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16 *Attorneys for The State of Nevada,
17 Department of Motor Vehicles, a
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19
20 IN THE FIRST JUDICIAL DISTRICT COURT OF
21
22 THE STATE OF NEVADA IN AND FOR CARSON CITY

23 AMERICAN CIVIL LIBERTIES UNION
24 OF NEVADA,
25 Petitioner,

Case No. 25 EW00026 1B

Dept. No. 2

26 vs.
27 THE STATE OF NEVADA,
28 DEPARTMENT OF MOTOR VEHICLES,
a governmental entity,
Respondent.

29
30 STATE DEFENDANTS' OPPOSITION TO THE ACLU'S
31 PETITION FOR A WRIT OF MANDAMUS

32 Nevada's Department of Motor Vehicles, by and through undersigned counsel,
33 hereby issues this opposition to the ACLU's Petition for a Writ of Mandamus.

34 INTRODUCTION

35 This dispute stems from multiple public records requests that Petitioner ACLU of
36 Nevada (ACLU) sent to the Nevada Department of Motor Vehicles (DMV). Despite months
37 of back-and-forth with the DMV and its counsel, and multiple rounds of production, the
38 ACLU insists that the DMV is withholding additional responsive documents. Dissatisfied

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1 with the results, it now seeks a writ of mandamus to force the DMV to remove redactions
2 and produce nonpublic records, as well as records the DMV has already informed the ACLU
3 do not exist. Nevada's Public Records Act does not require this result for several reasons.

4 First, mandamus relief is inappropriate because the DMV fulfilled its statutory duty.
5 The DMV produced records, redacted confidential information, and gave a well-reasoned
6 justification for all records that were withheld. That is all the statute requires. To the
7 extent the ACLU seeks private conversations or unredacted communications, those
8 documents are not public records, and the DMV is under no obligation to disclose them.

9 Next, the DMV fulfilled its prelitigation duties. The ACLU insists that the DMV
10 should have helped it in the records process to find the specific incriminating document
11 they apparently sought. But the record shows that the DMV worked with the ACLU to
12 tailor its requests, sought the advice of counsel, and conducted additional searches. The
13 DMV is not obligated, however, to obtain nonpublic records to comply with the NPRA.

14 Finally, even if this court finds that the DMV did not fully comply with the statute,
15 any violation was made in good faith. The DMV relied on the statute and the advice of
16 counsel to furnish these records, and a finding of willfulness is not warranted here. The
17 Court should therefore deny the Petition.

18 STATEMENT OF FACTS

19 The ACLU sent its first public records request on February 3, 2025. It asked for
20 "Copies of any departmental policies and/or procedures relating to sharing information
21 about an individual's immigration status with federal or state agencies." Vol. 1. At 6 (Ex.
22 1). The next day, Feb. 4, 2024, the DMV responded with the statutory language that
23 governs releasing immigration information. Vol. 1 at 13 (Ex. 3).

24 On February 11, 2025, the ACLU sent a second records request asking for:

25 1. Any memoranda, policies, trainings, or guidelines currently in effect related
26 to NRS 481.063 and immigration-related information sharing;
27 2. Any memoranda, policies, trainings, or guidelines currently in effect related
28 to cancellation of driver's licenses due to a license holder's immigration status;
3. Any memoranda, policies, trainings, or guidelines currently in effect related
to collaborating with Immigration and Customs Enforcement (ICE) officers;

1 4. Any communications with ICE between January 1, 2024 to present relating
2 to an individual's immigration status. For help narrowing down the request,
3 please utilize the following key words in your search:

4 "ICE," "ERO," "DHS," "Deportation Officer," "illegal aliens," "privilege card,"
5 "immigration status," "Driver Authorization Card," "DAC," "deport," "illegally
6 present," "illegally in the United States," "removal order," "immigration judge."

7 5. Any communications with ICE between January 1, 2024 to present relating
8 to verifying information against a file or record including, but not limited to,
9 current and previous address of an individual, names of family members, and
10 license plate numbers.

