

IN THE SUPREME COURT OF THE STATE OF NEVADA

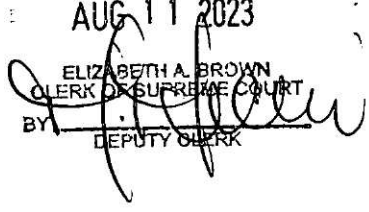
ACKEEM RAMSAY,
Appellant,

vs.

STATE OF NEVADA,
Respondent.

FILED

AUG 11 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

Case No.: 86569

**BRIEF OF AMICI CURIAE ACLU OF NEVADA, FINES AND FEES
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23-26091

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following persons and entities as described in NRAP 26.1(a) must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

American Civil Liberties Union of Nevada Foundation, Inc., is a domestic nonprofit, non-stock corporation. It has no parent corporations, and no publicly held corporations have an ownership interest in it. This amicus curiae is represented by Christopher Peterson.

Fines and Fees Justice Center is a project of New Ventures Fund, a domestic nonprofit, non-stock corporation. It has no parent corporations, and no publicly held corporations have an ownership interest in it. This amicus curiae is represented by Christopher Peterson.

The UNLV Misdemeanor Clinic is part of the Thomas and Mack Legal Clinic at the UNLV William S. Boyd School of Law, a state educational institution under the Nevada System of Higher Education—a governmental institution without parent corporations or ownership by publicly traded corporations. This amicus curiae is represented by M. Eve Hanan, UNLV Misdemeanor Clinic. The UNLV Misdemeanor Clinic does not represent the views of the Board of Regents of the

Nevada System of Higher Education, UNLV, nor the William S. Boyd School of Law.

Nevada Attorneys for Criminal Justice (NACJ) is a domestic nonprofit, non-stock corporation. It has no parent corporations, and no publicly held corporations have an ownership interest in it. This amicus curiae is represented by Randolph Fiedler.

No other law firms have appeared for the amicus in this case or are expected to appear for the amicus in this Court.

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TABLE OF CONTENTS

NRAP 26.1 DISCLOSURE	ii
TABLE OF CONTENTS	iv
TABLE OF AUTHORITIES	vi
STATEMENT OF INTEREST AND AUTHORITY TO FILE	1
SUMMARY OF THE ARGUMENT	3
ARGUMENT	4
I. The District Court order barring Ramsay from the Resort Corridor is unconstitutional because it infringes on Ramsay’s First Amendment rights without sufficient justification.	5
A. The District Court’s order barring Ramsay from the Resort Corridor as a condition of probation infringes upon Ramsay’s First Amendment rights because it bars Ramsay from accessing a traditional public forum.	5
B. Even though Ramsay is on supervised probation, the District Court order violates the First Amendment because the Court failed to justify the restriction on Ramsay’s First Amendment activity.	8
II. The District Court order barring Ramsay from the Resort Corridor is unconstitutional because it infringes on Ramsay’s substantive due process right to intrastate travel and the District Court failed to offer sufficient justification for the condition.	10
III. Clark County Code 12.02, which the District Court relied upon in ordering Ramsay out of the Resort Corridor, is the result of improper delegation of rulemaking authority and violates Article 4, Section 20.	12
IV. The Court must provide clear guidance regarding the constitutionality of Clark County Code 12.02 as the ordinance was specifically meant to target people accused of low-level, non-violent offenses and has been the basis for hundreds of arrests within the last year.	15

CONCLUSION	20
CERTIFICATE OF COMPLIANCE	22
CERTIFICATE OF SERVICE	24
EXHIBITS	25

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TABLE OF AUTHORITIES

Cases

<i>Am. C.L. Union of Nevada v. City of Las Vegas</i> , 333 F.3d 1092 (9th Cir. 2003)	7
<i>Bowsher v. Synar</i> , 478 U.S. 714 (1986).....	14
<i>City of Chicago v. Morales</i> , 527 U.S. 41 (1999)	11
<i>City of Sparks v. Sparks Mun. Ct.</i> , 129 Nev. 348, 302 P.3d 1118 (2013)	15
<i>Doe v. Harris</i> , 772 F.3d 563 (9th Cir. 2014)	8
<i>Frisby v. Schultz</i> , 487 U.S. 474 (1988).....	6
<i>Goodwin v. Sparks</i> , 93 Nev. 400, 566 P.2d 415 (1977)	14
<i>Johnson v. City of Cincinnati</i> , 310 F.3d 484 (6th Cir. 2002)	11
<i>Johnston v. Eighth Jud. Dist. Ct. of Nev.</i> , 138 Nev. Adv. Rep. 67, 518 P.3d 94 (2022).....	9
<i>Kent v. Dulles</i> , 357 U.S. 116 (1958).....	10
<i>Moss v. United States Secret Serv.</i> , 675 F.3d 1213 (9th Cir. 2012)	5
<i>Nunez by Nunez v. City of San Diego</i> , 114 F.3d 935 (9th Cir. 1997).....	11
<i>Packingham v. North Carolina</i> , 582 U.S. 98 (2017)	6, 7
<i>Perez v. Mortg. Bankers Ass’n</i> , 575 U.S. 92 (2015).....	14
<i>S.O.C., Inc. v. County of Clark</i> , 152 F.3d 1136 (9th Cir. 1998)	7
<i>Sheriff v. Luqman</i> , 101 Nev. 149 (1985).....	13
<i>State ex. rel. Ginocchio v. Shaughnessy</i> , 27 Nev. 129, 217 P. 581 (1923)	12
<i>United States v. Knights</i> , 534 U.S. 112 (2001).....	8
<i>United States v. Spilotro</i> , 786 F.2d 808 (8th Cir. 1986)	9

<i>United States v. Wells</i> , 29 F.4th 580 (9th Cir. 2022)	9, 11
<i>Valdez-Jimenez v. Eighth Judicial Dist. Ct.</i> , 136 Nev. 155, 460 P.3d 976 (2020)....	9
<i>Valley Broadcasting Co. v. United States</i> , 107 F.3d 1328 (9th Cir. 1997)	12
<i>Venetian Casino Resort, LLC. v. Local Joint Exec. Bd.</i> , 257 F.3d 937 (9th Cir. 2001)	7

Statutes

CCC 12.02	3, 4, 5, 12, 13, 14, 15, 16, 17, 20, 21
CCC 12.02.010	3, 12
CCC 12.02.020(a)	15
CCC 12.02.020(b)	15
NRS 176.0625	13
NRS 176.0635	13
NRS 178.4851(3)	9
NRS 244.357	13

Constitutional Provisions

Nev. Const. art. 4, § 20	4, 14, 20
Nev. Const. art. 4, § 26	14
U.S. Const. amend. I	5
U.S. Const. amend. XIV, § 1	10

