

**Lies and Liabilities:**


**Public Information Credibility, Liability, and Recovery after the Uvalde School Shooting**

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### **Abstract**

The purpose of this Emergency Management Institute Master Public Information Officer Program research paper is to show a decline in trust in public information, the legal implications a public information officer (PIO) can face for providing misleading or false public information in Texas, and a roadmap for rebuilding lost trust with the news media.

There is a growing body of literature on the communication failures immediately following the Uvalde school shooting in May 2022. Those failures, Texas law on providing misleading or false public information, and national polls on trust in the media were reviewed during the research process.

Surveys of journalists and PIOs conducted during the research process revealed over 13% of responding PIOs were asked to lie for their organizations. Over half of the journalists surveyed believe they have been the recipients of false or misleading public information. Violating the Texas Public Information Act carries a cost. However, the loss of news media trust can be more devastating to a PIO's credibility and career.

The conclusion, gathered from several interviews with top communications professionals, journalists and First Amendment attorneys, is that for a PIO to be that important "force multiplier" for their agency, relationships need to be built in advance and at least three important steps must be taken after the release of false or misleading information: admit the problem, thoroughly explain how the release occurred, and provide the correct information in a timely manner.

*Keywords:* Uvalde school shooting, PIO, news media

## Overview

*“If you tell the truth, you don’t have to remember anything.” – Mark Twain*

When a public information officer (PIO) releases misleading or false information or withholds or alters government documents, that PIO loses credibility and can face criminal charges and legal liability on a state-by-state basis. This paper provides a roadmap to recover lost credibility.

This paper also reviews the public information mistakes in the first hours following the Robb Elementary School shooting in May 2022 and provides analysis of data from national trust polls and surveys of PIOs and reporters.

The researcher interviewed longtime journalists including a reporter who covered the Uvalde tragedy, the immediate past president of the National Information Officers Association (NIOA), a First Amendment attorney, communications professors, and a strategic PIO trainer. During the research process, a consensus roadmap emerged on how a PIO-news media relationship might survive a situation where false or misleading information was provided: the PIO must admit the problem, thoroughly explain how the release happened, and provide the correct information in a timely manner.

Challenges included the lack of a communications report on the Uvalde tragedy and the Texas Department of Public Safety (DPS)’s refusal to release their entire after-action report, which is being adjudicated in a Texas district court.

### **Methodology**

The research plan included reviewing media coverage, national media trust polls and after-action reports from various sources for the researcher to achieve a stronger knowledge base. Separate surveys for journalists and PIOs were developed in Survey Monkey and distributed through social media, personal emails, and mass emails between February and June 2023.

Targeted emails sent to Texas reporters and newsroom management netted survey responses from 33 journalists. Mass emails distributed to NIOA members, NIOA Region 6, the Houston-Galveston PIO Network, and the Public Safety Communicators Association netted 161 PIO responses.

PIOs were questioned about their concern with media mistrust in public information, whether they had ever been asked to provide false or misleading information and if they believed a PIO could regain lost trust. Journalists were asked if they believe public information is more, or less, trustworthy now than five years ago and if they had ever been lied to or misled by a PIO.

The researcher spoke with a Houston journalist who reported from Uvalde as the tragedy unfolded, a news director with broad experience in top ten media markets, a retired broadcast reporter, a Harvard Law-educated reporter, and a First Amendment attorney. The researcher also conducted interviews with the former executive director of the Reporters Committee for Freedom of the Press, a University of Houston communications faculty member, a PIO and program coordinator for multiple TV stations, a PIO trainer, and the immediate NIOA past president.

Due to the lack of a communications report and the ongoing media lawsuit against DPS, the researcher spoke with a reporter for firsthand information about the communications failure.

### Results and Findings

The researcher hypothesized that wildly inaccurate information released immediately following the shooting resulted in a further decline of trust in public information and that many in the news media believe they have received false or misleading information that impacted their reporting. The survey answers came close to the researcher's expectations.

Although a small number of PIOs said they have been asked to provide false information, most of the journalists surveyed said they had been provided false or misleading information. A strong percentage also said the false information affected their reporting.

Of the 161 PIOs surveyed, over half were concerned about media mistrust following the shooting, 21.74% were much more concerned and 34.78% were slightly more, while 39.75% were neutral, or unsure, if they should be concerned. Just over three percent, 3.11%, were slightly less concerned and less than one percent were much less concerned.

As for if they were ever asked to provide false or misleading information, 85.71% said no, 13.04% said yes, and 1.24% were unsure. Over half, 52.17%, believed a PIO can regain media trust once lost, 25.47% said that is not possible, and 22.36% were not sure.

Of the journalists surveyed, 58.33% said they believed they had been lied to or misled by a PIO and 40.91% believed they were provided wrong information to steer their reporting in a different direction. Just under a fourth surveyed, 22.73%, said they were provided wrong information that negatively affected their reporting, and the PIO never corrected it. Finally, 27.27% said wrong information was provided but it did not affect their reporting, 18.18% believed the PIO did not know the information was wrong and 9.09% selected "other."

When asked about the trustworthiness of public information today compared to five years ago, no journalist surveyed thought public information was much more trustworthy and only

11.11% thought it was slightly more trustworthy. Just under half, 47.22% said it was about the same. 36.11% thought public information was slightly less trustworthy and 5.56% said much less trustworthy. Finally, as for whether their opinions have changed since the Uvalde shooting, 55.56% said no, 36.11% said yes, and 8.33% selected “unsure.”

A review of recent national polls on media trustworthiness and who Americans trust for news also yielded some interesting context. Two polls released in April and May 2023 by Economist/YouGov and the Gallup/Knight Foundation revealed a decreasing trust and little to no confidence in the news media.

### **Lies and Liabilities: Public Information Credibility, Liability, and Recovery**

When misleading or false information is released, the PIO providing that information loses credibility and, in states like Texas, can face prosecution and civil liability. In June 2022, NPR summarized the communications failures in Uvalde in one damning paragraph:

The official narrative of the mass shooting at Robb Elementary School in Uvalde, Texas, has changed drastically since news of an active shooter at the school emerged on May 24. Authorities have repeatedly corrected official statements, after they were contradicted by new information. (Chappell, 2022)

According to Chappell (2022), Texas Governor Greg Abbott was one of the ‘misled’ public officials who told Texas how ‘livid’ he was about the false information provided to him (Appendix A). A subsequent literature review and in-depth conversation with an on-scene reporter found no evidence of a Joint Information Center (JIC), Joint Information System (JIS), or an onsite PIO gathering and disseminating information immediately following the tragedy.

The Advanced Law Enforcement Rapid Response Training Center at Texas State University (ALERRT), a special Texas House of Representatives investigative committee (Texas

House), and DPS all investigated what went wrong. The ALERRT and Texas House reports have been released to the public (see Appendices B & C).

On June 29, 2023, District Judge Daniella DeSeta Lyttle ruled in favor of multiple media outlets seeking DPS records on the shooting. DPS was ordered to provide a “list of proposed redactions to the court by August 31, 2023” (Churchill & Melhado, 2023).

Reporters keep seeking information to the many unanswered questions about the deaths of 19 children and two teachers. KPRC-TV2 Investigates’ Robert Arnold was on scene that day:

The original narrative that came out at the very first was that these brave Uvalde, city of Uvalde and Uvalde school resource officers engaged (the school shooter), got in a shootout but he was still able to make it inside the school anyway. There was no shootout.

