit at Kimberly Tate's day care home on November 7, 2007. The licensing unit's monitoring report stated that Tate had not maintained an immunization record for a child in her care. According to OKDHS documentation, Tate reported that she would sign up to attend cardiopulmonary resuscitation (CPR) and first aid training on January 19, 2008.

OKDHS Division of Child Care Monitoring Report (January 14, 2008)

The OKDHS licensing unit conducted a visit at Kimberly Tate's day care home on January 14, 2008. The licensing unit's monitoring report stated that Tate had not obtained CPR and first aid certification, the children's files did not contain enrollment cards or immunizations records, and an infant was lying on the sofa with no appropriate bedding available. According to OKDHS documentation, Tate stated that she would sign up to attend CPR and first aid training on January 31, 2008, and that she would obtain infant bedding by January 15, 2008.

OKDHS Division of Child Care Monitoring Report (February 22, 2008)

The OKDHS licensing unit conducted a visit at Kimberly Tate's day care home on February 22, 2008. The licensing unit's monitoring report stated that Tate had not obtained CPR and first aid certification and that her mother, Rhonda Tate, would be an assistant caregiver for Kimberly Tate's day care home. Documentation indicated that Kimberly Tate reported that she would attend CPR and first aid training on March 8, 2008, and that she would obtain an OSBI criminal record check on Rhonda Tate when she started working as an assistant day care provider in Kimberly Tate's day care home.

OKDHS Second Six-Month Permit (February 28, 2008)

The OKDHS licensing unit recommended issuing a second six-month permit, because Kimberly Tate had not become certified in CPR and first aid.

OKDHS Division of Child Care Monitoring Report (March 11, 2008)

The OKDHS licensing unit conducted a visit at Kimberly Tate's day care home on March 11, 2008. The licensing unit's monitoring report stated that Tate had obtained CPR and first aid certification.

First Report Alleging Abuse/Neglect Received by the OKDHS (March 18, 2008)

The OKDHS child welfare received a report on March 18, 2008, at 8:24 p.m., regarding Kimberly Tate's day care home. Allegedly, E.A. was abused by Kimberly Tate while in Tate's care at her day care home. The complaint reported that E.A. was sleeping when a bedsheet became wrapped around E.A.'s neck. Reportedly, E.A. was "blue" (cyanotic) when Tate found him with the bedsheet wrapped around his neck. The child was reported to have hundreds of petechial spots around his neck. The complaint reported that Tate was also a kinship foster parent.

The OKDHS accepted the report as a Priority II investigation, with two days to initiate. The OKDHS worker made an attempt to observe the child on March 18, 2008, at the hospital where the child had been transported; however, the attempt was unsuccessful. The OKDHS worker observed the child on March 19, 2008, at Tate's day care home.

The worker documented observing tiny circular red spots on E.A.'s neck and jaw line, with no other bruises observed. The worker documented that the child's cognitive level was too low to respond. According to documentation, E.A. appeared alert and was able to say two- and three-word sentences.

The OKDHS made a finding of Services Recommended against Kimberly Tate regarding her failure to protect E.A. from a near-death incident (choking). The OKDHS documented that the allegation was not substantiated, however, because E.A. was not placed in a situation that could have normally caused him bodily injury.

OKDHS documentation indicated that an OKDHS day care licensing supervisor asked Tate to voluntarily cease from caring for children in her day care home, but that Tate had refused. The OKDHS documented that the day care supervisor had stated that she believed Tate had acted negligently in the care provided to E.A., as Tate had not provided adequate supervision to ensure E.A.'s welfare. The OKDHS child welfare worker submitted copies of the report to the district attorney's office and the OKDHS day care licensing unit for final recommendations.

Second Report Alleging Abuse/Neglect Received by the OKDHS (March 18, 2008)

The OKDHS child welfare received another report on March 18, at 8:24 p.m. regarding Kimberly Tate as a kinship foster parent. The report alleged Failure to Protect against Tate as a kinship foster parent and Threat of Harm regarding the kinship foster child living in Tate's home. The near-death incident regarding E.A. was reported as in referral 1. Tate reportedly was a kinship foster parent as well as a day care provider and other children attended her day care home.

The OKDHS accepted the report as a Priority II investigation, with two days to initiate. The OKDHS visited Tate's day care home on March 19, 2008, and documented observing the kinship foster child and not seeing any visible bruises on the child. The OKDHS documentation indicated the kinship foster child was "preverbal" and an interview was not conducted with the child.

The OKDHS made a finding of Services Recommended and submitted its report to the OKDHS Foster Care unit for additional recommendations. The OKDHS documented that the allegations were not substantiated, because a medical doctor had determined that child abuse had not occurred and a police officer had determined that foul play was not suspected.

