

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF WARRANT/SUMMONS
(N.R.S. 171.106)
(N.R.S. 53 amended 7/13/1993)

Event Number: LLV24060009233

STATE OF NEVADA) Katie Williams
) ss: ID#: 8777742
COUNTY OF CLARK) DOB: PII 1990 SS#: PII

LEP being first duly sworn, deposes and says:

That she is a Detective with the Las Vegas Metropolitan Police Department, being so employed for a period of nine years, assigned to investigate the crime(s) of Wrongful Exercise of Power NRS 197.180 committed on or about April 3, 2024, which investigation has developed Katie Williams as the perpetrator thereof.

THAT DECLARANT DEVELOPED THE FOLLOWING FACTS IN THE COURSE OF THE INVESTIGATION OF SAID CRIME, TO WIT:

Introduction

Your Declarant has been a Police Officer with the Las Vegas Metropolitan Police Department for over eight years. Your Declarant was assigned to the Criminal Intelligence Section, Organized Crime Squad, for two years before being assigned to the Criminal Intelligence, Public Integrity Squad, in December of 2022. Before being assigned to Criminal Intelligence, your Declarant was assigned to the Community Policing Division for five years in which your Declarant conducted hundreds of preliminary investigations. As a Detective your Declarant has conducted many high-profile investigations to include human trafficking, sexual assault, fraud, aggravated stalking, money laundering, theft, political corruption, and solicitation to commit murder. These investigations are often complex in nature and have resulted in numerous arrests. As a result of these investigations, your Declarant has gained experience in conducting complex investigations. While assigned to the Criminal Intelligence Section your Declarant has assisted in wiretap investigations resulting in numerous arrests. Your Declarant is a member of the State of Nevada Election Integrity Task Force and has received specific training on elections and requirements for subjects running campaigns for an elected office.

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The statements contained in this Declaration are based in part on information gathered through law enforcement reporting, the investigation conducted by your Declarant and on her investigation, training, experience, and background as a Detective with the Las Vegas Metropolitan Police Department. Since this Declaration is being submitted for the limited purpose of establishing probable cause, your Declarant has not included each and every fact known to her concerning this investigation. Your Declarant has set forth only the facts she believes are necessary to establish evidence of Wrongful Exercise of Official Power Nevada Revised Statute (NRS) 197.180.

Investigation

On June 3, 2024, your Declarant initiated an investigation into Clark County School District (CCSD) Board Trustee, Katie Williams, date of birth [PII] 1990, after learning credible information she had been exercising her power of office while no longer living in the State of Nevada. Williams was elected, for a four-year term, to the Board of Trustees in 2020, representing District B, County of Clark, Nevada. Your Declarant has been aware that the allegations surrounding Williams' residency have been highly publicized, first being brought to media attention in March of 2024, in which she was accused by peer trustees to have neglected her duties as a member. These allegations stemmed from her absence and/or virtual attendance to school board meetings.

Residency

The investigation, through law enforcement reporting, open-source research and an analysis of Meta Platform accounts (social media), indicated Williams made a likely move to Nebraska. On February 17, 2024, Williams posted to her Facebook and Instagram accounts, she was engaged to an unknown male. Investigators learned Williams' current and likely address to be [PRVCY] Gretna, Nebraska, per Accurint, a law enforcement database that compiles open-source information. Through this address, investigators identified her fiancé as James Powell, date of birth [PII] 1987, who purchased the residence on March 18, 2024, per Sarpy County, Nebraska, website. Investigators confirmed Powell's identity through a comparison of his Nebraska Driver's License photo to the photos posted on Williams' social media account in which she identified him as her fiancé.

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Williams' public social media account, Instagram, portrayed she moved into a new residence in which home projects appeared to be conducted with Powell, such as painting. Additionally, throughout the month of April 2024, Williams had four posts affiliated to Berry Law. In these posts, she used hashtags confirming her employment with them such as #working or #getbacktoworkkatie. In some of these videos she could be heard in the background filming the clips. Your Declarant knows this voice to be that of Williams due to her social media posts and the CCSD board meetings in which Williams spoke. To date, some of these posts have since been deleted or archived. Instagram Archive allows users to hide previously posted photos and/or videos from viewers, but they are still accessible to the owner of the account. Relevant to this investigation, Berry Law is a Nebraska based law firm that does not have offices in the State of Nevada.