Other Authorities

Clark County Board of Commissioners Minutes, August 2, 2022	16, 18
---	--------

Clark County Criminal Justice Coordinating Counsel, Meeting Minutes, February 23, 2023	18
Emily Widra et al., <i>Where people in prison come from: The geography of mass incarceration in Nevada</i> , Prison Policy Initiative (August 2022).....	19
Katelyn Newberg, <i>Las Vegas court changing the way it addresses crime on Strip</i> , Las Vegas Review-Journal (December 16, 2022).....	17
Ken Ritter, <i>Vegas Golden Knights and fans celebrate 1st NHL championship with parade and rally</i> , AP News (June 16, 2023).....	7
Las Vegas Metropolitan Police Department Policy 4.142.....	17
Orko Manna & Justin Hopkins, <i>'My body, choice': Hundreds protest COVID-related mandates on the Las Vegas Strip</i> , 8 News Now (September 7, 2021)	6
Savanna Strott, <i>Protesters take to the Las Vegas Strip in response to George Floyd's death</i> , The Nevada Independent (May 30, 2020).....	7
Tiffany Lane, <i>Protesters march along Las Vegas Strip demanding regime change in Iran</i> , 3 News (September 26, 2022)	7

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STATEMENT OF INTEREST AND AUTHORITY TO FILE

The American Civil Liberties Union (ACLU) of Nevada is a state affiliate of the national ACLU, a nonprofit, nonpartisan organization that has been the nation's guardian of liberty for over 100 years. The ACLU works to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. Protecting freedom of expression is a core tenet of the ACLU's work, and the ACLU has frequently appeared before the Supreme Court, the United States Court of Appeals for the Ninth Circuit, and the Nevada Supreme Court in free speech cases both as direct counsel and as *amicus curiae*. Because the First Amendment rights of Nevadan citizens are at stake in this case, its proper resolution is of particular interest to the ACLU of Nevada and its members.

The Fines and Fees Justice Center (FFJC) is a national center for advocacy, information, and collaboration on effective solutions to the unjust and harmful imposition and enforcement of fines and fees in state and local courts. FFJC's mission is to create a justice system that treats individuals fairly, ensures public safety, and is funded equitably. As a national hub for information, resources, and technical assistance on fines and fees, FFJC works with impacted communities, researchers, advocates, legislators, justice system stakeholders, and media across the nation. FFJC has an office in Nevada dedicated specifically to these issues within

the state. FFJC also provides amicus curiae assistance at the federal and state levels in cases where issues of economic justice intersect with state and constitutional law.

The Misdemeanor Clinic at the UNLV William S. Boyd School of Law provides pro bono representation for indigent and vulnerable individuals charged with misdemeanors in Clark County. The clinic teaches law students how to provide effective and zealous criminal representation from arraignment through trial and sentencing. As defendants in the Las Vegas Justice Court, clients of the Misdemeanor Clinic are significantly affected by the orders out of the Las Vegas Strip corridor that are the subject of this case. The UNLV Misdemeanor Clinic does not represent the views of the Board of Regents of the Nevada System of Higher Education, UNLV, nor the William S. Boyd School of Law.

Nevada Attorneys for Criminal Justice (NACJ) is a state-wide non-profit organization of criminal defense attorneys in Nevada. Nevada Attorneys for Criminal Justice has an interest in this case because its members represent individuals regularly subject to the “order out” conditions.

Appellant Ramsay and Respondent State of Nevada have consented to the filing of this amici curae brief pursuant to NRAP 29(a). As required by NRAP 29(a), written consent from Appellant Ramsay and Respondent State of Nevada accompany this brief, attached as EXHIBIT A (Appellant Ramsay) and EXHIBIT B (Respondent State of Nevada) respectively.

SUMMARY OF THE ARGUMENT

On April 11, 2023, Department 17 of Nevada's Eighth Judicial District Court issued an order barring Appellant Ramsay from the Resort Corridor, an expansive geographical area defined by Clark County Code (CCC) 12.02.010 encompassing the economic and social heart of Nevada's most populous county. The District Court provided no explanation for why it issued this order.

The District Court's decision to banish Ramsay from the Resort Corridor without explanation, even as a condition of probation, violates Ramsay's right to access a traditional public forum under the First Amendment and right to travel under the Fourteenth Amendment. It also subjects Ramsay to CCC 12.02, a local ordinance promulgated pursuant to an unlawful delegation of authority from the State Legislature and in violation of Article 4, Section 20, of the Nevada Constitution.

Ramsay is only one of many people who have been subjected to banishment from the Resort Corridor. Testimony from Clark County officials prior to CCC 12.02's passage in August of 2022 and Las Vegas Metropolitan Police Department's policies related to orders out explicitly describe using the ordinance to target low-level, non-violent offenses including solicitation, theft, and trespass. According information provided to amici curiae by Nevada's Department of Public Safety, over 200 people have already been arrested pursuant to the new ordinance. And as seen in Ramsay's own case, justice courts are not just issuing orders out after conviction

but as pretrial release conditions. A clear, unequivocal statement is needed as to whether CCC 12.02 and orders out more generally are constitutional under Nevada law.

ARGUMENT

The District Court has prohibited Ramsay from entering the Resort Corridor as a condition of probation without providing any justification for this prohibition. The order violates Ramsay's constitutional rights under the First Amendment to access a traditional public forum and under the Fourteenth Amendment to intrastate travel. The order also subjects Ramsay to potential criminal penalties under CCC 12.02, an ordinance that violates Article 4, Section 20, of the Nevada Constitution and is the product of an unlawful delegation of power by the Legislature to the Clark County Commission.

These issues are impacting many beyond Appellant Ramsay and other people convicted of felonies. Clark County intends for CCC 12.02 to target people accused of low-level, non-violent offenses. The Las Vegas Metropolitan Police Department has publicly stated that it intends to use orders out to seek "leverage" against homeless people and has conducted over 200 arrests for CCC 12.02 violations since the ordinance's passage. As seen in Ramsay's own records, courts are not waiting until conviction to order people out of the Corridor, instead issuing banishments as

conditions of pretrial release. Considering the growing scope of the problem and its intended impact on people accused of minor offenses, amici request that this Court clearly address the constitutionality of CCC 12.02 and orders out more generally.

I. The District Court order barring Ramsay from the Resort Corridor is unconstitutional because it infringes on Ramsay’s First Amendment rights without sufficient justification.

The District Court’s order barring Ramsay from the Resort Corridor necessarily infringes upon Ramsay’s First Amendment right to access a traditional public forum. While a court may order conditions of probation that restrict First Amendment activity, such restrictions are only justified if reasonably related to a permissible objective for probation and the restriction is no greater than reasonably necessary to meet that objective. Here the District Court failed to offer any reason to justify imposing the infringing condition upon Ramsay, rendering the condition unconstitutional.

A. The District Court’s order barring Ramsay from the Resort Corridor as a condition of probation infringes upon Ramsay’s First Amendment rights because it bars Ramsay from accessing a traditional public forum.

In “traditional public fora, the government’s ability to permissibly restrict expressive conduct is very limited . . . First Amendment protections are strongest, and regulation most suspect.” U.S. Const. amend. I; *Moss v. United States Secret Serv.*, 675 F.3d 1213, 1223 (9th Cir. 2012)(quotation omitted). “[A]ll public streets are held in the public trust and are properly considered traditional public fora.”

Frisby v. Schultz, 487 U.S. 474, 481 (1988). “Even in the modern area, [public streets] are still essential venues for public gatherings to celebrate some views, to protest others, or simply learn and inquire.” *Packingham v. North Carolina*, 582 U.S. 98, 104 (2017). In turn, “[a] fundamental principle of the First Amendment is that all persons have access to places where they can speak and listen, and then, after reflection, speak and listen once more.” *Id.* Barring access to a public forum *de facto* suppresses speech within that forum and runs afoul this principle. *See id.* at 109 (finding that a North Carolina law barring access to the Internet, a public forum, violated the First Amendment and observing that “the government may not suppress lawful speech as the means to suppress unlawful speech.”)(quotation omitted).

