STATE OF NEVADA
PUBLIC RECORDS TASK FORCE

EXHIBIT 1

GOVERNMENT MEMBERS' EVALUATIONS AND RECOMMENDATIONS

Executive Summary

Government transparency is essential to public accountability and public trust. Elected and appointed officials must be subject to public scrutiny, and access to public records is an important mechanism for ensuring that accountability. However, transparency must also recognize the practical challenges government agencies face in responding to public records requests while complying with applicable laws, protecting confidential information, safeguarding individual privacy, and protecting the rights of victims and accused persons.

The discussion surrounding transparency should consider not only the public's right to access information, but also the resources, time, expertise, and legal responsibilities required of government agencies to fulfill those requests. A process that focuses exclusively on the format, delivery method, or administrative presentation of records risks overlooking the substantive information provided and the considerable effort agencies expend to make that information available.

Government agencies and transparency advocates approach public records access from different perspectives. Government officials must balance disclosure obligations with operational demands, statutory requirements, privacy protections, and potential legal liabilities. Transparency advocates, members of the media, and public records requesters may prioritize timely access, standardized processes, and reduced barriers to obtaining information.

These interests can conflict, particularly when individuals involved in transparency advocacy are also engaged in litigation against government agencies or operate businesses that obtain and distribute information acquired through public records requests. Such circumstances do not, by themselves, invalidate a requester's position or diminish the public interest in disclosure. Nevertheless, the policy discussion should recognize that different participants may have different institutional, professional, or financial incentives.

The objective should be to establish a fair and consistent process that evaluates the substance of disclosure concerns, rather than allowing disagreements over administrative procedures or preferred formats to overshadow the underlying purpose of transparency.

Reflections on the Work and Challenges of the Public Records Task Force

Assembly Bill 128 established the Public Records Task Force ("PRTF" or "Task Force") with an important responsibility: to evaluate Nevada public records laws, identify challenges in their implementation, and submit a final report containing findings and recommendations for legislative consideration.

The purpose of this statement is to provide additional context regarding the challenges encountered by the Task Force throughout its work, including structural limitations, competing interests, and obstacles that ultimately affected our ability to deliver comprehensive consensus-driven recommendations.

Task Force Composition and Structure

Members were appointed under two classifications: government representative and transparency representative. Although intended to ensure balanced perspectives, these distinctions implied that the two interests are inherently opposed.

We believe the initial framing was counterproductive to our work. Government employees are entrusted with administering public records laws, ensuring access to public records while also safeguarding the sensitive information of Nevadans. Government employees share the commitment to transparency, which is not a competing interest but a core obligation of responsible government that they carry out every day.

Nine members represented Nevada's urban communities, while only one member represented rural Nevada. Public records laws are applied equally throughout the state, yet resources, staffing and technical realities differ significantly in rural jurisdictions.

Administration and Resource Limitations

AB 128 did not provide LCB staff or administrative resources to support the initiative. Volunteer task force members assumed responsibility for organizing meetings, preparing and posting meeting materials, coordinating public participation, collecting comments, maintaining records, and managing other administrative responsibilities while working to comply with Nevada Open Meeting Law. These responsibilities required considerable time and effort beyond the substantive work assigned to the members.

We are particularly appreciative of the Attorney General's Office, which worked with us to provide a government website for posting and maintaining meeting materials. This assistance was valuable in supporting public access to the Task Force's work.

Despite these limitations, the Task Force exceeded its statutory meeting requirement. While AB128 required a minimum of four public meetings, we held eight, demonstrating our continued commitment to public participation and the legislative assignment.

Competing Interests and Challenges Reaching Consensus

Perhaps the most consequential challenge was the difficulty establishing a shared commitment to identifying practical solutions. Public records laws require balancing important interests like the public right to access information, the protection of personal and confidential information, administrative realities of responding to requests timely, and the government's obligation to comply with the law. However, throughout deliberations, it became increasingly clear that certain Transparency Members approached discussions primarily through the interests of their clients or employers. Although these perspectives deserved discussion, they sometimes appeared to take precedence over our broader responsibility to identify workable solutions statewide.

Our discussions often centered around defending existing positions rather than developing new recommendations. Issues that might reasonably have been expected to have broad agreement became contentious. For instance, discussion concerning the redaction of widely-recognized personally identifying information such as Social Security numbers from government documents, a protection long existing in Nevada law, proved difficult to reach consensus (September 29, 2026, 5:19:10–5:36:13). In another example, discussions regarding the protection of identifying information pertaining to a child victim in the most heinous of crimes demonstrated challenges of reaching agreement even when privacy and safety concerns were at stake (meeting date: October 19, 2026, 3:59:49). Disagreement is expected and valuable in a deliberative process; however, common ground eluded the Task Force on even the most foundational issues.

Continued Commitment to Meaningful Reform

The Task Force's inability to reach agreement should not overshadow legitimate statutory ambiguities, privacy concerns, or administrative burdens identified during our work. Aside from our challenges, the Government Members remain committed to developing thoughtful recommendations worthy of consideration.

The public deserves more than a report identifying only those concepts on which competing interests can agree. Our additional recommendations serve to strengthen the law because Nevadans deserve a framework that is clear, fair, and protective of both their right to access records and their right to privacy. We appreciate the Legislature's recognition that Nevada deserves careful evaluation and modernization of our public records laws. We remain hopeful that the work of the Task Force provides a meaningful opportunity to improve Nevada public records laws.

Government Members' Evaluations, Findings, and Recommendations

A. Current Exemptions to Chapter 239 of NRS

There are nearly 600 statutory exemptions to NRS Chapter 239, the Nevada Public Records Act ("NPRA"). Some of those exemptions are identified in the NPRA only by reference to the corresponding statute rather than specific description of subject matter. *See* illustrative list of exemptions attached hereto as **Appendix C**. The expansive scope of these exemptions is too voluminous for the Task Force alone to evaluate in this short time frame and make recommended changes as the exemptions impact hundreds of private and public stakeholders including businesses entities, timeshares, educational institutions, gaming, banks, medical professionals, and insurance companies. The Task Force's Government Members believe that most—if not all—of these exemptions are necessary.

Recommendation: Any proposed changes to the current statutory exemptions should be evaluated after seeking all stakeholder input.

Government Members found in their review that many of the statutes are not clearly worded on what information is confidential and points to NRS 202.3662 as an example of a clearly worded statute that the legislature could choose to model in the future:

> **NRS 202.3662 Confidentiality of information about applicant for permit and permittee.**
>
> 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:
>
> (a) An application for a permit, and all information contained within that application;
>
> (b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant or permittee;
>
> (c) The identity of the permittee; and
>
> (d) Any records regarding the suspension, restoration or revocation of a permit,
>
> → are confidential.
>
> 2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.
>
> 3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including,

but not limited to, the number of applications received and permits issued, may be released to any person.

(Added to NRS by 1997, 1174; A 1999, 851; 2007, 2077; 2011, 754, 3110)

B. Impact of Overbroad Public Records Requests

Most public records requests in Nevada are handled quickly by employees who have other jobs. A minority of broad, unclear, repetitive or automated requests consume a disproportionate share of that limited capacity, and every other requester waits behind them. The Government Members' objective is to make those requests workable, not to restrict access.

1. *Types of Overbroad Requests*

At its July 22, 2026 meeting, PRTF members observed that the term "broad request" was being used to describe several different things. Each imposes a different kind of burden and calls for a different response. For purposes of the Government Members' report:

- *Large or complex requests* identify a subject but reach across many custodians, systems, formats or years (for example, "all communications regarding X from 2018 to present").
- *Unclear requests* do not reasonably identify the records sought or ask questions or seek information rather than existing records.
- *Bulk or compiled data requests* seek all or a substantial portion of a structured dataset. These are addressed in Section I.1.
- *High-frequency or automated requests* arrive in volume from a single requester or requesters acting together, including requests generated by scripts or AI.

None of these is improper merely because it is large. Transparency Members emphasized, and the Government Members agree, that broad requests often serve legitimate oversight, journalism, and litigation purposes. The problem is not breadth. It is that Nevada law provides no structure for managing breadth.

2. *Presentations Received*

During the PRTF meetings, several government presenters shared the sentiment that vague and overbroad requests unduly burden government entities, including the Urban Consortium, Nevada Municipal Clerks Association, Nevada Department of Transportation (NDOT), and each of the Task Force's Government Members. Specifically, Pat Cabrera, Chief Deputy Clerk, City of Las Vegas representing the Nevada Municipal Clerks Association, a statewide organization, explained that, historically, records were paper based, and today records are distributed amongst various digital databases, and cloud storage systems. This creates *millions* of records that did not exist before technological advances. When Nevada first enacted public records law in 1911,

records were hand-typed documents and stored in a physical filing cabinet organized by a topic or document number and communications were formalized in written letters. Today, many communications take place informally over email, and each is a record, and we now use databases containing millions of datapoints of information that must be produced as a record if a query can produce it as a record. A simple manual search of a file cabinet for an official's written correspondence has been replaced by electronic searches for any records on an unlimited range of topics. For example, a requester might ask for "all records related to X", this now requires a labor-intensive search across, email, texts, and possibly tens if not hundreds of databases to search for all records that contain X to identify responsive records. Even after identifying responsive records, each record must be reviewed to determine whether it contains any confidential information and if so, redacted, before it can be provided to the requester. In other words, volume, complexity, and risk have increased, when the public's expectations for response time have not changed.

Heather Hahn from the Nevada Department of Transportation (NDOT) also presented about the burden of overbroad and vexatious requests, explaining that such records requests severely hamper an agency's ability to respond to all records requests. Vexatious requesters intentionally ask for broad, excessive, and repetitive records in an effort to overwhelm agencies. At the federal level, this behavior is commonly referred to as "FOIA bombing." Between 2023 and 2025 NDOT experienced a 33% increase in records requests. NDOT projects 1,680 requests in 2026 which represents 56% increase over four years without additional staffing or resources. Ms. Hahn further explained that more and more requests appear to be written by AI where the approach is an overbroad format.

3. *Nevada Government Entities Survey Findings*

The Government Members' survey of Nevada government entities (**Appendix E**), to which 92 entities responded, confirms that NDOT's presentation reflects a statewide pattern rather than isolated experience.

Capacity is thin and largely unmeasured. Half of responding entities (46 of 92) have no employee whose primary duty is public records. Even among the 21 entities that received 1,000 or more requests in 2025, seven have no such employee and nine have only one to three (Table E-3). Eighty-four entities rely on employees for whom records work is a secondary duty, and 29 spread it across more than 10 such employees. Attorneys take part in responding at 84 entities, 56 of which rely on assigned government counsel such as a Deputy Attorney General or Deputy District Attorney. *The 33 entities able to estimate their 2025 hours reported roughly 90,000 hours combined, the equivalent of about 43 full-time positions*. Only 13 entities track staff hours at all, so the true figure is higher.

The burden is concentrated in a minority of requests. Most requests are routine: 57% of Nevada survey respondents often handle requests in under an hour, and 71% often give a final response within five business days. But 29% at least occasionally handle requests requiring more

than 30 staff hours, and 46% handle requests requiring 10 to 30 hours. Twenty-seven entities at least occasionally need three to six months to complete a request, and 13 at least occasionally need more than six. Granicus made the same point nationally: "Not all requests are created equal." Data it supplied from Connecticut show six agencies accounting for about 94% of 71,024 requests over two years.

Requests are growing in volume and, more importantly, in complexity. Between 2023 and 2025, 15 responding entities moved into a higher request-volume range and only one moved lower. The number receiving 1,000 or more requests rose from 17 to 21 (Table E-2). Because the survey used wide ranges, these figures understate growth.

Records are scattered and searching them is manual. Eighty-five percent of Nevada survey respondents (78 of 92) must search several separate systems to respond to a typical request. Most search two to five; some search 10 to 20.

Clarification is routine but has no structure. At least occasionally, 83% of Nevada survey respondents must ask requesters to narrow an overbroad request, 75% must address an unduly burdensome one (for example, a request spanning decades) and 82% receive requests for information rather than records (Table E-4). Forty percent at least occasionally see a request abandoned after clarification is sought, meaning that the government entity's scoping work goes unused. Seventy-four percent at least occasionally refer requesters to another entity that may hold the record. Nationally, Granicus reports that clarification emails rose 31% between 2018 and 2025. It attributes the rise to "more first-time requesters… often with vague or overly broad inquiries," and notes that each exchange "add[s] time and complexity."

Repeat, commercial, and automated requests are common. Sixty-five percent of Nevada survey respondents often receive requests from repeat or high-volume requesters, and 47% often receive requests made for a commercial purpose. Sixty-six percent (61 entities) at least occasionally receive requests that appear AI-generated; only 13 could not say. By comparison, a 2026 federal FOIA Advisory Committee survey, as reported by Granicus, found that 46% of federal survey respondents believed they had received AI-generated requests and 50% were unsure. That Committee cautioned that the underlying issue is the volume and frequency technology makes possible, not AI alone. Sixty-three percent of Nevada survey respondents at least occasionally receive requests used to support litigation.

Nevada survey respondents' own words point the same way. Staffing and staff time was the most frequently cited operational challenge (50 of 79 written answers), followed by records systems (33), request volume (25), and overbroad or burdensome requests (25). Overbroad requests were the second most frequently requested statutory change, after fees (17 and 19 of 57 answers, respectively) (Table E-13).