There was no engagement. Nothing. We still don’t know where they got that from because it never happened. (personal communication, January 31, 2023)

According to Arnold (2023) there was no PIO, but “when you have the governor of the state of Texas, the head of DPS, and a Regional Commander speaking, you pretty much assume they know what they are talking about.” That was not the case. Arnold (2023) added some of the false information came from the former school police chief:

They talked about initially how they got in that hallway, advanced on the shooter, got in the room and they killed him. What didn’t come out for several days was that it took them 77 minutes to do that last part.

Despite multiple investigations, it is still unclear where so many false narratives came from.

“They kept saying we got this from Uvalde PD, we got this from Uvalde [CISD], but where they got that initial narrative, I don’t think we’ve heard specifically,” said Arnold (2023), who was not certain a PIO could have prevented some of the failures.

False narratives can dramatically impact how history views a tragedy. The 2014 shooting of Michael Brown is one example. “‘Hands up, don’t shoot’ is still a slogan, still the narrative that exists in many people’s minds, because that narrative was never corrected. That’s history and it’s wrong,” said strategic PIO trainer Judy Pal, who held key crisis communications roles for the Atlanta, Baltimore, Halifax, Milwaukee, and New York City police departments (personal communication, March 29, 2023) (Appendix F).

Such reporting also appears to impact how Americans view their news sources. National polls taken after the Uvalde tragedy show declining trust in the media. The Weather Channel is currently the only media outlet with a 50+ trust rating according to an April Economist/YouGov poll. Non-weather news media outlets are much further down the list. PBS, the BBC, the *Wall Street Journal*, *Forbes*, and the Associated Press round out the top five most trusted media outlets with scores between 21+ and 30+ (Sanders, 2023).

“Many Americans feel national news organizations *intend* to mislead or persuade the public and do not care about their audiences,” according to an analysis of a 2023 Gallup/Knight Foundation poll. “Two in five Americans believe official government accounts of events can’t be trusted (43%),” and “the opinion of ordinary people is worth more than that of experts or politicians (40%),” the poll found (Fioroni, 2023).

This mistrust is not just coming from the public; the researcher also found serious mistrust among journalists. Three out of five journalists surveyed believed they had been lied to or misled by a PIO (Appendix D).

Of those, over two out of five believed they were provided wrong information to steer their reporting and one in five said they were provided wrong information that negatively affected their reporting, and the PIO never provided a correction. Meanwhile, just over one in

four said wrong information was provided that did not affect their reporting and nearly one in five believed the PIO did not know the information was wrong.

When asked about the trustworthiness of public information today, not a single journalist surveyed thought public information was much more trustworthy today versus five years ago and only just over one in ten said it was slightly more trustworthy. Over a third think public information was slightly less trustworthy while 5.5% think it is much less trustworthy. The skepticism is not new as the majority of those surveyed said their opinions have not changed.

Public information evolves as a crisis unfolds. Arnold (2023) is “used to the initial information changing somewhat. That’s normal. Information is fluid. It’s a dynamic situation.” However, what happened in Uvalde “was a completely 100% incorrect set of circumstances that was presented to the public” and “we still do not have a 100% full accounting of how everyone reacted that day.” Reporters have filed multiple unanswered Freedom of Information Act (FOIA) requests to the Border Patrol and TPIA requests to DPS.

There is much we can still learn from how information was disseminated in Uvalde. Had a JIC or JIS been established from the start to ensure a succinct truthful narrative, the different agencies involved and individuals on scene might not have propagated so many different false narratives.

“I have a wall at home where I etch the names of people who have lied to me. I never believe a word they say to me ever again,” said Harvard Law-educated Houston attorney and former *Houston Chronicle* investigative reporter Mary Flood. However, she says it is a different situation when a PIO is lied to and caught reiterating a lie. In that case, she says they should “tell the reporter, ‘You are right, I clearly need to rethink this’” (personal communication, December 12, 2022).

PIOs have defenders. “A good PIO is a force ‘multiplier’ for their agency,” said Rob Milford, veteran major market broadcast news reporter and anchor. “A good PIO is worth a dozen cops on patrol for getting positive airtime for the department, handling details and fielding lots of stupid questions in a crisis and most importantly, answering the phone when reporters call” (personal communication, January 13, 2023).

PIOs should always remind the news media that their ‘first’ information is not ‘final’ information. “You have to put the wiggle room words in there. ‘Preliminarily, this is what we have right now; the information I have could change.’ That is very important,” said Pal (2023).

What if a PIO gives false information? “You have to eat crow while it’s still warm, bad news doesn’t get better with age,” said Pal (2023). “If you were given information that ended up being incorrect -- as soon as you find out, you have got to do the mea culpa.”

Pal (2023) was clear that will not be easy, adding that a big challenge PIOs face is “the media wants the information now, but they also want to have the correct information. You can have speed and you can have accuracy but sometimes you can’t have them together.”

Attorney and former executive director of the Reporters Committee for Freedom of the Press Lucy Dalglish has long fought for the First Amendment. Now the dean of the University of Maryland’s journalism department, she sees “a decline in trust” and “a phenomenal amount of fear out there that public employees don’t want to look bad.” Her advice: “Stop being paranoid,” respond “promptly to requests,” and stop “fighting the release of records that will ultimately be declared public by a judge, [it] is expensive and doesn’t help your ‘client’ in the long run” (personal communication, December 13, 2022).

Longtime major market news director Ken Charles said the Uvalde communication failures “stunned and honestly saddened” him. While Charles, who has led newsrooms in

Houston, Los Angeles, and now Atlanta, is not aware if he or one of his reporters “has been outright lied to,” he was clear “we’ve been given incomplete and at times incorrect information” (personal communication, March 17, 2023).

“Without trust a PIO has nothing,” Charles (2023) emphasized. “If we ever catch a PIO in an outright lie, we’re done. We will never trust them again. Neither will any other media organization, which means their career is over” because “that trust can never be rebuilt.”

Michael McLeieer, a National Fire Academy instructor, PIO, and TV program coordinator agreed a “PIO should NEVER provide false information to the media. This will affect the PIO’s integrity, trust-value, reputation, etc.” (personal communication, March 13, 2023). McLeieer (2023) advocates for both sides to address what caused the mistrust:

While there may be times to withhold information, especially during an ongoing investigation, it is essential for the PIO and reporters to have a high level of trust for one another. Relationships are important to build and more importantly essential to maintain. Reporters, assignment desk editors, news directors all change broadcast outlets from time to time, so a PIO should always take the time to get to know those key players.

What can be done instead of releasing misleading information? “‘I don’t know’ or ‘I’ll find out the answer’ is an okay response. If it happens too often that’s not good either but is still way better than lying,” said Charles (2023).

A PIO who provides false information can also be on the wrong side of the law. Joseph Larsen, a Houston-based First Amendment attorney, says TPIA and the Texas Penal Code (TPC) govern this area of Texas law. TPIA criminal provisions on willfully destroying, mutilating, or removing public information can result in fines as high as \$4,000 and/or county jail confinement up to three months. If a PIO fails to or refuses to give access to public information without

reasonable reliance on a court order or attorney general opinion, a judge can order a fine up to \$1,000, and/or county jail confinement up to six months (personal communication, 2022) (Appendix E).