Running throughout the Las Vegas Resort Corridor are public sidewalks and roadways that have historically been used for public assembly and debate. The Corridor is the epicenter of First Amendment activity within the Las Vegas Valley and regularly the site of parades, protests, and artistic performances. Within the last few years alone, it has seen such significant events as protests against COVID-19 restrictions, Black Lives Matter activism following the murder of George Floyd, actions demanding for regime change in Iran, and parades celebrating the Golden Knights hockey team.¹ Considering the Corridor’s cultural and political importance

¹ Orko Manna & Justin Hopkins, ‘My body, choice’: Hundreds protest COVID-related mandates on the Las Vegas Strip, 8 News Now (September 7, 2021) (anti-vaccine protests in the Resort Corridor); Savanna Strott, *Protesters take to the Las*

to the Las Vegas community, it is unsurprising that the Ninth Circuit has expressly and repeatedly found that “the public streets and sidewalks located within the Las Vegas Resort District are public fora.” *Venetian Casino Resort, LLC. v. Local Joint Exec. Bd.*, 257 F.3d 937, 944 (9th Cir. 2001) (citing *S.O.C., Inc. v. County of Clark*, 152 F.3d 1136 (9th Cir. 1998) (finding that a Clark County ordinance prohibiting protected speech in the Las Vegas Resort District violated the First Amendment after determining that the public streets and sidewalks in the District were a public fora).

The government bears "an extraordinarily heavy burden" when it seeks to regulate free speech within a traditional public forum. *Am. C.L. Union of Nevada v. City of Las Vegas*, 333 F.3d 1092, 1098 (9th Cir. 2003). As made clear in *Packingham*, this burden applies to restrictions placed on a person’s right to access such a forum: after all, a person who cannot access a forum is necessarily barred from engaging in First Amendment activity within that forum. *See* 582 U.S. at 109 (viewing a restriction on accessing a public forum as suppression of speech). Here, the District Court barred Ramsay from accessing a traditional public forum, but neither the government nor the District Court gave any explanation to justify this

Vegas Strip in response to George Floyd’s death, The Nevada Independent (May 30, 2020); Tiffany Lane, *Protesters march along Las Vegas Strip demanding regime change in Iran*, 3 News (September 26, 2022); Ken Ritter, *Vegas Golden Knights and fans celebrate 1st NHL championship with parade and rally*, AP News (June 16, 2023).

infringement on Ramsay's constitutional rights. As the government, and by the extension the District Court, has not satisfied its obligations under the First Amendment, the District Court's order barring Ramsay from the Resort Corridor is unconstitutional.

B. Even though Ramsay is on supervised probation, the District Court order violates the First Amendment because the Court failed to justify the restriction on Ramsay's First Amendment activity.

Even after conviction, people on probation retain some First Amendment rights. *United States v. Knights*, 534 U.S. 112, 119 (2001); *Doe v. Harris*, 772 F.3d 563, 571 (9th Cir. 2014). In evaluating whether a restriction on constitutionally-protected activity by a person subject to government supervision is permissible, the United States Court of Appeals for the Ninth Circuit has articulated a continuum to assess a restriction's validity, allowing for the greatest restrictions for incarcerated people and the least for people on probation. *Harris*, 772 F.3d at 571. Though the Ninth Circuit has not placed on that continuum what, if any, restrictions are permissible for people subject to pretrial conditions, the United States Court of Appeals for the Eighth Circuit has observed that in the context of pretrial release conditions, "[i]ncidental limitations on First Amendment freedoms can be sustained only if justified by a sufficiently important governmental interest which is unrelated to the affected first amendment freedom and no greater than is essential to the furtherance of that interest." *United States v. Spilotro*, 786 F.2d 808, 816–17 (8th

Cir. 1986). This aligns with this Court’s precedent: any pretrial release condition imposed must be “the least restrictive means necessary to protect the safety of the community or to ensure that the person will appear at all times and places ordered by the court.” *Johnston v. Eighth Jud. Dist. Ct. of Nev.*, 138 Nev. Adv. Rep. 67, 518 P.3d 94, 103 (2022) (citing NRS 178.4851(3); *Valdez-Jimenez v. Eighth Judicial Dist. Ct.*, 136 Nev. 155, 460 P.3d 976 (2020)); see *Spilotro*, 786 F.2d at 816 (“[A]ny condition restricting [the First Amendment right of] association should be limited to only that necessary to assure the defendant’s appearance when required in district court.”).

In the context of probation and supervision conditions imposed by a sentencing court, “restrictions infringing upon fundamental rights are reviewed carefully.” *United States v. Wells*, 29 F.4th 580, 590 (9th Cir. 2022). As such, a condition that infringes upon a defendant’s constitutional rights is valid only if it is (1) reasonably related to the goals of deterrence, protection of the public, or defendant rehabilitation and (2) involves no greater deprivation of liberty than is reasonably necessary to achieve these goals.² *Id.*

² *Wells* also required that any such condition comply with “any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. § 994(a)”, but Nevada has no statute comparable to 28 U.S.C. § 994(a). *Wells*, 29 F.4th at 590.

Here the District Court made no record explaining how banishing the Ramsay from a traditional public forum (1) served to deter criminal activity, protect the public, or increase the likelihood of rehabilitation or (2) achieved any of these goals without depriving Ramsay of his constitutional rights more than reasonably necessary. As the District Court failed to offer sufficient justification for a release condition that infringed upon Ramsay’s First Amendment rights, that condition is unconstitutional.

II. The District Court order barring Ramsay from the Resort Corridor is unconstitutional because it infringes on Ramsay’s substantive due process right to intrastate travel and the District Court failed to offer sufficient justification for the condition.

The right to intrastate travel is a fundamental liberty protected by the Due Process Clause of the Fourteenth Amendment of the United States Constitution. U.S. Const. amend. XIV, § 1; *Kent v. Dulles*, 357 U.S. 116, 125 (1958). As the *Kent* Court observed, “[t]he right to travel is a part of the ‘liberty’ of which the citizen cannot be deprived without the due process of law,” noting that this freedom of movement is “deeply engrained in our history” and “basic in our scheme of values.” *Id.* In *City of Chicago v. Morales*, the Supreme Court affirmed that “the freedom to loiter for innocent purposes is part of the ‘liberty’ protected by Due Process” and “[the Court] expressly identified this right to remove from one place to another according to inclination as an attribute of personal liberty protected by the Constitution.” 527 U.S.

41, 53 (1999) (internal quotation marks and citations omitted). The United States Court of Appeals for the Sixth Circuit has described this right as:

“The right to travel locally through public spaces and roadways – perhaps more than any other rights secured by substantive due process – as an everyday right, a right we depend on to carry out our daily life activities. It is at its core, a right of function.”

Johnson v. City of Cincinnati, 310 F.3d 484, 498 (6th Cir. 2002); *see also Nunez by Nunez v. City of San Diego*, 114 F.3d 935, 944-45 (9th Cir. 1997) (recognizing that “[c]itizens have a fundamental right to freedom of movement” and curfews imposed by local municipalities infringe upon that constitutional right). Here, the Resort Corridor, and by extension the District Court’s order out, encompasses miles of public roadways, including significant stretches of Las Vegas Boulevard, Tropicana Avenue, and Flamingo Road. This necessarily implicates Ramsay’s right to travel.