On March 7, 2024, Williams posted to her public Facebook page she had been, "making some moves." She further stated, "I can't quite announce." In this post, she used the hashtags, #MoveInSilence and #LifeChanges. Your Declarant acknowledges this post to be vague in nature. However, in light of recent growing suspicions and the date in which the post was created, it led investigators to believe she indeed, moved.

NV Energy

According to the Clark County Assessor's Office Williams owns a residence, along with her ex-husband, Christopher Melton, at [REDACTED] PRVCY North Las Vegas, Clark County, Nevada. Both parties remain on the deed despite their divorce in 2021, which was confirmed through their Divorce Decree, Eighth Judicial District Court case number [REDACTED] PRVCY. The investigation has revealed Christopher Melton has a secondary address, which is believed to be his primary residence. Additionally, it was learned the NV Energy account for [REDACTED] PRVCY North Las Vegas, Clark County, Nevada, is held in the name of, Katie Melton. The consumption rates to this account and a neighboring account, with the same floor plan, were also obtained. An analysis of Williams' 2024 consumption rate indicates an average of 500 kwh per month. An analysis of the two residences, dating back to 2021, indicates Williams historically consumes more energy than the neighboring residence. However, a vast

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drop was observed shortly after the 2024 new year and Williams' February engagement. Following her engagement, between February and April of 2024, Williams' consumption dropped by 100-130 kwh, placing her average consumption at less than 400 kwh. For comparison her 2023 consumption rate between February and April of 2023, was above 500 kwh. Most notable was the drop of consumption rates in April and May of 2024, in comparison to 2023. In April of 2023, Williams consumed 769 kwh, only having consumed 399 kwh in 2024. In May of 2024, Williams' consumption rate plummeted to 234 kwh, while the neighboring residence indicated energy consumption at 616 kwh. In May of 2023, Williams consumed over 1000 kwh. On average, most single-family residences in Las Vegas will have higher consumption rates May through October due to the heat. The vast differential between Williams' and the neighboring residence in May of 2024, further reveals the unlikelihood she occupied the home as 234 kwh consumption does not support a regularly operating air conditioning unit or daily living. This is also evident when looking at her 2023 consumption for the same month, which to reiterate was over 800 kwh higher. It is important to note the existing 2024 May consumption rate is likely a result of running appliances and other contributing factors.

Surveillance

Between June 5, 2024, and June 11, of 2024, investigators had conducted four surveillance operations at [REDACTED] PRVCY [REDACTED] North Las Vegas, Clark County, Nevada. During those surveillances there were no vehicles or persons observed coming or going from the residence. In fact, no changes had occurred to the exterior of the home at all. Additionally, detectives did not observe the residence's trash receptacles placed for pickup as would be considered normal for an actively inhabited home.

School Records

Your Declarant learned Williams' daughter, [REDACTED] PRVCY [REDACTED] was enrolled in Clark County for the 2023-2024 school year. In June of 2024, she was currently enrolled to go to [REDACTED] PRVCY [REDACTED] Elementary School for the upcoming school year. This school appeared to be zoned for Williams' Nevada address,

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PRVCY North Las Vegas, Clark County, Nevada, but also appeared to be zoned for Christopher Melton's primary address. The child-custody agreement between Williams and Christopher Melton is not known to investigators. Therefore, investigators have not determined the custody arrangements, and if the child's enrollment in Clark County, at that time, added any legitimacy to Williams' Nevada residency. However, in July of 2024, your Declarant contacted CCSD to inquire of any changes to the child's enrollment. Your Declarant learned, **PRVCY** was listed as a "no show" for the upcoming school year. Williams, who was the only listed 'household parent', per CCSD, had notified them **PRVCY** would no longer be attending school in Clark County.

Your Declarant contacted Gretna Public Schools (Nebraska) on July 15, 2024. They provided information to investigators reference the enrollment of **PRVCY**. Documents obtained by your Declarant, revealed Williams enrolled her in the Gretna public school system on March 11, 2024, for the upcoming school year. James Powell, Williams' fiancé, provided a notarized letter indicating Williams and **PRVCY** would be living with him beginning March 19, 2024, at Williams' suspected Nebraska residence, located at **PRVCY** Gretna, Nebraska. The Notarization process is completed to prevent fraud and protect the authenticity of documents. These services are provided by state appointed officials to act as formal witness to the integrity of the documents provided in a formal matter. By providing this documentation to the Gretna Public Schools, Williams and Powell declared to the State of Nebraska, as of March 19, 2024, she was a Nebraska resident. It is relevant to note, Williams provided her phone number **PRVCY** to the Clark County School District and Gretna Public Schools as the contact for **PRVCY**.

