

Do Elon campus police comply with public records laws?

By **BRYAN ANDERSON**
Special to *The Alamance News*

Student analysis: campus police reports heavily redacted

She was walking along South O'Kelly Avenue when an older man stopped his truck at a stop sign to let her cross the street. Looking at the man with his car window rolled down, the Elon University coed noticed he was stimulating himself sexually.

Mortified by what she had just seen and concerned the man could possibly be a sexual predator, she went to Oaks Commons to report the incident to Elon University Police. The officers treated her nicely, she said, and helped her decide whether to press charges. She decided not to since she didn't get a good look at the man in the car.

Moments later, Patrol Officer Rian Fuller wrote a report describing very little of what had happened. Saying the case was closed and that the female Elon student had refused to cooperate, he summed up what had happened in just 18 words: "On Wednesday, September 13, 2017, I responded to the Elon University Police Department in reference to suspi-

cious activity."

The student, whose name was included in the police report but wished to remain anonymous for this article, says she has felt less safe on Elon's campus ever since. She now refuses to

appearance, no identifying information about the suspect was included in the campus police report.

An analysis of 88 incident reports from Elon University Police during the fall of 2017 reveals a pattern of question-

ber were analyzed from Duke University, UNC-Chapel Hill and the Town of Elon municipal police department. While each agency differs in its reporting strategies, Elon University withheld more information than any other department, according to the review.

Of a total of 88 reports, Elon University Police redacted 171 names, more than all other departments in their 1,107 reports, combined. Among the names Elon University Police withheld were seven people accused of assault or harassment. Elon's campus police most frequently redacted names in cases involving drugs or alcohol.

For the student who had been the victim of the man's indecent exposure, knowing the names of people accused of crimes would make her feel safer on campus, she says.

(See **ELON CAMPUS POLICE, PAGE 4**)



Editor's Note: The week of March 11-17 has been designated as Sunshine Week, a time commemorated by the American Society of Newspaper Editors and the Reporters Committee for Freedom of the Press to highlight the importance of open government and the people's right to know – as well as the converse dangers of how excessive and unnecessary secrecy undermine those principles. We thought Elon University's recent graduate Bryan Anderson's very thorough examination of how crime reports are treated by the Elon town police vs. the Elon campus police, and how that treatment compares with campus police at other nearby universities (UNC-Chapel Hill and Duke) raised important issues.

walk alone at night. She told this reporter in a series of private Facebook messages she believed University Police would update her on how the case progressed. She said she never received an update. While she claims to have provided officers with details about the suspect's physical

able reporting practices – or, perhaps more accurately, non-reporting – from a department that appears to err on the side of protecting student privacy at the expense of transparency and its legal obligations.

More than 1,100 additional police reports made between mid-August and late-Novem-

Elon campus police reports are shorter, more heavily redacted than town of Elon police or other nearby universities' police reports

(Continued from page 1)

For this story, Elon University declined to make then President Leo Lambert or campus police chief Dennis Franks available for an interview. Instead offering carefully crafted responses to questions submitted through email.

Dan Anderson [no relation to this reporter], vice president for university communications, declined to make himself available for an interview in an emailed statement. Anderson said the university believes its redactions are consistent with state and federal laws. The review of police reports shows the university did not meet the intent behind the N.C. Campus Police Act and the federal Clery Act - more formally known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act - according to five legal experts who were consulted for this review. Both laws outline reporting practices for private university police departments.

Pattern of redaction

For years, Elon University Police has operated with minimal transparency barely meeting the minimum legal requirements, and at times, not complying with state and federal disclosure laws, based on reports that were analyzed for this story.

In March 2010, the police department refused to provide a complete incident report about a student who was arrested and charged with underage drinking and resist, obstruct and delay of arrest. Nick Ochsner, a former Elon student journalist now based in Charlotte, later sued the university for violating the state's public records laws by withholding information on the incident.

