IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS REVIEW-JOURNAL, Appellant, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	SUPREME COURT CASE NO: 82908

JOINT APPENDIX – VOLUME II

Appeal from Eighth Judicial District Court, Clark County
The Honorable David M. Jones, District Judge
District Court Case No. A-17-758501-W

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing JOINT APPENDIX – VOLUME II was filed electronically with the Nevada Supreme Court on the 14th day of September, 2021. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW Petitioner the Las Vegas Review-Journal (the "Review-Journal"), by and through its undersigned counsel, and hereby submits this Memorandum in support of its Public Records Act Application/Petition. This Memorandum is based upon the points and authorities below, any attached exhibits, and the pleadings on file with this Court.

Respectfully submitted this 7th day of September, 2017.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Since April 2017, the Review-Journal has been attempting to obtain autopsy reports from the Clark County Coroner's Office (the "Coroner's Office"). Despite conceding that autopsy records are public records, the Coroner's Office refused to disclose the records, asserting that they were not open to public inspection. In making this assertion, the Coroner's Office relied solely on a non-binding, non-precedential Nevada Attorney General Opinion, violating Nev. Rev. Stat. § 239.0107(1)(d)'s mandate that a governmental entity refusing to disclose public records must provide the requester with specific statutory or legal authority justifying the withholding within five business days. Rather than complying with Nev. Rev. Stat. § 239.0107(1)(d), over a month after the Review-Journal's request, the Coroner's Office asserted for the first time that the bulk of the requested autopsy reports could not be disclosed because, at some point in the past, the records had been obtained and reviewed by child death review teams. In its Response, the Coroner's Office argues that its continued withholding of the autopsy records is justified by both Nev. Rev. Stat. § 432B.407 and public policy concerns regarding medical privacy and the privacy rights of children. However, the argument put forth by the Coroner's Office does not satisfy its burden of proving by a preponderance of the evidence "that the public book or record, or a part thereof, is confidential." Nev. Rev. Stat. § 239.0113(2). Just because a child death review team reviews a document, that does not magically make the document reviewed confidential in all forms and from all source. The Coroner's Office also cites to the Health Insurance Portability and Accountability Act ("HIPAA") and recent legislative changes to Nevada laws pertaining to next-of-kin notifications as evidence that the privacy interest in autopsy reports outweighs the public's right of access. However, as the Coroner's Office concedes, it is not a covered entity under HIPAA. Additionally, the legislation the Coroner's Office points to in support of its privacy interest claims is irrelevant to the issues this Court must address. In any case, because it waited forty-three days to provide the Review-Journal with the specific legal and

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statutory bases for withholding records, the Coroner's Office cannot be permitted to untimely assert these privileges.

When the Coroner's Office did agree to disclose some records to the Review-Journal, the documents it provided were overly redacted, and unsupported by specific legal bases for each redaction. In its Response the Coroner's Office asserts that its single explanation regarding the protection of medical privacy was a sufficient basis for the extensive redactions it made to the sample records. This position, however, ignores precedent from the Nevada Supreme Court which mandates a governmental entity to provide specific bases for each redaction it makes to public records. *See Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 875, 266 P.3d 623, 625 (Nev. 2011).

Finally, the Coroner's Office has requested the Review-Journal pay $45.00 per hour for an attorney and the director of the Coroner's Office to conduct a privilege review. This request for payment to conduct a privilege review far exceeds the permissible fees a governmental entity may charge for producing public records. The Coroner's Office asserts that charging the Review-Journal an hourly fee for conducting a privilege review is justified pursuant to a 2002 Attorney General Opinion regarding when entities may charge a fee for the extraordinary use of personnel pursuant to Nev. Rev. Stat. § 239.055. Aside from the fact that an attorney general opinion is not binding legal authority, this argument ignores nothing within the NPRA permits a governmental entity to charge a fee for a privilege review. For the reasons set forth in the Memorandum and expanded upon below, the Review-Journal respectfully requests that this Court grants its Petition.

II. ARGUMENT

A. The Coroner's Office Has Failed to Demonstrate By a Preponderance of the Evidence That the Requested Records Are Confidential.

The Coroner's Office bears a heavy burden in this matter. As discussed in the Review-Journal's Memorandum, the NPRA starts from the presumption that, unless explicitly designated as confidential, "all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and

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public records." Nev. Rev. Stat. § 239.010(1). If a governmental entity intends to deny a request for public records, the NPRA mandates that entity must provide a requester written notice of that fact, with specific citation to the statutory or legal authority it believes makes the record confidential. Nev. Rev. Stat. § 239.0107(d). A governmental entity bears the burden of demonstrating by a preponderance of the evidence "that the public book or record, or a part thereof, is confidential." Nev. Rev. Stat. § 239.0113(2); *see also Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 882, 266 P.3d 623, 629 (2011) (holding that the "state entity bears the burden to prove that its interest in nondisclosure *clearly outweighs* the public's interest in access") (emphasis added).

In addition, if only part of a record is confidential pursuant to statute or law, the NPRA specifically contemplates that a governmental entity cannot withhold the entire document "if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential." Nev. Rev. Stat. § 239.010(3).

The Coroner's Office has failed to meet its heavy burden of demonstrating that the requested autopsy records at issue here are confidential. The Coroner's Office primarily relies on Nev. Rev. Stat. § 432B.407, a statute which permits child death review teams to obtain records relating to the death of a child, including autopsy records and mandates that information acquired by and the records of a child death review team are confidential. Nev. Rev. Stat. § 432B.407. However, Nev. Rev. Stat. § 432B.407 does not contemplate that records obtained by child death review teams must be kept confidential in perpetuity. Rather, the language of the statute indicates only that records obtained by child death review teams must be kept confidential during a child death review team's review of a child fatality. As the Coroner's Office acknowledges several times through its Response, the autopsy records it is currently withholding from the Review-Journal all pertain to child fatalities that are no longer under review by any child death review team. (*See* Response, p. 7:23-26 (noting that most of the records requested by the Review-Journal pertained to child deaths that "*were* reviewed by the [child death review team]"); p. 12:12-13 (same).) Because there is no current

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investigation pending in any of the child fatalities for which the Review-Journal requested records, the autopsy reports must be made available to the Review-Journal.

The Coroner's Office also argues that under the balancing test set forth in *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990), privacy interests in the autopsy reports outweigh the public's interest in access to the records. (Response, pp. 13:3-21:4.) However, none of the policy interests cited by the Coroner's Office weigh against disclosure. Contrary to the assertions by the Coroner's Office in its Response, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not weigh against disclosure because, as the Coroner's Office concedes[1], the coroner is "not a covered entity under HIPAA or a provider of health care"—a fact that several other courts have acknowledged in determining that autopsy records are public records. The Coroner's citations to other laws or recent legislative changes to Nevada laws pertaining to next-of-kin notifications likewise do not weigh against a finding that the autopsy reports are public records.

1. Nev. Rev. Stat. § 432B.407 Does Not Render the Coroner's Office's Autopsy Reports Permanently Confidential.

As predicted in the Review-Journal's Memorandum, the Coroner's Office is laboring under the assumption that, because at some point it forwarded certain records to a child death review team, those records are now and forever confidential. (*See generally* Response at pp. 10:21-13:2.) As the Coroner's Office admits, the withheld records at issue all pertain to investigations by child death review teams that are no longer pending. (*Id.*, p. 7:22-25 (noting that "[a]ll of the cases involving the Coroner listed on the [Review-Journal's] May 26, 2017 and June 12, 2017 lists *had been reviewed* by the [child death review team]" and that all but forty-nine of the requested records dating back to January 2012 "*were reviewed*" by the child death review team); p.12:13 (same)) (emphases added). Again, however, nothing in the language of § 432B.407(6) indicates autopsy reports are rendered permanently confidential for all purposes simply because they were transmitted to a child

[1] (Response, p. 13:24-25.)

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death review team.

A review of the provisions in Chapter 432B of the Nevada Revised Statutes pertaining to child death review teams supports the Review-Journal's position that records obtained by child death review teams are only subject to a temporary period of confidentiality. Neither the text of Nev. Rev. Stat. § 432B.407 nor its legislative history indicates that the confidentiality provision in § 432B.407(6) is intended to apply to autopsy records in perpetuity. Pursuant to Nev. Rev. Stat. § 432B.403, the purpose of organizing child death review teams is to review and assess selected cases of deaths of children to analyze those cases, "[m]ake recommendations for improvements to laws, policies, and practice; [s]upport the safety of children; and [p]revent future deaths of children." Nev. Rev. Stat. § 432B.403(1)-(6). During an investigation of a child fatality, a child death review team is entitled to access investigative information from law enforcement agencies, autopsy records, medical or mental health records pertaining to the child, and records pertaining to social and rehabilitative services provided to the child or the child's family. Nev. Rev. Stat. § 432B.407(1)(a)-(d). The child death teams may then use the information they obtain to prepare a report and recommendations to further the purposes outlined in Nev. Rev. Stat. § 432B.403. Nev. Rev. Stat. § 432B.408(1). Presumably, if the Nevada legislature had intended for records obtained by child death review teams to remain permanently confidential, it would have explicitly stated so in § 432B.407(6).

Moreover, such an interpretation runs afoul of basic rules of statutory construction. A party contending that legislative action changed settled law has the burden of showing that the legislature intended such a change. *See Green v. Bock Laundry Mach. Co.*, 490 U.S. 504, 521 (1989). Under established canons of statutory construction, "it will not be inferred that Congress, in revising and consolidating the laws, intended to change their effect unless such intention is clearly expressed." *Anderson v. Pacific Coast S.S. Co.*, 225 U.S. 187, 199 (1912); *cf., State, Div. of Ins. v. State Farm Mut. Auto. Ins. Co.*, 116 Nev. 290, 295, 995 P.2d 482, 486 (2000) ([W]hen the legislature enacts a statute, this court presumes that it does so with full knowledge of existing statutes relating to the same subject") (quotation omitted). Here,

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the statutes in Chapter 432B pertaining to child death review teams all post-date the enactment of the NPRA. Thus, the Coroner's Office bears the burden of demonstrating the Legislature, in enacting § 432B.407, intended the confidentiality provision in subsection (6) was intended to supersede the presumption of access articulated in the NPRA.

Additionally, whenever possible, courts must "interpret a rule or statute in harmony with other rules or statutes." *State Farm Mut. Auto. Ins. Co.*, 116 Nev. at 295, 995 P.2d at 486 (citations omitted); *see also City Council of City of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 892, 784 P.2d 974, 978 (1989) ("Statutory provisions should, whenever possible, be read in harmony provided that doing so does not violate the ascertained spirit and intent of the legislature.") Interpreting § 432B.407 as mandating that public records such as autopsy reports must permanently confidential does not harmonize with the purpose or plain language of the NPRA. Under the NPRA, all public records are presumptively open to public review and inspection, and any "exemption, exception or balancing of interests which limits or restricts access to public books and records by members of the public must be construed narrowly." Nev. Rev. Stat. § 239.001(3). The Coroner's Office, however, is advocating for a broad construction of the confidentiality exception in Nev. Rev. Stat. § 432B.407. Whittled down to its essentials, the Coroner's interpretation of the statute is: "once confidential, always confidential." This broad interpretation of § 432B.407 cannot square with the NPRA's presumptions of broad access and narrow exceptions.

Again, although the Nevada Supreme Court has not addressed the effect of this provision of § 432B.407, this Court's analysis of this statute should be guided by case law regarding whether the attorney-client privilege applies to documents that were routed through an attorney. As the United States Court of Appeals for the Eighth Circuit has explained, "[i]f an unprivileged document exists before there exists an attorney-client relationship the mere delivery of the document to an attorney does not create a privilege." *Bouschor v. United States*, 316 F.2d 451, 457 (8th Cir. 1963) (quoting 8 Wigmore, Evidence, § 2292 (McNaughton Rev. 1961)); *see also SmithKline Beecham Corp. v. Apotex Corp.*, 232 F.R.D. 467, 478 (E.D. Pa. 2005) ("[A]ttorney-client "privilege does not shield documents merely

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because they were transferred to or routed through an attorney") (quoting *Resolution Trust Corp. v. Diamond*, 773 F.Supp. 597, 600 (S.D.N.Y.1991).). "What would otherwise be routine, non-privileged communications between corporate officers or employees transacting the general business of the company do not attain privileged status solely because in-house or outside counsel is 'copied in' on correspondence or memoranda." *Andritz Sprout–Bauer, Inc. v. Beazer E., Inc.*, 174 F.R.D. 609, 633 (M.D.Pa.1997) (citing *U.S. Postal Serv. v. Phelps Dodge Refining Corp.*, 852 F.Supp. 156, 163–64 (E.D.N.Y.1994)).

In this case, autopsy reports are prepared by the Coroner in the normal course of business of carrying out the mission of the Coroner's Office. Although the records at issue here were at some point obtained and used by child death review teams, the Coroner's Office has acknowledged that those investigations are now complete. Thus, the confidentiality provision in § 432B.407(6) should not apply to those records.

The Coroner's Office also asserts that disclosure of autopsy reports which were obtained by child death review teams in investigating a child death would jeopardize Clark County's federal grant eligibility requirements under the Child Abuse and Prevention Treatment Act of 1996 ("CAPTA"), 42 U.S.C. § 5106a.[2] (Response, pp. 11:24-12:4.) This argument, however, ignores that 42 U.S.C. § 5106a(c)(4)(B)(i)(I) specifically provides that members of child death panels may make public information related to the investigation of a child death when "authorized by State statute." In this case, the NPRA not only authorizes disclosure of public records such as autopsy reports, it *requires* disclosure. Thus, the Coroner's Office may release autopsy records without threatening the County's grant eligibility status.

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[2] The amount of grant funding at issue here is relatively small. Pursuant to 42 U.S.C. § 5106a(f)(2), a State that applies for a grant under CAPTA is eligible for a base amount of $50,000.00 in federal funds, as well as additional allotments for subsequent fiscal years. *Id.*; *see also* 42 U.S.C. § 5106a(f)(4).

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2. The Coroner's Office is Not a Covered Entity Under HIPAA.

In addition to its reliance on Nev. Rev. Stat. § 432B.407, the Coroner's Office also points to HIPAA's general privacy protections for medical data as persuasive authority for its proposition that the requested records should be kept confidential. (Response, pp. 13:13-15:16.) Although the Coroner's Office acknowledges that it is not a covered entity under HIPAA, it nevertheless argues that the federal privacy protections for medical information "demonstrates privacy interests in health information contained in [a]utopsy [r]eports," (*Id.*, p. 13:25-27).

As the Coroner's Office acknowledges, it is not a covered entity under HIPAA. Pursuant to 45 C.F.R. § 160.103, a covered entity is defined as: (1) a health plan; (2) a "health care clearinghouse;" or (3) "[a] health care provider who transmits any health information in electronic form in connection with a transaction covered by [HIPAA]." Moreover, 42 C.F.R. § 160.102 specifically states that HIPAA only applies to those three categories of health care entities. Thus, by its plain language, HIPAA is not intended to apply to autopsy records, and should not be used by the Coroner's Office to sidestep its obligations under the NPRA.

3. Autopsy Reports Are Not Medical Records.

The Coroner's Office also sites to two cases which have held that the privacy interest in medical data extends to autopsy reports. (*Id.*, p. 14 (citing *Globe Newspaper Co. v. Chief Medical Exam'r*, 404 Mass 132 (1989) and *Perry v. Bullock*, 409 S.C. 137 (2014).) These cases, however, stand in opposition to a large body of case law holding that autopsy reports are not medical records. *See, e.g., Charles v. Office of the Armed Forces Med. Exam'r*, 935 F. Supp. 2d 86, 99–100 (D.D.C. 2013) (holding that final autopsy reports showing whether any service member's death may have resulted from bullet wounds in torso areas that were usually covered by body armor, as well as in–theater medical records, are not exempt from disclosure under Freedom of Information Act (FOIA) Exemption 6 exempting "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"); *Bozeman v. Mack*, 744 So. 2d 34, 97-2152 (La. App. 1 Cir. 12/21/98)(holding that autopsy reports are not medical records); *cf.*

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People v. Leach, 2012 IL 111534, ¶ 71, 980 N.E.2d 570, 582 (holding that an autopsy record is an admissible business record and noting that "the deceased person brought to the medical examiner's office for determination of cause of death is not a patient and the medical examiner, although she is trained as a physician, is not the deceased person's doctor").

4. AB 57 Does Not Demonstrate an Intent by the Nevada Legislature to Protect Privacy Interests in Autopsy Reports.

In what can only be characterized as a distortion of legislative intent, the Coroner's Office asserts that recent changes to Nevada law regarding a coroner's duty to notify next-of-kin of the death of a family member as evidence that the legislature intended autopsy reports to be confidential. (Response, pp. 17:3-19:22.) The legislative testimony surrounding the eventual passage of AB 57, however, does not implicate privacy interests. Rather, the legislative testimony and comments from legislators demonstrates that the intent motivating AB 57 was to "require[] . . . coroners to make reasonable efforts to notify the next of kin of the decedent's death and [expand] who is authorized to order the burial or cremation of the decedent" and "authorize[] a coroner to notify a decedent's loved ones of the death of the decedent and provide a copy of the coroner's report to those individuals." (Exh. 1 p. 1 (March 8, 2017 minutes of Assembly Committee on Government Affairs).) The overwhelming majority of the statements in support of AB 57—which was eventually named "Veronica's Law" after murder victim Veronica Caldwell—focused on next-of-kin notifications in "situations in which the death [of a person] is the result of family violence." (Exh. 1, p. 3 (testimony of Chief Deputy Attorney General Brett Kandt); *see also id.*, pp. 5-6 (testimony of Clark County Coroner John Fudenberg); *see also generally* Exh. 2 (April 26, 2017 minutes of Senate Committee on Government Affairs).)

According to the Coroner's Office, the Legislature in adopting AB 57 "could have stated that Autopsy Reports were open to the public and not confidential," but chose not to do so. (Response, p. 19:9-10.) This is a gross oversimplification of the legislative process, as the Nevada Legislature was never asked to consider this particular issue. Instead, as the legislative testimony demonstrates, the primary motivation behind the proposal and eventual passage of AB 57 was to ensure that the next-of-kin of crime victims are notified of their

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loved ones' death—particularly in situations where the primary next-of-kin is also suspected of causing the decedent's death. Thus, the Coroner's Office cannot rely on the passage of AB 57 to meet its burden of demonstrating that the requested autopsy records should be confidential.

5. Attorney General Opinion 82-12 is Not Legal Authority.

The Coroner's Office asserts that the Review-Journal's observation that an attorney general opinion is not legal authority is "incorrect" because "when one actually reads AGO 82-12, it becomes obvious that it contains a thorough legal analysis with respect to the issue of public disclosure of Autopsy Reports." (Response, p. 21:1014.) A thorough reading of the opinion, however, (which counsel for the Review-Journal has undertaken) cannot change the state of the law. The Nevada Supreme Court's position on this point of law is pellucid: attorney general opinions are not binding legal authority. *Redl v. Sec'y of State*, 120 Nev. 75, 80, 85 P.3d 797, 800 (2004) (citing *Univ. & Cmty. Coll. Sys. of Nevada v. DR Partners*, 117 Nev. 195, 203, 18 P.3d 1042, 1048 (2001)); *see also Goldman v. Bryan*, 106 Nev. 30, 42, 787 P.2d 372, 380 (1990); *Cannon v. Taylor*, 88 Nev. 89, 493 P.2d 1313 (1972). Thus, no matter how much the Coroner's Office may agree with the outdated advice provided in Attorney General Opinion 82-12, it simply does not bind this Court or any other Nevada court.

The Coroner's Office also asserts that the fact that Attorney General Opinion 82-12 is based on the 1965 version of the NPRA does not diminish its persuasive weight because laws pertaining to subject matter and information in an autopsy report "have become more strict, detailed and comprehensive in terms of confidentiality." (Response, p. 22:23-27.) In support of this proposition, the Coroner's Office specifically points to HIPAA and CAPTA. (*Id.* pp. 22:27-23:2.) However, as discussed above, the Coroner's Office is not a covered entity under HIPAA. Thus, the fact that privacy protections for medical information obtained by medical providers and other covered entities is of no moment here. In addition, as discussed above, CAPTA does not preclude disclosure of autopsy records that were acquired in now-completed child death investigations. Finally, this argument ignores precedent from

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the Nevada Supreme Court that attorney general opinions interpreting a prior version of a statute do not carry any persuasive weight. *See, e.g., Redl*, 120 Nev. at 80-81. Thus, the Coroner's Office's continued reliance on Attorney General Opinion 82-12 is unavailing.

B. The Coroner's Office Failed to Identify Specific Bases for Its Redactions in the Sample Reports It Provided to the Review-Journal.

The Coroner's Office also takes issue with the Review-Journal's assertion that the sample autopsy reports were overly redacted. (Response, pp. 24:16-25:21.) When a government agency either redacts, or refuses to provide public records subject to a request made under the NPRA, it must provide an explanation to the requesting party as to why the records have been withheld or redacted, including "citation to legal authority that justifies nondisclosure." *Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 875, 266 P.3d 623, 625 (Nev. 2011).

Although the explanation does not have to take the form of a Vaughn Index[3], generally, the explanation provided must cite to specific legal authority and be detailed enough to allow the requesting party to evaluate the claim of confidentiality as to each redaction and argue the issue without being reduced to "a nebulous position where it is powerless to contest a claim of confidentiality." *Id*., at 629. "[M]erely pinning a string of citations to a boilerplate declaration of confidentiality [does not] satisf[y] the State's prelitigation obligation under Nev. Rev. Stat. § 239.0107(1)(d)(2) to cite to 'specific' authority 'that makes the public book or record, or a part thereof, confidential.'" *Id*. at 631.

Rather than complying with this mandate, however, the Coroner's Office provided a single, blanket explanation for the redactions: the redacted information was "medical, relates to the status of the decedent's health . . . [and] could be marked by stigmata or considered an invasion of privacy by the family." (Exh. 9 at LVRJ088.) This does not satisfy

[3]"A Vaughn index is a submission commonly utilized in cases involving the Freedom of Information Act (FOIA), the federal analog of the NPRA. This submission typically contains 'detailed public affidavits identifying the documents withheld, the FOIA exemptions claimed, and a particularized explanation of why each document falls within the claimed exemption.'" *Reno Newspapers, Inc. v. Gibbons*, 266 P.3d 623, 628 (Nev. 2011).

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the obligation the Coroner's Office bears to provide specific reasons for each redaction.

C. The Coroner's Office's Attempt to Charge the Review-Journal for a Privilege Review of the Requested Documents Violates the NPRA.

As discussed in the Review-Journal's Memorandum, in a July 11, 2017 email to the Review-Journal, the Coroner's Office demanded the Review-Journal pay $45.00 per hour for an attorney and the Director of the Coroner's Office to redact the records the Office was willing to produce, and estimated the review and redaction would take the two Coroner's Office employees 10-12 hours to complete. (Exh. 9 at LVRJ087; LVRJ088.) In support of this demand for fees, the Coroner's Office indicated that conducting a privilege review requires the "extraordinary use of personnel" under Nev. Rev. Stat. § 239.055. (*Id.* at LVRJ087.)

The Coroner's Office asserts that its demand for $45.00 per hour to conduct a privilege review is consistent with another nonbinding Attorney General Opinion which "opines that expending staff time of more than thirty minutes may constitute extraordinary use." (Response, p. 27:16-18) (citing Attorney General Opinion 2002-32).

As the Coroner's Office observes, the term "extraordinary use of personnel or technological resources" is not defined in Chapter 239 of the Nevada Revised Statutes, or within Nev. Rev. Stat. § 239.055 specifically. However, an interpretation of the NPRA which would allow the Coroner's Office to charge a fee just to conduct a privilege review is anathema to the intent of the NPRA—facilitating access to public records. Charging a requester a fee to conduct a privilege review is also inconsistent with the NPRA's recognition that a governmental entity seeking to withhold a public record bears the burden of demonstrating the records are confidential. *See* Nev. Rev. Stat. § 239.0113(2). Because the Coroner's Office must bear the burden of demonstrating confidentiality, logic dictates that it must also bear the costs of maintaining that confidentiality.

Moreover, neither Nev. Rev. Stat. § 239.010 nor any other provision states that a governmental entity may charge a requestor for a privilege review that falls within the normal scope of an attorney's job responsibilities. Rather, the NPRA provides that a governmental

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entity may charge for providing a copy of a record, (Nev. Rev. Stat. § 239.052(1)), for providing a transcript of an administrative proceeding, (Nev. Rev. Stat. § 239.053), for information from a geographic information system (Nev. Rev. Stat. § 239.054), or for the "extraordinary" use of personnel or technology. Nev. Rev. Stat. § 239.055. A privilege review does not fall within any of these provisions.

D. The Plain Language of Nev. Rev. Stat. § 239.0107 Outlines How a Governmental Entity Must Respond to a Public Records Request, and the Failure to Comply With Those Requirements Must Carry Some Penalty.

In its Memorandum, the Review-Journal asserted that because the Coroner's Office failed to identify the specific statutory or legal bases for withholding the requested records within the five-day period mandated by Nev. Rev. Stat. § 239.0107(1)(d), it waived its ability to assert that privilege attaches to any of the requested documents based on a statute or other legal authority. (Memorandum, pp. 5:21-7:15.) The Coroner's Office asserts first that because there is no specific waiver language in § 239.0107, it cannot be found to have waived its ability to assert privileges. (Response, pp. 25:23-26:2.) The argument that Nev. Rev. Stat. § 239.0107 does not explicitly provide for the waiver of confidentiality falls flat: the statute plainly requires that a governmental entity which determines that it will withhold records must say so within five days. Nev. Rev. Stat. § 239.0107(d). The Coroner's Office should therefore not be allowed to untimely assert claims of confidentiality. Applying the plain language of Nev. Rev. Stat. § 239.0107 to the facts of this case, it is evident the Coroner's Office did not comply with statute.

Section 239.0107(1) of the NPRA plainly outlines the specific actions a governmental entity may take in responding to a public records request:

> 1. ***Not later than the end of the fifth business day*** after the date on which the person who has legal custody or control of a public book or record of a governmental entity receives a written or oral request from a person to inspect, copy or receive a copy of the public book or record, a governmental entity shall do one of the following, as applicable:
>
> (a) Except as otherwise provided in subsection 2, allow the person to inspect or copy the public book or record or, if the request is for the person

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to receive a copy of the public book or record, provide such a copy to the person.

(b) If the governmental entity does not have legal custody or control of the public book or record, provide to the person, in writing:

(1) Notice of that fact; and

(2) The name and address of the governmental entity that has legal custody or control of the public book or record, if known.

(c) Except as otherwise provided in paragraph (d), if the governmental entity is unable to make the public book or record available by the end of the fifth business day after the date on which the person who has legal custody or control of the public book or record received the request, provide to the person, in writing:

(1) Notice of that fact; and

(2) A date and time after which the public book or record will be available for the person to inspect or copy or after which a copy of the public book or record will be available to the person. If the public book or record or the copy of the public book or record is not available to the person by that date and time, the person may inquire regarding the status of the request.

(d) ***If the governmental entity must deny the person's request because the public book or record, or a part thereof, is confidential, provide to the person, in writing:***

(1) Notice of that fact; and

(2) A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

(emphases added).

As discussed in the Review-Journal's Memorandum, the Review-Journal submitted its records request to the Coroner's Office on April 13, 2017. That same day, without citation to any authority, the Coroner's Office informed the Review-Journal it would not produce autopsy reports, notes, or other documents. (Exh. 1 to Petition at LVRJ004.) On April 14, 2017, citing only a 1982 Nevada Attorney General Opinion (which does not have the force of law) [4], the Coroner's Office asserted that the requested autopsy records were in fact public records, "but not open to any member of the public for inspection, copying, and dissemination." (*Id.* at LVRJ003.) The Coroner's Office did not cite any specific statute or other legal authority for withholding the autopsy reports until May 26, 2017—forty-three

[4] *See Univ. & Cmty. Coll. Sys. of Nevada v. DR Partners*, 117 Nev. 195, 203, 18 P.3d 1042, 1048 (2001) ("Opinions of the Attorney General are not binding legal authority . . .") (citations omitted).

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days after the Review-Journal made its request (which was two days less than the forty-five days that passed between the refusal to disclose records and the eventual citation to legal authority for the withholding that was at issue in *Las Vegas Review-Journal v. Clark County School District*, Dist. Ct. Case No. A-17-750151-W).

The Coroner's Office appears to assert that any waiver was cured by its citation to Nev. Rev. Stat. § 432B.407 after it became clear the Review-Journal was requesting records pertaining to child deaths. (Response, pp. 6:24-7:1.) Certainly, the Review-Journal does not take the position that a governmental entity cannot assert additional privileges during a dispute over a public records request. However, to be able to assert additional privileges, Nev. Rev. Stat. § 239.0107 requires an entity initially assert privileges in a timely manner. Simply saying that the requested records are confidential does not suffice.

The Coroner's Office complains that a finding that it waived its ability to assert privileges would be "unfair" to the families of decedents. (Response, p. 26:19-20.) However, the true unfairness is that Coroner's Office created this potential waiver situation by failing to timely assert any privileges as required by Nev. Rev. Stat. § 239.0107.

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III. CONCLUSION

For all the reasons set forth above, the Review-Journal respectfully requests that this Court grants the relief requested in the Petition:

1. That the court handle this matter on an expedited basis as mandated by Nev. Rev. Stat. § 239.011;

2. Injunctive relief ordering the Coroner's Office to immediately make available complete copies of all records requested without charging fees, other than permissible fees should the Review-Journal request copies;

3. Declaratory relief;

4. Reasonable costs and attorney's fees; and

5. Any further relief the Court deems appropriate.

Respectfully submitted this 7th day of September, 2017.

/s/ Margaret A. McLetchie

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 7th day of September, 2017, I did cause a true copy of the foregoing REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF in *Las Vegas Review-Journal v. Clark County Office of the Coroner/Medical Examiner*, Clark County District Court Case No. A-17-758501-W, to be served electronically using the Odyssey File & Serve electronic filing service system, to all parties with an email address on record.