Larsen (2022) explained further how some TPIA provisions could apply to officials who provided public information in Uvalde. For example, the prohibition on “altering” public information could apply to why official narratives kept changing. As far as failure to release, Larsen said those provisions are invoked only in rare instances where a PIO refuses to acknowledge a public information request. He added these provisions and the TPC may be applicable if a PIO made a false statement material to a criminal investigation, altered evidence with intent to affect the investigation, or knowingly made false entries in a government record.

The need to build and maintain media relationships, while understanding and avoiding potential legal issues, is why PIO training is so important. “A commitment to training is vital to share lessons learned, seek best practices, and explore case studies for all of us to become better,” said NIOA immediate past president Christopher Cook (personal communication, March 27, 2023).

The unknowns about how communications were handled in Uvalde “[roll] into the mess of the information void that ended up happening and all the misinformation and some disinformation which caused even more pain and suffering for everyone involved,” said Pal (2023).

The media is “the conduit” through which a PIO should make corrections, but Pal (2023) says do not stop there. To regain trust, she advises apologizing on every possible platform.

“If a PIO or person in PR or press has been untruthful or misleading in facts, it is challenging to regain that trust. Difficult, but possible,” said Jacquie Baly, communications

faculty member at the University of Houston. “The answer is to stick to best practices and good media relations fundamentals and to recommit to building and restoring confidence” (personal communication, January 15, 2023). Baly (2023) advocates transparency and offered this advice to build back trust:

1. Acknowledge the issue and set up an independent investigation, because being silent or slow to communicate will do harm.
2. Overreact in favor of those who requested the information.
3. Ask what is needed to recover your reputation.
4. If possible, find someone you can team up with to recover trust so you can determine what screams “trust” to the person you need to rebuild a relationship with.

Since PIOs are “placed in a trustworthy advocacy role,” Baly (2023) added “messages that are grounded in truth will stand out from the rest.” Pal (2023) agreed and said if any “tiny good” comes out of the Uvalde tragedy she hopes it is that “we realize the importance of our words and realize the importance of getting correct information.”

### **Lessons Learned**

A wide difference in opinion on public information trustworthiness between PIOs and the news media became clearer during the research process. The researcher achieved this paper’s purpose by showing a decline in trust in public information, explaining the legal implications of providing misleading or false public information, and providing a roadmap PIOs can use to rebuild lost trust with the news media.

That it only takes one incident to make or break a PIO’s credibility is something the researcher will never again take lightly. Journalists were adamant that lying is not an option if a PIO wants a trust relationship. PIOs will have to accept that some reporters will never trust again

once lied to and that public trust is as important. Even if trust is shaken, a PIO will still need to find ways to work with the media because that is a conduit to their community. How to achieve that could be a fascinating topic for a future research project.

The researcher would have liked to have delved deeper into the legal liabilities, as well as comparing federal and state laws on public information access. Reviewing cases where critical public information was not truthful or actionable for public safety could provide further information on what actions to avoid.

Other avenues for future research came to light during the literature review and interviews. Those included: how enforcement could strengthen freedom of information laws; how PIOs and reporters could better use modern technology to build and maintain trust relationships; the processes the media uses to discredit wildly false information; how public information lawsuits might lead to legislative changes; and why public trust in the news media and public figures continues to decline.

The most difficult part of the writing process was editing out context the researcher found both fascinating and informative to the process of public information. As more was learned, more questions surfaced that the researcher is still attempting to answer.

The researcher would have preferred to conduct and utilize more interviews with prominent journalists and PIOs, as well as additional survey questions and responses. A much higher page limit would have been necessary to adequately provide background material, context, and related topics.

The interviews the researcher conducted provided thoughtful insight into how to mitigate misinformation that this researcher will now be using to build a strategic and crisis communications manual. While the extent to which a skilled PIO could have minimized the

misinformation crisis in Uvalde may never be known, this researcher is certain that there are solutions where the whole community benefits. PIOs and the news media can foster trust to get the right information out to the right people at the right time, but it will take perseverance and veracity.

### Summary

Nineteen children and two teachers tragically lost their lives at Robb Elementary School in Uvalde, Texas, on May 24, 2022. Initially, Uvalde officials, Texas DPS, and the governor released wildly incorrect information. Texas reporters should have been able to trust the information from state leaders and are still attempting to pinpoint exactly who provided false information. The media is still investigating and engaged in legal efforts to view information still being withheld.

Journalists and PIOs displayed sharply different perspectives in their survey answers. Discredited misinformation released in Uvalde appeared to add fuel to many reporters' assertions about the trustworthiness of public information. While only a small percentage of PIOs who responded said they had been asked to lie to the media, an alarming percentage of reporters said they had been lied to by a PIO and those lies affected their reporting.

Before a crisis occurs, a PIO must build and maintain trusting media relationships and seek training to improve their skills. A well-trained, trusted PIO who understands that words matter can be a "force multiplier." As news directors and reporters stated, information evolves in a critical incident. While a PIO may not have all the information a journalist seeks, lying and concealing information will most certainly cause more problems.

Instead, a PIO should provide what they can and be clear that the information will evolve. It is acceptable for a PIO to say, "I don't know" and then arrange to follow up with the reporter in a timely manner or schedule another briefing to provide time to obtain, and verify, additional information. Journalists want the information fast and correct, but correct is the overarching goal.

If a PIO is provided false information and imparts it to the media with verification, the PIO must "eat crow while it's still warm." Then, the PIO should take three difficult but important

steps: admit what happened, thoroughly explain the circumstances that allowed false information to be released, and quickly provide the correct information to the news media and any platforms that will ensure their whole community receives the correct information.

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## Appendix A

### Timeline of Uvalde School Shooting

Below is a timeline of events leading up to, during, and shortly after the mass shooting at Robb Elementary School in Uvalde, Texas, compiled using information from the Texas House report, the ALERRT report, Texas DPS, and other sources.

- September 2021-February 2022: the shooter asked multiple people to buy him guns as well as purchased gun accessories and ammunition over the Internet.
- March-May 2022: he made references on the Internet to doing something in May that would make him famous.
- May 16-18, 2022: the shooter turned 18 and purchased an AR-15-style rifle and 1,740 rounds of ammunition. The next day, he purchased another AR-15-style rifle and on May 18, he purchased 375 additional rounds of ammunition.

The shooter put his plans to become famous into action on May 24, 2022.

- 11:21 a.m.: he sent a text to an online friend in Germany: “I just shot my grandma in her head. Ima go shoot up a elementary school rn [right now]” and minutes later drove his grandmother’s truck the few blocks to Robb Elementary School where he subsequently crashed the truck into a ditch and headed towards the school carrying rifles and ammunition.
- 11:29 a.m.: a teacher called 9-1-1 and yelled for students to get into their classrooms.
- 11:30 a.m.: a coach spotted someone shooting a rifle in the parking lot and used a school radio to report an active shooter as surveillance cameras at a funeral home next door caught a school district police officer entering the parking lot and driving by the shooter.

