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Few sheriffs, police chiefs willing to turn over criminal incident reports

By Mark Di Vincenzo
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On Aug. 10, Kimberly Miller went to the Sheriff's Office in New Kent County and asked for a crime incident report from Aug. 3. A sergeant yelled, "Not in New Kent County," and slammed the door in her face.

That same day, Tom Fredrickson was told to leave the Gloucester County Sheriff's Department after he asked for a crime report.

Lawrence Latane III was treated better when he asked Alexandria police officers for a report, but he was told it had already been shredded.

As part of a joint reporting project, news organizations throughout Virginia dispatched newsroom employees to all of Virginia's sheriff's offices and city police stations during the same week in August. Their mission: to request a crime incident report or crime log. The employees, who included reporters, secretaries, clerks and newsroom librarians, did not say they worked for newspapers.

In only 16 percent of the offices did the requester receive a document. The rest got nothing at best, a hard time at worst.

Many law enforcement officers don't know what information Virginia law requires them to release, the requesters learned. Most believe crime reports are not public information. Several officers said they don't release them unless a court orders them to do so. Others said the reports are available only to people from insurance companies, to crime victims or to "officials."

There is a debate about whether crime reports, even in part, are public documents covered by Virginia's Freedom of Information Act. That debate is part of a broad review of the FOIA, the law that allows the public to see information generated by state and local government agencies.

FOIA excludes a variety of documents relating to criminal investigations. But the law specifically includes two kinds of records: arrest records of adult suspects and "criminal incident information" relating to felony crimes.

The law defines criminal incident information as the date, place and description of the crime and the name of the investigating officer. It also includes a description of any injuries, property damaged or property stolen during a crime.

Such information can be useful to citizens who want to know about crimes in their neighborhoods so they can take precautions. That's why the newspapers involved in the FOI project selected crime reports as one of the five records they would seek.

But sheriffs and police chiefs say their crime incident reports contain

more than "criminal incident information." They say the reports can include sensitive information they don't want to release, such as the names of suspects who haven't been arrested and the names of victims, juveniles and informants.

Some sheriffs and police chiefs black out that information before they release the reports to reporters. The majority didn't release anything to anybody.

Virginia's open-records law says that if a public record contains exempt information, the public body may delete that part of the record. Whether or not the office excises the exempt information, it must release the public information, according to the law.

The law allows authorities to withhold at least some information about ongoing criminal investigations, and that's where confusion can occur.

"Clearly, the law is the law, and every attempt should be made to comply with the spirit of FOIA. But clearly the area of law enforcement is a grayer area than some others because you're dealing with confidentialities, sometimes dealing with investigations and individuals' reputations," said David Botkins, press secretary for Virginia Attorney General Mark Earley.

Access proponents say the FOI law is supposed to benefit the general public as well as reporters.

"Police chiefs and sheriffs ought to disclose all crime incident reports in their communities," said Forrest Landon, executive director of the Virginia Coalition for Open Government, a group that wants the public to have more access to information generated by government agencies.

"That's how they should interpret the law," added Landon, a former editor of The Roanoke Times. "Unfortunately, they arbitrarily decide what they want to release."

The newspaper employees who asked for crime reports in August got an earful from dispatchers, secretaries, sheriff's deputies and police officers who didn't release them.

One asked a dispatcher with the Bath County Sheriff's Department whether state law requires the sheriff's office to release crime reports. Came the answer: "Yes, but this is Bath County."

Two months after the visit, Charles Black, the sheriff in Bath, said during an interview that he never releases crime reports. Sometimes he will release the "five or six things" defined as criminal incident information, "but not before I know who wants it and why."

A deputy in Northumberland County told a requester, "You can't see those. They're public documents." Then she said, "How would you like it if somebody came to your house and asked to see your personal records?"

Northumberland County Sheriff Wayne Middleton later said, "We do not turn over any information to the general public." A citizen may not see a crime report in Northumberland unless he is named in the report as a victim.

Black and Middleton say they have agreements with local reporters about what they will publish. By releasing information to reporters, they believe they are in effect releasing it to the general public and are complying with the law.

Highland County Sheriff Herbert Lightner told a requester he couldn't see a report because, "We can't release the names of people arrested unless they're convicted." That's a direct contradiction of the open records law.

A clerk in Southampton County said, "None of our information is public information."

A secretary with the Roanoke County Police Department said she releases crime reports "only when someone has a good reason."

"It is extremely difficult for John Q. Citizen to walk in the door and get any information," Lt. Wayne Haynes, who is in charge of police records in Roanoke County, said in an interview. "If the law says I don't have to give it to you, you're not going to get it. If you call me and say, 'The police were in my neighborhood yesterday. What happened?' I'll probably tell you when they came, where they went, not much more" than what the law requires.

A Westmoreland County dispatcher told a reporter, "Unless you're a lawyer or with some official office, I can't give you that."

A clerk in Wythe County said the crime reports are available only to insurance companies.

A reporter who identified himself as a concerned citizen was told by a jailer in Bland County the reports are not available to concerned citizens. "The only way to get that is through a court subpoena."

A Lunenburg County sheriff's deputy told a requester that the crime reports are the sheriff's records, not public records.

A lieutenant with the Greenville County Sheriff's Department said the reports are personal, confidential information for the sheriff's office. "We just can't dish it out to anybody."

Several newspaper employees got what they asked for but almost never without a lot of questions. Clerks and secretaries explained that ordinary citizens rarely ask for crime reports, and the clerks wanted to know why they wanted the information.

Officers, deputies and clerks who cooperated with the undercover reporters tend to have a broader view of what the general public can expect to receive under the Freedom of Information Act.

"All of our reports are open to the public except certain information like juveniles' names and addresses," Sgt. Howard Porter of the Albemarle County Police Department said in a subsequent interview. "Our philosophy is most crime incident reports fall under the Freedom of Information Act."

Most sheriffs and police chiefs don't feel that way, and they vow to fight any proposed changes to the law, especially changes that would require them to release more information.

"Someday, if we have to give out criminal incident reports, those would be a one-page report with a bare minimum of information," said Botetourt County Sheriff Reed Kelly. "Then we'd keep a whole other file of crime incident reports that the public will never see. I see that coming."

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