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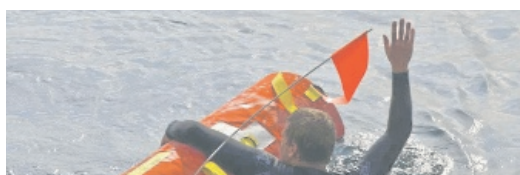
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BLACKOUT

Racine County DA urges police to not release information about recently reported crimes

SCOTT WILLIAMS
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BURLINGTON — Police agencies are tightening public access to records and information about public safety matters in Burlington and other communities, under the guidance of the top law enforcement officer in the county: District Attorney Tricia Hanson.

The Burlington Police Department has imposed a near-total blackout on the latest information about crime reports and investigations that either could

result or have resulted in ongoing prosecution of suspects.

That means residents could be left in the dark about occurrences as serious as assaults or robberies until after a suspect has been charged and gone through a trial — a process that often takes several months and sometimes years.

The new policy in Burlington was developed in consultation with the Racine County District Attorney's Office. Other police departments in the county say they, too, have been advised by

the DA to withhold public disclosures on any case headed to court.

That means that the public will not be allowed any information about criminal cases until trial, unless law enforcement officials choose to release information.

The approach comes on the heels of numerous police-involved shootings and other incidents across the country — including the police shooting of Jacob Blake in Kenosha in August 2020 and the shooting death of Ty'Rese West in Mount Pleasant in June 2019 — that stirred pro-

tests and have put the actions of law enforcement officers under an increasingly intense microscope.

Sgt. Kristi Wilcox of the Racine Police Department said the district attorney "doesn't want anything released" to the public in cases that have not yet been decided by a judge or jury.

"We're going to go with what the district attorney asks," Wilcox added. "We work hand in hand that way."

Other police departments and prosecutors in Wisconsin, on the

other hand, say they are continuing to provide greater transparency for the public and have not imposed an across-the-board policy of nondisclosure like officials have in Racine County.

The state's open records law requires police departments and other government agencies to ensure public access to records under most circumstances, although police can withhold materials that are part of ongoing criminal investigations. With

Please see **BLACKOUT**, Page A3

RACINE COUNTY FAIR | 100TH ANNIVERSARY



SCOTT WILLIAMS PHOTOS, SCOTT.WILLIAMS@JOURNALTIMES.COM

Volunteer organizer Julie Moyer looks over an old Mercantile Hall sign inside the 1927 Racine Mercantile Hall building undergoing a restoration effort on the grounds of the Racine County Fair in Yorkville.

Referendum could be coming

Mayor wants to ask voters for \$2M to beef up police

ADAM ROGAN
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RACINE — Amid rising crime and violence, Mayor Cory Mason is hoping to ask voters in August to allow a cumulative \$2 million increase in taxes to "fund additional positions in the Racine Police Department" as well as to "support violence prevention initiatives."

A similar referendum, for \$2.5 million, will be in front of voters in the City of Kenosha later this year as well. But the last time the City of Racine attempted a referendum, the public shot it down by an almost 2-to-1 margin.

That was in November 2020, and the referendum failed by a vote of 19,106 to 10,198.



Mason

On Friday, May 20, The Journal Times asked Mason — during an interview for a not-yet published report — if he was considering pursuing such a referendum. He indicated at the time that he was open to the idea but was wary, in part because of how badly the 2020 election had failed.

Now, a week later, Mason has announced an effort to quickly get a referendum on the ballot.

The deadline to get a referendum on the Aug. 9 ballot, as Mason announced Friday he hopes to do, is tight.

According to a release, "the

Please see **REFERENDUM**, Page A10

History makes a comeback

SCOTT WILLIAMS
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YORKVILLE — A piece of Racine County Fair history has been salvaged and restored, and will be back in service during this summer's 100th-anniversary county fair.

Donors have contributed nearly \$100,000 to refurbish the Racine Mercantile Hall, a project that is approaching completion after a successful effort led by volunteers.

Once a center of activity during the yearly county fair, Mercantile Hall had long since fallen into disrepair and been

closed to the public, relegated to a place for storage of picnic tables.

But organizers of a restoration effort launched last year say the historic building will reopen and will welcome back visitors during the 2022 county fair, scheduled to open July 27.

Please see **HISTORY**, Page A10

Located at 1549 15th Ave. on the county fairgrounds in Yorkville, Mercantile Hall has been refurbished and repainted to its original colors of steel grey and forest green.



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FAMILY & LIFE D1 OBITUARIES B4-B5 RACINE COUNTY B1 TV LISTINGS A2, A5, A9



Blackout

From A1

increasing regularity, this law has been interpreted locally to keep police reports regarding crimes from being publicly reviewed until long after the reports have been filed.

The open records law, in setting out strict requirements for disclosure, sets out the state policy as follows: "All persons are entitled to the greatest possible information regarding the affairs of government."