As discussed previously, in the context of probation, “restrictions infringing upon fundamental rights are reviewed carefully.” To be constitutional, such restrictions must be (1) reasonably related to the goals of deterrence, protection of the public, and/or defendant rehabilitation and (2) involve no greater deprivation of liberty than is reasonably necessary to achieve these goals.³ *Wells*, 29 F.4th at 590 (quotation omitted). Here, the District Court failed to provide any justification for

³ *Wells* offered a third condition applicable only to federal sentencing law. *See supra* n. 3.

infringing upon the Ramsay's right to travel, rendering the condition barring Ramsay from travelling on the public streets of the Resort Corridor unconstitutional.

III. Clark County Code 12.02, which the District Court relied upon in ordering Ramsay out of the Resort Corridor, is the result of improper delegation of rulemaking authority and violates Article 4, Section 20.

Pursuant to CCC 12.02, “any person who willfully violates an order to stay out of the corridor [as defined by CCC 12.02.010] is guilty of a misdemeanor.” The District Court specifically relied on CCC 12.02 in issuing its condition ordering Ramsay out of the corridor, subjecting him to the threat of prosecution under CCC 12.02.030 if he engages in otherwise legal activity.⁴ *See Valley Broadcasting Co. v. United States*, 107 F.3d 1328, 1330 n.2 (9th Cir. 1997) (finding that the plaintiff had standing to challenge the constitutionality of a statute when a “reasonable threat of prosecution for conduct allegedly protected by the Constitution” existed).

Under Nevada law, county commissions are considered administrative agencies. *State ex. rel. Ginocchio v. Shaughnessy*, 27 Nev. 129, 136, 217 P. 581, 583 (1923). Like any other administrative agency, a county commission's rulemaking power is limited to that delegated by the Legislature, and that delegation is subject to the same restrictions as any other agency. *See id.* (stating that “[t]he legislature cannot delegate legislative power” but “may delegate power to determine some fact

⁴ The District Court clarified, in the Order Granting Motion for Clarification, that the order issued to Appellant is the order described in CCC 12.02. Appellant's App. Vol. I, 88.

and state of things upon which the law [. . .] makes its own operation depend” before investigating whether a power conferred on a county commission was “administrative or legislative”). However, CCC 12.02 is a local law passed by a county commission carrying a criminal penalty. Such a law must necessarily be void as either an unlawful delegation of legislative power or unlawful delegation of a power that the Legislature did not possess.

First, the Legislature cannot delegate its power to pass criminal laws. *Sheriff v. Luqman*, 101 Nev. 149, 153 (1985) (“It is well settled in Nevada that the power to define what conduct constitutes a crime lies exclusively within the power and authority of the legislature.”). The Commission could not have had the power to pass CCC 12.02, an ordinance carrying a criminal penalty, because that power rests solely with the State Legislature.⁵ Moreover, any new conviction under the locally-created misdemeanor carries with it mandatory administrative assessments and other fees automatically imposed by the Nevada legislature upon conviction of a crime. NRS 176.0625; NRS 176.0635. In essence, the Commission has not only created a new criminal offense, but it has also imposed state financial obligations on people the Legislature never contemplated would be so sanctioned.

⁵ And insofar as NRS 244.357 purports to delegate the authority to define criminal conduct, it is inconsistent with both *Luqman* and the Nevada constitutional design. See *Luqman*, 101 Nev. at 153; Nev. Const. art. 4 § 20.

Second, the Legislature cannot delegate a power it does not possess. *See Bowsher v. Synar*, 478 U.S. 714, 726 (1986) (“The structure of the Constitution does not permit Congress to execute the laws; Congress cannot grant to an officer under its control what it does not possess.”) (cited by *Perez v. Mortg. Bankers Ass’n*, 575 U.S. 92, 132 (2015) (J. Thomas, concurring) (“Lacking the power itself, [Congress] cannot delegate that power to an agency.”)). The Nevada Constitution bars the legislature from passing “local laws . . . [f]or the punishment of crimes and misdemeanors.” Nev. Const. Art 4, § 20. A local law is a law “which operates over a particular locality instead of over the whole territory of the state.” *Goodwin v. Sparks*, 93 Nev. 400, 402, 566 P.2d 415, 416 (1977). CCC 12.02, since it only applies to Clark County rather than all of Nevada, is a “local law.” However, the Legislature could not delegate to the Clark County Commission the power to pass CCC 12.02, because CCC 12.02 is a local law that defines a criminal misdemeanor, and the Legislature does not have the power to pass local laws for the punishment of crimes and misdemeanors.

In the alternative, even if the Legislature could delegate the power that it does not possess to an entity outside of the Legislative Department, it is barred from delegating such powers to a county commission because county commissioners are part of Nevada’s Legislative Department, and therefore also subject to Article 4, Section 20. *Compare* Nev. Const. art. 4, § 26 (creating the position of county

commissioner under “Article 4 – Legislative Department”) *with City of Sparks v. Sparks Mun. Ct.*, 129 Nev. 348, 366, 302 P.3d 1118, 1130 (2013) (recognizing Nevada’s municipal courts as part of Nevada’s Judicial Department due to those courts’ inclusion in Article 6 [- Judicial Department] pursuant to Section 1). As such, Article 4, Section 20’s prohibition on local criminal laws would necessarily apply to the Clark County Commission.

IV. The Court must provide clear guidance regarding the constitutionality of Clark County Code 12.02 as the ordinance was specifically meant to target people accused of low-level, non-violent offenses and has been the basis for hundreds of arrests within the last year.

The Clark County Commission passed CCC 12.02 in August of 2022, authorizing any court within Clark County to impose on anyone who receives a deferred adjudication or suspended sentence for any crime an order out of the Resort Corridor for up to one year “if the circumstances warrant.” CCC 12.02.020(a). This power applies to any crime committed anywhere in Clark County, including offenses unrelated to the Corridor. *Id.* While the ordinance requires courts to inquire whether a defendant has any special reason that requiring access to the Corridor prior to imposing the order, including working, obtaining medical services, accessing religious services, or accessing legal services within the corridor, those same courts are not required to provide any actual accommodations after receiving this information. CCC 12.02.020(b).

When introducing CCC 12.02 to the Commission, Deputy Clark County Manager Jeff Wells discussed the ordinance's intended purpose and target, stating:

Unfortunately, we are finding that prostitution crime has turned into... a theft crime. We don't have that in our ordinance now, that's the type of thing that we are expanding this to.

Clark County Board of Commissioners Minutes, August 2, 2022, at 25, available at <https://clark.legistar.com/View.ashx?M=M&ID=983183&GUID=53C130E8-B89F-4980-BB0F-D9CFC652803E>. Commissioner Gibson, Chair of the Commission, emphasized that the ordinance would apply to any conviction for crime, "irrespective of the criminal activity, whatever it is." *Id.* at 30. Additional statements recorded in the Minutes suggest that the ordinance was designed to target people whom the County considers undesirable in the Corridor, including people experiencing homelessness. When discussing the express public concern that the ordinance was "another ... attempt to root out the homeless, or displace the homeless, or hassle the homeless," the Clark County Commissioners did not deny the allegation. Instead the Commission discussed the county's priorities in addressing homelessness, with Commissioner Gibson only offering, "[the Clark County Commission's] hope is that we can... have intersection with as many homeless as possible and intervene in a way that brings services to them." *Id.* at 26-27.