OKDHS Division of Child Care Monitoring Report (March 19, 2008)

The OKDHS licensing unit conducted a visit at Kimberly Tate's day care home on March 19, 2008. The licensing unit's monitoring report documented that a two-year-old child was transported to a hospital after "turning blue" (cyanosis) when a bedsheet became wrapped around his neck. According to documentation, the child had been attending the Tate day care home for six months and typically arrived at the day care at

3:30 p.m. and was picked up at 2:00 a.m. Reportedly, on the day of the near-death incident, the child was sleepy when he arrived at the child care home and Tate asked the child if he wanted to go “night-night”, and the child replied, “Yes.” The child was taken to bed and was given a drink. Reportedly, Tate checked on the child approximately fifteen minutes later and then again thirty to thirty-five minutes later. When Tate reportedly checked on the child the second time, she found the bedsheet wrapped around the child’s body and neck and there were red spots on his face, jaw line, eyelids, and ears. Reportedly, the incident occurred at approximately 7:17 p.m. Tate was the only adult in the home, and the other children who attended her day care home were not present. Tate called a nurse hotline and was advised that the child needed to be seen immediately by medical personnel. Tate contacted the child’s mother, who arrived twenty minutes later and transported the child to a hospital.

The OKDHS documented that E.A. slept on a foam fold-out chair and was covered with a queen-size bedsheet when he slept at Tate’s day care home. The OKDHS also documented that Tate had refused the OKDHS licensing unit’s request to cease providing child care in her day care home, pending the outcome of the OKDHS Child Welfare Services and Division of Child Care investigations.

The finding of the OKDHS Division of Child Care licensing complaint allegations was Unsubstantiated. The finding of the OKDHS Child Welfare Services investigation was Services Recommended.

Third Report Alleging Abuse/Neglect Received by the OKDHS (March 19, 2008)

The OKDHS child welfare received a third referral regarding the Tate day care home on March 19, 2008. The near-death incident regarding E.A. was reported as in referrals 1 and 2. Tate reportedly was a kinship foster parent as well as a day care provider and children were attending her day care home.

The OKDHS screened out the referral without investigation as it was a duplicate report previously assigned.

Fourth Report Alleging Abuse/Neglect Received by the OKDHS (March 20, 2008)

The OKDHS child welfare received a fourth report on March 20, 2008, regarding Tate’s two biological children. Reportedly, the OKDHS had gone to the Tate home regarding the near-death incident of E.A., who attended Tate’s day care home. Reportedly, upon arrival at Tate’s home, the OKDHS was alerted to a concern regarding her biological children, due to the potential of threat of harm being present or lack of supervision on the part of Tate.

The OKDHS accepted the report as a Priority I investigation. On March 20, 2008, the OKDHS worker documented that she had observed Tate’s biological children in the home and they did not have any bruises on their bodies that were consistent with child abuse. One child was interviewed and did not report being improperly spanked. The

worker documented that the child's cognitive level was too low to explain what had happened to E.A.. The OKDHS documented that Tate appeared remorseful and explained what had happened to E.A.. She denied any child being abused while in her care.

The OKDHS made a finding of Services Recommended and recommended that Tate complete Parent Aide classes, but Tate declined, reporting that she had completed numerous classes recently as a foster parent. The OKDHS also recommended that Tate check on the children in her care every fifteen to twenty minutes when they were sleeping. No further recommendations were made.

OKDHS Form DCFS-76 Safety Assessment (April 10, 2008)

The OKDHS conducted a safety assessment of Tate's home on April 10, 2008. The OKDHS documented:

- The children are conditionally safe.
 - Tate will comply with the recommendations that day care license implements.
 - Tate has day care children. Day care license has to make recommendations.
- Signed 8-6-08.

Change of Address Site Visit (June 3, 2008)

The OKDHS licensing unit conducted a visit at Tate's home, due to a change of address notice. On the day of the visit, there were no children attending her day care home. The OKDHS licensing unit did not note any areas of noncompliance.

Fifth Report Alleging Abuse/Neglect Received by the OKDHS (August 3, 2008)

The OKDHS child welfare received a fifth report on August 3, 2008, at 5:07 a.m., regarding Kimberly Tate's home. Reportedly, Tate's two biological children, ages two and three years old, had been removed from her custody by law enforcement, due to allegations of child injury at Tate's day care home. Also, reportedly, a two-year-old foster child had been removed from the home and admitted to a shelter.

The OKDHS accepted the report as a Priority I investigation.

