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Ethics: Privacy and Confidentiality of Juvenile Hearings and Dealing with the Media

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Impact?

- Not fully understood or known yet
- What if media was not allowed in hearing?
- But media was – and question is should they have been?
- Confidentiality of Juvenile proceedings



Confidentiality of Juvenile Proceedings

“In that case, the juvenile’s name and photograph were published by the media, which was unprecedented in Tarrant County. Prior to this time, it was the policy of local media and a number of national media outlets not to publish juveniles’ names and photographs respecting the confidentiality of juvenile proceedings. This extraordinary dissemination of a juvenile’s identifying information is not conducive to the rehabilitative process and is inconsistent with the state purposes of the Juvenile Justice Code.” – Fort Worth Star Telegram (6/25/2014)





Confidentiality of Juvenile Proceedings

- **Past**
- **Present**
- **Future**





Past

- Texas Juvenile Justice System was founded on the principle that it would have to diverge from the Adult Criminal Justice System
- Stated Purpose Clause – remove the taint of criminality and provide for the protection and wholesome moral and mental development of children
- The trial court was authorized to exclude the general public from a hearing of any case if “proper to do so.”





Present

Texas Family Code

Sec. 54.08. PUBLIC ACCESS TO COURT HEARINGS.

(a) Except as provided by this section, the court shall open hearings under this title to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) The court may not prohibit a person who is a victim of the conduct of a child, or the person's family, from personally attending a hearing under this title relating to the conduct by the child unless the victim or member of the victim's family is to testify in the hearing or any subsequent hearing relating to the conduct and the court determines that the victim's or family member's testimony would be materially affected if the victim or member of the victim's family hears other testimony at trial.

(c) If a child is under the age of 14 at the time of the hearing, the court shall close the hearing to the public unless the court finds that the interests of the child or the interests of the public would be better served by opening the hearing to the public.

(d) In this section, "family" has the meaning assigned by Section 71.003.





Present

Texas Family Code

Sec. 54.11. RELEASE OR TRANSFER HEARING.

(f) A hearing under this section is open to the public unless the person to be transferred or released under supervision waives a public hearing with the consent of his attorney and the court.





Present

In re Fort Worth Star-Telegram, 441 S.W. 3d 847 (Tex. App – 2014, orig. proceeding [mand. conditionally granted]).





Present

- Mandamus proceeding filed by media against District Judge for sua sponte closing certification and determinate sentencing hearings to the public
- Appellate Court held District Judge abused her discretion in closing both hearings because there was no evidence on record showing good cause





Future

- Creates unified system opening all juvenile proceedings to the public
- Allows for closure under specific strict circumstances where supported by evidence
- Motion by party to exclude the public must be in writing filed no later than third day before scheduled hearing
- Court must conduct evidentiary hearing in open court
- General concern for rehabilitation of child is insufficient to warrant exclusion of the public





Future

Are efforts to restrict the confidentiality of juvenile proceedings inconsistent with recent decisions from the United States Supreme Court that recognize that juvenile offenders are different than adult offenders?


