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# THIS IS RENO

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DEC. 10, 2024

Dear Madam Mayor and Council Members:

Please accept this letter opposing Agenda Item D.1. The staff report submitted to you by the City Attorney's Office is incomplete and therefore misleading. It first does not identify the issues raised in the petition at issue, which is attached to this correspondence (Attachment A). Secondly, it erroneously characterizes the process as unfair to the City of Reno.

The petition we filed was done only after the City Clerk twice denied our public records requests for former Reno Police Sergeant Paul Sifre's Internal Affairs files. As you are aware, two female Washoe County Sheriff's Detectives sued the City and Reno Police alleging sexual harassment by Mr. Sifre while he was on duty in 2020. The case asserts RPD elevated Sifre in positions of authority in spite of a legacy of complaints and internal affairs investigations—something that drew concern from his colleagues at the time, which was communicated to this Council repeatedly when these issues arose in 2017–18. The case is in the U.S. District Court.

District Court Judge Anne Traum recently determined one of Sifre's IA files to be a public document after she found the City Attorney's arguments unpersuasive. (See her ruling as Attachment B.) *"The IA Report at issue here contains no personal information about Sergeant Sifre other than his name and the result of the investigation."*

The City Clerk nevertheless, after our second records request, asserted this document was **still confidential**, and its release would unleash all manner of harm and shame upon Mr. Sifre, who has not been with RPD since 2022.

Again, a federal judge did not buy the City's arguments, and he ordered the file unsealed (i.e., made it public). (See that file as Attachment C.) Despite a judge's determination, the City still insists this file is a confidential document. There is nothing in the IA file attached that supports the City Attorney's sky-is-falling characterization of what would happen if the file was unsealed. Since IA files have been made public in other Nevada jurisdictions, it is likely we will ultimately prevail in some manner in this litigation, as the records already made public speak for themselves.

Despite the City Attorney's characterization that the writ process is "a sneaky trick," the same process has been used for several public records cases and is intended to reduce the amount of time and expense of litigating matters.

The City Attorney's Staff Report also does not mention the City was in court for another public records matter under the same writ process two weeks ago. The City made many of the same arguments it is now making to you, that this process is unfair. District Court Judge Barry Breslow, however, ordered more briefing in that case *after* the City presented its argument for confidentiality. Despite what the City Attorney is now implying in our case, there was no lack of opportunity for the City to defend itself. The City argued its case and was directed to further provide support for why records in that dispute should remain confidential. In fact, the City filed its response yesterday.

It is perplexing why the City Attorney now characterizes the writ process as denying "the government the opportunity to meet its statutory burden of showing that the records are confidential." Not true. The judge in our case ordered the City to present its argument at a December 9 hearing or to provide the record. The City failed to do so and instead requested the court delay the hearing in the hopes you approve this agenda item.

To be clear, despite what is written in this agenda item, **the City has the opportunity to argue its case in Washoe County Second Judicial District Court.** It could also turn over the requested records and quickly resolve this matter within a matter of days.

It is ironic this item was filed under the City's strategic plan alignment with "Governance and Organizational Effectiveness." We have twice prevailed on significant issues in our other public records litigation against the City, but the City Attorney's office continues to fight nearly every aspect of these cases, with new and evolving rationales, which is indefinitely prolonging them at taxpayer expense.

Should this agenda item be approved, it will greatly increase the litigation costs. Many, if not most, Nevada public records cases ultimately succeed on important merits that support the well-entrenched open government principles in Nevada law. The City of Reno, under provisions of the Nevada Public Records Act, will be responsible for attorney fees—and potential fines—if the merits of this case weigh in our favor.

***Either way, taking this case to the Nevada Supreme Court will immediately and unnecessarily increase costs to the City and taxpayers*** merely because the City Attorney is displeased with the process. It is hoped with the information above, and the attachments to this correspondence, about what is really at issue in Agenda item D.1 that your decision is better informed. Please feel free to contact me with any questions you may have.

Sincerely,

*Robert Conrad*

Robert Conrad, PhD  
Publisher & Editor  
This Is Reno

/attachments

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*Attorney for the Petitioner*

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

ROBERT CONRAD,

Petitioner,

v.

THE CITY OF RENO, a political  
subdivision of the State of Nevada,

Respondent.

CASE NO:

DEPT NO:

**EX-PARTE PETITION FOR WRIT OF MANDAMUS/APPLICATION**

**FOR ORDER PER NRS 239.011**

**(ENTITLED TO PRIORITY UNDER NRS 239.011)**

COMES NOW, Petitioner ROBERT CONRAD, PhD, (hereinafter “Dr. Conrad” or “Petitioner”), by and through the undersigned counsel, and hereby petitions this Court for relief pursuant to NRS 239.011, commonly known as the Nevada Public Records Act (“NPRA”) to compel Respondent THE CITY OF RENO (“City”), a political subdivision of the State of Nevada, to comply with the NPRA. See, *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 884 n.4, 266 P.3d 623. 630 n.4 (2011). A writ of mandamus is an appropriate procedural remedy to compel compliance with the NPRA. See also, *DR Partners v. Bd. of Cty. Comm’rs of Clark Cty.* 116 Nev. 616, 621 6 P.3d

1 465, 468 (2000). Petitioner is entitled to an expedited hearing on this matter pursuant to  
2 NRS 239.011(2), which mandates that “[t]he court shall give this matter priority over  
3 other civil matters to which priority is not given by other statutes.”

