

Prosecutors argued in US District Court yesterday that WLVI-TV (Ch. 56) should turn over a 45-minute videotape of a jailhouse interview a reporter conducted with bomb suspect Thomas A. Shay last October.

Shay was indicted, along with Alfred W. Trenkler, on charges of conspiring to kill Shay's father, Thomas L. Shay, by attaching a bomb to the undercarriage of his car in the driveway of the elder Shay's Roslindale home. The bomb exploded on Oct. 28, 1991, killing a Boston police officer, Jeremiah Hurley, and injuring his partner, Francis X. Foley.

Only portions of the interview, conducted Oct. 17, have been aired and Assistant US Attorneys Paul V. Kelly and Frank A. Libby Jr. believe that Shay may incriminate himself and Trenkler during the interview and would like to use the tape as evidence.

US District Judge Rya W. Zobel did not rule yesterday on whether the television station should turn over the tape, but she did set Trenkler's trial date for the first week in August.

Shay's trial had already been set for June 28. Shay, 21, of Quincy, and Trenkler, 36, of Milton, will be tried separately.

Libby argued that the tape should be made available because there is no confidentiality issue, since no unnamed sources are included, and there would be no chilling effect on news-gathering.

WLVI attorney Mark Tully said Zobel should not even view the tape in her chambers and that it should not be turned over to the government. He also said that news-gathering operations should not be viewed as agents of the government.

In the portions of the interview that have been aired by Ch. 56, Shay says: "I am guilty of knowing who built the bomb after the fact. I did not know anything about the bomb, or explosives, in this case at any time before Oct. 28 . . . not one piece of information."

He also states that he purchased "stuff" for his friend that he thought the friend would use for his antenna business.

Shay also states that his friend was angry at the elder Shay for his son's troubled past and alleged abuse in foster care.

"He was angry that it happened to me and maybe thought it was my father's fault or my mother's fault. So he builds a bomb and tries to kill my father and thinks I'm going to be happy about it," he states on the tape.

Law enforcement sources have said they believe Trenkler built the bomb at Shay's request and that Shay wanted to kill his father because of his unhappy childhood and because he believed he would inherit up to \$400,000 that his father stood to gain in a civil suit.