- 11:32 a.m.: gunshots were fired through windows into Robb Elementary as school officials started to implement a lockdown.
- 11:33 a.m.: the shooter entered classroom 111 without facing any locked doors. At least 100 rounds were fired into classrooms 111 and 112 which are connected. A teacher in Room 109 was wounded when a bullet passed through the wall.
- 11:35 a.m.: the first law enforcement officers from the city of Uvalde and Uvalde CISD enter Robb Elementary from multiple locations. All are armed. Uvalde CISD's police chief, who by the policy he wrote is supposed to be the incident commander, does not have a radio. The officers heard gunfire, saw debris and bullet holes in the walls. However, none of the officers recalled hearing cries, screaming, or even knowing that there were shooting victims inside the classroom.
- 11:37 a.m.: two of the officers are grazed by flying building materials and retreat.
- 11:38 a.m.: the shooter stopped firing after 11 more rounds. The Uvalde CISD Police Chief checked Room 110, found it empty, and started treating the shooter as a "barricaded subject." That approach never changed "despite evidence that Chief Arredondo's perspective evolved to a later understanding that fatalities and injuries within the classrooms were a very strong probability" (ALERRT, 2022).
- 11:40 a.m.: the Uvalde CISD Police Chief called the Uvalde Police Department from his cell phone and asked for a SWAT team and a radio. The commander of the SWAT team was already on scene and had been one of the first to arrive at Robb Elementary. The suspect was heard firing a weapon.
- 11:41 a.m.: four more law enforcement officers arrived, and the Uvalde Police Chief requested more equipment and helicopter support. Classroom doors have yet to be tested.

- 11:42 a.m.: officers began breaking classroom windows to evacuate students.
- 11:43 a.m.: the Uvalde Police Department's Facebook page (2022) announced "Large Police presence at Robb Elementary. We ask the public to avoid the area."
- 11:47 a.m.: Uvalde CISD Police Officer Ruben Ruiz is escorted out of the building after learning his wife, Robb Elementary teacher, Eva Mireles had been shot.
- Over the next hour: more shots were fired, officers requested more equipment, a triage area was set up and a search for keys for an unlocked classroom dragged on. No one assumed command but the school police chief made repeated attempts to talk to the shooter in English and Spanish.
- 12:19 p.m.: a student in Room 111 called 9-1-1 and hung up. The same student called back 17 minutes later.
- 12:43 p.m.: the student told 9-1-1 the gunman shot the door.
- 12:45 p.m.: the master key was found to open Room 111, which was not locked.
- 12:47 p.m.: the student on the phone asked 9-1-1 to "please send the police now." Shots were heard on the student's call.
- 12:50 p.m.: a team of officers entered the room and killed the shooter who was emerging from hiding in a classroom closet.
- 1:06 p.m.: Uvalde Police updated their initial post on Facebook to say the shooter was in custody. That information was later recanted.

On May 25, 2022, Governor Abbott held a news conference where he utilized several pages of handwritten notes on the shooting. A copy of those notes was immediately requested through the Texas Public Information Act by KTRK-TV investigative reporter Ted Oberg (Oberg, 2022).

Two days later, the governor held another news conference, saying:

I was misled. I am livid about what happened. I was on this very stage two days ago and I was telling the *public information* (emphasis added) that had been told to me in a room just a few yards behind where we're located right now. I wrote down hand notes in detail about what everybody in that room told me in sequential order about what happened and when I came out here on this stage and told the public what happened, it was a recitation of what people in that room told me, whether it be law enforcement officials or non-law enforcement officials, whatever the case may be and as everybody has learned, the information that I was given turned out, in part, to be inaccurate and I'm absolutely livid about that. (CSPAN, 2022)

## Appendix B

ALERRT Center Report on the Law Enforcement Response at Robb Elementary  
The Advanced Law Enforcement Rapid Response Training Center at Texas State University (ALERRT) released a 26-page initial report on the police response to the Robb Elementary School shooting in July 2022.

ALERRT was chosen by the Texas Department of Public Safety to assess the law enforcement response. The center is “nationally recognized as the preeminent active shooter/attack response training provider in the nation” (ALERRT, 2022, pp. 1).

The initial report focused on law enforcement response up until the shooter was neutralized.

The information presented in the report is based on a one-hour incident briefing for select staff held the week after the shooting. Briefing materials included surveillance footage from the school, Google Maps, a brief cell phone video, and a verbal Q&A between staff and an investigating officer.

The full report is available for download through ALERRT’s website:  
<https://alerrt.org/reading>.

## Appendix C

### Texas House Investigative Committee Report on Uvalde School Shooting

On July 17, 2022, a special Texas House investigative committee released their initial report on the Robb Elementary School shooting.

The committee was comprised of three people: state Representative and chair Dustin Burrows, state Representative and vice chair Joe Moody and former Texas Supreme Court Justice and public member Eva Guzman.

The three were tasked with determining what happened leading up to and during the shooting on May 24, 2022, and look into the actions of state and local law enforcement that day.

The 82-page report contains an overview of security, facilities, maintenance, and policies at Robb Elementary; Uvalde CISD's police department and active shooter plan; a biographical history of the shooter and his actions leading up to the shooting; and a timeline of the law enforcement response the day of the shooting.

During their investigation, the committee interviewed witnesses and officials, received briefings from law enforcement, and reviewed evidence such as crime-scene photos, audio and video recordings, digital evidence, documents and records, and law enforcement witness interviews.

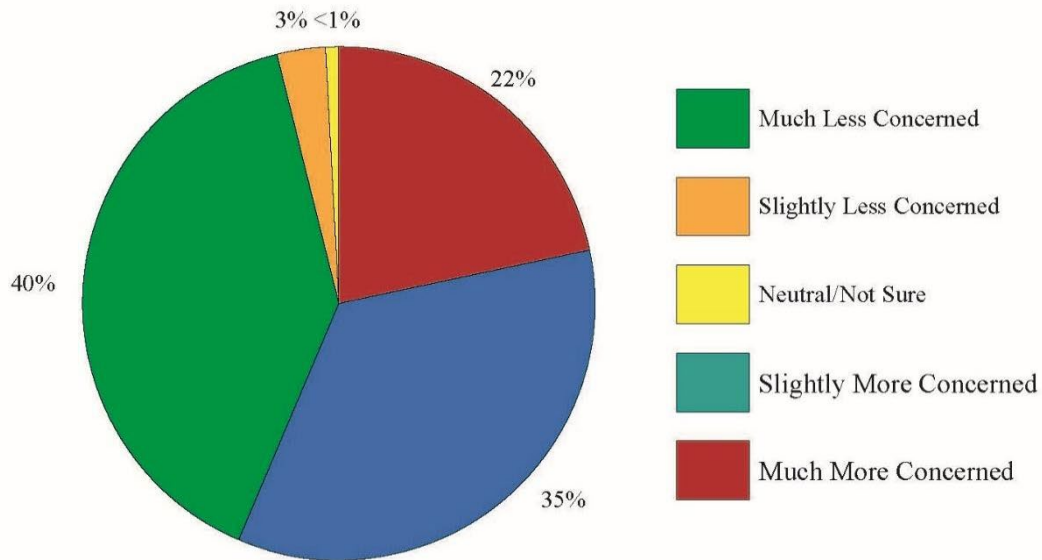
The full report is available through the Texas House website:  
[https://house.texas.gov/\\_media/pdf/committees/reports/87interim/Robb-Elementary-Investigative-Committee-Report.pdf](https://house.texas.gov/_media/pdf/committees/reports/87interim/Robb-Elementary-Investigative-Committee-Report.pdf).