#### 4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 1. Petitioner Dr. Conrad is a resident of Washoe County, State of Nevada.

6 2. The City of Reno is a political subdivision of the State of Nevada located  
7 in Washoe County.

8 3. This Court has jurisdiction to issue writs of mandamus. Nevada  
9 Constitution Article VI, 6; NRS 34.160. This Court has jurisdiction pursuant to NRS  
10 239.011, as the court of Washoe County is the Court of the County where all relevant  
11 public records sought are held. Venue is proper in the Second Judicial District Court of  
12 Nevada pursuant to NRS 239.011. The City of Reno and all relevant actions to this  
13 matter were and are in Washoe County, Nevada. Venue is proper in this Court pursuant  
14 to NRS 239.011 because the requested public records are located in Washoe County.

15 4. The City of Reno is required by law to adhere to the provisions of the  
16 NPRA, codified in NRS Chapter 239, and specifically NRS 239.010 and "Mandamus is  
17 the appropriate procedural remedy to compel production of the public records sought."  
18 *DR Partners v. Board of County Commissioners of Clark County*, 116 Nev. 616, 621, 6  
19 P.3d 465, 468 (2000).

#### 20 **Facts**

21 5. On August 26, 2024, Petitioner requested the following from the City:  
22 "Notice of completion of investigation of RPD's Paul Sifre, review of notice and all  
23 recommendations for discipline resulting therefrom." Exhibit 1

24 6. On September 3, 2024, the City summarily denied Petitioner's records  
25 with a lengthy string of boilerplate legal citations. Exhibit 2

26 7. On October 10, 2024, Petitioner requested similar records of the City:  
27 "Copies of all completed/closed Internal Affairs reports and documents, including  
28

Administrative Directed Investigations (ADIs), related to Paul Sifre, formerly with the Reno Police Department." Exhibit 3

8. On October 17, 2024, the City again denied Petitioner's records request with virtually the same boilerplate reasons as the September 3 records denial. Exhibit 4

9. On October 28, 2024, in an attempt to get the City to reconsider its denials, and with no other options available, Petitioner pleaded with Reno City Clerk Mikki Huntsman to reconsider the denials, specifically noting that one of Sifre's Internal Affairs ("IA") files was already unsealed in federal court—it was already a public document. Petitioner attached both the IA file and U.S. District Court Judge Anne Traum's decision and rationale for why the file was unsealed in the lawsuit against Sifre with the City as a codefendant. See Exhibit 5

10. "The IA Report at issue here contains no personal information about Sergeant Sifre other than his name and the result of the investigation. (ECF No 36-2.) Beyond general allegations that the fact that Sergeant Sifre was investigated for wrongdoing could 'subject him to stigma, backlash, embarrassment, shame, ridicule and/or harassment, loss of future employment opportunities, and loss of friendships or other relationships,' Defendants have not provided the Court with specific examples of potential harm. (ECF No. 39 at 7.) 'Broad, unsubstantiated allegations of harm do not satisfy the less exacting 'good cause' standard for a protective order, much less the stringent 'compelling reasons' standard to seal exhibits attached to a dispositive motion.' Roberts, 2016 WL 1611587, at \*2. (citing Foltz, 331 F.3d at 1130). In sum, Defendants have not met their burden of demonstrating compelling circumstances to seal the requested portions of Plaintiffs' Opposition and the attached Exhibit 2. The Court therefore denies Defendants' motion." Exhibit 6

11. Reno City Clerk Mikki Huntsman affirmed the records denial by responding: "My understanding is that the standard for sealing documents in that lawsuit is very different from the standard applicable to the City's response under the

1 Nevada Public Records Act. It appears you have already obtained the two pages that  
2 were not sealed in that lawsuit. Therefore, the City stands on its prior response issued  
3 on October 17, 2024....” What followed was the same lengthy string of boilerplate  
4 citations denying Dr. Conrad’s request. Exhibit 7

5 12. The City’s denial does not address the specifics of the information being  
6 withheld. It merely provides generalized claims about hypothetical harm that may occur  
7 if the records are released.