Pursuant to NRCP 5(b)(2)(B) I hereby further certify that on the 7th day of September, 2017, I mailed a true and correct copy of the foregoing REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Mary-Anne Miller and Laura Rehfeldt
Clark County District Attorney's Office
500 S. Grand Central Pkwy., Ste. 5075
Las Vegas, NV 89106
Counsel for Respondent, Clark County Office of the Coroner/Medical Examiner

/s/ Pharan Burchfield
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EXHIBIT 1

MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Ninth Session
March 8, 2017

The Committee on Government Affairs was called to order by Vice Chairwoman Dina Neal at 8:31 a.m. on Wednesday, March 8, 2017, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chairman
Assemblywoman Dina Neal, Vice Chairwoman
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Chris Brooks
Assemblyman Richard Carrillo
Assemblyman Skip Daly
Assemblyman John Ellison
Assemblywoman Amber Joiner
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblyman Richard McArthur
Assemblyman William McCurdy II
Assemblywoman Daniele Monroe-Moreno
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Jim Penrose, Committee Counsel
Isabel Youngs, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General
John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County
Rose Marie Floyd, Private Citizen, Las Vegas, Nevada
Kimberly Mull, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County Office of the District Attorney
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association
William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building and Construction Trades Council
Todd Koch, President, Building and Construction Trades Council of Northern Nevada
Warren B. Hardy II, representing Associated Builders and Contractors, Nevada Chapter
Pat Hickey, Executive Director, Charter School Association of Nevada
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
John Wagner, Carson City Vice Chairman, Independent American Party
Johnathan P. Leleu, representing NAIOP, the Commercial Real Estate Development Association, Northern Nevada Chapter
Ryan Reeves, Chief Operating Officer, Academica Nevada
Stephen Silberkraus, Private Citizen, Las Vegas, Nevada
Pat Fling, representing Acting in Community Together in Organizing Northern Nevada
Carole Kilburn, Private Citizen, Las Vegas, Nevada
James Halsey, representing International Brotherhood of Electrical Workers Loca1 357
Matt Lydon, Business Manager, Plumbers, Pipefitters HVAC/R Technicians Local 525
Don Campbell, Executive Director, Southern Nevada Chapter, National Electrical Contractors Association
Dan Musgrove, representing Mechanical Contractors Association of Las Vegas and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada

Jack Mallory, representing International Union of Painters and Allied Trades District Council 15
Robert Kolnes, Private Citizen, Las Vegas, Nevada
Peter D. Krueger, representing Greater Sacramento Chapter, National Electrical Contractors Association
Nathan Ring, representing Laborers Local 872 and International Union of Operating Engineers Local 12
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Pat Treichel, Private Citizen, Las Vegas, Nevada
Ruben R. Murillo, Jr., President, Nevada State Education Association
Priscilla Maloney, Government Affairs Retiree Chapter, American Federation of State, County and Municipal Employees
Robert A. Conway, Business Agent, International Association of Bridge, Structural and Ornamental Iron Workers

Vice Chairwoman Neal:
[Roll was called. Rules and protocol were explained.] We will start with Assembly Bill 57.

Assembly Bill 57: Revises provisions relating to coroners. (BDR 20-375)

Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General:
I am here to present Assembly Bill 57 for the Committee's consideration. Assembly Bill 57 requires our coroners to make reasonable efforts to notify the next of kin of the decedent's death and who is authorized to order the burial or cremation of the decedent. It further authorizes a coroner to notify a decedent's loved ones of the death of the decedent and provide a copy of the coroner's report to those individuals, regardless of whether they are authorized to order the burial or cremation pursuant to *Nevada Revised Statutes* (NRS) 451.024 (Exhibit C).

Assembly Bill 57 follows up on important changes that were made by Senate Bill 286 of the 78th Session. That bill made some changes regarding the order of priority of persons authorized to order the burial or cremation of the human remains of a deceased person. Section 54 of S.B. 286 of the 78th Session amended NRS 451.024 subsection 3 to provide, in relevant part, that a person who is arrested for or charged with the murder or voluntary manslaughter of a decedent is not authorized to order the burial or cremation of that decedent. This addresses situations in which the death is the result of family violence.

Sections 1 and 3 of A.B. 57 make important changes to NRS 244.163 and NRS 259.045. First, it requires a coroner to notify the next of kin who is authorized to order the burial or cremation of the human remains of a decedent of the death of the decedent. Section 3 also authorizes a coroner to notify the loved ones of the decedent of the decedent's death and provide a copy of the coroner's report to those individuals, regardless of whether they are authorized to order the burial or cremation pursuant to NRS 451.024. Some amendments have been proposed by Clark County (Exhibit D). We consider those friendly amendments that further the intent and purpose of the bill.

John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County:
We have been working on this bill for well over a year. I want to thank Rose Floyd. She is in Las Vegas today. She will be testifying in support. Rose tragically lost three family members in 2015. As a result of old statutes, she had problems with being notified and potentially receiving copies of the Office of the Coroner/Medical Examiner reports at the time because she was not considered legal next of kin. Her daughter's next of kin was her husband, who was the suspect in the murder. This bill will take care of that issue. Additionally, it will ensure that coroners statewide will be allowed to release reports to someone who is not necessarily the legal next of kin when the legal next of kin is a suspect in the death. Needless to say, this is a no-brainer. The nonlegal next of kin under these circumstances should be entitled to reports of their family members.

I support A.B. 57 with our proposed amendment (Exhibit D). It clarifies things that occur in practice. I have been in communication with Dr. Laura Knight, the Washoe County Chief Medical Examiner, and Robert Roshak, the representative of the Nevada Sheriffs' and Chiefs' Association and the 15 sheriff coroners in the state outside of Clark County and Washoe County. They all support the bill with our proposed amendment.

Section 1, subsection 3, the amendment adds "make reasonable efforts to" (Exhibit D). Prior to that, it basically said, "shall." A logical question there would be: why should we not always make the notification in accordance to NRS 451.024? The reason we had to put "make reasonable efforts to" is because in Clark County we have 31 legal death investigators who are the people responsible for making death notifications throughout the state. The 15 sheriff-coroners' offices have dozens, if not hundreds, of deputies who make death notifications. They are not trained on how to identify a will and trusts.

The bottom line is that if we had to make notification pursuant to NRS 451.024, it would add a huge fiscal impact and take a huge amount of time to sift through wills and living trusts. We added "make reasonable efforts to" to ensure that they are in fact attempting to notify the proper person but not necessarily held accountable to notify the next of kin or the person who is legally responsible because of a will or legal trust. Section 3, subsection 1 basically clarifies the same issue. The more important section of our amendment is section 3, subsection 2 (Exhibit D). That allows for the nonlegal next of kin to obtain copies of our reports. The amendment there is to add "adult children or custodians as defined in NRS 432B.060" to allow for situations where family services may be the legal next of kin. They should be entitled to the reports when a decedent is in their custody.

Assemblyman Carrillo:
Did something happen? Is this a continuous problem?

Brett Kandt:
Our concern is that there should not be instances, in the event of a domestic violence fatality, where loved ones cannot get notice of the death and a copy of the coroner's report. It appeared from the current language that this was the case. We want to correct that.

Assemblyman Carrillo:
If my wife and I wanted that information and my son-in-law had received the information, would we not have access to that as well?

John Fudenberg:
Under the circumstances, if the legal next of kin is the suspect, then the nonlegal next of kin—the parents in this scenario—would be entitled to the report. A real-life example, Rose Floyd's daughter and two other family members were murdered by her daughter's husband. By law, the daughter's husband was the legal next of kin, so Rose was not notified right away. This will minimize that from happening in the future.

Rose would not have been entitled to receive coroner's reports because she was not the legal next of kin. I do not want to speak for the other 16 counties in the state, but in Clark County under these circumstances, we would release the reports to her although it is not clearly outlined in statute. In section 3, subsection 2, the bill allows us to legally release the reports to her as the nonlegal next of kin when the legal next of kin is a suspect in a murder.

Assemblyman Ellison:
Does that include suicide victims?

John Fudenberg:
No, it does not.

Assemblyman Ellison:
What if the suicide is being challenged? We had one recently. An officer committed suicide, and the parents thought it was not. That would not fall under this category at all?

John Fudenberg:
This bill does not address the challenge of a manner ruling. There are ways to challenge the ruling of a manner when the coroner or sheriff makes a ruling.

Vice Chairwoman Neal:
I have a question relating to section 1, subsection 3 in the amendment, where it says "make reasonable efforts to," and then when you go to subsection 4 of the bill where it says "violation or willful disregard." What are the reasonable efforts expected to be taken?

John Fudenberg:
I do not want to speak to the other 16 counties in the state, but reasonable efforts in Clark County are very extensive. Our investigators will be canvassing the scene, speaking to neighbors, and trying to figure out whom the legal next of kin is. Obviously, that can take some time. We have access to multiple databases. We will Google whatever we can find out, and several of our databases cannot be accessed by the public. There is a whole investigative process. We will spend hours and hours trying to find out who the legal next of kin is to notify them in a timely manner.

Vice Chairwoman Neal:
I was reading the letter you submitted (Exhibit C). I get it, you are saying the person who is responsible for the voluntary manslaughter or death of someone is not authorized to order the burial or cremation of that decedent. Is there legal precedent? What other states have the provision that if I committed a crime against someone, I am not allowed to participate in or authorize that person's burial?

Brett Kandt:
The policy that it is not appropriate for a suspect to be making decisions regarding the decedent's body was one the Legislature made when enacting S.B. 286 of the 78th Session.

Vice Chairwoman Neal:
I was not able to look at the minutes the way I normally do. Can you tell me if there was anything in the record so I can read later about other states or case law that says this is not a violation of someone's rights? I did not know your rights as a spouse terminated because of domestic violence.

Brett Kandt:
I can look at the legislative history. Senate Bill 286 of the 78th Session was not a bill our office brought forward. It was a very comprehensive bill that dealt with many things regarding burial and cremation of decedents. That was just section 54 of the bill. I would have to go back and look at the legislative history, but I will follow up with you.

Vice Chairwoman Neal:
Okay, thank you. Ms. Floyd, could you come to the table, please?

Rose Marie Floyd, Private Citizen, Las Vegas, Nevada:
Good morning. I am Veronica Caldwell's mom. March 4, 2015: I get up early as I normally do, make a cup of coffee and turn on the news. There it is—triple homicide/suicide in the apartment complex where my family lived. I remember thinking, Oh my God, how tragic for those poor people. I called my daughter Veronica to talk to her about what happened at her apartment complex, but no answer. I hung up thinking that she was probably in the shower. I called back at 6 a.m. We spoke every morning at 6 a.m. Still no answer. At this point, I am in absolute panic mode.

My phone rings and it is a neighbor of Veronica's. She asked me, "Are you watching the news? I think it is Veronica's apartment." Shaking uncontrollably, I call my granddaughter, Yvonne. No answer. I remember thinking, No! It cannot be my girls, I would have been notified!

I immediately call Las Vegas Metropolitan Police Department to inform them of the homicide at Veronica's apartment complex and to tell them I have not heard from my daughter. They took Veronica and Yvonne's name and said they would check on it. Shortly after, the coroner's office calls and verifies that it was, in fact, Veronica and Yvonne who were murdered.

On March 3, 2015, my daughter Veronica, my granddaughter Yvonne Rose Reyes, and her boyfriend Cory Childers were chased down and shot to death by Veronica's husband, Blake Widmar, in a triple homicide/suicide at approximately 10:15 p.m. The lone survivor to this brutal murder was my 8-year-old niece, Carly Trujillo, who ran for her little life that night along with her murdered family. After Blake shot Veronica, Yvonne, and Cory, he cowardly ran back to the apartment and shot himself in the head. He was found suffering from a single self-inflicted gunshot wound but was still alive.

The next thing I can remember, the paramedics were standing over me, telling me to breathe. Once I could compose myself, I called the coroner back and asked if I could come down and identify my daughter. The voice on the other end of the line says, "I am sorry. You are not considered her next of kin. Her next of kin is her husband." What? How can this be? He killed her!

Adding insult to injury, I was told that as long as Blake was alive, I would have no rights to her body. Furthermore, should he survive, I would need to petition the court to get the rights to my daughter. I remember hanging up the phone and screaming, but no words would come out.

Later that day, I was told Blake probably would not survive. The doctors were keeping him alive to harvest his organs. In the meantime, my Veronica lay in the coroner's office alone and unclaimed. It was as if she did not matter, as if she did not have a mom. I could not see my baby and say, I am here Veronica, you are not alone, and you matter to me! I could not get to her because I did not have the rights to her murdered body, and there was nothing I could do about it because her next of kin was technically still alive.

If that was not devastating enough, I was told that Veronica survived for an hour after the brutal shooting. She was transported to the University Medical Center of Southern Nevada, where she died alone. I should have been there. I should have been with her as she took her last breath. It was my right as my mom. It was my duty. Had I been notified, I could have held her. I was thrown into a state of hysteria that still haunts me every single day.

On March 5, 2015, Blake passed away. It was only then that I was allowed to identify my only child. Veronica's life was stolen from her by a senseless and brutal act of gun violence. I feel my rights as a mother were stolen from me by a defect in the law. Respectfully, I ask the members of this Committee to pass Assembly Bill 57 and to consider naming this legislation Veronica's Law after my daughter. This law would ensure that no mother or parent would have to go through the trauma and confusion I faced on March 4, 2015. Thank you for your time and for allowing me to tell Veronica's story.

Vice Chairwoman Neal:
We thank you for your testimony. Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in favor of the bill?

Kimberly Mull, Policy Specialist, Nevada Coalition to End Domestic and Sexual Violence:
We are in support of this measure. I do not think there is anything we can say to add to Rose's testimony. We feel that this is an important issue. None of our families should have to go through what Rose went through.

John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County Office of the District Attorney:
We are here in support of A.B. 57, also known as Veronica's Law. We do encourage you to pass this bill. I met Rose about a year ago and heard her awful story. Based on that, we worked with Mr. Fudenberg and the Office of the Attorney General to come up with this bill. We urge your support.

Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association:
We support this bill as amended. We worked with the bill sponsors to get something that would work for the rural areas. We appreciate your support.

Vice Chairwoman Neal:
Thank you. Is there anyone wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] We will close the hearing on A.B. 57 and open the hearing for Assembly Bill 154.

Assembly Bill 154: Revises provisions relating to prevailing wages. (BDR 28-747)

Assemblyman Chris Brooks, Assembly District No. 10:
Today I am here to discuss Assembly Bill 154, which would revise some provisions relating to the prevailing wage in Nevada (Exhibit E). In this presentation, I plan to start with a brief overview of the bill, give some background information on the reason for this bill, explain why I and many others support it, and then walk you through the language of the bill section by section. Assembly Bill 154 will revise some provisions regarding the prevailing wage in Nevada in three ways.

It will decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 back down to $100,000 for construction work on Nevada System of Higher Education (NSHE) projects. It will require school districts and NSHE to again pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay. It will also again require charter schools to pay prevailing wage rates on their public works and other construction projects.

Last session, Senate Bill 119 of the 78th Session was passed. It approved bond rollovers for school districts in Nevada in order to give them money for school construction. Unfortunately, some changes to the prevailing wage were included in the bill, which made it more controversial because there were many people who supported the bond rollover section of the bill but not the changes that the bill would make to the prevailing wage. The bill passed, and the several changes were made to the prevailing wage.

First, any contract for a public work to which a school district, a charter school, or NSHE was a party was excluded from the prevailing wage requirement. Instead, school districts and NSHE are required to pay, on their public works and certain other construction projects, 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies.

Second, the requirement that NSHE pay prevailing wages on construction work with the estimated costs that exceed $100,000 was eliminated. That minimum threshold was changed to $250,000 instead. Finally, the requirement that NSHE pay prevailing wages on lease-purchase and installment-purchase agreements that involve the construction, alteration, repair, or remodeling of an improvement was eliminated.

My bill essentially returns the provision regarding the prevailing wage to what it was before S.B. 119 of the 78th Session. I think this bill is important to pass for several important reasons. I think that every one of us here can agree that Nevada needs a lot of school construction. That is not being disputed at all. In fact, in my district alone there are nine schools over 50 years old. I went to three of them. While we all know that schools need money to fund construction, eliminating the prevailing wage for these projects is not the answer. Having prevailing wage requirements benefits our communities in many different ways.

When it comes to public works construction projects, especially schools, we want buildings that are safe and will last many years, like the ones built in my district that I went to, my parents went to, and my kids have gone to. In order to achieve that, we need to hire the most highly qualified workers. Public works projects paying prevailing wage attract quality, local, and experienced construction workers who deliver high-quality work on time and on budget. Prevailing wage laws allow for more competition among contractors for construction projects, which ensures these projects will end up with more highly skilled workers. For example, after Maryland implemented a contractor living standard, the average number of bids for contracts in the state increased by 27 percent—from 3.7 bidders to 4.7 bidders per contract (Exhibit F).

Additionally, we need to build the local Nevada workforce and economy. Research shows that prevailing wage laws lead to more workforce training, a more educated and experienced workforce, safer construction, and government savings because workers depend less on social programs (Exhibit G). Prevailing wage laws are better for the economy because they support the middle class incomes that boost consumer spending.

Eliminating the prevailing wage does not save money. It can actually cost more money. Studies have shown that workers who are paid the prevailing wage are more productive. Additionally, higher productivity can lower construction costs without lowering wages. Prevailing wage does not raise overall construction costs since higher construction wages are usually offset by greater productivity, better technologies, and other employer savings. In fact, national analysis of data on school construction costs specifically has revealed that prevailing wage laws do not have a statistically significant impact on cost (Exhibit G). For example, comparing school construction costs before and after Michigan's suspension of its prevailing wage law revealed no difference in costs. In Pennsylvania, when prevailing wage levels were lowered substantially in rural areas, school construction costs went up more in areas where prevailing wage levels fell the most (Exhibit H).

Additionally, average labor costs, including benefits and payroll taxes, are roughly one-quarter of construction costs. Thus, even if a prevailing wage regulation raised wages by 10 percent, the impact on contract costs would be less than 2.5 percent (Exhibit H). So, even if there is an increase in contract costs, it is likely to be small—to the point of being undetectable.

Prevailing wage can actually save money. A review of state and local construction practices by the National Employment Law Project found that adoption of contracting standards often has resulted in decreased employee turnover with corresponding savings in restaffing costs (Exhibit F). For example, after San Francisco International Airport adopted a wage standard, annual turnover among security screeners fell from nearly 95 percent to 19 percent, saving employers about $4,275 per employee per year in restaffing costs (Exhibit F).

I would like to walk you through the language of my bill section by section. I have provided a section table where you can find explanations to each section (Exhibit I). In section 1, we amend the provisions of *Nevada Revised Statutes* (NRS) 338.018 to decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000 for construction work on NSHE projects.

Section 2 requires school districts and NSHE to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay, eliminating the exception that currently exists which allows NSHE to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies. That takes the 90 percent back to 100 percent.

Section 3 of the bill amends NRS 338.020 to 338.090 to decrease the minimum threshold for the applicability of the prevailing wage requirements from $250,000 to $100,000 for construction work on NSHE. Section 4 requires charter schools to pay prevailing wage rates on their public works and other construction projects eliminating the exemption that currently exists. Section 5 provides that the amendatory provisions of this act do not apply to a public work or other project.

Assemblyman Ellison:
I am looking at section 1 of the bill. For some rural schools, if you drop the prevailing wage threshold from $250,000 to $100,000, it could kill some of their projects. If they had to do upgrades in refrigeration or air conditioning, they are so limited in funds that they could not pay the prevailing wage rates. Also, can you talk about why charter schools are being considered in this bill?

Assemblyman Brooks:
The threshold was $100,000 for many, many years. It was raised to $250,000, which puts Nevada at number two, if not number one, of prevailing wage trigger thresholds in the entire country. Compared to other states with prevailing wage laws, $250,000 is incredibly high. $100,000 is more along par with other states that have prevailing wages. I feel that it is an appropriate level to return to. Charter schools were included in the prevailing wage statutes before S.B. 119 of the 78th Session. This is returning it back. Charter schools are public schools. They receive public funds. A public body creates it. That is why I feel that it is appropriate to return it back to where it was before last session.

Assemblyman Ellison:
I did not look at the threshold of $100,000 as construction. To me, that cost reflects a maintenance project. You cannot build anything anymore for $100,000. If you had to replace windows, you would be looking at $150,000. If you had to replace some doors or remodel from floods, it would cost more than $100,000.

That is what I am saying: this is not a construction amount to me. It is a maintenance amount. Maybe we could address that. I can see reaching the $250,000 threshold if you are doing major construction.

Assemblyman Brooks:
Maintenance is not covered under prevailing wage. While things are getting more expensive every year, $100,000 is still a significant contract amount. That is why our public policy was for many, many years—and most other states with prevailing wage—was at $100,000. In most other states, it is below $100,000. That is where Nevada landed for many years. I feel it is in the best interest to the state to return it back there.

Assemblyman Carrillo:
There are a lot of apprentices that will be employed through this bill. How many apprenticeship programs are funded through collective bargaining agreements in the construction industry?

William H. Stanley, Executive Secretary-Treasurer, Southern Nevada Building and Construction Trades Council:
Currently in Nevada there are 58 construction apprenticeship programs approved by the State Apprenticeship Council, Office of Labor Commissioner, and 49 of those 58 are funded by Joint Apprenticeship Training Committees (JATCs) that are union contractors and the signatory contractors in the unions.

Assemblyman Kramer:
It has been a long time since I worked construction. I do not know whether schools have been contracted during the last two years when it has been at 90 percent. If you had a school paying 90 percent of prevailing wage, and schools cost between $100 million to $200 million, can you tell me how much money this saved the schools? Most of the cost of schools is usually materials, so how much of that is actually wages and what kind of number is the 10 percent reduction? Following up on that, under prevailing wage, what would a journeyman electrician make?

Todd Koch, President, Building and Construction Trades Council of Northern Nevada:
In theory, reducing prevailing wage on schools by 10 percent should have saved 10 percent of the labor. Your question is how much of the project cost is labor. There was a study done by the Department of Economics at the University of Nevada, Reno several years ago that studied public works projects. On vertical construction like schools, the total cost of a project attributable to labor, whether it was wages, benefits, workers' comp, and taxes, was about 24 percent. If you save 10 percent on that 24 percent, in theory, you should be able to save 2.4 percent in construction. That does not sound like much, but it is huge for the workers on the project. I cannot speak to the prevailing wage of an electrician, but I could tell you prevailing wage of a painter in Washoe County is $36.59. The benefit package is $11.79, which provides that family with health benefits, a retirement package, and training programs to upgrade skills and train the next workforce. Ten percent of $36.59 is $3.65. That has to come totally off the wages. When you do that, it is a reduction of wages of 15 percent. When you reduce the wages of a worker by 15 percent, that is huge, especially in a booming construction economy like this. It can make it very difficult for contractors to find employees to work at that.

Assemblyman Daly:
I know the 10 percent statute has only been in effect for a few years, but have you experienced your members or anyone you dispatch saying they would not take that job, but would go to a full-scale job? That hurts the ability for the public bodies or any school to get the best-qualified people. Instead, they are getting the people who are willing to work for 10 percent less.

Todd Koch:
I have experienced those things. I have had meetings with the superintendent of the Washoe County School District. She has expressed the concern that they are seeing fewer bidders on projects. In fact, there have been projects put out to bid where they received no bidders. That caused me to go back to the contractors I have relationships with and ask why they are not bidding. In the case of a mechanical bid, I went to those mechanical unions and asked why contractors are not bidding. The answer that comes back many times is this: to have to bid it at 90 percent, and there is so much work out there in the north with the Tesla effect, they fear that they will not get workers. When you go to dispatch workers to a project like that, the first thing they say is that they will get a job at 100 percent in two days, so they will not take this job. It has made things difficult for us to build what we need to build in this economy.

Assemblywoman Monroe-Moreno:
Have we found that we have gone down to the 90 percent that Nevada residents and companies are losing jobs to out-of-state competitors? Is this labor force that is not as skilled coming in to do this work and then leaving and not reinvesting money in our communities?

William Stanley:
I had some photographs sent to my office this last week of trucks on our six new elementary school projects in Clark County. People knew this bill was coming, and my inbox filled up. These trucks were registered to contractors: they had their insignias on the side of them. The license plates show that these contractors were from Utah and Arizona. They did not even bother to reregister their pickup trucks in Nevada, which is required after ten days. They have them on our school projects.

The semitrucks full of materials for that site have out-of-state license plates on them, which tells you that those materials were transported from somewhere else into our community. We had no sales tax collected on any of the materials that went into the construction of that project. I can assume the worker was from Arizona or Utah. The paycheck they receive returns with them to be spent in their community, not in ours, meaning we lose the economic effect of the construction in our community.

When you are constructing a school in Elko County and the contractor comes from Boise, Idaho, or Salt Lake City, Utah, that contractor has their relationship with their suppliers in those communities. That is where contractors get their best terms. Where are they going to purchase pieces and parts? Where they get the best terms. That is not in Nevada. Not only do we suffer a hit on wages, we are suffering the economic effect of people purchasing things in our community.

Assemblyman Brooks:
By the way, $59 is the prevailing wage rate in southern Nevada for journeymen electricians.

Assemblyman Ellison:
I agree with Mr. Stanley. People coming in from out of state is one of our biggest fights all the way through. We want to keep the workers inside Nevada. On these big projects when they go to a union hall and there are not enough plumbers, they have to bring them in from other states, is that not correct? A lot of those license plates might be union members we brought in from different halls. Is that correct?

William Stanley:
I wish we had that problem in southern Nevada. That would be a great problem to have. Right now, 75 percent of iron workers in southern Nevada are unemployed. We have over 50 percent total unemployment across the construction trades in southern Nevada. That is much different from what you are experiencing in Washoe County and Storey County in northern Nevada. We have union halls full of union members looking to go to work. Many of our members have sought employment outside of the state because we have been in a devastating depression since 2008.

Assemblyman McCurdy:
I understand why this is needed. I get how this investment benefits our community, from construction workers to the projects they work on. Can you tell me if you have heard of instances where we had low-skill workers on certain projects, and they had to go back and fix things that were not done correctly the first time by skilled workers?

Assemblyman Brooks:
I was a contractor in my past life. I bid on prevailing wage jobs. I know that when you go into buildings and you are following other contractors, there are different levels of expertise. I think the building trades primarily working on prevailing wage laws provide a higher level of training than some of the people who come in from out of state or who are used to working on smaller projects because they do not have the prevailing wage attached to it.

Vice Chairwoman Neal:
How many schools were built from 2015 to now under S.B. 119 of the 78th Session?

Assemblyman Brooks:
I do not know that. I can try to get to for you by the end of this hearing.

Vice Chairwoman Neal:
I am curious in regard to the cost. I know the answer, but I wanted to know if you did. There were six new schools and two replacement schools according to Clark County School District. I was wondering if there were comparisons between the cost that occurred for those schools under S.B. 119 of the 78th Session and prior. At the end of the day, we are doing a comparison argument.

Assemblyman Brooks:
I spoke with Clark County School District about projects in the queue and some ongoing. They have quite a few ready to go and quite a few under construction, even if they are not new schools. We would have to take a look at the component of the project that is labor and pull that out of it. The study we mentioned earlier has labor coming in around 25 to 30 percent of the total cost of all school construction. Right now, they are ongoing. We could use those six schools as an example, but there are other variables there, like volatility and commodities markets. Those may affect materials and real estate cost.

Vice Chairwoman Neal:
In 2015 when we had this discussion, the conversation was around the market. Those seemed to be some of the arguments presented. But we knew that the market was prevailing wage before 2015. It would be interesting to see that comparison. If a building is currently under construction, what would be the effects of this law? I do not see retroactive language. Will there be new bidding?

Assemblyman Brooks:
In 2015, projects that were not let for contract were re-bid using the new law. I could imagine that would be the same scenario here.

Assemblyman Carrillo:
Whenever jobs come through, usually there is a change order involved. That is when extra costs are made up after the construction. Are these change orders making up the difference? I am not saying that is a justification. To me, the unintended consequences are still there from S.B. 119 of the 78th Session. If we have contractors trying to make up the difference, I would still like to see if there are more change orders. It could be the way it was bid. Is there a way to keep track of change orders?

William Stanley:
There are different types of capital project funds. We are constructing six and rebuilding two elementary schools in Clark County. We also have other capital projects that had previously been covered by prevailing wage. We had an extensive program going on in southern Nevada having to do with chillers. The chillers reached their life cycle, so they had to be replaced. We are currently investigating work that was recently let, in which the capital improvement was broken up into several bids. Electrical was removed from the bid that would normally have been included. Other pieces were taken out so that the bid bumped against the $250,000 threshold, therefore not triggering prevailing wage.

What we believe that this did was introduce game playing into the prevailing wage world. With the $100,000 threshold, it was not as hard to get there. It was harder for people to break projects into several projects to get in under the cap. We are investigating this now. When you see a bid come in at $249,999, you should take a look. The change orders are exactly what will drive that contract over $250,000, which triggers a whole new set of problems. Now you have to go back and pay all those people who worked on the project the prevailing wage because now the project has extended beyond the $250,000 threshold. The change orders can trigger problems that were not contemplated in S.B. 119 of the 78th Session.

Vice Chairwoman Neal:
Are there any other questions from the Committee? [There were none.] Is there anyone wishing to testify in opposition to the bill? We are going to keep the testimony to less than two minutes.

Warren B. Hardy II, representing Associated Builders and Contractors, Nevada Chapter:
I will try to do it two minutes, but I do not think we have many people signed in for opposition, so we would appreciate a bit of consideration on that. Our position is nuanced. We are not opposed to prevailing wage. Our concern is that prevailing wage is not calculated correctly. When we talk about national studies, we are looking in large part at national prevailing wage laws. We are looking at the federal prevailing wage laws. We would have no objection to going to the federal prevailing wage laws. The problem with the prevailing wage laws in Nevada is that we calculate them in a different way than other states. We calculate them in a way that makes it impossible for anything other than the collectively bargained rate to be the prevailing wage rate. That is our issue.

I want to speak to the Vice Chairwoman's question regarding comparison. Last session did provide a perfect comparison with regard to what you are asking. K.O. Knudson Middle School in Las Vegas was bid in the interim between those bills. It was bid as a nonunion prevailing wage job, and it was bid as a prevailing wage job. I have not done an in-depth analysis, but the nonunion prevailing wage bid was $2.7 million, and the higher bid for the prevailing wage was $3.6 million. I would encourage you to dive into that.

I am concerned about the characterization that somehow the prevailing wage laws in Nevada impact local workers. There is nothing in the prevailing wage laws that speaks to local workers. There are other laws that deal with that. In addition, nothing speaks to quality of workers. What my friends in the unions are saying when they say we should get higher quality workers is that we should all use union workers. The overwhelming majority of small businesses, minority-owned businesses, and women-owned businesses are nonunion. The prevailing wage laws incentivize the hiring of union contractors. That disenfranchises small, women-owned, and minority-owned businesses. They are overwhelmingly nonunion contractors. If we are saying those individuals are not qualified to do construction on our public works, that is something we ought to look at. Every contractor should be guaranteed to do quality work. Prevailing wage laws do not address that. It is disingenuous for some of my friends on labor to say that. I agree with Assemblyman Brooks, it ought to be looked at.

Pat Hickey, Executive Director, Charter School Association of Nevada:
I am here today to specifically object and oppose sections 4 and 5 that relate to charter schools. It was mentioned by Assemblyman Brooks that these are public works projects. However, when you look at charter schools, many of them are leased or rented. Even when they are built, and some are, they are frequently done by consenting private parties and contracts that do not receive public dollars. Charter school construction at this point in time is not a public works project because it does not receive any public construction monies. I would point you to the study about charter schools by the Guinn Center for Public Priorities. It says the need for more funding is apparent (Exhibit J). That study points out that the average in Nevada for school districts in fiscal year 2015 for capital revenue sources, meaning for construction, was $1,288 per pupil. Charter schools get absolutely none of that money. Mariposa Academy in Reno rents in a converted former medical office. Bailey Charter Elementary School rents out a converted office building. Sierra Nevada Academy Charter School, which has been there for 19 years, leases a facility in an old part of a strip mall. There is even a charter school in the back of a Catholic cathedral. The middle school took over facilities that formerly supported a parochial school. The church, because many parishioners attend the school from downtown Reno, helps with its maintenance. I would like to argue that this attempt to include charter schools is not fair. Charter schools are not receiving funding for any construction they do. I would make an example in conclusion. Nevada leases over 2.2 million square feet of office space, with over 330 leases, from private property owners. When a state agency or part of an agency moves in, the owner of the building is not required to have built the building, or even built out the changes, with prevailing wage conditions. Neither are the schools or donors that might give over a warehouse, like in Elko. Assemblyman Ellison's charter school is there.

Our objection is that we do not think it should apply to charter schools. These are not public works projects. I think it is a different discussion if we start giving public funding to charter schools. Then maybe it is fair to be treated like our friends in the school district.

Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:
We worked very hard on this issue last time. Something else The Chamber worked hard on was the Washoe County Question 1 (WC-1) campaign. That was a bill sponsored by Senator Debbie Smith in 2015. It created the committee to put a question on the ballot in Washoe County to increase sales tax to pay for new school construction and refurbish old schools. We supported that heavily. You heard from Mr. Koch, and I will give the labor community a lot of credit. They have put fence holders on the ground and a lot of money at the table to help with that campaign. That was a true partnership moving forward.

We hear about "the little guy" a lot in these committees. I think I read an article about "the little guy" and it used to mean labor. But let me tell you about another little guy; his name is Noah Carson Abney and he turned seven about a week and a half ago. He is in first grade at Brown Elementary School. It is the most overcrowded school in the Washoe County School District. We passed WC-1 to benefit him, our children, and our future workforce. This bill makes it more expensive to build schools. That is it. It benefits a few of your constituents at the expense of every taxpayer in the state and every child in the state that is in an overcrowded school. You were elected to move Nevada forward. This bill moves Nevada backwards. We heard earlier that there are a lot of people in Clark County looking for work. I am not sure how a bill and a law that would increase the cost, which means fewer projects being available and fewer jobs being available, helps people find work. We are not asking for any changes to prevailing wage. We just want this law to work. It has been in effect for about a year and a half now. I think we need more time to see how this truly affects not just union labor contractors but the 90 percent of the other people who are your taxpayers and constituents.

Assemblyman Daly:
I have spoken with Mr. Warren and Mr. Abney several times. There are all different points of view on everything you mentioned about cost and what prevailing wage has done. I am looking at your letter, former Assemblyman Hickey (Exhibit K). There were several things in there that I would like to clarify. The first line says charter schools are exempt under existing Nevada law (Exhibit K). That is true, under the existing law. But they have not always been exempt. In fact, they were covered by prevailing wage in the 2013 Session in Senate Bill 384 of the 77th Session. They were exempt from bidding and a few other things, but they did have to pay prevailing wage. *Nevada Revised Statutes* (NRS) 338.013 to 338.090 applied. That was a bill you voted for, as did I. I am curious about when you stopped supporting prevailing wage for charter schools.

Pat Hickey:
There is another individual, an attorney, who has been involved in the building of charter schools who I hope will testify. I believe he will give a more complete answer than I am able to. Regardless, that has not been applicable in Nevada. Where improvements have been made or new schools have been built with private financing prior to the passage of S.B. 119 of the 78th Session, prevailing wages were not applied because the statutes were not applicable. They were not public dollars or a public works project. That is why charter schools have not ever been paying on their projects.

Assemblyman Daly:
I would invite you to go back and read S.B. 384 of the 77th Session. It was applicable, and you voted for it. The third paragraph of your letter says charter schools "are NOT 'public works projects.' To require private builders to pay prevailing wage for a non-public works project is simply unfair and wrong" (Exhibit K).

I would say, are you familiar with tax increment financing? Are you familiar with redevelopment agencies? Are you familiar with the sales tax anticipation revenue (STAR) bond statutes? All of those require prevailing wage to be paid on private jobs. The Cabela's and Scheels in Reno were built under STAR bonds. It does happen all the time. We are trying to get people to give us facts, and we want them to give us the complete story. To say that it is wrong and unfair for charter schools is misleading.

Pat Hickey:
Again, you have charter schools that are renting and leasing spaces. There are schools in the back of a church, in a strip mall, et cetera. Those leases, just as is with the State of Nevada, do not require prevailing wage or are not considered a public works project when an agency moves into a privately-owned building. Again, in the case with the STAR bonds and others, those were public dollars. New constructions have been the result of private contracts where monies have gone out to build those schools from private agreements. Public dollars have not been given to charter schools. I am correct on that.

Assemblyman Daly:
I would recommend talking to the gentleman sitting next to you about lease purchases. Prevailing wage does actually apply to that. We have worked on those issues on the Advisory Group to Conduct Interim Study on Lease-Purchase and Installment-Purchase Agreements by Public Entities. Mr. Hardy was the chair of that group, and I was a member. You have your view, understanding, and maybe limited knowledge, but what you are saying is, in fact, not correct.

Pat Hickey:
What we are really talking about are facilities for a public body, albeit a unique one, for schools. Nowhere are we mentioning the kids. We are talking about what might benefit employees who build these badly needed schools. However, the practice has not been for charter schools to pay prevailing wage. I think there is a good reason for it.

One, they are not receiving any money. If we are here about trying to solve some education problems, that is what charter schools are designed to be a part of. I think it will result in their having less money. They already do get less money. Not only facilities money, but also they do not receive class reduction money, transportation money, et cetera. Many of these schools, like the Delta Academy on Brooks Avenue in North Las Vegas are operating with a lot less money than regular schools.

If you require them, when they typically have parents come in and build a wall to separate a classroom, to now pay prevailing wage on any of the repairs, you are hampering the growth of one of our educational alternatives in the state.

Warren Hardy:
Assemblyman Daly did bring up an interim committee I chaired during the 2015 Interim where we looked at lease purchases. We did elect to use prevailing wage on all of those jobs, because we do not oppose prevailing wage. Prevailing wage makes sense from a bunch of perspectives. It was initially put in place during the Great Depression to ensure that public sector workers were not paid less than private sector workers were. I still believe that is an important objective and goal. The challenge we have is the way it is calculated. It increases the cost of prevailing wage. If we had a calculation to determine prevailing wage that brought it in line with what is paid in the private sector, which is what it was intended to do, we have no objection to prevailing wage. That is the reason I supported prevailing wage and always have supported prevailing wage on projects. It has an important function. We are just concerned with the way it is calculated.

Assemblyman Daly:
The final point I wanted to get to, charter schools are a public body. They meet the definition in NRS Chapter 338 of a public body. Unique, as you said. But they still have to follow the Open Meeting Law and other various things. The other thing I heard you say was that they do not receive public funding. I know you will qualify that by saying they do not receive public funding for construction and a few other things. But they receive public dollars and are a public body.

In the provisions under NRS Chapter 338 on the definition of a public body, the only thing a public body has to do is not simply finance. They only have to sponsor it. They are sponsoring these projects. They have to approve the expenditure of money through their board the same as any other public body. Regardless of whether it meets the definition of a public work, I believe it does. These are public schools. They have to follow other requirements. They are authorized under the State Public Charter School Authority or the local school district. I will not even get into achievement charter schools. If public schools are taken over and become charter schools, the cost of those schools are continued to be paid for by public money and funding that built them in the first place. Many of the things you are trying to build your case on are not actually correct in my view. That is what I am trying to point out to the rest of the Committee.

Pat Hickey:
Again, I think it would be a lot easier to stomach and fairer if charter schools were to receive facilities funding, as both the Spending and Government Efficiency (SAGE) Commission for the System of K-12 Public Education recommended (Exhibit L) and the Guinn Center recommended (Exhibit J). For instance, Senate Bill 173, sponsored by Senator Cancela, has to do with the Achievement School District. If they were to take over an existing school that had been built by the district and had contracts in place, I would be inclined to support that. Those schools were built with district or state dollars. Again, the financing of new charter schools without that funding is done by private agreements.

Assemblyman McCurdy:
Did you speak to the sponsor of this bill prior to coming up in opposition?

Pat Hickey:
We have communicated. I have emailed him and sent him a number of things, including my statement. We met briefly in the hall.

Assemblyman McCurdy:
Did you try to get on his calendar to have a meeting with him about this?

Pat Hickey:
No, I did not. I am not a full-time lobbyist. I am the executive director of the Charter School Association of Nevada. As such, I have other duties. We certainly have tried to communicate. He expressed to me that he looked forward to the discussion, as I have today.

Assemblyman McCurdy:
So this was not important enough for you to go and talk to him in his office?

Pat Hickey:
I simply did not have time to do that. I was not intending any disrespect because of that, I can assure you.

Assemblyman Ellison:
I agree, when I read this bill, I did not comprehend about the charter schools. Mostly charter schools are private. They are in private buildings. Is that a better way to put it? If you went in and requested that you go by state laws, I think it would end up in court. Am I reading this wrong? Why are charter schools in this?

Pat Hickey:
I did submit the *New York Charter School Ass'n v. Smith*, 15 N.Y.3d 403 (2010) decision (Exhibit M). The opinion is that contractors are not required to pay prevailing wages. Similar rulings have taken place in California.

Assemblyman Ellison:
Maybe you can get with the bill sponsor to address that issue and put an amendment into the bill. I think that would make it clear as far as the buildings go.

Vice Chairwoman Neal:
Senator Hammond sponsored Senate Bill 384 of the 77th Session. That bill allowed full faith and credit for the state to be used for the building of charter schools. Senate Bill 471 of the 77th Session was also introduced to create a revolving loan account around charter schools, which puts state money on the hook.

Pat Hickey:
To my knowledge, and my knowledge is limited because I am new to this position, I am not aware of schools that have accessed that and how it has been applied. I understand there are funding opportunities, but you are getting private financing in my understanding. I do not know of any schools that have accessed that.

Vice Chairwoman Neal:
I believe Senator Hammond's school, Somerset Academy of Las Vegas, actually accessed it within the year that it was passed, which I found interesting.

[Assemblyman Flores assumed the Chair.]

Chairman Flores:
I apologize for being late. I had two bill presentations this morning. I want to apologize to the first bill presenter for not being able to sit here and listen to your testimony. In the spirit of the three minutes that have been set, we will continue with that.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:
The Las Vegas Metro Chamber of Commerce is opposed to the current bill because of the concerns with the changes to the threshold. I did meet with the bill sponsor and shared some concerns with him. I appreciate his taking the time to do so. In full disclosure, the Chamber did support S.B. 119 of the 78th Session because they recognized the need to build more schools in Clark County.

John Wagner, Carson City Vice Chairman, Independent American Party:
We oppose this bill. I feel that it will hurt small business owners. A lot of these businesses are owned by families. They are also owned by minorities. I understand that they work in a different situation than if they were working for a private company outside of where they are working. I feel that this bill could put them out of business in some cases, or definitely limit what they can bid on. There was a reason S.B. 119 of the 78th Session was passed. I am sure those reasons might still be applicable. I think there will be higher costs imposed on the schools, which means more taxes. We have a bill coming up tomorrow at 4 p.m., Assembly Bill 43, where the counties are already going to be asking for more taxes.

Is a union worker better than a nonunion worker is? I think it depends on the individuals doing the work. If there is shoddy workmanship being done, usually performance bonds can be imposed. Someone should be inspecting the building as it goes along. Some of this stuff is done by subcontractors, so that affects them as well. A big contractor does not do everything. It will affect a lot of the minority-owned businesses.

Johnathan P. Leleu, representing NAIOP, the Commercial Real Estate Development Association, Northern Nevada Chapter:
We oppose the bill as written. I will say ditto. We will work with the bill sponsor on our issues. Our concerns are with one limited section. We will hopefully bring you back something we can all support.

Ryan Reeves, Chief Operating Officer, Academica Nevada:
Academica Nevada is a charter school support company that provides operational support to more than 15 charter school facilities in the state. I hesitate to acknowledge that I am the attorney that Pat Hickey referenced earlier. No conversation has ever gone well after being introduced as "the attorney." I support having highly qualified and well-trained individuals constructing buildings in Nevada and that they receive a fair wage. My message here is that the Legislature has a responsibility to fund any such mandate.

To give you more detail regarding the inequity charter schools face, the Clark County School District comprehensive annual financial report for 2016 states that the real estate transfer tax, the property tax, and the room tax are the main components of reaping outstanding bond obligations. They then provide those amounts and percentages. Property taxes are 25.69 percent of their governmental revenue sources. Real estate transfer tax is 1 percent, and room tax is 3 percent for a total of more than $850 million. That constitutes more than 28 percent of their funding to go toward the repayment of their bond obligations associated with building facilities. Charter schools do not receive any of that money. The result is that charter school enrollment has grown to nearly 40,000 students in this state, almost 10 percent of the state's student population, equating to the third-largest school district in the state. It receives 30 percent less funding than schools attending traditional school models.

The parents, teachers, and students deserve equitable funding for their schools. Because they do not, the teachers working in our classrooms are making far less than the hourly rates for tradesmen contained in the current prevailing wage standards. If charter schools are going to be included in this bill, then they should also be included in all facility funding as a part of this bill, as was recommended by the SAGE Commission (Exhibit L). Since that has not been done, charter schools should maintain independence and autonomy in their facility construction.

I want to answer a comment from earlier. While it is true that there is a charter school facility funding portal through the Department of Business and Industry, that is conduit financing. It is not faith and credit financing. Therefore, the state does not lend their faith

and credit to the financing. Rather, the interest rates are based on the charter school's credit. They receive no other funds to pay those bonds other than the regular State Distributive School Account funding.

Assemblyman Daly:
As I was listening to your testimony about all the things you do not get, I recalled having the charter schools conversation and setting the laws up in order for charter schools to operate. Charter schools were meant to be an alternative delivery for certain students not fitting into the model of the traditional school district. Now, we are coming full circle and the charter schools are saying they want to be like the traditional schools, except they do not want to follow what the school district does.

I am trying to follow your circular argument. Charter schools do not get the same benefits as public schools, and they do not have the same restrictions or protocols that other schools pay for. How can you have it both ways? If you want to be a public school, I am sure you can hand your charter in, and they will take care of those students.

Ryan Reeves:
I was not here 12 to 15 years ago as a part of the conversation when charter schools were approved. I would never say that I considered them part of a special side model that would only take certain students. Therefore, I cannot say my particular argument is circular, as I have always viewed charter schools to be a full and complete alternative that allows a parent to choose a model that may work best for their student.

For that reason, I do think charter schools do deserve and have always deserved fair and equitable funding for those students. Even if there were such a model, there is no reason that one student in the state of Nevada should have fewer dollars attributable to their public education than one attending a traditional public school.

Stephen Silberkraus, Private Citizen, Las Vegas, Nevada:
Ditto. Today, I am here as a parent of a future student here in Clark County. I am in opposition of A.B. 154. Two years ago, the Legislature stood up and said that our children and their education were a priority for our state. We asked all Nevadans to sacrifice for the betterment of our kids and their future. I have heard a lot of talk about S.B. 119 of the 78th Session, but the provisions we are talking about are actually ones that came out of Assembly Bill 172 of the 78th Session. Labor, business, Republicans, and Democrats came together to find a solution that would protect workers and benefit our children.

Our school districts do pay prevailing wage only discounted 10 percent. That 10 percent, using the numbers provided today and just on the bond rollover from 2015, would represent approximately $86.4 million of rollover of $3.6 billion at 2.4 percent savings. That is more than enough to build several schools that we desperately need to address overcrowding in the Clark County School District, or repair dozens of schools that have issues that have needed to be addressed for many years. As an additional note, this will increase costs for higher education facilities such as the University of Nevada, Reno's new engineering building and

University of Nevada, Las Vegas' new medical school. The one thing I ask is to put our children first. Hundreds of thousands of parents in our state are greatly concerned and will be paying attention.

Assemblywoman Neal:
True, S.B. 119 of the 78th Session passed as a bipartisan effort. However, I think we can politically describe that as the Democrats being hog-tied and having to ensure we did not vote against schools even though we did not want the prevailing wage language in the bill. What is super interesting is that also in the record, in 2015, it was crystal clear that there were equal arguments on either side. No one won whether prevailing wage was increasing the cost or causing issues.

In 2015, under the prevailing wage, Clark County School District won an award for building good schools that were energy efficient. I found that to be interesting. Their standard is to build schools to a 50-year model. They got an award for the sustainability, efficiency, and building performance. That was 2015. I want to set that straight. At the end of the day, true, S.B. 119 of the 78th Session was bipartisan, but we were politically hog-tied to accept something we did not necessarily want.

Steve Silberkraus:
I was not addressing S.B. 119 of the 78th Session. I was addressing A.B. 172 of the 78th Session. That was the compromise where we came together to set up the percentage we are speaking about today. As far as being award-winning for construction, I would not dispute that many of our modern schools are fantastic. However, we have many schools that were constructed between 10 and 40 years ago that are in desperate need of repairs.

For those facilities, $86.4 million—with the numbers presented in front of this Committee; I have heard numbers that are substantially higher than that. It would make a huge difference in the quality of our facilities, in our ability to repair them, and in our ability to build new facilities to address overcrowding in our classrooms. I know I have been into the schools here, and I have seen many issues that need to be addressed. These dollars could make a big difference in kids' lives.

Chairman Flores:
Is there anyone else wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill? [There was no one.] Is there anyone wishing to testify in favor of the bill?

Pat Fling, representing Acting in Community Together in Organizing Northern Nevada:
Acting in Community Together in Organizing Northern Nevada (ACTIONN) was formed in 2009 to develop the leadership of people of faith at the grassroots level to achieve power necessary for creating positive systemic change. We support A.B. 154 to reinstate prevailing wage requirements in Nevada. Removing the loophole that higher education, charter schools, and others use to forfeit paying hardworking people the prevailing wage for their

work is the ethical thing to do. In Nevada, we need to give all our children the message that all work has dignity and should be paid fairly, and all work should be subject to the standards for wages. Our children are watching. Thank you.

William Stanley:
We are testifying in favor of A.B. 154. We would like to thank the sponsors for bringing this bill forward. The passage of this bill and a signing by Governor Sandoval will ensure that contractors signatory to collectively bargained employment contracts can compete for public works projects awarded by a school district or NSHE. When contractors signatory to collectively bargained employment contracts are awarded a public works project, these same contractors employ individuals who are covered by health care, pension, and other fringe benefits including apprenticeship and continuing education. Contractors signatory to collectively bargained employment contracts and their partners in the building trades fund educational opportunities that include both apprenticeship and journeyman upgrading.

Currently in Nevada, there are 58 construction-related apprentice programs. Forty-nine of those are apprentice programs funded through contractors signatory to collectively bargained employment contracts and their partners in the building trades. The building trades and our contractor partners support Governor Sandoval's emphasis on workforce development. The Governor's vision to "build the new Nevada" is music to our ears. Like the Governor, the building trades and our contractor partners support public policy that facilitates workforce development—public policy that provides apprenticeship opportunities.

However, Nevada law currently places contracts signatory to collectively bargained employment contracts at a disadvantage in the marketplace. It hurts contractors, their employees, and the economy. Therefore, the building trades are asking you to pass A.B. 154. It will help facilitate workforce development by created opportunities for apprentices. For example, the building trades are sponsoring an apprentice readiness program at Mojave High School and are working with partners in southern Nevada. These programs create career pathways for your constituents, and they cannot succeed without jobs. Governor Sandoval understands the importance of apprenticeships. He is proposing to move the State Apprenticeship Council from the Department of Business and Industry to the Office of the Governor. The building trades support this move.

However, we are mindful that moving the Apprenticeship Council is not the end of the process; it is the beginning. Apprenticeship opportunities do not materialize out of thin air. The building trades believe we should use our investment in public works like schools to invest in the workforce of the future. In our view, Governor Sandoval is on the right track, and we support his efforts. We want him to build a new Nevada. We believe passing A.B. 154 will do that.

Todd Koch:
Briefly, I want to give you a quick history of how we got to where we are at in northern Nevada. To begin, the Davis-Bacon Act is a federal law that protects contractors in a locality and their workers. We refer to it here as the prevailing wage law, NRS Chapter 338. That

law was meant to protect our contractors and residents from the poaching of jobs from Idaho, Arizona, Utah, New Mexico, et cetera. It does not matter if you are signed to a union contract or if you are an open shop, prevailing wage protects you. The less protection we have, the fewer tax dollars we get to keep in the state.
About three years ago, the Office of Economic Development, Office of the Governor did a wonderful thing for our economy in northern Nevada. We were suffering in the construction trades. That office convinced Tesla, Inc. to build their battery plant in northern Nevada. Now it is a battery and drive train plant. That has created the Tesla effect. That has been wonderful. We have growth in our economy. With that, we also have this pressure on workers wanting to work for contractors paying the best wages. When we reduce the wages in the schools by 10 percent, which is more like 15 to 20 percent on your paycheck, workers are going to make decisions to not work on those projects.

When you have fewer bids, the contractors realize this. Bid prices go up. It is simple supply-and-demand economics. It ends up costing the school district and therefore the taxpayers more money to build their schools. My friend Tray Abney and I worked very hard on Senate Bill 411 of the 78th Session to fix funding for schools in Washoe County. We got that passed; it was put on the ballot at WC-1. The Chamber and everyone in the Washoe County community worked hard on getting that passed. It passed by the taxpayers. That was wonderful. I think that will create somewhere in the neighborhood of $782 million of construction over the next few years, maybe a decade.

Assemblyman Daly:
I want to follow up on school construction. If contractors, even if they might come from out of state, are signatory to a collective bargaining agreement in hiring union workers, they are going to the local union hiring halls and hiring local workers, regardless of where that contractor is. I wanted to make sure that this is understood for the rest of the Committee. Is that correct?

William Stanley:
Yes. Anytime a contractor signatory to a collective bargaining agreement hires, even if that contractor is not a Nevada contractor, their first source of hiring is the union hall. Those are predominately local individuals who live in that community.

Carole Kilburn, Private Citizen, Las Vegas, Nevada:
My husband and I are both International Brotherhood of Electrical Workers journeymen. I am here in support of A.B. 154. Please allow me a few moments to explain why this bill is so important. In the last two years, my husband has had to travel to several cities in California, including Barstow, Bakersfield, and San Jose, due to lack of work in this beautiful state we call home. My husband is still out of state working to keep our insurance and pay our house note.

My husband was forced to leave me one week after my third major operation this year six months ago to provide health insurance and a paycheck. It is sad to think we can spend our money here in southern Nevada but cannot earn it because working a living wage with

insurance is so difficult. Please help bring our families back together by providing more work for our locally trained and qualified workforce. I believe approving bill A.B. 154 can help do this for not only my family but also thousands of families that make their honest living by building with their hands in construction.
Many people tell me to go without insurance at another job, but that is not an option for us. In 2015, my medical topped out at $2.6 million. In 2016, it topped out at $1.4 million after a bout of septic shock and three major operations. I encountered my husband's presence six times last year. I was in the hospital each time, and the only reason he was there was to make the tough decisions I was incapable of at the time due to my health. Had there been work at home, he would have been home every evening, not just the ones critical to my life. My details may be unique, but my situation is not. Please consider bringing our qualified construction men and women home to their families in our beautiful state.

James Halsey, representing International Brotherhood of Electrical Workers Local 357:
When a bill is passed into law, it should be with the intention to make a positive impact on the community. I am sure that was the plan for Assembly Bill 172 of the 78th Session, but that is not the result. With labor making up about 24 percent of the cost of any construction project, A.B. 172 of the 78th Session amounted to a potential 2.4 percent savings on any school or university project. In the effort to achieve that potential savings, it unknowingly excluded hundreds of contractors and thousands of workers who are bound by collective bargaining agreements. The reality is that no qualified person wants to work for less than what they are worth. This bill will level the playing field and increase competition on school and university projects by guaranteeing that every contractor in the state has an equal opportunity to compete on these projects.

Matt Lydon, Business Manager, Plumbers, Pipefitters HVAC/R Technicians Local 525:
I serve as the liaison between my organization and our partners in the contracting industry. While it is obvious how the cut to area standards on school construction in Nevada has had a negative impact on workers, I would like to address what it has done to the contractors we work with as well as the quality of craftsmanship on school projects. The businesses in the piping industry that have chosen to contract with our organization for their workforce were put at a competitive disadvantage when area standards were reduced on school projects. While they were contractually bound to compensate workers to the standards set by the Labor Commissioner, other contractors, both local and out of state, could pay significantly less. Therefore, this law unjustly put a large segment of Nevada's contractors at a competitive disadvantage.

While my organization did what it could to come to the table and accommodate our partners' needs based on the reduced area standards, it resulted in unfortunate circumstances and led to many businesses withdrawing from the market. Plumbers, Pipefitters HVAC/R Technicians Local 525 prides itself in providing the most skilled and well-trained craftspeople in the industry. Many of you have taken a tour of our training facility and can speak to the extensive quality standards we mandate for our members. If you have not toured our facility, consider this your invitation to see what we offer the community. As the contractors

recognized their competitive disadvantage and withdrew from bidding on school projects, they took the most experienced and skilled workforce available with them, resulting in the life safety systems in the buildings we send our children to every day being constructed by a workforce with unknown and unverified credentials.
While our contractors mandate that the craftspeople they employ meet the industry standards for licensing and certifications, the same cannot be said for the contractors that performed much of the work on school projects during the reduction to area standards. Senate Bill 119 of the 78th Session not only reduced the fair compensation levels of workers across all industries, but it also gave one segment of contractors a competitive advantage over other contractors. It may have reduced the security in the quality of craftsmanship that we should expect in our schools.

Don Campbell, Executive Director, Southern Nevada Chapter, National Electrical Contractors Association:
I am here in support of A.B. 154, and I thank Assemblyman Brooks for bringing this forward. I represent signatory contractors that employ hundreds and thousands of workers in southern Nevada in the electrical construction industry. Senate Bill 119 of the 78th Session had an adverse effect on those contractors. The vast majority of them decided not to bid on the work. They were bound by a collective bargaining agreement. Even if they were not, they are a signatory contractor and they are paying a certain amount. No one wants to reduce that—not by 10 percent because we cannot take off their pension or health plans—by 15 to 20 percent. No one will want to do that to employees. I have had the opportunity of being an apprentice myself, having a career, owning a business, et cetera. I was an electrical contractor. That business took me throughout the world—not just though the United States, but the world. I have had the opportunity of working in countries like Singapore, where building is not a skilled trade. They do not use skilled trades. They would pay $1 an hour to an immigrant from Indonesia or Malaysia. Singapore is a middle-class society. But the construction work is done by nonskilled labor. I have also worked throughout Europe. They do use skilled laborers in Europe, particularly in Germany. The apprenticeship programs in Germany are done and decided in high school. They decide if they will take the academic world through college or the technical and construction world through apprenticeship. They have a great model. I am worried that when we do things for prevailing wage, we are not supporting the apprenticeship programs that are so vital. You have heard that four out of five registered apprenticeship programs in Nevada are done through signatory contractors and their associated unions. That is an important fact. Without it, there are a lot of workers that are not being trained. We need to maintain prevailing wage in a low-bid world. We are in support of project-labor agreements. However, I have seen how it is done in other countries. We will end up there if we do not have a prevailing wage.

Dan Musgrove, representing Mechanical Contractors Association of Las Vegas and Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada:
The Mechanical Contractors Association of Las Vegas and the Sheet Metal and Air Conditioning Contractors' National Association of Southern Nevada comprise the entire slate of signatory mechanical contractors in southern Nevada. They are primarily contractors

performing plumbing, pipefitting, heating, ventilating, air conditioning (HVAC), and duct work in commercial settings. The bulk of these contractors are signatory to both the United Association Local 525 and Sheet Metal, Air, Rail and Transportation Local 88. These are life safety contractors in every sense of the word.
Today we have a number of our contractors represented down south from these two associations, including Hansen Mechanical Contractors, Inc.; MMC Contractors West, Inc.; Bombard Mechanical, LLC; Ryan Mechanical, Inc.; P1 Group, Inc.; and Southland Industries. In the name of brevity, their presence is the proverbial "me too."

The organizations I represent wholeheartedly support A.B. 154. The law currently makes it challenging to procure work in the school and university construction sector. It has created an uneven playing field and significantly impaired unions' ability to compete. These contractors are bound by a collective bargaining agreement, and they do not have the flexibility most normal businesses possess to be nimble and change direction following the passage of new laws or regulations. Plain and simple, these contractors are not allowed to deviate from these agreements. The law as written has created a tremendous amount of confusion for these contractors and their labor partners, who represent the employers. This has resulted in the mechanical industry's best contractors making the tough decision to not bid on projects, which is a lose-lose situation for the public entity, the contractor, the worker, and the end user.

Jack Mallory, representing International Union of Painters and Allied Trades District Council 15:

The last legislative session we were given the devil's choice: whether we would accept concessions to our employers to allow them to be competitive on prevailing wage for education projects in order to create opportunities for work for our members. Because of the recession, it was deemed to be important enough to do so. Even then, we were asked by our members why it was that they were working for less money on a school when they could be working on a project at McCarran International Airport for normal wages. They could be working on a project on Las Vegas Boulevard for normal wages. Really, what it came down to was that they were willing to accept those lower wages because those were the work opportunities available.

As indicated by Mr. Stanley and others, we are still coming out of the economic depression that has hit the construction industry in southern Nevada. The International Union of Painters and Allied Trades District Council 15 is unique compared to other organizations and crafts. Our wet trades—particularly painters, drywall finishers, and wallpaper hangers—do not rely on tower cranes to keep our members busy. We anticipate that in the next quarter, we will clear our bench. Our members will be working on remodel projects on Las Vegas Boulevard, creating a competitive disadvantage for those contractors that active pursue prevailing wage projects, particularly those in higher education, K-12 education, and even those who pursue projects on charter schools. This is a competition issue in our eyes.

As alluded to, there were a number of concessions granted through the legislative process with A.B. 172 of the 78th Session. I participated in the discussions where the 90 percent rule was created, the threshold was raised to $250,000, the charter schools were excluded, and the way prevailing wage itself was calculated. Mr. Hardy was sitting at the table when those discussions were happening. He was actively engaged in those discussions. It could be disingenuous to say that he is not fully in opposition to these things today.

Robert Kolnes, Private Citizen, Las Vegas, Nevada:
The company I am representing performs HVAC testing, adjusting, and balancing in the Clark County market in commercial and new construction. I am here to support A.B. 154 as it is written. I present our support from a unique position. The test and balance industry is a specialized field. We provide strictly labor onto a project in our instrumentations. We do not offer any materials. As a small business, it is a very competitive market. We think competing with an agency from Arizona is unfair, especially with the small margins that we have not been awarded a project by.

We are signatory to Sheet Metal Workers' International Association Local Union 88. We continue to receive valuable training from the JATC. We believe the training we receive keeps us at the lead in test and balance field and life safety. We adjust and operate systems that lead to the efficiency of the awards that Clark County School District has received, as was mentioned. For the life safety side, we work on smoke fire dampers, where we receive training from the International Training Institute certification board. I would like to ask for your support on A.B. 154 as an employee in Las Vegas.

Peter D. Krueger, representing Greater Sacramento Chapter, National Electrical Contractors Association:
As another contractors group, I will just say, "Me too." We recognize the importance of this bill, and we ask for your support of A.B. 154.

Nathan Ring, representing Laborers Local 872 and International Union of Operating Engineers Local 12:
I think it is important to note that this is not a union versus nonunion issue. Even as I sit here as a representative of the labor union, prevailing wage is paid to union members and nonunion members alike on every prevailing wage project. If you are cutting 10 percent of wages on schools, you are saying, "Here is the prevailing wage rate developed by the Labor Commissioner, and for the building of our children's schools, we will do a cut rate and take 10 percent off the top." I do not know what that says about the value or quality we place on our school construction, but I know we are taking money out of our citizens' pockets. That is true whether they are union members or not.

My friend Mr. Hardy began his testimony by asking for more time because he said there were not many people in opposition. He was right. There are not a lot of people in opposition. We are talking about a fair day's pay with a pension, health care, additional training, et cetera. It is difficult for people to be opposed to that. Most importantly, if we are driving down wages, particularly in the construction of our children's schools, we are driving

down the ability and people's desire to get in the construction trades. They see lower wages. They see lower employment opportunities. When fewer people enter the skill trades, our workforce development programs—the things the Governor has talked about for workforce development and building a new Nevada—fall apart. Workforce development has been a priority of the administration. It is also a priority of the Legislature. Bringing back the 10 percent we are taking off our children's schools is very important to developing our workforce and continuing to protect the workers in Nevada.