Military

Williams is an active member of the Nevada Army National Guard. This responsibility does not require Williams to live out of the State of Nevada unless ordered to do so by official military deployment. However, it could be her choice to live out of state in which she is solely responsible for her attendance at mandatory training. In September of 2024, your Declarant obtained documentation from the Nevada Army National Guard that Williams has two addresses listed as current. Her most recent address was

updated in April of 2024, and was provided as [REDACTED] PRVCY [REDACTED] Gretna, Nebraska. Her Nevada address, [REDACTED] PRVCY [REDACTED] North Las Vegas, Clark County, Nevada, though also listed as current, was last updated in March of 2020. On September 17, 2024, your Declarant received formal training records from the Nevada Army National Guard. Williams is not currently deployed and has not been deployed from January 1, 2024, to present. She conducts the majority of her military responsibilities within the State of Nevada when required to do so. Your Declarant has confirmed Williams' absence and lack of actual residency in the State of Nevada is not a result of her military responsibilities. [REDACTED] LEP, EV [REDACTED]

LEP, EV

[REDACTED] LEP, EV [REDACTED] and Army Training Records

LEP, EV

¹ <https://www.8newsnow.com/news/local-news/where-is-clark-county-school-district-trustee-katie-williams/>

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United States Postal Service

On September 11, 2024, the United State Postal Service provided documentation to investigators confirming Williams filed a change of address from her Nevada residence at [REDACTED] PRVCY North Las Vegas, Clark County, Nevada, to [REDACTED] PRVCY [REDACTED] Gretna, Nebraska. The change of address request was created on April 13, 2024, and became effective on April 15, 2024. This

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information further corroborates location information obtained by your Declarant confirming Williams moved to Nebraska with the sole intention of primarily residing there, in April of 2024.

Financial Records

An analysis of Williams financial records was completed by Senior Financial Intelligence Analyst, Colin Haynes. Haynes, who is employed by the Las Vegas Metropolitan Police Department, provides specialized intelligence support and forensic financial analysis in criminal investigations. It is important to note, the facts disclosed in this Declaration do not encompass the entirety of his financial analysis, only the facts relevant to establish probable cause.

Haynes determined Williams opened a Chase checking account ending in number [PII] on March 4, 2024. At opening, Williams used [PRVCY] North Las Vegas, Clark County, Nevada, as her address. The account was funded with three deposits from the Nebraska based law firm, Berry Law between March 29, 2024, and April 30, 2024. On May 15, 2024, there was a payroll deposit from Bamboo HR Payroll, a company that handles out-sourced payroll functions for other companies. Investigators are working to determine if this company was employed by Berry Law or a different employer. Haynes reported the checking account was also funded with payroll from Defense Finance Accounting Service (DFAS), who pays all Defense Military Personnel. Immediately following any posted funds, whether from Berry Law or DFAS, Williams would transfer the money to a previously unidentified USAA Federal account who appear to hold Williams' primary account. Documents responsive to a subpoena served on USAA Federal Savings Bank have not been returned to the date of this report.

Between March 29, 2024, and August 15, 2024, Williams used the debit card associated with checking account ending in number [PII] to make 38 purchases, including two cash withdrawals at ATMs. Eight of the transactions occurred neither in Nebraska nor Nevada but were consistent with her travel history in between the two states. An analysis of the transactions made in Nebraska and Nevada concluded seventy-three percent of them occurred in the Nebraska area.

Haynes also analyzed a JPMorgan Chase Credit Card ending in number [PII]. Haynes reported the card had limited use in 2023, however, between April 27, 2024, and May 3, 2024, this card was used

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to make purchases in Omaha, Nebraska and Gretna, Nebraska, including purchases at Sherwin Williams paint store. As previously aforementioned in this Declaration, Williams posted videos to her social media account, Instagram, of home projects such as painting. On May 6, 2024, there were two purchases made with this card in Nevada, in which investigators know Williams was in town fulfilling her military responsibilities. Between May 9, 2024, and May 13, 2024, the card was again being used in the Nebraska area, consistent with facts disclosed previously in this Declaration.

