

Closed Police Records Hit by Defense Lawyer

Renewing an old fight, a lawyer yesterday challenged the customary refusal of Washington police to make their criminal complaint files available to defense attorneys for trial preparation.

Karl G. Feissner, appointed to defend a first-degree murder suspect, argued before District Court Judge John J. Sirica that the practice is arbitrary and inequitable.

"Lawyers in a simple civil case involving \$50 or \$75 damage to a car fender have complete access to each other's investigation reports," he said, "but here I am trying to defend a man whose very life is on the line, and I am trying to defend a man whose very life is on the line, and I can't even get the police file on him."

Feissner said Congress enacted a statute making the general complaint files of the Metropolitan Police Department "open to public inspection," but the Department issued subsequent administrative orders making most of the information unavailable without a court order.

"The chief of police has no right to change congressional legislation by administrative fiat," Feissner argued.

Prosecutor Joel D. Blackwell countered that under the Jencks Act, production of such records cannot be compelled

until after a police officer has testified about them at trial.

Feissner cited two earlier cases in which District Court judges had ordered the complete files on defendants made available to their lawyers before trial.

Under current practice, he said, police will reveal only a "preliminary incident report" containing little more than the complaining witness' name and address.

Kept on conveniently separate forms, he said, are the "general complaint file" and "statement of facts" containing detailed follow-up reports by investigating police. Unless an officer feels generous, a defense lawyer cannot get his hands on those papers at all, he said.

Without them, the lawyer sometimes cannot even begin to get the most elementary facts such as the names and addresses of eyewitnesses, he argued.

In this particular case, the "complaining witness" is dead — allegedly beaten and thrown out of a window by Feissner's client — and the only other person mentioned in the records given to him by police is the woman who found the body.

Judge Sirica took the arguments under advisement. Feissner is defending George E. Ross Jr., 28, of no fixed address, charged with killing John Henry Cooke, of no fixed address, last April 3. His trial is scheduled for later this year.