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UVA

# 'Are they hiding something?': Calls grow louder for UVA to release review of 2022 shooting

A growing number of prominent voices are calling on UVA to hand over the report

Jason Armesto Nov 28, 2023 0



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Week in Review



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**W**ho exactly is the University of Virginia protecting?

That's among the questions being raised by critics of the school's decision to withhold an independent, external review documenting the events that led to the murder of three UVa student-athletes on Grounds last year.

Attorneys say that releasing the report would not only fulfill the university's obligation to transparency but would help bring closure to Charlottesville, the victims' families and perhaps even prevent another tragedy from unfolding in the future.



LOCAL EDUCATION

**UVa says it won't release review of 2022 shooting until after trial**

Jason Armesto

"Whenever you have a public university with such a tragic event, it's important for the public to know what happened," John Fishwick, former U.S. attorney for the Western District of Virginia, told The Daily Progress. "I think they should release it immediately."

So why is the university — which has been in possession of the report for more than a month — keeping it from public view?

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"All I can say is I have no earthly idea," Michael Haggard, an attorney for the families of the victims, told The Daily Progress. "Are they hiding something? I don't know. But I know one way you can stop the speculation on it: Release it to the families like you promised."



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The Jefferson Statue outside the Rotunda at the University of Virginia during the first week 2023-2024 school year on Tuesday, August 22, 2023.  
CAL CARY THE DAILY PROGRESS

## Making excuses

On Nov. 13, 2022, as a chartered bus returned to Grounds from a Washington, D.C., field trip, Christopher Darnell Jones Jr. was witnessed opening fire on his schoolmates, killing three and injuring two others.

Days later, UVa asked the commonwealth to order an external review of the tragedy that took the lives of football players D’Sean Perry, Lavel Davis Jr. and Devin Chandler and injured fellow football player Michael Hollins and another student on board, Marlee Morgan.



UVA  
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Attorney General Jason Miyares obliged, appointing a law firm and a former U.S. attorney to investigate the shooting, including how Jones — who had a previous firearm conviction — came to have guns in his dormitory — where firearms are expressly forbidden — and what, if anything, UVa could have done to prevent the killings.

Haggard was in touch with the attorney general’s office at the time. He said the report was originally supposed to be released in May.

“We were told it’s going to be released to the university first and then the university will release it to the families before they go public,” Haggard said.



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From left to right: Devin Chandler, Lavel Davis Jr. and D'Sean Perry.  
UNIVERSITY OF VIRGINIAATHLETICS

The external review was not concluded until Oct. 20. Miyares sent the final report to UVa that same day.

Instead of making it public, UVa said it would not release the report until early November, claiming it was “reviewing the report to ensure factual accuracy.”

But midway through the month, the university pivoted, announcing it would hold the report until after the conclusion of Jones’ criminal trial, which could take years.



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Jason Armesto

“Making the report public at this time, or even releasing a summary of their findings and recommendations, could have an impact on the criminal trial of the accused, either by disrupting the case being prepared by the Albemarle County Commonwealth’s Attorney, or by interfering with the defendant’s right to a fair trial before an impartial jury,” UVa President Jim Ryan said in a statement.

This is but the latest justification the university has used.

Previously, UVa denied a public-records request from The Daily Progress. It argued the report was exempt under the Freedom of Information Act due to “attorney-client privilege” and because the report contains “scholastic records” and “operational plans or protocols.”



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University of Virginia President Jim Ryan speaks during a Board of Visitors meeting in the Rotunda at UVa on Friday, Sept. 15, 2023.  
CAL CARY, THE DAILY PROGRESS

Fishwick said UVa is “hiding” behind FOIA laws and he sees little merit to the university’s newest argument.

“I think they’re using the fairness of the trial as an excuse not to release it,” Fishwick said. “The commonwealth’s attorney and Mr. Jones’ attorneys can adequately make sure he gets a fair trial. I don’t think that’s the University of Virginia’s obligation. Their obligation is to the public and to the victims’ families and to have transparency.”