Nevada and Nebraska Department of Motor Vehicles

A review of Williams social media account—Instagram, revealed she sold her Toyota 4Runner in February of 2024, shortly before she announced her engagement. In June of 2024, Nevada Department of Motor Vehicles (DMV) reported a Toyota Sports Utility Wagon (SUV), in her name, having suspended license plates as of 04/10/2024, and expired plates as of 04/13/2024. There were no other vehicles registered to Williams in the State of Nevada.

On May 4, 2024, Williams received a temporary moving permit through the Nevada DMV for a 2020 Chevrolet Pickup Truck bearing VIN 2GNAXTEV0L6252940. This permit expired on June 3, 2024. Nebraska Department of Motor Vehicles reported Williams did not obtain a driver's license or register any vehicle in Nebraska. Two months later, on August 8, 2024, Williams registered the 2020 Chevrolet Pickup Truck bearing VIN 2GNAXTEV0L6252940, in the State of Nevada, following her highly publicized residency issues. Your Declarant finds it reasonable to believe registering the vehicle in the State of Nevada, was done in an attempt to thwart the District Attorney's investigation into her residency, and falsely validate her residency in Nevada.

Exercise of Official Power

Through a review of public records, pertaining to CCSD board meetings, in which Williams was entrusted by Clark County, Nevada, to hold an official office of power as Trustee, it was determined Williams exercised her official power on at least seven occasions from April 3, 2024, to August 8, 2024. The CCSD Board of Trustees are given critical responsibilities to act as an informed agent of the people

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of Clark County according to their GP-3 Board Responsibilities which was adopted July 26, 2000, and last revised on May 25, 2017.² Amongst many responsibilities the document specifically states Trustees will develop written governing policies, approve all CCSD policies and regulations, make final decisions related to capital programs and collective bargaining agreements, and review and approve items of significant increased expenditure. On April 3, 2024, April 25, 2024, May 1, 2024, May 9, 2024, May 16, 2024, May 20, 2024, May 29, 2024, June 27, 2024, July 11, 2024, August 7, 2024, and August 8, 2024, Williams influenced decisions, made motions, and/or was a deciding vote on issues presented to the board while no longer an actual resident of Nevada.

Interview

Interview negotiations began with Williams in September of 2024, after Williams received a written notice from the Clark County District Attorney's Office, Civil Division, informing her of their intent to vacate her position of office.³ Williams told detectives she was available for an interview September 6, 2024, and September 9, 2024. Due to scheduling conflicts these dates did not suffice. On September 10, 2024, your Declarant was notified, by Williams' counsel, she would not be available for an in-person interview due to not being in Las Vegas. All negotiations for an in-person interview were terminated. Williams training history revealed she reported for duty September 7, 2024, to September 8, 2024, elucidating her presence in Las Vegas at that time.

Conclusion

It has been determined, that in fact, Williams, as the elected incumbent, has ceased to be an actual resident of the State of Nevada as opposed to constructive, failing to vacate her position as required by NRS 283.040 and NRS 281.050, in violation of Wrongful Exercise of Official Power NRS 197.180. Williams has willfully and with intention continued to exercise her official power of office to

² <https://ccsd.net/trustees/pdf/governance/notices/gp-3-board-responsibiliti.pdf>

³ <https://news3lv.com/news/local/da-says-las-vegas-school-board-trustee-lives-outside-nevada-declares-office-vacant>

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influence, contribute, and vote on decisions and issues directly related to and affecting the Clark County School District, its residents, teachers, and students. Williams willfully abandoned her residency with no intention of vacating her position of office disregarding Nevada State Law and the citizens it impacted.

Furthermore, the evidence presented in this Declaration supports that Williams only returns to Nevada to fulfill her military duties with the Las Vegas National Guard. Immediately following the completion of Williams duties, she returns to the State of Nebraska where she lives with her fiancé, and juvenile child. The actions of Williams further cement her willful intention to abandon her residency in Nevada as early as March 19, 2024, via a notarized letter presented to the Nebraska school system confirming her residency in the state and therefore declaring her intention to remain there. As of April 15, 2024, Williams no longer accepts mail in the State of Nevada, filing a change of address with the United States Postal Service, redirecting all mail to her home state of Nebraska. This willful abandonment of residency had resulted in the immediate disqualification of the elected incumbent and showed her clear and intentional refusal to vacate said position as required by NRS 283.040 and NRS 281.050 in a timely manner.