8 13. Sifre is retired with a disability pension. He is no longer an employee  
9 facing possible discipline. The now public IA file reveals scant details related to job  
10 performance. It lists general reasons why an IA complaint against Sifre was sustained  
11 on two accounts. It contains no specifics as to what he is alleged to have done. See  
12 Exhibit 8

13 14. The City’s own court filings in the lawsuit against Sifre filed by two  
14 Washoe County Sheriff’s Office (“WCSO”) detectives reveal personnel information  
15 about what he is alleged to have done and what actions the Reno Police Department  
16 took against him. These include a cease-and-desist letter directing Sifre not to contact  
17 the complainants who alleged they were sexually harassed by him. The City also noted  
18 that Sifre was removed from the Regional Narcotics Unit “based on unsatisfactory  
19 performance issues”: “It is undisputed that City initiated an internal affairs investigation  
20 against Sifre based on Plaintiffs’ allegations, which resulted in sustained findings  
21 against Mr. Sifre.” Exhibit 9. The City, in other words, claims such information is  
22 confidential on one hand, comprising a privacy interest for Sifre, when requested by a  
23 journalist; in court, on the other hand, the City regularly discloses details about Sifre’s  
24 work performance in public documents.

25 15. The City made no attempt to redact any information from Dr. Conrad’s  
26 requested records.  
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16. To date, Dr. Conrad has not received any of the requested records or any portion of any requested record from the City of Reno.

## Argument

17. NRS 239.010 provides in pertinent part that "unless otherwise declared by law to be confidential, all public books and records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied...".

18. NRS 239.0107 sets an outer limit of five business days in which to respond to a public records request. The entity must either provide the records requested or, if the entity is unable to provide the records by the end of the fifth business day, the entity must give written notice of such to the requester along with a date and time when the record "will be available." Subsection 1(d) holds that if the record, or a part thereof, must be denied on the basis of confidentiality, the entity shall give written notice of such to the requester along with a "citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential." Subsection 2 holds that if the record "is readily available", the entity shall provide it to the requester "as expeditiously as practicable."

19. Under *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 878, 266 P.3d 623, 626 (2011), if a public record contains confidential information, the agency must still produce the remainder of the record, as long as the confidential portions can be redacted. This ruling balances transparency with the protection of sensitive information.

20. There is no statutory exemption that allows the City to deny public records requests for IA reports. The City of Reno's wholesale denials of Dr. Conrad's requests cite various reasons for withholding the records, including "invasion of privacy," and "Federal law recognizes that governmental employees have a privacy interest in files that report on investigations that could lead to their discipline or censure." The employee in this instance, however, is retired. Exhibit 2



1           21.     The City recites in its records denials recycled, boilerplate language: “the  
2     mere fact of divulging disciplinary records, no matter the outcome, could subject any  
3     employee to stigma, backlash, embarrassment, shame, ridicule and/or harassment.”

4     Exhibit 2

5           22.     One of the IA reports in question identifies little in the way of any  
6     personnel details other than to note the grounds for the IA investigation were twice  
7     substantiated. Exhibit 8

8           23.     The City’s continuously recycled assertions to prevent one of Sifre’s IA  
9     reports from being unsealed were determined by District Court Judge Traum to be  
10    uncompelling. Exhibit 6

11          24.     The foregoing reasons do not provide sufficient grounds for a blanket  
12    denial of the requests under the NPRA as described below.

13          25.     In *Donrey of Nev. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990), the  
14    Nevada Supreme Court ruled that investigative reports are subject to disclosure under  
15    the NPRA if public policy considerations outweigh privacy and security interests, and  
16    that there is no law deeming such records confidential. Contrary to how many public  
17    entities portray the Donrey decision, the court ruled that no statutory exception to  
18    disclosure of investigative reports exists and ordered the release of an entire  
19    investigative report, emphasizing the general policy in favor of open government. *Id.*

20          26.     After the Donrey decision, both the legislature via the passage of NRS  
21    239.001(1-3) and the Court, beginning with *Reno Newspapers, Inc. v. Haley*, 234 P.3d  
22    922 (Nev. 2010), made public records, including investigative reports, even more  
23    accessible, by mandating that exemptions to the NPRA be narrowly construed and the  
24    policy for an open and accessible government liberally applied. By overturning and  
25    reversing the nature of the balancing test in *Donrey*, the Court made clear that the  
26    governmental entity bears the burden of establishing a legitimate need for  
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1 confidentiality and that the need clearly outweighs the public's right of access to the  
2 records.

3 27. Absent a statutory exemption, Nevada courts apply a  
4 balancing-of-the-interests test initially derived from case law applicable to any claims  
5 of confidentiality. *Las Vegas Review-Journal, Inc. v. Las Vegas Metro. Police Dep't*, 526  
6 P.3d 724, 731 (Nev. 2023). This balancing test requires weighing the public's interest in  
7 accessing the records against the government's claimed confidentiality interests. *Reno*  
8 *Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 627 (2011). The Court  
9 has also ruled that there are two distinct forks of balancing tests applicable to public  
10 records inquiries in Nevada:

11 [W]e have distinguished between a general balancing test applicable to  
12 any records, as embodied in our decisions in *Gibbons* and *Haley*, and a  
13 balancing test applicable to records that implicate nontrivial privacy  
interests, as embodied in our decisions in *CCSD* and *LVMPD*.