11 Ex. 4. The DMV initially closed the request but reopened it on February 20, 2025. Ex. 6.
12 On February 28, the DMV emailed its response to the ACLU, specifying that NRS 481.063
13 prohibits the DMV from disclosing information related to immigration, nationality, or
14 citizenship. Ex. 7B. The ACLU challenged this response, and the parties communicated via
15 phone and email to clarify the timeline for this request. Ex. 7C, 7D.

16 On March 10, 2025, the ACLU submitted a third public records request and asked
17 for copies of all DMV policy manuals. Ex. 12. The DMV asked the ACLU to clarify the
18 request within 30 days. Ex. 14. In April, the DMV explained that ICE communications are
19 not public records because they are used only for investigation purposes. Ex. 11. The DMV
20 closed the request as duplicate, which led to a demand letter from the ACLU. Ex. 17. The
21 DMV again asserted that the requested records are not public. Ex. 18, 25.

22 On June 6, 2025, the ACLU sent a demand letter to DMV counsel. Ex. 26. Following
23 receipt of the letter, DMV counsel and the ACLU held a meet and confer on June 16, 2025.
24 Ex. 28. This conversation was productive, and ACLU and DMV counsel communicated
25 amicably to determine the timeline and scope of requests. Ex. 29–30.

26 On July 10, 2025, the DMV responded to the last round of requests. The DMV
27 disclosed a departmental policy and explained both that no specific provisions address the
28 cancellation of driver licenses based on immigration status and that the DMV had no
 official agreements/contracts with ICE about information sharing and collaboration. The
 DMV also stated that communications with ICE from January 1, 2024, to the present were
 under review, but the ACLU could expect an update on July 25, 2025. Exs. 32, 36. The
 ACLU responded that same day, and asked for clarification whether any other responsive

1 documents existed beyond media policies and whether there existed any other memoranda
2 or guidelines about collaborating with ICE officers. Ex. 33. On July 23, 2025, the DMV sent
3 more attachments and completed the ticket for all ICE communications. Ex. 35.

4 The ACLU emailed DMV counsel and demanded an explanation for all redactions to
5 documents the DMV had produced. The ACLU also stated that, despite its previous
6 agreement to narrow its request from “communications” with ICE to emails to the domain
7 ice.dhs.gov, it now expanded its scope and wanted records of all communications with ICE
8 in any form. Ex. 37. The DMV responded and cited NRS 481.063 as the basis for the
9 redactions. Ex. 38. The DMV also asked that the expanded request be submitted through
10 the portal, since it had closed out the previous request. *Id.*

11 The ACLU emailed on August 1, 2025, and asked 1) the basis for withholding the
12 names of government officials in the email chain, 2) documentation of all
13 “communications”—not just emails 3) the basis for making the ACLU submit through the
14 GovQA portal. Ex. 39. The ACLU demanded a response within four days and threatened
15 litigation.

16 On August 11, 2025, the DMV responded, citing three statutes as the basis for
17 information that was redacted: 18 U.S.C. 2721, NRS 481.063, and NRS 289.025. Ex. 40. It
18 further explained that information about DMV Compliance Enforcement Division Officers
19 was redacted to protect their identities to allow them to investigate fraud and conduct sting
20 operations. *Id.*

21 The next day, the DMV updated the ACLU again and confirmed that there were no
22 faxes or Signal messages responsive to the public records request. Ex. 41.

23 The ACLU filed a petition for a writ of mandamus with this Court on August 15,
24 2025. The ACLU argued that the DMV violated the Nevada Public Records Act (NPRA) by
25 1) failing to respond to public records requests 2) asserting inapplicable confidentiality
26 provisions in its redactions, and 3) failing to cite legal authority and failing to assist the
27 requester. Petition at 19, 20, 23.