**Appendix D**

## Public Information Officer and Journalist Survey Results

**Figure D1**

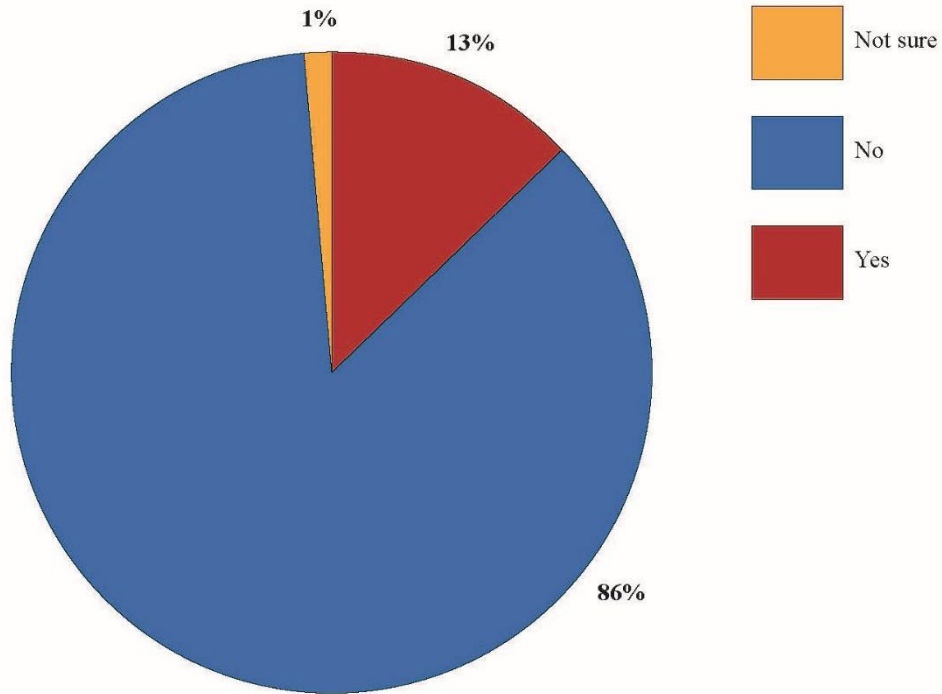
*Public Information Officers on Concern about Media Mistrust in Public Information*



*Note:* This figure shows a breakdown of PIO survey responses concerning media mistrust in public information in the wake of the Uvalde school shooting in May 2022. PIOs were asked to select from five different levels of concern: much less concerned, slightly less concerned, neutral/not sure, slightly more concerned, or much more concerned.

**Figure D2**

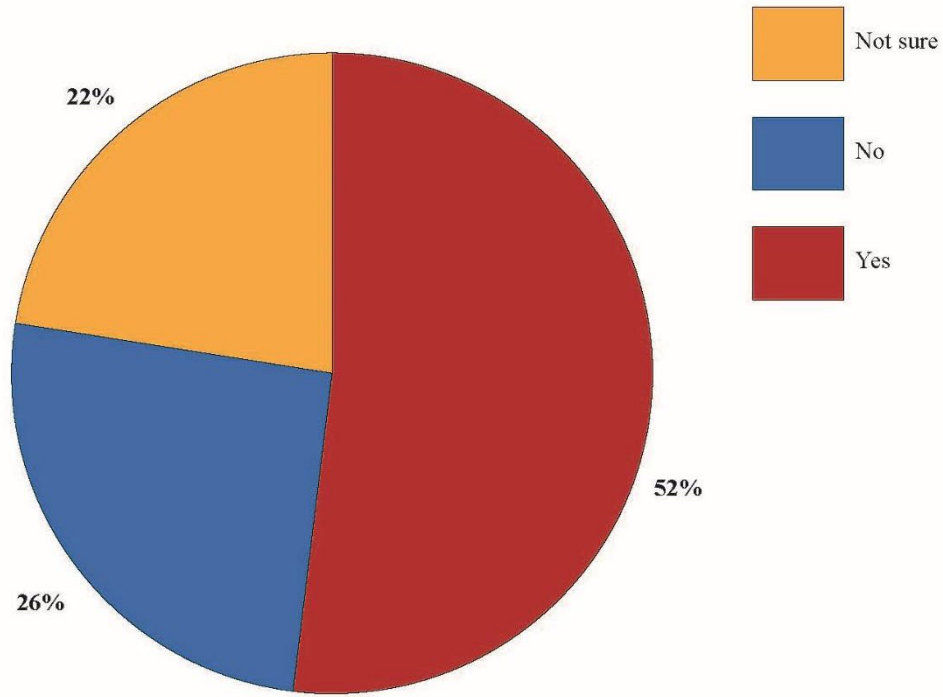
*Public Information Officers on Providing False or Misleading Information to Media*



*Note:* This figure shows a breakdown of PIO survey responses on whether they had ever been asked to provide false or misleading information to the media. PIOs were asked to select from three responses: yes, no, or not sure.

**Figure D3**

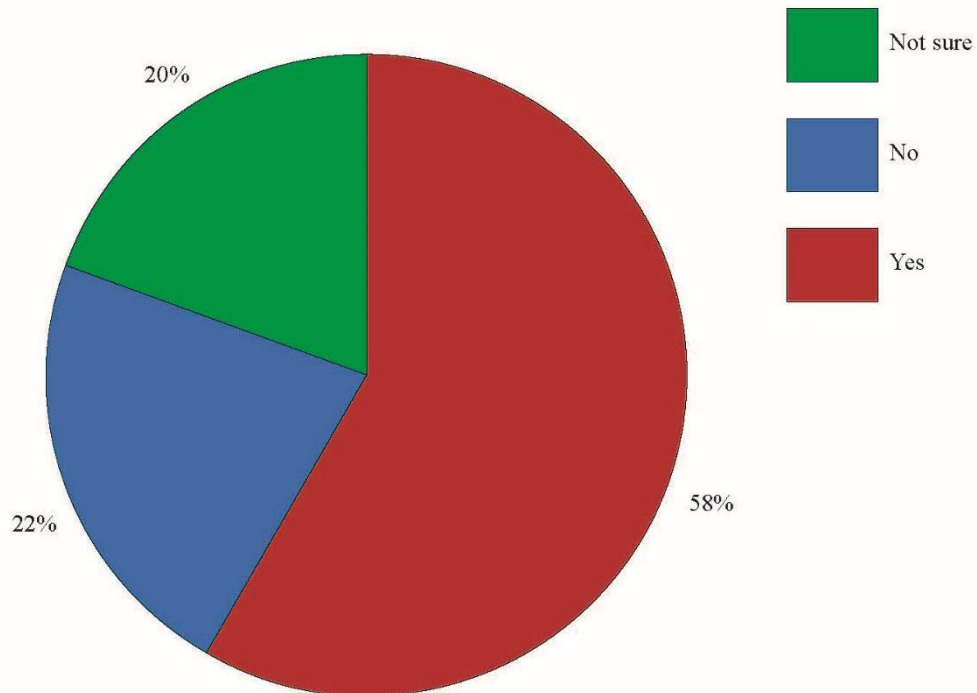
*Public Information Officers on Whether PIOs Can Regain Lost Trust*



*Note:* This figure shows a breakdown of PIO survey responses on whether PIOs can regain media trust once lost. PIOs were asked to select from three different responses: yes, no, or not sure.