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:
Please do not be fooled by the opposition's remarks making this a union versus nonunion situation. It is not. This is about Nevada workers, Nevada contractors, bringing jobs back to Nevada, ensuring Nevada workers are paid, making sure that sales taxes stay in Nevada, and that the wages paid in Nevada stay in Nevada to support the businesses in our communities. For the opposition to talk about children and taxpayers—well, every one of the workers on these jobs are taxpayers. A large number of those have children in these same schools. You cannot separate that out. They have the same concerns. They just want to work. In southern Nevada that is not happening. We ask that you work with us to bring these jobs back, help us stay in Nevada, and let us bring the new Nevada to the whole state.

Pat Treichel, Private Citizen, Las Vegas, Nevada
I am feeling out of place here. I am not a lobbyist, politician, or attorney. I did not plan on coming up here, but after listening to everyone, I am in support of A.B. 154.

I would like to thank Assemblyman Brooks for the courage to bring forward a bill to raise wages. In this country wages are falling, the cost of living is going up, et cetera. I think we need to be very careful of not getting caught up in a race to the bottom when it comes to wages. We are talking about a 10 percent shift, but that shift was down. With that, we lost some of the brightest, best-qualified, and skilled labor working these jobs.

We see the change in technology. We have LED lamps in our homes. Why would we go with them? They cost more today, but they save us money in the long run. The best labor has shown that it may cost a bit more, 10 percent, on the front end. But on the back end when these schools are opened, they may save us money later.

I am a product of the Clark County School District. My wife and my son are teachers. One is in a Title I school, and the other is in a high-end school in Summerlin. They will both tell you, it does not matter how nice the building is. It is secondary to the support they have at home. That is coming from parents who work these jobs and have insurance, higher wages, et cetera.

Ruben R. Murillo, Jr., President, Nevada State Education Association:
I am here representing the 40,000 teachers and education support professionals across Nevada (Exhibit N). I am also a special education teacher. We are speaking in support of A.B. 154. Investing in our community is an investment in our schools. We see this through a lens of fairness and improving wages and working conditions for everyone in and around school communities.

When parents of our students are taken out of state to seek work, it creates a vacuum in terms of their participation in their children's education. Since we are working in those schools that are constructed, we should have a high-quality school that will benefit educators and the school community.

Priscilla Maloney, Government Affairs Retiree Chapter, American Federation of State, County and Municipal Employees:
We are here today because we were concerned about and opposed to what we saw as the assault on prevailing wage laws in 2015. We see this as a remedial and restorative piece of legislation. We thank the sponsor for bringing this forward. This is a working families issue in Nevada. When we lift up our brothers and sisters who do this work, we are making our entire state a better community to live in. We also attract those who want to live here, pay taxes here, and go to school here. We are in support of A.B. 154 as written. My recollection of the situation in 2015 is commensurate with what Mr. Mallory and Assemblywoman Neal referenced.

Robert A. Conway, Business Agent, International Association of Bridge, Structural and Ornamental Iron Workers:
Probably 75 percent of my workers are on the road. In regards to things Mr. Hardy said, some of the surveys are being based on national data. There are a few project labor agreements close to us. One is the Los Angeles Unified School District, which is about 15 years old right now and approaching $16 billion. Four out of ten contractors are working on that project. It is open shop. The same is true for the Los Angeles Community College District. It is bad when a majority of your members are working out of town.

I even have wives and children coming by the office asking when projects will start so they can see if their pop is back in town. It is pretty hard on the family with members out of town. It is not just about taking another job. Once you go through a four- to five-year apprenticeship program, you want to keep earning benefits towards your pension, health, and welfare. As far as numbers go, we have those school districts next to us where you can compare numbers. Assemblyman Kramer wants to look at numbers. Those are things happening right now. They have been going on for 15 to 16 years. I know this is more in regards to prevailing wage, not project labor agreements. But down there, the prevailing wage and the project labor agreements are tied together. It is easy to see the real-world benefits; 90 percent of the projects down there are coming in at 10 percent ahead of the original engineer's estimates. It is a good place to find data about that.

Assemblyman Brooks:
I appreciate the in-depth conversation about this very important issue this morning. I want to clarify one thing. I think the K.O. Knudson project that Mr. Hardy referenced is a good project to talk about. It demonstrated what can happen. They bid the job a few days before the bill passed that lowered the prevailing wage. When they first bid, they had four bidders. The high bid was $3.9 million; the low bid was $2.7 million. When they changed the law to lower prevailing wage in those schools, two things happened: they got the chance to rebid the project and the $2.7 million bidder went back up to $3.7 million, and the high bidder came back with another bid of $3.65 million. It created some chaos and a lot less competition. It did not have the intended effect. I think that is the point these presenters made today. You lose the qualified contracting pool when you take prevailing wage out of the equation or lower it to the point that it is not effective anymore.

Chairman Flores:
I will close the hearing on A.B. 154. Is there any public comment? [There was none.] This meeting is adjourned [at 10:53 a.m.].

RESPECTFULLY SUBMITTED:

_____
Isabel Youngs
Committee Secretary

APPROVED BY:

_____
Assemblyman Edgar Flores, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a letter dated February 3, 2017, in support of Assembly Bill 57 to Chairman Flores and members of the Assembly Committee on Government Affairs, from Adam Laxalt, Attorney General, Office of the Attorney General and presented by Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General.

Exhibit D is a proposed amendment to Assembly Bill 57 presented by John Fudenberg, Assistant Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County.

Exhibit E is a document titled "AB 154 – Heard in Assembly Government Affairs Committee on Wednesday, March 8, 2017," presented by Assemblyman Chris Brooks, Assembly District No. 10, regarding Assembly Bill 154.

Exhibit F is a copy of an article titled "Contracting that Works," by Karla Walter, David Madland, Paul Sonn, and Tsedeye Gebreselassie, dated November 13, 2015, published by the Center for American Progress Action, submitted by Assemblyman Chris Brooks, Assembly District No. 10, regarding Assembly Bill 154.

Exhibit G is a document titled "The Benefits of State Prevailing Wage Laws," dated October 3, 2011, published by the Keystone Research Center, submitted by Assemblyman Chris Brooks, Assembly District No. 10, regarding Assembly Bill 154.

Exhibit H is a document titled "The Benefits of State Prevailing Wage Laws," by Mark Price and Stephen Herzenberg, dated October 3, 2011, published by the Keystone Research Center, submitted by Assemblyman Chris Brooks, Assembly District No. 10, regarding Assembly Bill 154.

Exhibit I is a table titled "Assembly Bill 154 Section-by-Section Explanation Table," presented by Assemblyman Chris Brooks, Assembly District No. 10, regarding Assembly Bill 154.

Exhibit J is a copy of an article by the Guinn Center for Policy Priorities titled "As Charter School Enrollment Rises in Nevada, Need for More Funding Becomes Apparent," by Megan Rauch, dated May 6, 2016, regarding Assembly Bill 154, submitted by Pat Hickey, Executive Director, Charter School Association of Nevada.

Exhibit K is a letter in opposition to Assembly Bill 154 to Chairman Flores and members of the Assembly Committee on Government Affairs, authored and presented by Pat Hickey, Executive Director, Charter School Association of Nevada.

Exhibit L is a document titled "SAGE Commission Final Report," dated January 2017, submitted by Pat Hickey, Executive Director, Charter School Association of Nevada, regarding Assembly Bill 154.

Exhibit M is *New York Charter School Ass'n v. Smith*, 15 N.Y.3d 403 (2010), submitted by Pat Hickey, Executive Director, Charter School Association of Nevada, regarding Assembly Bill 154.

Exhibit N is written testimony authored by Ruben R. Murillo, Jr., President, Nevada State Education Association, dated March 7, 2017, regarding Assembly Bill 154.

EXHIBIT 2

MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-ninth Session
April 26, 2017

The Senate Committee on Government Affairs was called to order by Chair David R. Parks at 1:40 p.m. on Wednesday, April 26, 2017, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator David R. Parks, Chair
Senator Mark A. Manendo, Vice Chair
Senator Julia Ratti
Senator Joseph P. Hardy
Senator Pete Goicoechea

GUEST LEGISLATORS PRESENT:

Assemblywoman Irene Bustamante Adams, Assembly District No. 42

STAFF MEMBERS PRESENT:

Jennifer Ruedy, Policy Analyst
Heidi Chlarson, Counsel
Rick Combs, Director
Suzanne Efford, Committee Secretary

OTHERS PRESENT:

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Randall E. DeVaul, P.E., Director, Utilities, City of North Las Vegas
Kelly Crompton, City of Las Vegas
Tammi Davis, Treasurer, Washoe County; Association of County Treasurers of Nevada
Brett Kandt, Chief Deputy Attorney General, Office of the Attorney General
John Fudenberg, Coroner, Clark County; Clark County

Rose Marie Floyd
Arlene Rivera, Ombudsman, Office of Ombudsman for Victims of Domestic Violence, Office of the Attorney General
Annette H. Scott, Director of Advocacy, S.A.F.E. House
Kimberly Mull, Nevada Coalition to End Domestic and Sexual Violence
Robert Roshak, Nevada Sheriffs' and Chiefs' Association
John T. Jones Jr., Nevada District Attorneys Association
Ryann Juden, City of North Las Vegas
Omar Saucedo, Southern Nevada Water Authority; Las Vegas Valley Water District
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Scott Anderson, Chief Deputy, Office of the Secretary of State

CHAIR PARKS:
We will open the hearing on Assembly Bill (A.B.) 8.

ASSEMBLY BILL 8 (1st Reprint): Revises provisions governing the collection of delinquent municipal utility charges. (BDR 21-323)

WES HENDERSON (Executive Director, Nevada League of Cities and Municipalities):
Under *Nevada Revised Statutes* (NRS) 268.043, the governing body of a city has the authority to adopt an ordinance to have delinquent sewer bills placed on the property tax roll for collection. This bill seeks to expand this authority to include other municipal utilities. As introduced, the bill changes the word "sewerage" to "utility service." The word "utility" is overly broad and could lead to confusion.

We became aware of a similar statute, NRS 244.36605 that authorizes a board of county commissioners to place delinquent bills for sewerage, storm drainage or water service, or any combination of these services on the property tax roll for collection.

Assembly Bill 8 was amended in the Assembly to define utility services as sewerage, storm drainage or water service or any combination of those services. This aligns the authority that incorporated cities will have with the existing authority that counties have. In addition, it makes clear what municipal utilities could be placed on the tax roll for collection. We are seeking this authority as a collection method of last resort.

Our members are aware that placing a delinquent bill on the tax roll can have serious consequences. These consequences could possibly include selling property at a public auction to satisfy the property tax bill. Our members would not use this authority lightly or without careful consideration but only as a last resort.

SENATOR GOICOECHEA:
Is waste disposal included in utility service?

MR. HENDERSON:
No, only sewer, water and storm water are included.

SENATOR RATTI:
I understand that would place a lien against the property on the property tax bill. What level of priority is that lien?

MR. HENDERSON:
It is our understanding that it would have the same priority as property taxes.

SENATOR RATTI:
Before we get to the work session on this bill, perhaps Counsel could confirm how the priority lien status would work in this situation.

CHAIR PARKS:
What is the difference between sewage and sewerage?

MR. HENDERSON:
That may be a question for Counsel also.

CHAIR PARKS:
I always thought sewerage was an archaic term. However, it is well-embedded in our statutes.

RANDALL E. DEVAUL, P.E. (Director, Utilities, City of North Las Vegas):
The City of North Las Vegas supports A.B. 8 for all of the reasons that Mr. Henderson has mentioned. However, it is important that the City of North Las Vegas is able to do this. We have always been able to do it on the sewerage end; however, it has never been done because water and sewer fees

are billed at the same time on the same bill. It is quite tedious to separate the two.

This will be another tool in our arsenal. Approximately $1.8 million in delinquent sewer charges are over 2 years old. We want to focus on those charges. We have several delinquent multifamily accounts. They simply do not pay their water and sewer bills. Our options are to place a regular lien on the property, which we will not collect until or if the property is sold; to shut their service off, which is problematic from a health standpoint; or try to sue, which we may or may not win. We spend much money trying to sue. Typically, that results in a settlement agreement that is much less than what we would like to collect. This penalizes the rest of our customers. We have 87,000 water customers. They are subsidizing the people who do not pay. I want to reiterate that being able to collect on past due accounts is another tool in our arsenal.

SENATOR HARDY:
Does that mean that they are also delinquent on their water bills because it is difficult to separate water and sewer?

MR. DEVAUL:
Yes, they are delinquent on both water and sewer. They get one bill but it is separated into a water bill and a sewer bill.

SENATOR HARDY:
So that means the water bill is delinquent. Do you need authority for water bill delinquencies also, or do you already have that?

MR. DEVAUL:
At this point, we do not put any kind of tax lien on the books, even for sewerage. This will be used as a last resort. If they are delinquent on their sewerage, they are also delinquent on their water bill because we bill them together. They are going to stay delinquent until we shut off their water, sue them, or put a lien on their property and then decide to sell their property.

SENATOR HARDY:
Do you need authority to put a lien on their property for their delinquent water bills also because you cannot separate it?

MR. DEVAUL:
That is correct. For the City of North Las Vegas, the bill is for water predominantly. We do not have any charges for storm drainage. We are interested in water specifically. We need this authority to apply a tax lien.

SENATOR HARDY:
Does the bill address water as well as sewer?

KELLY CROMPTON (City of Las Vegas):
The City of Las Vegas supports A.B. 8. The City of Las Vegas already does this for its sewer utilities. It does charge for any other utility services.

TAMMI DAVIS (Treasurer, Washoe County; Association of County Treasurers of Nevada):
The Association of County Treasurers is neutral on A.B. 8. We recognize that it is a policy decision to add this to the tax bill. However, from a treasurer's perspective, I would like to add the implications. This would be something I would do regardless of what charges were being added. It is important to be aware of the implications as these decisions are made.

Nevada Revised Statutes 268.043 directs that these charges, if they are added, be "collected on the tax roll in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes." To us that means they carry that same super priority lien. At the end of the day, if they remain unpaid I would be required to sell that property. That may or may not be appropriate.

Because this is a method of last resort for collections, I want to make sure that you are aware that I have seen quite a few instances where this can double someone's tax bill. Perhaps someone is going along and is able to pay his or her bill; however, with these additional charges he or she is no longer able to do that. It could cost that person his or her home or property. That does not happen often, but this year in Washoe County at least four properties were in those circumstances based on the current authorized additions to the tax bills.

SENATOR RATTI:
I want to make sure I understand. It is correct that we are able to do this for delinquent sewer bills now.

MS. DAVIS:
Cities can do it for sewer bills now. The county can do it for water and sewer bills. They want this language for the cities.

SENATOR RATTI:
This would make it consistent across counties and cities.

MS. DAVIS:
That is correct.

SENATOR RATTI:
I agree with you. In my eight years on the Sparks City Council, there was only one. Does that sound correct?

MS. DAVIS:
Actually, in Washoe County this year, Sparks and Reno together had over 2,500 parcels that were added to the tax roll. Washoe County added another 500. Therefore, this affects 3,000 parcels for the current tax year.

SENATOR RATTI:
We only pushed one to the point of selling.

MS. DAVIS:
I do not know how many were pushed to the point of selling.

SENATOR GOICOECHEA:
Do taxes have to be delinquent for three years or five years before they can be offered for sale?

MS. DAVIS:
They are delinquent for four years by the time we go to sell.

CHAIR PARKS:
I received a call from a constituent who had apparently not paid a sewer bill for some time. She was saying that there was a compounding effect on the penalties. She was charged interest and penalty fees in Clark County. Do other jurisdictions impose both penalty and interest fees?

MS. DAVIS:
She is likely referring to the fact that late fees accrue during the time the delinquency runs on the city or county books. Those are turned over to the treasurer. If they remain unpaid, they accrue penalty and interest charges as a delinquent tax would.

MR. HENDERSON:
I want to point out that within Clark County the only two entities that cannot put delinquent water or storm drain bills on the property tax rolls are the Cities of Henderson and North Las Vegas. The Las Vegas Valley Water District, the Virgin Valley Water District and Clark County have authority to do that.

SENATOR RATTI:
If I recall correctly, the City of Sparks has a sewer appeals board. Therefore, before a sewer bill is put on the tax rolls, there is a process where the resident could go to the appeals board and work out a payment plan. Sometimes the fees and penalties could be waived. Does that sound right to you? Is that done in all jurisdictions? Does law require it?

MR. HENDERSON:
There are processes where customers can work with the utility on a payment plan. This bill is a tool of last resort. Before any charges can be put on a tax roll, the governing body would have to adopt an ordinance at a public meeting that would list all of the assessor's parcel numbers to be placed on the tax roll. It is always better to work something out before going to this drastic step.

SENATOR RATTI:
This legislation does not trigger or mandate placing that delinquency on the tax roll. Nothing prevents all of those other processes from happening.

MR. HENDERSON:
You are correct.

CHAIR PARKS:
We will close the hearing on A.B. 8 and open the hearing on A.B. 57.

ASSEMBLY BILL 57 (1st Reprint): Revises provisions relating to coroners. (BDR 20-375)

BRETT KANDT (Chief Deputy Attorney General, Office of the Attorney General):
I have submitted written testimony on behalf of Attorney General Adam Paul Laxalt (Exhibit C).

This bill is being brought on behalf of crime victims. Its purpose is straightforward but important. It will ensure that when a person dies, especially because of a homicide, everything is done that reasonably can be done to notified the decedent's loved ones.

JOHN FUDENBERG (Coroner, Clark County):
I would like to thank Rose Floyd who tragically lost three family members in 2015. Rose initiated this bill because of problems she had in being notified of the death of her daughter. The legal next of kin was the suspect in the murder, so there were some complications. This bill will take care of many of the problems she went through and that other families have gone through in the past.

I support A.B. 57. We worked with the sponsor on the language. We made some friendly amendments in the Assembly, and we are where we need to be with the language. I have been in contact with Laura Knight, M.D., Chief Medical Examiner and Coroner, Washoe County Regional Medical Examiner's Office. She and Robert Roshak, Nevada Sheriffs' and Chiefs' Association, support this bill. This bill would be beneficial to all coroners in Nevada for obvious reasons.

MR. KANDT:
We would like to have Ms. Floyd tell her story.

ROSE MARIE FLOYD:

> I am Veronica Caldwell's mom. March 4, 2015, I get up early as I normally do, make a cup of coffee and turn on the news. There it is. A triple homicide/suicide in the apartment complex where my family lived. I remember thinking, oh, my God, how tragic for those poor people.
>
> I called my daughter Veronica to talk to her about what happened in her apartment complex, but no answer. I hung up thinking she's probably in the shower. So I called back at 6:00 a.m. We spoke every morning at 6:00 a.m. But, still no answer. At this point, I am

in absolute panic mode. My phone rings and it's a neighbor of Veronica's. She asks me, are you watching the news? I think it is Veronica's apartment. I remember thinking, no, it can't be my girls. I would have been notified.

I immediately called Metro to inform them of the homicide in Veronica's apartment complex and to tell them that I haven't heard from my daughter. They took Veronica's and Yvonne's names and said they would check on it … . Shortly after, the Coroner's Office calls and verifies that, in fact, Veronica and Yvonne were murdered.

March 3, 2015, my daughter Veronica, my granddaughter Yvonne Rose Reyes and her boyfriend Corey Childers were chased down and shot to death by Veronica's husband, Blake Widmar, in a triple homicide/suicide at approximately 10:15 p.m.

The lone survivor to this brutal murder was my eight-year-old niece, Carly Trujillo, who ran for her little life that night with her murdered family. After Blake shot Veronica, Yvonne and Corey, he cowardly ran back to their apartment and shot himself in the head. He was found suffering from a single self-inflicted gunshot wound but was still alive.

The next thing I can remember, the paramedics were standing over me telling me to breathe. Once I could compose myself, I called the Coroner back and asked if I could come down and identify my daughter. The voice on the other end of the line said, I'm sorry. You're not considered her next of kin. Her next of kin is her husband. What how can that even be possible? I thought he killed her.

Adding insult to injury, I was told that as long as Blake was alive, I would have no rights to her body, and furthermore, should he survive, I will need to petition the court to get the rights to my daughter. I remember hanging up the phone and just screaming. No words would come out.

Later that day, I was told that Blake probably wouldn't survive and that the doctors were keeping him alive to harvest his organs. In the meantime, my Veronica lay in the Coroner's Office alone and unclaimed. It was like she didn't matter. Like she didn't have a mom. I couldn't see my baby and say I'm here, Veronica. You're not alone. You matter to me. I couldn't get to her because I didn't have the rights to her murdered body and there wasn't anything that I could do about it because her next of kin was technically still alive.

If that wasn't devastating enough, I was also told that Veronica survived for an hour after the brutal shooting. She was transported to UMC where she died alone. I should have been there. I should have been with her as she took her last breath. It was my right as her mom. Had I been notified, I could have held her. I was thrown into a state of hysteria that still haunts me every single day.

March 5, 2015, Blake passed. It was only then that I was allowed to identify my only child. Veronica's life was stolen from her by a senseless and brutal act of gun violence. I feel my rights as a mother were stolen from me by a defect in the law.

Respectfully, I ask the members of this Committee to pass Assembly Bill 57 and to consider naming this legislation Veronica's Law after my daughter. This law would ensure that no mother or parent would have to go through the trauma and confusion I faced on March 4, 2015.

Thank you for your time and allowing me to tell Veronica's story.

CHAIR PARKS:
Thank you, Ms. Floyd. Please accept our condolences. I know how difficult this is.

ARLENE RIVERA (Ombudsman, Office of Ombudsman for Victims of Domestic Violence, Office of the Attorney General):
I want to ask you to consider passing this law because there is not another parent who can through what Ms. Floyd has gone through. I want to let you know that here in the south, Rose has the support of the domestic violence

community. She is being supported by Safe Nest, Elynne Greene with the Las Vegas Metropolitan Police Department and Annette Scott from S.A.F.E. House.

ANNETTE H. SCOTT (Director of Advocacy, S.A.F.E. House):
As domestic violence advocates, we understand the importance of laws for survivors of intimate or domestic homicide. We would like to go on record in support of A.B. 57, also known as Veronica's Law.

The rights of a parent, a mother, a father, a sibling or a child should not be denied because of a minor deficit in the law. This is a terrible tragedy for anyone who is a survivor of an intimate or domestic partner homicide. The additional pain caused by weak laws, which can be avoided, compounds it.

I am reaching out to you to please take the time and make a difference in the lives of people like Ms. Floyd. I hope this law will never have to be used again. That would be amazing, but, unfortunately, the reality is that in this society intimate partner violence is very much a part of our world.

I encourage you all to think of the survivors of victims of crime and make a difference by naming this Veronica's Law, supporting it and passing it, please.

KIMBERLY MULL (Nevada Coalition to End Domestic and Sexual Violence):
I have submitted written testimony supporting A.B. 57 (Exhibit D).

I hope you recognize that Ms. Floyd has worked diligently over the last year to bring this issue forward in memory of her daughter. We would love to see this named after her daughter and called Veronica's Law.

ROBERT ROSHAK (Nevada Sheriffs' and Chiefs' Association):
We support A.B. 57. We appreciate the Attorney General bringing this forward and working with us on the language to make it feasible for the rural sheriffs.

SENATOR GOICOECHEA:
In the case we are talking about, the victim died later in the hospital. The coroner would be on scene to declare the person deceased. However, if the person was transported to the hospital, it becomes the doctor's duty. The reason I am asking is that there are issues in eastern Nevada regarding who signs death certificates.

When the victim is transported by ambulance to a hospital, who makes the call that the person is deceased?

MR. FUDENBERG:
If a person is transported to a hospital and dies at the hospital, the attending physician will pronounce death. Outside of the hospital, it is the coroner or his or her designee who pronounces the death.

SENATOR GOICOECHEA:
Typically, the coroner would not go to the hospital. This would not affect you as the coroner. Whose duty is it to notify the next of kin that the person is deceased?

MR. FUDENBERG:
It does not matter who pronounces the death. In both scenarios, it is the coroner's duty to notify the next of kin.

SENATOR GOICOECHEA:
Would you do that if it were 24 or 48 hours later?

MR. FUDENBERG:
Yes, that is correct.

CHAIR PARKS:
In the 15 rural counties, is it the sheriff's duty to find the next of kin?

MR. ROSHAK:
The sheriff or his or her designee would do that.

SENATOR GOICOECHEA:
This is only in cases of homicide or accident. If an individual is transported by ambulance out of a small community like Austin, does the sheriff have to follow up on the fact that the person died in Churchill County? The sheriff in Lander County would be the coroner.

MR. FUDENBERG:
The coroner in the jurisdiction in which the death occurs would follow up. It depends if the coroner takes jurisdiction over the investigation of that death. Those criteria are listed in statute. If the local coroner takes the jurisdiction,

then yes, the coroner is responsible for making the notification. If not, that generally falls on the hospital staff. Most hospitals have social workers who would handle that. At least, that is how it is handled in Clark County.

SENATOR GOICOECHEA:
If the sheriff in a rural district determines it is something he needs to investigate, then he would assume that role and it would become his duty no matter the time involved.

MR. ROSHAK:
Yes, that is correct.

SENATOR RATTI:
That was all very helpful. Are we solving the other part of the problem that this family experienced? Before the victim passed, she was alive for a time. Is the hospital allowed to notify next of kin? Could the social worker have notified anyone besides the husband?

MR. FUDENBERG:
I do not think there is a law that governs who the social worker notifies. But generally, at least in Clark County, we have good working relationships with all the hospitals and we coordinate that. The hospitals would rather we make that notification. So in this case, Rose could have been notified. It did not matter that the husband was still alive.

SENATOR RATTI:
I was talking about the time during which the victim was alive.

MR. FUDENBERG:
I cannot speak for the hospitals and what their statutory responsibility is; however, my understanding is that the hospitals would reach out to the family members.

When these types of situations occur, many things are under investigation. We may not know whether the victim is alive or deceased. We may not know the victim's identity for quite some time. That may delay the process also.

SENATOR HARDY:
The HIPAA is involved if the person is living. Who can be notified when you are investigating someone, or suspect someone who is barely living and who is the perpetrator? We have not solved that or the release of the body. I have a problem. What are we doing?

MR. KANDT:
The release of the body was resolved in section 54 of S.B. No. 286 of the 78th Session. The additional issue was not resolved through that legislation. That is the purpose of A.B. 57.

SENATOR HARDY:
So it was not resolved for this wonderful mother because we had not passed it yet in the Seventy-eighth Session.

MR. KANDT:
I do not know when S.B. No. 286 of the 78th Session went into effect. The disposition of the body in a domestic homicide was resolved. The issue of notification still needs to be resolved.

SENATOR HARDY:
How are we resolving the issue of the person who is still living?

MR. KANDT:
That may still need to be addressed. That is not addressed in A.B. 57. Assembly Bill 57 obviously deals with the scope of the coroner's duty and authority. This bill will grant the coroner the authority to make reasonable efforts to notify loved ones under those circumstances. We hope to address this through A.B. 57.

We still need to address the hospital's authority. My office would be happy to follow up on that in future legislation.

SENATOR HARDY:
I agree with what you are doing; however, it seems to me that we have not solved the whole problem.

SENATOR RATTI:
I agree that we are not solving the whole problem. There is still that piece where the victim is alive. I understand that in this case she was alive for a very short time. Maybe she was not even identified. However, if she was alive for longer, is the hospital prohibited from notifying the next of kin? I would like to know the answer to that question.

We have some time. If you are open to an amendment, I would like to work with Counsel to determine if we can solve the whole problem now rather than wait another two years. Maybe that problem does not exist. So let us do some work to find out. Maybe the hospitals have more flexibility. I am not sure, but I would like to work on that. I am assuming that others would as well.

There was a request that the bill be named after Veronica. Is that something we have to amend into the bill? I know that there were other cases in which a law was given a name.

HEIDI CHLARSON (Counsel):
If it were the intent to put the name of the law in the bill, then yes, it would require an amendment. You could add a preamble, whereas clauses or something to that affect. Right now, the bill is not designating being named in honor of anyone. If that were the pleasure of the Committee, then that would require an amendment.

SENATOR RATTI:
I would like to ask for that if the sponsor is amenable.

MR. KANDT:
My office would certainly be supportive of naming this Veronica's Law.

CHAIR PARKS:
Is this a common situation in other states? Have they resolved their issues? Nevada is more transient than other states.

MR. FUDENBERG:
I do not know. We have two different Listservs within the medical/legal profession. I have not heard of this situation being an issue in other states through the Listservs and some of the networks with which we communicate. I have not heard of it, but that does not mean it is not an issue.

CHAIR PARKS:
Are there extended periods in the Coroner's Office when you are unable to reach someone who would be an heir or a next of kin?

MR. FUDENBERG:
There are quite a few cases where we cannot reach the next of kin, especially in the Clark County area. As you can imagine, people tend to go there to lose their families. That makes it more difficult. We get many international visitors. That also complicates and delays the notification, not to mention the identification. That is our first step. We have to identify the decedents prior to notifying their next of kin. Therefore, both of those can be delayed by many different circumstances.

CHAIR PARKS:
I had a personal experience where I had known an individual for more than a decade. Unfortunately, he committed suicide. At least two weeks afterwards, I received a call from the coroner's office asking me if I knew this individual and any of his kin. During that period, inquiries had been made to other people who might have known him. The only thing I was able to say was that I knew he had a sister and that she lived in the state of Maine in a very small town. I am presuming with that information the coroner's office was able to make contact. It was surprising that so much time had elapsed.

JOHN T. JONES JR. (Nevada District Attorneys Association):
The Nevada District Attorneys Association supports A.B. 57 and supports it being called Veronica's Law.

I want to thank Rose Floyd. I first met her a little over a year ago through an attorney who works in the Clark County District Attorney's Office. When I met Rose, she told me her heartbreaking story and the tragic events involving her daughter. That experience led Rose to reach out to both the Attorney General's Office and the Coroner's Office in Clark County to make the changes presented in A.B. 57.

The Nevada District Attorneys Association is appreciative of the efforts of this Committee to fix the entire situation regarding Rose's heartbreaking experience.

CHAIR PARKS:
We look forward to putting an amendment on this bill and bringing it back for a work session.

We will close the hearing on A.B. 57 and open the hearing on A.B. 79.

ASSEMBLY BILL 79 (1st Reprint): Revises provisions relating to economic development. (BDR S-404)

RYANN JUDEN (City of North Las Vegas):
During the Twenty-ninth Special Session, this Legislature designated the Southern Nevada Water Authority (SNWA) as the water service provider in the Garnet Valley, which is the Apex Industrial Park. One of the primary purposes for doing this was to ensure that the water asset being installed at the Apex Industrial Park was being done under the project labor agreement of the SNWA.

Shortly after the Twenty-ninth Special Session, a number of different issues arose. Some of the issues were with our current customers in Garnet Valley who had history with the City of North Las Vegas billing and working with them as the former water service provider. Another issue arose with businesses that were in the process of deciding to develop out there. They had already gone through some of the permitting processes within the City of North Las Vegas. They were concerned that they were going to have to start the permitting process over again.

Another issue occurred after the Twenty-ninth Special Session when the different entities started working on putting together the different infrastructure components for which each was responsible. The City of North Las Vegas was responsible for providing the design, engineering and construction of the wastewater facility at Apex.