14 *Las Vegas Review-Journal, Inc. v. Las Vegas Metro. Police Dep't*, 526 P.3d 724, 735  
15 (Nev. 2023)

16 28. The Court further described the *Gibbons* and *Haley* test as follows: [i]t is  
17 the governmental entity's burden to show that its interests in confidentiality or  
18 nondisclosure "clearly outweigh[]" the public's interests in access to the records, as  
19 this balancing promotes the important purposes of the NPRA in ensuring government  
20 accountability and transparency. *Id.* at 736.

21 29. When seeking to meet its burden, the City of Reno cannot use  
22 generalized, hypothetical or vague concerns or speculation, and cannot rely simply on  
23 string cites of the law. See, e.g., *Las Vegas Review-Journal v. Las Vegas Metropolitan*  
24 *Police Department*, 526 P.3d 724 (2023); *Reno Newspaper, Inc. v. Gibbons*, 266 P.3d  
25 623, 631 (2011) ("We cannot conclude that merely pinning a string of citations to a  
26 boilerplate declaration of confidentiality satisfies [a governmental entity's] prelitigation  
27 obligation under NRS 239.0107(1)(d)(2) to cite to 'specific' authority 'that makes the  
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1 public book or record, or a part thereof, confidential.'"); *DR Partners*, 6 P.3d 465,  
2 472-73 (2000) (holding that a governmental entity cannot meet its burden of  
3 demonstrating that its interest in nondisclosure outweighs the public's interest in  
4 access "by voicing non-particularized hypothetical concerns"). Yet that is what the City  
5 of Reno has done—violating the NPRA for that reason, alone.

6 30. Moreover, under the *Gibbons* and *Haley* test, the City of Reno has failed  
7 to demonstrate that its interests in confidentiality or nondisclosure "clearly outweigh"  
8 the public's interests in access to the records.

9 31. The City's concerns about privacy interests are misplaced. The U.S.  
10 District Court of Nevada determined the City of Reno's arguments to keep IA reports  
11 confidential in the lawsuit against Sifre were speculative and unsupported by the IA  
12 report itself. The Court determined the City provided no privacy invasion or example of  
13 harm that would result from the unsealing of that report.

14 32. "The IA Report at issue is not comparable to a personnel file and does not  
15 implicate the same heightened privacy interest. While compelling reasons can exist to  
16 seal personal information such as home addresses and social security numbers of law  
17 enforcement officers, internal investigation reports that do not contain such information  
18 do not have such privacy interests at stake." Exhibit 6

19 33. There is no logical, reasonable, and justifiable reason why the City  
20 maintains this document should be kept private when it is already publicly available,  
21 specifically because the Court found the City's arguments unconvincing.

22 34. Under the *Clark County School District v. Las Vegas Review-Journal*  
23 ("CCSD"), 429 P.3d 313 (2018) balancing test, the government must establish a  
24 personal privacy interest stake such that that disclosure implicates a personal privacy  
25 interest that is nontrivial or more than de minimis. *Las Vegas Metro. Police Dep't v. Las*  
26 *Vegas Review-Journal*, 136 Nev. 733, 478 P.3d 383, 387 (2020). If the agency shows  
27 that the privacy interest at stake is nontrivial, the requester must show that the public  
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1 interest sought to be advanced is significant and the information sought will advance  
2 that interest. Id.

3 35. There is significant public interest in this case for myriad reasons.  
4 Taxpayers have a right to know how law enforcement handles problem  
5 employees—especially ones facing repeat complaints involving sexual harassment and  
6 abuse—who allegedly advance in their careers despite numerous investigations.  
7 Abusive behavior by a highly protected public official is an ongoing topic of national  
8 public concern with recognized public health impacts; therefore, there is a compelling  
9 public interest in exposing police misconduct. This becomes particularly acute when it  
10 involves the abuse of authority, and the alleged protection of a long-term problem  
11 officer who was allowed to advance in rank despite several IA complaints and  
12 numerous allegations of severe misconduct. This case is documented by WCSO  
13 detectives in another local law enforcement agency, who claimed they sued Sifre after  
14 being subjected to sexually demeaning behavior from him, which the City confirmed  
15 occurred. Exhibit 9.

16 36. The requested records are directly relevant to advancing this public  
17 interest because they could reveal important information about police practices and  
18 how and if officers are held to account in cases of potential misconduct—and whether  
19 RPD can or will control its problem officers. Sifre is being sued, along with the Reno  
20 Mayor, Reno City Council members, the former Reno Police Chief, and the Reno Police  
21 Department. The Plaintiffs allege Sifre was protected and, despite years of complaints  
22 about his performance, he was allowed to advance in his position, and he was allowed  
23 to retire on disability in spite of the IA complaint (Exhibit 8) against him being  
24 substantiated. Citizens, including members of law enforcement in Washoe County,  
25 have a right to know that their public servants are adequately performing their duties to  
26 the same standards as anyone else. They particularly have a right to know whether  
27 those public servants whose salaries are paid by taxpayers, if they are not meeting  
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standards, are held to account. In Sifre's case, it is alleged he was a danger to the public and a menace to other individuals, particularly women, within the law enforcement community. The plaintiffs in the Federal Case allege, despite knowing of his misconduct, he was protected at the highest levels of the Reno Police Department and the City of Reno.