Law enforcement also planned to use CCC 12.02's order out provision to target non-violent activity in the Corridor. In statements made to the press about the ordinance, a LVMPD Assistant Sheriff John McGrath stated that the Department would specifically ask for orders out for unsheltered people, stating "We wanted to try to use the 'order out' to get [unsheltered people] to hopefully get some kind of treatment . . . [s]o kind of like leverage over people." Katelyn Newberg, *Las Vegas court changing the way it addresses crime on Strip*, Las Vegas Review-Journal (December 16, 2022), available at <https://www.reviewjournal.com/crime/courts/las-vegas-court-changing-the-way-it-addresses-crime-on-strip-2695703/>. Las Vegas Metropolitan Police Department's (LMVPD) internal policy regarding the order out provision now lists trespass, loitering, larceny, burglary, theft, sale or use of drugs, and prostitution as offenses worth seeking an order out from a Nevada court. Las Vegas Metropolitan Police Department Policy 4.142 at 6, attached as EXHIBIT C.

Shortly after ordinance's, the Las Vegas Justice Court dedicated an entire department to the Resort Corridor. *Id.* A spokesperson for the Court issued a statement at that time to the media saying that "We expect a large number of cases and a large number of defendants" to be funneled into this court. *Id.* Las Vegas justice courts have ordered people out of the "Strip Corridor" at least since December, as seen in this very matter. Justice Court Minutes through 01/04/23, Appellant's App. Vol. I, 2–5. And these justice courts are not waiting until

conviction to impose banishment; as Ramsay learned firsthand, courts are imposing orders out as a condition of pretrial release. *Id.*

In justifying the passage of CCC 12.02, the Clark County Commission claimed that the Clark County Criminal Justice Coordinating Council (CJCC) would collect data related to CCC 12.02's enforcement; such data has not been made available since the ordinance's passage and may not exist at all. *See* Clark County Board of Commissioners Minutes, August 2, 2022, at 28; Clark County Criminal Justice Coordinating Council, Meeting Minutes, February 23, 2023, at 4 ("The subcommittee is also awaiting results from the Resort Corridor Court to see what it looks like in terms of the impact on the jail population, deflection, diversion, and what is being needed for supportive services."), available at <https://www.clarkcountynv.gov/Meeting%20Minutes%20%20February%202023.pdf?t=1688743308522>). Nevada's Department of Public Safety (DPS), however, has collected statistics on arrests made pursuant to 12.02 since its inception and reports that there have already been over 200 arrests for violations of CCC 12.02.030 over the last year. Communication from Repository of Criminal History and Special Services, Nevada Department of Public Safety, attached as EXHIBIT D.⁶

⁶ In its initial correspondence with amicus ACLU of Nevada, the Repository labelled CCC 12.02 as a City of Las Vegas municipal ordinance. In a follow up email, the Repository clarified that was in error and that the Repository meant to refer (*cont'd*)

Considering that such violations can only occur after a court has issued an order out, and this total does not include citations or circumstances where a person followed the court's order, 200 arrests is only the tip of a rapidly growing problem that this Court must address immediately.

Although no specific data exists on the racial and economic demographics of the 200 people subjected to these orders out, research shows that “Black people make up 36% of arrests by Las Vegas Metro police and are 2.6 times more likely to be arrested for low level, non-violent offenses than white people.” Emily Widra et al., *Where people in prison come from: The geography of mass incarceration in Nevada*, Prison Policy Initiative (August 2022), available at <https://www.prisonpolicy.org/origin/nv/2020/report.html>. There is no reason to conclude that these documented disparities deviate significantly with regard to the order out conditions. Not only do these orders out violate constitutional and legislative principles, they likely do so with significant racial disparities.

to CCC 12.02 as a Clark County ordinance. *See* Exhibit D, at 3. The full correspondence and relevant attachment are provided for the Court's convenience.

CONCLUSION

The District Court order barring Appellant Ramsay from the Resort Corridor violates the First and Fourteenth Amendments of the United States Constitution. The order cuts off Ramsay's access to the traditional public forum and bars him from travelling on public roadways but provides no justification for those prohibitions.

In addition to violating the United States Constitution, CCC 12.02, the apparent legal basis for the District Court's order, is the product of an unlawful delegation of Legislative power and violates Article 4, Section 20 of the Nevada Constitution. CCC 12.02 defines the Resort Corridor, empowers District Court's to ban people convicted of any crime in Clark County from that Corridor, and subjects anyone to violates that ban to additional criminal penalties. Additionally, the State Legislature cannot delegate a power that it does not have, and since Article 4, Section 20 prohibits the Legislature from passing local laws with criminal penalties, the Legislature cannot delegate such a power to a County Commission. And even if the Legislature could exercise this power, the Legislature alone may define criminal penalties and cannot delegate that power to administrative agencies like the Clark County Commission like it has done here.

These issues have a broad impact beyond Appellant Ramsay and other felony cases. Clark County intended for CCC 12.02 to target people accused of low-level, nonviolent offenses, and Las Vegas Metropolitan Police Department's own policies

and quotes signal that the law enforcement agency has a similar agenda. According to the data available, LVMPD has already conducted over 200 arrests pursuant to the ordinance since last year. Clear guidance from the Court regarding CCC 12.02 and order outs generally is necessary to prevent further systemic violation of constitutional rights throughout the Las Vegas Valley.

[The remainder of this page intentionally left blank.]

CERTIFICATE OF COMPLIANCE

I hereby certify that I have read this amici brief, and to the best of my knowledge, information, and belief it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, including the requirement of Rule 28(e), which requires that every assertion in the brief regarding matters in the record be supported by a reference to the page and volume number, if any, of the appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

I further certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word for Office 365 in 14 point Times New Roman.

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Finally, I hereby certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is proportionately spaced, has a typeface of 14 points or more and contains 4802 words.

DATED this 3rd day of August 2023.

Respectfully submitted:

**AMERICAN CIVIL LIBERTIES
UNION OF NEVADA**

/s/ Christopher M. Peterson
CHRISTOPHER M. PETERSON,
ESQ.

Nevada Bar No.: 13932
4362 W. Cheyenne Avenue
North Las Vegas, NV 89032
Telephone: (702) 366-1536
Facsimile: (702) 366-1331
Email: peterson@aclunv.org

CERTIFICATE OF SERVICE

I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 3rd day of August 2023. Electronic Service of the foregoing document shall be made in accordance with the Master Service List.

/s/ Christopher Peterson
An employee of ACLU of Nevada

EXHIBIT A

Chris Peterson

From: William Waters <waterswm@ClarkCountyNV.gov>
Sent: Thursday, August 3, 2023 1:16 PM
To: Chris Peterson
Subject: RE: Ramsay, Case No. 86569 - Amicus Consent

This Message Is From an External Sender

This message came from outside your organization.

I'm cool with that.

WMW

From: Chris Peterson <peterson@aclunv.org>
Sent: Thursday, August 3, 2023 12:57 PM
To: William Waters <waterswm@ClarkCountyNV.gov>
Subject: RE: Ramsay, Case No. 86569 - Amicus Consent

Hi Bill,

We had a few other organizations express interest in joining the brief. Would your client consent to the Nevada Attorneys for Criminal Justice, the Fines and Fees Justice Center, and UNLV's Misdemeanor Clinic joining us on the amici brief?