The case between Ochsner and the university made its way to the state Supreme Court, and Elon effectively won the lawsuit in 2013 following a split 3-3 decision. Ochsner had successfully managed conservative Supreme Court Justice Barbara Jackson's 2010 campaign, so she recused herself from the case. Jackson, who is now up for reelection, declined to say how she would have ruled in that case or how she'd rule in similar cases.

Immediately after the court's ruling, state lawmakers clarified existing laws to specify what information college police departments must disclose - to some extent siding with Ochsner's position. Over time, though, little has changed in how Elon University handles records requests.

In November 2012, Elon University withheld information from student reporters about a case involving the arrest of Alexis Gray, a Penn State student who drove to Elon's campus with a gun after a dispute with an ex-boyfriend who attended Elon. Gray's father called Elon police after finding a suicide note from his

daughter and credit card transactions for a 22 caliber rifle at a Burlington store. Police intercepted her in the Danleye Center parking lot. "Campus Police wouldn't hand over the incident report at first, and eventually, we got it through University Communications a week after the incident," said Joe Bruno, a former student and news director for Elon Local News, a student-run television program.

"I understand there are ongoing investigations, but that was a time when the police had information that they would have been able to release, but they didn't." For 10 days between late August and early September 2017, the public had no way of knowing about 12 incidents that took place on Elon's campus.

A men's soccer player was arrested for drunk driving. A freshman had \$300 worth of clothing stolen. A junior was charged with hit and run property damage. Two students were cited for underage drinking. One student made a voluntary commitment to the campus health center.

Citing technical glitches with its electronic reporting system, University Police made the reports available shortly after the issue was brought to their attention. "It was an error," campus police chief Dennis Franks said in an interview at the time. "An error was made. And as soon as we found out the error was made, we corrected it."

Made available were heavily redacted reports with skimpy narratives, blacked out names, missing campus addresses of students, and vague descriptions of alleged crimes.

While Duke University and UNC-Chapel Hill only provide the top sheets of their campus police reports, Elon University and Town of Elon include officer narratives in their reports. The average narrative at Elon University was less than two sentences per report, nearly four times shorter than narratives from Town of Elon Police.

Town of Elon Police blacked out no names whatsoever, provided supplementary arrest reports, and offered comprehensive descriptions of crimes, whereas Elon University Police withheld as much information as possible.

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Skirting the legal boundaries; Crime reporting is not exempted by FERPA

As a private institution, Elon University's campus police department faces a difficult task of striking a balance between protecting students' privacy interests and complying with state and federal public records laws. But in the process of finding a balance, the private university appears to err on the side of unlawful redaction.

When Elon failed to update its crime log for 10 days, it violated the Clery Act - a federal law requiring university police departments to maintain a publicly accessible log of campus crimes - according to First Amendment legal experts from the N.C. Open Government Coalition, University of Florida, Student Press Law Center and the Clery Center located in Pennsylvania.

A spokesman for the U.S. Department of Education said the Clery Act Compliance Division is not currently investigating Elon University. When instructing college police departments on how to comply with the Clery Act, the Department of Education provided the following guidance in a 2016 Campus Safety and Security Reporting guide:

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"Update your log within two business days of the crime report. Make the log available to the public during business hours."

The university also routinely fails to meet the intent of North Carolina's Campus Police Act, Jones said. The law requires private universities to provide the "name, sex, age, and address of a complaining witness" as well as the "nature of a violation or apparent violation of the law."

University Police frequently withhold student names, citing broad protections afforded to students under the Family Education Rights and Privacy Act.

"The Campus Police Act ... requires that certain specified information be made available for inspection upon request, to the extent that such disclosure is consistent with the Clery Act and FERPA," university spokesman Anderson said in his emailed statement. "The state statute also spells out the circumstances under which a campus police agency may withhold certain information. We believe redactions made in the incident/investigation reports are consistent with these state and federal laws."

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Information discrepancies

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At Elon University, though, the opposite appears to be the default.