Open government advocates say Racine County's standing policy of withholding public police records and information is an overreach. It constitutes a misinterpretation, those advocates say, of a state law designed to protect sensitive police intelligence in isolated and limited cases.

New rules called 'reckless'

On Feb. 11, The Journal Times included a short report of a sexual assault that had been reported at

Burlington High School. Details of the incident were sparse at the time, and police and prosecutors refused to disclose anything more — including whether a suspect was in custody.

After that, the blackouts started.

The Burlington Police Department has since blacked out, or "redacted," from public scrutiny information on 94 police calls — more than one a day, on average — including information showing when the calls were received, where police were sent, and what sort of crime or other incident was reported.

Burlington Police Sgt. Robert Jones later told the Journal Times that all such information would be redacted in the future from regular police-blotter reports available to the public.

"We are redacting all police reports that are still under investigation or have yet to be adjudicated in court," Jones told a reporter. He cited a provision in the state's open records law, which establishes limited exceptions to the requirements for maintaining records for public inspection.

Going dark

Another barrier to public insight of police activity locally in recent years came in spring 2020. That's when Racine Police Department radios began to transmit on digital channels — encrypted from the public, leaving public scanners silent. Handheld scanners and scanner apps available on most smartphones are no longer able to receive transmissions, leaving the general public deaf to unfolding events. The public can still listen to the scanner for other area departments, just not the RPD.

One of those exceptions includes records that involve "a complaint, investigation or other circumstances that may lead to an enforcement action, administrative proceeding, arbitration proceeding or court proceeding."

Jones said the department consulted with the Racine County District Attorney's Office in establishing the new policy.

Bill Lueders, president of Wisconsin Freedom of Information Council, called it "reckless" for police to keep the public uninformed about any case not yet decided in court.

Lueders said state law does not allow police departments to categorically exempt all records in all cases from public scrutiny that

are still awaiting a court decision. The law, he said, requires law enforcement officials to consider each such record individually and to apply a balancing test to gauge whether public transparency outweighs concerns about future prosecution.

Certainly, Lueders said, by the time police records have been shared with defense attorneys as part of pre-trial discovery, there can be little argument that sharing the same records with the public would jeopardize a prosecutor's case.

"Why should others not be able to see it?" he said. "To create a blanket policy runs a risk of running afoul of the law."

Prior to February, rarely if ever

the police blotter The Journal Times receives from the Burlington Police Department would have any incidents blacked out. The blotter would list a brief description about each incident the police department responded to: assaults, drunk driving incidents, minor traffic violations, noise complaints, bar fights, etc.

Now, only non-criminal incidents are listed, with seemingly all others blacked out; if something non-criminal is blacked out, it is impossible to find out what it was.

There are often months and sometimes years between when an investigation is effectively over and when a court case actually concludes.

On May 16, a Milwaukee man — George Pearson-Robb — was sentenced for kidnapping two children and their pregnant mother overnight before stealing more than \$40,000 from the Wells Fargo on Dr. Martin Luther King Jr. Drive where the mother was the bank manager. The bank robbery occurred on


Please see **BLACKOUT**, Page A8



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Blackout

From A3

June 29, 2019; criminal charges were filed on July 11, 2019; and Pearson-Robb was found guilty by a jury Dec. 17, 2021.

That leaves a 902-day gap between the initial crime and the jury actually finding Pearson-Robb guilty; and a 1,052-day gap between the initial crime and the case being officially considered closed.



Hanson

DA Hanson, who was elected in 2016, said she interprets the “court proceeding” exemption in the open records law to mean that police reports can be withheld from the public as long as a prosecution is either being contemplated or still in progress. Even after a suspect has been charged with a crime, Hanson said, the investigative work sometimes continues, allowing police records to remain under wraps.

“That’s exactly what the state law says,” she said.

‘Not the DA’s call’

Criminal complaints also contain much more sparse information than actual police reports.

Criminal complaints typically include somewhat brief recaps of the allegations and are rarely more than 10 pages. Police reports, however, can be dozens or more than 100 pages long. The complaints also frequently are not issued until days or weeks after police have detected and investigated alleged criminal activity.

Hanson said she does not dictate how police departments handle their public records, but said she is involved in those decisions. She said she contacted Burlington police after The Journal Times reported on the Feb. 11 sexual assault report at the high school, which her office was still reviewing for possible charges.

Saying that police should not have disclosed the sexual assault report to the public, Hanson said: “I can’t have stuff like that going out. I contacted the chief and said ‘This has to stop.’”