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ARGUMENT

I. MANDAMUS RELIEF IS NOT APPROPRIATE BECAUSE THE DMV COMPLIED WITH ITS STATUTORY DUTIES WHEN IT PRODUCED DOCUMENTS

A writ of "mandamus compels a government body or official to perform a legally mandated act." *Ashokan v. State, Dep't of Ins.*, 109 Nev. 662, 665, 856 P.2d 244, 246 (1993); *See also* NRS 34.160-170. Mandamus is "an extraordinary remedy" and is "purely discretionary." *Min. Cnty. v. State Dep't of Conservation & Nat. Res.*, 117 Nev. 235, 243, 20 P.3d 800, 805 (2001). A petition for a writ of mandamus can be "the proper method to contest the denial of a public records request." *Dep't of Emp., Training & Rehab., Emp. Sec. Div. v. Sierra Nat'l Corp.*, 136 Nev. 98, 100, 460 P.3d 18, 21 (2020). But mandamus is inappropriate when the designated records were properly withheld from production because they are confidential. *See City of Reno v. Reno Gazette-Journal*, 119 Nev. 55, 61 (2025) (dissolving the writ of mandamus when "the records in question are confidential" and "are therefore exempt from the Nevada Public Records Act.").

14 The record shows that the DMV produced significant records to the ACLU following
15 its repeated requests. The DMV submitted policies and communications and clarified its
16 role regarding immigration enforcement. *See generally* Ex. 36. To the extent the ACLU
17 complains that these productions were deficient, the DMV explained, and asserts in this
18 Opposition, *infra*, that any information withheld was not a public record subject to
19 disclosure and/or was confidential under relevant statute. Exs. 3, 7C, 11, 18, 32, 35, 36.
20

20
21 The DMV also complied with its duties in fulfilling the requests. Contrary to the
22 ACLU's assertions, DMV records custodians and counsel assisted the ACLU in narrowing
23 its requests and establishing a timeline for production. Exs. 7C, 7D, 11, 28–30. When asked
24 to conduct additional searches, the DMV did so. Exs. 38, 40–41.

24 Because there is no further action that the DMV is obligated to perform, mandamus
25 is inappropriate, and the writ should be denied.¹
26

¹ The remedy under the statute for any delay is compelled production of the records, not a waiver of confidentiality or fees. See, e.g., *Republican Att'y's Gen. Ass'n v. Las Vegas Metro. Police Dep't*, 136 Nev. 28, 31, 458 P.3d 328, 332 (2020) ("After an unreasonable delay

1 **II. MANDAMUS IS INAPPROPRIATE BECAUSE THE DMV COMPLIED WITH
2 THE NPRA WHEN IT WITHHELD AND REDACTED CONFIDENTIAL
3 RECORDS**

4 "The NPRA provides that all public books and public records of governmental
5 entities must remain open to the public, unless 'otherwise declared by law to be
6 confidential.'" *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 877-78, 266 P.3d 623, 626
7 (2011) (quoting NRS 239.010(1)). The NPRA specifically carves out confidential
8 information from its disclosure obligations. *See* NRS 239.010(1). The statute lists myriad
9 existing confidentiality provisions and also contains a residual clause that eliminates the
10 need to disclose information "otherwise declared by law to be confidential." *Id.* When
11 confidential information can be redacted, deleted, concealed, or separated, the government
12 should make those redactions rather than denying the request outright. *Id.* at (3).

13 If the requested information "is not explicitly made confidential by a statute and the
14 government still maintains that it is confidential, courts use the "balancing-of-competing-
15 interests test." *LVMPD v. Blackjack Bonding*, 131 Nev. 80, 88, 343 P.3d 608, 614 (2015)
16 (citations and quotation omitted). This test evaluates "the fundamental right of a citizen to
17 have access to the public records' against 'the incidental right of the agency to be free from
18 unreasonable interference.'" *Id.* (quoting *DR Partners v. Bd. of Cnty. Comm'rs*, 116 Nev.
19 616, 621, 6 P.3d 465, 468 (2000)). The government's interest in nondisclosure is "interpreted
20 narrowly, whereas the public's interests in openness and accessibility are interpreted
21 liberally." *PERS v. Reno Newspapers Inc.*, 129 Nev. 833, 839, 313 P.3d 221, 225 (2013)
22 (citations and quotations omitted). The government bears the burden to show that the
23 balance of interests tips in its favor. *LVMPD*, 131 Nev. at 88.

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27 or denial by a governmental entity, a requester may apply to the district court and seek an
28 order granting access to the record."). And, because the ACLU's Petition was not the
 impetus for the allegedly delayed production of documents by the DMV, no relief can be
 afforded. Cf. NRS 239.011(1)-(2).

