

October 2, 2018

Via E-mail and USPS

Steve Wolfson
Clark County District Attorney
Office of the Clark County District Attorney
200 Lewis Avenue
Las Vegas, NV 89101
media@clarkcountyda.com



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**Re: Public Records Request, Regarding the Death of Tashii
Farmer Brown**

Dear Mr. Wolfson,

Please allow this letter to serve as a request under the Nevada Public Records Act, NRS § 239 *et seq.*, by the American Civil Liberties Union of Nevada (ACLUNV) and the Las Vegas NAACP Branch 1111 (NAACP) for the public records held by the Clark County District Attorney's Office, or its associated subdivisions as detailed below.

A. The Requester

The ACLUNV is a statewide affiliate of the American Civil Liberties Union, a national organization whose work protects the civil liberties and civil rights of all people. Our mission includes safeguarding the basic constitutional rights to due process, equal protection, and accountability for prosecutors and law enforcement. The ACLUNV is responsible for serving the population in the State of Nevada. One of ACLUNV's main functions is disseminating information to the public about issues of concern to the ACLUNV and its members.

The Las Vegas NAACP is Southern Nevada's branch of the nation's oldest, largest and most widely recognized grassroots-based civil rights organization. The NAACP's principal objective is to ensure the political, educational, social and economic equality of minority group citizens of the United States and to eliminate race prejudice. The NAACP seeks to remove all barriers of racial discrimination through democratic processes.

B. Request

Las Vegas Metropolitan Police officer Kenneth Lopera ("Lopera") killed Tashii Brown, also known as Tashii Farmer and Tashii Farmer Brown, on

May 14, 2017. Mr. Brown approached Lopera for help, had no weapon, and did not commit a crime before he was repeatedly shocked with a stun gun, beaten, and choked to death by the former officer.

Soon after Lopera took Mr. Brown's life, the Las Vegas Metropolitan Police Department ("LVMPD") recommended that Lopera be held criminally responsible for Mr. Brown's death. Yet your office did not take any action until almost eight months later. Worse, your office chose to conduct these criminal justice proceedings in secret, through a grand jury, rather than in public through a preliminary hearing. The public then waited another six long months only for your office to announce that it was unable to indict Lopera.

On September 24, 2018, in the name of "transparency," a public fact-finding review of Mr. Brown's death was held, however, this fact-finding review provided no answers and no justice.

In an attempt to provide the real transparency that the fact-finding review lacked, the ACLUNV and NAACP request any and all records in your custody or under your control, which relate to the Clark County District Attorney's office's handling of the case against Lopera and the death of Mr. Brown, including but not limited to the following records:

1. Policies, procedures, directives, and/or manuals related to seeking an indictment from a grand jury, including documents that explain, or direct, or otherwise describe the circumstances in which the District Attorney's Office can or should seek an indictment rather than a preliminary hearing;
2. The number of cases in 2017 that were taken before the grand jury, rather than to a preliminary hearing and the results of those cases;
3. Policies, procedures, directives, and/or manuals related to how to conduct a prosecution involving officer-involved shootings and lethal force;
4. Policies, procedures, directives, and/or manuals related to the District Attorney's Office seeking the opinion of an outside expert¹ to analyze, supplement, or contradict a report from the Clark County Coroner's Office.

¹ "Outside Expert" means an expert not regularly employed by the District Attorney's office.



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5. The number of cases in the last 10 years in which an outside expert's opinion on an autopsy report was sought and the names and results of those cases.
6. Records of communications since May 1, 2017, including but not limited to, e-mails, memos, written correspondence, notes, text messages, and/or voicemails, to and from the Clark County District Attorney's Office or its employees and the Force Science Institute which relate in any way to:
 - a. Tashii Brown, Tashii Farmer, and/or Tashii Farmer Brown;
 - b. Kenneth Lopera
7. Records of communications since May 1, 2017, including but not limited to, e-mails, memos, written correspondence, notes, text messages, and/or voicemails, to and from the Clark County District Attorney's Office or its employees and the Las Vegas Police Protective Association which relate in any way to:
 - a. Tashii Brown, Tashii Farmer, and/or Tashii Farmer Brown;
 - b. Kenneth Lopera
8. Records of communications since May 1, 2017, including but not limited to, e-mails, memos, written correspondence, notes, text messages, and/or voicemails, to and from the Clark County District Attorney's Office or its employees and the Las Vegas Metropolitan Police Department which relate in any way to:
 - a. Tashii Brown, Tashii Farmer, and/or Tashii Farmer Brown;
 - b. Kenneth Lopera.
9. Records of communications since May 1, 2017, including but not limited to, e-mails, memos, written correspondence, notes, text messages, and/or voicemails, to and from the Clark County District Attorney's Office or its employees and any person associated with the campaign to re-elect Clark County District Attorney Steve Wolfson which relate in any way to:
 - a. Tashii Brown, Tashii Farmer, and/or Tashii Farmer Brown;
 - b. Kenneth Lopera

The ACLUNV and NAACP do not request that you provide any information considered confidential pursuant to state law or statute.



AMERICAN CIVIL LIBERTIES UNION

Nevada

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C. Waiver of Fees

The ACLUNV and NAACP request a waiver of any and all fees associated with this request.

In relation to both federal and state public records requests, fees are generally waived for nonprofit organizations seeking the copies of materials without commercial interest and for the purpose of contributing to public understanding. See *Friends of the Coast Fork v. U.S. Dep't of the Interior*, 110 F.3d 53 (9th Cir. 1997); *Friends of Oceano Dunes, Inc. v. Salazar*, No. C-11-1476 EMC, 2011 WL 6748575 (N.D. Cal. Dec. 22, 2011); *North Cnty. Parents Org. for Children with Special Needs v. Dep't of Educ.*, 23 Cal. App. 4th 144 (Cal. Ct. App. 1994).

Here, the documents requested benefit the public's knowledge and oversight of the Office of the District Attorney and are not sought for commercial interest. As a nonprofit 501(c)(3) and 501(c)(4) organization, the ACLUNV is well situated to disseminate information it gains from this request to the general public as well as to other targeted communities. Dissemination of information to the public is a critical and substantial component of ACLUNV's mission and work.

D. Fulfillment of Request

The State of Nevada mandates that all state agency records are public unless declared confidential by law. NRS § 239.010. The Public Records Act favors transparency in government and open access to agency records. The provisions of the Public Records Act must be construed liberally in order to maximize the public's right of access to agency records. NRS § 239.001.

If all or any part of this request is denied, please provide the ACLUNV with a written statement of the grounds for the denial, citing the law or regulations under which you believe you may deny access for each document. Furthermore, if you determine that some portions of the requested records are exempt from disclosure, we expect that you provide us with any reasonable severable portion of the records sought.

Please be advised that if any refusal to disclose is based on confidentiality, then “[t]he public official or agency bears the burden of establishing the existence of privilege based upon confidentiality. It is settled that privileges, whether creatures of statute or the common law, should be interpreted and applied narrowly.” *D.R Partners v. Board of County Com'rs of Clark County*, 116 Nev. 616, 622 (2000).



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Pursuant to state law, we request copies and/or access to these public records be forwarded to the ACLUNV within five (5) days of this letter, **October 9, 2018**. Please forward copies of documents as they are identified, even if production is not fully complete.

You can contact me directly at (702) 333-0883 or story@aclunv.org

ACLU

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Sincerely,



Tod Story
ACLU of Nevada
Executive Director



Roxanne McCoy
Las Vegas NAACP Branch 1111
President