**Figure D4**

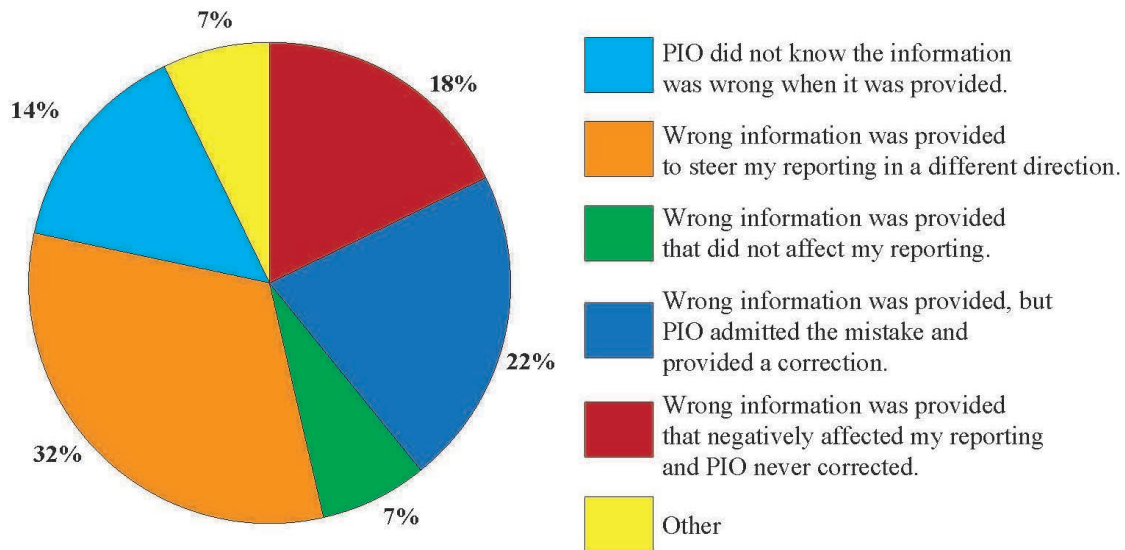
*Journalists on Whether They Have Been Lied to or Misled by a PIO*



*Note:* This figure shows a breakdown of journalist survey responses concerning whether they have been lied to or misled by a PIO. Journalists were asked to select from three different responses: yes, no, or not sure.

**Figure D5**

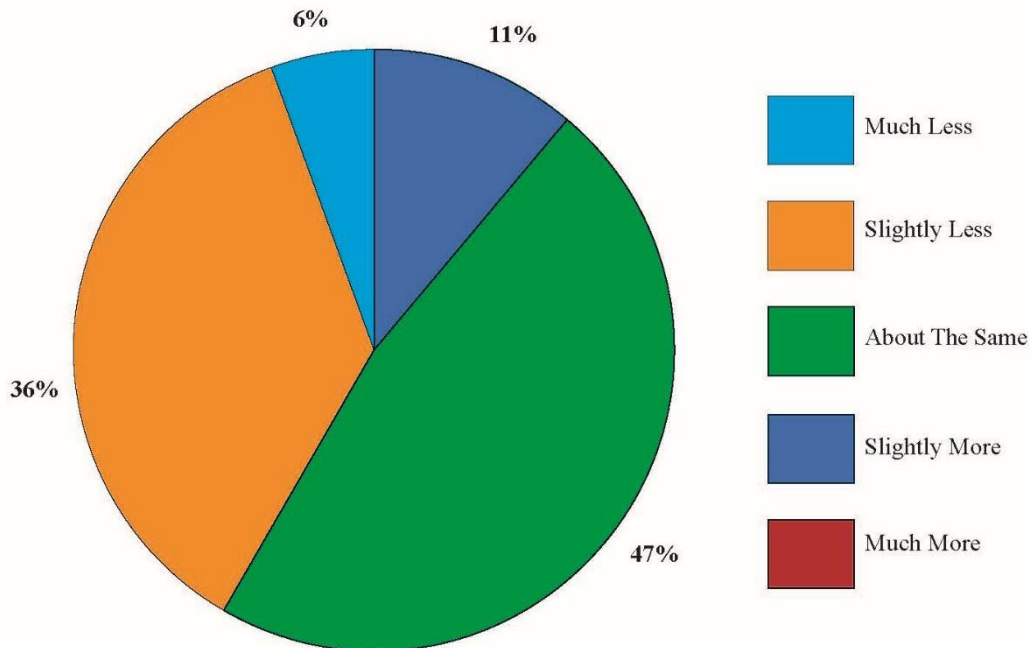
*Journalists on if False Information from PIO Affected Their Reporting*



*Note:* This figure shows a breakdown of journalist survey responses on if false or misleading information provided by PIOs affected their reporting. Journalists who responded yes to survey question 1 were asked to select from six different responses: PIO did not know the information was wrong when it was provided, wrong information was provided to steer my reporting in a different direction, wrong information was provided that did not affect my reporting, wrong information was provided but PIO admitted the mistake and provided a correction, wrong information was provided that negatively affected my reporting and PIO never corrected, or other.

**Figure D6**

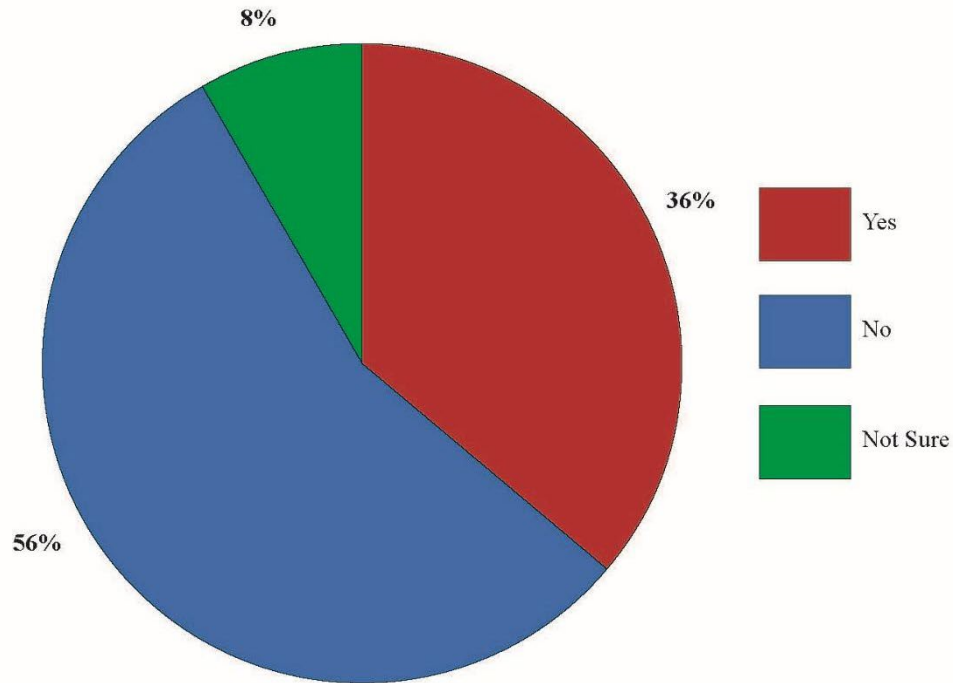
*Journalists on Trustworthiness of Public Information Today Compared to Five Years Ago*



*Note:* This figure shows a breakdown of journalist survey responses concerning the trustworthiness of public information today compared to five years ago. Journalists were asked to select from five different responses: much less trustworthy, slightly less trustworthy, about the same, slightly more trustworthy, or much more trustworthy.

