

BREF

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

AMERICAN CIVIL LIBERTIES UNION OF
NEVADA,

Petitioner,

vs.

NEVADA DEPARTMENT OF CORRECTIONS,
LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondents.

Case No.: A-26-955191-W

Department: XXIX

**Brief in Support of
Petition for Writ of Mandamus
pursuant to NRS 239.001 et seq.**

**Expedited Matter Pursuant to
NRS 239.011**

Hearing requested

Petitioner, American Civil Liberties Union of Nevada ("ACLUNV") hereby submits this Brief in Support of its Petition for Writ of Mandamus. This brief is supported by the attached memorandum of points and authorities, any attached exhibits, and the pleadings and papers filed with this Court.

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On August 11, 2025, Ryan Anthony Warren-Hunt was beaten and stabbed to death while incarcerated at Southern Desert Correctional Center (“SDCC”), an NDOC prison located in Indian Springs, Nevada. Coroner’s Summary of Investigation, Petition for Writ of Mandamus Exhibit (“Pet. Ex.”) 1, at 1. The homicide was reported by SDCC staff to LVMPD, who investigated the incident under event #250800043242. *Id.*

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1 *cited, officials say, Fox 5 Las Vegas (August 12, 2025, 4:33 PM)*
2 [https://www.fox5vegas.com/2025/08/12/four-nevada-prison-deaths-investigated-homicides-](https://www.fox5vegas.com/2025/08/12/four-nevada-prison-deaths-investigated-homicides-drug-debt-cited-officials-say/)
3 [drug-debt-cited-officials-say/](https://www.fox5vegas.com/2025/08/12/four-nevada-prison-deaths-investigated-homicides-drug-debt-cited-officials-say/); Kenneth Dunn, *Nevada prisons tighten operations after four*
4 *suspected homicides linked to drug debts*, News 4 (August 12, 2025, 6:00 PM)
5 [https://mynews4.com/news/local/nevada-prisons-under-modified-operations-amid-investigation-](https://mynews4.com/news/local/nevada-prisons-under-modified-operations-amid-investigation-into-four-inmate-deaths)
6 [into-four-inmate-deaths](https://mynews4.com/news/local/nevada-prisons-under-modified-operations-amid-investigation-into-four-inmate-deaths); Neil Vigdor, *4 inmates are killed in less than a month at Nevada prisons,*
7 *state says*, The New York Times (August 13, 2025) [https://www.nytimes.com/2025/08/13/us/nevada-](https://www.nytimes.com/2025/08/13/us/nevada-prisons-inmate-homicides.html)
8 [prisons-inmate-homicides.html](https://www.nytimes.com/2025/08/13/us/nevada-prisons-inmate-homicides.html). 8newsnow.com also reported infrastructure problems, such as
9 broken cell door locks, and misclassification of offenders as ongoing problems impacting offender
10 safety. Murphy, *supra*.

11 In response to the rash of in-custody homicides, ACLUNV submitted several public records
12 requests related to violence in NDOC facilities, safety protocols, and facility maintenance to
13 NDOC. After starting its investigation into these incidents, ACLUNV was contacted by the family
14 of Mr. Warren-Hunt. Rosalind Warren-Duvall and Toni Duvall, mother and sister of Mr. Warren-
15 Hunt, retained ACLUNV to investigate the circumstances surrounding Mr. Warren-Hunt's
16 homicide specifically. On September 8, 2025, ACLUNV submitted additional public records
17 requests under the Nevada Public Records Act ("NPRA"), to NDOC ("NDOC Sept. 8 Request")
18 and the Clark County Coroner's Office ("Coroner Sept. 8 Request"). NDOC Sept. 8 Request, Pet.
19 Ex. 2; Coroner Sept. 8 Request, Pet. Ex. 3.

20 On September 24, 2025, NDOC responded to ACLUNV's September 8th request to NDOC
21 stating that it needed until December 23, 2025, to respond to parts of the request and asserted that
22 records responsive to the remaining items could not be released because they "are part of an
23 ongoing criminal proceeding and release would jeopardize law enforcement information." 9/23/25
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1 NDOC Response to Sept. 8 Request, Pet. Ex. 4, at 4. On December 9, 2025, NDOC denied the
2 remaining requests, asserting the same law enforcement privilege. 12/9/25 Response to NDOC
3 Sept. 8 Request, Pet. Ex. 5, at 2.