While it is legal to have more than one residence, an incumbent can only have one legal domicile where the majority of their time is spent. This domicile is also determined by what state the incumbent's spouses and children live, their employment, bank statements, mail, and the address provided to government agencies. Williams only relinquished her position with the filing of the District Attorney's Civil Complaint on September 11, 2024, and with the knowledge of this criminal investigation. Furthermore, Williams has gained a monetary benefit after the loss of actual residency and as such, Williams has been accepting payment by material misrepresentation with the sole intent to deprive the State of Nevada thereof.

Wherefore, Declarant prays that a Warrant of Arrest be issued for suspect Katie Williams on the charge(s) of Wrongful Exercise of Power NRS 197.180.

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I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on this 19th day of September, 2024.

DECLARANT:

WITNESS:



DATE: September 19, 2024

PII

Personal Identifying Information

The record(s) you seek contain personal identifying information.

NRS 239.001 provides that public records are open to inspection. However, NRS 239.010(1) expressly creates exemptions to the disclosure of records falling under various statutes, including NRS 239B.030. NRS 239B.030 makes “personal information” confidential. NRS 603A.040 defines “personal information” to include social security numbers, driver’s license numbers, account numbers, and the like.

Here, because the record(s) you seek contain confidential personal identifying information, they have been redacted.

LEP

Law Enforcement Privilege

The record(s) you seek are law enforcement records that contain sensitive information.

A law enforcement agency may withhold records under the Nevada Public Records Act when its interest in nondisclosure clearly outweighs the public's presumed right to access. *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 628 (2011). There is a presumption that records are not confidential, that exceptions must be narrowly construed, that redactions are preferred over withholding, and that the purpose of the Nevada Public Records Act is to facilitate government transparency. However, Nevada law and public policy recognize the importance of maintaining the integrity of certain information possessed by law enforcement agencies. See, for example:

- NRS 179A.070 – 179A.100 (strictly regulating the dissemination of records of criminal history; in particular, there is no requirement to disseminate records of criminal history to the general public; moreover, records of criminal history are not public records pursuant to NRS 239.010(1) (listing statutes that are exempted from the Nevada Public Records Act, including NRS 179A.070).
- *Donrey v. Bradshaw*, 106 Nev. 630, 636, 798 P.2d 144, 148 (1990) (in a public records case, recognizing that law enforcement files could be confidential when pertaining to a “pending or anticipated criminal proceeding” or if there is a danger of “denying someone a fair trial” and concluding that records could be made public because there was “no pending or anticipated criminal proceeding; there [were] no confidential sources or investigative techniques to protect; there was no possibility of denying someone a fair trial; and there was no potential jeopardy to law enforcement personnel.” *Id.* at 636, 798 P.2d at 148).
- *Reno Newspapers v. Gibbons*, 127 Nev. 873, 878, 266 P.3d 623, 627 (2011). (recognizing that the balancing test first announced in *Donrey* had been modified by legislative changes to the Nevada Public Records Act, but nonetheless noting that the result in *Donrey* was “based on the facts that no criminal proceeding was pending or anticipated, no confidential sources or investigative techniques were contained in the report, there was no possibility of denying anyone a fair trial, and disclosure did not jeopardize law enforcement personnel”).
- NRS 49.335 – 49.355 (making the identity of informants who provide information to law enforcement confidential until they testify).
- *Las Vegas Metro. Police Dept v. Anderson (In re 12067 Oakland Hills, Las Vegas)*, 134 Nev. 799, 806, 435 P.3d 672, 678 (Nev. Ct. App. 2018) (noting that, generally, the

police do not need to return evidence seized from its owner if the “property [is] related to an ongoing criminal investigation”).