4. *National and Nevada-Specific Data Reported by Granicus*

Records system data confirm that most requests are completed promptly. Granicus provided anonymized activity data for 13 Nevada accounts on its GovQA public records platform, representing 12 state and local government entities, for November 3, 2025, through November 3, 2026. Unlike the Government Members' survey, these figures come from the systems the entities use to log and close requests, not from respondents' estimates. The Nevada accounts received 73,426 requests during the one-year period. Requests closed in an average of 10.1 days across the accounts, and the median account averaged 7.7 days:

State Government Accounts

- Annual Requests: 14,586 total | Low: 32 | High: 6,961 | Average: 2,917
- Historical Requests: 27,511 total | Low: 32 | High: 15,161 | Average: 5,502
- Average Days to Close: 8.0 days | Low: 5.0 | High: 11.6

Local Government Accounts

- Annual Requests: 58,840 total | Low: 1 | High: 18,545 | Average: 7,355
- Historical Requests: 105,371 total | Low: 4 | High: 43,472 | Average: 13,171
- Average Days to Close: 11.5 days | Low: 0.0 | High: 31.6

The five state government accounts averaged 8.0 days (ranging from 5.0 to 11.6), and the eight local government accounts averaged 11.5 days (ranging from 0.0 to 31.6). These are times to close a request, including producing the records. They are not measures of the five-business-day response required by NRS 239.0107(1), which may be an acknowledgment with the date the records are expected to be available. At these entities, a typical request is completed within about one to two weeks, even though they handle some of the highest request volumes in the state: the local government accounts averaged more than 7,300 requests each. These figures are consistent with the Government Members' survey's finding that most requests are routine and that long delays are confined to a minority of complex requests.

National data point the same way as the Government Members' survey. Granicus's 2025 Public Record Complexity Benchmark Report draws on anonymized data from nearly 500 of its public records customers. *See also* Supporting Materials, **Appendix B-3**. Granicus narrowed that pool to about 240 agencies (55% city, 25% state and 20% county) and tracked them quarterly from early 2018 through mid-2025. Its Complexity Index combines eight measures of the records produced and the staff effort required, weighted against request volume. Granicus reports the following changes since 2018:

Granicus 2025 Public Record Complexity Benchmark Report: change since 2018

Measure	Change since 2018
Request volume (average per quarter, 436 to 1,136)	+161%
Complexity Index (volume-adjusted)	+72%
Size of response files	+438%
Video files	+173%
Number of response documents	+46%
Scanned images and PDFs requiring OCR	+32%
Clarification emails	+31%
Total staff time	−10%

Source: Granicus, 2025 Public Record Complexity Benchmark Report, pp. 5–16. Granicus states that its data are volume-adjusted. The record and activity measures therefore track what each request involves rather than total growth.

The Complexity Index is the more important figure: each request is harder to fulfill, not merely more frequent. Granicus attributes part of the change to "the proliferation of multimedia content" and "possibly the growing influence of AI-powered requests and automation." It notes that large state, county, and city agencies may receive 4,000 to 15,000 requests a year. Its central point, that request counts alone understate workload, is consistent with the Government Members' survey.

5. *Law Enforcement Survey Findings*

The government entities that responded to the law enforcement survey describe records work that rests on very small staffs. *See* Survey for Nevada Law Enforcement, **Appendix F**. Nine of the 14 responding law enforcement agencies have one to three employees responding to public records requests, and three have no one assigned, so the work is a collateral duty. Against that capacity, a single large or open-ended request can consume a disproportionate share of an agency's resources. One agency reported that its annual public records spending rose from about $2.5 million to almost $3 million, mostly in staff salaries and benefits and excluding attorney time. Another attributed its costs to "internet and media companies seeking large volumes of content that may ultimately be monetized." It explained that those requests enter "the same workload queue as all other requests," delaying responses to everyone else. Body-worn camera footage adds to the burden because staff must review it frame by frame for personal information, reflections, the interiors of private residences and medical settings. Three of 13 agencies average more than 30 days to complete body-worn camera requests, and 8 of 14 say completion time for other records depends on the complexity of the request.

Agencies absorb this burden almost entirely at their own expense. Twelve of 14 never charge for staff time. One agency described its aim as a reasonable way to offset the cost of exceptionally large requests, not routine charges for access. Another asked the Legislature to "reenact fees for extraordinary requests." Accordingly, limiting demands for an unreasonably large volume of records ranked among the agencies' highest priorities: 13 of 14 rated it 4 or 5 on a five-point scale, and 11 rated it 5. Twelve of 14 gave the same importance to authorizing charges for staff time in at least some circumstances, and 12 to lengthening the five-day response period. Eleven supported requiring requesters to identify the reason for a request, and 10 supported barring anonymous requests, which suggests agencies see value in tools to scope and focus large requests.

Unlike the broader survey of Nevada government entities, the Survey for Nevada Law Enforcement did not ask questions specific to overbroad or unduly burdensome requests. However, the increase in staff salaries and response times, coupled with their priority rankings, suggest that overbroad requests impose similar operational challenges on law enforcement agencies.

Discussion: NRS 239.0107(1)(c) already requires an entity that cannot make a record available within five business days to give the earliest date the record is reasonably expected to be available and to assist the requester in focusing the request. The statute stops there. It does not say what a request must contain, how a request for clarification affects the timeline, whether simple requests may move ahead of complex ones, or whether an entity may point a requester to records it has already published.

Granicus frames public records administration as a risk-management problem and urges mitigation as the default: reduce delay, inconsistency, and cost without reducing the right of access. The Government Members agree. The recommendations below are directed at observable workload (scope, volume, frequency and duplication), not at a requester's motive. That approach protects routine requesters from delay, treats large requesters predictably and gives courts a measurable standard to apply.

6. *Recommendations*

The recommendations below follow what survey respondents said they need:

1. **Fund public records staffing and request tracking.** Staffing and staff time was the operational challenge respondents cited most often (50 of 79 answers), and half have no employee whose primary duty is public records (Table E-3). About 62% track requests by hand or in a spreadsheet. Appropriate funding for dedicated records staff and request-tracking systems at the entities with the highest volume and no dedicated staff (see Section C, Recommendation 5).
2. **Recover staff time through a standardized fee schedule.** Adopt the standardized schedule recommended in Section E, including the three-hour threshold and the aggregation of frequent requests from the same requester or requesters acting together. Fees

and cost recovery were the change Nevada survey respondents requested most often (19 of 57 answers) (Table E-13).

3. **Address commercial and high-volume requests.** Require a requester to certify whether a request is for a commercial purpose, with an exemption for news media, as recommended in Section J.4. Route commercial and bulk requests to the bulk-data procedures recommended in Section I.1., rather than the ordinary request queue.

4. **Require identifiable requests and requester contact information.** Require a requester to provide a name, contact method, and a description of the records specific enough to identify them with reasonable certainty, as recommended in Section J. Provide that a request for all or substantially all of an entity's records, without a subject, time period or other limiting criteria, is not a request for identifiable records. Nevada survey respondents' most common examples of overbroad requests ask for "all communications," "all records relating to," or every document in a subject area over several years (Table E-14).

5. **Create a structured scoping step.** Amend NRS 239.0107 to provide that when an entity requests clarification in good faith: (a) the government entity's time to respond runs from receipt of the clarification; and (b) the entity may close the request if the requester does not respond within a defined period, as recommended in Section J. Overbroad or unclear requests were the second most common change respondents requested (17 of 57 answers).

6. **Measure what entities themselves need to manage.** Asked which metrics would help them, Nevada survey respondents most often named staff hours per request (about 39), number of requests (24), requester type, including media, commercial, and repeat requesters (21), and response time (16). Include those measures in the reporting form recommended in Section G. Because only 26% of respondents could report annual metrics without new systems or staff (Table E-11), phase the requirement in and fund it.

As Ms. Cabrera said in her presentation, this is not about denying access but making requests workable. Allowing time for a scoping phase, establishing a format and required information for requesters, and establishing consistent and standardized reasonable charges for staff time would all assist local governments with responses to overbroad requests.

C. Cost, Burden, and Time Constraints for Redaction

Review and redaction is the step most closely tied to delay in responding to public records requests. It is legally required, done almost entirely by hand, and carries growing liability for getting it wrong.

1. *Why Review is Legally Required*

As described in Section A, Nevada law provides nearly 600 statutory confidentiality provisions. *See* **Appendix C**. Government records also contain material protected by Constitutional interests, legal privileges, and by the common-law privacy interests the Nevada Supreme Court has recognized. A government entity may not withhold a whole record if the confidential portion can be redacted, NRS 239.010(3), and it bears the burden of proving each withholding with a particularized showing. NRS 239.0113; *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 628 (2011).

The consequences of an erroneous release are growing. Assembly Bill 197 (2025), for example, bars state entities from releasing information about donors to 501(c)(3) organizations except in specified cases. NRS 239B.027. This new statute creates a private right of action for costs, damages, and attorney fees against an entity whose release causes harm. Release of private information can also harm the person it concerns and erode public trust in the entity. For these reasons, government entities are legally obligated to review and redact records of confidential information before they are produced.

2. *Presentations Received*

Presenters explained that review and redaction is a labor-intensive process since records are no longer single pieces of paper, but consist many times of emails where email chains are embedded in other emails, or the records are located across various databases and in many file formats. Each of these millions of records may have confidential information in them and must be reviewed before produced in a records request. This requires a manual, line-by-line and frame-by-frame review.

For example, Ms. Hahn with NDOT described the scale of review a single requester can generate. Over two years, one requester submitted 34 requests and declined to narrow any of them. NDOT staff reviewed 200,017 documents in response, 130,000 of them for a single request. NDOT estimated 828 staff hours were required to complete this review, amounting to $152,545 in personnel time. NDOT's depletion of 828 staff hours to fulfill a single request interferes both with NDOT's ability to perform its core transportation operations and to fulfill other good-faith requests. This example illustrates substantial impact of requests on an agency, particularly when a requester refuses to narrow the scope.

3. *Nevada Government Entities Survey Findings*

Redaction is common and is the leading cause of delay. Redaction is needed at least occasionally at 82% of responding entities, and often or very often at 51%. Redaction workload extends response times at least occasionally for 66% of respondents, and often or very often for 41%.

Unclear confidentiality rules multiply review time. Confidentiality, privacy and redaction was the most frequently cited statutory ambiguity (24 of 61 written answers), followed by the

definition of "record" (16) (Table E-13). Respondents' three highest policy priorities were all statutory presumptions of confidentiality: personnel and internal affairs records (79% rated very or extremely important), open criminal investigations (78%) and victim and witness identities (75%) (Table E-12). Respondents also asked for statutory treatment of body-worn camera and other video, juvenile records, coroner and autopsy records, security-sensitive infrastructure information, drafts and working papers, and privileged material.

A single request can require days or weeks of redaction. At least occasionally, redacting a single request takes 10 to 30 hours at 27 entities (29%) and more than 30 hours at 13 entities (14%). About one in six respondents could not estimate redaction time per request, again reflecting the absence of tracking.

The share of time spent on redaction rises with volume. Twenty-two respondents spend more than half of their public records hours on review and redaction. Among the 21 highest-volume entities, eight do (Table E-5).

The work is manual. About 75% of respondents (69 of 92) redact by hand or in standard PDF software. Almost no entity uses AI for search or redaction. The exception, AI video redaction tools for body-worn camera footage, still requires substantial manual correction according to Nevada survey respondents. Entities cited cost, accuracy, legal and confidentiality risk, and procurement as reasons for not adopting AI tools.

The material under review keeps growing. Granicus's 2025 benchmark report states that, per request, the size of response files grew 438% between 2018 and 2025 and video files grew 173%. Scanned images and PDFs that must be converted before they can be searched or redacted grew 32%. Granicus describes video as among the most complex records to manage. Faces, license plates, screens and the accompanying audio must all be obscured, often with specialized tools.

Government entities want tools to reduce the staff time spent on public records requests. Respondents reported technology needs ranging from about $5,100 a year for an AI add-on to roughly $280,000 to digitize microfilm (Table E-6). By comparison, the staff time the 33 reporting entities spent in 2025 was worth roughly $2 million to $3 million in wages alone (Sections B.3, E.1).

4. *Law Enforcement Survey Findings*

Law enforcement records combine the heaviest redaction obligations with the smallest staffs. Fourteen law enforcement agencies responded to a separate Task Force survey (Appendix F). Nine have one to three full-time staff responding to public records requests. Three have no one assigned and handle requests as a collateral or ancillary duty. Yet nearly every record they hold concerns victims, witnesses, suspects or officers whose information must be reviewed before release. One agency asked for privacy protections "similar in principle to HIPAA and FERPA, recognizing that sensitive personal information should not become broadly accessible simply because an individual had contact with law enforcement" (Q36).

Every agency redacts victim and witness identities, usually on two legal grounds. All 14 agencies redact victim identities at least in some cases. Eleven do so both because a statute requires it and because the victim has a privacy interest. All 14 also redact witness identities in some form. Eleven of 14 withhold booking photos of people not yet convicted unless they can articulate a specific law enforcement need.

Video is the most labor-intensive record to review. One agency explained that staff "must review video frame by frame for PII, including information visible in reflections, inside private residences, and sensitive information recorded in medical settings," and "the amount of time required is often difficult to predict or quantify before the work begins" (Q36). Three of 13 agencies average more than 30 days to complete body-worn camera requests. Agencies split three ways on redacting officers' faces: six never do, five always do and two decide based on the circumstances (Q13). One agency noted that "clearer statewide guidance on what must be redacted . . . particularly for body-worn camera video" would be "extremely helpful" (Q36).

Discussion: Because the NPRA does not enumerate redaction guidelines, staff must often apply the common-law balancing test to individual items. An example is whether a private person's home address should be redacted from a given record. Staff must also be prepared to justify each such judgment. That is the most expensive form of review that typically involves the government entities' counsel. It is also the most likely to produce inconsistent results across entities and disputes with requesters. More specific statutory guidelines reduce redaction time and disputes, and make responses more predictable. The delays that case-by-case review causes can themselves damage public trust.

Technology can reduce the mechanical burden of redaction but cannot replace the legal judgment it requires. Granicus's discussion paper is consistent with this: AI may serve as a records officer's "researcher, clerk and navigator," but humans must remain accountable for exemption decisions, redactions, fee determinations and disputes. Granicus's benchmark report also notes that total staff time fell 10% since 2018 even as complexity rose. However, the quarterly series swings widely (from about 270 hours to a peak near 2,900), and Granicus's own paper cautions that the data do not establish the cause. Technology should therefore be funded as a way to manage growing complexity, not as a substitute for staff or a reason to shorten timelines.

Finally, much of the cost of review is created before a request arrives. Official business conducted through applications stored in multiple databases, inconsistent retention and poorly classified records all expand what must be searched and reviewed.