Christopher Peterson
He/Him/His
Legal Director
ACLU of Nevada
4362 W. Cheyenne Ave. | North Las Vegas, Nevada 89032
www.aclunv.org | [Facebook](#) | [Twitter](#)

From: William Waters <waterswm@ClarkCountyNV.gov>
Sent: Friday, July 14, 2023 7:09 PM
To: Chris Peterson <peterson@aclunv.org>
Subject: Re: Ramsay, Case No. 86569 - Amicus Consent

Yes.

From: Chris Peterson <peterson@aclunv.org>
Sent: Friday, July 14, 2023 12:26 PM
To: William Waters <waterswm@ClarkCountyNV.gov>
Subject: Ramsay, Case No. 86569 - Amicus Consent

Hi Bill,

NRAP 29(a) requires that we get consent from all parties in writing. Would Mr. Ramsay consent to the ACLU filing an amicus brief in support of his appeal pursuant to NRCP 29(a)?

Christopher Peterson

He/Him/His

Legal Director

ACLU of Nevada

4362 W. Cheyenne Ave. | North Las Vegas, Nevada 89032

www.aclunv.org | [Facebook](#) | [Twitter](#)

EXHIBIT B

Chris Peterson

From: Alexander Chen <Alexander.Chen@clarkcountyda.com>
Sent: Thursday, August 3, 2023 9:17 AM
To: Chris Peterson
Subject: Re: Ramsay, Case No. 86569 - Amicus Consent

This Message Is From an External Sender

This message came from outside your organization.

No objection.

On Aug 3, 2023, at 9:00 AM, Chris Peterson <peterson@aclunv.org> wrote:

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Hi Alex,

Sorry for the last-minute request. We had one more entity interested in joining our brief last minute. Would you consent to the UNLV Misdemeanor Clinic filing with us?

Christopher Peterson
He/Him/His
Legal Director
ACLU of Nevada
4362 W. Cheyenne Ave. | North Las Vegas, Nevada 89032
www.aclunv.org | [Facebook](#) | [Twitter](#)

From: Alexander Chen <Alexander.Chen@clarkcountyda.com>
Sent: Wednesday, August 2, 2023 10:25 AM
To: Chris Peterson <peterson@aclunv.org>
Cc: Randolph Fiedler <Randolph_Fiedler@fd.org>
Subject: RE: Ramsay, Case No. 86569 - Amicus Consent

Hi Chris,

Yes I consent to their participation as amici.

Alex

From: Chris Peterson <peterson@aclunv.org>
Sent: Wednesday, August 2, 2023 10:18 AM
To: Alexander Chen <Alexander.Chen@clarkcountyda.com>

Cc: Randolph Fiedler <Randolph.Fiedler@fd.org>
Subject: RE: Ramsay, Case No. 86569 - Amicus Consent

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Hello Alex,

We have two other organizations that intend to join us as amici on the brief discussed below: The Fines and Fees Justice Center (FFJC) and Nevada Attorneys for Criminal Justice (NACJ). I will be representing FFJC in addition to the ACLU of Nevada, Randolph Fielder will be representing NACJ. Would you consent to their filing as amici curiae in support of appellant in this matter?

I have CC'd Randy on this email.

Christopher Peterson
He/Him/His
Legal Director
ACLU of Nevada
4362 W. Cheyenne Ave. | North Las Vegas, Nevada 89032
www.aclunv.org | [Facebook](#) | [Twitter](#)

From: Alexander Chen <Alexander.Chen@clarkcountyda.com>
Sent: Thursday, July 13, 2023 1:25 PM
To: Chris Peterson <peterston@aclunv.org>
Subject: RE: Ramsay, Case No. 86569 - Amicus Consent

Hi Chris,

We have no objection to you filing amicus in this matter. We look forward to seeing your analysis and opinion on the issue.

Alex

From: Chris Peterson <peterston@aclunv.org>
Sent: Thursday, July 13, 2023 12:04 PM
To: Alexander Chen <Alexander.Chen@clarkcountyda.com>
Subject: Ramsay, Case No. 86569 - Amicus Consent

CAUTION: This email originated from an **External Source**. Please **use caution** before opening attachments, clicking links, or responding to this email. **Do not sign-in with your DA account credentials.**

Hi Alex,

We intend to file an amicus brief in this matter in support of the appellant. Would your office consent to the filing of that amicus brief pursuant to NRCPC 29(a)?

Christopher Peterson
He/Him/His
Legal Director

ACLU of Nevada
4362 W. Cheyenne Ave. | North Las Vegas, Nevada 89032
www.aclunv.org | [Facebook](#) | [Twitter](#)

EXHIBIT C



LAS VEGAS METROPOLITAN POLICE DEPARTMENT
POLICY AND PROCEDURE

Policy: 4.142, *Citizen's Arrest, Summons in Lieu of Arrest (SILA), In-Custody Trespass, and Order Out*
Volume: 4 - Field Operations
Chapter: 1 - Patrol
Revised: 7/2022, 1/2023

4.142 CITIZEN'S ARREST, SUMMONS IN LIEU OF ARREST (SILA), IN-CUSTODY TRESPASS, AND ORDER OUT

- 4.142.1 Citizen's Arrest
- 4.142.2 Summons in Lieu of Arrest (SILA)
- 4.142.3 In-Custody Trespass
- 4.142.4 Order Out

4.142.1 Citizen's Arrest

Responding officers will ensure the arrest is lawful prior to handcuffing and searching an individual. However, if it can be articulated that a suspect is armed and dangerous, then the officer may perform a pat-down. Officers will conduct a preliminary investigation to ensure there is probable cause for the arrest and will contact a supervisor immediately if a citizen insists upon proceeding with an arrest deemed unlawful.

Procedure

Transporting officer will:

1. Ensure the arrest is lawful as outlined in Nevada Revised Statutes (NRS) 171.126.
2. Complete an Incident Crime Report (ICR) in PremierOne (P1) and obtain the following documentation ensuring completeness and accuracy:
 - a. Declaration of Citizen's Arrest (LVMPD 16)
 - b. Criminal Complaint form (LVMPD 19, 40, or 106) (the form used will vary depending on the crime committed)
 - c. Temporary Custody Record (TCR) (LVMPD 22) or Electronic Temporary Custody Record (ETCR)
 - d. Voluntary Statement (LVMPD 85) (obtained from any victims/witnesses)
 - 1) A Voluntary Statement must be obtained from any persons involved in the incident but is not required by detention personnel when booking a subject.
3. Transport arrestee to the detention facility.
4. Provide detention personnel with a completed TCR/ETCR.
 - a. The TCR/ETCR generated from charges for the arrest made by the citizen must be separate from the TCR/ETCR generated from charges for the arrest made by the officer, if applicable.
5. Ensure that the ICR and Criminal Complaint form are completed prior to clearing from the call.
6. For events or information not covered in the ICR, complete an Officer's Report (LVMPD 82) on each citizen's arrest when circumstances warrant documentation.

Detention personnel will:

4.142	LAS VEGAS METROPOLITAN POLICE DEPARTMENT POLICY AND PROCEDURE <i>Citizen's Arrest, Summons in Lieu of Arrest (SILA), In-Custody Trespass, and Order Out</i> Effective: 1/2023
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1. Receive the subject and the TCR/ETCR, and book into the detention facility accordingly.