37. Further solidifying why such matters are of public interest, the Henderson, Nevada Police Department only vowed changes after it was reported in the Las Vegas Review-Journal that dozens of Henderson police officers had IA reports that revealed a pattern of abuse, which had been covered up. "Henderson officers with years of sustained citizen complaints, allegations of sexual misconduct or criminal arrests are still working, and some have been promoted, a 2021 Review-Journal investigation of discipline and accountability has found." Exhibit 10.

38. The Review-Journal further reported in February 2024 that Henderson police covered up a driving-under-the-influence incident by one of their colleagues. A retired law enforcement official is quoted as saying the Henderson Police Department has a "deeply entrenched culture of corruption." Exhibit 11. Without making details of such corruption public, the public and elected officials who oversee law enforcement would have no way of knowing if such problems exist and should be remedied.

39. Applying the *CCSD* test, the City of Reno has not established a nontrivial personal privacy interest that would be implicated by disclosure, a point further highlighted by the City's own court documents that disclose various details of Sifre's work performance. Even if the City could establish a nontrivial privacy interest, the public interest sought to be advanced is significant for the foregoing reasons, and the requested information is likely to advance that interest.

40. Therefore, under the *CCSD* test, the City of Reno failed to establish any privacy interest at stake, and even if the City had established a privacy interest, the balance weighs heavily in favor of disclosure especially given the public nature of this

1 case, the community interest in law enforcement, and concerns over whether taxpayer  
2 resources are being wisely considered by those overseeing the Reno Police  
3 Department.

4 41. Even if parts of the requested records contain confidential information,  
5 entire documents should not be classified as confidential as long as redactions can be  
6 made to preserve confidentiality. NRS 239.010(3) ("A governmental entity that has legal  
7 custody or control of a public book or record shall not deny a request made pursuant  
8 to subsection 1 to inspect or copy or receive a copy of a public book or record on the  
9 basis that the requested public book or record contains information that is confidential  
10 if the governmental entity can redact, delete, conceal or separate, including, without  
11 limitation, electronically, the confidential information from the information included in  
12 the public book or record that is not otherwise confidential."); *LVRJ v. LVMPD*  
13 (mentioning the requirement of redaction 31 times and noting that redactions must be  
14 "narrowly tailored"); *CCSD*, 458 P.3d at 1057 (forbidding the withholding of records in  
15 their entirety and requiring redaction); *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. at  
16 880 (2011). The City of Reno's blanket denial violates the NPRA also for that reason.

17 42. The purpose of NRS Chapter 239 is to promote democratic principles by  
18 providing members of the public with access to inspect and copy public books and  
19 records. "The provisions of this chapter must be construed liberally to carry out this  
20 important purpose" and any exemption which may limit or restrict access to public  
21 books or records "must be construed narrowly." NRS 239.001.

22 43. NRS 34.170 requires that a writ of mandamus shall issue in all cases  
23 where there is no plain, speedy and adequate remedy in the ordinary course of law.

24 44. Petitioner attempted to get the City to reconsider its denials. The City  
25 stood firm and merely reiterated its denials with boilerplate language asserting broad,  
26 hypothetical harms. Petitioner has no other recourse available than to secure legal  
27 counsel to challenge the City's denials under the express provisions of the NPRA.  
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1           45. This Court is authorized to issue a Writ to compel a performance legally  
2 required. NRS 34.160. An application for Writ may be made without notice to the  
3 adverse party and a hearing on the Writ may be had at any time. NRS 34.180 and NRS  
4 34.200. When the Writ is applied for without notice and the Writ is allowed by the  
5 Court, an Alternative Writ shall be first issued. NRS 34.200. In this regard, NRS  
6 34.190(2) provides: "The alternative writ shall state generally the allegation against the  
7 party to whom it is directed, and command such party, immediately after receipt of the  
8 writ, or at some other specified time, to do the act required to be performed, or to  
9 show cause before the court, at a specified time and place, why the party has not done  
10 so."

11           WHEREFORE, Petitioner requests relief as follows:

- 12           1. For an alternative writ commanding Respondent to immediately provide  
13 Petitioner with the requested records or, alternatively, to show cause why they have not  
14 done so;
- 15           2. For an award of Petitioner's costs and attorney fees under NRS 239.011; and  
16           3. For such other relief as this Court deems proper.

17           *Pursuant to NRS 239B.030 the undersigned hereby affirms that this document*  
18 *does not contain the social security number of any person.*

19                           DATED this: Nov 19, 2024

20   By: /s/ Luke Busby, Esq.  
21   LUKE A. BUSBY, ESQ.  
22   Nevada Bar No. 10319  
23   316 California Ave.  
24   Reno, Nevada 89509  
25   775-453-0112  
26   luke@lukeandrewbusbyltd.com  
27   Attorney for the Plaintiffs  
28

**DECLARATION OF DR. ROBERT CONRAD**

I, Robert Conrad, pursuant to NRS 53.045, declare and state as follows:

1. I am the Petitioner to this action.

2. I have read the Ex-Parte Petition for Writ of Mandamus/Application for Order and know the contents thereof as they relate to the facts surrounding this matter, that the same is true to my knowledge, except for those matters stated on information and belief, and as to those matters, I believe them to be true.