In the narrative section of police reports, officers describe alleged violations of the law. The university's crime descriptions are much shorter than the town's.

When that same female Elon student said she was in a dormitory on Sept. 13, 2017, Fuller simply wrote, "I responded to the Elon University Police Department in reference to suspicious activity." Assault and harassment-related reports from Town of Elon Police were significantly more thorough. When a female alleged an unknown male hit her in the face and took off running before police arrived on Sept. 17, 2017, Officer Connor Rice wrote a detailed 15 sentence report, said the suspect was unknown and included the names of the victim and all five remaining

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Cliff Parker, police chief for the Town of Elon. "Police work is very challenging today, and one of the issues tends to be public trust. We always want to create an environment that says 'Look, we want you to know what we're doing and why we're doing it.'"

College and municipal police departments report cases quite differently and the location of a crime plays a large role in the public's ability to understand what happened.

At Duke University, locations are listed by number but omit specific addresses of crimes. Amanda Martin, a Raleigh-based communications lawyer specializing in First Amendment law and general counsel to the North Carolina Press Association, said a strong case could be made that Duke is not complying with N.C. public records laws since it does not provide precise addresses. Duke University Police Chief John Daley declined to comment.

At UNC-Chapel Hill, 660 names were labeled "Redacted" over the span of 679 police reports, hindering the public's ability to know the names of people who allegedly committed crimes.

Town of Elon Police provided the maximum amount of information it can under the law because it believes that is one of the best ways to build public trust, according to Parker.

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"The university holds all of its departments to high expectations for performance," Anderson said. "Its Campus Safety and Police Department is no exception."

Bryan Anderson, from Burlingame, California, is a January 2018 graduate of Elon University who majored in Journalism and media analytics. This report was prepared for one his classes at the School of Communications prior to graduation. Anderson is a freelance reporter and will be working in Washington, D.C. this summer as a news intern for USA Today.

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Whitsett evaluates bids to pave town's parking lot

By TOMAS MURAWSKI Staff Writer

Whitsett's town council has requested some information that could pave the way for the selection of a contractor to resurface the parking lot next to the community's historic town hall.

During a meeting on Tuesday, the council instructed the town's administrator Ken Jacobs to obtain a better, more detailed proposal from the lowest of four bidders that had competed for this particular job.

Jacobs identified the low bidder in this case as AAA Paving of Kernersville, which has offered to pave over the town's gravel-packed parking area for a proposed sum of \$17,995. AAA's bid came in a mere \$365 less than the next lowest offer, which the town received from D&D Asphalt Paving of Greensboro.

D&D's proposal seemed preferable to some of the councilmen due to the greater amount of detail that the company had submitted along with the bid. Jacobs insisted, however, that AAA has just to recommend itself than just

a slightly more economical bid. He said that he recently met with the contractor to assuage his own doubts about the dearth of specifics in AAA's bid. Jacobs said that the firm not only explained the particulars to his satisfaction but proved comparatively more responsive than most other contractors. He added, however, that he would never have recommended AAA if the company hadn't also submitted the lowest of the four bids that he had received for the project.

"If they were higher," he said, "and the specs were the same, I would pick the lowest offer because it's not my money; it's the people's money."

In addition to D&D, whose offer came to a total of \$18,360, the town has also received bids from Pro-Pave in Elon and Greensboro-based Ruston Paving, which turned in bids of \$24,476 and \$28,525 respectively.

Rather than take it on faith that AAA had shared a thorough, well-grounded proposal with Jacobs, the council instructed the town's manager to obtain these details in writ-

ing. Its members tentatively agreed to accept AAA's offer if the particulars are as solid as Jacobs professed.

Juvenile crime prevention council

The Juvenile Crime Prevention Council will meet Tuesday at 12:30 p.m. at the Family Justice Center, 1950 Martin Street in Burlington and are open to the public. Meetings will be every third Tuesday of each month at 12:30 p.m.

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