

Protecting and Reinforcing the Public's Right to Know

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The Nevada Public Records Act is a strong, clear law

- Its intent is clear: Ensure the public can see what government is doing
- Yet governments routinely deny requests for information that is public
- Requestors shouldn't face such frequent hardships to gain access to information, yet time and time again, they do

Transparency is an essential function of government

- It is not discretionary
- No Nevada agency is exempt
- Local/agency rules and exemptions cannot supersede state law
- Public records belong to the public, not the government
- Public access to records ensures government accountability

The Nevada Public Records Act favors the rights of requestors

- "The provisions of this chapter must be construed liberally to carry out this important purpose."
- "Any exemption, exception or balancing which limits or restricts access ... must be construed narrowly."
- Changes to the law should strengthen the right of the public to access the public's records

Cost of providing public records should not be in dispute

- Records belong to the public, and the public funds the workforce that generates records and provides access to them
- Governments can't charge the public for staff time to redact, review and fulfill records requests
- Can't charge for records produced electronically
- Excessive fees discourage openness and are not within the spirit of the law
- Government staff responses to records requests are imperative tasks
- Given the frequency with which governmental entities demand such payments for access to public records, the law should be clarified so there is no dispute

Timely response and fulfillment a requirement of the law

- "The purpose of this chapter is to foster democratic principles by providing members of the public with **prompt access**."
- Not unusual for agencies to promise delivery of public records several months after a request is made, then delay or never fulfill that request without consequence

How does NPRA work today?

- Requestors face increasing number of hurdles to access records
- Government delays hinder accountability and prevent inquiry to timely matters
- Denials incorrectly apply court precedent
- Fees don't comply with law, discourage requestors
- Excessive redactions hide public information
- Governments face no penalties for violating the law
- Clarity of law is turned on its head, law is routinely violated across Nevada
- All of these current problems will become worse if NPRA is changed to favor government secrecy or exacerbate the costs or effort needed to access records

Keeping public records secret hurts public interest

- Can't access data that shows whether policies work
- Hinders changes in law and policy that might improve Nevadans' lives
- No accountability for institutions or individuals failing their responsibilities
- Invitation to nonfeasance and malfeasance
- Diminished public trust, less understanding of how government works

Failing to provide public records is expensive to the public and leads to wasteful spending

- When requestors sue to obtain records, governments incur costly outside legal fees
- When government ultimately loses in court, government often has to pay requestors' legal fees, as well
- Because the law so clearly favors requestors, government is unlikely to prevail
- These legal fees can cost the public hundreds of thousands of dollars in a single case
- Government complaints about costs ring hollow when courtroom losses pile up

What does this look like for Nevada's largest news organization?

- Arrest report access wildly inconsistent across state, routinely denied
- DMV records for individual drivers, once public, now considered confidential
- Massive redactions of public information
- Government claims of exemptions where they don't exist
- Difficulty obtaining data that addresses community problems and public policy
- Journalism that is timely and routine in many other states can be exceptionally difficult, if not impossible, to complete in Nevada because so many governments block access to public information. The public interest suffers

Investigative journalism stymied by public records denials

- New DMV refusal to release individual driving records has hurt our ability to identify dangerous motorists who remain on the road and whether Nevada's point system is working
- Untold numbers of local government employees sheltered from accountability because of "personnel records" exemption that doesn't actually exist. Clark County fought for the privacy rights of convicted murderer Robert Telles
- Police cite "ongoing investigations" to withhold records in cases of high public interest for months and beyond, have asked Nevada Supreme Court to declare such an exemption exists

Investigative stories completed thanks to access to public records

- Deadly force: In-depth examination of Las Vegas police shootings led to reforms that made policing better and more accountable
- Expense records uncovered LVCVA spending policy violations, led to criminal prosecution of executives for misuse of taxpayer-funded airline gift cards
- Discovered elected Henderson constable had used tens of thousands of dollars in county funds on personal expenses
- Uncovered problems with police radios during Oct. 1 mass shooting that hindered response
- Alpine Motel, site of deadly downtown fire in 2019, hadn't had a fire inspection in more than two years despite a history of failed inspections going back a decade

Review-Journal public records lawsuit wins

- Prevailed over Clark County coroner when agency refused to release child autopsy reports. County paid more than \$330,000 in Review-Journal legal fees
- Prevailed over Las Vegas police in cases related to Alpine Motel records and a police investigation of a Nevada Highway Patrol trooper that were wrongly withheld. Metro paid \$620,000 in Review-Journal legal fees
- Prevailed over Clark County School District when it wrongly withheld investigative records related to Trustee Kevin Child. CCSD paid more than \$125,000 in Review-Journal legal fees
- Prevailed this year over Clark County in lawsuit over wrongly withheld investigative records related to Public Works department. Review-Journal will be awarded legal fees.

Government concerns about compliance with the Nevada Public Records Act

- Governments are not being sued over the release of potentially confidential information; governments are being sued for not following the NPRA
- Fulfilling public records requests is not a burden, it is an obligation. Governments must ensure staff are trained to search for and produce different types of public records, and that agencies have the technological capability to do so.
- Requestors have little leverage because governments face no penalties for breaking the law. The language of the law favors requestors, but government has complete control of access and can limit access arbitrarily
- The language of the NPRA is broad by design. Any record not specifically declared confidential under state law is a public record. The law is supposed to be “construed liberally.”
- The NPRA’s application to electronic records is clear, and the Nevada Supreme Court has ruled in multiple electronic records cases going back decades.

Reforming the NPRA

- Any changes to the NPRA must improve access to records, not further limit access to records. Agencies already have control over timing, format, and response. Changes proposed by governments would shift more power to government discretion at the expense of public oversight.
- Law should more clearly limit which records are confidential, not limit which records are public.
- The law should clearly declare which government actions are violations of the law
- Restrictions that address “vexatious” requestors would give governments a new avenue for abuse and noncompliance and should be avoided
- Imposing new costs on public records will only limit access and will not “foster democratic principles.” Most taxpayers and small news organizations cannot afford high fees for public information.
- Government noncompliance is the biggest current problem with the NPRA. Financial penalties should be broadened and increased against government agencies that break the law