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

Dated this: 19/11/2024

By: Robert Conrad  
Robert Conrad (Nov 19, 2024 10:22 PST)

Robert Conrad



## Exhibit List

1. August 26, 2024 Public Records Request by Dr. Conrad to the City of Reno
2. September 3, 2024 Response by the City of Reno attorney Robert Bony denying the records
3. October 10, 2024 Public Records Request for Sifre IA documents
4. October 17, 2024 Public Records Denial by the City of Reno
5. October 28, 2024 Response to public records denial by Dr. Conrad
6. U.S. District Court of Nevada Judge Anne Traum's "Order On Motion to Unseal"
7. October 29, 2024 Email response to Dr. Conrad by Reno City Clerk Mikki Huntsmen affirming the records denial.
8. Unsealed Internal Affairs "Notice of Completed Investigation" against Sgt. Paul Sifre
9. City of Reno Motion for Summary Judgment
10. 2021 Las Vegas Review-Journal investigation based on IA complaints at the Henderson Police Department
11. 2024 Las Vegas Review-Journal article, "Henderson Police covered up colleague's DUI, internal probe claims"

Dated: Nov 19, 2024

By: /s/ Luke Busby

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*Attorney for Petitioner*

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**CERTIFICATE OF SERVICE**

I certify that on the date shown below, I caused service to be completed of a true and correct copy of the foregoing by:

- \_\_\_\_\_ personally delivering;
- \_\_\_\_\_ delivery via Reno/Carson Messenger Service;
- \_\_\_\_\_ sending via Federal Express (or other overnight delivery service);
- ☒ x depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; or,
- \_\_\_\_\_ delivery via electronic means (fax, eflex, NEF, etc.) to:

Dated: Nov 19, 2024

By: /s/ Luke Busby  
Luke Busby, Esq.

ATTACHMENT B

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

APRYL MCELROY and JESSICA  
TROUP,

Plaintiffs,

v.

RENO POLICE SERGEANT PAUL D.  
SIFRE (RET.), an individual and in his  
capacity as an employee of CITY OF  
RENO; RENO CHIEF OF POLICE  
JASON D. SOTO (RET.), an individual  
and in his capacity as an employee of  
CITY OF RENO; CITY OF RENO, a  
municipal corporation organized and  
existing under the laws of the state of  
Nevada, and its division the CITY OF  
RENO POLICE DEPARTMENT, a  
Nevada law enforcement agency, and  
Does 1 through 20, inclusive,

Defendants.

Case No. 3:23-cv-451-ART-CSD

ORDER

Before the Court is Defendants' motion to seal portions of Plaintiffs' Opposition to Defendants' Motion for Judgment on the Pleadings (ECF No. 36), and to seal Exhibit 2 to Plaintiffs' Opposition (ECF No. 36-2) in its entirety. (ECF No. 39.)

For the reasons herein stated, the Court DENIES Defendants' motion.

**I. Legal Standard**

There is a strong presumption in favor of public access to judicial filings and documents. *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978); *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). "[T]he strong presumption of access to judicial records applies fully to dispositive pleadings." *Kamakana*, 447 at 1179 (9th Cir. 2006). A party seeking to overcome this presumption with regards to a dispositive pleading or attachment thereto

1 must “articulate[] compelling reasons supported by factual findings’ ... that  
2 outweigh the general history of access and the public policies favoring disclosure,  
3 such as the ‘public interest in understanding the judicial process.” *Id.* at 1178-  
4 79 (quotations omitted). “[C]ompelling reasons’ sufficient to outweigh the public’s  
5 interest in disclosure and justify sealing court records exist when such ‘court files  
6 might have become a vehicle for improper purposes,” *Kamakana*, 447 F.3d at  
7 1179 (citations omitted). However, “[t]he mere fact that the production of records  
8 may lead to a litigant’s embarrassment, incrimination, or exposure to further  
9 litigation will not, without more, compel the court to seal its records.” *Id.* (citing  
10 *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003)). A  
11 court “must ‘conscientiously balance[] the competing interests’ of the public and  
12 the party who seeks to keep certain judicial records secret.” *Id.* at 1179 (quoting  
13 *Foltz*, 331 F.3d at 1135).

14 Defendants argue that while Plaintiffs’ Opposition and the attached Exhibit  
15 2 are related to a dispositive motion, because they are irrelevant to the issue  
16 presented in said motion, a “good cause” standard, applicable to judicial records  
17 attached to non-dispositive pleadings, should apply. (ECF No. 39 at 4); *See*  
18 *Kamakana*, 447 F.3d 1172, 1180 (9th Cir. 2006). Alternatively, Defendants argue  
19 that even if the “compelling reasons” standard does apply, such compelling  
20 reasons exist to justify sealing the documents at issue. (ECF No. 39 at 4-7.)