5. *Recommendations*

The following recommendations address the cost, burden, and time constraints imposed by review and redaction:

1. **Replace case-by-case balancing with categorical rules for high-frequency requested records.** Enact the uniform definition of personal identifying information and the personnel records protections recommended in Sections I and I.2, and the criminal investigation protections recommended in Section D. Add express treatment of victim and witness identities and of body-worn camera and other government video. A defined list of data elements that may be redacted lets staff redact by category rather than build a balancing record for each line.
2. **Reconcile liability for disclosure errors.** Confirm that the good-faith immunity in NRS 239.012 protects an entity and its employees that follow reasonable review procedures, and reconcile new private rights of action, such as NRS 239B.027, with that immunity. An entity facing damages for a single missed redaction will review more slowly and withhold more.
3. **Tie timelines to the review actually required.** Clarify that the estimated availability date under NRS 239.0107(1)(c) may account for the volume of material requiring review and redaction, and may be revised with written notice.
4. **Allow recovery of redaction costs under the standardized fee schedule.** Under the standardized schedule recommended in Section E, staff time spent redacting is chargeable after the three-hour threshold, while time spent deciding whether material is confidential is not. The schedule should set a separate, published rate method for specialized work such as video redaction.
5. **Fund staff and tools, and simplify buying tools.** Appropriate funding for dedicated public records staff, and funding or a grant program for request-tracking, document-redaction, and video-redaction tools, prioritizing entities with the highest volume and those without dedicated staff. Direct the State Purchasing Division to establish statewide contracts that local governments may join, addressing the procurement barrier respondents reported. Contracts for these tools should include the public records and data-use provisions recommended in Section H.3., including the prohibition on training AI models on government data.
6. **Invest upstream in records management.** Direct the Nevada State Library, Archives and Public Records to issue guidance and training on conducting official business through personal accounts and messaging applications, on retention, and on records classification. Fewer records would then have to be searched and reviewed to answer each request.

Layered review, consistent protocols and training remain the core safeguards. These recommendations are intended to let entities apply them faster and more consistently. That protects both the privacy of the people whose information government holds and the public's timely access to the rest.

D. Protocols to Protect Open Criminal Investigations

The Task Force spent considerable time discussing criminal records. In particular, the Task Force heard substantial testimony that providing public access to ongoing and active criminal investigations and trials jeopardizes law enforcement interests, privacy rights, and the Constitutional rights of criminal defendants to a fair trial. Most states protect open criminal investigation files, at least in some way, as summarized below and in supporting materials received by the Task Force. The Task Force also heard from stakeholders throughout Nevada who disagree as to the state of current law in Nevada governing such records. Finally, protecting the rights of criminal defendants is essential. As the Task Force heard during its meetings, individuals accused of crimes have a constitutional right to a fair trial. Pretrial publicity and the premature disclosure of detailed information can jeopardize these crucial rights.

Adopting a framework of confidentiality for open and active criminal investigations in Nevada would be consistent with the majority of public records laws in the United States. In general, all states, the federal government, and the District of Columbia have some level of protection for criminal investigative records. A complete summary is attached as **Appendix D**: 50 State Survey of Statutes Addressing Records of Criminal Investigations. Approximately half of the states generally exempt active investigatory files from public records laws. Even in states with blanket exemptions, many states require disclosure of routine incident reports, and basic date, time, location, immediate facts unless unusual circumstances create serious investigative or safety risks. In most other states, law enforcement may withhold records where disclosure would interfere with law enforcement proceedings, impair a fair trial, invade privacy, reveal confidential sources and techniques, prejudice an investigation, or endanger safety or when disclosure would be contrary to the public interest. The majority of these states completely exempt such records from disclosure when the criteria are met.

In Nevada, there is no clear blanket confidentiality rule for all open and active criminal investigative records at this time (although litigation is pending), but several statutes and doctrines support confidentiality for specific categories of criminal justice records. NRS Chapter 179A makes certain categories of criminal justice information confidential, and the common law balancing test is used when records are not expressly exempt. The test weighs the privacy interest of individuals, including suspects, and officers. As discussed below, courts have repeatedly held that law enforcement investigative materials often implicate strong privacy concerns, and disclosure that risks unfairly stigmatizing individuals or compromising fairness is disfavored. In such cases, courts have upheld confidentiality when disclosure would implicate the privacy rights of crime victims or accused persons, risk interference with investigations, or risk tainting criminal proceedings.

1. *Criminal Records Subject to Sealing Should be Presumptively Confidential*

Outside of the NPRA, Nevada law already recognizes a privacy interest in criminal records. For example, it allows offenders convicted of crimes to seal their criminal records under various circumstances tied to the severity of the crime and length of time that has passed. Additionally, Nevada law generally prohibits employers from asking about criminal employment history in a job application. Since employers are not allowed to ask about criminal records and criminal records are subject to sealing, the Legislature has already found that a privacy interest exists. The former offender has served the sentence and deserves the chance to be free from past mistakes. Yet anyone could learn of the offenders' past criminal conduct through the NPRA. This gap should be filled by adding language to the sealing statutes in NRS Chapter 179 to include a presumption that any records eligible for sealing are confidential from the NPRA.

A similar but more profound gap in the law exists for criminal investigative files involving a suspect or person of interest who is never arrested or charged with a crime because probable cause was not established. Indeed, an allegation from a witness identifying a person as a suspect can be entirely false even if the witness acted in good faith. Revealing the investigation details regarding a suspect who was later ruled out or was otherwise never charged with a crime can have profoundly negative impacts on the person's professional and personal life. Such disclosure may also amount to a violation of the 14th Amendment's due process clause, which prohibits the government from punishing individuals accused of crime prior to a conviction. The Ninth Circuit Court of Appeals has held that disclosing booking photos prior to conviction implicates these rights, so disclosing an investigative file about a person never charged raises similar concerns. *Houston v. Maricopa County*, 116 F.4th 935 (9th Cir. 2024). A person may not even know they were identified as a suspect in any criminal investigation as the government entity is not mandated to inform them of a public records request seeking records about them. And that person currently has no ability to assert any confidentiality interests pertaining to that investigatory record. Nevada law should be clarified that such records are subject to sealing and are presumptively confidential under the NPRA. If a defendant found guilty of a crime can seal records, then a subject who was never arrested nor charged with a crime should also be able to seal their records. The sealing statutes in NRS Chapter 179 should permit sealing of such records and contain a similar provision making them presumptively confidential under the NPRA, even when they have not been officially sealed.

2. *Recent Nevada Supreme Court Decision: City of Sparks v. Bluth*

In *City of Sparks v. Bluth*, 142 Nev. Adv. Op. 65, --- P.3d --- (Oct. 15, 2026), the Nevada Supreme Court (in a unanimous opinion) held that characteristics individual to a requester are not relevant factors when applying the balancing tests for nondisclosure of records under NPRA. In reaching that holding, the Court did not merely assume that the underlying request, which sought records from an active criminal investigation, were confidential.

The Court cited *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 636, 798 P.2d 144, 148 (1990), *superseded by statute on other grounds as stated in Conrad v. Reno Police Dep't*, 139 Nev. 126, 530 P.3d 851 (2023), to recognize strong law enforcement interests in nondisclosure of records from active criminal investigations. The Court explained that relevant considerations include "the pendency, or anticipated pendency, of criminal proceedings; the presence of confidential sources or investigative techniques; the possibility that disclosure would deny someone a fair trial; and the 'potential jeopardy to law enforcement personnel' that disclosure may cause."

The Court also recognized that nontrivial personal privacy interests are relevant to the analysis supporting nondisclosure. And the Court rejected an argument that the victim's identity was relevant because "she can waive her privacy interests in the withheld records because it would not affect the outcome of this case. Even if she could waive her own interests, she cannot waive the privacy interests of the other victims, witnesses, and [the uncharged suspect/defendant]."

These interests are not hypothetical. The need to protect the integrity of an investigation, the fairness of criminal process for the prosecutors and defendants alike, and protect the safety of our sworn peace officers and other law enforcement officers are paramount interests that will be present each time a request seeks records from a law enforcement agency's file in a criminal investigation. And in most cases, those interests will also tend to overlap with personal privacy interests of victims, witnesses, and the uncharged subjects of a criminal investigation.

Although this recent unanimous decision from the Nevada Supreme Court creates a strong precedent for nondisclosure, the absence of a clear categorical statutory rule at this time (litigation is pending) still leaves law enforcement agencies with uncertainty about when the interest identified above will provide an adequate basis to deny a request. A statutory exemption from disclosure will save resources of law enforcement agencies that are currently spent justifying nondisclosure under the uncertainty of the balancing tests and eliminate that uncertainty for Nevada's law enforcement agencies when their attention should be focused on investigation of the underlying case.

3. *Recommendation*

To prevent litigation, Government Members recommend amending the NPRA to explicitly state that open and active criminal investigative and prosecution records are confidential and presumptively recognize a privacy interest when records are subject to sealing.

An easy way to do so is through NRS Chapter 179A, which governs police records. Law enforcement agencies already rely on this chapter to protect investigative files. Two amendments would remove all doubt. First, NRS 179A.070, which is listed among the exemptions to the NPRA in 239.010(1), should be amended to add a third subsection to read as follows: "The records identified in this section are confidential, except as provided in this Chapter." Then, NRS 179A.100, which is a comprehensive statute that governs most instances when police records shall and may be disseminated, should be amended to include a new subsection (6), as follows:

> *6. Investigative or intelligence information, reports of crime or other information concerning specific persons collected in the course of the enforcement of criminal laws may be withheld by an agency of criminal justice if such records relate to an active and ongoing criminal investigation or prosecution until such investigation or prosecution has concluded. If an agency of criminal justice disseminates records under this subsection, the agency of criminal justice may only redact the records pursuant to exemptions available under the Nevada Public Records Act, NRS Chapter 239.*

These amendments are consistent with existing law protecting Criminal Justice Information Systems (NRS Chapter 179A), grand jury proceedings (NRS 172.245), search warrant applications (NRS 179.045(4)), the privacy of victims through Marsy's Law (Nev. Const. art. 1, § 8A). These amendments are also consistent with Nevada law governing the disclosure of records in criminal cases (NRS 174.235). Federal law under the Privacy Act of 1974 is also consistent.

E. Standardized Fee Schedule

The NPRA allows each governmental entity to set its own fees, limited to the entity's actual cost. NRS 239.052. As a result, requesters face different charges from entity to entity for the same kind of request. Entities also lack a common benchmark for what counts as a reasonable or actual cost. AB 128 directs the Task Force to recommend "a standardized fee schedule."

States around the country provide different models for creating a standardized fee schedule. Multiple states allow a single body to publish a fee schedule for all or most government entities. Other states allow each branch of government (executive, judicial, and legislative) to set its own schedule. In general, local government entities are permitted but not required to adopt a standardized fee schedule. The state legislatures may also set allowable fees or fee caps directly in statute.

Pennsylvania: The Office of Open Records is statutorily required to conduct a biannual review of fees charged under the Right-to-Know-Law, 65 P.S. §§ 67.101 *et seq*., *see* 65 P.S. § 67.1310(a)(8). The Office of Open Records sets duplication fees for all Commonwealth agencies and local agencies; however, the judiciary and legislature set their own fees. 65 P.S. § 67.1307(b)(1). Duplication fees must be reasonable and based on "prevailing fees for comparable duplication services provided by local business entities." 65 P.S. § 67.1307(b)(2). An agency's fees may differ from those on the Office of Open Records's fee schedule, provided that the fees are less than those permitted by the Office.

Texas: The Office of the Attorney General is required to adopt rules for use by each state government entity in determining charges for providing copies of public records. Tex. Gov. Code § 552.262(a). A government entity (other than a state agency) may determine its own fees but may not charge over 25% more than the amount established by the attorney general unless the entity

requests an exemption. *Id*. The attorney general may grant an exemption for good cause. *Id.* § 552.262(c).

Hawaii: The director of the Office of Information Practices is statutorily required to "adopt rules that set forth the fees and other charges that may be imposed for searching, reviewing, or segregating disclosable records, as well as to provide for a waiver of such fees when the public interest would be served." Haw. Rev. Stat. § 92F-42 (13). The rules authorize state and county government entities to charge fees for searching for, reviewing, and segregating the record and any other lawful fees. Haw. Admin. R. § 2-71-19.[1] Agencies may charge fees up to their actual costs or the following fees: $2.50 per 15 minutes to search ($10/hour), $5 per 15 minutes to review and segregate ($20/hour), and the first $30 is waived. Haw. Admin. R. § 2-71-31.

Tennessee: The Office of Open Records Counsel is required to establish (and revise at least annually) a schedule of reasonable charges government entities may use as a guideline to charge for public records requests. Tenn. Code Ann. § 8-4-604(a)(1) (2025). The schedule sets per page copying charges and permits actual out-of-pocket costs for flash drives or similar storage devices on which electronic copies are provided. *Id*. *See* Schedule of Reasonable Charges, Tenn. Office of Open Records Counsel. The schedule expressly permits labor charges after the first hour of labor reasonably *necessary* to produce the requested records, *i.e.*, the "labor threshold." *Id*. Notably, Tennessee law establishes a separate fee policy for frequent and multiple requests. Tenn. Code Ann. § 8-4-604(a)(2) (2025). This schedule allows a government entity to aggregate requests made by a single requester or, in some instances, multiple requesters acting together. *See* Reasonable Charges for Frequent and Multiple Requests, Tenn. Office of Open Records Counsel. Once a requester reaches an aggregation threshold (at least four requests within a calendar month), a government entity is no longer required to deduct the labor threshold set forth in the Schedule of Reasonable Charges or any other minimum charge per request threshold that would ordinarily be waived. *Id*.

Louisiana: The Commissioner of Administration sets a uniform fee schedule for state agencies providing copies of public records. La. Rev. Stat. § 39:241. Local government entities set and post their own reasonable fees. La. Rev. Stat. § 44:32.