4 On January 22, 2026, the Coroner responded to Coroner Sept. 8 Request with redacted
5 copies of the “Summary of Investigation,” “Autopsy Report,” and “Toxicology Report.” Pet. Ex.
6 1; Coroner Autopsy Report, Pet. Ex. 6; Coroner Toxicology Report, Pet. Ex. 7. These records
7 revealed that: (1) LVMPD was involved in the homicide investigation; (2) Mr. Warren-Hunt was
8 attacked by “numerous assailants”; (3) at the time of the homicide, “the doors were reportedly
9 open, and the inmates were able to roam around freely”; and (4) security cameras at SDCC do not
10 reach the area where the homicide occurred. Pet. Ex. 1, at 1.

11 On March 2, 2026, ACLUNV submitted a public records request to LVMPD (“LVMPD
12 March 2 Request”) seeking records related to its homicide investigation. LVMPD March 2
13 Request, Pet. Ex. 8. On March 26, 2026, LVMPD responded with four separate documents, each
14 denying part of the request. LVMPD Response Inventory, Pet. Ex. 9; LVMPD Response
15 Documents and Photos, Pet. Ex. 10; LVMPD Response Emails, Pet. Ex. 11; LVMPD Response
16 911 Calls, Pet. Ex. 12. None of these documents identified specific records LVMPD believed to
17 be privileged nor cited any legal authority applicable to the requested records or ACLUNV.
18 Instead, LVMPD declared that hypothetical law enforcement interests outweighed the public’s
19 interest in government transparency, offered no explanation for why redactions would be
20 inadequate to satisfy any legitimate confidentiality concerns, and incorrectly claimed that certain
21 records were not in LVMPD’s custody. *Id.*

22 To date, the only records received in response to ACLUNV’s requests are the reports
23 provided by the Coroner. Despite its claims that releasing the records could jeopardize a possible
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1 criminal investigation, NDOC has not offered any update or explanation relating to a criminal
2 investigation into Mr. Warren-Hunt's death to ACLUNV or Mr. Warren-Hunt's mother or sister
3 though the family has formally asserted their rights as victims pursuant to Article 1, Section 8A of
4 the Nevada Constitution.

5 **ARGUMENT**

6 The Nevada Public Records Act's ("NPR") "purpose . . . is to foster democratic principles
7 by providing members of the public with access to inspect and copy public books and records to
8 the extent permitted by law." NRS 239.001(1). Its provisions "must be construed liberally to carry
9 out this important purpose." NRS 239.001(2). Any exemptions to disclosure under the NPR must
10 be construed narrowly. NRS 239.001(3).

11 When a governmental entity denies a public records request on the basis of confidentiality,
12 the entity is required to "provide the [requestor], in writing: (1) Notice of that fact; and (2) A
13 citation to the specific statute or other legal authority that makes the public book or record, or a
14 part thereof, confidential." NRS 239.0107(1)(d); *see also Reno Newspapers, Inc. v. Gibbons*, 127
15 Nev. 873, 885, 266 P.3d 623, 631 (2011). Failure to satisfy these requirements forces the
16 requesting party to blindly argue for disclosure which "not only runs contrary to the spirit of the
17 NPR," but it also "seriously distorts the traditional adversary nature of our legal system's form
18 of dispute resolution." *Id.* at 884 (citing *Vaughn v. Rosen*, 157 U.S. App. D.C. 340, 484 F.2d 820,
19 824 (1973)).

20 Under the NPR, "if a provision does not explicitly exempt a public record" from
21 disclosure, a government entity claiming confidentiality must show "that the entity's interest in
22 non-disclosure clearly outweighs the public's interest in the records." *Gibbons*, 127 Nev. at 885.
23 In *Gibbons*, the Court established the following framework for evaluating claims of confidentiality
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1 where there is no explicit exemption:

2 First, we begin with the presumption that all government-generated
3 records are open to disclosure. The state entity therefore bears the
4 burden of overcoming this presumption by proving, by a
5 preponderance of the evidence, that the requested records are
6 confidential. Next, in the absence of a statutory provision that
7 explicitly declares a record to be confidential, any limitations on
8 disclosure must be based upon a broad balancing of the interests
involved and the state entity bears the burden to prove that its
interest in nondisclosure clearly outweighs the public's interest in
access. Finally, our caselaw stresses that the state entity cannot meet
this burden with a non-particularized showing, or by expressing
hypothetical concerns.

9 *Gibbons*, 127 Nev. at 880 (internal citations omitted).