4.142.2 Summons in Lieu of Arrest (SILA)

It is the policy of this department to support the prosecution of persons detained by private businesses for in-custody low risk misdemeanor incidents. When suspects meet specific criteria, the department will provide information that can be legally disclosed to the businesses for successful prosecution through the complaint and summons process. Officers will not be routinely dispatched to these incidents.

General

Certain businesses have agreed to handle in-custody low risk petit larceny, trespass, and defrauding an innkeeper incidents without police response. Personnel at these businesses, who are responsible for security and loss prevention, will be given instructions for handling these cases through the complaint and summons process. After reporting an incident that meets the established criteria, they will receive an event number and will complete the required documentation and forward it to their respective area command, Community Oriented Policing (COP) Unit. They will also provide copies of reports and prosecutor contact information to the suspects.

The area commands will train personnel responsible for security and loss prevention, or others in their respective areas, in the proper completion and submittal of reports. They will also serve as a liaison between the businesses and the prosecuting agencies. A list of participating businesses is available on the LVMPD network (w:\Records SILA). This list is updated regularly by the Records and Fingerprint Bureau, Administrative Support Unit, so it should not be printed and posted to avoid confusion.

Procedure

Records and Fingerprint Bureau (RFB) personnel will:

1. Receive a call from a business reporting a petit larceny, trespass, or defrauding an innkeeper incident with a suspect who is in custody.
2. Verify the business and security/loss prevention staff member calling is one that handles its own in-custody incidents and is willing to prosecute. When the area commands are closed, RFB will verify the business calling, and the requester's name, date of birth (DOB), and the last four digits of their Social Security number (SSN).
3. Ensure the subject was detained without physical force, is identifiable, and clearly not under the influence of drugs or alcohol.
4. If the subject does not meet the SILA program criteria, forward the call to the Communications Bureau.
5. Check the National Crime Information Center (NCIC) system, Nevada Criminal Justice Information Systems (NCJIS), and SCOPE for warrants on the subject in custody.
6. Create an event number for the specific crime and issue the event number and the subject's SCOPE ID number to the caller if officers are not required to respond. The event is closed out disposition "E-Easy" with no officer responding.
7. Advise the requester that the SILA program is not applicable and forward the call to Communications if the suspect is wanted, combative, unidentifiable, or incoherent.

Communications will:

4.142	LAS VEGAS METROPOLITAN POLICE DEPARTMENT POLICY AND PROCEDURE <i>Citizen's Arrest, Summons in Lieu of Arrest (SILA), In-Custody Trespass, and Order Out</i> Effective: 1/2023
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property representative	An individual who has the authority to issue a trespass warning on behalf of the property owner.
trespass	When an individual is asked to leave a property by the owner or an occupant verbally, or in writing, and refuses.
habitual trespasser	A person who has been warned and trespassed at the same property 10 or more times.

Procedure

Property Owner or Representative

When asked to leave a premises, a subject must be given an opportunity to leave by the property owner or representative. If a subject is advised that they are no longer permitted on the premises and leaves, then no crime has been committed and the subject will not be detained. If after warned, the subject refuses to leave, then a crime has been committed. The property owner or representative can then make a citizen's arrest by detaining the subject and calling for law enforcement assistance.

Law Enforcement Action

For an in-custody citizen's arrest (i.e., trespass at a hotel/casino), the following procedure will take place:

Communications call taker will:

1. Receive call from a property owner or representative for a subject in custody.
2. Determine the type of assistance needed.
3. Verify the location of the security office where the subject is being detained.
4. Inquire as to the subject's behavior.
 - a. If combative, change the priority of the call to a Priority 1.
5. Obtain information on the subject:
 - a. Name, DOB, and SSN (if available)
 - b. Any previous trespasses that have occurred within one year and if they are a habitual trespasser
6. If time permits, determine the nature of the trespass (i.e., prostitution, drugs, disturbance), conduct a records check, and update information in the event in the computer-aided dispatch (CAD) system.

Officer will:

1. Confirm the information was already entered into CAD.
2. Review the documentation provided by the property representative to include:
 - a. Dates and times the subject was previously trespassed.
 - b. Specific documentation verifying habitual trespass history, if applicable.

4.142	LAS VEGAS METROPOLITAN POLICE DEPARTMENT POLICY AND PROCEDURE <i>Citizen's Arrest, Summons in Lieu of Arrest (SILA), In-Custody Trespass, and Order Out</i> Effective: 1/2023
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3. Determine how the trespass warning was issued (i.e., in writing or verbally as defined in NRS 207,200).
 - a. Verify if there is any video or surveillance evidence to confirm the subject has been previously trespassed.
4. Assist the property owner or representative with a citizen's arrest (see Citizen's Arrest section in this policy).
 - a. If the in-custody subject is a habitual trespasser, then an arrest will be made, unless a medical condition prevents transportation to a detention facility.
5. Issue a citation or make an arrest if the subject has been trespassed within the last year, even if there is no documentation provided to support that the subject is a habitual trespasser.
 - a. The subject will not be released with only a warning.
6. Complete a citizen's citation or citizen's arrest for all other misdemeanor acts constituting trespass not committed in the officer's presence.
7. Complete a report in P1.
8. Only at the request of the property owner or representative, complete an LVMPD Red Card to provide documentation of the trespass.
9. In circumstances where an arrest has not been made, notify the on-duty supervisor, and document the details in CAD.

Patrol supervisor will:

1. Ensure calls for trespass or Order Out Corridor orders are handled and responded to in a timely manner.
2. Contact the property owner or representative for in-custody trespass calls holding for 60 minutes or longer.
3. Assess the number of in-custody calls to determine the need for additional prisoner transport vans or assistance from Clark County Detention Center (CCDC).

4.142.4 Order Out

It is the policy of the department to respect citizens' and tourists' right to freely travel upon public thoroughfares. Clark County has enacted an Order Out Corridor ordinance (CC 12.02.010 to 12.02.030) finding that people who commit certain crimes within the designated area may best be deterred from committing additional crimes by prohibiting them from entering the corridor boundaries for up to one year.

The ordinance, which applies to only Clark County, authorizes Justice Court to issue an Order Out upon conviction of a crime with possible conditions stipulated by the court (e.g., guilty plea, deferred adjudication). The court order may contain exemptions that allow the individual to enter the corridor (e.g., work, to obtain medical services, to attend religious services, public transportation, etc.). If the individual violates the order, they will be arrested for a misdemeanor in compliance with NRS 171.1771 2(b)(2).

4.142	LAS VEGAS METROPOLITAN POLICE DEPARTMENT POLICY AND PROCEDURE <i>Citizen's Arrest, Summons in Lieu of Arrest (SILA), In-Custody Trespass, and Order Out</i> Effective: 1/2023
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Officers who become aware of repeat offenders inside the corridor boundaries may request an Order Out through the District Attorney's (DA's) Office. Order Outs are aimed to prevent future criminal conduct inside the corridor boundaries and will not be used to punish anyone for isolated events. Order Outs are a powerful tool with significant constitutional implications and will not be sought without proper justification. Therefore, officers must articulate compelling factors in the Order Out request (e.g., the defendant's criminal history, especially in the corridor; why the defendant's misconduct in the corridor is likely to continue, habitual trespassers, etc.).

