



To: The FOIA Council subcommittee on criminal incident information  
From: The Virginia Coalition for Open Government  
Re: Proposals to provide access to some closed/inactive criminal investigative files

Wednesday, October 21, 2020

In VCOG's estimation, the goal of the legislation is to establish a mechanism to require release of some criminal investigative files in some instances. It is not to throw open the doors wide to any and every disclosure, but it is to understand that there is public interest and public value – through accountability – in records that are no longer part of an open, active investigation.

Records in a criminal investigative file have been generated, created and maintained because they have value to the agency that has them. They reflect the work of the law enforcement agency or state department.

They have value to the public, too. We whose taxes fund these offices. We who have given our consent to be governed. And we who are impacted by that governance. But these records have little value to us as a means of oversight if we cannot access them.

There are defendants, victims, families of both, media, researchers, academics, civil rights advocates, attorneys, former officers, and others who have interest in these files.

The public has an interest in monitoring the work of the government. The government with a very difficult and delicate job to do, but the government with extraordinary power over individuals and communities.

And law enforcement. They too have an interest in transparency. The records can refute a claim of malfeasance or prove that decisive action was taken when things went wrong. They can corroborate competence or adherence to policy. They can tell the story of the hard work that went into solving or pursuing a case.

Attempts to open up the records relating to policing, prosecuting and punishing people have been fought under a doomsday scenario that sees access to records and the information contained in them as a tool for new or additional wrongdoing. Records will be manipulated or altered. Records will jeopardize



some other possible prosecution some time in the future. Records will be used to harm officers. Records will be quoted out of context. Or, the public doesn't have the ability to understand what's in the records.

But make no mistake: plenty of other states around the country – from “red” Louisiana to “blue” Connecticut – allow access to a far larger pool of criminal investigative files without compromising the integrity of the records or the safety of law enforcement personnel.

We are not wedded to one particular way to achieve the goal of opening these records and are willing to work on compromise legislation. But we wholeheartedly believe that some measure of access must be allowed.

We thank the subcommittee for taking up this important work.

A handwritten signature in black ink that reads "megan".

Megan Rhyne

Virginia Coalition for Open Government