10 Under this framework, the governmental entity claiming a privilege bears the burden of
11 proving that the requested record is confidential by a preponderance of the evidence. NRS
12 239.0113. Mere conjecture about potential harm is not sufficient to overcome the public's interest
13 in access to records. *Reno Newspapers, Inc. v. Haley*, 234 P.3d 922, 927 (citing *CBS, Inc. v. Block*,
14 42 Cal. 3d 646, 652, 725 P.2d 470, 474 (Cal. 1986)); see also *Las Vegas Review-Journal, Inc. v.*
15 *Las Vegas Metro. Police Dep't*, 139 Nev. 69, 81, 526 P.3d 724, 736 (2023) (Hereinafter "*LVRJ v.*
16 *LVMPD*") (listing examples of unsubstantiated claims of potential harm).

17 Even if the government entity cites to a valid, relevant statutory provision or satisfies its
18 burden under the *Gibbons* test, it must still release a record in a redacted form if portions of the
19 record are not confidential. NRS 239.010(3); *LVRJ v. LVMPD*, 139 Nev. at 84. Only if the entirety
20 of the record contains confidential information may a record be withheld entirely rather than
21 redacted. See *LVRJ v. LVMPD*, 139 Nev. at 84 (stating that redaction of records should be favored
22 over withholding records unless all portions of the record are confidential).

23 A government entity's failure to comply with the NPRA entitles the requesting party to
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1 recover fees and costs from the government entity. NRS 239.011. Furthermore, a government
2 entity's willful failure to adhere to the NPRA requires a court to impose penalties on that entity.
3 NRS 239.340.

4 Neither NDOC nor LVMPD have satisfied either requirement. NDOC's and LVMPD's
5 utter failure to comply with their obligations under the NPRA warrants complete disclosure of all
6 requested records, an award of attorney fees, and sanctions pursuant to NRS 239.340.

7 **I. NDOC has not asserted a privilege that warrants withholding the requested**
8 **records in their entirety.**

9 NDOC has not offered any statutory basis for withholding the requested records; rather the
10 agency relies entirely on the claim that disclosing the records would (1) jeopardize law
11 enforcement information and (2) undermine a hypothetical defendant's right to a fair trial. Pet. Ex.
12 4, at 4; Pet. Ex. 5, at 2. NDOC justified these denials by citing to *Reno Newspapers, Inc. v.*
13 *Gibbons*, 127 Nev. 873, 885, 266 P.3d 623, 631 (2011) and *Donrey of Nevada, Inc. v. Bradshaw*,
14 798 P.2d 144 (1990). Pet. Ex. 4, at 4; Pet. Ex. 5, at 2. Neither *Gibbons* nor *Donrey* support
15 withholding the records, as neither recognizes a blanket law enforcement investigation privilege
16 under the NPRA. In fact, the Nevada Supreme Court has explicitly rejected such generalized
17 claims in *LVRJ v. LVMPD*, stating there that the government must provide particularized facts
18 about the status of an investigation or the law enforcement techniques at risk. 139 Nev. at 78-82.

19 As recognized in its response, NDOC recognizes that it must balance the interests affected
20 by the requests but failed to identify those interests or explain why they supposedly outweigh the
21 public's interest in the records. *Id.* In fact, the interests NDOC identified are the exact type of
22 "speculative or implausible harm" prohibited by the Nevada Supreme Court in *LVRJ v. LVMPD*.
23 139 Nev. at 83 (internal citation omitted). In *LVRJ v. LVMPD*, the government asserted that its
24 interests clearly outweighed the public interest because releasing the requested records could

1 potentially endanger people involved in its investigation. 139 Nev. at 81. The Court rejected this
2 asserted interest, as the government had provided no evidence to support it. *Id.* In contrast, the
3 Court found that the requester had identified several legitimate public interests that weighed in
4 favor of disclosure, including public oversight of law enforcement and community safety. *Id.* at
5 82.

6 Similarly, in its responses, NDOC references an anticipated criminal proceeding in denying
7 the request, however no law enforcement agency has provided evidence that such a proceeding is
8 underway, let alone how disclosure of any of the public records will prejudice those proceedings.
9 Even if there are anticipated or active criminal proceedings, NDOC must provide more than a
10 blanket denial of ACLUNV's request, especially considering that NDOC leadership has spoken to
11 the press about the recent homicides and has implied that Mr. Warren-Hunt and other homicide
12 victims participated in the drug trade. *See* Murphy, *supra* p. 2 (suggesting that the recent string of
13 homicides was related to drug debt). Additionally, this reasoning would definitely not apply to
14 requests for general policies, which NDOC also denied on this basis. *See* Pet. Ex. 2, at 3; Pet. Ex.
15 5, at 2.