During the Seventy-eighth Session, the City of North Las Vegas worked on a bill that allowed it to go into the private sector to seek funds in order to try to get some of the infrastructure built at Apex. Right away, some of those lenders were concerned about what had happened during the Twenty-ninth Special Session of the Legislature regarding moving the provision of water service from the City of North Las Vegas to a different entity. They liked having the water and sewer assets coupled. There are some practical reasons for that. One is that you cannot shut off the sewer if a person does not pay bills, but you can

shut off the water. It is also important because sewer is the least desirable of the two assets but they are usually coupled. The receipts for both sewer and water bills are bonded together.

So the City of North Las Vegas sat down with SNWA and Clark County and discussed some of these issues. They all agreed that there was probably a different structure that needed to put in place for all their customers. The governing bodies of the City of North Las Vegas and SNWA entered into an interlocal agreement. That interlocal agreement preserved the legislative intent to ensure that the water asset was to be constructed by the SNWA. It also returned the water service provision to the City of North Las Vegas. That meant the City of North Las Vegas would continue billing, connecting customers to the water service and the permitting process.

When A.B. 79 was going through the Assembly, there were concerns with some of the language regarding the "look-back" provision that had been deleted in the original draft by the Legislative Counsel Bureau (LCB). That was restored in both the Assembly and through a personal amendment by the majority leader in the Assembly to ensure that the "look back" provision in S.B. No. 3 of the 29th Special Session remained. The second friendly amendment that was supported by the City of North Las Vegas was from SNWA which stated that the law would go into effect upon passage.

SENATOR GOICOECHEA:
The water service provider will be the Las Vegas Valley Water District (LVVWD) rather than SNWA going forward.

MR. JUDEN:
The water service provider will be the City of North Las Vegas moving forward.

SENATOR GOICOECHEA:
Where did I miss that in the bill? The language I see says the LVVWD. Does the statute need to say the City of North Las Vegas?

MR. JUDEN:
No, it does not. The Las Vegas Valley Water District Act makes the City of North Las Vegas the water service provider. During the Twenty-ninth Special Session, the Act was amended for Garnet Valley to make the SNWA the water service provider. We are taking that provision from the Twenty-ninth Special

Session of the Legislature out, which then reverts the water service provider to the City of North Las Vegas.

SENATOR GOICOECHEA:
Existing statute makes the City of North Las Vegas the provider in the LVVWD.

MR. JUDEN:
Yes, before December 2015.

CHAIR PARKS:
You have to reflect back to the Twenty-ninth Special Session. A specific action was taken there and this simply reverses that special action.

OMAR SAUCEDO (Southern Nevada Water Authority; Las Vegas Valley Water District):
The SNWA and the LVVWD support A.B. 79. Since the passage of the bill in the Twenty-ninth Special Session, we have had regular meetings with the City of North Las Vegas regarding the water system that is being installed in Garnet Valley for the Apex Industrial Park.

The City of North Las Vegas approached us last year about this bill and we agreed to support the measure during this Session. Part of the agreement was that we wanted to ensure that the conservation measures used in the City of North Las Vegas would reflect the conservation measures used in the LVVWD. The City of North Las Vegas agreed that would be the case. Therefore, we are happy to support this bill as it moves along in the process.

PAUL MORADKHAN (Las Vegas Metro Chamber of Commerce):
The Las Vegas Metro Chamber of Commerce is also the local chamber of commerce for the City of North Las Vegas businesses. The Las Vegas Metro Chamber of Commerce supports the idea that all the billing for building, permitting and bill processing be kept within one entity. This will allow the process to be streamlined through the City of North Las Vegas. The Las Vegas Metro Chamber of Commerce supports A.B. 79.

CHAIR PARKS:
We will close the hearing on A.B. 79 and open the hearing on A.B. 476.

ASSEMBLY BILL 476: Revises provisions relating to notaries public. (BDR 19-1163)

SCOTT ANDERSON (Chief Deputy, Office of the Secretary of State):
I have submitted a written presentation of A.B. 476 (Exhibit E).

SENATOR HARDY:
Regarding remote versus electronic notarization, if I go to a notary and I sign the pad with my finger, that is electronic, but if I sign right here and it goes somewhere else, that is remote.

MR. ANDERSON:
It could be that you just type in your signature. As with traditional notarization, with an electronic notary, there would be a person present. The notary would be sitting across from you. You would type your name in on a keypad and the notary would authenticate that you sat before him or her. The notary would attach his or her seal to the electronic document.

SENATOR HARDY:
Is the seal electronic?

MR. ANDERSON:
An electronic attachment can be attached to the electronic version of the document.

SENATOR HARDY MOVED TO DO PASS A.B. 476.

SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

* * * * *

CHAIR PARKS:
We have one more bill before us today, A.B. 464. We will open the hearing on A.B. 464.

ASSEMBLY BILL 464: Revises provisions governing certain reports required to be submitted by or to certain governmental entities. (BDR 18-542)

ASSEMBLYWOMAN IRENE BUSTAMANTE ADAMS (Assembly District No. 42):
I am presenting A.B. 464 on behalf of the Legislative Commission. Under NRS 218D.380, the Legislative Commission is directed to review the list of reports submitted to the Legislature that have been in existence for four or more years and to consider whether the reports should be repealed, revised or continued. This bill addresses those duties.

The Commission also considers the costs and benefits of the report and whether the information is available from another source. The genesis of this biennial review goes back to the Seventy-seventh Session when Assemblywoman Teresa Benitez-Thompson and Assemblywoman Marilyn Kirkpatrick worked with Senator Debbie Smith to review the hundreds and hundreds of reports required to be submitted to the Legislature each year. The passage of A.B. No. 350 of the 77th Session and S.B. No. 405 of the 77th Session set up the review process and eliminated a number of outdated reports.

Assembly Bill No. 457 of the 78th Session was passed to continue the weeding and pruning of these reports. The bill before you today is literally a housekeeping bill. It will save agencies time and money by eliminating reports that are no longer needed and will benefit the public by converting paper reports to reports posted online. This is a cost-effective way to make information accessible.

RICK COMBS (Director):
Sections 1 and 2 of the bill address reports that are required from the Committee on Domestic Violence and the Council for the Prevention of Domestic Violence. The Committee is required to submit a report that summarizes its work during the year and any recommendations it has for domestic violence legislation.

Section 1 would eliminate the report required from the Committee on Domestic Violence but add it to the list of entities from which the Council for the Prevention of Domestic Violence should seek comments and recommendations. The Council is then required to include the comments and recommendations in its report. It would eliminate one of the two reports on domestic violence. Both of these entities are staffed in some manner by the Attorney General's Office, so it would assist them by cutting down on the amount of work they do.

Section 3 would convert the report to the Legislature from a regional rapid transit authority regarding its activities, findings and plans of the authority from annual to biennial.

Section 4 is the Housing Division's annual compilation of reports that are submitted by the governing bodies of counties and cities regarding maintenance and development of affordable housing. Section 4 would eliminate the requirement for the Housing Division to submit the compilation report and instead would require the Division to post that compilation report on its Website.

Section 5 addresses the report from the Merit Award Board. It is required to submit an annual report to the Governor's Office of Finance and to the Interim Finance Committee regarding suggestions made by State employees or groups of State employees to eliminate or avoid State expenditures. Section 5 of the bill would convert that reporting requirement from annual to biennial to align with the budget process.

Section 6 is the Public Employees' Retirement System (PERS) report on investments of money in certain scrutinized companies. This report is provided to the Legislature and generally states—at least over the years that I have been the Director—that PERS does not have any investments in those companies. The PERS Board will be required to include the information on its Website rather than submitting a report.

Sections 7 and 8 deal with local government reports on capital improvement plans and capital improvements that are owned, leased or operated by local governments. Each local government is required to submit annually a copy of its capital improvement plan to the Department of Taxation, the county's debt management commission and the Director of LCB.

Law also requires local governments to submit reports annually to the Department of Taxation and to the Director of LCB regarding the owned, leased and operated capital improvements under that local government's jurisdiction.

Sections 7 and 8 of the bill would eliminate the requirement to submit those plans and reports to the Director of LCB. They would still be required to be submitted to the Department of Taxation. If the Legislature needed those

reports for any reason, the LCB Fiscal Analysis Division would be able to obtain them.

Section 9 addresses a report that is required from the Commissioner of Insurance regarding changes in rates or in the Uniform Plan for Rating Experience, the Uniform Statistical plan or the Uniform System of Classification. That report is required to be submitted to the Director of the LCB when any of those changes occur. I cannot find a recent record of ever having received such a report. It is difficult for us to determine when we should get those reports because we are not notified of when those changes are made. Section 9 would eliminate the requirement for that report.

Section 10 eliminates four different reports. The first one is a quarterly report on transports made by fire departments and ambulance services in Clark County. That report goes to both the Legislative Commission and to the Legislative Committee on Health Care. Neither of those entities has shown any interest in acting on or hearing about those reports in their meetings. Therefore, we are recommending that the reports be eliminated.

Nevada System of Higher Education (NSHE) is required to submit a report on police activities. This biennial report is being recommended for elimination. In addition, NSHE submits a report on capital improvements that is similar to the report I mentioned earlier that local governments provide. Since NSHE is one of the large entities that receive money through our biennial capital improvement program, the LCB Fiscal Analysis Division should be able to obtain any information that might be needed by Committees.

Finally, the State Fire Marshal's fire-safe cigarette report is recommended for elimination also.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:
The Legislative Commission is made up of 12 members. I am a member of the Commission. We reviewed this presentation in November 2016, and these are the recommendations for your consideration.

SENATOR RATTI:
Where does the Commission get information on which reports to eliminate?

MR. COMBS:
It gets its information primarily from me. I have tasked the LCB Research Division with assisting me in the process of identifying reports. It is not an easy task. It is difficult to determine which type of report is of interest to someone and which type of report is not of interest to anyone. We do not really have a good way to determine that. Certain items go on the agendas of Interim committees that we take clues from to determine whether those committees actually take an interest in those reports that are appearing in those agendas.

SENATOR RATTI:
Do you poll the Executive Branch to see if agencies are creating reports that no one is using?

MR. COMBS:
Yes, we have gone through the process of asking agencies if they have the same information in multiple reports that they submit, or if they have other reasons for believing that the information reported is not that helpful.

SENATOR RATTI:
We heard a bill in the Committee on Revenue and Economic Development that eliminated four or five reports coming from the Department of Administration. Therefore, I am wondering if we have duplicative processes. Is it appropriate for them to be bringing forward their list and we are bringing forward our list?

MR. COMBS:
I do not want to say that it is inappropriate because it is not. The Department is in the best position to know. We are not polling every single agency, every single biennium. Therefore, it is possible that we did not contact the agency this Interim. It would have to be reports that we stumbled upon and wondered if they could be eliminated. We would have called the agencies and asked them what they thought about it. It is very possible that there was no duplication this biennium.

JOHN FUDENBERG (Clark County):
Clark County supports A.B. 464.

MS. CHLARSON:
Just to point out to the Committee, section 1 of this bill eliminates a report that the Committee voted to change the substance of in another bill, Senate Bill 25,

from the Attorney General's Office. I apologize that I have not had the time to go through and determine if there are conflicts with other bills due to some of these reports being eliminated in this bill. Therefore, if the Committee likes I can look into that and provide the Committee with information to see if we need to resolve any conflicts with other bills at the work session.

SENATE BILL 25: Revises provisions governing the organization and functions of the Office of the Attorney General relating to domestic violence and the fictitious address program. (BDR 18-385)

Remainder of page intentionally left blank; signature page to follow

CHAIR PARKS:
We will close the hearing on A.B. 464. Having no further business to come before the Committee on Government Affairs, we are adjourned at 3:03 p.m.

RESPECTFULLY SUBMITTED:

Suzanne Efford,
Committee Secretary

APPROVED BY:

Senator David R. Parks, Chair

DATE:

EXHIBIT SUMMARY				
Bill	**Exhibit / # of pages**		**Witness / Entity**	**Description**
	A	2		Agenda
	B	4		Attendance Roster
A.B. 57	C	2	Brett Kandt / Office of the Attorney General	Written Testimony
A.B. 57	D	1	Kimberly Mull / Nevada Coalition to End Domestic and Sexual Violence	Written Testimony
A.B. 476	E	2	Scott Anderson / Office of the Secretary of State	Written Testimony

SUPPL

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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **SUPPLEMENT TO REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW Petitioner the Las Vegas Review-Journal (the "Review-Journal"), by and through its undersigned counsel, and hereby submits this supplement in support of its Public Records Act Application/Petition. This supplement contains copies of autopsy reports received from the Lander County Sheriff's Office and the White Pine County Coroner's Office.

Respectfully submitted this 25th day of September, 2017.

/s/ Alina M. Shell
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SUPPLEMENT

I. INTRODUCTION

On July 17, 2017, the Review-Journal filed a petition with this Court pursuant to the Nevada Public Records Act ("NPRA"), Nev. Rev. Stat. § 239.001 *et seq.* seeking declaratory and injunctive relief after the Clark County Office of the Coroner/Medical Examiner ("Coroner's Office") refused to disclose autopsy reports for autopsies conducted on anyone under the age of 18 which were conducted between 2012 and April 13, 2017—the date the Review-Journal requested the records. As discussed in the petition, in responding to the request, the Coroner's Office acknowledged the requested autopsy reports are public records, but asserted that they were not open to inspection. (Petition, p. 3, ¶¶12-14; *see also* Exhibit ("Exh.") 1to Petition, pp. LVRJ001-003.) In making this assertion, the Coroner's Office cited a non-binding Attorney General Opinion, AGO 82-12. (Petition, pp. 3-4, ¶ 15.)

After counsel for the Review-Journal expressed concerns regarding the refusal to produce the autopsy reports, the Coroner's Office additionally asserted that the records may be protected by Nev. Rev. Stat. § 432B.407, a statute which provides that information acquired by child death review teams is confidential. (Petition, p. 4, ¶¶ 17-19; Exh. 5, LVRJ031-033.) The Coroner's Office maintained this position in its Response to the Review-Journal petition and supporting memorandum. (*See generally* Response, pp. 10-21.)

However, evidence obtained by the Review-Journal undermines the Coroner's Office position that autopsy reports pertaining to juvenile deaths are not open for public inspection. First, in response to a public records request, the Review-Journal received copies of autopsy reports related to five juvenile deaths from the White Pine County Coroner's Office. Copies of the reports are attached hereto as Exhibit 3. Additionally, on August 29, 2017, the Review-Journal received copies of autopsy reports related to one juvenile death from the Lander County's Sheriff's Office. Copies of those reports are attached hereto as Exhibit 4. The reports from both White Pine and Lander County were received in response to public records requests.

As discussed in the Review-Journal's Memorandum in support of the petition in this matter, the NPRA starts from the presumption that all governmental records are public unless explicitly deemed confidential by law. Nev. Rev. Stat. § 239.010. To overcome that presumption, a governmental entity seeking to withhold public records "has the burden of proving by a preponderance of the evidence that the public book or record, or a part thereof, is confidential." Nev. Rev. Stat. § 239.0113(2); *see also Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 882, 266 P.3d 623, 629 (2011) (holding that the "state entity bears the burden to prove that its interest in nondisclosure *clearly outweighs* the public's interest in access") (emphasis added). The fact that the Review-Journal was able to obtain autopsy reports related to juvenile deaths from Lander County and White Pine County demonstrates that the Coroner's Office has not met its burden of proving by a preponderance of the evidence that the autopsy reports are confidential records. *See* Nev. Rev. Stat. § 239.01132(2).

Respectfully submitted this 25th day of September, 2017.

/s/ Alina M. Shell

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 25th day of September, 2017, I did cause a true copy of the foregoing SUPPLEMENT TO REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF in *Las Vegas Review-Journal v. Clark County Office of the Coroner/Medical Examiner,* Clark County District Court Case No. A-17-758501-W, to be served electronically using the Odyssey File & Serve electronic filing service system, to all parties with an email address on record.

Pursuant to NRCP 5(b)(2)(B) I hereby further certify that on the 25th day of September, 2017, I mailed a true and correct copy of the foregoing SUPPLEMENT TO REPLY TO RESPONSE TO PETITION AND MEMORANDUM IN SUPPORT OF APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS/ APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Mary-Anne Miller and Laura Rehfeldt
Clark County District Attorney's Office
500 S. Grand Central Pkwy., Ste. 5075
Las Vegas, NV 89106
Counsel for Respondent, Clark County Office of the Coroner/Medical Examiner

/s/ Pharan Burchfield
An Employee of MCLETCHIE SHELL LLC

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EXHIBIT 3

WHITE PINE COUNTY CORONER'S REPORT

DECEDENT

DECEASED -NAME First	Middle	Last	Date of Death	County of Death
S[redacted]	[redacted]	T[redacted]	January 26, 2012	White Pine

CITY, TOWN OR LOCATION OF DEATH	HOSPITAL OR OTHER INSTITUTION-Name *(if not either, give street and number)*	If Hosp. or Inst. Indicate DOA, OP/ Emer.Rm. Inpatient (Specify)
[redacted]	N/A	N/A

SEX	RACE - (e.g., White, Black, American Indian, etc.) *(specify)*	AGE - Last Birthday (Years)	UNDER 1 YEAR MOS | DAYS	UNDER 1 DAY HOURS | MINS	DATE OF BIRTH (Mo., Day, Yr.)
Female	American Indian	6 years			[redacted]2005

STATE of BIRTH (If not U.S.A., name country)	CITIZEN OF WHAT COUNTRY	Decedent's Education. Specify highest grade completed.	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify)	SURVIVING SPOUSE (If Wife. give maiden name)
Nevada	United States	N/A	N/A	N/A

SOCIAL SECURITY NUMBER	USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired)	KIND OF BUSINESS OR INDUSTRY
[redacted]	N/A	N/A

RESIDENCE-STATE	COUNTY	CITY, TOWN, OR LOCATION	STREET AND NUMBER	INSIDE CITY LIMITS
Nevada	White Pine	[redacted]	[redacted]	[redacted]

PARENTS

FATHER-NAME First	Middle	Last	MOTHER-MAIDEN NAME First	Middle	Last
[redacted]	[redacted]	T[redacted] (deceased)	[redacted]	[redacted]	T[redacted]

INFORMANT-NAME (Type or Print)	MAILING ADDRESS (Street or R.F.D. No., City or Town, State, Zip)
[redacted] T[redacted]	[redacted]

CERTIFIER

To be completed by Coroner's Office

On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and manner stated.

(Signature and Title) _____

DATE SIGNED (Mo., Day. Yr.)	HOUR OF DEATH
	0400
PRONOUNCED DEAD Mo., Day. Yr.)	PRONOUNCED DEAD (Hour)
January 26, 2012	0615

NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print.)

Sgt. Todd Fincher, Deputy Coroner 1785 Great Basin Blvd. Ely, Nevada 89301

CAUSE OF DEATH

IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a) AND (b).)

PART I

(a) Pending autopsy — Interval between onset and death: _____

DUE TO, OR AS A CONSEQUENCE OF:

(b) _____ — Interval between onset and death: _____

PART II

OTHER SIGNIFICANT CONDITIONS -- Conditions contributing to death but not resulting In the underlying cause given In Part 1.

AUTOPSY (specify) ☒ Yes ☐ No

WAS CASE REFERRED TO CORONER (specify) ☒ Yes ☐ No

WHITE PINE COUNTY CORONER'S REPORT

CONTINUATION

DECEASED -NAME First [redacted] Middle [redacted] Last [redacted]

ACC., SUICIDE, HOMICIDE UNDETERMINED, OR PENDING INVESTIGATION *(specify)*	DATE OF INJURY *(Mo., Day, Yr.)*	HOUR OF INJURY	DESCRIBE HOW INJURY OCCURRED
Pending investigation	01/26/12	0400 approx.	Undetermined

INJURY AT *WORK*	PLACE OF INJURY-*At home farm street, factory, office building, etc. (specify)*	LOCATION.	STREET *OR R.F.D.* No.	CITY OR TOWN	STATE
☐ Yes ☒ No	Home	[redacted]			

BLOOD ALCOHOL

(Required on all accidents & suicides)

Blood Draw	Administered By:	Results (%):
☐ Yes ☒ No		

Synopsis of Incident/ Accident

On January 26, 2012 at approximately 6:09 a.m. deputies responded to 229 Arrowhead Circle to an unresponsive 6 year old female. Upon arrival the female was located lying on the living room floor on her stomach with no signs of life present. The deceased was pronounced dead at 6:15 a.m. and had been last seen alive at approximately 3:00 a.m. by her Aunt [redacted] when she had gotten up to get a drink of water. The deceased had downs syndrome and an enlarged tongue. The deceased also had a restricted airway and had a history of heart defects including having a corrective heart surgery at 5 months of age @ UMC. The deceased was ill with a respiratory infection the last two days and had been coughing up a green colored mucus.

Notification of Next of Kin

To Whom Made: [redacted] Relationship: Mother

By Whom: Sgt. Todd Fincher Date: 01/26/12 Time: 0805

Personal Property

Ear Ring(s):

Jewelry/ Misc.:

Necklace(s).:

Ring(s):

Wallet:

Watch:

Other:

Other:

MONEY	
Currency:	
Change:	
Checks:	
TOTAL:	

INVENTORIED BY:

Property Released To: Date:

Recipient's Signature:

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

CLARK COUNTY NEVADA MEDICAL EXAMINER CORONER

AUTOPSY REPORT

Case Number: 12-00835

January 27, 2012

AUTOPSY REPORT

PATHOLOGIC EXAMINATION ON THE BODY OF

S[redacted] [redacted] T[redacted]

SIGNIFICANT ANATOMIC FINDINGS

I. Respiratory System:
   A. Bilateral pulmonary congestion and edema.
      1. Clinical history of asthma and respiratory congestion.
II. Cardiovascular System:
   A. Mild cardiac enlargement with right ventricular hypertrophy.
   B. Status post vascular clipping of patent ductus arteriosus (remote).
   C. Clinical history of atrial septal defect, closed in infancy (remote).
III. Hepatobiliary System:
   A. Hepatomegaly, consistent with passive congestion.
IV. Central Nervous System:
   A. Clinical history of Down's syndrome.

OPINION

It is my opinion that this 6-year-old female, S[redacted] M[redacted] T[redacted], died as a result of bronchopneumonia with the other significant condition of clinical history of Down syndrome. This 6-year-old girl was under the care of her aunt, and reportedly had had symptoms of respiratory infection for several days, with green-colored mucus production. She had missed a scheduled doctor's appointment, but had received a "breathing treatment" prior to falling asleep. She was last seen alive by her aunt in the early morning, when she got a drink of water. Approximately three hours later, the aunt found the decedent to be unresponsive, and responding emergency personnel found the

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AUTOPSY REPORT

Case Number: 12-00835

decedent to be beyond resuscitation. The decedent had a history of Down syndrome, and in early infancy had been noted to have a patent ductus arteriosus and also an atrial septal defect. These congenital cardiac abnormalities were treated, and both the ductus arteriosus and the atrial septum were noted to be closed at the time of autopsy examination. Microbiological culture of both left and right lung tissues showed *Haemophilus influenzae*. Microbiological culture of postmortem heart blood showed no growth. RTPCR testing of nasal swab specimens were negative for H1n1 Influenza, Influenza A, Influenza B, parainfluenza 1, 2, and 3, adenovirus, and respiratory syncytial virus. Toxicological testing of postmortem heart blood was negative for all drugs tested. Vitreous fluid electrolyte values were within normal postmortem ranges.

CAUSE OF DEATH: It is my opinion that this 6-year-old female, S[redacted] [redacted] T[redacted], died as a result of bronchopneumonia with the other significant condition of clinical history of Down syndrome.

MANNER OF DEATH: NATURAL.

Timothy F. Dutra, MD, PhD
Medical Examiner
Clark County, Nevada

TFD/kmo/amu

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

AUTOPSY REPORT

Case Number: 12-00835

January 27, 2012

POSTMORTEM EXAMINATION ON THE BODY OF

S[redacted] [redacted] T[redacted]

The examination commences at 1000 hours on 27 January 2012.

The body was received in a sealed body bag with the seal #0251499. The seal was opened under my direction.

IDENTIFICATION: At the time of autopsy, the body is identified by a Clark County Coroner/Medical Examiner "toe tag" inscribed with case #12-0835 and the name T[redacted], s[redacted].

EXTERNAL EXAMINATION: The body is unclothed. The body is accompanied by a gray t-shirt with a panda bear design on the front, and is also accompanied by pink pajama bottoms with a strawberry pattern on them. The body is also accompanied by a disposable diaper with Elmo from Sesame Street on the front. The diapers contain moist yellow-green stool. The appearance is that of a female child approximately the stated age of 6 years. The body length is 40 inches. The body weight is 41 lbs. The state of preservation is good in this unembalmed body. Rigor mortis is moderately advanced. Lividity is present and becoming fixed in the dependent areas posteriorly. There is contact pallor in the diaper area. The scalp hair is brown, and worn moderately long, approximately 10 inches in length. The orbital and periorbital tissues are unremarkable. The pupils are round, and the irides are brown. The conjunctival surfaces are without petechiae. Facial bones are without unusual mobility. The nares are clear. The teeth are in a relatively good state of repair. The medial maxillary incisors are missing, secondary to juvenile to adult dental progression. There are occasional silvery metal caps on some of the posterior molar teeth. There are no injuries to the lips, tongue, or frenula. The external ears are normal. The neck is without unusual mobility. The chest and back are symmetrical. The abdomen is mildly protuberant. The genitalia are female. The vulva and perineum show scattered patches of superficial epidermal breakdown, of the external aspects of the labia majora and inferior buttocks bilaterally, consistent with

Clark County Coroner
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AUTOPSY REPORT

Case Number: 12-00835

diaper dermatitis. The anus is normal. Both upper and lower extremities are symmetrical, and without deformity.

INVENTORY OF SCARS: There is a 3 cm longitudinal scar on the radial aspect of the left forearm. There is a 1.5 cm transverse scar in the subcostal region of the right upper quadrant of the abdomen. Due to the reported history of cardiac surgery as an infant, careful examination of the chest is made, and no definite scars are identified.

INVENTORY OF MEDICAL INTERVENTION: None.

INVENTORY OF RADIOGRAPHIC FINDINGS: AP and lateral x-rays of the head and neck show no evidence of recent or remote skeletal injury. The cervical spine is well aligned.

AP x-rays of the chest, abdomen and pelvis show no evidence of skeletal injury. There are a couple of small metal vascular clips in the region of the base of the heart. There are scattered fluffy opacities of the lung fields bilaterally. The heart shadow is in the upper range of normal in size.

X-rays of all four extremities show no evidence of skeletal injury.

INVENTORY OF INJURIES: There are no apparent injuries or fractures present.

BODY CAVITIES: The body is opened with the usual Y-shaped thoracoabdominal incision, and the head is opened with the standard intermastoid incision. The pleural, pericardial, and peritoneal cavities are glistening and contain minimal amounts of clear serous fluid. The abdominal pannus measures 2 cm. The thoracic and abdominal organs lie in their usual anatomic positions.

NECK ORGANS: The soft tissues of the neck are free of hemorrhage. The hyoid bone is intact. The glottis, laryngeal,

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and tracheal airways are widely patent. The larynx and epiglottis are normal. The thyroid gland is normal.

MEDIASTINUM: The thymus gland is present in the anterior mediastinum and has a normal size and confirmation. The capsule is glistening. The mediastinum is midline. There are scattered enlarged lymph nodes within the mediastinum and pulmonary hila.

HEART: The heart weighs 210 gm. The epicardial surface of the heart is smooth and glistening with a small amount of subepicardial fat. The heart shows predominance of the right ventricular contour. The left ventricular wall measures 0.9 cm. The interventricular septum measures 1.0 cm, and the right ventricular wall measures 0.6 cm. The endocardium, cardiac valves, and chambers have glistening surfaces without mural thrombus. Measurement of the cardiac valve circumferences shows the tricuspid valve to be 7 cm, the pulmonic valve to be 5 cm, the mitral valve to be 6 cm, and the aortic valve to be 4 cm. The valve leaflets are thin, glistening, and pliable. The aortic valve has three leaflets. The interatrial and interventricular septae are without defects. The coronary arteries are thin-walled and have a normal distribution and appear to have a normal diameter. There is no significant stenosis of the coronary arteries and no thrombus is seen. The cut surfaces of the myocardium show normal red-brown color and consistency.

VASCULAR SYSTEM: The aorta and arterial system are not remarkable. The ductus arteriosus is closed, and there is a metal vascular clip clamped around the ductus arteriosus. The systemic veins are normal.

LUNGS: The right lung weighs 310 gm, and the left lung weighs 240 gm. The pleural surfaces are purple-pink and glistening. The lung tissues throughout are soft and without focal friability. The lung tissues are congested throughout, greater in the dependent portions. Cut surfaces are moist, purple-pink tissue. The air passages are lined by pink mucosa. The

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pulmonary arteries are free of emboli and the pulmonary veins are normal.

LIVER: The liver weighs 750 gm. The capsule is glistening. Cut surfaces show red-brown hepatic tissue of normal consistency without focal lesion. The cut section of the liver has a faint nutmeg pattern to its appearance. The gallbladder and biliary tract are normal and free of stones.

PANCREAS: The pancreas is normal in consistency and appearance.

GASTROINTESTINAL TRACT: The entire gastrointestinal tract is examined and found to be normal. The stomach contains approximately 50 mL of well-digested food, consisting of a thin tan homogenate.

SPLEEN: The spleen weighs 35 gm. The capsule is smooth and glistening and the cut surfaces are purple-red.

LYMPH NODES: The lymph nodes are normal in size.

BONE MARROW: The bone marrow is normal.

ADRENALS: The adrenal cortices are yellow and the medullae are free of hemorrhages.

KIDNEYS: The right kidney weighs 40 gm, and the left kidney weighs 50 gm. The renal capsules strip with ease revealing smooth red-brown surfaces. The renal cortices of both kidneys are of normal thickness and without focal lesion. The parenchyma is red-brown. The renal pyramids and papillae are unremarkable. The renal pelves and ureters are unremarkable.

BLADDER: The bladder contains minimal amounts of cloudy yellow fluid. The wall and mucosa are normal.

FEMALE GENITAL SYSTEM: The ovaries are in their usual pelvic position, and are of normal size for a prepubertal female of

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this stated age. The Fallopian tubes are unremarkable. The uterus is of normal size and shape, and the myometrium is without focal lesion. The endometrial cavity is lined by smooth glistening yellow-brown endometrium. The cervix is without focal lesion.

CRANIAL CAVITY: The reflected scalp shows no evidence of contusion, hematoma, or other lesion. The cerebrospinal fluid is clear and colorless. The calvarium and bones at the base of the skull are not remarkable. No fractures or other injuries are seen. The inner and outer surfaces of the dura mater are free of hematoma, organizing membranes, or other lesions. The sagittal sinus is patent. The leptomeninges and cisternal spaces are normal in appearance and without hemorrhage. The pituitary gland is grossly normal. The weight of the unfixed brain is 1130 gm. The gyri and sulci are of normal distribution and development. There is no evidence of cingulate, uncal, or tonsillar herniation. No brain injury is detected on careful search. Cut sections of brain substance show symmetry and essentially normal structures, with an intact cortical ribbon, central white matter, and basal ganglia. The ventricles are of normal size. The Circle of Willis and other intracranial vessels are normal. Cut sections of cerebellum and brainstem are unremarkable.

