

Prather in American-Statesman, KVUE on Austin Bomber Records

April 23, 2018 Laura Prather

PRACTICES Media and Entertainment Litigation, Litigation

The *Austin American-Statesman* and TV station *KVUE* quoted Haynes Boone Partner [Laura Prather](#) in reports about whether police would make public an audio confession or other records from the investigation into a bomber who killed two people and injured five with a series of exploding packages.

Mark Conditt, whom authorities identified as the bomber, killed himself as police attempted to confront him on March 21. Police have not made public a recording Conditt produced or other documents, including statements from his friends and family members and transcripts of interviews with the injured, the paper reported.

The [report](#) said that, in an April 3 response to records requests from more than 60 parties, including the *American-Statesman* and other local and national media outlets, Austin city lawyers cited a legal provision allowing them to shield information during an ongoing investigation. Releasing it would compromise their work, they say.

Prather, a First Amendment attorney and board member for the Freedom of Information Foundation of Texas, explained the importance of the public's right to know: "The community at large was very involved," she said. "They were basically under siege for quite a long period of time. We believe that the public not only has the right to know that information but that it would help law enforcement because it would enable the public to have faith in their law enforcement instead of being left to speculation." ...

The release of investigative details in the bombing case might not solely hinge on state law, however, the *American-Statesman* reported. Because it also involved hundreds of federal agents from the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives, the information could — at least in theory — be disclosed under the federal Freedom of Information Act.

That process, however, can take months or years.

Prather cited cases in which local law enforcement officials have refused to release information, only to have it made public by the federal government.

"Sadly, Texas law enforcement has continued to use their discretion to prevent disclosure of information and yet sometimes that very same information is disclosed (by the FBI)," she said. ...

Excerpted from the *Austin American-Statesman*. To read the full article, click [here](#).

KVUE [reported](#) that Prather warned that the public may never hear the tape — even once the case is closed.

"The way the law is written it is actually difficult when there is a dead suspect as in this instance," said Prather.

Under state law, not only can law enforcement withhold information during an ongoing investigation, they can also refuse to release it in cases where a suspect is not convicted. The goal is to protect the innocent. But when a suspect is dead, the law leaves the question about whether to release information solely up to police.

Prather argues that the public should be able to hear what the bomber said.

"While law enforcement was very good about keeping the public up to date as far as what was going on while the bombings were going on, now the information is no longer available for the confession or anything that helps the public get closure," she said. ...

Excerpted from *KVUE*. To watch the full report, click [here](#).