**Figure D7**

*Journalists on Whether Their Opinion on Public Information Has Changed Since Uvalde*



*Note:* This figure shows a breakdown of journalist survey responses concerning their opinion on public information following the public information issues surrounding the Uvalde school shooting in May 2022. Journalists were asked to select from three different responses: yes, no, or not sure.

## Appendix E

### Correspondence with First Amendment Attorney Joseph Larsen

The following are excerpts of email correspondence with First Amendment attorney Joseph Larsen concerning legal liabilities for PIOs under the Texas Public Information Act (TPIA) and Texas Penal Code (TPC) (personal communication, 2022).

#### **The Texas Public Information Act**

Larsen said:

Regarding liability in connection with the duties of a PIO, I would first note that no doubt the largest number of lawsuits to flow out of the Uvalde mass shooting are civil action in connection with specific requests for information under the Texas Public Information Act (“TPIA”). The normal course for these requests, as you know, is for the governmental body to request an attorney general letter ruling to withhold information. The attorney general invariably upholds a law enforcement governmental body’s assertion of the law enforcement exception or homeland security statutes. Right up front, this gives the governmental body with the opportunity to shut out the public just during the process of attorney general review. In the event the attorney general orders release of all or some of the requested information, the governmental body can file a declaratory judgment action against the attorney general for a court to review the attorney general. The requestor can intervene in that lawsuit but can also file a lawsuit directly against the governmental body without waiting for an attorney general ruling. It would be interesting to know what more about the number of, participants in, and arguments made in these lawsuits. However, none of these civil lawsuits holds any potential liability for a PIO, only the governmental body and only for release of the requested information and possibly attorney’s fees.

The TPIA does have several criminal provisions specifically directed at PIOs as follows:

§ 552.351. Destruction, Removal, or Alteration of Public Information

(a) A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by this chapter, or alters public information.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 or more than \$4,000;

(2) confinement in the county jail for not less than three days or more than three months; or

(3) both the fine and confinement.

(c) It is an exception to the application of Subsection (a) that the public information was transferred under Section 441.204.

§ 552.353. Failure or Refusal of Officer for Public Information to Provide Access to or Copying of Public Information

(a) An officer for public information, or the officer's agent, commits an offense if, with criminal negligence, the officer or the officer's agent fails or refuses to give access to, or to permit or provide copying of, public information to a requestor as provided by this chapter.

(b) It is an affirmative defense to prosecution under Subsection (a) that the officer for public information reasonably believed that public access to the requested information was not required and that:

(1) the officer acted in reasonable reliance on a court order or a written interpretation of this chapter contained in an opinion of a court of record or of the attorney general issued under Subchapter G;

(2) the officer requested a decision from the attorney general in accordance with Subchapter G, and the decision is pending; or

(3) not later than the 10th calendar day after the date of receipt of a decision by the attorney general that the information is public, the officer or the governmental body for whom the defendant is the officer for public information filed a petition for a declaratory judgment against the attorney general in a Travis County district court seeking relief from compliance with the decision of the attorney general, as provided by Section 552.324, and the cause is pending.

(c) It is an affirmative defense to prosecution under Subsection (a) that a person or entity has, not later than the 10th calendar day after the date of receipt by a governmental body of a decision by the attorney general that the information is public, filed a cause of action seeking relief from compliance with the decision of the attorney general, as provided by Section 552.325, and the cause is pending.

(d) It is an affirmative defense to prosecution under Subsection (a) that the defendant is the agent of an officer for public information and that the agent reasonably relied on the written instruction of the officer for public information not to disclose the public information requested.

(e) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than \$1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(f) A violation under this section constitutes official misconduct.

Larsen added:

I can readily be seen that some of the provisions of § 552.351 could apply to the PIOs for the governmental bodies involved in the Uvalde mass shooting, for example, the prohibition of “altering” public information might apply to why the stories of these official kept changing. As far as the failure to release provisions of § 552.353, these are largely toothless, and this provision is invoked only in some rare instances where a PIO simply refuses to even acknowledge the PIO has received a request under the TPIA. Use of either of these provisions is exceedingly rare, but there may be facts here to justify it. (personal communication, 2022)

### **Liabilities outside the Texas Public Information Act**

Larsen said:

There are several provisions in the Texas Penal Code that appear to me to be potentially applicable to the PIOs involved in responding to requests in the wake of the Uvalde mass shooting. I have highlighted the potentially applicable provisions and followed the respective statutes with some comments. [The highlighted portions have been **bolded**].

§ 37.08. False Report to Peace Officer, Federal Special Investigator, Law Enforcement Employee, Corrections Officer, or Jailer.

(a) A person commits an offense if, with intent to deceive, he knowingly makes a false statement that is material to a criminal investigation and makes the statement to:

(1) a peace officer or federal special investigator conducting the investigation;

(2) any employee of a law enforcement agency that is authorized by the agency to conduct the investigation and that the actor knows is conducting the investigation; or

(3) a corrections officer or jailer.

(b) In this section, "law enforcement agency" has the meaning assigned by Article 59.01, Code of Criminal Procedure.

(c) An offense under this section is a Class B misdemeanor.

There certainly appears that law enforcement representatives made false statements following the Uvalde massacre, including false statements made to Governor Abbott. If false statements were made to Abbott, it's hardly a stretch to think they were made to other employees of law enforcement agencies.

§ 37.09. Tampering With or Fabricating Physical Evidence.

(a) A person commits an offense if, knowing that an investigation or official proceeding is pending or in progress, he:

(1) alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or

(2) **makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.**

(b) This section shall not apply if the record, document, or thing concealed is privileged or is the work product of the parties to the investigation or official proceeding.

(c) An offense under Subsection (a) or Subsection (d)(1) is a felony of the third degree, unless the thing altered, destroyed, or concealed is a human corpse, in which case the offense is a felony of the second degree. An offense under Subsection (d)(2) is a Class A misdemeanor.

(c-1) It is a defense to prosecution under Subsection (a) or (d)(1) that the record, document, or thing was visual material prohibited under Section 43.261 that was destroyed as described by Subsection (f)(3) of that section.

(d) A person commits an offense if the person:

(1) knowing that an offense has been committed, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense; or

(2) observes a human corpse under circumstances in which a reasonable person would believe that an offense had been committed, knows or reasonably should know that a law enforcement agency is not aware of the existence of or location of the corpse, and fails to report the existence of and location of the corpse to a law enforcement agency.

(e) In this section, "human corpse" has the meaning assigned by Section 42.08.

Again, law enforcement representatives made false statements following the Uvalde massacre, including false statements made to Governor Abbott. It would not be a stretch to think that these false statements were put into writing which would bring them within the ambit of this statute.

Tampering With Governmental Record.

