

Nevada Public Records Act: Strengths and Opportunities

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My name is Gunita Singh and I'm a staff attorney at the Reporters Committee where I've been litigating newsgathering and Freedom of Information cases since 2019.

Founded in 1970, Reporters Committee was established at a time when the nation's news media faced a wave of government subpoenas asking reporters to name confidential sources. I'm proud to say we are the leading pro bono legal services organization for journalists and newsrooms in the U.S. Reporters Committee provides legal representation, amicus support, and other legal resources at no cost to protect First Amendment freedoms and the newsgathering rights of journalists across the country.

## **I. Introduction**

Today, Reporters Committee strongly urges Nevada to reaffirm its commitment to government transparency and accountability.

I understand that the Task Force is interested in determining how Nevada's Public Records Act (the "Act") can be improved and strengthened. The best public records laws are those that contain strong provisions for transparency; require agencies to communicate with requesters about expected timelines for compliance; are clear regarding what information is permitted to be exempt from disclosure; and afford an opportunity for administrative review of an adverse determination by way of an ombuds-office or public access counselor. Nevada already bears some of these hallmarks of a strong law, and I appreciate the opportunity to suggest where it can even better serve the twin goals of transparency and accountability.

Thanks to the robust transparency offered by Nevada's Public Records Act, local news outlets and journalists have been able to accomplish incredible reporting. For instance, the Las Vegas Review-Journal was able to get records from the Clark County Coroner's Office for five years of autopsy reports for juveniles who died under Clark County child-welfare supervision, to examine whether child protective services could have prevented the deaths. See Arthur Kane, *Autopsy records released to Review-Journal after years of litigation*, Las Vegas Review-Journal (Dec. 31, 2020), <https://www.reviewjournal.com/investigations/autopsy-records-released-to-review-journal-after-years-of-litigation-2237311/>; Arthur Kane, 'A recipe for disaster', Las Vegas Review-Journal (July 19, 2020), <https://www.reviewjournal.com/investigations/school-warned-childs-home-life-was-a-recipe-for-disaster-then-aaron-died-2071038/>.

The late Jeff German reported on data acquired from requests for inspection and fire records and determined that the Alpine Motel Apartments, a 41-unit

downtown Las Vegas building (built in 1972) “had not been inspected by fire officials in the 32 months leading up to” a fire despite a decade of failed inspections. Jeff German, et al., *Did a gap in fire inspections put Alpine apartments at risk?*, Las Vegas Review-Journal (Jan. 13, 2020), <https://www.reviewjournal.com/investigations/did-a-gap-in-fire-inspections-put-alpine-apartments-at-risk-1930225/>. Police emails obtained under the Act showed officers had tried to shut the property down as a chronic nuisance but city officials refused. The reporting prompted citywide code-enforcement reforms.

The *Reno Gazette-Journal*’s Editorial Board noted the importance of PERS—Public Employees Retirement System—data when investigating “double-dipping” practices by public employees, noting that a “public records request of a tiny portion of PERS data revealed that the practice was more widespread than believed, and the findings would not have been possible without the ability to compare retirees’ names to current employees.” *PERS secrecy bill based on unfounded fears: Our view*, The Reno Gazette-Journal (April 17, 2017), <https://www.rgj.com/story/opinion/editorials/2017/04/17/pers-secrecy-bill-based-unfounded-fears-view/100558940/>.

The strengths of the Nevada Public Records Act permit such important reporting about matters of public concern. For instance, Nevada’s fee shifting provision, Nev. Rev. Stat. § 239.011(2), is the engine behind critical stories that wouldn’t have been published in an age where nearly all newsrooms struggle with resource constraints. The Act’s instruction that “court[s] shall give [NPRA] matter[s] priority over other civil matters,” *id.*, ensures that public records are timely transmitted to the press and public, mitigating delays in the flow of information from government to the people. And the Act’s broad disclosure provisions with respect to law enforcement records ensure that oversight and accountability remain robust with respect to the operations of personnel to whom our communities afford ultimate power—monopoly on use of force.

## **II. Opportunities for reform of the NPRA**

This task force has the unique opportunity to recommend changes to the Public Records Act that will bolster trust in government, save resources, and bring Nevada into conformity with best practices for transparency and oversight.