Officers will document in the Declaration of Arrest Report (DOAR) factors that will aid the courts in issuing Order Outs to qualifying offenders. Justification for an arrest where discretion is permitted must adhere to LVMPD 4.136. Misdemeanor Citation and/or Arrest.

Some examples of information to include in the DOAR:

1. Trespass (number of times, when, where, and time spans)
2. Prostitution/loitering/pandering
3. Aggravated assault/weapon offenses
4. Dates/times/locations of repeat offenses and prior conviction
5. Larceny
6. Burglary/theft (auto, retail, etc.)
7. Sale/use of drugs

How to Submit an Order Out Request

Officers will:

1. Access the request on the MetroWeb homepage under Applications and click Arrest Packet.
2. Choose "Create" (TCR/DOAR are checked by default).
3. Check Liaison Notes to attach applicable documentation to assist with the Order Out request.
4. Complete all five tabs (Arrestee Info, Arrest Details, Charges, DOAR Details, DA Liaison Notes).
5. In the DA Liaison Notes section, fill in all required fields.
 - a. In the Note section, type "CANDIDATE FOR ORDER OUT."
6. After the reports are completed and submitted, officers will receive a Transaction ID and confirmation of what forms were submitted.
7. Click on View Documents to print for use at the booking counter.

Order Out Records Entry

Upon receipt of a signed Order Out from the DA's Office, the RFB SCOPE Unit will:

1. Retrieve the signed order from the [REDACTED] LEP [REDACTED] email folder and complete the entry into SCOPE II.
 - a. Enter the information contained within the order into the Misdemeanor Warning Module of SCOPE II, utilizing the type of Order Out.
 - b. Any conditions/exceptions of the order will be listed in the comments section of the module. If no conditions/exceptions are noted on the order, the verbiage "NO EXCEPTIONS" will be added.
 - c. Include the expiration date on the order.
 - d. Add a caution of "CURRENT ORDER OUT IN EFFECT."
2. Scan the order into OnBase.

Enforcement of Order Outs

If a subject with an Order Out is contacted within the corridor boundaries, whether taken into custody by a representative of a property or by law enforcement, officers will:

1. Verify in SCOPE that the subject has an active Order Out.
2. Check the expiration date and verify that exceptions do not exist. A person claiming an exemption shall carry a copy of the order at all times they are located within the corridor.
3. Arrest for Order Out violation and any other applicable charges.
 - a. A citation may be issued if the subject is released to a medical care provider.
4. If subject meets the criteria for a subsequent Order Out request, complete Liaison Notes as directed above. (7/22, 1/23)■

LEP

Law Enforcement Privilege

The record(s) you seek are law enforcement records.

In *Donrey v. Bradshaw*, 106 Nev. 630, 798 P.2d 144, fn. 4 (1990), the Nevada Supreme Court referred to Exemption 7 of the federal Freedom of Information Act and recognized that law enforcement files are confidential when pertaining to a “pending or anticipated criminal proceeding,” if there are “confidential sources or investigative techniques to protect,” if there is a danger of “denying someone a fair trial,” or if there is “potential jeopardy to law enforcement personnel.” 106 Nev. at 636, 798 P.2d at 148. Exemption 7 is codified at 5 USC § 552(b)(7). Subparts (A)-(F) make law enforcement records confidential if disclosure “could reasonably be expected to interfere with enforcement proceedings,” “would deprive a person of a fair trial,” “could reasonably be expected to constitute an unwarranted invasion of personal privacy,” “could reasonably be expected to disclose the identity of a confidential source,” “would disclose techniques and procedures for law enforcement,” or “could reasonably be expected to endanger the life or physical safety of any individual.” See *also* Att. Gen. Op. 83-3 (recognizing the “legitimate public policy interests in maintaining confidentiality of criminal investigation records and criminal reports”).

Here, the record(s) you seek are law enforcement records. LVMPD’s interest in nondisclosure clearly outweighs the public’s interest in access. Thus, they are confidential and must be withheld or redacted.

EXHIBIT D

Danielle Bennett

From: Nevada Department of Public Safety <nevadadps@govqa.us>
Sent: Thursday, June 15, 2023 3:45 PM
To: Danielle Bennett
Subject: [Records Center] Repository of Criminal History and Special Services :: R019126-061423

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This message came from outside your organization.

Attachments:

PRR R019126-061423 LV 12.02 Clark Cnty 11.68 .xls

--- Please respond above this line ---



RE: PUBLIC RECORDS REQUEST of June 14, 2023., Reference # R019126-061423.

Dear Danielle Bennett:

On June 14, 2023, the Nevada Department of Public Safety received your request for documents pursuant to Nevada's Public Records Law.

Records Requested: "The ACLU of Nevada requests the following records in electronic form:

- NOC codes for Clack County Code sections 12.02.020 and 12.02.030
- NOC codes for Las Vegas Municipal Ordinance 11.68
- Statistics for the total number of citations issued under the above code sections and ordinance

We were referred to DPS from LVMPD for these records. If they are not in DPS's possession, can you please let us know what agency should be in possession of them? Thank you for your help."

Please see the attached spreadsheet listing the number of times a person has been arrested for the city/county codes provided. I would like to mention that a person may have been cited for violating these codes and never fingerprinted. The numbers provided are only for fingerprint based arrests.

Please do not hesitate to contact me with any questions or concerns. Thank you.

Sincerely,

Judy Christenson

Repository of Criminal History and Special Services
Nevada Department of Public Safety

Danielle Bennett

From: Danielle Bennett
Sent: Friday, June 16, 2023 8:54 AM
To: jchristenson@dps.state.nv.us
Subject: PRR Follow-up Questions

Hi Again,

I have a couple follow-up questions. I accidentally sent the first one to the wrong email, so I've included it here as well.

The tabs are labeled LV 12.02 and Clark County 11.68, but I think those were switched by mistake. Just wanted to make sure that I'm correct in assuming that the data is for the Clark County code section 12.02 and the LVMC section 11.68. Is that correct?

The second question is, do you know the time frame for these arrests?

Thank you again,
Danielle Bennett (She/Her/Hers)
Legal Intern
ACLU of Nevada
4362 W Cheyenne Ave., North Las Vegas, NV 89032
www.aclunv.org | [Facebook](#) | [Twitter](#)

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Danielle Bennett

From: Judy Christenson <jchristenson@dps.state.nv.us>
Sent: Friday, June 16, 2023 9:03 AM
To: Danielle Bennett
Subject: RE: PRR Follow-up Questions

This Message Is From an External Sender

This message came from outside your organization.

Hi Danielle!

My apologies, I did switch up the codes. Clark County is 12.02 and Las Vegas is 11.68.

Clark County Code became effective on 8/2/2022.

Las Vegas Code became effective in 2006.

I ran the reports with a start date of 1/1/1986 (the beginning of the Repository), and the end date was 6/15/2023.

Thank you,

Judy Christenson | Criminal History Repository Manager
Department of Public Safety State Police
333 W Nye Lane, Suite 100
Carson City, NV 89706
T: 775-684-6204 | E: jchristenson@dps.state.nv.us



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NOC
65818

LAS VEGAS MUNI CODE
12.02

LITERAL DESCRIPTION
VIOL OF ORDER OUT CORRIDOR ORDER

TIMES USED
240

TOTAL TIMES USED 240