SPINAL CORD: The upper spinal cord as viewed from the cranial cavity is not remarkable.

SPECIMENS COLLECTED: Peripheral blood, heart blood, liver tissue, and vitreous fluid are collected for toxicological examination. Vitreous electrolytes are also to be tested. Nasal swabbings are taken for viral testing. Samples of cerebrospinal fluid, heart blood, right lung and left lung tissues are sent for microbiological cultures. Samples of organ tissues are retained. Sections of organ tissues are sent for histological processing.

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MICROSCOPIC EXAMINATION

CARDIOVASCULAR SYSTEM: Sections of both the left and right ventricles show unremarkable cardiomyocytes without architectural disarray. There is no significant inflammation or fibrosis. Sections of the coronary arteries and aorta show unremarkable vessels.

RESPIRATORY SYSTEM: Sections of both the right and left lungs show diffuse extensive bronchopneumonia. All sections of the lungs show bronchopneumonia. The alveolar spaces contain acute inflammatory exudate, and the pulmonary parenchyma contains acute inflammatory infiltrate. The bronchial walls show telangiectasia, and the bronchial lumens contain purulent exudate. The bronchial walls do not appear to show an increased number of eosinophils. In focal areas, the alveolar spaces are less involved, and in these areas, alveolar macrophages are abundant. The pulmonary vasculature is unremarkable.

HEPATOBILIARY SYSTEM AND PANCREAS: Sections of the liver show passive congestion, especially in the centrilobular sinusoids. The centrilobular hepatocytes appear ischemic, but midzonal and periportal hepatocytes are relatively unremarkable, except for scattered glycogenated nuclei of the periportal hepatocytes. The hepatic plates are 1-2 cells in thickness. The portal triads are unremarkable. Sections of the pancreas show mild autolytic changes. There is normal acinar anatomy, and islets are abundant. A section of gastric mucosa is unremarkable.

HEMATOLYMPHATIC SYSTEM: Sections of thymus, lymph nodes, and spleen are without significant pathologic features. Sections of bone marrow show a fat cell ratio of about 5%/95%, and an M:E ratio of about 3/2. There is normal trilineage hematopoiesis.

ENDOCRINE SYSTEM: Sections of thyroid, parathyroid, and adrenal glands are without significant pathologic features.

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GENITORURINARY SYSTEM: Sections of both kidneys show abundant glomeruli with normal cellularity and normal morphology. The renal tubules are unremarkable. The renal vasculature is unremarkable. Sections of the female genital organs are unremarkable.

CENTRAL NERVOUS SYSTEM: Sections of cerebral cortex, hippocampal cortex, cerebellum, and brainstem are without significant pathologic features. Attached fragments of leptomeninges are without significant inflammation. Sections of pituitary gland are unremarkable. Sections of dura mater are unremarkable.

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, DABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL

Toxicology Report

Report Issued 02/04/2012 17:00

To: **10294**
Clark County Coroner's Office
Attn: Bill Gazza
1704 Pinto Lane
Las Vegas, NV 89106

Patient Name	T[redacted] S[redacted]
Patient ID	12-0835
Chain	11405987
Age	6 Y
Gender	Female
Workorder	12030805

Positive Findings:

Compound	Result	Units	Matrix Source
Sodium (Vitreous Fluid)	**122**	**mmol/L**	**Vitreous Fluid**
Potassium (Vitreous Fluid)	**13**	**mmol/L**	**Vitreous Fluid**
Chloride (Vitreous Fluid)	**109**	**mmol/L**	**Vitreous Fluid**
Urea Nitrogen (Vitreous Fluid)	**16**	**mg/dL**	**Vitreous Fluid**
Creatinine (Vitreous Fluid)	**0.70**	**mg/dL**	**Vitreous Fluid**

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
1919FL	Electrolytes and Glucose Panel (Vitreous), Fluid (Forensic)
8055B	Postmortem Toxicology - Basic Plus, Blood (Forensic) (CSA)
9096B	Alcohol Screen, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Top Tube	10 mL	01/27/2012 10:30	Heart Blood	
002	Gray Top Tube	10 mL	01/27/2012 10:30	Heart Blood	
003	Gray Top Tube	5 mL	01/27/2012 10:30	Peripheral Blood	
004	Red Vial	3 mL	01/27/2012 10:30	Vitreous Fluid	
005	White Plastic Container	22.33 g	01/27/2012 10:30	Liver Tissue	

All sample volumes/weights are approximations.

Specimens received on 01/30/2012.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Sodium (Vitreous Fluid)	122	mmol/L	80	004 - Vitreous Fluid	Chemistry Analyzer
Potassium (Vitreous Fluid)	13	mmol/L	1.0	004 - Vitreous Fluid	Chemistry Analyzer
Chloride (Vitreous Fluid)	109	mmol/L	70	004 - Vitreous Fluid	Chemistry Analyzer
Glucose (Vitreous Fluid)	None Detected	mg/dL	35	004 - Vitreous Fluid	Chemistry Analyzer
Urea Nitrogen (Vitreous Fluid)	16	mg/dL	3.0	004 - Vitreous Fluid	Chemistry Analyzer
Creatinine (Vitreous Fluid)	0.70	mg/dL	0.50	004 - Vitreous Fluid	Chemistry Analyzer

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Chloride (Vitreous Fluid) - Vitreous Fluid:
   Normal: 105 - 135 mmol/L
2. Creatinine (Vitreous Fluid) - Vitreous Fluid:
   Normal: 0.6 - 1.3 mg/dL
3. Glucose (Vitreous Fluid) - Vitreous Fluid:
   Normal: <200 mg/dL

   Postmortem vitreous glucose concentrations >200 mg/dL are associated with hyperglycemia.

   Since postmortem vitreous glucose concentrations decline rapidly after death both in vivo and in vitro, care should be taken in the interpretation of results. Stability of vitreous glucose for up to 30 days has been noted by NMS Labs when specimens are maintained frozen (-20°C).
4. Potassium (Vitreous Fluid) - Vitreous Fluid:
   Normal: <15 mmol/L
5. Sodium (Vitreous Fluid) - Vitreous Fluid:
   Normal: 135 - 150 mmol/L
6. Urea Nitrogen (Vitreous Fluid) (VUN) - Vitreous Fluid:
   Normal: 8 - 20 mg/dL

Sample Comments:

001 Physician/Pathologist Name: DUTRA

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded thirteen (13) months from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed. Chain of custody documentation has been maintained for the analyses performed by NMS Labs.

Workorder 12030805 was electronically signed on 02/04/2012 16:44 by:

Wendy R. Adams, Ph.D., DABFT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

Acode 1919FL - Electrolytes and Glucose Panel (Vitreous), Fluid (Forensic) - Vitreous Fluid

-Analysis by Chemistry Analyzer for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Chloride (Vitreous Fluid)	70 mmol/L	Potassium (Vitreous Fluid)	1.0 mmol/L
Creatinine (Vitreous Fluid)	0.50 mg/dL	Sodium (Vitreous Fluid)	80 mmol/L
Glucose (Vitreous Fluid)	35 mg/dL	Urea Nitrogen (Vitreous Fluid)	3.0 mg/dL

Acode 8055B - Postmortem Toxicology - Basic Plus, Blood (Forensic) (CSA) - Heart Blood

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamines	20 ng/mL	Methadone	25 ng/mL
Barbiturates	0.040 mcg/mL	Opiates	20 ng/mL
Benzodiazepines	100 ng/mL	Phencyclidine	10 ng/mL
Cannabinoids	10 ng/mL	Propoxyphene	50 ng/mL
Cocaine / Metabolites	20 ng/mL		

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Salicylates	120 mcg/mL		

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Buprenorphine / Metabolite	0.50 ng/mL		

-Analysis by High Performance Liquid Chromatography (HPLC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Ibuprofen	3.0 mcg/mL		

-Analysis by High Performance Liquid Chromatography/Tandem Mass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Fentanyl	0.10 ng/mL	Norfentanyl	0.20 ng/mL

Acode 9096B - Alcohol Screen, Blood (Forensic) - Peripheral Blood

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

v.8

WHITE PINE COUNTY CORONER'S REPORT

DECEDENT

DECEASED -NAME First	Middle	Last	Date of Death	County of Death
[redacted]	[redacted]	K[redacted]	November 20, 2014	White Pine

CITY, TOWN OR LOCATION OF DEATH	HOSPITAL OR OTHER INSTITUTION-Name (if not either, give street and number)	If Hosp. or Inst. Indicate DOA, OP/ Emer.Rm. Inpatient (Specify)
City of Ely		

SEX	RACE - (e.g., White, Black, American Indian, etc.) (specify)	AGE - Last Birthday (Years)	UNDER 1 YEAR MOS | DAYS	UNDER 1 DAY HOURS | MINS	DATE OF BIRTH (Mo., Day, Yr.)
Male	White	18			[redacted]96

STATE of BIRTH (If not U.S.A., name country)	CITIZEN OF WHAT COUNTRY	Decedent's Education. Specify highest grade completed.	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify)	SURVIVING SPOUSE (If Wife. give maiden name)
NEVADA	UNITED STATES	11th Grade	Never Married	

SOCIAL SECURITY NUMBER	USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired)	KIND OF BUSINESS OR INDUSTRY
[redacted]	HANDYMAN	MAINTINENCE

RESIDENCE-STATE	COUNTY	CITY, TOWN, OR LOCATION	STREET AND NUMBER	INSIDE CITY LIMITS
Nevada	White Pine	Ely	Great Basin Trl Space 1	☒ Yes ☐ No

PARENTS

FATHER-NAME First	Middle	Last	MOTHER-MAIDEN NAME First	Middle	Last
[redacted]	[redacted]	K[redacted]	L[redacted]	M[redacted]	

INFORMANT-NAME (Type or Print)	MAILING ADDRESS (Street or R.F.D. No., City or Town, State, Zip)
[redacted] K[redacted]	[redacted]

CERTIFIER

To be completed by Coroner's Office

On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and manner stated.

(Signature and Title) _____

DATE SIGNED (Mo., Day. Yr.)	HOUR OF DEATH
	UNKNOWN
PRONOUNCED DEAD Mo., Day. Yr.)	PRONOUNCED DEAD (Hour)
11-24-14	1402

NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print.)

Sgt. Penny Jo Robison #204, Deputy Coroner 1785 Great Basin Blvd. Ely Nevada 89301

CAUSE OF DEATH

IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a) AND (b).) — Interval between onset and death

PART I

(a) Quetiapine Intoxication

DUE TO, OR AS A CONSEQUENCE OF: — Interval between onset and death

(b) Suicide

PART II

OTHER SIGNIFICANT CONDITIONS -- Conditions contributing to death but not resulting In the underlying cause given In Part 1.

AUTOPSY (specify) ☒ Yes ☐ No

WAS CASE REFERRED TO CORONER (specify) ☐ Yes ☐ No

WHITE PINE COUNTY CORONER'S REPORT

CONTINUATION

DECEASED -NAME First [redacted] Middle [redacted] Last K[redacted]

ACC., SUICIDE, HOMICIDE UNDETERMINED, OR PENDING INVESTIGATION *(specify)*	DATE OF INJURY *(Mo., Day, Yr.)*	HOUR OF INJURY	DESCRIBE HOW INJURY OCCURRED
Pending			

INJURY AT *WORK*	PLACE OF INJURY-*At home farm street, factory, office building, etc. (specify)*	LOCATION.	STREET *OR R.F.D.* No.	CITY OR TOWN	STATE
☐ Yes ☒ No					

BLOOD ALCOHOL

(Required on all accidents & suicides)

Blood Draw	Administered By:	Results (%):
☐ Yes ☒ No		

Synopsis of Incident/ Accident

Responded to Great Basin Trailer Park space #1 for a male subject not breathing. Upon arrival, the mother to the deceased was laying on the ground, crying. I went into the trailer, and found the deceased laying on his left side. There was a brown to dark brown substance on the deceased head and face. The deceased was black in color and had started to decompose. The last anyone had seen of the deceased had been five days prior. The deceased left a note, stating he was going to kill himself and that he had taken 28650 mg of Quetiapine and 4500 mg of

Notification of Next of Kin

To Whom Made: [redacted] K[redacted] Relationship: Mother

By Whom: Sgt. PJ Robison Date: 11-24-14 Time: 1406

Personal Property

Ear Ring(s):

Jewelry/ Misc.:

Necklace(s).:

Ring(s):

Wallet:

Watch:

Other:

Other:

MONEY	
Currency:	
Change:	
Checks:	
TOTAL:	

INVENTORIED BY:

Property Released To: Date:

Recipient's Signature:

WHITE PINE COUNTY CORONER'S REPORT

Supplemental Information

Trazodone. The deceased was 18 years of age, and had a history of mental illness, and had been institutionalized at one time.

Clark County Coroner/Medical Examiner
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REPORT OF INVESTIGATION
Outside County

CALL INFO

NAME OF DECEASED (LAST, FIRST MIDDLE)	AKA	CASE NUMBER
K[redacted], J[redacted] [redacted]		14-11152

INVESTIGATOR	REPORTED BY	REPORTING AGENCY	REFERENCE NUMBER
Tricia McCafferty	Sgt. P Robison	White Pine County Sheriff's Office	00602-14

CALL DATE AND TIME	DISPATCH DATE AND TIME	ARRIVAL DATE AND TIME	RETURN DATE AND TIME
11/24/2014 5:30:00 PM			

DECEDENT

DATE AND TIME OF DEATH	AGE	GENDER	RACE	VET?
11/24/2014 2:06:00 PM	18 Yrs	Male	Caucasian	☐

RESIDENT COUNTY	TELEPHONE NO.	DATE OF BIRTH
White Pine	(999) 999-9999	[redacted]1996

SOCIAL SECURITY NO.	DRIVER'S LIC. NO. AND STATE	OCCUPATION	EMPLOYER
[redacted]		Unknown	Unknown

MARITAL STATUS	HEIGHT	WEIGHT	EYE COLOR	HAIR COLOR
	67	197		

CLOTHING	SCARS/TATTOOS/MARKS
	//

DEATH

LOCATION OF DEATH: Living Room — AT RESIDENCE ☑

ADDRESS (STREET, CITY, STATE, ZIP): [redacted] [redacted] — COUNTY: White Pine

☑ PRONOUNCED BY: Sgt. P Robison — AGENCY: White Pine County

INCIDENT

LOCATION OF INCIDENT: Living Room — AT WORK ☐

ADDRESS (STREET, CITY, STATE, ZIP): [redacted] — COUNTY: White Pine

DATE AND TIME OF INCIDENT	INVESTIGATING AGENCY	OFFICERS
11/24/2014 2:06:00 PM	White Pine County Sheriff's Office	Sgt. P. Robison

NOTIFICATION

LEGAL NEXT OF KIN	RELATIONSHIP	TELEPHONE NO.
[redacted] K[redacted]	Parents	

NOTIFIED BY	METHOD	DATE AND TIME
Sgt. Robison	In Person	11/24/2014 2:05:00 PM

NAME OF PERSON NOTIFIED	RELATIONSHIP	TELEPHONE NO.
John and Lorelei Keel	Parents	

IDENTIFIED BY	METHOD	DATE AND TIME

DISP

TRANSPORTED TO MORGUE BY	TRANSPORTED TO MORTUARY BY
White Pine County Sheriff's Office	White Pine County Sheriff's Office

FUNERAL HOME:

CLOTHING RELEASED: ☑ Yes ☐ No

TYPE OF EXAM	EXAM BY
Autopsy	Lisa Ann Gavin M.D., MPH

VEHICULAR

DECEDENT WAS
☐ Pedestrian ☐ Driver ☐ Passenger ☐ Bicyclist ☐ Motorcyclist ☐ Skateboard ☐ Motorized Wheelchair

VEHICLE	LICENSE NUMBER	STATE

OCCURRED ON PRIVATE PROPERTY	DECEDENT WEARING SEATBELT?	SEAT POSITION	DECEDENT WEARING CRASH HELMET?

Clark County Coroner
1704 Pinto Lane
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(702) 455-3210

REPORT OF INVESTIGATION

Case Number: 14-11152

DECEDENT NAME:	[redacted] K[redacted]	**DATE OF BIRTH:**	[redacted]/1996
ALSO KNOWN AS:		**AGE:**	18
LOCATION OF DEATH:	Living Room	**SSN:**	[redacted]
DATE OF DEATH:	11/24/2014	**TIME OF DEATH:**	2:06PM

SUMMARY OF INVESTIGATION

Reason for Coroner Jurisdiction:

Apparent suicide – Overdose, note found on scene, not suspicious, White pine County Sheriff's Office (WPCSO)

Circumstances of Death:

On 11/2/2014 at approximately 1405 hours WPCSO received a call to respond to the decedent's residence. The decedent was last seen alive on 11/20/2014. On 11/24/2014 at approximately 1400 hours his mother reportedly found him lying on the couch unresponsive. WPCSO responded to the location and found the decedent obviously deceased. Death was pronounced by Sergeant P. Robison on 11/24/2014 at 1406 hours.

Medical History:

The decedent reportedly had a history of mental illness and had been institutionalized at one time (exact date unknown). Additional medical history is unknown at the time of this report.

An apparent suicide note was found on scene stating decedent took 28650 milligrams of quetiapine and 4500 milligrams of trazodone.

Scene:

The decedent was found unresponsive in his residence located at the Great Basin Trailer Park Space 1, Ely, Nevada 89031. He was reportedly observed lying on his left side on the couch in the living room of the residence.

Body:

The decedent was reportedly observed lying on his left side on the couch in the living room of his residence and decomposition was present. WPCSO Sergeant Robison conducted the body exam.

Property:

Per Clark County Office of Coroner/Medical Examiner (CCOCME) Inventory of Personal Effects # 11652 no property was impounded.

Signature: _____
Tricia McCafferty, Coroner Investigator

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

REPORT OF INVESTIGATION

Case Number: 14-11152

Forensic Issues and Reasons for Seal:

- WPCSO requesting toxicology
- Apparent suicide note found on scene stating the decedent took 28650 milligrams of quetiapine and 4500 milligrams of trazodone.
- Decomposition present
- Identification and next of kin assistance has not been requested
- Copy of report and note received
- Not suspicious

Witnesses and Information Sources:

WPCSO Sergeant Robison

Narrative:

On 11/24/2014 at approximately 1730 hours I was notified of an apparent suicide that located at [redacted]. WPCSO Sergeant P. Robison reported the death. She provided me with the information contained in the circumstances of death, medical history, body and scene fields of this report.

The decedent will be transported to CCOCME by WPCSO.

Special Requests:

WPCSO will transport decedent to CCOCME and wait until the exam is complete. They will be transporting him back to Ely Nevada.

Tissue/Organ Donation:

Nevada Donor Network protocol followed – decomposed.

Signature: Tricia McCafferty, Coroner Investigator

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

AUTOPSY REPORT

Case Number: 14-11152

November 25, 2014

AUTOPSY REPORT

PATHOLOGICAL EXAMINATION ON THE BODY OF

J[redacted] R[redacted] K[redacted]

PATHOLOGIC DIAGNOSES

I. Quetiapine intoxication.
II. Mild-moderate decomposition.

OPINION

CAUSE OF DEATH: This 18-year-old man, J[redacted] [redacted] K[redacted], died of Quetiapine intoxication.

MANNER OF DEATH: SUICIDE.

MD MPH

Lisa Gavin, MD, MPH
Medical Examiner
Clark County Coroner
Las Vegas, NV

DATE: 1/21/15

LG/kra

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

AUTOPSY REPORT

Case Number: 14-11152

November 25, 2014

POSTMORTEM EXAMINATION ON THE BODY OF

J[redacted] K[redacted]

ADULT POSTMORTEM EXAMINATION

An autopsy is performed on the body tentatively identified as K[redacted], J[redacted] [redacted] at the Clark County Office of the Coroner/Medical Examiner (CCOCME), on 25 November 2014, commencing at 0855 hours. Identification is later confirmed by the White Pine County Sheriff's Department.

The body is received within a sealed body bag (seal #0223687), which is opened on 11/25/14 at 0720 hours by #250. The body is identified by a Clark County Office of the Coroner/Medical Examiner (CCOCME) "toe tag" around the right great toe, which includes: CCOCME Case #14-11152; Name: K[redacted], J[redacted] [redacted]; Date of Death: 11/24/14; Time of Death: 1406 hours; CCOCME Investigator: #365.

The autopsy is conducted in the presence of Deputy Sheriff S. Wilkin (P#426) of the White Pine County Sheriff's Department.

EXTERNAL EXAMINATION (EXCLUDING INJURIES)

The body is that of a well-developed, mildly obese teenage male who weighs 197 pounds and is 67 inches in length (body mass index, BMI = 30.9), and appears compatible with the reported age of 18 years.

The body is received clad in a long-sleeved T-shirt, camouflage pants with a brown cloth-like belt, long johns and white underpants. There are no accompanying personal effects.

The body is cold (refrigerated). Rigor mortis is receding. Fixed pink-purple livor mortis appears to be present over the left side, the inferior and the posterior portions of the body, except in areas exposed to pressure. Evidence of postmortem change includes green discoloration of the body with extensive

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
(702) 455-3210

CLARK COUNTY NEVADA MEDICAL EXAMINER CORONER

AUTOPSY REPORT

Case Number: 14-11152

skin slippage, bloating of the face (cheeks, lips), the abdomen and the scrotum. Drying of the lips is seen. Areas of degloving are present on the hands.

The scalp hair is red, straight, and short, being shaved close to the scalp.

The eyes are decomposing. Consequently, petechial hemorrhages are not clearly appreciated.

The nose and ears are normally formed.

The decedent wears an unkept beard.

The anterior teeth appear natural and in adequate condition.

The neck is slightly obese.

The thorax is well developed and symmetrical.

The abdomen is protuberant.

The anus is free of lesions.

The spine is normally formed and the surface of the back is free of lesions.

The external genitalia are those of a normal adult male.

The upper and lower extremities appear well developed and symmetrical without absence of digits. There is some callousing of the feet and slight corn/callus of the left great toe. The toenails appear well kept. The fingernails contain some dirt beneath them. Fingerprint ink is present on the fingertips.

IDENTIFYING MARKS/SCARS:

No identifying marks or scars are readily apparent.

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CLARK COUNTY NEVADA MEDICAL EXAMINER CORONER

AUTOPSY REPORT

Case Number: 14-11152

EVIDENCE OF MEDICAL INTERVENTION:

There is no evidence of medical intervention.

EVIDENCE OF INJURY

No injuries are identified on external and internal examination.

INTERNAL EXAMINATION (EXCLUDING INJURIES)

BODY CAVITIES:

No adhesions are in any of the body cavities. Decompositional fluid is present within all of the body cavities. All body organs are in normal and anatomic position. The serous surfaces are glistening and greasy.

HEAD (CENTRAL NERVOUS SYSTEM):

The brain weighs 1350 grams and is markedly decomposed having a paste-like consistency. The dura mater and falx cerebri are intact, and not adherent to the brain. The leptomeninges are decomposing. There is no intracranial hemorrhage. The cerebral hemispheres and the base of the brain are decomposing. Consequently, the cranial nerves and blood vessels are indistinct. Sections through the brain matter reveal blurring of the gray-white matter and indistinct deeper structures due to decomposition. The brainstem and cerebellum are decomposed. The spinal cord is not removed.

NECK:

Examination of the soft tissues of the neck, including strap muscles and large vessels, reveals no abnormalities. The hyoid bone and larynx are intact. The tongue is normal.

Clark County Coroner
1704 Pinto Lane
Las Vegas, NV 89106
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AUTOPSY REPORT

Case Number: 14-11152

CARDIOVASCULAR SYSTEM:

The heart weighs 290 grams. The pericardial sac contains decompositional fluid. The pericardial surfaces are glistening and greasy.

The coronary arteries arise normally and follow the distribution of a right dominant pattern with no significant atherosclerosis.

The chambers and valves are proportionate. The valves are normally formed, thin and pliable and free of vegetations and degenerative changes. The myocardium is brown and softened with no evidence of fibrosis. The arterial and ventricular septa are intact.

The aorta and its major branches arise normally and follow the usual course, with no significant atherosclerosis. The orifices of the major aortic vascular branches are patent. The vena cava and its major tributaries are patent and return to the heart in the usual distribution and are unremarkable.

RESPIRATORY SYSTEM:

The right and left lungs weigh 420 and 680 grams, respectively. The upper and lower airways contain decompositional fluid. The mucosal surfaces are smooth and gray. The pleural surfaces are glistening and greasy. The pulmonary parenchyma is a dark red-purple. The cut surface exudes moderate amounts of decompositional fluid and blood. The pulmonary arteries are normally developed and without thromboemboli and atherosis.

LIVER AND BILIARY SYSTEM:

The liver weighs 1350 grams. The hepatic capsule is smooth, glistening, and intact, covering a brown softened parenchyma. The gallbladder contains a minimal amount of brown bile without stones.

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Las Vegas, NV 89106
(702) 455-3210

AUTOPSY REPORT

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ALIMENTARY TRACT:

The esophagus is lined by gray-white smooth mucosa. The gastric mucosa is autolyzed. The lumen contains approximately 100 ml of dark gray thickened liquid within which are granular white probable pill fragments. The serosa of the small and large bowel is decomposing and greasy. The appendix is present. The pancreas is decomposing.

GENITOURINARY TRACT:

The right and left kidneys weigh 180 and 150 grams, respectively. The renal capsules are smooth, thin, semitransparent, and strip with ease from the underlying smooth, red-brown, firm, cortical surfaces. The cortical medullary junctions are blurred due to decomposition. The calyces and pelves are not dilated and free of stones. The urinary bladder contains no urine; the mucosa is gray-tan and smooth. The prostate is not enlarged.

RETICULOENDOTHELIAL SYSTEM:

The spleen weighs 150 grams and has a smooth intact capsule covering a purple diffluent parenchyma. The splenic white pulp is indiscernible. The bone marrow (rib) is red-purple. There is no prominent lymphadenopathy.

ENDOCRINE SYSTEM:

The pituitary gland is decomposing. The thyroid gland is in the normal position, size and texture. The adrenal glands are decomposing.

MUSCULOSKELETAL SYSTEM:

The bony framework, supporting musculature, and soft tissues are not unusual. The cervical spinal column is stable on internal palpation.

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AUTOPSY REPORT

Case Number: 14-11152

RADIOGRAPHS

Radiographs of the head and neck identify visible intact portions of cervical spine. The hyoid bone is obscured by decompositional changes. Partially erupted teeth as well as an unerupted molar are visible within the mouth.

Radiographs of the chest, the abdomen, and the pelvis reveal no clear evidence of acute skeletal injury. Decompositional changes of the internal organs and the soft tissues are visible within all of the radiographs. Metallic portions of clothing are visible within some of the radiographs.

SPECIMENS OBTAINED

TOXICOLOGY: Liver tissue, brain tissue, and gastric contents are obtained at autopsy.

TOXICOLOGY RESULTS: Quetiapine is detected at a lethal level in liver tissue. Trazodone is within the therapeutic range. Trazodone metabolite and beta-phenethylamine are positive but not quantified in liver tissue.

TISSUE: Representative sections of all of the major organs are retained.

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

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Toxicology Report

Report Issued 12/20/2014 14:00

To: **10294**
Clark County Coroner's Office
Attn: Bill Gazza
1704 Pinto Lane
Las Vegas, NV 89106

Patient Name K[redacted], J[redacted]
Patient ID 14-11152
Chain 11832071
Age 18 Y **DOB** Not Given
Gender Male
Workorder 14303833

Positive Findings:

Compound	Result	Units	Matrix Source
Beta-Phenethylamine	Positive	ng/g	002 - Liver Tissue
Trazodone Metabolite	Positive	ng/g	002 - Liver Tissue
Quetiapine	54000	ng/g	002 - Liver Tissue
Trazodone	8.4	mcg/g	002 - Liver Tissue

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
8092TI	Postmortem Toxicology - Expert, Tissue (Forensic)

Tests Not Performed:

Part or all of the requested testing was unable to be performed. Refer to the **Analysis Summary and Reporting Limits** section for details.

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	White Plastic Container	53.86 g	11/25/2014 09:00	Liver Tissue	
002	Homogenate Container	Not Given	11/25/2014 09:00	Liver Tissue	
003	White Plastic Container	27.65 g	11/25/2014 09:00	Brain Tissue	
004	White Plastic Container	60 mL	11/25/2014 09:00	Gastric Fluid	DARK BROWN FLUID, pH=4

All sample volumes/weights are approximations.

Specimens received on 11/26/2014.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Beta-Phenethylamine	Positive	ng/g	250	002 - Liver Tissue	GC/MS
Trazodone Metabolite	Positive	ng/g		002 - Liver Tissue	GC/MS
Quetiapine	54000	ng/g	2000	002 - Liver Tissue	LC-MS/MS
Trazodone	8.4	mcg/g	8.0	002 - Liver Tissue	GC

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Beta-Phenethylamine (PEA) - Liver Tissue:

   Beta-Phenethylamine is a decomposition product.

2. Quetiapine (Seroquel®) - Liver Tissue:

   Quetiapine is an antipsychotic compound approved by the FDA for the management of the manifestations of psychotic disorders, including schizophrenia. It is a structural analogue of clozapine that addresses the positive and negative symptoms of schizophrenia, but does so with few of the traditional side effects of conventional or other atypical antipsychotic medications.

3. Trazodone (Desyrel®) - Liver Tissue:

   Trazodone is a structurally atypical antidepressant agent. It is prescribed for the treatment of major depression. There is a wide range of trazodone dose requirements; however, total daily oral dosages should not exceed 400 mg for outpatients and 600 mg for hospitalized patients.

   The principal effects of trazodone overdosage include drowsiness and lethargy. The CNS-depressant effects of trazodone are at least additive with other CNS-depressants, e.g., barbiturates, benzodiazepines and alcohol.

Sample Comments:

001 Physician/Pathologist Name: GAVIN

001 Tissue specimen required homogenization: 14303833-001

002 NMS Labs generated homogenized Tissue sample: 14303833-002

002 Due to the nature of this specimen, some analytes may not be detected by the GC/MS screen.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded thirteen (13) months from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed. Chain of custody documentation has been maintained for the analyses performed by NMS Labs.

Workorder 14303833 was electronically signed on 12/20/2014 13:50 by:

Daniel S. Isenschmid, Ph.D., F-ABFT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 52112TI - Quetiapine Confirmation, Tissue (Forensic) - Liver Tissue

Analysis Summary and Reporting Limits:

-Analysis by High Performance Liquid Chromatography/ TandemMass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Quetiapine	2000 ng/g		

Acode 52147TI - Antidepressants / Antihistamines Confirmation Panel 1, Tissue (Forensic) - Liver Tissue

-Analysis by Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amitriptyline	200 ng/g	Hydroxyzine	200 ng/g
Chlorpheniramine	200 ng/g	Mirtazapine	100 ng/g
Desmethyldoxepin	200 ng/g	Norfluoxetine	200 ng/g
Dextro / Levo Methorphan	100 ng/g	Nortriptyline	200 ng/g
Diphenhydramine	1000 ng/g	Promethazine	600 ng/g
Doxepin	200 ng/g	Trazodone	8.0 mcg/g
Doxylamine	1000 ng/g	Verapamil	200 ng/g
Fluoxetine	200 ng/g		

Acode 8092TI - Postmortem Toxicology - Expert, Tissue (Forensic) - Liver Tissue

-Analysis by Colorimetry (C) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Salicylates	800 mcg/g		

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Benzodiazepines	400 ng/g	Opiates	80 ng/g
Cannabinoids	N/A	Oxycodone	40 ng/g
Cocaine / Metabolites	80 ng/g		

Not Reported: Cannabinoids: Test was canceled due to [Sample Matrix Problem].

