

Brevard performs well in public-records test

Written by Wire and staff report

Mar. 09, 2013



It seems like a reasonable idea: before the records in a criminal or civil case can be made public, Florida's clerks of court must purge them of all Social Security, credit card and bank account numbers.

In some Florida counties, that task has caused some delays in the release of records that are available under public records laws. When tested in Brevard County, those delays were only minutes. But in the state's other 66 counties some requests were never met or the need to redact the files took three days.

"If it took 15 minutes for us to retrieve and redact four files, I think that's outstanding," Brevard Chief Deputy Clerk Laurie Rice said. She said there are more than 100 copy requests that go through the Brevard clerk's office daily.

The Associated Press and newspapers throughout the state, including FLORIDA TODAY, visited every county's clerk of court offices in recent weeks to see whether each is complying with the law—which requires every file be screened to be sure it is free of personal information—and how much of a delay it is causing in the release of information. The project, under the direction of the Florida Society of News Editors, was done in conjunction with this year's Sunshine Week, an annual initiative starting today to promote greater transparency in government.

Representatives of 31 news organizations requested to view the hard copies of two civil cases and two criminal cases in each county. The criminal cases were generally a week old and six months old, as were the civil cases. Requests for 268 records were made.

There was a delay in retrieving records in just more than half of the counties, and the need to review and redact personal information led to some kind of delay, from minutes to days, in more than a fifth of the total records. Delays in getting the court records can prevent information about cases from being released in a timely manner. This is important not only to the media, but to individuals and businesses that need quick access to cases they wish to learn about.

In Brevard County, the four files requested were housed in the Moore Justice Center in Viera and the Clerk of Court's Titusville office. Three of the files were redacted and made available in 15 minutes, the fourth file was released in 30 minutes. When a file was not available, a deputy clerk provided copies of the contents, which had been imaged in the clerk's computer records system.

Although Florida's public records laws don't spell out how long it should take to retrieve a record, the courts have ruled that a record should be produced in no more time than it takes to retrieve the record and review and redact exempt information, attorney Jon Kaney said. By that standard, Brevard County performed well.

"So the reasonable time to review a document looking for exempt numbers ordinarily should be a matter of hours not days," Kaney said. "There is no allowance in the right of access for 'getting around to it.' The duty to provide access to records is equal in dignity to any other duty of a records custodian."

The files requested in Brevard as part of the statewide test were properly redacted by clerk staff. However, other FLORIDA TODAY requests have occasionally yielded documents with Social Security numbers visible.

Clerk Scott Ellis said he was not surprised there are some numbers that are missed, especially given that there was a time when those numbers did not have to be redacted.

"I have no doubt about that," he said. "You have tens of millions of pages out there."

Ellis said he was happy with accessibility of public records in Brevard, though he anticipates a day when they will be available online.

"To me, a public record is a public record no matter what the medium is," he said.

"We should be able to put online the same thing you can find in a hard-copy file."

The clerks of courts are required to convert to an electronic system by the end of this year and their offices are in various stages of meeting that goal. The redaction requirement was added to Florida's public records to protect privacy as

files become available electronically and more easily shared.

“I think there are still growing pains here,” said Jon Mills, a University of Florida law professor and former Florida House speaker. “The removal of personal information, things like Social Security and other things, we always knew that was going to be important, and not necessarily easy.”