1 **A. The DMV Properly Redacted Confidential Information, as Required**
2 **by the NPRA**

3 The ACLU argues that the DMV redacted more information than was required. But
4 the record shows that the DMV explained all redactions based on statutory requirements
5 and privacy concerns. See NRS 239.010(1), (3) (statutory confidentiality exempts
6 documents from disclosure). When withholding records under the NPRA, the government
7 may show either: “that a statutory provision declares the record confidential, or . . . ‘that
8 its interest in nondisclosure clearly outweighs the public’s interest in access.’” *PERS*, 129
9 Nev. at 839, 313 P.3d at 225 (quoting *Gibbons*, 266 P.3d at 628). The existence of similar
10 confidence provisions, even if not directly on point, strengthens the inference that
11 information should be redacted. *See Clark Cnty. Off. Of Coroner/Med. Exam'r v. Las Vegas*
12 *Rev.-J.*, 136 Nev. 44, 57 (2020) (“While this provision does not render juvenile autopsy
13 reports confidential in their entirety, it does reinforce the Coroner’s Office’s assertion that
14 [they] may include confidential information that should be redacted before disclosure.”).

15 In its responses to each public records request, the DMV cited NRS 481.063, which
16 limits the release of immigration, nationality, and citizenship information. Exs. 3, 7B, 25,
17 38, 40. When the ACLU demanded justification for why the names of government officials
18 were redacted in the document production, Ex. 39, the DMV explained that 18 U.S.C.
19 § 2721 and NRS 289.025 also limit disclosure of personal information, including
20 information regarding peace officers. Ex. 40. The DMV further explained that public policy
21 interests required the DMV to withhold identifying information from investigators who
22 need to protect their identity to perform sting operations. *Id.*; *See also Las Vegas Rev.-J.,*
23 *Inc. v. Las Vegas Metro. Police Dep’t*, 139 Nev. 69, 83, 526 P.3d 724, 737 (2023) (“Nontrivial
24 personal privacy interests arise “where disclosure poses a risk of harassment,
25 endangerment, or similar harm.”); *LVMPD*, 131 Nev. at 88 (balance-of-interests test can
26 render public records not subject to disclosure if doing so would interfere with government
27 operations). Contrary to the ACLU’s implication, the DMV properly followed the statutory
28 language to redact information and provide explanations for the information withheld. The

1 NPRA does not require unlimited access to personally identifiable information. The ACLU
2 has failed to demonstrate that the statute or the balance of interests weighs in favor of
3 disclosure.

4 **B. Private Messages on Private Devices Are Not Public Records and Are
Therefore Not Subject to Disclosure**

5 The ACLU next complains that the DMV failed to produce Signal messages and faxes
6 involving ICE, but any such information, if it exists, is not a public record. To constitute a
7 public record, privately held information 1) must “concern the provision of a public service,”
8 *Comstock Residents Ass’n*, 134 Nev. At 143; and 2) must be under the government entity’s
9 control, *Conrad v. City of Reno*, 553 P.3d 440 (Nev. 2024).

10 A record must satisfy both requirements to be considered a public record. For
11 example, in *LVMPD*, the Court found that LVMPD “had legal control over the requested
12 information” based on language in the contract with the prison service provider. 131 Nev.
13 80, 86–87 (2015). By contrast, in *Conrad*, the court concluded that the City of Reno did not
14 possess private cell phone and social media accounts and therefore any such records were
15 “beyond the City’s control.” 553 P.3d 440 (Nev. 2024). It therefore concluded that the City
16 “complied with its duty to produce responsive records over which it had custody and
17 control.” *Id.*² This distinction between private and public records is consistent with the
18 Freedom of Information Act. *See, e.g., Forsham v. Harris*, 445 U.S. 169, 186–87 (1980) (“the
19 data petitioners seek have not been created or obtained by a federal agency.”).