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Buprenorphine / Metabolite	2.0 ng/g		

-Analysis by Gas Chromatography/Mass Spectrometry (GC/MS) for: The following is a general list of compound classes included in the Gas Chromatographic screen. The detection of any particular compound is concentration-dependent. Please note that not all known compounds included in each specified class or heading are included. Some specific compounds outside these classes are also included. For a detailed list of all compounds and reporting limits included in this screen, please contact NMS Labs.

Amphetamines, Analgesics (opioid and non-opioid), Anorectics, Anesthetics, Antiarrhythmics, Anticholinergic Agents, Anticoagulant Agents, Anticonvulsant Agents, Antidepressants, Antiemetic Agents, Antifungal Agents, Antihistamines, Antihypertensive Agents, Antiparkinsonian Agents, Antipsychotic Agents, Antitussive Agents, Antiviral Agents, Anxiolytics (Benzodiazepine and others), Calcium Channel Blocking Agents, Cardiovascular Agents (non digitalis), Hallucinogens, Hypnosedatives (Barbiturates, Non-Benzodiazepine Hypnotics, and others), Local Anesthetics Agents, Muscle Relaxants, Non-Steroidal Anti Inflammatory Agents (excluding Salicylate) and Stimulants (Amphetamine-like and others).

Analysis Summary and Reporting Limits:

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	20 mg/100 g	Isopropanol	20 mg/100 g
Ethanol	40 mg/100 g	Methanol	20 mg/100 g

WHITE PINE COUNTY CORONER'S REPORT

DECEDENT

DECEASED -NAME First [redacted] Middle [redacted] Last [redacted]

Date of Death: 11-30-2014

County of Death: White Pine

CITY, TOWN OR LOCATION OF DEATH: [redacted]

HOSPITAL OR OTHER INSTITUTION-Name (if not either, give street and number): -N/A-

If Hosp. or Inst. Indicate DOA, OP, Emer.Rm. Inpatient (Specify): -N/A-

SEX	RACE - (e.g., White, Black, American Indian, etc.) (specify)	AGE - Last Birthday (Years)	UNDER 1 YEAR MOS | DAYS	UNDER 1 DAY HOURS | MINS	DATE OF BIRTH (Mo., Day, Yr.)
F	White	3	-N/A-	-N/A-	[redacted]/11

STATE of BIRTH (If not U.S.A., name country)	CITIZEN OF WHAT COUNTRY	Decedent's Education. Specify highest grade completed.	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify)	SURVIVING SPOUSE (If Wife, give maiden name)
Nevada	United States	-N/A-	-N/A-	-N/A-

SOCIAL SECURITY NUMBER: [redacted]

USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired): -N/A-

KIND OF BUSINESS OR INDUSTRY: -N/A-

RESIDENCE-STATE: Nevada

COUNTY: [redacted]

CITY, TOWN, OR LOCATION: [redacted]

STREET AND NUMBER: [redacted]

INSIDE CITY LIMITS: ☒ Yes ☐ No

PARENTS

FATHER-NAME First [redacted] Middle [redacted] Last [redacted]

MOTHER-MAIDEN NAME First [redacted] Middle [redacted] Last [redacted]

INFORMANT-NAME (Type or Print) [redacted]

MAILING ADDRESS (Street or R.F.D. No., City, State, Zip) [redacted]

CERTIFIER

To be completed by Coroner's Office

On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and manner stated.

(Signature and Title) Ray Sawyer Lieutenant

DATE SIGNED (Mo., Day. Yr.): 12/4/2014

HOUR OF DEATH: Undetermined

PRONOUNCED DEAD Mo., Day. Yr.): 12/3/2014

PRONOUNCED DEAD (Hour): 10:53 A.m.

NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print.)

CAUSE OF DEATH

IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a) AND (b).)

PART I

(a) Carbon Monoxide Poisoning — Interval between onset and death:

DUE TO, OR AS A CONSEQUENCE OF:

(b) Inhalation of burning Charcoal Fumes — Interval between onset and death:

PART II

OTHER SIGNIFICANT CONDITIONS – Conditions contributing to death but not resulting In the underlying cause given In Part 1.

AUTOPSY (specify): ☐ Yes ☒ No

WAS CASE REFERRED TO CORONER (specify): ☒ Yes ☐ No

WHITE PINE COUNTY CORONER'S REPORT

CONTINUATION

DECEASED -NAME First [redacted] Last [redacted]

ACC., SUICIDE, HOMICIDE UNDETERMINED, OR PENDING INVESTIGATION *(specify)*	DATE OF INJURY *(Mo., Day, Yr.)*	HOUR OF INJURY	DESCRIBE HOW INJURY OCCURRED
Homicide	11-30-2014	undetermined	Carbon Monoxide Poisoning / Inhalation of burning Charcoal Fumes

INJURY AT *WORK*	PLACE OF INJURY-*At home farm street, factory, office building, etc. (specify)*	LOCATION.	STREET *OR R.F.D.* No.	CITY OR TOWN	STATE
☐ Yes ☒ No	[redacted]	[redacted]			

BLOOD ALCOHOL

(Required on all accidents & suicides)

Blood Draw	Administered By:	Results (%):
☒ Yes ☐ No	Jamie Macintosh	Pending

Synopsis of Incident/ Accident

Deceased was found in a motor vehicle that contained a small barbecue with burnt charcoal in it and with the inside of the windows taped closed.

Notification of Next of Kin

To Whom Made: [redacted] Relationship: Father

By Whom: R. Sawyer #102 Date: 12/3/2014 Time: 12:40 P.M.

Personal Property

Ear Ring(s):

Jewelry/ Misc.:

Necklace(s).:

Ring(s):

Wallet:

Watch:

Other:

Other:

MONEY	
Currency:	
Change:	
Checks:	
TOTAL:	

INVENTORIED BY:

Property Released To: Date:

Recipient's Signature:

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

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Toxicology Report

Report Issued 12/26/2014 11:00

To: **40763**
White Pine County Sheriff
Attn: Captain Scott Henriod
1785 Great Basin Blvd
Ely, NV 89301

Patient Name [redacted]
Patient ID 616-14 A
Chain 11589011
Age 3 Y **DOB** Not Given
Gender Female
Workorder 14316872

Positive Findings:

Compound	Result	Units	Matrix Source
Ethanol	**17**	**mg/dL**	**001 - Blood**
Blood Alcohol Concentration (BAC)	**0.017**	**g/100 mL**	**001 - Blood**
Carboxyhemoglobin	**91**	**%Saturation**	**001 - Blood**

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
1002B	Carbon Monoxide Exposure Biouptake Screen, Blood
8051B	Postmortem Toxicology - Basic, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Top Tube	10 mL	12/03/2014 02:00	Blood	
002	Gray Top Tube	10 mL	12/03/2014 02:00	Blood	

All sample volumes/weights are approximations.

Specimens received on 12/10/2014.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Ethanol	17	mg/dL	10	001 - Blood	Headspace GC
Blood Alcohol Concentration (BAC)	0.017	g/100 mL	0.010	001 - Blood	Headspace GC
Ethanol	Confirmed	mg/dL	10	001 - Blood	Headspace GC
Carboxyhemoglobin	91	%Saturation	2	001 - Blood	GC/MS

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Carboxyhemoglobin (COHb) - Blood:

   Hemoglobin is a protein found in red blood cells that is responsible for the oxygen carrying capacity of blood. In normal conditions, hemoglobin receives oxygen via blood circulation through the lungs and delivers the oxygen to tissues and organs throughout the body. In situations where the inspired air is high in carbon monoxide concentration, the hemoglobin then binds the carbon monoxide in place of oxygen. This leads to a functional deficiency in oxygen delivery to the organs and tissues of the body.

   Measurement of carbon monoxide hemoglobin saturation gives an indication of the carbon monoxide concentration in the inspired air and its possible sequelae. Normal endogenous carboxyhemoglobin levels are generally up to 4% in non-smokers and up to 8% in smokers (although it may be higher); toxic symptoms may be noted at levels >10%. Concentrations over 10% saturation have been reported to produce adverse effects, e.g., headache and nausea. Deaths from carbon monoxide, in the absence of resuscitative measures, generally have associated carboxyhemoglobin levels >40%. However, individuals with a compromised cardiovascular system are at a potentially greater risk of toxic effects at much lower carbon monoxide hemoglobin saturation values.

2. Ethanol (Ethyl Alcohol) - Blood:

   Ethyl alcohol (ethanol, drinking alcohol) is a central nervous system depressant and can cause effects such as impaired judgment, reduced alertness and impaired muscular coordination. Ethanol can also be a product of decomposition or degradation of biological samples. The blood alcohol concentrations (BAC) can be expressed as a whole number with the units of mg/dL or as a decimal number with units of g/100 mL which is equivalent to % w/v. For example, a BAC of 85 mg/dL equals 0.085 g/100 mL or 0.085% w/v of ethanol.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded two (2) years from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Workorder 14316872 was electronically signed on 12/26/2014 10:37 by:

Daniel S. Isenschmid, Ph.D., F-ABFT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 1002B - Carbon Monoxide Exposure Biouptake Screen, Blood

Analysis Summary and Reporting Limits:

-Analysis by Spectrophotometry (SP) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Carboxyhemoglobin	5 %Saturation		

Acode 52250B - Alcohols and Acetone Confirmation, Blood (Forensic)

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

Acode 5654B - Carbon Monoxide Exposure Biouptake Confirmation, Blood

-Analysis by Gas Chromatography/Mass Spectrometry (GC/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Carboxyhemoglobin	2 %Saturation		

Acode 8051B - Postmortem Toxicology - Basic, Blood (Forensic)

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamines	20 ng/mL	Fentanyl	0.50 ng/mL
Barbiturates	0.040 mcg/mL	Methadone	25 ng/mL
Benzodiazepines	100 ng/mL	Methamphetamine	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Opiates	20 ng/mL
Cannabinoids	10 ng/mL	Oxycodone	10 ng/mL
Cocaine / Metabolites	20 ng/mL	Phencyclidine	10 ng/mL

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

WHITE PINE COUNTY CORONER'S REPORT

DECEDENT

DECEASED -NAME First	Middle	Last	Date of Death	County of Death
[redacted]		S[redacted]	June 15, 2015	White Pine

CITY, TOWN OR LOCATION OF DEATH	HOSPITAL OR OTHER INSTITUTION-Name (if not either, give street and number)	If Hosp. or Inst. Indicate DOA, OP/ Emer.Rm. Inpatient (Specify)
[redacted]		

SEX	RACE - (e.g., White, Black, American Indian, etc.) (specify)	AGE - Last Birthday (Years)	UNDER 1 YEAR MOS | DAYS	UNDER 1 DAY HOURS | MINS	DATE OF BIRTH (Mo., Day, Yr.)
Female	White	14			[redacted]2000

STATE of BIRTH (If not U.S.A., name country)	CITIZEN OF WHAT COUNTRY	Decedent's Education. Specify highest grade completed.	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify)	SURVIVING SPOUSE (If Wife. give maiden name)
Nevada	U.S	8th	Never Married	N/A

SOCIAL SECURITY NUMBER	USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired)	KIND OF BUSINESS OR INDUSTRY
[redacted]	N/A	N/A

RESIDENCE-STATE	COUNTY	CITY, TOWN, OR LOCATION	STREET AND NUMBER	INSIDE CITY LIMITS
NV	[redacted]	[redacted]	[redacted]	☒ Yes ☐ No

PARENTS

FATHER-NAME First	Middle	Last	MOTHER-MAIDEN NAME First	Middle	Last
E[redacted]		S[redacted]	[redacted]	[redacted]	K[redacted]

INFORMANT-NAME (Type or Print)	MAILING ADDRESS (Street or R.F.D. No., City or Town, State, Zip)
[redacted]	[redacted]

CERTIFIER

To be completed by Coroner's Office

On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and manner stated.

(Signature and Title) _____

DATE SIGNED (Mo., Day. Yr.)	HOUR OF DEATH
	12:10
PRONOUNCED DEAD Mo., Day. Yr.)	PRONOUNCED DEAD (Hour)
June 15, 2015	12:40

NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print.)

Sgt. Steve Marquez #205 Deputy Coroner White Pine County Sheriffs Office Ely, NV 89301

CAUSE OF DEATH

			Interval between onset and death
IMMEDIATE CAUSE	(ENTER ONLY ONE CAUSE PER LINE FOR (a) AND (b).)		
PART I	(a)	Massive Head Trauma	Immediate
	DUE TO, OR AS A CONSEQUENCE OF:		
	(b)	Motor Vehicle Accident	Immediate

PART II — OTHER SIGNIFICANT CONDITIONS -- Conditions contributing to death but not resulting In the underlying cause given In Part 1.

AUTOPSY (specify) ☐ Yes ☒ No

WAS CASE REFERRED TO CORONER (specify) ☒ Yes ☐ No

WHITE PINE COUNTY CORONER'S REPORT

CONTINUATION

DECEASED -NAME First T[redacted] Middle Last S[redacted]

ACC., SUICIDE, HOMICIDE UNDETERMINED, OR PENDING INVESTIGATION *(specify)*	DATE OF INJURY *(Mo., Day, Yr.)*	HOUR OF INJURY	DESCRIBE HOW INJURY OCCURRED
Accident	06-15-2015	11:10	Single Vehicle motor Vehicle accident

INJURY AT *WORK*	PLACE OF INJURY-*At home farm street, factory, office building, etc. (specify)*	LOCATION. STREET *OR R.F.D.* No.	CITY OR TOWN	STATE
☒ Yes ☐ No	State Highway	U.S 93 Mile Marker 101 White Pine County NV.		

BLOOD ALCOHOL

(Required on all accidents & suicides)

Blood Draw	Administered By:	Results (%):
☒ Yes ☐ No	Sgt. Steve Marquez #205	

Synopsis of Incident/ Accident

Above Decedent was passenger in a single vehicle motor vehicle rollover accident and was ejected during the rollover. Decedent died from massive head trauma and other injuries sustained after being ejected.

Notification of Next of Kin

To Whom Made: Trudy Scarborough Relationship: Grandmother

By Whom: Derrick Dubasik Clark County Medical Examiners Office Date: 06-15-2015 Time: 19:05

Personal Property

Ear Ring(s):

Jewelry/ Misc.:

Necklace(s).:

Ring(s):

Wallet:

Watch: Red Cell phone

Other:

Other:

MONEY	
Currency:	
Change:	
Checks:	
TOTAL:	

INVENTORIED BY: Sgt. Steve Marquez #205

Property Released To: Date: 6/19/15

Recipient's Signature: Donna Sampson

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL

Toxicology Report

Report Issued 06/29/2015 12:01

To: **40763**
White Pine County Sheriff
Attn: Captain Scott Henriod
1785 Great Basin Blvd
Ely, NV 89301

Patient Name S[redacted] T[redacted]
Patient ID 334-15
Chain 11851888
Age 14 Y **DOB** [redacted]2000
Gender Female
Workorder 15178340

Positive Findings:

Compound	Result	Units	Matrix Source
Delta-9 THC	**6.0**	**ng/mL**	**001 - Blood**
Delta-9 Carboxy THC	**19**	**ng/mL**	**001 - Blood**

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
8051B	Postmortem Toxicology - Basic, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Top Tube	9.5 mL	06/15/2015 15:25	Blood	
002	Gray Top Tube	8.5 mL	06/15/2015 15:25	Blood	

All sample volumes/weights are approximations.

Specimens received on 06/18/2015.

Detailed Findings:

Analysis and Comments	Result	Units	Rpt. Limit	Specimen Source	Analysis By
Delta-9 THC	6.0	ng/mL	1.0	001 - Blood	GC-GC-GC/MS
Delta-9 Carboxy THC	19	ng/mL	5.0	001 - Blood	GC-GC-GC/MS

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Reference Comments:

1. Delta-9 Carboxy THC (Inactive Metabolite) - Blood:

   Marijuana is a DEA Schedule I hallucinogen. Pharmacologically, it has depressant and reality distorting effects. Collectively, the chemical compounds that comprise marijuana are known as Cannabinoids.

   Delta-9-THC is the principle psychoactive ingredient of marijuana/hashish. Delta-9-carboxy-THC (THCC) is the inactive metabolite of THC with peak concentrations attained 32 to 240 minutes after smoking and may be detected for up to one day or more in blood. Both delta-9-THC and THCC may be present substantially longer in chronic users. THCC is usually not detectable after passive inhalation.

2. Delta-9 THC (Active Ingredient of Marijuana) - Blood:

   Marijuana is a DEA Schedule I hallucinogen. Pharmacologically, it has depressant and reality distorting effects. Collectively, the chemical compounds that comprise marijuana are known as Cannabinoids.

   Delta-9-THC is the principle psychoactive ingredient of marijuana/hashish. It rapidly leaves the blood, even during smoking, falling to below detectable levels within several hours. THC concentrations in blood are usually about one-half that of serum/plasma concentrations. The active metabolite, 11-hydroxy-THC, may also fall below detectable levels shortly after inhalation. Delta-9-carboxy-THC (THCC) is the inactive metabolite of THC with peak concentrations attained 32 to 240 minutes after smoking and may be detected for up to one day or more in blood. Both delta-9-THC and THCC may be present substantially longer in chronic users.

   Reported usual peak THC concentrations in serum after smoking 1.75% or 3.55% THC marijuana cigarettes are 50 - 270 ng/mL after beginning of smoking, decreasing to less than 5 ng/mL by 2 hrs. Corresponding delta-9-carboxy-THC concentrations range from 10 - 101 ng/mL about 32 to 240 minutes after the beginning of smoking and decline slowly. Passive inhalation of marijuana smoke has been reported to produce blood THC concentrations up to 2 ng/mL. Delta-9-carboxy THC concentrations in blood may not be present following passive inhalation of marijuana smoke.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded two (2) years from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Workorder 15178340 was electronically signed on 06/29/2015 11:55 by:

Susan B. Crookham

Susan Crookham,
Certifying Scientist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

code 50013B - Cannabinoids Confirmation, Blood (Forensic) - Blood

Analysis Summary and Reporting Limits:

-Analysis by Multi-dimensional Gas Chromatography/Mass Spectrometry (GC-GC-GC/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
11-Hydroxy Delta-9 THC	5.0 ng/mL	Delta-9 THC	1.0 ng/mL
Delta-9 Carboxy THC	5.0 ng/mL		

Acode 8051B - Postmortem Toxicology - Basic, Blood (Forensic) - Blood

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamines	20 ng/mL	Fentanyl	0.50 ng/mL
Barbiturates	0.040 mcg/mL	Methadone	25 ng/mL
Benzodiazepines	100 ng/mL	Methamphetamine	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Opiates	20 ng/mL
Cannabinoids	10 ng/mL	Oxycodone	10 ng/mL
Cocaine / Metabolites	20 ng/mL	Phencyclidine	10 ng/mL

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

WHITE PINE COUNTY CORONER'S REPORT

DECEDENT

updated

DECEASED -NAME First	Middle	Last	Date of Death	County of Death
[redacted]	[redacted]	[redacted]	October 21, 2015	White Pine

CITY, TOWN OR LOCATION OF DEATH	HOSPITAL OR OTHER INSTITUTION-Name (if not either, give street and number)	If Hosp. or Inst. Indicate DOA, OP/ Emer.Rm. Inpatient (Specify)
HWY 93 MM 60	William Bee Ririe Hospital	DOA

SEX	RACE - (e.g., White, Black, American Indian, etc.) (specify)	AGE - Last Birthday (Years)	UNDER 1 YEAR MOS | DAYS	UNDER 1 DAY HOURS | MINS	DATE OF BIRTH (Mo., Day, Yr.)
M	White	17			[redacted]998

STATE of BIRTH (If not U.S.A., name country)	CITIZEN OF WHAT COUNTRY	Decedent's Education. Specify highest grade completed.	MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify)	SURVIVING SPOUSE (If Wife. give maiden name)
AZ	US	11TH	Never Married	

SOCIAL SECURITY NUMBER	USUAL OCCUPATION (Give Kind of Work Done During Most of Working Life, Even if Retired)	KIND OF BUSINESS OR INDUSTRY
[redacted]	Student	

RESIDENCE-STATE	COUNTY	CITY, TOWN, OR LOCATION	STREET AND NUMBER	INSIDE CITY LIMITS
[redacted]				☐ Yes ☒ No

PARENTS

FATHER-NAME First	Middle	Last	MOTHER-MAIDEN NAME First	Middle	Last
D[redacted]		N[redacted]	M[redacted]		V[redacted]

INFORMANT-NAME (Type or Print)	MAILING ADDRESS (Street or R.F.D. No., City or Town, State, Zip)
M[redacted] V[redacted]	[redacted]

CERTIFIER

To be completed by Coroner's Office

On the basis of examination and/or investigation, in my opinion death occurred at the time, date and place and due to the cause(s) and manner stated.

(Signature and Title) [signature]

DATE SIGNED (Mo., Day. Yr.)	HOUR OF DEATH
October 27, 2015	19:45
PRONOUNCED DEAD Mo., Day. Yr.)	PRONOUNCED DEAD (Hour)
October 21, 2015	20:28

NAME AND ADDRESS OF CERTIFIER (PHYSICIAN, ATTENDING PHYSICIAN, MEDICAL EXAMINER, OR CORONER) (Type or Print.)

Sgt. Luke Shady #207 1785 Great Basin Blvd. Ely, Nevada 89301 Deputy Coroner 775-289-8808

CAUSE OF DEATH

IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a) AND (b).)

PART I

(a) Exsanguination of the femoral artery — Interval between onset and death: Immediate

DUE TO, OR AS A CONSEQUENCE OF:

(b) Major head trauma — Interval between onset and death:

PART II

OTHER SIGNIFICANT CONDITIONS -- Conditions contributing to death but not resulting In the underlying cause given In Part 1.

AUTOPSY (specify) ☐ Yes ☒ No

WAS CASE REFERRED TO CORONER (specify) ☒ Yes ☐ No

WHITE PINE COUNTY CORONER'S REPORT

CONTINUATION

DECEASED -NAME First [redacted] Middle [redacted] Last [redacted]

ACC., SUICIDE, HOMICIDE UNDETERMINED, OR PENDING INVESTIGATION *(specify)*	DATE OF INJURY *(Mo., Day, Yr.)*	HOUR OF INJURY	DESCRIBE HOW INJURY OCCURRED
Vehicle accident	October 21, 2015	19:45	Vehicle vs semi trailer accident

INJURY AT *WORK*	PLACE OF INJURY-*At home farm street, factory, office building, etc. (specify)*	LOCATION.	STREET *OR R.F.D.* No.	CITY OR TOWN	STATE
☐ Yes ☒ No	Highway	US 93 MM 60		White Pine County, NV	

BLOOD ALCOHOL

(Required on all accidents & suicides)

Blood Draw	Administered By:	Results (%):
☒ Yes ☐ No	Sgt. Luke Shady	

Synopsis of Incident/ Accident

Deceased was traveling northbound on HWY 93. Deceased was passing an oncoming semi and veered into the oncoming traffic lane, striking the trailer of the semi. Deceased suffered major head injuries and had a badly broken left femur. Deceased was pinned in the vehicle and when he was cut out of the vehicle lost consciousness. Deceased was transported to the hospital by ambulance and was pronounced dead at 20:28 by ER Dr. Crutchfield.

Notification of Next of Kin

To Whom Made: Mary Valencia / Donald Nelson Relationship: Mother / Father

By Whom: Sgt. Luke Shady / Bullhead City Officer Madarang Date: October 21, 2015 Time: 21:37 / 23:16

Personal Property

Ear Ring(s):

Jewelry/ Misc.:

Necklace(s).:

Ring(s):

Wallet:

Watch:

Other:

Other:

MONEY	
Currency:	
Change:	
Checks:	
TOTAL:	

INVENTORIED BY: Luke Shady

Property Released To: Date:

Recipient's Signature:

NMS LABS

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL

Toxicology Report

Report Issued 11/03/2015 07:59

To: **40763**
White Pine County Sheriff
Attn: Captain Scott Henriod
1785 Great Basin Blvd
Ely, NV 89301

Patient Name	N[redacted] J[redacted]
Patient ID	601-15
Chain	11589017
Age 17 Y	**DOB** Not Given
Gender	Male
Workorder	15321028

Positive Findings:

None Detected

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
8051B	Postmortem Toxicology - Basic, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Top Tube	10 mL	10/21/2015 22:30	Blood	
002	Gray Top Tube	9.75 mL	10/21/2015 22:30	Blood	

All sample volumes/weights are approximations.

Specimens received on 10/26/2015.

Detailed Findings:

Examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded two (2) years from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Workorder 15321028 was electronically signed on 11/03/2015 07:24 by:

Denice M. Teem,
Certifying Scientist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 8051B - Postmortem Toxicology - Basic, Blood (Forensic)

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamines	20 ng/mL	Fentanyl / Metabolite	0.50 ng/mL
Barbiturates	0.040 mcg/mL	Methadone / Metabolite	25 ng/mL
Benzodiazepines	100 ng/mL	Methamphetamine / MDMA	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Opiates	20 ng/mL
Cannabinoids	10 ng/mL	Oxycodone / Oxymorphone	10 ng/mL
Cocaine / Metabolites	20 ng/mL	Phencyclidine	10 ng/mL

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

EXHIBIT 4

LANDER COUNTY SHERIFF'S OFFICE

Public Records Request

Public Records Request Estimate to Produce Records

Estimate Returned To:	
Name:	Arthur Kane
Organization:	LVRJ
Address:	1111 W. Bonanza Rd
City, State, Zip:	Las Vegas, NV 89106
E-mail:	akane@reviewjournal.com

Calculation (Research and Compile Fee is in Addition to all other Fees)		
✓	Research & Data Compiling Fee	$25.00 per hour (Billed in ½ hour increments)
o	Inspection of Records	$25.00 per hour (Billed in ½ hour increments)
✓	Reports (Crime/Accident/Coroner)	$15.00 each
o	Online Reports (Accident only)	$12.00 each
o	Certified Local Records Check	$15.00 each
o	Photograph – CDROM/DVD	$10.00 each
o	Photograph – Print (8x10 only)	$10.00 each
o	Certified Documents Release	$2.50 each document in addition to other fees
o	Video – Disc (up to 4 GB)	$10.00 each (no redaction required)
o	Video – USB Storage (Up to 8 GB)	$15.00 each (no redaction required)
o	Video – USB Storage (> 8.1 GB)	Determined at time of production (no redaction required)
o	Video – Redaction	$40.00 per hour (Billed in ½ hour increments + above costs)
o	Mailing	Packaging + USPS Actual Cost for Priority Service & Certified Return Receipt)

Estimate of Costs:

SYSTEM 36
Date Completed: ____
Completed By: ____
Records Found: ____
# of Records: ____
Estimated Compile and Processing Time: ____
Estimated Total Cost: ____

CHRIS
Date Completed: ____
Completed By: ____
Records Found: ____
# of Records: ____
Estimated Compile and Processing Time: ____
Estimated Total Cost: ____

RIMS
Date Completed: 8/29/17
Completed By: JB367
Records Found: 1
# of Records: 1
Estimated Compile and Processing Time: ½ hour
Estimated Total Cost: $40.00

VIDEO/AUDIO
Date Completed: ____
Completed By: ____
Records Found: ____
# of Records: ____
Estimated Compile and Processing Time: ____
Estimated Total Cost: ____

Certified Document Cost: # of Documents Ø X $2.50 = Ø

Mailing Cost: Ø

Total Estimated Cost to Produce Requested Records: $40.00
Date Estimate Completed: 8/29/17 JB367

V20150914/RWQ

STATE OF NEVADA

Public Records Request

Deliver, Mail, or Fax to:
Lander County Sheriff's Office, Post Office Box 1625, Battle Mountain, NV. 89820

Attention: Public Records Officer

Date of Request	
Requestor Contact Information	
Name:	Arthur Kane
Organization:	LVRJ
Address:	1111 W. Bonanza Rd, Las Vegas, NV 89106
City, State, Zip:	LAS VEGAS, NV 89106
Phone:	702-383-0286
E-mail:	AKANE@REVIEWJOURNAL.com

Records Requested:

Check all that apply: ☐ Paper copies ☒ Electronic copies ☐ Certified copies ☐ Inspection (in person)

Please be specific and include as much detail as possible regarding the records you are requesting.

POF or PAPER of Oscar Autopsy

To complete an estimate, the agency will need the following information:

☐ I will pick up	☐ Please USPS	☒ E-mail (if format allows)	☐ Please send via: Billing Acct #:

Statement

☒ I understand there is a charge for research, compiling and copies of public records. I understand I will receive a written estimate for production of the records indicated above. A non-refundable fee of 50% of estimated costs is required before records are compiled and prepared. The remainder of the actual cost is due prior to release of records. Materials will be held for 30 days.

Requester Signature _____ Signature

Office Use Only

Request status:		**Estimate:**	
8/29/17	Request received	Estimate:	$ 40.00
8/29/17	Receipt acknowledgement issued	Date deposit received	9/1/17
9/20/17	Request filled	Actual (if different)	$
8/29/17	Estimated completion	Date final payment received	9/1/17
8/29/17	Estimate provided	Completed by	JRB3107
	Request denied in whole		
	Other		

Lander County Sheriff's Office

Post Office Box 1625
Battle Mountain, Nevada 89820

Sales Receipt

Date	Sale No.
9/20/2017	4424

Sold To
Kane, Art 1111 W. Bonanza Rd. Las Vegas, NV 89106

Check No.	Payment Method	Project	Other
2686	Check		367

Description	Qty	Rate	Amount
Reports/Accident Copies		40.00	40.00
		Total	$40.00

Washoe County | Regional Medical Examiner's Office
Phone: (775) 785-6114 | Fax: (775) 785-6163
990 East Ninth Street | Reno, Nevada 89502

REGIONAL MEDICAL EXAMINER'S OFFICE

Decedent: B [redacted] W [redacted]

Case Number: **2016-03215**

Narrative

Recording Deputy: **Franklin, Nicole**

Entered Date: **10/08/2016**

Synopsis: Lander County Sheriff's Office; 7 month old male; unexplained infant death

The decedent was put to bed on 10/07/2016 at approximately 2030 hours. The decedent apparently had a "runny nose and cough" that day. On 10/08/2016 at approximately 0500 hours, the decedent's mother found the decedent unresponsive and cold to the touch. The decedent was transported to Battle Mountain General Hospital where death was declared. All further details are pending a SUIDI packet and doll reenactment, which the Lander County Sheriff's Office was instructed to complete.

Narrative: On 10/08/2016 at 1305 hours, Deputy Ancho of the Lander County Sheriff's Office contacted the Washoe County Medical Examiner's Office to report the death of this 7 month old infant.

According to the Lander County Sheriff's Office, the decedent was found unresponsive in bed. The Lander County Sheriff's Office is requesting an autopsy with infant protocol. Representatives from Burns Funeral Home will transport the decedent to the Washoe County Medical Examiner's Office on 10/10/2016. Positive identification and next of kin notification have been completed.

The Lander County Sheriff's Office sent all required paperwork, to include the Other Agency Referral packet, Record of Identification, Identification Exception, Authorization for Examination, medical records, and an investigative narrative. The Lander County Sheriff's Office will complete a SUIDI packet and perform a doll reenactment.

Body:
Refer to OA report.