Megan Rhyne, executive director for the Virginia Coalition for Open Government, a nonprofit group that presses for access to public records, said UVa’s refusal to release any information from the report undermines the university’s credibility.

She doesn’t believe the criminal trial is a valid excuse.



LOCAL NEWS

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Sydney Shuler

“I have never seen this reason be given before. Never,” Rhyne told The Daily Progress. “Who are they all trying to protect?”

Rhyne argues that the focus of the report, such as how UVa responded to Jones before and after the shooting, has nothing to do with the trial. Whether or not the university erred is irrelevant to the question of whether or not Jones killed his schoolmates.



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“The criminal prosecution of Christopher Jones doesn’t depend on whether or not UVa responded properly after the shooting or if UVa knew something about his mental state ahead of time,” Rhyne said. “In the criminal prosecution, what matters is did he do it.”



Virginia Attorney General Jason Miyares was asked to order an external and independent review of the Nov. 13, 2022, shooting.  
SCOTT P. YATES, THE ROANOKE TIMES

Veteran criminal defense attorney Scott Goodman was also confused by the university's reasoning.

"If the taxpayer spent the money for the report, the report belongs to the public," Goodman told The Daily Progress. "The subject of the report is a matter of great public concern, not just in the university but throughout the community here and really statewide, because other colleges can certainly learn from what this report has to say."

According to UVa spokesman Brian Coy, the budgeted cost of the monthslong investigation was \$1.5 million. The bill will be paid by the publicly funded university.



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"If I'm VMI, if I'm Liberty, Virginia Tech, James Madison, I want to see this report," Haggard said. "This happened at a state university. It can happen anywhere."



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Haggard argues that the report could contain information that could help other schools prevent a similar tragedy from occurring on their own campuses.

"I would think UVa would want to help other schools protect against this from happening, because there's no doubt this could happen at you-name-the-school," Haggard said. "It could happen at North Carolina or Duke tomorrow, because there are students everywhere that have mental health issues and easy access to guns."



Albemarle Commonwealth's Attorney Jim Hingeley speaks on the steps of the Albemarle County Courthouse after a court appearance by shooting suspect Christopher Darnell Jones Jr. on Wednesday, Nov. 16, 2022.

MIKE KROPF, THE DAILY PROGRESS

## All or nothing

Both Goodman and Rhyne noted that UVa has chosen not to publish any element of the extensive report.

“It’s hard to believe that not a single bit of the report can be released and every bit of it could possibly affect the defendant’s right to a fair trial. It’s hard to swallow,” Goodman said.

He noted that two of the prominent people named in UVa’s announcement to withhold the report, President Ryan and Rector Robert Hardie, are not criminal attorneys.



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“I don’t see what basis they would have to say that releasing the report could impact the criminal trial,” he said. “Neither one of them have any experience with criminal trials and would have any basis on their own to know that.”

“Who are they relying on to make that conclusion?” Goodman asked.



UVA

**Shootings now 'an ever-present thing in the minds of UVa students'**

Sydney Shuler

UVa’s statement did include a comment from Albemarle County Commonwealth’s Attorney Jim Hingeley, who will be prosecuting the case.

Hingeley wrote that he appreciated the university’s effort “to avoid taking any action that could complicate the prosecution of the accused, Christopher Jones, or impair his right to a fair and impartial trial.”

But he also wrote that he had not seen the report himself.

It is not clear if Hingeley approached UVa about withholding the report or if UVa approached Hingeley. When asked, UVa's Coy referred The Daily Progress to the school's statement and Hingeley declined to comment.

"I'm really not going to be able to comment on this because it is in relation to an ongoing matter that is obviously one that's attracted a lot of media attention," Hingeley told The Daily Progress. "I'm not going to be making any out-of-court statements at this time."



University of Virginia Rector Robert Hardie speaks at a Board of Visitors meeting in the Rotunda on Friday Sept. 15, 2023.  
CAL CARY, THE DAILY PROGRESS

Goodman said he was surprised by the university's most recent decision and he can't make sense of its all-or-nothing approach to the report.