### **A. Administrative review and ombuds-offices**

Reporters Committee wishes to address the possibility of an empowered and independent Nevada public records ombudsperson or access counselor.

About half of the states, the District of Columbia, and the federal government have created appeals processes for requesters to attempt to settle their public records disputes so that litigation is not the only option for seeking redress.<sup>1</sup> These measures vary in their investigatory and enforcement powers, political independence, and the deference a reviewing court will grant prior findings.<sup>2</sup> They all represent steps toward the accomplishment of effective access to government information. The most effective ombuds-offices are ***independent***—that is, free from external influences, particularly in government—***impartial***, serving as a resource for parties who seek assistance or investigation,<sup>3</sup> and ***empowered***.

One such example is Connecticut’s Freedom of Information Commission, which was one of the first administrative open records agencies and has long been heralded as an exemplary way to handle those disputes.<sup>4</sup> Upon notification from a requester, the Commission can review the request, subpoena witnesses, examine relevant documents, and hold hearings where the parties can present additional evidence and examine witnesses.<sup>5</sup> The member of the Commission who hears a dispute issues an opinion that is binding, but it is subject to review by the full Commission and then review in state court.<sup>6</sup>

In some states, such as New York and Hawaii, the public records ombudsperson has explicit authorization to investigate agency policies and procedures concerning access to public records and to recommend improvements.<sup>7</sup> In

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<sup>1</sup> See generally Open Government Guide, Reporters Committee, <https://www.rcfp.org/open-government-guide/> (last accessed July 29, 2026).

<sup>2</sup> Laura Danielson, *Giving Teeth to the Watchdog: Optimizing Open Records Appeals Processes to Facilitate the Media’s Use of FOIA Laws*, 2012 Mich. St. L. Rev. 981, 1009 (2012).

<sup>3</sup> Daxton R. Stewart, *Evaluating Public Access Ombuds Programs: An Analysis of the Experiences of Virginia, Iowa and Arizona in Creating and Implementing Ombuds Offices to Handle Disputes Arising Under Open Government Laws*, 2012 J. Disp. Resol. 437, 481 (2012).

<sup>4</sup> Danielson, *supra*, 2012 Mich. St. L. Rev. at 1010.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Melissa Davenport & Margaret B. Kwoka, *Good but Not Great: Improving Access to Public Records Under the D.C. Freedom of Information Act*, 13 U. D.C. L. Rev. 359, 374 (2010).

addition, an ombudsperson is well-situated to coordinate—if not provide—public and government training on the use of the public records law.<sup>8</sup>

Because of the highly discretionary nature<sup>9</sup> of Nevada’s “catchall” exemption, wherein a government agency bears the burden to prove “its interest in nondisclosure ‘clearly outweighs the public’s right to access,’” in order to determine a document’s exempt or disclosable status, *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 877, 880 (2011), instituting a check on the agency’s discretion by way of a neutral and credible ombudsperson could be particularly beneficial in Nevada.

Again, researchers on the subject have emphasized the importance of the ombuds-office being both independent and serving as an impartial resource for parties who seek assistance or investigation.<sup>10</sup> For example, in Arizona, the public records ombudsperson sits in the legislative branch, where Patrick Shannahan, who long served as the Arizona Ombudsman, “fe[lt] no pressure [to] cater to . . . any other political subdivisions . . . [due to] the structure of the office, which, by law, makes it difficult for him to be influenced.”<sup>11</sup> Shannahan stated:

The way we get that is that the legislature appoints me to five-year terms, and I then have complete control over other decisions. Who I hire, who I fire, how we operate, I have control of that. During that five-year term, it takes a two-thirds majority of the legislature to fire me, and in Arizona, getting two-thirds to agree on anything is next to impossible. It helps to assure the independence of the office.<sup>12</sup>

In Virginia, the Freedom of Information Act (“FOIA”) Council established itself as the authoritative voice on open government matters, and those who come to it as a resource appear to be largely satisfied with its advice and decisions.<sup>13</sup> Some public

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<sup>8</sup> *Id.*

<sup>9</sup> See, e.g., Seth F. Kreimer, *Pervasive Image Capture and the First Amendment: Memory, Discourse, and the Right to Record*, 159 U. Pa. L. Rev. 335, 393 (2011) (discussing how “catchalls” necessarily involve discretion which can pose problems if not grounded in clear standards).