Vermont: The Secretary of State, after consultation with the Secretary of Administration, adopts a uniform schedule of public records charges for state agencies, including the amount that may be charged for staff time and other actual costs. 1 Vt. Stat. Ann. § 316(d) (2025). In addition to costs for photocopies, CDs, DVDs, and audio or video tapes, the schedule establishes the following fees:

[1] These rules also allow an agency to require prepayment of 50% of the agency's estimated search, review, and segregation fees, plus 100% of the agency's estimate of other lawful fees, such as copying or mailing costs search, review, and segregation fees. Haw. Admin. R. § 2-71-19.

1. For staff time involved in physically duplicating a record, $.33 per minute [$19.80/hour] after the first 30 minutes.
2. For senior-level staff time, and information technology specialists' time spent extracting data from databases, or performing similar tasks necessary to comply with a request to create a new public record, $.57 per minute [$34.20/hour].
3. For any other staff time for which cost can be charged and collected under this section, $.45 per minute [$27/hour].

See Uniform Charges Schedule, Vermont Secretary of State. Each local government entity adopts its own schedule after public hearing. 1 Vt. Stat. Ann. § 316(e) (2025).

A majority of states explicitly permit government agencies to charge for staff time spent searching for, reviewing, redacting, and making copies of records. *E.g.*, Tex. Gov. Code § 552.261(a) (fees for providing public records "shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead"); D.C. Code § 2-532 (fees may be charged at an amount not to exceed the actual cost of searching for, reviewing, redacting, and making copies of records). However, a minority of states prohibit charging for staff time. *E.g.*, W. Va. Code § 29B-1-3(e) (prohibiting search or retrieval fees or reimbursement based on a man-hours); Ar. Code Ann. § 25-19-105(d)(3)(A)(i) (prohibiting fees for "existing agency personnel time associated with searching for, retrieving, reviewing, or copying the records"); Ind. Code § 5-14-3-8 (expressly excluding labor or overhead costs from "actual cost" subject to certain exceptions). Notably, Kentucky prohibits charging *noncommercial* requesters for staff time or search efforts in fulfilling their public records requests, but staff time is permissible for commercial requesters. Ky. Rev. Stat. § 61.874(3), (4).

Additionally, states around the country recognize that commercial and/or news media use of public records are different from other categories of use. Those states allow government entities to address such requests in ways unique from other individual requesters. Mass. Gen. Laws Ch. 66 § 10(d)(ix) (defining a "commercial purpose" as "the sale or resale of any portion of the public record or the use of information from the public record to advance the requester's strategic business interests in a manner that the requester can reasonably expect to make a profit," and excluding "gathering or reporting news or gathering information to promote citizen oversight or further the understanding of the operation or activities of government or for academic, scientific, journalistic or public research or education"); Tenn. Code § 10-7-506 (2025) (defining a "record that has commercial value" to mean a "record requested for any purpose other than: (A) A non-business use by an individual; and (B) A news gathering use by the news media"); Tex. Gov. Code § 552.275(m)(2) (defining "News medium" to include "a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel... or an audio or audiovisual production company or Internet company ... that disseminates news or information to the public by any means...).

1. *Findings*

NRS 239.052 lets each governmental entity set its own fees, limited to actual cost. The survey shows the result: most entities recover little or none of the staff time they spend, and those that do charge use widely different thresholds and rates.

Most entities charge nothing for staff time. Forty-three of 92 respondents (47%) charge no fees at all, 40 charge only in certain circumstances and nine charge routinely. For staff or attorney time, 69 (75%) never charge, 19 charge only above a threshold and four charge routinely (Table E-7).

The cost goes unrecovered. The 33 Nevada survey respondents that estimated their 2025 hours reported roughly 90,000 staff hours on public records. At the $23 to $35 hourly rates respondents charge for their lowest qualified classification, that time is worth roughly $2 million to $3 million a year in wages alone. This is a conservative figure: it excludes benefits, attorney time and the many entities that could not estimate their hours.

Entities that do charge use different thresholds and rates. Free time before charges begin ranges from 1 hour to 10 hours; 10 hours is the most common threshold among local entities. Hourly rates for ordinary staff range from about $23 to $35, usually tied to the lowest-paid classification qualified to do the work. Specialized work is priced differently: two entities charge $34 and $89 an hour for body-worn camera video review, the latter reflecting the actual cost of the commissioned personnel assigned to it (Table E-8). A requester making the same request of two Nevada entities can therefore receive very different estimates.

Charging rises with volume. Ten of the 21 highest volume government entities charge for staff time, compared with 1 of the 20 lowest-volume respondents (Table E-7).

Fee estimates rarely end a request. Forty Nevada survey respondents have never seen a request withdrawn after a fee estimate, and only 9 (10%) see that often or very often (Table E-4). Because most entities charge little, the survey cannot fully test whether fees deter access, but it offers no evidence that the fees now charged do, calling into question assertions of a "green wall."

Fees are the change Nevada survey respondents asked for most. Fees and cost recovery were the most frequently requested statutory change in written answers (19 of 57) and the third most frequently cited statutory ambiguity (15 of 61), after confidentiality and the definition of "record" (Table E-13). Of entities rating it, 56% rated a standardized schedule of maximum rates very or extremely important (Table E-12). Appendix E notes that the survey framed this item as maximum rates for direct costs, which may explain why it ranked in the middle despite being the most requested change.

Granicus data support a similar conclusion. Granicus describes a fee schedule as "a policy choice, not just an accounting exercise." *See* Granicus' Public Records as a Public Service, Supporting Materials, **Appendix B-3**. It observes that producing an estimate itself consumes staff time, and that "without a common methodology, similar requests can produce materially different

estimates across public bodies." Granicus recommends that a statewide approach define costs consistently, reward narrowing, treat specialty records such as video under a published method, offer a low-cost way to challenge a fee, and publish the methodology.

A standardized fee schedule serves both sides of the Task Force. Requesters gain predictability and protection against inconsistent charges, a concern Transparency Members raised throughout the Task Force's work. Governmental entities gain a lawful, defensible basis for recovering part of the staff time that requests consume, and a defense against fee disputes. The three-hour threshold recommended below is more favorable to cost recovery than the 10-hour threshold most local respondents now use. It is more favorable to requesters than Tennessee's one-hour labor threshold, and it still leaves routine requests free: 57% of Nevada survey respondents often handle requests in under an hour.

A single statewide rate cannot fit every kind of work. Ordinary search and redaction can be priced at the lowest-paid qualified classification. Video review and redaction, data extraction, and similar specialized work require personnel whose actual cost is higher, as Vermont's schedule and the survey's body-worn camera rates both show. The schedule should accommodate that work under a published method rather than force every entity into one rate.

2. *Recommendation*

Government Members recommend that the Legislature amend the NPRA to require a single, standardized schedule of maximum fees for fulfilling public records requests, expressly including the cost of searching, reviewing, redacting and producing records. Government Members recommend a delegated approach, so the schedule can keep up with actual costs without legislation each session. The statute should:

1. **Designate the body and set a review cycle.** Direct the Nevada State Library, Archives and Public Records, Public Access Counselor, or another designated body to adopt the schedule after public notice and comment, publish it online with the methodology used to set each rate, and review it at least annually using the staff time and fee data reported pursuant to the recommendations stated in Section G.
2. **Make the schedule a ceiling, not a mandate to charge.** No entity may charge more than the schedule allows except as provided in Recommendation 6. Any entity may charge less or waive fees entirely.
3. **Cover reproduction costs.** Set reasonable per-unit charges for standard and oversized paper copies, color copies, electronic storage media and postage or shipping.
4. **Cover staff time, subject to a three-hour threshold.** Set an hourly rate, charged in 15-minute increments, for staff time spent locating, retrieving, reviewing, redacting and copying records, based on the lowest-paid employee qualified to do the work. No staff time charge may be assessed until staff time on a request exceeds three hours. Entities may

aggregate frequent requests from the same requester, or from requesters acting together, for fee purposes, as Tennessee does at four requests in a calendar month.

5. **Set separate rates for specialized work.** Establish separate maximum rates, under a published method based on the actual cost of qualified personnel, for: (a) review and redaction of video and audio recordings; and (b) extracting or compiling data from databases. Vermont sets a higher rate for information technology specialists for this reason.
6. **Allow limited local variation.** Local government entities may deviate from the state standardized schedule provided they do not charge over 25% more than the amount established by the state standardized schedule. To exceed that, the entity must obtain an exemption from the designated body for good cause, such as specialized personnel costs.
7. **Treat commercial requests at full cost.** A requester who certifies, or is found to have, a commercial purpose under the proposal in Section J.4 is not entitled to the three-hour threshold or to a public interest waiver and should be charged actual cost up to the schedule's maximum rates.
8. **Prohibit certain charges.** No fee may be charged for inspecting records or for deciding whether a record or part of a record is confidential.
9. **Require estimates that reward narrowing and allow deposits.** Require a written, itemized estimate before any charge above a set amount is incurred, e.g., $25. The estimate should identify the work included and the options for narrowing the request. For estimates above a set amount, permit the entity to require a deposit of up to 50% before work begins.
10. **Provide waivers and a low-cost challenge path.** Authorize waivers or reductions when disclosure primarily benefits the public, decided promptly in writing. Allow a requester to challenge a fee or estimate through the dispute resolution process recommended in Section F before filing suit under NRS 239.011.

With its three-hour threshold, published maximum rates, and separate method for specialized work, this recommendation avoids the ambiguity of the "extraordinary use" language in the now-repealed NRS 239.055. It also gives governmental entities what they most often asked for: predictable, standardized fees that are easier to explain to requesters and to defend.

F. Dispute Resolution Mechanisms

Currently, judicial intervention is the only dispute resolution mechanism contemplated under the NPRA for public records disputes. There are currently no existing mandatory dispute resolution mechanisms set forth in NRS Chapter 239. The Task Force discussed multiple options for alternative dispute resolution mechanisms.

The Task Force heard a presentation from the Reporters Committee for Freedom of the Press which recommended an independent, impartial, and empowered ombuds-office to administratively review records requests disputes. The Reporters Committee pointed to Connecticut and Utah as model examples. Members of the Task Force also suggested having administrative level review within each government agency or authorizing a state agency such as the Office of the Attorney General to review claims. In general, there was consensus that there should be alternative dispute resolution mechanisms available to requesters. Key considerations will be how the principal or members of the dispute resolution body is chosen, whether the body will have the power to compel records, and the cost to the State and/or local governments.[2] The Reporters Committee expressed support for a government appointed principal if there are safeguards that ensure independence such as the appointment for a set term without ability to remove the principal. Below are examples in other states:

Arizona: An independent ombudsman, a legislative agency independent of the Governor and Attorney General's Office. *See* Arizona Ombudsman-Citizen's Aide, Arizona Public Records Law Booklet (June 2025), *available at* https://www.azoca.gov/wp-content/uploads/2025-Public-Records-Law-Booklet.pdf. The Ombudsman is statutorily authorized to investigate complaints relating to public access laws, request testimony or evidence, issue subpoenas, conduct hearings, make recommendations, and report misconduct. *Id.* at 51.

Connecticut: Freedom of Information Commission (FOIC) is a public body comprised of nine members. Conn. Gen. Stat. § 1-200 *et. seq*. One member is appointed by the President Pro Tempore of the Senate, one by the Minority Leader of the Senate, one by the Speaker of the House of Representatives, and one by the Minority Leader of the House of Representatives. These members serve two-year terms. Conn. Gen. Stat. § 1-205. The remaining five members are appointed by the Governor, with the advice and consent of either house of the General Assembly to four-year terms. *Id.* The Commission handles complaints, conducts hearings, issues binding decisions, and can order agencies to release records. Conn. Gen. Stat. § 1-206.

Iowa: Public Information Board (IPIB) is an independent board consisting of nine members created specifically to oversee open meetings and records compliance. Iowa Code § 23.1 et seq. Members are appointed by the governor and confirmed by the senate, with representatives from media, government, and the public. Iowa Code § 23.3. Members serve four-year terms and at the call of the chair. *Id.* Most complaint investigations are handled by IPIB's Executive Director and staff attorneys. It investigates complaints, issues advisory opinions, and can enforce compliance, provides training and mediates disputes. Iowa Code § 23.6.

[2] It should be noted that the other state models primarily arise from states with additional funding mechanisms such as income tax, including the Connecticut and Utah models provided in the Reporter's Committee's presentation and the examples provided in this report except for Tennessee and Texas.

Ohio: Public Records Mediation Program (Ohio Court of Claims). Ohio essentially has a mandatory mediation for public records lawsuits that has a low fee. Ohio Rev. Code. § 2743.75; Ohio Court of Claims, Public Records Frequently Asked Questions, *available at* https://ohiocourtofclaims.gov/public-records/. If mediation does not resolve the dispute, the complaint is assigned to a special master for a formal legal ruling. *Id.*

Oregon: Public Records Advocate & Public Records Advisory Council. The PRAC consists of twelve bipartisan public records experts representing state and local governments, the media, the public, and public sector workforce. Or. Rev. Stat. § 192.481. Most members are appointed by the Governor with Senate confirmation. *Id.* Agency and legislative members are appointed by their respective leaders. *Id.* The PRAC then appoints an Advocate for a four-year term. Or. Rev. Stat. § 192.461. The Advocate acts as a neutral mediator between agencies and requesters, reviews disputes, advises agencies, and oversees training. *Id.*

Utah: State Records Committee (recently replaced by an ombudsman). The State Records Committee was established in 1992 and consisted of volunteer members who had two purposes: reviewing retention schedules for approval and hearing record access appeals. *See* Rebecca Shaw, Division of Archives and Records Services, The State Records Committee Through the Years (May 7, 2025), *available at* https://archives.utah.gov/2025/05/07/the-state-records-committee-through-the-years/. In 2013, the Government Records Ombudsman was created, and in 2015, the Open Records Portal was launched which created a central place records request submissions. *Id.* In 2025, legislation replaced the Committee with a new office led by a director and staffed by an attorney housed within the Division of Archives and Records Service. *Id.*

Tennessee: "If a person makes a request to view or copy a public record with the intent to disrupt government operations, the records custodian charged with fulfilling the request may petition a court of record of competent jurisdiction for an order to enjoin the person from making records requests." Tenn. Code Ann. § 10-7-503(a)(7)(C).

