



# Public Transparency with Private Dignity

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Protecting Victims' Rights, Fair Trials, and Private Persons  
Maintaining Transparency in *Government* Action

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# Transparency Through Public Records

## Integral to Democracy

- + The public can see how government uses public power.
- + What is the government doing? Why? Is it performing public duties lawfully, fairly, and effectively?

# Transparency

## Transparency Should Reveal the Government, *Not Expose the Governed*

Government Transparency is Not:

- Exposure of private lives
- Exploitation of victims and witnesses

# Gaps in the Nevada Public Records Act

- + Victim Protections Required Under the Nevada Constitution
- + Constitutional Protections for Private Persons' Homes
- + Constitutional Protections for Persons Involved in the Criminal Justice System

**The United States and Nevada Constitutions *Must* Unambiguously Set the Floor for Public-Records Policy.**

# Marsy's Law

Nev. Const. Art. 1 Sec. 8A

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## The Constitutional Right to:

- + Be treated with fairness and respect for privacy and dignity
- + Be free from intimidation, harassment, and abuse
- + Prevent disclosure of confidential information or records that could be used to locate or harass the victim or family

Victim  
Protections  
Needed in  
the NPRA

# Victim Protections Needed in the NPRA

## Marsy's Law

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Nev. Const. Art. 1 Sec. 8A

### The Legislature is *Required* to:

Enact law or other measures to secure victims' constitutional rights

(Nev. Const. Art. 1 Sec. 8A (6))

### Current Status of the NPRA:

Lacks enumerated, specific exceptions clearly securing victims' constitutional rights under Marsy's Law.

# Horrific Murders of Idaho College Students: Ethan Chapin, Maddie Mogen, Xana Kernodle, and Kaylee Goncalves

## Public Records Distributed

### Idaho 4: Trauma From Public Records Disclosure

#### Victim Impact

**Extreme Distress**  
**Sleep Loss**  
**Shaking**  
**Sobbing**  
**Reignited Grief**

#### Record Recipients

Entertainment  
True-crime social  
media content  
Character attacks  
and speculation  
into witnesses and  
victims

#### Records

Witness  
statements;  
reports; details of  
the murder;  
partially blurred  
photographs of  
the victims' home,  
bedrooms, and  
bodies;  
photographs of  
the crime scenes  
and investigation;  
bodycam footage

# Idaho 4: Trauma From Public Records Disclosure

## After Partial Records Release, Victims Rushed to Court to Prohibit Further Disclosure

*“I am experiencing extreme emotional distress with physical manifestations because the City has released some of these images and intends to release others...” –Karen Laramie, mother of Maddie Mogen*

*“We are personally haunted by the photos and lose sleep nightly due to viewing them [inadvertently online]” “Every single time anything is released regarding this murder case, the uptick in news articles, media requests and comments that keep this case top of the news is just another kick in the gut that our son is no longer with us. It disrupts any peace that we may have found and sends us back to a dark place.”*

– Stacy Chapin, mother of Ethan Chapin

*“The thought that these images may be released, and some have already been released, causes me psychological pain and anxiety, with physical manifestations, including shaking, sobbing and serious sleep disturbances...No one should have access to these images.”*

– Maizie Chapin, sister (triplet) of Ethan Chapin

**Ms. Laramie and Ms. Chapin granted permission to share their experience for this presentation to the Nevada Public Records Task Force**

Idaho 4:  
Trauma From  
Public Records  
Disclosure

Idaho Shows What Happens When Protection in  
Public Records Comes Too Late

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*Nevada Should Not Require  
Victims to Discover Disclosure  
After the Fact, Suffer Harm, Hire  
Attorneys, and Seek Emergency  
Relief in Court.*

# Victim Protection: Enumerated NPRA Exceptions

- + Victim names and identifying information (addresses, phone numbers, location data)
- + Crime-scene images
- + Bodyworn-camera footage depicting victims, homes, bodies, or grief
- + 911 calls and witness statements containing trauma, fear, or private facts
- + Images of personal belongings, bedrooms, bodies, or final moments

**The more intimate the record, the clearer the protection should be.**

Victim  
Protection:  
Enumerated  
NPRA  
Procedures

- +Notice before release of sensitive victim records
- +Allow victims to object before records are released
- +Allow victims to seek court protection prohibiting release

**Protect the victim.  
Disclose the government conduct.**

# Private Homes: Constitutional Protection

## Digital Intrusion of Private Homes with Public Release of Bodycam Footage

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Individuals have the right to be free from **unreasonable searches** and seizures.

Fourth Amendment, United States Constitution  
Article 1, Section 18, Nevada Constitution

Law enforcement's probable cause to enter a home does not justify *media's* entry or seizure.

*Wilson v. Layne*, 526 U.S. 603 (1999).

# Private Homes: Constitutional Protection

## **A Call for Help Should not Become:**

- A public tour of the home
- A publicly searchable video
- True-crime content
- Information available to case a home for future crimes
- Evidence for harassment
- Permanent digital surveillance

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*The NPRA Should Explicitly Protect Private Homes while Preserving the Ability to Disclose Footage or Photographs Where it Genuinely Advances Public Oversight of Questionable Government Conduct.*

# When Records Involve an Active Criminal Prosecution, Premature Disclosure Implicates Constitutional Rights

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## Prosecutions: Constitutional Protection

- Sixth Amendment Right to a Fair Trial
- Substantive Due Process Right- Punishment
- Procedural Due Process- Notice and Opportunity to Be Heard in Public Records Requests and Litigation

# Prosecutions: Constitutional Protection

## NPRA Litigation: A Procedural Due Process Problem

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- A different judge
- Different parties
- Different legal standards
- No criminal defendant or prosecutor participation
- Limited knowledge of trial strategy or evidentiary issues in criminal case

**The Criminal Judge Has Constitutional Duties to Ensure a Fair Trial that the NPRA Court is not Positioned to Protect**

# Prosecutions: Constitutional Protection

## Transparency with Constitutional Timing

The NPRA Should Include an Enumerated Exception for Law Enforcement Records Involved in an Active Prosecution

**Public access should be preserved.  
Constitutional rights must come first.**

# Constitutional Issues in the NPRA Leave Government Entities Vulnerable to Section 1983 Liability

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Media Access to Private Homes- Fourth Amendment. *Wilson v. Layne*, 526 U.S. 603 (1999).

Images of Dead Bodies- 14th Amendment Due Process, Right to Privacy. *Marsh v. County of San Diego*, 680 F.3d 1148, 1153 (9th Cir. 2012)

Pretrial Arrestee Mugshots-14th Amendment Due Process, Punishment. *Houston v. Maricopa, Cnty. of, Ariz.*, 116 F.4th 935 (9th Cir. 2024)

Officer Personnel Files- 14th Amendment Due Process, Right to Privacy. *Kallstrom v. City of Columbus*, 136 F.3d 1055 (6th Cir. 1998)

Liability Created  
by the NPRA

# Recommended Reforms to the NPRA

## Reveal the Government, not Expose the Governed

**Victim Privacy.** Exceptions for Records Involving Victims. Procedures for Victim Notice and Opportunity to Be Heard.

**Private Homes.** Exceptions for Bodycam Footage and Photographs of Private Homes.

## Transparency with Constitutional Timing

**Prosecutions.** Exception for Records Involved with Active Prosecutions.