The OKDHS worker documented that contact was made with all the children on August 4, 2008, when they were observed at Tate's home prior to being transported to an OKDHS-operated shelter. Tate's home was licensed as a twenty-four-hour day care home called Kim's Home Away From Home. Two-year-old E.A. had attended Tate's day care home since September 2007. On August 2, 2008, E.A.'s biological mother had taken him to Tate's around 9 a.m., leaving him overnight until August 3, 2008, at 9 a.m. E.A.'s mother called twice during the night and was told that E.A. had a slight limp but that it was nothing to worry about, that he was fine and it was probably growing pains. When his biological mother arrived at the Tate day care home

the next day, E.A. could not stand. Rhonda Tate was watching the children. When asked what was wrong, Rhonda Tate stated she did not know because he had been walking fine since she had been at the home. When E.A. was put in his car seat, his mother noticed that he had a large abrasion on his back.

E.A.'s mother took him directly to an urgent care facility that referred him to a hospital. The hospital medical personnel stated E.A. had been abused, and he was referred to a local hospital. E.A. was taken into emergency surgery for a perforated stomach which could not have happened from normal play or from another child. E.A. also had a spiral fracture to the shin on his right leg, a large bump and a bruise on his forehead, a cut and a bruise on his left eyelid, and a small cut on the top of his head. In addition, he had a large abrasion on the left side of his back and small cuts and bruises on his stomach. The OKDHS documented that E.A.'s family all had reported he had not received any of those injuries while in their care. The OKDHS documented that Kimberly Tate had stated E.A. had fallen down the steps going to her playroom and probably had broken his leg then. Tate said the other bruises and the bump on his head were there when he arrived at her home. According to OKDHS documentation, Tate's stories were inconsistent, and at that time, there was an ongoing criminal investigation.

The OKDHS made a finding of Confirmed-Court Intervention Requested as to Threat of Harm in regard to Tate's two biological children.

Police Protective Custody (August 3, 2008)

On August 3, 2008, Tate's two biological children and her foster child were removed from the home and placed into police protective custody.

Sixth Report Alleging Abuse/Neglect Received by the OKDHS (August 3, 2008)

The OKDHS child welfare received another referral on August 3, 2008, at 10:41 a.m. regarding Kimberly Tate's home. Reportedly, two-year-old E.A. was in the care of Tate, an in-home day care provider at Kim's Home Away From Home day care, from 9 a.m. Saturday until 9 a.m. Sunday. Allegedly, when E.A.'s parents picked him up from Tate's day care home, they noticed he could not walk and that he had injuries to his back. The parents took E.A. to an urgent care facility. E.A. was referred to a hospital.

The OKDHS accepted the report as a Priority I investigation.

The OKDHS documented that the OKDHS observed Kimberly Tate's two biological children, E.A., and Tate's kinship foster child on August 3, 2008. On August 6, 2008, four children who had attended Tate's in-home day care were interviewed at the Child Abuse Response & Evaluation Center (CARE Center).

The OKDHS documented that E.A.'s parents and grandparents had stated that E.A. had not received any of these injuries while in their care.

The OKDHS documented that E.A. had been hurt in Tate's home on more than one occasion. In March 2008, E.A. was rushed to the hospital after Tate allegedly found him wrapped in a bedsheet on a bed. E.A. had petechia around his neck. The doctor who treated E.A. in that referral had stated that the incident was an accident. A criminal investigation was not conducted. The OKDHS had made a ruling of Services Recommended. The OKDHS documented that it was highly suspicious that E.A. had received so many severe injuries while in Tate's care.

According to OKDHS documentation, Tate's biological children and her kinship foster child were removed from her home, due to the OKDHS Child Welfare Services investigation, and the case was being referred to the OKDHS Division of Child Care for further action.

The OKDHS made a finding of Confirmed-Services Recommended as to the allegation of Beating in regard to E.A. by Kimberly Tate. The OKDHS made a finding of Confirmed-Services Recommended as to the allegation of Threat of Harm in regard to the children who attended Tate's day care home. Two-year-old E.A. had been staying with Tate since September 2007.

Seventh Report Alleging Abuse/Neglect Received by the OKDHS (August 3, 2008)

The OKDHS child welfare received a seventh report on August 3, 2008, at 12:15 p.m. regarding Tate's home. Her two biological children, two and three years old, had been removed from the home by law enforcement, due to allegations of a child injury at Tate's day care home. Reportedly, a kinship foster child was also removed from the home. All three children reportedly were transported and admitted to a shelter.