Illinois: Public Access Counselor. Office within the Attorney General's Office that works to ensure compliance with Illinois open meeting and public records laws. 5 Ill. Comp. Stat. § 140/9.5, *See Public Access Counselor*. The Public Access Counselor mediates public records disputes, issues binding opinions, and provides training and education. *Id.*

1. *Nevada Government Entities Survey Findings*

Few disputes reach court. Of the 60 entities that reported petitions, 43 reported none since 2023 (Table E-9). Asked whether they would join a low-cost voluntary process, 21 said yes, 65 maybe, and 6 no. Nevada survey respondents said a process would be workable with a neutral decision-maker experienced in public records law, low cost and little staff time, protection for records under review, and judicial review preserved; they said it would be unworkable if it cost as much as litigation or exposed confidential records (Table E-10).

2. *Recommendation*

Of these models described above, Government Members recommend modeling the Illinois Public Access Counselor. The Nevada Attorney General's office currently enforces Open Meeting Law throughout the State of Nevada and publishes Open Meeting Law training materials and opinions. This oversight has functioned successfully for many years, and the Attorney General has held local governments, state agencies, and public employees and officials accountable time and time again. It would be a natural fit for the Attorney General's office to also enforce public records laws and develop training materials.

In Illinois, the Public Access Counselor is an attorney within the Attorney General's Office who oversees the Public Access Bureau in the Attorney General's Office, which includes several Assistant Attorneys General and professional support staff members. This office responds to both open meeting and public records issues raised by the public and government officials.

The Public Access Counselor mediates disputes between requesters and public entities, issues binding opinions, and provides training to public employees. The office also provides educational presentations and materials to public bodies and to respond to informal inquiries from public bodies and the public. This could be a state funded office like the Attorney General's office.

Transparency Members opposed a government office to oversee public records law enforcement and instead suggested a completely independent office. If the Nevada Legislature chooses to explore an independent office, an important policy question is how that office should be funded. A completely independent office would require significant new funding, when government funds these agencies, taxpayers would ultimately bear those costs.

If the office is not a "government office" and media organizations or other requesters prefer a third-party intermediary to facilitate access to public records, Government Members recommend that the costs and benefits of that arrangement be evaluated separately from government entities' existing funding. Where a service primarily provides additional convenience or specialized access for particular users, consideration should be given to whether those users, participating organizations, or other direct beneficiaries should bear some or all of the incremental costs.

Any cost-recovery approach must remain consistent with applicable public records laws, fee limitations, public access requirements, and protections against unreasonable barriers to information. Basic legal obligations to disclose public records should not be undermined by the creation of new fees. However, if an independent office is created, its users, such as requesters and entities that file matters with it, should bear a share of its cost through modest filing fees, which survey respondents also favored to deter automatic appeals (Table E-10).

A funding proposal should account for, at a minimum:

- Personnel, including the ombudsman, investigators, analysts, administrative staff, and legal expertise as needed.

- Training, technical assistance, and guidance for both government agencies and records requesters.
- Case management systems, technology, cybersecurity, records storage, and public-facing access tools.
- Independent review, dispute resolution, outreach, reporting, and performance evaluation.
- Facilities, administrative overhead, legal compliance, and other recurring operational expenses.
- Contingency funding and the capacity to address fluctuations in caseload and demand.

Before establishing fees, policymakers should prepare a comprehensive fiscal analysis identifying anticipated annual expenditures, projected caseloads, expected revenue, and the parties who would bear the costs. The analysis should distinguish between the costs of fulfilling an agency's existing legal obligations and the additional costs of operating the ombudsman program.

If the policy objective is to establish a fully funded program, the proposed revenue model should be sufficient to support the program's actual operating costs over time, rather than relying on an unsupported assumption that existing budgets or limited requester fees will absorb the difference.

G. Methods for Collecting and Sharing Data Related to Public Records Requests

Currently, the NPRA does not require government entities in Nevada to collect or share data related to public records requests, such as request volume, response times, denials, or fees.[3] Without that data, neither the Legislature nor the public can measure request volume, response times, or the staff and resources entities spend on compliance, except by submitting a public records request for whatever an entity happens to track. The Government Members' own survey shows how little is tracked today and what it would take to change that.

Most entities do not track the data a reporting requirement would ask for. Only 13 of 92 respondents (14%) track staff hours spent on public records. About 62% (56 of 91) track requests by hand or in a spreadsheet. About one in six could not estimate redaction time per request. The 33 entities able to estimate their 2025 hours reported roughly 90,000 hours combined, but several large entities answered "thousands" without a figure.

Most could not report without new systems or staff. Only 24 of 92 respondents (26%) said they could report annual metrics without new systems or staff; 33 said they could not and 35 were

[3] The NPRA requires annual reporting to the Legislative Council Bureau of records deemed confidential because they contain personally identifiable information collected online. NRS 239.014.

unsure. Ability to report does not rise with volume: among the 21 entities receiving 1,000 or more requests a year, only five said they could (Table E-11).

Entities want the data for their own management. Asked which metrics would help them manage their own public records work, 74 respondents gave a substantive answer. The most common were staff hours or time spent per request (about 39), the number of requests received (about 24), requester type, including media, commercial and repeat requesters (about 21), and response or processing time (about 16). Cost of responding, and denials or redactions, were each named about 11 times.

Request counts alone understate the work. Granicus's 2025 Public Record Complexity Benchmark Report makes this point directly: "volume alone doesn't tell the full story. Not all requests are created equal." *See* Supporting Materials, **Appendix B-3**. Across the agencies in its dataset, request volume rose 161% from 2018 to mid-2025. Over the same period its volume adjusted, the Complexity Index rose 72%, driven by larger response files (+438%), more video (+173%) and more clarification emails (+31%). Government Members' survey shows the same pattern in Nevada: 57% of respondents often handle requests in under an hour, while 29% at least occasionally handle requests requiring more than 30 staff hours. *See* **Appendix E**. A reporting form that counts only requests would miss where the burden lies.

Reported data reveals where the burden is concentrated. Data supplied by Granicus from Connecticut show six state agencies accounting for about 94% of 71,024 requests over two years, led by public safety and child welfare. *See* Granicus' Public Records as a Public Service, Supporting Materials, **Appendix B-3**. Granicus concluded that "a statewide policy based on an 'average request' would therefore be misleading." Nevada's survey points the same way: 21 respondents received 1,000 or more requests in 2025 while 20 received 25 or fewer (Table E-2).

Data provided by Granicus from Nevada GovQA accounts show both what reporting can produce and why common definitions matter. *See* Section B.4. Government entities that use a request-tracking system can report volume and closure time readily: the 13 Nevada GovQA accounts described in Section B.4 recorded 73,426 requests and an average closure time of 10.1 days over the past year. These figures are account-level averages and they range from 0.0 to 31.6 days across local government accounts. That spread may reflect differences in when and how entities count a request as received or closed as much as differences in performance. Recommendation 4 below aims to make such figures comparable across entities.

1. *Models from Other States, District of Columbia, and the Federal Government*

The lack of reporting is consistent with a majority of other states. However, multiple states and the federal government provide models for various types of data collection and reporting.

Texas: School districts must post the cost of responding to requests exceeding 200 pages in a 90-day period and report annually to the Texas Education Agency. V.T.C.A., Ed. Code § 11.1512.

Washington: To improve best practices for dissemination of public records, annual legislative reports are required for agencies with at least $100,000 in annual staff and legal costs for records requests. Wash. Rev. Stat. § RCW 40.14.026. Smaller agencies may voluntarily report. 15 statutory performance metrics are identified for reporting, including:

- The number of requests where the agency provided the requested records within five days of receiving the request.
- The number of requests where the agency provided a time estimate for providing responsive records beyond five days after receiving the request.
- The average and median number of days from receipt of request to the date the request is closed.
- The number of requests where the agency formally sought additional clarification from the requester;
- The number of requests denied in full or in part and the most common reasons for denying requests;
- The number of requests abandoned by requesters;
- To the extent the information is known by the agency, requests by type of requester, including individuals, law firms, organizations, insurers, governments, incarcerated persons, the media, anonymous requesters, current or former employees, and others;
- Which portion of requests were fulfilled electronically compared to requests fulfilled by physical records;
- The number of requests where the agency scanned physical records electronically to fulfill disclosure;
- The total estimated agency staff time spent on each individual request;
- The estimated costs incurred by the agency in fulfilling records requests, including costs for staff compensation and legal review, and a measure of the average cost per request;
- The number of claims filed alleging a statutory violation involving the agency, categorized by type and exemption at issue, if applicable;
- The costs incurred by the agency litigating claims alleging a violation of public records statutes in the past year, including any penalties imposed on the agency;
- The costs incurred by the agency with managing and retaining records, including staff compensation and purchases of equipment, hardware, software, and services to manage and retain public records; and
- Expenses recovered by the agency from requesters for fulfilling public records requests, including any customized service charges.

West Virginia: Each public body reports the result of every request to the Secretary of State's public online database. Reporting includes the nature of the public body's response, whether the request was granted, and if not, the exemption asserted to deny the request, the time-frame was necessary to comply with the request; and the amount of reimbursement charged to the requester. W. Va. Code § 29B-1-3, § 29B-1-3a.

Indiana: Public agencies are required to coordinate with a public access counselor to track and report the volume and nature of public records requests received; and identify patterns or sources of excessive, automated, phishing related, or data scraping based public records requests. Ind. Code § 5-14-4-10. To timely identify such patterns or sources, public agencies report within seven days of receipt any public records request that is suspected by the public agency of being: (1) automated; or (2) data scraping or phishing activity.[4] Ind. Code § 5-14-3-11. Notably, Indiana law permits a public agency to decline responding to a request when it suspects the request is data scraping or phishing activity, or when it suspects that responding electronically could expose its electronic systems or data to unauthorized access or alteration, or otherwise jeopardize their security. Ind. Code § 5-14-3-3.3(b).

Montana: To document the impacts and process associated with compliance with public records requests, the executive, legislative, and judicial branches report quarterly to a legislative committee the number of requests, requester identity, information requested, date, and status. Mont. Code § 5-12-209 (2025). For completed requests, the report includes compliance date, hours, and costs charged. *Id*. Open requests carry forward to later reports. *Id*. Requests about specific persons or property, and requests for information already online, are excluded. *Id*. State agencies other than local governments must also publish statistics online annually, including: number of requests, response times, and the requests and responses themselves. Mont. Code § 2-6-1006(e) (2025).

Massachusetts: A supervisor of public records takes necessary measures to put government records in the condition required by law and to secure their preservation. Mass. Gen. Laws Ch. 66 § 1. Each records access officer documents uniform criteria for every request:

- the nature of the request and the date;

[4] Indiana law defines "data scraping" as "use of an automated system to extract data from websites and other Internet accessible sources." Ind. Code § 5-14-3-2(d). "Phishing" is defined as:

> a method of obtaining information through fraud in which the sender of a communication intentionally misrepresents the identity of the sender in order to induce the recipient of the communication to: (1) divulge the information to the sender; or (2) take an action that allows the sender access to the information.

Ind. Code § 5-14-3-2(p).

- the dates on which a request was received, a response is provided to the requester, and a public record is provided to the requester;
- the number of hours required to fulfill the request;
- fees charged to the person making the request, if any;
- agency petitions to the supervisor of public records seeking to charge for time spent segregating or redacting, or to charge in excess of $25 per hour if the request is (A) for a "commercial purpose," or (B) the fee is necessary, proposed in good faith, and not designed to limit, deter or prevent access to requested public records;
- requester petitions to the supervisor of public records for a determination that an agency violated public records laws;
- the time required to comply with supervisor of records orders; and
- the final adjudication of any court proceedings.

Mass. Gen. Laws Ch. 66 § 6A. The Secretary of the Commonwealth collects the data annually, posts it online, and reports it to the House and Senate clerks. *Id*.

District of Columbia: Annual agency reports include: the number of requests received and processed; denials and reasons; appeals, results, and reasons; median processing days; counts processed in 15 days or less, 16–25 days, and 26+ days; fees collected and fees waived; staff hours and total cost; number of times each exemption was invoked; names and titles of officials responsible for denials; and employees convicted of records-law misdemeanors. D.C. Code § 2-538.

Federal Government (*United States*): Each federal agency is required to submit an annual report to the Attorney General and the Director of the Office of Government Information Services by February 1, covering the preceding fiscal year. The comprehensive report must include information including:

- The number of requests received and processed.
- The number of determinations to deny records requests and the reasons for each.
- The number of administrative appeals, their outcomes, and reasons for any denials.
- The number of times requests were denied under law enforcement exclusions.
- The average, median, and range of days to respond to requests and provide records.
- The number of full-time staff devoted to processing requests and the total amount expended for staff time.
- The total amount of fees collected for processing requests.
- The number of fee waiver requests granted or denied, and the time taken to decide them.

2. *Findings*

The Nevada survey shows that a reporting mandate imposed all at once, without funding, would fall hardest on entities least able to absorb it. Half of respondents have no employee whose primary duty is public records, and most track requests by hand. Washington addresses this by requiring full reports only from agencies spending at least $100,000 a year on records requests and allowing smaller agencies to report voluntarily. Granicus similarly recommends measuring demand, timeliness, complexity, cost, outcomes and disputes, while keeping requester identity and other protected case information out of anything published.

Consistent data would give policymakers an objective record of how the NPRA works in practice: the number and complexity of requests, what compliance costs, and the staffing constraints entities face. It would also let future policy changes, including the standardized fee schedule recommended in Section E, be measured against experience rather than anecdote.

3. *Recommendation*

The Legislature should amend the NPRA to require annual reporting on public records requests:

1. **Require annual reporting on one standard form, phased in by size and tied to funding.** The NPRA should be amended to require governmental entities to report annually on public records requests using a single form. Entities that received 1,000 or more requests in the prior calendar year should complete the full form beginning with the first full calendar year after funding for tracking systems is available. All other entities should report the core metrics marked below, and may report the full form voluntarily. The thresholds should be reviewed after two reporting cycles.
2. **Designate one body to adopt the form and publish the results.** The Nevada State Library, Archives and Public Records, Public Access Counselor, or another designated body should adopt the form after public notice and comment, review it at least annually, and publish the reports it receives in one place online. The Legislative Counsel Bureau should provide the Legislature with a statewide summary before each regular session.
3. **Include the metrics entities themselves need, and measure complexity as well as volume.** The form should require, at a minimum, the measures of volume, staff time, timeliness, fees collected, and fee waivers requested and granted. Entities should be encouraged to track and report additional measures such as requester type, the number of requests for which clarification was sought; requests abandoned after clarification or after a fee estimate, the number of requests denied in full or in part, and the legal grounds most often relied on, and the number of petitions for judicial review or mediation efforts, with outcomes.