"There's certainly some aspects of the report that have nothing to do with this case," Goodman said. "It seems to me it could be released. It's not going to affect the trial."

Rhyme said that if UVa's argument is taken to its logical extreme, it could be used to justify withholding any record in any case.

"Bob's getting prosecuted in Harrisonburg for something and here's a record about Bob, but that might taint the jury so we're not going to release it," Rhyme said.

She is also skeptical of the university denying FOIA requests by citing attorney-client privilege.





LUCA POWELL Richmond Times-Dispatch

“To me, when you commission an external review with two different firms, you’re no longer talking about an attorney-client relationship,” she said.

She assumes the investigation includes timelines and information about threat assessments and what the university knew about Jones before the shooting.

“To me, that’s not part of your attorney-client relationship, advice or strategy. You’re just doing fact-finding,” she said.

And if there are portions of the report that include legal advice, for instance?

“OK, redact that part. But you release everything else,” Rhyne said.



A woman wearing a shirt with the names of the late D'Sean Perry, Lavel Davis Jr. and Devin Chandler looks on at University Chapel on the first anniversary of their deaths in a shooting on Grounds on Monday.

CAL CARY, THE DAILY PROGRESS

## Closure

While these might be interesting legal questions about what documents can and cannot be kept from the public, Rhyne said it only obscures the original purpose of the report.

“Which is to shed light on what happened in this awful situation. And they’re just throwing more and more and more obstacles in the way of having any clarity,” she said. “They have been consistently moving the goalposts, so to speak, on what is giving them the justifications to withhold this report.”

Haggard has represented families affected by other shootings, including the 2018 massacre in Parkland, Florida. He said that learning exactly what happened to their

loved ones is an important step towards getting closure.



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He said upon hearing the report wouldn't be released until after the trial, families of the UVa victims feel like they've hit a "blockade."

Ryan acknowledged the families in his statement.



LOCAL EDUCATION

**UVa withholds report on deadly 2022 shooting**

Jason Armesto

"We recognize that many people, including the families of those who were killed or injured that night, are awaiting more information as they continue to grieve and recover from the incalculable loss they experienced," Ryan said. "We are committed to providing it as soon as we can be sure that doing so will not interfere in any way with the criminal proceeding."

But Haggard said his clients don't want to wait any longer.

"They want to know. I mean, they lost their children. They want to know what happened so they can gain closure," he said.

The outcome of the criminal trial is also important to receiving closure. That, however, is out of their control.

"But this can be controlled. This is done. Release it to them," Haggard said.

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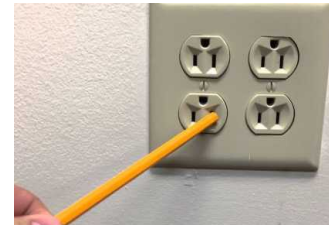
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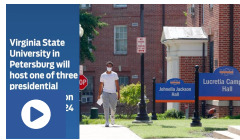
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By Jason Armesto

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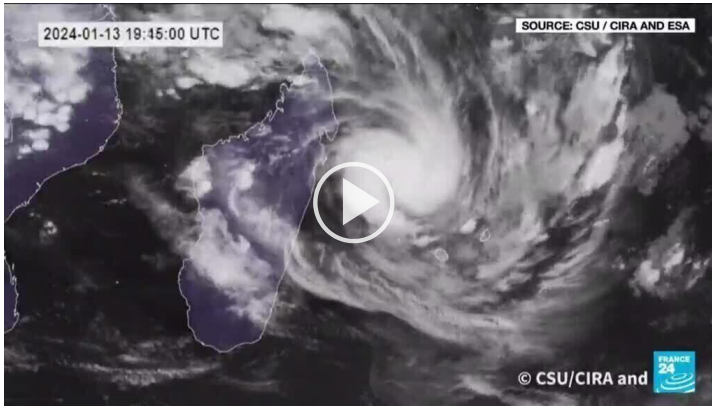
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