(a) A person commits an offense if he:

(1) **knowingly makes a false entry in, or false alteration of, a governmental record;**

(2) **makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;**

(3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;

(4) possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;

(5) makes, presents, or uses a governmental record with knowledge of its falsity; or

(6) possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

(b) It is an exception to the application of Subsection (a)(3) that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

(c)(1) Except as provided by Subdivisions (2), (3), (4), and (5), and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

(2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was:

(A) a public school record, report, or assessment instrument required under Chapter 39, Education Code, data reported for a school district or open-enrollment charter school to the Texas Education Agency through the Public Education Information Management System (PEIMS) described by Sections 48.008 and 48.009, Education Code, under a law or rule requiring that reporting, or a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree;

(B) a written report of a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action;

(C) a written report of the certification, inspection, or maintenance record of an instrument, apparatus, implement, machine, or other similar device used in the course of an examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action; or

(D) a search warrant issued by a magistrate.

(3) An offense under this section is a Class C misdemeanor if it is shown on the trial of the offense that the governmental record is a governmental record that is

required for enrollment of a student in a school district and was used by the actor to establish the residency of the student.

(4) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the governmental record is a written appraisal filed with an appraisal review board under Section 41.43(a-1), Tax Code, that was performed by a person who had a contingency interest in the outcome of the appraisal review board hearing.

(5) An offense under this section is a Class B misdemeanor if the governmental record is an application for a place on the ballot under Section 141.031, Election Code, and the actor knowingly provides false information under Subsection (a)(4)(G) of that section.

(d) An offense under this section, if it is shown on the trial of the offense that the governmental record is described by Section 37.01(2)(D), is:

(1) a Class B misdemeanor if the offense is committed under Subsection (a)(2) or Subsection (a)(5) and the defendant is convicted of presenting or using the record;

(2) a felony of the third degree if the offense is committed under:

(A) Subsection (a)(1), (3), (4), or (6); or

(B) Subsection (a)(2) or (5) and the defendant is convicted of making the record; and

(3) a felony of the second degree, notwithstanding Subdivisions (1) and (2), if the actor's intent in committing the offense was to defraud or harm another.

(e) It is an affirmative defense to prosecution for possession under Subsection (a)(6) that the possession occurred in the actual discharge of official duties as a public servant.

(f) It is a defense to prosecution under Subsection (a)(1), (a)(2), or (a)(5) that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

(g) A person is presumed to intend to defraud or harm another if the person acts with respect to two or more of the same type of governmental records or blank governmental record forms and if each governmental record or blank governmental record form is a license, certificate, permit, seal, title, or similar document issued by government.

(h) If conduct that constitutes an offense under this section also constitutes an offense under Section 32.48 or 37.13, the actor may be prosecuted under any of those sections.

(i) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement "NOT A GOVERNMENT DOCUMENT" or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed

clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth inch in height.

Finally, again, law enforcement representatives made false statements following the Uvalde massacre, including false statements made to Governor Abbott. If any of these false statements were committed to writing, it's hard to see how this statute would not apply. (personal communications, 2022).

## Appendix F

### Interview with Crisis Communications Expert Judy Pal

The following are transcribed quotes from an in-person interview conducted on March 29, 2023, in Plano, Texas with Judy Pal of 10-8 Communications.

Pal is a former assistant commissioner with the New York City Police Department, former communications director for the Atlanta Police Department and former chief of staff for the Baltimore and Milwaukee police departments.

When she heard about the communication failures in Uvalde, her initial response was she was “terrified for the profession and also terrified for our position,” adding:

...the fact that information about the event was coming from so far removed from the event should have been a red flag for anyone...There was information coming out when they were still in stage two of a crisis - stage two being insufficient information. (Pal, personal communication, 2023).

They were in the “evidence gap” when Pal (2023) says “we know this very little but the thirst for information is off the charts so there is this big gap between what you truly know and what people want to know.”

Why did we believe the initial stories? Pal (2023) said:

We’d all like to think these officers are trained. This is what the SOP is, they must have done that, but they didn’t. That was a big failure of the information because people were talking about what they hoped for and thought but not what they knew as fact.

Could a good PIO have helped? Pal (2023) says:

Only if the good PIO was working for a good leader who actually trusted their PIO. You can have the best PIO in the world, but if leadership, if chief executives, don't have them

in the right position in the command structure -- we all know ICS, that PIO is supposed to sit right beside the incident commander, very many police departments have a PIO reporting to a Deputy Chief, reporting to a Major, reporting to a Sergeant, which is insane. You can still be a great PIO, but if your leadership doesn't trust you with information and trust you to make the right decisions and listen to you, you can be the best PIO in the world and it's still not going to work.

In the interview, Pal (2023) also addressed how misinformation happens, noting that PIOs should include "wobble room words" and make sure the news media know the information is preliminary and subject to change. She noted these issues in regard to two previous mass shootings: "These issues came out in the After-Action Reports from the Pulse Nightclub and the Harvest Music Festival shootings. When the official timelines come out, the conspiracy theorists will jump on a difference of 30 seconds."

Pal (2023) also reminds PIOs that most of the time, the news media is not the target audience, just the conduit:

Who do I want to hear the correct information? I want my community to hear that and I have in the past taken media to task when they won't correct something that is absolutely incorrect. XYZ Media outlet is incorrectly reporting this, the truth is this. Here is the back-up, here in the incident. 98.5% of reporters want to report the correct information, they really do. Most of them will make that correction. However, there is a small group of reporters that say 'that's not going to get us clicks' and they're not going to make that correction. Then it behooves you, as an organization, to stand up, be brave, and correct it yourself. That takes a brave leader.

Pal (2023) also addressed how it is possible for a PIO to get wrong information, such as not having direct access to officers at the scene. “They're getting information from a sergeant, or an incident commander and the incident commander is being told something as well,” she said. Body camera and surveillance camera footage have changed how information is shared as well, offering PIOs and law enforcement another record of events, says Pal (2023):

When you're in that stressful situation and there is the fog of the incident, you don't remember how many shots were fired or which way it was coming from. Then they say ‘well, you lied’. No, that was my human recollection of it but now we have the advantage of having body worn cameras and “oh yes, of course, that's what happened.” There always needs to be that wiggle room and a lot of people in our communities now because we live in an ADD world, they want to know the answer, they want it to be the right answer, and they want it today.

How can PIOs avoid the misinformation bubble? Pal (2023) says:

What a good PIO can do is let people know we are going to provide the facts as soon as they are confirmed because if we don't, we're going to mislead you and that is the last thing we want to do as a public safety agency. You need to know the facts.

However, Pal says the work does not just start with the crisis, but well before. PIOs have to develop that level of trust with their community and the news media before the crisis happens.

When asked how things may have been different in Uvalde, Pal (2023) said:

Had they developed a level of trust beforehand? Was there even a communications person? Was there a plan in place? I don't know. All that rolls into the mess of the information void that ended up happening and all the misinformation and some disinformation which caused even more pain and suffering for everyone involved.

Pal (2023) says that trust does go both ways:

If we want to create legitimacy and we want people to trust us, we also have to trust that folks will listen to us when we say ‘we are working to get this information, this is what I can tell you right now, and as soon as I can confirm, we will tell you this.’

When asked if public safety agencies are behind the private sector when it comes to handling crisis, Pal (2023) says:

Words really matter...we’re just starting to realize in law enforcement how important words are. I don't think enough police leaders, emergency services leaders, have invested in that PIO position to realize how important it is. Maybe I’m horrible thinking like this, maybe that’s a tiny good thing that comes out of it is that we realize the importance of our words and realize the importance of getting correct information.