4. **Define terms so entities report consistently.** The designated body should define: a common reporting period (the calendar year); when a request is "received" and "closed"; whether days are business or calendar days; how a multi-part request is counted; what makes a request "abandoned"; and acceptable methods for estimating staff hours until entities have tracking systems.
5. **Fund the systems that make reporting possible.** Appropriate funding, or a grant program, for request-tracking systems, prioritizing high-volume entities and entities without dedicated records staff. Establish statewide contracts that local governments may join (see Section C.5, Recommendation 5).
6. **Use the data.** The designated body should use reported staff-time and fee data in its annual review of the standardized fee schedule recommended in Section E. Good-faith estimates submitted on the form should be used for policy purposes and should not, by themselves, establish a violation of the NPRA.

H. Clarification of Custodianship and Control

The NPRA requires the governmental entity with "legal custody or control" of a record to respond to a requester, NRS 239.0107. However, the NPRA does not provide a comprehensive explanation what legal custodianship or control means across state and local government. The Nevada Administrative Code defines "legal custody" as "all rights and responsibilities of access to and maintenance of a record which are vested in" an office or department of a local governmental entity or state agency "and with the official or head" of the department or state agency "charged with the care, custody and control of that record." NAC 239.041, 239.620. The Nevada Supreme Court has held that a government entity has "legal control" over records where an entity contracts with a private company to provide public services and the contract indicates the company could generate the requested records and provide them to the entity for disclosure. *Las Vegas Metro. Police Dep't v. Blackjack Bonding, Inc*., 131 Nev. 80, 86–87, 343 P.3d 608, 613 (2015); *see also Comstock Residents Ass'n v. Lyon Cnty. Bd. of Comm'rs*, 134 Nev. 142, 147–48, 414 P.3d 318, 323 (2018) ("a record within the possession of a private entity may still constitute a public record subject to disclosure upon request") (citing NRS 239.001(4)). The definition of "custodian of records" in NRS 239.121 is limited to any person authorized to have the care, custody and control of any documents, instruments, papers, books, pamphlets or any other records or writings of a local governmental entity. Further, NRS 239.0107 allows an entity that lacks custody or control to direct the requester elsewhere, if known.

1. *Clarification of Legal Custody*

Other states provide more clarity on the meaning of custody. North Carolina, for example, specifies that an agency holding another agency's records for purposes of storage, safekeeping, or

data processing is not the custodian responsible for responding to a public records request. N.C.G.S. § 132-6. It also has a provision that allows a custodian to demand custody of public records from any person having illegal possession them and provides consequences if the record(s) are not produced according to law. *See* N.C.G.S. § 132-5. This facilitates records processing by allowing the entity who created and is thus more familiar with its contents to be the entity reviewing it for confidentiality and disclosure. Nevada should adopt this concept, while requiring service custodians to preserve, secure, and return records to the responsible entity.

Recommendation: The Legislature should amend the NPRA to distinguish between the "responsible custodian" and a "service custodian."

- Responsible custodian: A governmental entity holding the legal control, statutory responsibility, or policy accountability for the program, function, transaction, or decision documented by the record. A governmental entity that caused the record to be created, whether by creating the record itself or through a private contractor. A responsible custodian does not include a government entity that did not create a record and has no right or responsibility to maintain or assert a legal privilege with respect to the record.
- Service custodian: An IT department, archive, contractor, cloud provider, or shared-service organization that stores or processes records for another entity but does not determine their legal status.

2. *Clarification of Legal Control*

Recommendation: The NPRA should be amended to clarify that a governmental entity has legal control of a record when it has the legal right to obtain or retrieve the record; require another person to preserve or produce it; direct how it is maintained, used, transferred or destroyed; or require its return when employment, office, or a contract ends. An entity also has legal control of a record it uses to perform a governmental function or make an official decision. *See Blackjack Bonding*, 131 Nev. at 86–87; *Comstock*, 134 Nev. at 147–48. The definition should exclude instances where one entity simply shared its record or access to its record with another entity.

For example, the following circumstances, standing alone, should not give a governmental entity legal control of a record or make it the responsible custodian obligated to respond to a request for that record:

- storing the record solely as a backup for another entity;
- monitoring a system or network that contains the record solely for cybersecurity purposes;
- providing technical administration, hosting or support for a system that contains the record;
- receiving a courtesy copy of a record that the entity does not use or rely on in conducting its own business;

- holding the record temporarily and solely to transmit it to another person or entity;
- holding the record as a service custodian on behalf of another governmental entity; or
- holding property of a private person, such as a device or recording obtained by consent or warrant, whose contents have not otherwise become a record of the entity.

3. *Contract Requirements*

Nevada law does not currently address contract language requirements related to public records for government entities that enter into contracts for services with private individuals, or business entities. *See, e.g.*, NRS 333.339 (prohibiting state contracts from requiring arbitration or requiring the State to indemnify another party against liability for damages). Each government contract should include language requiring the contractor to comply with the NPRA. Such language is meant to ensure:

1. Records created, received, or maintained in performing the governmental function remain under government entity's legal custody and control,
2. The contractor preserves records according to applicable retention schedules,
3. The contractor provides records promptly when requested by the government entity,
4. Confidential and personally identifying information remain protected during and after the contract,
5. Records are returned or securely destroyed when the contract ends,
6. The contractor does not sell, commercially exploit, train an AI model on, combine or repurpose government data, unless expressly authorized by law and contract,
7. Subcontractors and cloud providers are bound by the same requirements, and
8. The government entity retains the practical ability to obtain its records in a usable format.

Florida, for example, treats certain private entities acting on behalf of government as subjects to its public records requirements. Florida also requires public service contracts to address preservation, confidentiality, production, and transfer of records when a contract ends. *See* Fla. Stat. § 119.01 *et seq*.

Recommendation: Nevada law should require government contracts to include provisions that require a contractor to comply with Nevada public records law, and address preservation, confidentiality, production, and transfer of records when a contract ends.

4. *Public Records Act Compliance Coordination*

It's often unclear which government employees are responsible for responding to public records requests on a government entity's behalf. When citizens are unsure how to submit a request, or which office to physically go to for inquiries, they want to speak to an employee of the agency. In Washington, state and local agencies are required to publicly identify a public records officer responsible for overseeing compliance. *See* Wash. Rev. Code § 42.56.580.

Recommendation: Nevada law should require every governmental entity to provide:

- A central email address for public records request correspondence that will remain the same even if staffing changes;
- The contact information for its public records coordinator; and
- The agency's physical office location to make public records requests, in addition to any online submission method.

I. Protection of Sensitive Information and Transparency

Privacy and transparency are equivalent obligations. Nevada public records laws must protect sensitive data, without concealing public records. NRS 239.001 declares that public records law must be liberally construed to promote prompt access, and NRS 239.010(3) prohibits denying an entire record when confidential information can be redacted. Any reform should preserve those principles.

Current confidentiality provisions are scattered across many chapters and use inconsistent terms. For example, with regard to personally identifying information, NRS 239.0105 states that "records containing the name, address, telephone number or other identifying information of a natural person" are confidential but only if the information is contained in a record related to the use of a recreational facility or enrolling a minor in a recreational activity. Nonetheless, those limited records are not confidential to certain individuals including a reporter or editorial employee, or if over 30 years old. *See* NRS 239.0105 (2). Similarly, NRS 603A.040 defines as "personal information" social security numbers, driver license numbers, certain account numbers, medical identification numbers, and user names for purposes of data security. Finally, NRS 239.014 protects certain personally identifiable information collected electronically when an agency determines that disclosure could produce negative consequences. However, this applies specifically to information collected from the public by automated means over the internet or other digital network. It is not a comprehensive definition for all public records. All of these provisions combine to demonstrate a legislative acknowledgement that personally identifying information is sensitive to misuse and should be protected, yet the law remains limited and inconsistent.

Legislators should consider defining a limited category directly in NRS Chapter 239 covering vulnerable data such as: social security numbers, Tax ID numbers, financial account

numbers, authentication credentials, security questions, full dates of birth, personal email addresses, telephone numbers, medical-biometric-genetic information, precise geolocation data, and information identifying protected victims, minors, or people with confidential addresses. The statute should expressly provide that the definition does not conceal information necessary to evaluate government expenditures, public compensation, contracts and vendors, official decisions and votes, lobbying and campaign activity, conflicts of interest, licensing, government findings or misconduct.

Recommendation: The Legislature should establish a uniform statewide definition of "personal identifying information."

1. *Bulk Data Requests*

Historically, a public record would be available at a government agency's physical counter. The public could inspect the record, journalists could investigate it, and residents could hold public officials accountable. However, more and more agencies are digitizing the physical copies of its public records. The risk environment for Nevadans is different. Technical advances make information discoverable from great distances at speed and scale. Data brokers can combine records from multiple agencies and foreign actors can access the same database without ever entering Nevada. Information that seems harmless individually can be aggregated and exploited, sold to others for a fee or used to target certain demographics for unsolicited commercial purposes. Public access to records is not a concern in this context. The scale, aggregation, searchability and automated reuse of that access poses threats.

Ordinary public access is not equivalent to placing person-level information into a universally searchable, indexable, and bulk-downloadable database. Technology can transform isolated records into population-scale profiles by enabling automated scraping, name and address-based searches, bulk downloads, AI-supported profiling, and dataset linking. In some cases, the requester is using the information for the purposes of reselling and solicitation.

Nevada can preserve the legal right to inspect and obtain records while applying narrowly tailored safeguards to the technological method of dissemination. Currently, NRS 239.014 recognizes that electronic collection of personally identifiable information can create risks and requires agencies to determine confidentiality. But the law does not address bulk publication, web scraping, application programming interfaces, dataset linkage or search engine indexing. Nevada law already recognizes that disclosure characteristics (such as email addresses and phone numbers) of an entire database can differ from those of an individual data request (NRS 239B.040).

Arizona's judiciary governs bulk or compiled court data, requiring dissemination agreements for bulk requests for commercial and non-commercial purposes, and ensures the requester complies with state laws. See Arizona Code of Judicial Administration, Section 1-605.

Recommendation: The Legislature should amend the NPRA to establish standardized procedures for requests for bulk or compiled data. The statute should:

1. **Define "bulk or compiled data."** Define bulk or compiled data as all or a substantial portion of a structured electronic dataset containing information concerning Nevadans, properties, businesses, cases or transactions.
2. **Authorize bulk-data procedures.** When a requester seeks all or a substantial portion of a governmental entity's database, permit the entity to process the request under standardized bulk-data procedures rather than treating it identically to an ordinary document request.
3. **Require dissemination agreements for high-risk datasets.** Require a standardized dissemination agreement for requests for defined high-risk bulk datasets. The agreement should ensure that the requester complies with applicable privacy and confidentiality laws.
4. **Allow custodians to recover records held unlawfully.** Authorize a governmental entity that is the legal or responsible custodian of public records to demand their return from any person in unlawful possession of them.

2. *Personnel Records*

In Nevada, there is no blanket confidentiality rule for personnel records. However, Nevada courts have recognized that personnel files may be shielded from public disclosure to prevent an unwarranted invasion of personal privacy. *See Clark Cnty. Sch. Dist. v. Las Vegas Rev.-J*, 134 Nev. 700, 429 P.3d 313 (2018); *see also Las Vegas Metro. Police Dep't v. Las Vegas Rev.-J.*, 136 Nev. 733, 737–38, 478 P.3d 383, 387–88 (2020). Most recently, the Nevada Supreme Court held that police internal investigative files are exempt from disclosure pursuant to NRS 289.080 unless the investigating agency recommends punitive action. *Am. Civil Liberties Union of Nevada v. Clark Cnty. Sch. Dist.*, 142 Nev. Adv. Op. 24, 586 P.3d 1221 (Mar. 26, 2026) (pending en banc review). Many other states also recognize that active employment investigations are confidential. For example, the State of Florida, known for its transparency laws, has temporary protections for active human resources investigations. *See e.g.,* Fla. Stat. §§ 119.071(2)(k), 112.533(2); *Woolling v. Lamar,* 764 So. 2d 765 (Fla. 5th DCA 2000); Op. Att'y Gen. Fla. 94-75. Additionally, there are existing protections for state employees for records related to investigations, personally identifying information, and other sensitive records that should be applicable to all government employees in Nevada.

Recommendation: Extend statutory confidentiality protection to all government employees as described for state employees' personnel records under NAC 284.718, including temporary protection for active internal investigations.

J. Criteria for Granting or Denying Access

NRS 239.001 requires exemptions and balancing tests to be construed narrowly. NRS 239.0113 also places the burden on the government agency to prove confidentiality by a preponderance of the evidence when confidentiality is disputed. Nevada does not, however, require a foreseeable-harm determination each time a government entity relies on a discretionary exemption.

Federal FOIA provides a useful model in this example. The FOIA Improvement Act of 2016 states that a federal agency may withhold information only when it foresees that disclosure would reasonably harm an interest protected by an exemption or when disclosure is prohibited by law. Agencies shall "consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible."

The Nevada legislature attempted to address overbroad and unduly burdensome requests in the NPRA by requiring a government entity to "Make reasonable effort to assist the requester to focus the request." NRS 239.0107(1)(c)(2). However, in many cases, the requester refuses to focus their request, so significant time is used to fulfill the request, further delaying requests that come after. This is often the case with bad-faith "FOIA bombing" requests. While some large requests remain valid, government entities should be allowed to use structured tools and methods, such as standardized request forms, to clarify what requesters are looking for.

