

6-16-85

Feazell warns city about data

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District Attorney Vic Feazell said Saturday he believes information used in a Friday night Dallas television station report about the handling of drunken-driving cases in McLennan County was gained from illegally released records.

He said if expunged records have been released, it could result in lawsuits being filed against the city of Waco.

Feazell said at least one of the six driving-while-intoxicated cases mentioned in a WFAA-TV (Channel 8) report Friday was from a case that had been expunged, and records of the case should have been destroyed.

"I think it's something that the (Waco) City Council should look into because it may be opening the city up to legal liability," Feazell said.

Feazell said he has learned that

Channel 8 reporter Charles Duncan obtained records from the Waco Police Department that had been ordered destroyed by a McLennan County judge.

Feazell said it is a Class B misdemeanor to release expunged records, and a felony not to destroy records ordered expunged.

Waco Police Chief Larry Scott said Saturday he has released information available under the Open Records Act to Duncan, but

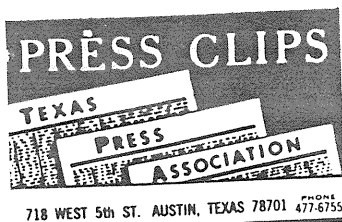
denied that any expunged records have been released.

"No. None that I know anything about," Scott said.

Scott said that if he had thought the release of the records would open the city up to lawsuits, "we would have never released them."

Duncan said Saturday he had "no indication that any record obtained had been expunged."

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Duncan also denied that his reports on Fezell have any connection to reported FBI and Texas Department of Public Safety investigations of Fezell.

Channel 8 on Friday aired the first of a reported series of stories dealing with Fezell. The part aired Friday questioned the handling of drunken-driving cases in McLennan County while Fezell has been district attorney.

Fezell said Friday night the timing of the reports makes him believe there is a connection between the McLennan County grand jury probe of Henry Lee Lucas and the reported FBI and DPS investigations of Fezell.

"It's an obvious smear campaign," Fezell said. "The timing is very suspect. I believe that Charles Duncan is doing the dirty work for some of the big boys in Austin."

Duncan could not be reached for comment Friday night, but he contacted the *Tribune-Herald* Saturday and said his investigation of Fezell and the district attorney's office has no connection to the grand jury probe of Lucas.

"The FBI won't even talk to

me," Duncan said.

Duncan said he originally considered doing a profile of Fezell shortly after the Lucas grand jury probe began in early April, but the focus of the story shifted after he began interviewing Waco lawyers and acquaintances of Fezell.

Duncan said that even though his investigation coincided with the Lucas probe, "it has absolutely nothing to do with Henry Lee Lucas, and I don't know about the DPS investigation (of Fezell)."

According to Duncan, the FBI investigation of Fezell began in December, well before he considered doing a series on Fezell.

Fezell said he believes Duncan might have a closer connection with the FBI investigation than he admits.

"The rumors about the FBI did not start until after Charles Duncan hit town. It sounds like Duncan may have gone to the FBI, not that he learned there was an FBI investigation," Fezell said.

Fezell has refused to be interviewed by reporters from Channel 8.

"I'm not going to dignify anything (Duncan) has to say with any kind of response. I don't care what he said. I knew what his mo-

tives were from the start," Fezell said.

Duncan said he has interviewed approximately 50 people in the Waco area for background for his reports.

In the second part of the series, aired Saturday, Duncan raised questions about the dismissal of drug and DWI cases in which the defendants had personal ties either to Fezell or one of his prosecutors.

The third part of the series is scheduled to air Monday.

In Friday's Channel 8 report, Duncan said he learned that the FBI was probing Fezell and "a

half-dozen defense attorneys in Waco, looking into how they handle DWI cases."

The report said the federal investigation centers on reports that DWI suspects in the county got cases dropped after paying "about \$3,000 to any one of a handful of Waco defense lawyers."

Fezell said information in Friday's report was based on "third-hand sources," and "not a single attorney was quoted directly."

Fezell also said he believes Duncan's source was a former McLennan County assistant district attorney who was fired in

December.

"My sources were defendants, the mothers of defendants and court records," Duncan said.

There were six DWI cases specifically mentioned in Friday's report, and Fezell said Channel 8 is being selective in its investigation of DWI cases in McLennan County.

"We've handled more than 7,500 DWI cases since I've taken office, and he pulls out six or 12," Fezell said.

"What angered me about the story he did, is that he was quick to point out the cases where a lawyer may have earned a big fee, but

he didn't mention the cases in which we may have recommended a dismissal, where the defendant could not even afford a lawyer, or had a lawyer he could not pay.

"Duncan is trying to make it look like something that it's not, and if that sissy wants to come down here and run for DA, I will welcome it because I think the people of McLennan County elected me to use my sound discretion.

"If every single case were to be prosecuted, a computer could do that. You wouldn't need a living, breathing, feeling district attorney," Fezell said.