21 Because the Court finds that the Exhibit 2 is relevant to Plaintiffs’  
22 Opposition to Defendants’ dispositive motion, the “compelling reasons” standard  
23 applies to Defendants’ motion to seal.

## 24 **II. Analysis**

25 Defendants argue that Plaintiffs’ Opposition contains information from an  
26 Internal Affairs investigation report (“IA Report”), which is attached to Plaintiffs’  
27 Opposition as Exhibit 2. (ECF Nos. 36, 36-2.) Specifically, Defendants argue that  
28 the IA Report is not relevant to the issue posed to the Court in their Motion for

1 Judgment on the Pleadings – whether the conduct Plaintiffs allege was sufficiently  
2 severe or pervasive to state a hostile work environment claim under Title VII. (ECF  
3 No. 39 at 4.)

4 Defendants point to *Pryor v. City of Clearlake*, No. C 11-0954-CW, 2012 WL  
5 3276992 (N.D. Cal. Aug. 9, 2012). There, the Northern District of California found  
6 that there were compelling reasons to seal documents pertaining to an internal  
7 affairs investigation of a complaint later determined to be unfounded where the  
8 documents were irrelevant to resolving the dispositive motion at issue and  
9 contained both the defendant’s private personnel information and a non-party  
10 complainant’s personal information. *Id.* at 3. The court also found that there were  
11 compelling reasons to seal documents relating to an internal affairs investigation  
12 which resulted in a reprimand of the defendant, because they were not relevant  
13 to the plaintiff’s claims. *Id.* Thus, “the private nature of the documents and their  
14 irrelevance outweigh the public’s interest in their disclosure.” *Id.* However, the  
15 court in *Pryor* noted that “the lack of relevance of the sensitive information is not  
16 dispositive as to whether a sealing order is warranted, but underscores the  
17 privacy interest in sealing such information.” *Id.* at 4. Thus, while the relevance  
18 of the documents at issue is a factor for a court to consider in determining the  
19 privacy interest at stake, it is not dispositive.

20 In *Macias v. Cleaver*, the Eastern District of California distinguished *Pryor*  
21 in a situation similar to the one before this Court. No. 1:13-CV-01819-BAM, 2016  
22 WL 3549257, at \*5 (E.D. Cal. June 30, 2016). In *Macias*, the court denied a  
23 motion to seal internal affairs documents which indicated that the investigated  
24 charges were meritorious, supported the conduct alleged by the plaintiff, and  
25 probative of the plaintiff’s claim. *Id.*

26 Here, the IA Report includes the ultimate findings of the IA investigation  
27 into Plaintiffs’ complaints regarding the same conduct at issue in the present  
28 lawsuit. (ECF No. 36-2.) Defendants are correct that a determination by an

1 internal investigator that a Defendant violated an employer's policy against  
2 sexual harassment does not substitute for this Court's decision regarding  
3 whether the Defendant's conduct was sufficiently severe or pervasive to create a  
4 hostile work environment. (ECF No. 39 at 4.) However, the conclusion of the IA  
5 Report – in particular that Sergeant Sifre was found to have engaged in “[s]exual  
6 conduct has the purpose or effect of unreasonably interfering with an individual's  
7 work performance, or creating an intimidating, hostile, or offensive work  
8 environment,” is relevant to Plaintiffs' claims and their arguments in their  
9 Opposition to Defendants' Motion for Judgment on the Pleadings. (ECF No. 36-2  
10 at 3); *See Macias*, 2016 WL 3549257, at \*5.

11 Additionally, unlike in *Pryor*, here the AI Report did not find that the  
12 complaints were unfounded; rather, they were sustained. (ECF No. 36-2);  
13 *Compare Pryor*, 2012 WL 3276992 at \*3. Further, unlike in *Pryor*, the AI Report  
14 does not involve matters unrelated to the Plaintiffs' claims – rather, the AI Report  
15 is the result of an investigation into the same conduct that Plaintiffs allege in  
16 their complaint. (ECF No. 26 at 4); *See Macias*, 2016 WL 3549257, at \*5 (E.D.  
17 Cal. June 30, 2016).

18 Finally, the IA Report at issue is not comparable to a personnel file and  
19 does not implicate the same heightened privacy interest. While compelling  
20 reasons can exist to seal personal information such as home addresses and social  
21 security numbers of law enforcement officers, internal investigation reports that  
22 do not contain such information do not have the same privacy interests at stake.  
23 *See Roberts v. Clark Cnty. Sch. Dist.*, No. 215-CV-00388-JAD-PAL, 2016 WL  
24 1611587, at \*1-2 (D. Nev. Apr. 21, 2016)(citing *Kamakana*, F3.d at 1182) (finding  
25 that an internal investigative report containing no home addresses, social  
26 security numbers, medical information, or disciplinary information for officers  
27 was “not comparable to an officer's personnel file containing sensitive personal  
28 information for which an officer's right to privacy may outweigh the public's right

1 of access.”)