For example, Utah Code § 63G-2-204(1) requires that a records request be in writing and contain the requester's full name, mailing address, daytime phone number, and email (if willing to receive communications by email), and a description of the record specific enough to identify the record with reasonable certainty. *See* example of Utah's standard request form here: GRAMA-request-form2.pdf.

Recommendation: Requester should be required by law to provide contact information including phone and email, and a description of the record specific enough to identify the record with reasonable certainty.

1. *Administrative Closure of Certain Requests*

A request must reasonably identify the records or categories of records sought. A request cannot be denied solely because it includes a large volume of records. However, a request for all or substantially all records of an agency, without a reasonable identifiable subject matter, record category, time period, person, transaction, event, or other limiting criteria, does not constitute a sufficiently identifiable request, and should be grounds for denial.

Washington: The State of Washington allows government entities to close an unclear request when the requester doesn't respond to a request for clarification, while requiring government entities to continue responding to portions that are clear. Washington law states, "A

public records request must be for identifiable records. Wash. Rev. Code § 42.56.080. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records." But requests for all records concerning a particular topic, keyword, or person is not in itself invalid. Further, Washington law states that an agency cannot deny an identifiable request simply because it is overly broad.

Louisiana: "If the custodian reasonably determines that the request would substantially disrupt required government operations, the custodian may deny access only after reasonable attempts to narrow or specify the request with the requester." La. Rev. Stat. § 44:32.

Recommendation: Allow a government entity to close a request when the requester refuses to narrow the scope within a reasonable time and it is not possible to identify responsive records.

2. *Automated, "Bot," "Phishing," or "Data Scraping" Requests*

Washington law RCW 42.56.080 also allows for denial of a "bot request" provided certain criteria. In Washington, agencies may deny a bot request that is "one of multiple requests from the requester to the agency within a twenty-four hour period, if the agency establishes that responding to the multiple requests would cause excessive interference with other essential functions of the agency." Bot requests are described as a request for public records that an agency" reasonably believes was automatically generated by a computer program or script."

Effective in July 2026, Indiana law directs their Public Access Counselor to coordinate with public agencies to track the volume and nature of public records requests and identify patterns or sources of excessive, automated, phishing-related, or data-scraping-based requests. Ind. Code § 5-14-4-10(8). To facilitate this effort, public agencies report to the Public Access Counselor, through a standardized reporting mechanism, any public records request suspected of being (1) automated or (2) related to data scraping or phishing activity. Ind. Code § 5-14-3-11. Separately, Indiana law authorizes a public agency to decline responding to a public records request if the agency suspects that the request constitutes data scraping or phishing activity, or that responding electronically could expose the agency's electronic systems or data to unauthorized access or alteration or otherwise jeopardize their security. Ind. Code § 5-14-3-3.3(b).

Recommendation: Amend the NPRA to allow agencies to deny a request when it suspects the request was made by a "bot", or when responding electronically could expose its electronic systems or data to unauthorized access or alteration or otherwise jeopardize their security.

3. *Vexatious Requesters*

Multiple presenters to the Public Records Task Force described instances of "FOIA bombing" where individuals intentionally submit requests for broad, excessive, and repetitive

records in an effort to overwhelm agencies. Nevada law has established standards for courts to declare a person as a "vexatious litigant." *See, e.g.*, NRS 159A.0486 (setting forth criteria for a person to be labeled a vexatious litigant in the guardianship context). Similar protections should be established in the public records context.

Recommendation: Government entities should be empowered to seek a declaratory relief from the court finding that a person is a vexatious requester utilizing similar criteria. For example, a court may find that a person is a vexatious requester if the person, (a) submits a public record request that is intended to harass or annoy a government official, employee, or entity; and (b) has previously submitted public records requests intended to harass or annoy the government official, employee, or entity.[5] If a court finds a person is a vexatious requester, the court may restrict the person's ability to submit additional requests or impose sanctions on the requester in an amount sufficient to reimburse the government entity for all or part of the expenses incurred by the government entity to respond to the requester and for any other pecuniary losses which are associated with the public records request.

4. *Commercial Requests*

The NPRA makes public records open to inspection by "any person" and does not ask why a requester wants them. NRS 239.010(1). Nevada law does not define a commercial purpose or treat commercial requests any differently. The NPRA was originally written for a person who inspected a record at the counter, not for a company that gathers government data at scale to resell it, combine it with other data, or train a commercial AI model.

The Task Force first heard about this issue at its April 27, 2026 meeting. Warren Hardy, presenting for the Urban Consortium, discussed commercial requests, the monetization of public records, and the risks of AI. Since then the issue has grown. Section I explains how data brokers combine records from many agencies and how automated tools can turn separate records into population-scale profiles. Section H recommends that government contractors be barred from selling, commercially exploiting, training an AI model on, or repurposing government data unless law and contract expressly allow it. Right now, a company that could not do those things as a government contractor can often get the same data through a public records request, with no such limits and usually at no charge for staff time.

Other states treat commercial requests differently. Massachusetts defines a "commercial purpose" as selling or reselling any part of a public record or using it to advance the requester's business interests in a way the requester can reasonably expect to profit from. Its definition excludes news gathering, citizen oversight, and academic, scientific, journalistic, or public research. Mass. Gen. Laws ch. 66, § 10(d)(ix). Tennessee and Kentucky separate commercial

[5] Narrow definitions of harassment or annoyance should reflect an intent to disrupt government operations. *See e.g.*, Tenn. Code Ann. § 10-7-503(a)(7)(C).

requesters from individual and news-media requesters for fee purposes. Tenn. Code § 10-7-506(c); Ky. Rev. Stat. § 61.874(3)–(4). Arizona requires a requester to state whether a request is for a commercial purpose and, if it is, to describe the intended use. Ariz. Rev. Stat. § 39-121.03. Ohio lets government entities limit bulk deliveries unless the requester certifies the records are not for a commercial purpose. Ohio Rev. Code § 149.43(B)(7). Illinois forbids asking why a requester wants records, with one exception: an agency may ask in order to decide whether the request is commercial. 5 Ill. Comp. Stat. § 140/3.1. The federal FOIA charges commercial-use requesters for search, review, and duplication, while news media and educational institutions pay duplication costs only. 5 U.S.C. § 552(a)(4)(A).

Findings: Commercial requests are common in Nevada. Forty-seven percent of Nevada survey respondents often receive requests made for a commercial purpose (Appendix E). Sixty-five percent often receive requests from repeat or high-volume requesters, and 66% at least occasionally receive requests that appear to be AI-generated.

Government entities asked for a separate path for commercial requests. Government entities asked the Legislature to "reduce commercial purpose requests." They asked for a fee structure for "burdensome AI and commercial entities that request records for profit." They also asked that commercial requests be subject to different timelines and fees, with bona fide news media excluded (Appendix E-2, Nos. 70, 74, 79).

Entities cannot see how large the commercial burden is. The NPRA does not let an entity ask whether a request is commercial, so most entities don't know. Asked which metrics would help them manage their records work, about 21 respondents named requester type, including commercial requesters. Several specifically named "if request is for commercial purpose" and the "number of commercial inquiries" (Appendix E-2).

Taxpayers are subsidizing private profit. Seventy-five percent of survey respondents never charge for staff time (Table E-7). As a result, a commercial requester that resells or monetizes government data generally pays nothing for the staff hours spent searching, reviewing, and redacting the records. Respondents put those hours at about 90,000 in 2025, or roughly $2 million to $3 million in wages alone.

Government Members do not seek to restrict what the public may learn about how government works. Any person would still be able to inspect and obtain records for oversight, journalism, research, litigation, or personal use. The recommendation goes to a narrower question. Should a private company be able to use the NPRA to obtain government data in bulk, at public expense, so it can sell that data, link it with other datasets, or train a commercial AI model? Government members believe the answer should be no and commercial access to government data should instead be governed by an agreement that sets terms, protects personal information, and recovers cost.

The recommendation adds to the NPRA a certification step and a defined commercial channel, rather than leaving custodians to guess at a requester's motive. Certification puts the

burden on the requester and gives the entity a basis for routing the request. A false certification has consequences. And the requester's own statement, not the custodian's judgment, determines whether a request is treated as commercial. The exclusions for news media, academic and scientific research, and requests that promote citizen oversight follow the Massachusetts model. They ensure the recommendation reaches commercial exploitation and not the uses the NPRA exists to protect.

Transparency Members have objected that the NPRA guarantees access to "any person" regardless of purpose, and that a media exemption would require agencies to decide who is a journalist. The first objection describes current law, which this recommendation would change by statute. To answer the second, Government Members recommend a statutory definition of "news media," modeled on Tex. Gov't Code § 552.275(m)(2). The requester would certify that it qualifies, so the custodian wouldn't have to judge whether a given requester is a journalist.

Recommendation: The Legislature should amend the NPRA to:

1. **Define "commercial purpose."** Define a commercial purpose as: the sale or resale of any portion of a public record; use of a public record to train, fine tune, or populate an AI model or a commercial dataset; or any other use to advance the requester's business interests in a way the requester can reasonably expect to profit from. Exclude news gathering by the news media, academic or scientific research, and requests that promote citizen oversight or public understanding of government operations.
2. **Require certification**. Require each requester to certify, on a standard request form, whether the request is for a commercial purpose and, if so, to describe the intended use. Make a knowingly false certification subject to civil penalty and to the custodian's authority, recommended in Section I.1, to demand return of records held unlawfully.
3. **Route commercial use of government data to an agreement**. A government entity should not fulfill an ordinary NPRA request for records whose certified or demonstrated purpose is to sell, train an AI model on, or commercially repurpose government data. That access should be available only under a data-use or dissemination agreement authorized by law, consistent with the bulk-data procedures in Section I.1 and the contract requirements in Section H.3. The agreement should set permitted uses, protect personal identifying information, and recover full cost.
4. **Charge other commercial requests at full cost**. Commercial requests not covered by the previous paragraph should be processed at full cost under Section E, without the three-hour threshold or a public-interest waiver.
5. **Define "news media."** Exempt news media from the commercial-purpose provisions and define the term by statute. The definition should require regular dissemination of news to the public and should not cover use of records only to produce entertainment content.

K. Policies Relating to Review Boards (NRS 289.380 & 289.383)

Under Nevada law, any municipality or county may create a review board to receive citizen complaints against peace officers and to make certain recommendations about whether the officer has violated policies and, if so, whether the officer should be disciplined. To the best of the Task Force's knowledge, only the City of Las Vegas and Clark County have created a review board, which is exclusively for the Las Vegas Metropolitan Police Department (LVMPD). This review board is called the Citizen Review Board (CRB). CRB's members are volunteers. They have a limited ability to investigate claims of misconduct on their own. As such, any complaint received by the CRB is first sent to LVMPD's Internal Affairs Bureau (IAB). IAB gathers evidence, which typically includes interviews of both the officer accused of misconduct and any witness officers. Both types of officers must comply or face a claim of insubordination. Once IAB completes its investigation, if a policy has been violated, LVMPD will implement discipline according to its negotiated contracts with its collective bargaining units. IAB will also forward its investigatory file to the CRB. At that point, the CRB can initiate its own hearings and eventually issue its own findings and recommendations.

"The findings and recommendation of a panel of the review board are public records unless otherwise declared confidential by state or federal law." NRS 289.387 (9). The CRB publishes their findings and recommendations, to include the name of the officer. However, there are laws that are in conflict with publishing the identities of the officers. First, the City and County have enacted ordinances requiring the CRB to maintain the confidentiality of its hearings and "all records of proceedings before the panel [of the CRB]." This would necessarily include any interviews of the subject officer or witness officers. Moreover, the CRB "shall not abridge the rights of a peace officer, school police officer, constable or deputy of a constable that are granted pursuant to a collective bargaining agreement, a contract or any federal or state statute or regulation." NRS 289.385(2). LVMPD has policies mandating confidentiality of its IAB records. The collective bargaining agreements are consistent with LVMPD policies. In addition, the Peace Officer Bill of Rights ("POBR") requires IAB investigatory files to be confidential, at least when the subject officer is not facing discipline, pursuant to NRS 289.080(9). The Nevada Supreme Court recently confirmed this, citing the officer's due process rights under the POBR; however, this decision is currently under en banc review. *American Civil Liberties Union of Nevada v. Clark County Sch. Dist.*, 142 Nev. Adv. Op. 24, 586 P.3d 1221 (Mar. 26, 2026).

Officers also have significant privacy interests under the common law. "[O]fficers d[o] not surrender their privacy interests by swearing an oath of office." *Las Vegas Metro. Police Dep't v. Las Vegas Review-Journal*, 136 Nev. 733, 478 P.3d 383 (2020) (stating that privacy interests include information that may cause "embarrassment, shame, stigma, [or] harassment" or "endangerment, or similar harm"); *Clark Cnty Office of the Coroner/Med. Exam'r*, 136 Nev. 44, 55–58, 458 P.3d 1048, 1057–59 (2020) (medical information, personnel files, details about sexual orientation, and other information about a person's life give rise to privacy interests).

Despite these rights, the Nevada Supreme Court recently held that the CRB may continue publishing officer names when they publish their findings and recommendations. *Las Vegas Police Protective Ass'n v. Las Vegas Metro. Police Dep't Citizen Review Board*, 142 Nev. Adv. Op. 55, 595 P.3d 916 (Aug. 20, 2026).

Recommendation: Harmonize the NPRA with NRS Chapter 289 so that records concerning peace officers, including review board findings and recommendations, are treated the same way under both. The Legislature should state expressly whether NRS 289.080 and 289.387 govern disclosure under the NPRA, so that law enforcement agencies and the courts are not left to speculate which statute controls.

L. Financial Burden on Requesters

Government Members' research and analysis focus primarily on government policies, procedures, and administrative challenges. However, Government Members acknowledge that requesters can face financial burden when submitting public records requests, and such burden is an important consideration. Ambiguities within Nevada's public records laws, particularly permissible fees, duplication costs, and methods of production, may contribute to inconsistent practices across state and local government entities. As a result, requesters may encounter different costs depending on the entity responsible for producing them. Inconsistencies can create uncertainty, discourage legitimate requests, and disproportionately affect individuals and businesses with differing resources. Greater statutory clarity could help establish more predictable, reasonable, and transparent cost structure while recognizing practical expenses associated with records fulfillment.