<sup>10</sup> Daxton R. Stewart, *Evaluating Public Access Ombuds Programs: An Analysis of the Experiences of Virginia, Iowa and Arizona in Creating and Implementing Ombuds Offices to Handle Disputes Arising Under Open Government Laws*, 2012 J. Disp. Resol. 437, 481 (2012).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 496.

records matters still end up in litigation, but these are typically cases focused on narrow legal issues that require more formal judicial interpretation.<sup>14</sup>

With respect to administrative appeals processes, the consensus is clear among practitioners and experts that implementation of such processes can positively change agency culture by preventing situations of nondisclosure based on animus, misinformation or misunderstanding, as an ombudsperson is accountable to the public, the courts, and often other officials. Such a framework also benefits struggling newsrooms, which would not have to choose between aggressively pursuing the news through expensive litigation and laying off more workers.<sup>15</sup>

Renowned government transparency expert Margaret Kwoka attributes the success of the New York and Connecticut ombuds-offices, oft-seen as the model administrative appellate authorities with regards to public records issues, to several factors, including the autonomous nature of each body, the varied backgrounds and politically protected status of appointees, and the strong and powerful watchdog role played by the media in each instance.<sup>16</sup>

Based on the above, Nevada may be well suited to adopt and reap the benefits of an administrative appeals process with the help of a strong, independent ombuds-office, and Reporters Committee wholly supports the state in crafting such an entity in the pursuit of greater clarity around how agencies can apply the Act's disclosure provisions with consistency; enacting guardrails around the discretion inherent in the Act's balancing provision; and ultimately preserving judicial resources by forging a separate mechanism for review.

#### B. Facilitating greater transparency of body-worn camera footage

It is widely recognized that there exists a First Amendment right to record law enforcement personnel who are performing their duties in public. For instance, the Ninth Circuit, in *Fordyce v. City of Seattle*,<sup>17</sup> recognized a "First Amendment right to film matters of public interest" in the context of a man who "was videotaping people on the streets of Seattle," including police, during a public protest march.<sup>18</sup>

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<sup>14</sup> *Id.*

<sup>15</sup> Danielson, *supra*, 2012 Mich. St. L. Rev. at 1015.

<sup>16</sup> Melissa Davenport & Margaret B. Kwoka, *supra*, 13 U. D.C. L. Rev. at 372.

<sup>17</sup> 55 F.3d 436, 439 (9th Cir. 1995).

<sup>18</sup> The Seventh Circuit has held that the "act of making an audio or audiovisual recording is necessarily included within the First Amendment's guarantee of speech and press rights as a corollary of the right to disseminate the resulting recording"

In Nevada, the supreme court has interpreted the Public Records Act to permit redaction of officers' faces from body worn camera footage disclosed to the public. *See generally Conrad v. Reno Police Department*, 530 P.3d 851 (2023). The court relied upon Nev. Rev. Stat. § 289.025, which states that “[a]ny photograph of a peace officer in the possession of a law enforcement agency” can remain confidential. Reporters Committee respectfully urges the Task Force to recommend the legislature repeal or amend this provision to clarify that the Act does not prohibit disclosure of body worn camera footage that includes depictions of law enforcement personnel—public officials who openly display their identities on their badges for the principal purpose of fostering oversight of their on-duty conduct.

Across the country, law enforcement agencies tend to release body worn camera footage with redactions when such redactions would protect from disclosure depictions of the insides of individuals' residences, the insides of a medical facility, or where juveniles or victims of crime are portrayed.<sup>19</sup> For instance, recently, in *Fuster v. Township of Chatham*,<sup>20</sup> New Jersey's supreme court determined that when withholding body camera footage did not protect any significant privacy interest, it had to be disclosed; the court considered matters such as whether victims might be dissuaded from coming forward to report crimes, whether critical infrastructure would be revealed, or whether deceased individuals would be depicted.<sup>21</sup> It did not consider whether officers' identities would be revealed.