The district attorney has since disclosed that she elected not to



Call List Simple With Additional Disposition

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Call#	Reported Date	CAD CFS	Location
22-002660	03/24/22 08:05	Crime Prevention	100 S Dodge St;BU
22-002659	03/24/22 06:23	Rescue Run	180 W Chestnut St,1;BU
22-002658	03/24/22 03:50	Crime Prevention	400B Mccanna Pw;BU
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
22-002654	03/23/22 22:29	Crime Prevention	1901 Milwaukee Av;BU
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
22-002653	03/23/22 22:02	Rescue Run	180 W Chestnut St,1;BU

BURLINGTON POLICE REDACT PUBLIC INFORMATION ABOUT ROUTINE POLICE CALLS

An image captured from Burlington Police Department public records shows that the department is blacking out, or “redacting,” incidents that remain under investigation or could lead to prosecution, ever since The Journal Times reported on a sexual assault reported in February at Burlington High School.

press any charges against a Burlington High School student accused of sexual assault.

Other police department officials said they, too, withhold public records about police activity at the district attorney’s direction.

Wilcox, the RPD’s public information officer, cited concerns about tainting future jury pools by releasing information and having news media coverage of sensitive details that could make it difficult to seat impartial jurors in criminal cases.

Sturtevant Police Chief Sean Marschke said his department similarly keeps a lid on public records when police uncover something that could result in prosecution. Marschke said he checks with the district attorney’s office before disclosing information in such instances.

“We always check with them,” he said of the DA’s office. “They will advise whether it’s to be released.”

The district attorney’s office routinely discloses most of its criminal complaints, as new charges are announced against defendants. Those complaints typically provide brief summaries, but are not as detailed as police records. The complaints also

frequently are not issued until days or weeks after police have detected and investigated alleged criminal activity.

Some police departments distribute press releases as a way of alerting the public to significant or unusual incidents. The frequency of such releases, however, can vary greatly from department to department.

Burlington city archives show five police press releases in the past five years, addressing a police officer’s death in 2017, a small plane crash in 2020, a sex crime arrest in 2021, and two in the past week — one for a child pornography arrest and another for a student having a mental health crisis who was taken into custody at Burlington High School.

Burlington police currently average about 35 calls for service daily, or 13,000 a year. In contrast, the Racine County Sheriff’s Office regularly issues releases about arrests and other critical incidents. On May 12, for example, the sheriff’s office publicly released video of a man accused of OWI failing field sobriety tests.

Burlington police officials sometimes invoke a need for a “DA authorization of release” when asked about such criminal activity. Han-

School sex assault case cleared

BURLINGTON — A 17-year-old boy at Burlington High School will not face charges, after a female student accused him of sexually assaulting her.

Racine County District Attorney Patricia Hanson said she declined to press charges in the incident, which occurred Dec. 16 under a stairwell at the school, 400 McCanna Parkway.

The girl, whose age was not disclosed, reported the attack Feb. 11 after police and school officials questioned her about it.

The Journal Times reported on the incident in March based on limited information disclosed in a public police department blotter-style summary of calls for service.

According to police records released Wednesday with the DA’s approval, the girl student told police that the suspect grabbed her by the wrist about 11 a.m. Dec. 16 and pulled her under a stairwell where there were no security cameras inside the school. The suspect then grabbed her neck, forcibly kissed her and shoved her hand down inside his pants, she said.

Police reports indicate that school surveillance video showed the girl walking out from under the stairwell, followed by the 17-year-old boy, and that the boy “appeared to briefly touch his pants as he walked away.”

In deciding against charging the suspect, Assistant District Attorney Diane Donohoo told police their investigative reports did not provide enough information to justify a charge.

“Reading the reports, it is not clear what actually happened,” she wrote.

son’s office in the recent past has not responded to Journal Times requests for such authorization, and police have withheld records and information.

There is nothing in state law that says police departments should not release information unless a prosecutor approves it.

Another expert on Wisconsin’s open records law said police departments should not be taking direction from an outside agency — such as a district attorney’s office — on disclosing public records or information about police business.

“That’s not the DA’s call. Those are not the DA’s records,” said Tom Kamenick, president of the Wisconsin Transparency Project, a law firm dedicated to combatting government secrecy.

Kamenick called it “bizarre” that police departments in Racine County have adopted a policy of withholding public disclosure on criminal matters until a case is decided in court. Referring to the state’s policy of open government, he said: “That’s not how it works.”

Other communities

Outside of Racine County, other

prosecutors who spoke with The Journal Times said they do not practice withholding police records until a judge or jury reaches a verdict.

“That is absolutely not my policy,” said Milwaukee County Deputy District Attorney Karen Loebel.

Loebel acknowledged that prosecutors often worry about public disclosures in pending cases and the possible effect of harming a victim’s rights or tainting potential jurors. The Milwaukee County DA does not have an across-the-board policy, nor does the DA try to influence whether police withhold public records, Loebel said.

“That’s a law enforcement decision,” she said.

Dane County District Attorney Ismael Ozanne agreed that police departments should be mindful of both the importance of protecting the integrity in ongoing cases and honoring the public’s need to know.

Ozanne said he, too, leaves it to police officials to decide their own approach to transparency.

“This is a tough area,” he said. “That’s a balance that we have to strike.”

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