Recommendation: Government Members' recommendations identified in Section E are designed to address both the concerns of government entities and the financial burden requesters face.

M. Penalties for Delayed or Incomplete Responses

The NPRA currently contains provisions for delayed or incomplete responses. First, the NPRA allows a requester to initiate a lawsuit whenever a request is "denied or unreasonably delayed or if a person who requests a copy of a public book or record believes that the fee charged by the governmental entity for providing the copy of the public book or record is excessive or improper." NRS 239.011(1). Whenever the requester "prevails," in such a lawsuit, the requester is entitled to recover its reasonable attorneys' fees and costs. NRS 239.011(2). This includes any fees or costs incurred due to an appeal. NRS 239.011(3). A requester "prevails" for purposes of this statute whenever they "succeed on any significant issue." *Las Vegas Metro. Police Dep't v. Blackjack Bonding*, 131 Nev. 80, 90, 343 P.3d 608, 615 (2015). Government employees have a duty to protect public tax dollars. Using tax dollars to pay a prevailing requesters' fees and costs

prevents those dollars from being used to provide services to the public. And as has been widely reported, requesters have recovered sums well into the six figures when prevailing under the NPRA. As such, the possibility of having to pay the requesters' fees and costs is a severe penalty.

Second, if a government agency "willfully fail[s] to comply with the [NPRA], the court must impose on the governmental entity a civil penalty of:

(a) For a first violation within a 10-year period, $1,000.

(b) For a second violation within a 10-year period, $5,000.

(c) For a third or subsequent violation within a 10-year period, $10,000."

NRS 239.340(1).

This second penalty provision was added to the NPRA in 2019. Again, using tax dollars to pay penalties prevents those dollars from being used for core agency services. As such, it serves as a significant deterrent to willfully violating the NPRA.

Objective data do not show that delay is widespread. Across 13 Nevada accounts on Granicus's GovQA platform, the 73,426 requests received in the past year closed in an average of 10.1 days, with a median account average of 7.7 days (Section B.3). Nevada survey respondents report the same pattern: 71% often give a final response within five business days. Additional penalties would fall mainly on government entities that are already completing requests promptly, and would do nothing about the complex requests that account for most long delays.

Government Members do not recommend any additional penalties. Instead, Government Members are focused on more productive ways to ensure compliance with the NPRA, like alternative forms of dispute resolution (Section F) and clarifying exemptions (Sections C, D, H, I, J, and K) so that fewer disputes arise in the first place.

Government agencies do not operate to generate profits; they operate using public funds to provide services to the community. When an agency is ordered to pay a requester's attorney fees or statutory penalties, the financial burden does not fall on the agency as a separate economic entity. It falls on taxpayers and may divert funds from essential public services.

Although accountability and compliance with the Nevada Public Records Act are important, penalizing a government agency financially does not necessarily hold the individual responsible for a mistake accountable. Instead, the public may bear the cost of an error, an administrative delay, a disagreement over statutory interpretation, or a dispute that could potentially have been resolved without litigation.

The NPRA should distinguish between intentional violations of the law and delays or errors resulting from staffing limitations, unclear or overly broad requests, complex redaction requirements, and competing operational responsibilities. These circumstances are materially different and should not automatically result in the same financial consequences.

Rather than increasing financial penalties, the solution should prioritize corrective measures, clearer statutory guidance, staff training, improved communication, and a meaningful opportunity to resolve disputes before litigation. Where noncompliance occurs, government entities should be given appropriate opportunities to correct deficiencies, consistent with applicable law. Intentional or repeated violations should be addressed through measures that promote compliance and individual accountability where appropriate, rather than relying primarily on penalties funded by taxpayers.

The Legislature should also examine whether the existing system creates a financial incentive for litigation when disputes might otherwise be resolved through administrative review. A dispute-resolution process should encourage cooperation, timely correction, and reasonable outcomes for both requesters and government entities.

In the Government Members' view, the underlying objective should be to establish a sustainable funding model that supports efficient public records administration without automatically transferring the entire financial burden to taxpayers who may not use the proposed systems. The fundamental concern is that public funds should be used to serve the public, not repeatedly transferred from government budgets to pay litigation expenses and penalties arising from disputes over public records**.** The Legislature should evaluate whether existing remedies are proportionate, whether less costly corrective measures could achieve compliance, and how accountability can be improved without unnecessarily shifting the financial consequences of government disputes onto taxpayers.

Recommendation: Amend NRS 239.011 and 239.340 to (a) require a requester to use the dispute-resolution process in Section F, or give the entity notice and an opportunity to cure, before filing suit, except for requests involving imminent harm; (b) limit attorney-fee awards where the entity acted in good faith and corrected the response within the cure period; and (c) reserve civil penalties for willful violations, not delays caused by volume, complexity, or unclear requests.[6]

N. Protections Against Retaliatory Litigation

Nevada law protects requesters against retaliatory litigation, including through its anti-SLAPP statutes, NRS 41.635–41.670. It offers government entities no comparable tool against abusive or retaliatory requests and the litigation that may follow them.

Recommendation: Adopt measures, such as the vexatious-requester procedure in Section J.3, to protect government entities from abusive or retaliatory records requests, "FOIA bombing," and associated litigation.

[6] *See* Table E-12 (33–55% of survey respondents said changing Nevada law to limit attorney fee awards to cases where a government entity acted unreasonably or in bad faith was very or extremely important).

Implementation Considerations

Government Members' recommendations can be carried out through five complementary means: statutory amendments, administrative action, targeted investment in staffing and technology, thoughtful effective dates, and ongoing oversight. Legislative changes are listed in the order of the Government Members' policy priorities.

1. *Legislative Changes*

Most recommendations will require amendments to NRS Chapter 239 and related chapters during the 2027 Legislative Session:

- *Open criminal investigations and sealed records* (Section D). Amend NRS 179A.070 and 179A.100 so that records of open and active criminal investigations and prosecutions are clearly confidential until the investigation or prosecution concludes. Amend the sealing statutes in NRS Chapter 179 so that records eligible for sealing, including records of persons never arrested or charged, are presumptively confidential under the NPRA.
- *Standardized fee schedule* (Section E). Amend NRS 239.052 to require a single schedule of maximum fees, adopted and reviewed annually by a designated body, that covers reproduction costs and staff time after a three-hour threshold, sets separate rates for specialized work, treats commercial requests at full cost, and provides waivers and a low-cost way to challenge a fee.
- *Categorical confidentiality rules* (Sections C, I, and K). Enact a uniform definition of personal identifying information in NRS Chapter 239; extend personnel record protections to local government employees; address victim and witness identities and body-worn camera and other government video expressly; and harmonize the NPRA with NRS Chapter 289 so that the treatment of peace officer records does not depend on which statute a requester invokes.
- *Structure for large and unclear requests* (Sections B, I.1, and J). Amend NRS 239.0107 to require identifiable requests and requester contact information; provide that an entity's time to respond runs from receipt of a requested clarification and that an abandoned request may be closed; and establish procedures for bulk-data, automated, commercial, and vexatious requests.
- *Custody, control, and contracts* (Section H). Define "responsible custodian," "service custodian," and "legal control," require public records provisions in government contracts, and require each entity to publish a public records contact.
- *Liability and remedies* (Sections C and M). Confirm that the good-faith immunity in NRS 239.012 protects entities and employees that follow reasonable review procedures,

reconcile that immunity with newer private rights of action such as NRS 239B.027, and distinguish willful violations from delays caused by volume, complexity, or unclear requests.

- *Dispute resolution and reporting* (Sections F and G). Establish a Public Access Counselor within the Office of the Attorney General and adopt a phased annual reporting requirement tied to funding.

The Legislature may wish to consider these amendments in more than one bill. Largely technical provisions, such as the definitions of custody and control, contract provisions, and the designation of a public records contact, need not wait on the resolution of more contested provisions. Amendments outside Chapter 239, including NRS Chapters 179, 179A, and 289, should be drafted together with the Chapter 239 amendments so that the two bodies of law remain consistent.

2. *Administrative Actions*

Several recommendations depend on action after enactment. The body the Legislature designates to administer the NPRA's statewide functions would:

- adopt the standardized fee schedule and its published methodology after public notice and comment, and review it at least annually;
- adopt the annual reporting form and common reporting definitions, and publish the reports it receives in one place online;
- develop a standard request form, a standard dissemination agreement for high-risk bulk datasets, and guidance on applying the new categorical confidentiality rules; and
- provide training to records staff and assistance to requesters.

Other actions do not depend on a designated body. The Nevada State Library, Archives and Public Records can issue guidance on official business conducted through personal accounts and messaging applications, on retention, and on records classification. The State Purchasing Division can establish statewide contracts for request-tracking and redaction tools that local governments may join. State and local entities can update their standard contract terms, designate a public records coordinator, and publish a permanent public records email address without waiting for legislation.

3. *Investments in Staffing, Technology, and Training*

The survey makes the resource question unavoidable. Half of responding entities have no employee whose primary duty is public records; about 62% track requests by hand or in a spreadsheet; and about 75% redact by hand or in standard PDF software. The 33 entities able to

estimate their 2025 hours reported roughly 90,000 staff hours, worth $2 million to $3 million in wages alone, and that figure leaves out most responding entities.

The Legislature therefore faces a choice. It can fund the staffing and tools that public records work requires, or it can authorize entities to recover a reasonable share of that cost through the standardized fee schedule. Continuing to do neither leaves the cost with taxpayers generally and the delay with every requester. Cost recovery alone is not enough: the fee schedule is a ceiling, not a mandate, and many entities lack the administrative capacity to bill requesters. The Government Members therefore recommend both a fee schedule that recovers cost from the largest and commercial requests and appropriations or a grant program for:

- dedicated public records staff at high-volume entities that have none;
- request-tracking systems, which also make the reporting requirement possible (reported costs of roughly $7,500 to $35,000 a year);
- document and video redaction tools (one entity reported $49,999 for two video-redaction licenses);
- training for records staff on the new statutory rules; and
- staffing for the office that administers the fee schedule, reporting, and dispute resolution.

Technology should be funded to help entities manage growing complexity, not as a substitute for staff or a reason to shorten response timelines (Section C).

4. *Effective Dates and Transition*

- Provisions that define terms or clarify confidentiality can take effect on October 1, 2027, Nevada's default effective date.
- The standardized fee schedule should take effect when the designated body adopts it. Existing fee schedules should remain in effect until then.
- Annual reporting should begin with the first full calendar year after funding for tracking systems is available, starting with entities that receive 1,000 or more requests a year (Section G).
- Requests pending on an amendment's effective date should be completed under the law in effect when they were received.

5. *Ongoing Oversight*

- The designated body should report annually to the Joint Interim Standing Committee on Government Affairs on changes to the fee schedule, reported data, and dispute-resolution outcomes. The Legislative Counsel Bureau should provide a statewide summary before each regular session.
- Reported staff-time and fee data should drive the annual review of the fee schedule.
- The nearly 600 exemptions identified in Section A should be reviewed through a structured process that seeks input from affected stakeholders rather than changed piecemeal. An interim committee or the designated body could lead that review.
- After two reporting cycles, the Legislature should revisit the reporting thresholds, the three-hour fee threshold, and the request-management provisions using the data the reporting requirement produces.

Conclusion

Nevada's public records laws rest on a principle the Government Members respect and follow: the records of government business belong to the public. The question before the Task Force was not whether that principle should endure, but whether the NPRA still fits how government creates and keeps records today. It no longer fits well. A statute shaped for paper files now governs email, databases, cloud storage, and body-worn camera video, and it is administered largely by employees for whom records work is a secondary responsibility.

The 92 responses to the survey of Nevada government entities, the responses to the law enforcement survey, and the presentations the Task Force received describe the result. Most requests are routine and answered quickly. Across 13 Nevada accounts on Granicus's GovQA platform, the 73,426 requests received in the past year closed in an average of about 10 days. A minority of broad, repetitive, automated, or commercial requests consume a disproportionate share of limited staff time, and every other requester waits behind them. Review and redaction are legally required, done almost entirely by hand, and complicated by confidentiality rules scattered across hundreds of statutes and case-by-case balancing tests. The cost of that work goes largely unmeasured and unrecovered.

Government Members' recommendations respond to that record. They would protect active criminal investigations and the people named in them; replace inconsistent local fees with a single, published schedule of maximum rates; give government entities and requesters a clear structure for scoping large and unclear requests; provide categorical rules for the records most often at issue; clarify which entity must respond to a request; create a low-cost alternative to litigation; and produce the data the Legislature needs to measure how the NPRA works in practice.

These recommendations do not narrow the public's right of access. They are directed primarily at observable workload (scope, volume, frequency, and duplication) and at information Nevada law already recognizes as sensitive. Their purpose is to make the law clearer for requesters and government entities alike, to make response times more predictable, and to distribute the cost of the largest requests more fairly.

Finally, Government Members urge the Legislature to address resources directly. Public records work cannot continue to grow while staffing, tools, and cost recovery remain where they are. Appropriate funding, reasonable cost recovery, or preferably both are necessary for any of these reforms to succeed.

Government Members appreciate the Legislature's attention to these issues and remain available to assist the Legislature, the Legislative Counsel Bureau, and any designated body as these recommendations are considered and implemented.

Appendix

- Exhibit 1 – Government Members' Evaluations and Recommendations
- Exhibit 2 – Transparency Members' Evaluations and Recommendations
- Appendix A – Meeting Agendas and Minutes
- Appendix B-1 – Agendized Presentation Materials
- Appendix B-2 – Written Public Comment
- Appendix B-3 – Supporting Materials
- Government Members' Appendix C – NPRA Exception Chart
- Government Members' Appendix D – 50 State Survey of Criminal Statutes
- Government Members' Appendix E – Government Member's Summary and Analysis of Survey of Government Entities
    - E-1 - Survey of Gov Entities re PRRs
    - E-2 - Full Written Responses
    - E-3 - Fee Schedules
    - E-4 - Example PRRs Overbroad-Burdensome
- Government Members' Appendix F – Law Enforcement Survey