16 In contrast, ACLUNV is seeking the requested records to further significant, non-
17 hypothetical public interests: 1) the public has an interest in oversight over NDOC's safety and
18 security practices to understand how Mr. Warren-Hunt's homicide was able to occur in a secure
19 facility; 2) the public has an interest in oversight of LVMPD to understand how it engages in
20 homicide investigations, especially in environments sealed off from the public; 3) the public has
21 an interest in safety of all members of the community, including incarcerated people; 4) families
22 of victims, like Mr. Warren-Hunt's mother and sister, have an interest in understanding what
23 happened to their loved one and holding anyone responsible accountable. Considering the extent
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1 of the news coverage related to the spate of homicides within NDOC's walls, this interest is not
2 hypothetical.

3 Given the suppositional nature of NDOC's interests and the substantial, concrete nature of
4 the public's interests, NDOC has failed to prove that its interests clearly outweigh those of the
5 public. The strong public interests ACLUNV has identified, which promote government
6 transparency that is at the heart of the NPRA, outweigh the hypothetical interests NDOC asserted.
7 The balance of interests weighs in favor of releasing the requested records.

8 **II. LVMPD has not asserted a privilege that warrants withholding the requested**
9 **records in their entirety.**

10 LVMPD failed to meet its burden to show that the records are confidential under the NPRA
11 because it has offered a string of inapplicable statutes and unsubstantiated allegations of potential
12 harm that are insufficient to overcome the NPRA's presumption in favor of disclosure.

13 When a government entity relies on a statute or other provision to withhold a record, it
14 must identify what provision exempts what specific record from disclosure under the NPRA.
15 *Gibbons*, 127 Nev. at 885. "Merely pinning a string of citations to a boilerplate declaration of
16 confidentiality" is inadequate. *Id.* Additionally, when there is no applicable statute and a
17 government entity engages in a balancing of interests related to a record, "[t]he government may
18 not avoid a lawful public records request by simply providing a blanket statement of factors," or
19 unsubstantiated claims. *Conrad v. Reno Police Dep't*, 139 Nev. 126, 130, 530 P.3d 851, 855
20 (2023); *LVRJ v. LVMPD*, 139 Nev. at 81.

21 LVMPD has provided only boilerplate citations, blanket statements of factors, and
22 unsubstantiated claims, which are prohibited by *Conrad* and *LVRJ v. LVMPD*. LVMPD's
23 responses can be categorized in three ways: 1) statutes that are not confidentiality provisions and
24 are not referenced in NRS 239.010, including, for example, statutory definitions from NRS 179A

1 and limitations on discovery in criminal cases from NRS 174.235¹; 2) cases and provisions that
2 have nothing to do with the NPRA, including, but not limited to a Tennessee case interpreting a
3 Tennessee statute and a U.S. Supreme Court case relating to Fourth Amendment violations²; and
4 3) provisions that might provide confidentiality under limited conditions, but without any
5 explanation of how they would relate to the records ACLUNV requested or why they would bar
6 disclosure.³ None of the responses are sufficient to satisfy LVMPD's burden under the NPRA.

7 Under the third category, like NDOC, LVMPD cited *Donrey* and *Gibbons*, acknowledging
8 the presumption in favor of disclosure, but invoking the same nonexistent "law enforcement
9 privilege" as NDOC. Ex. 10, at 1. While LVMPD listed example factors that might weigh in favor
10 of nondisclosure, like NDOC, it failed to identify any interests held by the public or implicated by
11 ACLUNV's request.

12 LVMPD has failed to cite any applicable exemption or concrete interest in nondisclosure,
13 therefore it is obligated to comply with the NPRA and release all records requested by ACLUNV.

14 Additionally, LVMPD failed to release records that are in its custody and control. Pursuant
15 to NRS 239.0107(1), the person who has legal custody or control of a public book or record of a
16 governmental entity must provide a copy of the public book or record upon receipt of a written or
17 oral request.

18 In its document titled, "911 Calls," LVMPD directs ACLUNV to submit a new request for
19 any 911 calls related to Mr. Warren-Hunt's murder to the LVMPD Communications Bureau. Ex.
20 9. The link to submit this request provided by LVMPD directs ACLUNV to a page on LVMPD's

23 ¹ Pet. Ex. 10, at 1-2.

24 ² *Id.* at 2-3.

³ *Id.* at 1-3.

1 website.⁴ There is no indication on the webpage that the LVMPD Communications Bureau is a
2 separate organization from LVMPD. There is no indication that records maintained by the
3 Communications Bureau are in the custody or control of an agency other than LVMPD. Therefore,
4 LVMPD has violated the NPRA by not disclosing public records in its custody and control.