- Att. Gen. Op. 83-3 (recognizing the “legitimate public policy interests in maintaining confidentiality of criminal investigation records and criminal reports”). AGO 83-3 further provides: “The legitimate public policy interests in maintaining confidentiality of criminal investigation records and criminal reports includes the protection of the elements of an investigation of a crime from premature disclosures, the avoidance of prejudice to the later trial of the defendant from harmful pretrial publicity, the protection of the privacy of persons who are arrested from the stigma of being singled out as a criminal suspect, and the protection of the identity of informants.”
- NEV. CONST., art. I, § 8A (Marsy’s Law, constitutionalizing victims’ rights to privacy, safety, and a diligent pursuit of justice).
- NRS 174.235 (making the disclosure of police files and evidence collected subject to strict discovery rules in open criminal prosecutions); see also *Tennessean v. Metro. Gov’t of Nashville & Davidson Cty.*, 485 S.W.3d 857 (Tenn. 2016) (interpreting criminal rule of procedure similar to NRS 174.235 and holding that discovery of materials gathered by state for use in criminal prosecution may be obtained by defendant pursuant to rules of discovery, not by newspaper through a public records request); *Wilson v. Layne*, 526 U.S. 603, 119 S. Ct. 1692 (1999) (holding that when balancing a person’s Fourth Amendment right to be secure in their persons, houses, papers, and effects, probable cause may justify a *police* entry and seizure but it does not justify the *media’s* entry and/or seizure).
- NRS 179.045(4) (making search warrant applications, which regularly contain detailed facts gathered in open criminal investigations, confidential upon a showing of good cause).
- *In re Search Warrants Regarding Seizure of Documents*, 2023 WL 2861201 (Nev. Ct. App. 2023) (unpublished) (holding that good cause existed to keep search warrant application under seal because dissemination would threaten the integrity of an active and ongoing criminal investigation).
- NRS 172.245. Evidence and information obtained by grand juries during their investigations are confidential. The purposes of confidentiality include: (1) To prevent the escape of those whose indictment may be contemplated. (2) To insure the utmost freedom to the grand jury in its deliberations and to prevent persons subject to indictment, or their friends, from importuning the grand jurors. (3) To prevent subornation of perjury or tampering with the witnesses who may testify before the grand jury and later appear at the trial of those indicted by it. (4) To encourage free and untrammelled disclosures by persons who have information with respect to the commission of crimes. (5) To protect an innocent accused, who is exonerated, from disclosure of the fact that he has been under investigation. *Shelby v. Sixth Judicial Dist. Court*, 82 Nev. 204, 210, 414 P.2d 942, 945 (1966).
- *Houston v. County of Maricopa*, — F.4th —, 2024 U.S. App. LEXIS 22564, 2024 WL 4048897 (9th Cir. Sep. 5, 2024) (holding that dissemination of a pretrial detainees’ booking photo to the public is generally unconstitutional under the substantive due process clause of the 14th Amendment because it constitutes punishment without due process).

Given the totality of the law governing the disclosure of information in the possession of law enforcement, the following non-exclusive factors are considered in evaluating whether law enforcement interests in confidentiality clearly outweigh the public's presumed interest in access:

- Whether premature disclosure of information about the open investigation may allow individuals to ascertain that they are or were the subject of the investigation, as well as the focus of the investigation. This may lead an individual to alter behavior, conceal evidence of wrongdoing, delete or destroy evidence, or attempt to influence witnesses or adjust communication methods or content to avoid further collection of evidence or to avoid apprehension.
- Whether premature disclosure of information may provide bad actors with the ability to falsify or misrepresent information, such as encounters, activities, or associations that pose evidence. This may impact testimony and representations of future witnesses and/or suspects, which would disable or hinder the ability to fully evaluate such evidence and, therefore, obstruct enforcement, implementation, and application of the law.
- Whether protecting the integrity of the investigation better enables detectives and prosecutors to evaluate the credibility of any information that may come in the future. If a future witness were to know what other witnesses have said, or what other evidence has revealed, the future witness' statements will not be as reliable.
- Whether witnesses and informants have provided information that, if disclosed, could create danger or at least embarrassment to them.
- Whether any privacy interests and/or constitutional rights of any victims, witnesses, or subjects would be impacted by disclosure.
- Whether premature disclosure would have a chilling effect on future witnesses coming forward to provide information in this or other cases.
- Whether law enforcement officers have acted in an undercover capacity, or whether any witnesses have provided information as confidential informants.
- Whether premature disclosure poses a risk to any future prosecution. Criminal defendants have significant constitutional rights, like the right to receive exculpatory and impeachment material and the right to a fair trial. A criminal defendant should generally obtain information against them before the public or any third party.
- Whether disclosure would reveal confidential techniques or tactics that would risk enabling subjects to circumvent the law in the future.