2 The IA Report at issue here contains no personal information about  
3 Sergeant Sifre other than his name and the result of the investigation. (ECF No  
4 36-2.) Beyond general allegations that the fact that Sergeant Sifre was  
5 investigated for wrongdoing could “subject him to stigma, backlash,  
6 embarrassment, shame, ridicule and/or harassment, loss of future employment  
7 opportunities, and loss of friendships or other relationships,” Defendants have  
8 not provided the Court with specific examples of potential harm. (ECF No. 39 at  
9 7.) “Broad, unsubstantiated allegations of harm do not satisfy the less exacting  
10 ‘good cause’ standard for a protective order, much less the stringent ‘compelling  
11 reasons’ standard to seal exhibits attached to a dispositive motion.” *Roberts*, 2016  
12 WL 1611587, at \*2. (citing *Foltz*, 331 F.3d at 1130).

13 In sum, Defendants have not met their burden of demonstrating compelling  
14 circumstances to seal the requested portions of Plaintiffs’ Opposition and the  
15 attached Exhibit 2. The Court therefore denies Defendants’ motion.


16 **III. Conclusion**

17 It is therefore ordered that Defendants’ motion to seal (ECF No. 39) is  
18 DENIED.

19 It is further ordered that that Clerk of Court UNSEAL Exhibit 2 to Plaintiffs’  
20 Opposition (ECF No. 36-2.)

21 It is further ordered that Plaintiff’s Opposition (ECF No. 36) shall remain  
22 unsealed.

23  
24 Dated this 7<sup>th</sup> day of October, 2024.

25  
26   
27 ANNE R. TRAUM  
28 UNITED STATES DISTRICT JUDGE

ATTACHMENT C

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## Internal Affairs Unit

### Notice of Completed Investigation

**To:** Sergeant Paul Sifre #7087

**From:** Sergeant T. Johnson #9476

**Subject:** Notice of Completed Investigation – ADI 2021-0008

**Date:** April 29<sup>th</sup> 2022

The administrative investigation ADI 2021-0008 in which you are a Principal has been completed.

**You are ordered to not discuss this notice and/or the internal affairs investigation with any person, with the exception of your legal or labor representative(s).**

In accordance with Nevada Revised Statutes NRS 289.080, you are being advised that you have been sustained on the following:

1. A violation of RPD General Order P-340-05 (CODE OF CONDUCT AND VALUES AND ETHICS)  
ETHICAL PROCEDURES AND VALUES

2. Employees will not, whether on or off-duty, whether acting in an official capacity or not, engage in conduct involving dishonesty, fraud, misrepresentation, misappropriation or theft, or that may reflect unfavorably upon the Department. Specific conduct violations include, but are not limited to, the following:

c. Lack of respect and courtesy shown to superior officers, peers, subordinates, and associates;

**-SUSTAINED**

2. A violation of RPD General Order E-270-04 (DISCRIMINATION OR HARASSMENT)  
DEFINITIONS

**Sexual Harassment:**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. A more detailed definition of sexual harassment may include any or all of the following elements:

2. Sexual conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.
3. Sexual harassment is not, by definition, limited to prohibited conduct by a particular sex. Men and women may be victims of sexual harassment. Men and women may be the accused.
4. Sexual harassment does not have to be from the opposite sex; same sex harassment is prohibited.
5. A third party may be a victim of sexual harassment, if said harassment is directed at another, but interferes and creates a

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hostile or offensive working environment for the third party. Such interference must be objectively reasonable.

**-SUSTAINED**

3. A violation of RPD General Order E-270-04 (DISCRIMINATION OR HARASSMENT)

DEFINITIONS

**Sexual Harassment:**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature. A more detailed definition of sexual harassment may include any or all of the following elements:

2. Sexual conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile, or offensive work environment.
3. Sexual harassment is not, by definition, limited to prohibited conduct by a particular sex. Men and women may be victims of sexual harassment. Men and women may be the accused.

**-SUSTAINED**

In accordance with chapter 289 of the Nevada Revised Statutes, you or your representative may review the evidence and submit a response before any recommendation to consider or impose punitive action. Any response by you will be considered prior to a recommendation being made. If you wish to take this opportunity, you are directed to contact me within forty-eight (48) hours of receipt of this notice to schedule a day and time to review the evidence in your case. From the date you contact me regarding your review, you will have 10 business days complete your review and submit a response. Any time extensions of this ten-day period are at the discretion of the Chief.

During the course of this investigation, you have the right to representation and the right to appeal any discipline which may result. Those rights and appeal procedures are specifically described in Chapter 289 of the Nevada Revised Statutes, Reno Police Department Operations Manual, Sections E-210-04, the rules of the Civil Service Commission, and your bargaining unit's employment contract.

Should you desire additional information or have any questions regarding this matter, please contact me.

cc: IA Case File / RPPABD

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