20 Here, the DMV informed the ACLU that the DMV did not possess or control Signal
21 records or faxes. Ex. 41. Any such records are not under DMV custody and control: the
22 DMV clarified that it does not conduct official business on Signal or via fax; indeed, the
23 email that gave rise to the ACLU’s additional request came from federal officials. Ex. 36.
24 In response to the ACLU’s request, the DMV searched for responsive documents but found
25

26
27 ² The *Conrad* court also determined that these records could be sought from the
28 elected official because elected or appointed officials are “governmental entities” under the
NPRA. *See Id.* (quoting NRS 239.005(5)(a)). Run-of-the-mill DMV employees are not
governmental entities under the NPRA.

1 none. Ex. 41. The DMV also specified that it has no ability to search or demand records on
2 private cell phones. The lack of government control alone exempts these records from
3 disclosure).

4 Furthermore, any Signal messages are not used to conduct public business at the
5 DMV. *Compare* Ex. 41 with *Comstock*, 134 Nev. at 145–46 (county conceded that public
6 business was conducted on private phones and email addresses). And these messages are
7 privately held on private devices and are end-to-end encrypted. It is not clear that the DMV
8 could obtain these records if it wished, and there are significant privacy impacts in
9 requiring employees to turn over encrypted chats in response to a public records request.
10 The NPRA does not require the DMV to seek information outside its custody and control,
11 and the ACLU’s demand therefore falls outside the NPRA’s scope. Because the DMV has
12 produced all responsive records and has a valid basis for its redaction of confidential
13 information, the ACLU’s claimed NPRA violation fails.

14 **III. ALTERNATIVELY, ANY IMPERFECT COMPLIANCE WAS NOT WILLFUL**

15 In the event that the Court disagrees and finds that the DMV has withheld some
16 public records, any violation does not rise to the level of willfulness required to impose civil
17 penalties. NRS 239.340(1) requires the district court to impose a civil penalty when a
18 government entity’s failure to comply with the provisions of the NPRA is “willful.”
19 Willfulness requires actual knowledge or specific intent. *See, e.g.*, WILLFUL, Black’s Law
20 Dictionary (12th ed. 2024) (“A voluntary act becomes willful, in law, only when it involves
21 conscious wrong or evil purpose on the part of the actor. . . .”); NRS 686B.1762 (Willfulness
22 means “with actual knowledge” or with specific intent to commit the violation”).
23 Not every violation of the NPRA warrants a civil penalty. *See generally Las Vegas Rev.-J.*,
24 139 Nev. at 86.³

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27 ³ Other monetary relief sought by the ACLU is premature. A records requester
28 “prevails” under the NPRA if the litigation brings the requester some of the benefit it
sought in bringing suit. *See Las Vegas Review-Journal*, 138 Nev. 813. Only then can the
requester obtain attorney’s fees. *Id.*

1 Here, the DMV produced all required records under the NPRA. If this Court
2 disagrees and orders additional production, there is no evidence that the DMV purposely
3 or knowingly withheld records without reason. The DMV consulted with legal counsel in
4 the production of these records. Exs. 28, 44. It also conducted additional searches for more
5 information when requested by the ACLU, Ex. 40; and it communicated about the limits of
6 its custody and control, *See, e.g.*, Ex. 7B (DMV has limited access to criminal records); Ex.
7 32 (DMV does not have a policy of collaborating with ICE); Ex. 41 (DMV does not have
8 access to Signal chats involving ICE). As described above, it cited numerous legal
9 authorities for its redactions and sought to comply with the NPRA's confidentiality
10 provisions. *See, e.g.*, Exs. 3, 7C, 38, 40. These actions do not demonstrate recalcitrance or
11 wanton disregard for compliance. Rather, the DMV's actions show an ongoing commitment
12 to fulfilling the agency's obligations under the NPRA. Thus, civil penalties in this instance
13 are not warranted.

CONCLUSION

15 For the foregoing reasons, State Defendants respectfully request that this Court
16 deny the petition for a writ of mandamus.

AFFIRMATION
(Pursuant to NRS 239B.030)

19 The undersigned does hereby affirm that the foregoing document does not contain
20 the social security number of any person.

21 Dated: October 17, 2025.

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on October 17, 2025, I deposited for mailing in the United States Mail, first-class postage prepaid, at Las Vegas, a true and correct copy of the foregoing document, addressed to the following:

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