In this case, after a careful examination of all factors, there are law enforcement interests in nondisclosure that clearly outweigh the public's presumed interest in access. Therefore, the records and/or the information in the records you seek are confidential, at least at this time, and must be **redacted**.

PRVCVY

Privacy Interests

The record(s) you seek contain information the disclosure of which would constitute an unwarranted invasion of a person's privacy interests.

In *Reno Newspapers v. Sheriff*, 126 Nev. 211, 218, 234 P.3d 922, 927 (2010), the Nevada Supreme Court recognized that an individual's privacy must be balanced with the public's general right to open government, "especially because private and personal information may be recorded in government files"). Later, in *Clark County Sch. Dist. v. Las Vegas Review-Journal*, -- Nev. --, 429 P.3d 313, 319-20 (2018), the Court adopted a balancing test in which the burden shifts to the requester of a record if the public agency demonstrates a "nontrivial personal privacy interest" including "intrusion[s] into a person's reasonable expectation of privacy, seclusion, or solitude." Privacy interests include information that may cause "embarrassment, shame, stigma, [or] harassment" or "endangerment, or similar harm." *Las Vegas Metro. Police Dep't v. Las Vegas Review-Journal*, 136 Nev. Ad. Op. 86, -- P.3d -- (2020). Medical information, personnel files, details about sexual orientation, and other information about a person's life give rise to privacy interests. *Clark County Office of the Coroner/Medical Examiner v. Las Vegas Review-Journal*, 136 Nev. Adv. Op. 5, -- P.3d -- (2020).

The Nevada Supreme Court equates the type of information that should be withheld under the Nevada Public Records Act with the common law tort of invasion of privacy. *Clark County Sch. Dist.*, *supra*, at 708, 549 P.3d at 320. "The tort of invasion of privacy embraces four different tort actions: '(a) unreasonable intrusion upon the seclusion of another; or (b) appropriation of the other's name or likeness; or (c) unreasonable publicity given to the other's

private life; or (d) publicity that unreasonably places the other in a false light before the public.” *Franchise Tax Bd. of Cal. v. Hyatt*, 133 Nev. 826, 842, 407 P.3d 717, 733 (2017), *overturned on other grounds by Franchise Tax Bd. v. Hyatt*, 139 S. Ct. 1485 (2019) *quoting* RESTATEMENT (SECOND) OF TORTS § 652A (1977); *see also PETA v. Bobby Berosini, Ltd.*, 111 Nev. 615, 629, 895 P.2d 1269, 1278 (1995), *overruled on other grounds by City of Las Vegas Downtown Redev. Agency v. Hecht*, 113 Nev. 644, 650, 940 P.2d 134, 138 (1997).

Here, the record(s) you seek contain information the disclosure of which would constitute an unwarranted invasion of a person’s privacy interests. Therefore, they are confidential and must be withheld or redacted.

EV

Evidence

Your request is for evidence, not a public record.

A “record” is “[a] documentary account of past events, usually designed to memorialize those events.” BLACK’S LAW DICT., 7th ed. ab., at p. 1023 (2000). A “public record” is “[a] record that a governmental unit is required by law to keep, such as land deeds kept at a county courthouse.” *Id.* “A public record, strictly speaking, is one made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public reference.” “Evidence,” on the other hand, is “[s]omething (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.” BLACK’S LAW DICT., 7th ed. ab., at p. 457 (2000).

Materials obtained from a third-party during a criminal investigation by legal process such as a warrant, subpoena or even consent are not public records – they are evidence. The government only possesses the evidence for the purpose of the criminal investigation. The evidence was not created by the government nor is it owned by the government. *Piedmont Publishing Co. v. City of Winston-Salem*, 434 S.E.2d 176, 177 (N.C. 1993) (holding that discovery of materials gathered by state for use in criminal prosecution may be obtained by defendant pursuant to rules of discovery, not by newspaper through a public records request).

Moreover, providing evidence obtained through legal process, including consent, would exceed the authority granted either by the court or by the owner. See e.g., *Wilson v. Layne*, 526 U.S. 603, 119 S. Ct. 1692 (1999) (holding

that when balancing a person's Fourth Amendment right to be secure in their persons, houses, papers, and effects, probable cause may justify a *police* entry and seizure but it does not justify the *media's* entry and/or seizure).

Here, you seek evidence, not a public record. Feel free to reformulate your request. If you seek a particular record that is not evidence and is readily available, LVMPD can proceed with researching your request.