

Haynes Boone Fights for Transparency in Uvalde

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More than a year after the killing of 19 students and two teachers at Robb Elementary School in Uvalde, Texas, attorneys from Haynes Boone continue to fight for the release of public information related to the tragedy.

In the weeks after the shooting, Haynes Boone partner Laura Prather organized a coalition of 17 media organizations whose requests for information about the events at Robb Elementary had been denied by state and local agencies. These agencies have refused to release information that could shed light on what happened that day, including records related to the school, the shooter, and the law enforcement response.

The lack of disclosure has led to conflicting narratives about what occurred at Robb Elementary, prolonging the pain of the Uvalde community and fueling distrust among the general public. In the days immediately after the tragedy, Texas officials hailed the responding officers as heroes for their supposedly swift response. But it was later revealed that officers waited 77 minutes to confront the gunman, despite multiple calls from inside the classroom seeking emergency help.

Officials from the Texas Department of Public Safety (“DPS”) and local law enforcement agencies have blamed each other for the delayed response. But neither side has released unedited information to the public. Instead, officials have invoked the “law enforcement” exception in the Texas Public Information Act (“TPIA”), claiming that disclosure would interfere with the investigation and potential prosecution of law enforcement officers who responded to the scene.

Prather assembled the media coalition to collectively fight against this stonewalling. Together, the media coalition sued DPS in Travis County for records related to the 91 DPS officers who responded to the scene, and for records related to DPS’s subsequent investigation of the overall law enforcement response.

The coalition has also filed a separate suit against the Uvalde Police Department, Uvalde Sheriff and the Uvalde Consolidated Independent School District in Uvalde County. (The PIA requires plaintiffs to sue in the county where the governmental body is located.)

In December, the coalition filed its Motion for Summary Judgment in the DPS case, arguing that the release of records will not interfere with DPS’s investigation. Before the Motion was heard, DPS stated publicly that it had concluded its investigation and delivered its report to the Uvalde District Attorney.

Days before the March 8 hearing, the Uvalde District Attorney intervened in the case, arguing that the release of DPS records could compromise her ability to prosecute. The District Attorney also claimed that she had spoken to all the victims’ families and that they were united in opposing disclosure. In fact, many of the families want transparency, and Haynes Boone was able to secure affidavits from attorneys representing the families stating their support for the coalition’s position.

At the hearing, Prather argued that DPS's "draconian" withholding of public information was an affront to the Public Information Act. "Calls for transparency and accountability have rung loud and clear. They've reverberated in public settings throughout the state," said Prather. "The district attorney and DPS ... have strived to mandate silence over anyone and everyone who was a part of the response that day."

DPS did not argue that disclosure would affect its investigation, focusing instead on whether summary judgment was appropriate. Representatives for the Uvalde District Attorney also argued against disclosure but offered few specifics as to how the release of DPS records would affect a hypothetical future criminal case.

Prather responded by noting that release would not compromise any potential prosecution. "We have an investigation that is over," Prather said. "We have suspects that have already been notified. We have witnesses that have already been interviewed. And we have immutable evidence in the form of audio and video."

Judge Daniella DeSeta Lyttle took the case under advisement and has yet to rule.

In the meantime, there have still been no criminal prosecutions resulting from the tragic events that day; the Uvalde DA continues to claim there is an "open" investigation; and the case in Uvalde County is still pending and will be moving forward.