Even more recently, a court in Pennsylvania ordered release of body camera footage depicting officers' use of force against minors, permitting the use of audiovisual editing technology to blur the identities of juveniles—but not of the officers.<sup>22</sup>

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where the plaintiff sought to make audiovisual recordings of police officers performing their duties in public places. *Am. Civil Liberties Union of Illinois v. Alvarez*, 679 F.3d 583, 595 (7th Cir. 2012). In *Smith v. City of Cumming*, 212 F.3d 1332 (11th Cir. 2000), the Eleventh Circuit recognized a First Amendment right, subject to reasonable time, manner, and place restrictions, to photograph or videotape police conduct. *See also Fields v. City of Philadelphia*, 862 F.3d 353, 359 (3d Cir. 2017) (“[R]ecording police activity in public falls squarely within the First Amendment right of access to information.”).

<sup>19</sup> *See generally Police Video*, Reporters Committee, <https://www.rcfp.org/open-government-sections/14-police-video/> (last accessed July 29, 2026).

<sup>20</sup> 259 N.J. 533 (2025).

<sup>21</sup> *Id.* at 546.

<sup>22</sup> *Dan Nephin et al. v. City of Lancaster*, No. CI-25-03559 (Nov. 5, 2025; Ct. Com. Pls. Lancaster).

In neighboring California, that state’s supreme court has held that when redacting body camera footage for release to requesters, agencies cannot shift the cost of redaction onto those requesting public records.<sup>23</sup> In discussing permissible redactions, it discussed, *inter alia*, personal medical information and law enforcement tactical security measures; it did not contemplate redaction of officers’ faces.

Disclosure of body camera footage—redacted, where necessary, to safeguard the privacy interests of third parties with a reasonable expectation of privacy—benefits law enforcement and the communities they serve alike. A powerful example of this principle is evinced by the recent reporting of the Tribune-Democrat, a Pennsylvania based newspaper that reported on a shooting at a nightclub.<sup>24</sup> Following the shooting, in which four women were injured, the community was concerned about the alleged use of racial epithets by law enforcement who arrived at the scene. Upon disclosure of the body worn camera footage to the news outlet, the outlet was able to analyze and report on the footage, and assuaged readers that responding personnel in fact acted appropriately and compassionately in carrying out their duties.<sup>25</sup> This case study perfectly encapsulates the philosophy that “[t]ransparency facilitates healing.”<sup>26</sup>

Amending Nevada’s Public Records Act to respond to the supreme court’s holding in *Conrad*—i.e., by repealing or amending the Act to clarify that it does not prohibit disclosure of body worn camera footage depicting law enforcement personnel—will position this state to more meaningfully foster the twin pillars of transparency and accountability. This change will not only keep pace with the rest of the country when it comes to transparency surrounding law enforcement records, but it will build trust in our institutions, enable greater oversight, and facilitate powerful journalism.

### III. Conclusion

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<sup>23</sup> *Nat’l Laws. Guild v. City of Hayward*, 9 Cal. 5th 488 (2020).

<sup>24</sup> Vivian Rong, *With free legal help from Reporters Committee, Pennsylvania newspaper wins battle for police bodycam footage*, Reporters Committee (July 20, 2026), <https://www.rcfp.org/pa-tribune-democrat-bodycam-videos-shooting/>.

<sup>25</sup> *Id.*

<sup>26</sup> Cynthia H. Conti-Cook, *A New Balance: Weighing Harms of Hiding Police Misconduct Information from the Public*, 22 CUNY L. Rev. 148, 154, 166 (2019) (citation omitted). Cook goes on to say: “Without transparency, fear of future harm continues, [and] officers are able to exploit the power of reliable anonymity[.]”.



Nevada’s Public Records Act contains many strengths, and we appreciate the opportunity to be heard on ways to make it even stronger. Specifically, amending the Act to include an administrative review provision and to facilitate greater transparency of body worn camera footage will directly enable realization of the state’s aspiration “to foster democratic principles” through disclosure of public records.<sup>27</sup>

We urge members of the Task Force to consider these issues as part of today’s hearing. Thank you.

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<sup>27</sup> NRS 239.001(1).