On August 3, 2008, the OKDHS accepted the report as a Priority I investigation. On this same date, the OKDHS observed the two-year-old kinship foster child who was removed from the home. The child reportedly talked "baby talk and has a very limited vocabulary".

The OKDHS made a finding of Confirmed-Court Intervention Requested as to the allegations of Threat of Harm to a foster child, based on the severe injury to E.A..

OKDHS Division of Child Care Complaint Visit Report (August 3, 2008)

The OKDHS licensing unit's complaint report documented that a two-year-old child who had been in Kimberly Tate's care had a broken shin, perforated stomach, blood on his spleen, and multiple scrapes and bruises. He had received emergency surgery to repair his stomach.

Show Cause Hearing (August 4, 2008)

The court ruled that the continuation of Tate's biological children and her kinship foster child in the home, or return of the children to the home, was contrary to the welfare, health, and safety of the children, and that reasonable efforts had been made to prevent the removal of the children from the home.

OKDHS Division of Child Care Case Note (August 4, 2008)

The OKDHS licensing unit documented that Tate voluntarily ceased the care of children in her child care home.

Emergency OKDHS Custody (August 4, 2008)

The OKDHS worker documented in the OKDHS KIDS system court screen that Tate's biological children would remain in OKDHS custody.

Eighth Report Alleging Abuse/Neglect Received by the OKDHS (August 4, 2008)

The OKDHS child welfare received an eighth report on August 4, 2008, regarding Tate's home. Reportedly, her biological children were removed from her custody by law enforcement, due to allegations of a child injury at Tate's day care home. Reportedly, a kinship foster child who was also placed in her care was removed from the home. All three children were reportedly transported and admitted to a shelter.

The OKDHS screened out the referral without investigation as it was a duplicate report previously assigned.

Deprived Petition Filed (August 8, 2008)

The assistant district attorney documented that it was in the best interests of Tate's two biological children that they be adjudicated as deprived and become wards of the court.

Emergency OKDHS Custody (August 12, 2008)

The OKDHS worker documented that Tate's biological children would remain in OKDHS custody. According to OKDHS documentation, Kimberly Tate had hired a private attorney. The next scheduled court hearing was set for September 15, 2008.

Deprived Adjudication Hearing (September 15, 2008)

The OKDHS documented that a bench trial for Tate was scheduled for November 10, 2008.

Juvenile Court Review (November 10, 2008)

The OKDHS documented that the case was continued until January 5, 2009, due to Tate's pending criminal charges. Custody of Tate's biological children remained with the OKDHS.

Juvenile Court Review (January 5, 2009)

The OKDHS documented that a hearing for Tate was set for March 2, 2009.

Juvenile Court Adjudication Hearing (March 30, 2009)

The OKDHS documented, "results of criminal pending." The next hearing was scheduled for August 31, 2009.

Juvenile Court Adjudication Hearing (August 31, 2009)

The OKDHS failed to document any information on the KIDS system. The next hearing was scheduled for October 5, 2009.

Juvenile Court Review (October 5, 2009)

A court review of the OKDHS case was held on October 5, 2009. The judge issued an order for visitation between Tate and her children.

Juvenile Court Review (October 15, 2009)

A court review of the OKDHS case was held on October 15, 2009. The court allowed reunification between Tate and her biological children.

Reunification (October 20, 2009)

The OKDHS returned the biological children to Tate's home on October 20, 2009. The OKDHS documented that the children appeared to be doing well and that the children were receiving counseling services.

OKDHS Comprehensive Home-Based Services (October 15, 2009)

The Tate home was approved for comprehensive home-based services (CHBS) on October 15, 2009, and the CHBS intake took place on October 21, 2009. The CHBS worker documented that CHBS services were placed in the home soon after reunification had occurred. The CHBS worker also documented that Tate had reported that the children were having trouble with adjusting to being back in their home. According to documentation, the CHBS worker had assured Tate that the children were displaying normal behavior.

OKDHS CHBS Contact Note (November 3, 2009)

The CHBS worker documented for November 3, 2009, that Tate had reported that her employment had been terminated because of a verbal conflict with a co-worker.

Plea to Charge and Sentence Received (November 30, 2009)

Kimberly Tate entered a plea of guilty on November 30, 2009, as to Child Neglect. She received a five-year suspended sentence.

OKDHS CHBS Contact Note (December 22, 2009)

The CHBS worker documented for December 22, 2009, that Tate had reported receiving a deferred sentence regarding the Child Neglect charge for failure to provide medical care for E.A.. The CHBS worker also documented that the Tate home appeared appropriate at that time.

Juvenile Court Review (January 14, 2010)

A court review of the child welfare case was scheduled for January 14, 2010.