5 **III. NDOC's and LVMPD's willful failure to comply with the NPRA warrants**
6 **penalties under NRS 239.340.**

7 If a government entity willfully fails to comply with the Nevada Public Records Act, they
8 must pay the applicable fine. NRS 239.340. These fines are in addition to any other rights and
9 remedies available to the requestor. NRS 239.340(3).

10 A willful violation of a statute is a violation that is knowing, intentional, deliberate, and
11 voluntary. *Century Steel, Inc. v. State, Div. of Indus. Rels., Occupational Safety & Health Section*,
12 122 Nev. 584, 589, 137 P.3d 1155, 1159 (2006).

13 NDOC has deliberately and intentionally violated the NPRA. NDOC failed to identify any
14 specific records that are responsive to ACLUNV's request or support its confidentiality assertions
15 with any evidence. In its responses, NDOC cited to *Gibbons*, in which the Nevada Supreme Court
16 stressed that, when considering the balance of interests related to a requested record, non-
17 particularized or merely hypothetical concerns are not sufficient to overcome the NPRA's
18 presumption in favor of disclosure. 127 Nev. at 880; Pet. Ex. 4, at 4; Pet. Ex. 5, at 2. Demonstrating
19 its understanding of its obligations under *Gibbons*, NDOC then stated that it "must balance the
20 interests of all affected individuals," but offered no discussion of any substantiated interests
21 implicated by the records. Pet. Ex. 4, at 4; Pet. Ex. 5, at 2. This indicates that NDOC understood
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23 ⁴ Link provided by LVMPD: [https://www.lvmpd.com/about/bureaus/communications/research-](https://www.lvmpd.com/about/bureaus/communications/research-office-procedures)
24 [office-procedures](https://www.lvmpd.com/about/bureaus/communications/research-office-procedures)

1 its obligations under the NPRA but chose not to meet them. NDOC's willful noncompliance with
2 the NPRA warrants the Court imposing penalties under NRS 239.340.

3 LVMPD has also willfully violated the NPRA. LVMPD's obligations under the NPRA are
4 clear— it must provide the requester written notice if it denies a request for public records on the
5 grounds that the records or some part thereof are confidential and cite to the specific statute or
6 other legal authority that makes the public book or record, or a part thereof, confidential. NRS
7 239.0107(1)(d). Instead of fulfilling its obligations, LVMPD only offers a slew of irrelevant
8 confidentiality provisions and other authority that clearly do not apply to the requested records.
9 *Id.* at 1-3. LVMPD has unsuccessfully attempted to thwart the NPRA through such vague and
10 unsubstantiated assertions before. *See, e.g. LVRJ v. LVMPD*, 139 Nev. at 70 (LVMPD
11 unsuccessfully asserted the same law enforcement/criminal investigation privilege); *ABC v. Las*
12 *Vegas Metro. Police Dep't*, 2021 Nev. Dist. LEXIS 1111, at *3 (Nev. Eight Jud. Dist. Ct. Apr. 16,
13 2021) (“Metro refused to provide any of the records..., claiming that because the records are
14 purportedly ‘part of an open investigation’ they are ‘confidential and privileged pending the
15 outcome of the investigation.’”). Based on this pattern of willful noncompliance, penalties against
16 LVMPD are warranted in this case.

17 **IV. NDOC and LVMPD must pay ACLUNV's fees and costs pursuant to NRS 239.011**
18 **and statutory penalties pursuant to NRS 239.340.**

19 If the requester of public records prevails in a writ to enforce their rights under the Nevada
20 Public Records Act, they are entitled to recovery of their costs and associated attorney's fees. NRS
21 239.011(3).

22 ACLUNV has incurred costs and fees in responding to and sorting through the slew of
23 confidentiality exemptions claimed by NDOC and LVMPD. Additionally, ACLUNV has incurred
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1 fees and costs in the drafting of this writ. As such, ACLUNV is requesting recovery of said costs
2 and fees.

3 Additionally, if a government entity willfully fails to comply with the NPRA, as NDOC and
4 LVMPD have done here, the court must impose the civil penalties prescribed in NRS 239.340.
5 (\$10,000 for a first violation within a 10-year period; \$5,000 for a second violation; and \$10,000
6 for a subsequent violation).

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9 Dated this 27th day of August, 2026.

10 **AMERICAN CIVIL LIBERTIES**
11 **UNION OF NEVADA**

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