Supplemental Entered By:

Supplemental Entered Date:

Supplemental Text:

9/1/17

Franklin, Nicole Investigator

9/20/2017 11:46:47 AM,rbenavidez-Las Vegas Review Journal-Art Kane

AUTOPSY PROTOCOL

B [redacted] W [redacted] 16-03215A-LAN

DATE OF DEATH:	10/08/2016 7:05 AM
DATE OF AUTOPSY:	10/10/2016 10:00 AM
CONSENT GRANTED BY:	Lander County Sheriff/Coroner
AUTOPSY PERFORMED AT:	Washoe County Medical Examiner's Office
INVESTIGATOR:	Nicole Franklin
PATHOLOGIST:	Laura D. Knight, M.D.

FINAL PATHOLOGICAL DIAGNOSES

I. Sudden unexplained infant death.
   A. Scene findings: unsafe sleep environment including blankets, toys, and propped bottle.
   B. Epicardial, thymic, and pleural petechiae; non-specific findings.
   C. No anatomic cause of death.

II. Reported history of diarrhea.
   A. Stool immunoassay positive for Rotavirus.
   B. Heavy disposable diaper accompanying body, containing urine and abundant soft green stool.
   C. See vitreous electrolyte assessment below, and Opinion.

III. Organizing subdural membrane, bilateral cerebral convexities, with patchy areas of re-bleeding.
   A. See separate Neuropathology report; age of subdural hemorrhage estimated at least 3-4 weeks (or more).
   B. Head circumference well above 95th percentile for age.

IV. Contusion, right frontal head.

V. Two minimal, crusted (healing) abrasions, occipital head.

VI. Metabolic screening negative for inborn errors of metabolism.

VII. Other microbiological studies unremarkable.
   A. No respiratory virus isolated (negative for adenovirus, influenza A and B, parainfluenza types 1-3, and respiratory syncytial virus).
   B. Mixed bacteria in lung and blood culture, predominantly various types of gram negative bacilli normally encountered in lower GI tract; likely postmortem contamination of blood through decompositional change/bacterial migration from GI tract.

VIII. Vitreous electrolyte assessment and interpretation:

9/20/2017,11:46:48 AM.rbenavidez-Las Vegas Review Journal-Art Kane

A. Vitreous sodium 118 mmol/L; interpretation: low sodium level, likely due to long pre-autopsy postmortem interval (decompositional pattern).
B. Remainder of vitreous electrolytes and glucose analysis unable to be completed due to inadequate specimen quantity (vitreous quantity decreased due to prolonged postmortem interval prior to autopsy).

IX. See separate toxicology report; no alcohol or commonly abused drugs detected in blood.

OPINION

Based on consideration of the circumstances surrounding the death, review of available medical history/records, autopsy examination, neuropathology consultation, toxicological analysis, and other ancillary testing, the cause of the death of W[redacted] W[redacted] B[redacted] remains **undetermined**. As the cause of death is undetermined, the manner of death is also **undetermined**. By law, manner of death certification resides with the Lander County Sheriff/Coroner.

Comment: Sudden unexplained infant deaths frequently involve unsafe sleep environments and potential for asphyxia. The blankets and head/neck position in this case are potential risk factors for asphyxia; it is also unknown what role the propped bottle may have played. However, accidental asphyxia is not the only possibility in sudden infant deaths, and in this case in specific. It appears the decedent also may have had a viral diarrheal illness, though the severity is unclear. However, due to the long interval from death to autopsy (>48 hours), the ability to diagnose dehydration (secondary to diarrhea) with vitreous electrolyte analysis is unfortunately lost. The vitreous fluid diminished in quantity and in quality during that time interval, limiting the testing and limiting the ability to interpret the one result obtained. Finally, this infant has an unexplained, organizing and non-acute (3-4 weeks or older, according to the neuropathologist consultant) subdural hemorrhage on the surface of his brain. The relatively small quantity and non-acute nature of this hemorrhage make it an unlikely candidate for the cause of death.

Laura D. Knight, M.D.
Chief Medical Examiner

9/1/2017
Date Signed

9/20/2017,11:46:48 AM,rbenavidez-Las Vegas Review Journal-Art Kane

AUTOPSY PROTOCOL

B[redacted], W[redacted] 16-03215A-LAN

An autopsy is performed on the body of Wi[redacted] B[redacted] at the Washoe County Medical Examiner's Office, at Reno, Nevada on the 10th day of October 2016, commencing at 1000 hours.

CIRCUMSTANCES OF DEATH

The decedent was a 7-month-old male infant who was found unresponsive and cold to the touch by his mother on the morning of 10/08/2016, according to information received from the Lander County Sheriff's Office. He was transported to Battle Mountain General Hospital and pronounced dead after unsuccessful resuscitative efforts.

The Lander County Sheriff's Office completed a doll re-enactment and sudden unexplained infant death investigation form. The infant had been put to bed at approximately 8:30 PM, and his mother awoke at 5:00 AM to find the baby unresponsive when she checked on him. She noted the baby was cold and had vomitus on his face. The parents called 911 and began cardiopulmonary resuscitative efforts, which were ultimately unsuccessful.

The residence was a "5th wheel" camper, and reportedly very cramped/crowded. The infant reportedly was placed supine in a playpen that was on top of a sofa in the living room, his head propped on a folded blanket and with a bottle propped with another blanket. He was subsequently found in the same location, lying on his side. His face reportedly was to the left, and there was vomitus. Two or more blankets were in the playpen with the infant, along with multiple toys, per scene photographs. No other children were in the playpen with the infant. According to the SUIDI reporting form, the decedent had diarrhea and fussiness in the 72 hours prior to death. He also was noted by the mother to have had "cold-like" symptoms, including cough and runny nose. The decedent reportedly was the product of a term gestation (38 weeks), born by emergency Cesarean section. He reportedly had last been seen by his pediatrician in Indiana in September 2016 for his 6-month immunizations. The decedent was fed formula, eggs, cereal, and well water in the 24 hours prior to death. An 8-ounce bottle was reportedly given to the infant when he was placed to sleep. Further, in the SUIDI reporting form, a description is given that the decedent was "sitting at a slant with bottle, neck/chin kinked to chest. During demonstration blanket held the bottle." Photographs of the infant taken in the emergency room demonstrate lividity on the posterior aspects of the body predominantly, but also the anterior to lateral aspects of the chest, and lateral aspects of the face with possible blanching of the left cheek; lividity also involves the nose, without blanching.

Medical records from the decedent's pediatrician are reviewed, and include typical well child visits and immunizations. The medical history is remarkable only for upper

9/20/2017.11:46:48 AM,rbenavidez-Las Vegas Review Journal-Art Kane

respiratory infection symptoms with bilateral otitis media in August 2016, treated with an antibiotic.

IDENTIFICATION

The body is received in a small white body bag bearing a handwritten Coroner identification band inscribed "B[redacted] At the time of examination, a Medical Examiner identification tag with the decedent's name and Medical Examiner case number is also affixed to the body bag. No identifying tags are affixed to the body.

AUTOPSY ASSISTANT

Rudy Bein.

CLOTHING

The body is received clad in a disposable diaper. A soiled white Onesie, a white sheet, and a pink and purple fleece blanket also accompany the body.

The diaper is heavy with urine and feces, weighing 190 grams, and containing abundant soft gray-green foul smelling fecal material.

XRAYS

Full body radiographs reveal no obvious bony injuries.

EVIDENCE OF MEDICAL THERAPY

The following medical and therapeutic devices and/or marks are present and appropriately placed on the body:

1. A pediatric oral endotracheal tube.
2. An endotracheal tube holder, around the neck, and not secured to the endotracheal tube.
3. Five cardiac tracing tabs on the shoulders, chest and abdomen.
4. Pediatric defibrillation pads on the anterior paramedian chest and mid back.
5. Electrocardiograph wires accompanying the body, but not attached.

GENERAL EXTERNAL EXAMINATION

The body is that of a normally developed, well-nourished male infant of the reported age 7 months 4 days. The body weighs 21 pounds (between 75th and 90th percentiles for age), has a crown-heel length of 27 1/2 inches (just above the 50th percentile), a

head circumference of 19 1/4 inches, (well above the 95th percentile for age), a chest circumference of 18 inches, and an abdominal circumference of 19.5 inches.

The refrigerated, unembalmed body is cool to the touch. Rigor mortis is absent (departed). Fixed pink-purple lividity is present in a somewhat scant distribution over the posterior aspects of the body, except in areas exposed to pressure, and dense lividity is also present on the left lateral torso and left arm, except in areas exposed to pressure, as well as the anterior upper chest, lateral right chest, anterior medial right arm, and part of the face. Pink lividity covers the anterior nose and is prominent on the left cheek, with central blanching on the left cheek. Lividity is also on the periorbital areas and the right preauricular area, while the right cheek is mottled to relatively spared of lividity. The abdomen is bloated and mildly diffusely green (postmortem decomposition changes).

The head is normally formed. The scalp hair is blonde and measures up to 1/2 inch in length over the crown. Cradle cap is noted over the superior frontoparietal head at midline. The scalp hair growth pattern is normal with a single whorl. The anterior fontanelle is patent, measuring approximately 1 cm, and is neither bulging nor sunken. The eyes are normally formed with brown irides. The corneae are slightly clouded. The sclerae are white and the conjunctivae are clear. No petechial hemorrhages are identified on the sclerae, conjunctivae, facial skin, or oral mucosae. The nose is atraumatic, with tan mucus at the nares. The choanae are probe patent. The ears are normally formed and placed, and are free of trauma. The lips are dried. No injuries are of the oral labial mucosae, and frenula are intact. The mouth is edentulous, in keeping with the age of the child. The palate is intact and is neither high nor arched. The neck is symmetrical without cutaneous injuries.

The thorax is well-developed and symmetrical, with a normal anterior-posterior dimension. The chest does not appear broad, and the nipples are normally spaced. The abdomen is protuberant, with green discoloration and mild bloating previously described. The external genitalia are those of a normal male infant. The testes are palpated within the normally rugated scrotal sac. The back and the anus are unremarkable. The spine is normally formed without dimples or abnormal hair distribution.

The upper and lower extremities are well-formed and symmetrical; all digits are present and are neither webbed nor malformed. The palmar creases are unremarkable. The fingernail beds show marked cyanosis. The anus shows mild surrounding postmortem discoloration with a green tinge at the buttocks and scant mild excoriation/breakdown of the perianal skin without discrete injury.

No identifying marks or scars are readily apparent.

EVIDENCE OF INJURY

HEAD AND NECK: A 1 by less than 1/16 inch horizontally-oriented well crusted linear abrasion (scratch) is on the left paramedian occipital head. A 1/16 inch crusted abrasion is on the inferior midline occipital head. A 1/2 x 3/8 inch brown-purple contusion is on the anterior right frontal prominence of the head.

Reflection of the scalp reveals a 1 cm area of scant red staining at the deep scalp beneath the previously noted right frontal cutaneous contusion; incision into this area and another nearby area of red staining reveals minimal to no intrascalpular hemorrhage.

GENERAL INTERNAL EXAMINATION

BODY CAVITIES: No adhesions or abnormal collections of fluid are in any of the body cavities. All thoracic and abdominal organs are present in their usual anatomic relationships, with an intact diaphragm separating the thoracic and abdominal cavities. The serous surfaces are smooth and glistening. Petechiae are subsequently described. The subcutaneous fat layer of the abdominal wall is up to 1.2 cm thick.

Expected visceral weights for male infants of 7 months of age are indicated in parentheses following measured weights. (Reference: Stocker and Dehner. *Pediatric Pathology*. 2nd ed, Vol II, Appendices.)

CARDIOVASCULAR SYSTEM: The heart weighs 38 grams (expected weight for age, 43 +/- 8 grams). The shape and size of the heart are not unusual, with appropriate lateralization features. The pericardial surfaces are smooth and glistening, without adhesions. A small amount of straw-colored fluid is within the pericardial sac. Petechial hemorrhages are noted on the anterior epicardial surface. The coronary arteries arise normally, and are of normal caliber. The myocardium is red-brown and firm. The atrial and ventricular septa are intact. The foramen ovale is appropriately membrane-protected. The ductus arteriosus is anatomically and functionally closed. The endocardial surfaces are smooth and glistening. The cardiac valves are normally formed and in the usual anatomic positions. The great vessels arise normally and are patent; the aorta has a normal course and caliber. The vena cava and pulmonary veins return to the heart in the usual distribution.

RESPIRATORY SYSTEM: The right and left lungs weigh 90 and 78 grams, respectively (expected weight, 118 +/- 33 grams combined). The pleural surfaces are smooth and glistening, with rare petechial hemorrhages. The upper airways are clear of debris and foreign material, and the mucosal surfaces are smooth and yellow-tan. The pulmonary parenchyma is dark red-purple, exuding slight amounts of frothy fluid. No focal lesions are noted. The pulmonary arteries are normally developed and patent.

LIVER AND BILIARY SYSTEM: The liver weighs 332 grams (expected weight, 276 +/- 54 grams). The capsule is smooth, glistening and intact. The hepatic parenchyma is dark red-brown, with no focal lesions. The biliary system is not prominent or cystic; the gallbladder is normally formed and contains viscid yellow-brown bile.

GASTROINTESTINAL TRACT: The esophagus is lined by gray-white mucosa. The gastric mucosa is arranged in the usual rugal folds, and the lumen contains approximately 2 mL of tan-white mucoid to curdled material without identifiable foreign objects or pills. The root and radius of the mesentery bear the usual size position relationship. The small and large bowels demonstrate a normal course and caliber, with soft pasty material throughout the small intestine and scant soft to mucoid stool in the large intestine. The appendix is present. The pancreas has a normal, tan lobulated appearance, and the ducts are clear.

GENITOURINARY TRACT: The right and left kidneys weigh 35 and 34 grams, respectively (expected weight, 69 +/- 14 grams, combined). The cortical surfaces are smooth, red-brown, and slightly lobulated. The cortex and medulla are well demarcated, and without focal lesions. The calyces, pelves and ureters are without gross abnormalities. The urinary bladder is empty and the mucosa is grey-tan and smooth. The prostate gland is infantile and unremarkable.

ADRENAL GLANDS: The adrenal glands weigh 4 grams combined (expected weight, 5.5 +/- 2.1 grams, combined), and demonstrate an orange-yellow cortex, which is clearly demarcated from the underlying red-brown medulla. No hemorrhage or masses are evident.

SPLEEN AND LYMPHATICS: The spleen weighs 34 grams (expected weight, 23 +/- 10 grams), and has a smooth intact capsule covering red-purple, moderately firm parenchyma. The splenic lymphoid follicles are not grossly prominent. The mesenteric lymph nodes are prominent but not unusual for age. The 40 gram thymus is tan-pink, lobulated, and symmetrical with petechial hemorrhages on the anterior and posterior aspects.

HEAD/CENTRAL NERVOUS SYSTEM: The brain weighs 1,121 grams (expected weight, 767 +/- 32 grams). Reflection of the scalp anteriorly reveals the previously noted scant deep scalpular blood staining. The calvarium (skull) is intact and without fractures. The dura mater and falx cerebri are intact. The leptomeninges are thin and transparent. There is no epidural or subarachnoid hemorrhage. A small amount of rusty orange-brown to red-brown, organizing subdural membrane is adherent to and incorporated into the dura over the cerebral convexities; there is no space occupying mass lesion. The cerebrospinal fluid is clear. The cerebral hemispheres are

symmetrical, and the external surface and configuration of the brain is not unusual. The cortex is of soft consistency. The structures at the base of the brain, including cranial nerves and blood vessels appear intact. The brain and dura mater are preserved in formalin for further examination by a neuropathologist. The spinal cord is not examined.

NECK: Examination of the soft tissues of the anterior neck reveals the strap musculature and sternocleidomastoid muscles to be free of hemorrhage. The thyroid gland is unremarkable. The hyoid bone and larynx are intact. The larynx at the level of the vocal folds is patent and free of obstructing lesions, and the epiglottis is unremarkable. The tongue shows no areas of hemorrhage on sectioning.

MUSCULOSKELETAL SYSTEM: The bony framework, supporting musculature, and soft tissues are not unusual. No acute bony fractures are identified. The vertebral column is without significant kyphosis or scoliosis; the cervical spinal column is stable on internal palpation. The anterior paravertebral musculature and prevertebral fascia are without hemorrhage. The parietal pleurae are stripped from the chest cavities for special examination of the ribs, revealing no rib fractures.

SPECIMENS AND/OR EVIDENCE:

The following items are collected and preserved:

1) Peripheral (iliac) blood.
2) Central (cardiac) blood.
3) Vitreous fluid (scant, less than 1 mL total).
4) Gastric contents in total.
5) A sample of liver tissue.
6) Small sections of all major internal organs in formalin.
7) Sections of select organs and/or tissues for microscopic examination.
8) A blood spot card for DNA.
9) A scalp hair sample.
10) A blood spot card for metabolic testing.
11) Microbiological cultures (nasotracheal swabs, heart blood, left lung, and stool).
12) The brain and dura mater in formalin.

MICROSCOPIC EXAMINATION

Heart (multiple samples, slide 8): No significant histopathologic diagnosis.

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Left lung (slide 9) and right lung (slide 10): Patchy vascular congestion and intraalveolar fluid; prominent postmortem bacterial overgrowth, without inflammation.

Kidneys (slide 1): Autolysis. No significant histopathologic diagnosis.

Thyroid gland (slide 1): No significant histopathologic diagnosis.

Adrenal glands (slide 2): No significant histopathologic diagnosis.

Pancreas (slide 2): Marked postmortem autolysis.

Liver (slide 3): No significant histopathologic diagnosis.

Spleen (slide 3): No significant histopathologic diagnosis.

Thymus (slide 3): Mild involution changes, appropriate to age.

Stomach (slide 4): Mild autolysis. No significant histopathologic diagnosis.

Large intestine (slide 5) and small intestine (slide 6): Autolysis. Possible increased eosinophils in lamina propria, indeterminate due to surrounding autolysis.

Trachea (slide 7): No significant histopathologic diagnosis.

Vocal folds region (slide 7): Submucosal lymphoid aggregates, with focal small polypoid excrescence.

TOXICOLOGY (NMS LABS)

Toxicology results are provided separately.

Fixed tissue specimens will be retained for 2 years after date of autopsy; toxicology specimens tested at NMS Laboratories will be retained for 2 years unless specifically requested otherwise.

NMS Labs
3701 Welsh Road, PO Box 433A, Willow Grove, PA 19090-0437
Phone: (215) 657-4900 Fax: (215) 657-2972
e-mail: nms@nmslabs.com
Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

CONFIDENTIAL

Toxicology Report

Report Issued 10/17/2016 16:02

To: **10324**
Washoe County Medical Examiner & Coroner
Attn: Dr. Ellen G.I. Clark
10 Kirman Ave
Reno, NV 89502

Patient Name	B[redacted] W[redacted]
Patient ID	2016-03215 LAN
Chain	12001063
Age	7 M **DOB** [redacted]2016
Gender	Male
Workorder	16310328

Positive Findings:

None Detected

See Detailed Findings section for additional information

Testing Requested:

Analysis Code	Description
8051B	Postmortem, Basic, Blood (Forensic)

Specimens Received:

ID	Tube/Container	Volume/ Mass	Collection Date/Time	Matrix Source	Miscellaneous Information
001	Gray Top Tube	4.75 mL	10/10/2016 10:40	Peripheral Blood	
002	Gray Top Tube	6.25 mL	10/10/2016 10:40	Cardiac Blood	

All sample volumes/weights are approximations.

Specimens received on 10/11/2016.

9/20/2017,11:46:48 AM,rbenavidez-Las Vegas Review Journal-Art Kane

NMS LABS

CONFIDENTIAL

Workorder 16310328
Chain 12001063
Patient ID 2016-03215 LAN

Detailed Findings:

Examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded two (2) years from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

Workorder 16310328 was electronically signed on 10/17/2016 15:18 by:

Donna M. Papsun

Donna M. Papsun, M.S., D-ABFT-FT
Forensic Toxicologist

Analysis Summary and Reporting Limits:

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

Acode 50010B - Amphetamines Confirmation, Blood (Forensic) - Peripheral Blood

-Analysis by High Performance Liquid Chromatography/ TandemMass Spectrometry (LC-MS/MS) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamine	5.0 ng/mL	Methamphetamine	5.0 ng/mL
Ephedrine	5.0 ng/mL	Norpseudoephedrine	5.0 ng/mL
MDA	5.0 ng/mL	Phentermine	10 ng/mL
MDEA	10 ng/mL	Phenylpropanolamine	5.0 ng/mL
MDMA	5.0 ng/mL	Pseudoephedrine	5.0 ng/mL

Acode 8051B - Postmortem, Basic, Blood (Forensic) - Peripheral Blood

-Analysis by Enzyme-Linked Immunosorbent Assay (ELISA) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Amphetamines	20 ng/mL	Fentanyl / Acetyl Fentanyl	0.50 ng/mL
Barbiturates	0.040 mcg/mL	Methadone / Metabolite	25 ng/mL
Benzodiazepines	100 ng/mL	Methamphetamine / MDMA	20 ng/mL
Buprenorphine / Metabolite	0.50 ng/mL	Opiates	20 ng/mL
Cannabinoids	10 ng/mL	Oxycodone / Oxymorphone	10 ng/mL
Cocaine / Metabolites	20 ng/mL	Phencyclidine	10 ng/mL

-Analysis by Headspace Gas Chromatography (GC) for:

Compound	Rpt. Limit	Compound	Rpt. Limit
Acetone	5.0 mg/dL	Isopropanol	5.0 mg/dL
Ethanol	10 mg/dL	Methanol	5.0 mg/dL

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Renown HEALTH

Clinical Laboratory

1155 Mill Street, Reno, NV. 89502 PH: (775) 982-5000 Christie Elliott, MD, Medical Director

PATIENT: 2016-03215 LAN B[redacted], W[redacted]
GENDER: N AGE: 99 DOB:
MRN: MX00000058995
PAT.PHONE:

KNIGHT, LAURA *
10 Kirman Avenue
Reno NV 89502

COLLECTED: 10/10/16 10:45
RECEIVED: 10/10/16 12:09
PRINTED: 10/14/16 05:50
BILLING NO.: MB00000195379
ORDER#: G6102612
FINAL

Outpatient_Report

MICROBIOLOGY
Source: **Respiratory**
Site: **Tracheal**
Antibiotics at Collection:

Viral Respiratory Culture ■ FINAL 10/13/16 16:29
10/13/16 **No respiratory virus isolated by cell culture technique.**
Note:
Respiratory Cultures are screened for Adenovirus; Influenza A and B; Parainfluenza types 1, 2, 3; RSV

MICROBIOLOGY
Source: **Respiratory**
Site: **Nasopharyngeal**
Antibiotics at Collection:

Viral Respiratory Culture ■ FINAL 10/13/16 16:28
10/13/16 **No respiratory virus isolated by cell culture technique.**
Note:
Respiratory Cultures are screened for Adenovirus; Influenza A and B; Parainfluenza types 1, 2, 3; RSV

Renown. HEALTH

Clinical Laboratory

1155 Mill Street, Reno, NV, 89502 PH: (775) 982-5000 Christie Elliott, MD, Medical Director

PATIENT: 2016-03215 LAN B[redacted], W[redacted]
GENDER: N AGE: 99 DOB:
MRN: MX00000058995
PAT.PHONE:

KNIGHT, LAURA *
10 Kirman Avenue
Reno NV 89502

COLLECTED: 10/10/16 10:50
RECEIVED: 10/10/16 13:10
PRINTED: 10/13/16 15:50
BILLING NO.: MB00000195379
ORDER#: G6102683
FINAL

Outpatient_Report

MICROBIOLOGY
Source: Blood
Site: Peripheral
Antibiotics at Collection:

Blood Culture ■ FINAL 10/13/16 12:30
10/10/16 **Growth detected by Bactec instrument. 10/10/2016 17:05**
Organism 01 Hafnia alvei

Organism 02 Clostridium sordellii

Organism 03 Group D Enterococcus species
Two colony types

Organism 04 Enterobacter cloacae

KEY FOR RESULTS: ■ NEW RESULT ** RESULT WAS MODIFIED AFTER FINAL STATUS SET

Renown HEALTH

Clinical Laboratory

1155 Mill Street Reno NV 89502 PH: (775)982-5000 Christie Elliott, MD, Medical Director

PATIENT: 2016-03215 LAN B[redacted], W[redacted]
GENDER: N AGE: 99 DOB:
MRN: MX00000058995
PAT. PHONE:

COLLECTED: 10/10/2016 11:30
RECEIVED: 10/10/2016 13:34
PRINTED: 10/10/2016 15:49
BILLING NO.: MB00000195379
ORDER#: G6102585
FINAL

KNIGHT, LAURA *
10 Kirman Avenue
Reno, NV 89502

Outpatient_Report

TEST	RESULT	FLAG	REF.RANGE	UNITS	REPORTED	SITE

COMMENTS:
KNILA tel. 7757856114 10/10/2016, 15:43, CALL CANCELLED - RESULTS FAXED

TEST Blood Culture WAS CANCELLED, 10/10/16 12:23 Duplicate order entry. 10/10/20 12:23

URINALYSIS
Miscellaneous

Fluid Type	Vitreous			10/10/2016 13:35

BODY FLUIDS
Fluid Chemistry

Fl Sodium	118		mmol/L	10/10/2016 13:35

Reference ranges have not been established for this specimen type.
Result interpretation should include consideration of patient's medical condition and clinical presentation.
qns for FLUN

MICROBIOLOGY
Source: Stool
Site:
Antibiotics at Collection:

Rotavirus ■ FINAL 10/10/16 14:23
10/10/16 **Positive for Rotavirus.**

Blood Culture - CANCELLED 10/10/16 12:23
- cancelled on 10/10/16 12:23 by DELPA
Duplicate order entry. 10/10/2016 12:23

Shiga Toxin (EHEC) - CANCELLED 10/10/16 12:23
- cancelled on 10/10/16 12:23 by DELPA
Duplicate order entry. 10/10/2016 12:23

Key: L-Low H-High PH-Panic High PL-Panic Low A/AB-Abnormal T-Toxic

Patient: 2016-03215 LAN B[redacted], W[redacted] Location: Client Specimen

Renown HEALTH

Clinical Laboratory

1155 Mail Street, Reno, NV. 89502 PH: (775) 982-5600 Christie Elliott, MD, Medical Director

PATIENT: 2016-03215 LAN B[redacted], W[redacted]
GENDER: N AGE: 99 DOB:
MRN: MX00000058995
PAT.PHONE:

KNIGHT, LAURA *
10 Kirman Avenue
Reno NV 89502

COLLECTED: 10/10/16 10:50
RECEIVED: 10/10/16 12:23
PRINTED: 10/10/16 14:26
BILLING NO.: MB00000195379
ORDER#: G6102585
FINAL

MICROBIOLOGY

Source: Stool
Site:
Antibiotics at Collection:
Microbiology Comment:

Rotavirus ■ FINAL 10/10/16 14:23
10/10/16 **Positive for Rotavirus.**

Blood Culture - CANCELLED 10/10/16 12:23
- cancelled on 10/10/16 12:23 by DELPA
Duplicate order entry. 10/10/2016 12:23

Shiga Toxin (EHEC) - CANCELLED 10/10/16 12:23
- cancelled on 10/10/16 12:23 by DELPA
Duplicate order entry. 10/10/2016 12:23

Renown HEALTH

Clinical Laboratory

1155 Mill Street Reno NV 89502 PH: (775)982-5000 Christie Elliott, MD, Medical Director

PATIENT: 2016-03215 LAN B[redacted], W[redacted]
COLLECTED: 10/10/2016 11:30
RECEIVED: 10/10/2016 13:34
GENDER: N AGE: 99 DOB:
PRINTED: 10/10/2016 13:46
MRN: MX00000058995
PAT. PHONE:
KNIGHT, LAURA *
10 Kirman Avenue
Reno, NV 89502
BILLING NO.: MB00000195379
ORDER#: G6102585
FINAL

INSTANT REPORT

TEST	RESULT	FLAG	REF.RANGE	UNITS	REPORTED	SITE

COMMENTS:
KNILA tel. 7757856114 10/10/2016, 13:45, RESULTS FAXED

TEST Blood Culture WAS CANCELLED, 10/10/16 12:23 Duplicate order entry. 10/10/20 12:23

URINALYSIS
Miscellaneous

Fluid Type	Vitreous				10/10/2016 13:35

BODY FLUIDS
Fluid Chemistry

Fl Sodium	118			mmol/L	10/10/2016 13:35

Reference ranges have not been established for this specimen type.
Result interpretation should include consideration of patient's medical condition and clinical presentation.
qns for FLUN

Key: L-Low H-High PH-Panic High PL-Panic Low A/AB-Abnormal T-Toxic

Patient: 2016-03215 LAN B[redacted], W[redacted] Location: Client Specimen

Joseph M. Quashnock, PhD
Laboratory Director

PerkinElmer Genetics, Inc.
PO Box 219
Bridgeville, PA 15017

(412) 220-2300 Phone
(412) 220-0784 Fax

Date of Report
10/15/2016

Initial Release: 10/15/2016 11:58

Date Collected: 10/10/2016 Date Recvd: 10/14/2016 Birth Date: [redacted]2016
Submittor: Washoe County Coroner Cond. of Spec: S
Filter Paper: 8944715 Patient's Name: E[redacted], W[redacted] Sex: M
PS ID: 6692049 AKA Name:
Accession No: 2016285018 Med. Rec. No: 2016-03215
Mother's Name: E[redacted] Physician: KNIGHT, LAURA

Autopsy Specimen Report

Screening Test	Outcome
Acylcarnitine Profile	Negative
CAH 17-OHP	Negative
Congenital Hypothyroidism-TSH	Negative
Galactose- (Gal and Gal-1-P)	Negative

OUTCOME DEFINITIONS

NEGATIVE - The analyte detected does not exceed the concentration usually found in such analyses. Interpretation should be in conjunction with other findings

SELECTED REFERENCE RANGE

17 OH P
Cutoff values for 17 hydroxyprogesterone are age dependent. For infants less than 91 days of age,abnormal is defined as a value > 19.0 ng/mL; for infants 91 days to 1 year of age, abnormal is > 5.0 ng/mL; for age > 1 year, abnormal is > 4.0 ng/mL. Note new reference range for 17-hydroxyprogesterone effective November 1, 2010.

TSH
Cutoff values for TSH are age dependent. For infants < 7 days of age,abnormal is defined as a TSH value >50 uIU/mL; for infants 7 days or older, abnormal is > 30 uIU/mL.

GAL
Abnormal is defined for all infant ages as a total galactose > 20 mg/dL.

Comments:

The results of PerkinElmer Genetics post-mortem testing are analytically accurate within the limits of the test technology used. Factors including specimen source, quality of specimen and patient variables will affect results. Limited information on reference ranges is available. Interpretation of results should be in conjunction with additional clinical or laboratory evidence to help support or disprove the presence of a specific disorder.

Laboratory Report

CENTRAL OFFICE
901 N. Stonewall
Oklahoma City, OK 73117
Tel: (405) 239-7141
Fax: (405) 239-2430

EASTERN DIVISION
1115 West 17th St.
Tulsa, OK 74107
Tel: (918) 295-3400
Fax: (918) 585-1549

OFFICE OF THE CHIEF MEDICAL EXAMINER
BOARD OF MEDICOLEGAL INVESTIGATIONS

AMENDED NEUROPATHOLOGY REPORT

OCME Case Identification # NP2016-022
Washoe County Medical Examiner's Office case #2016-03215
Patient Name: W[redacted]
Date of Birth: [redacted]2016
Date of Death: 10/08/2016

CLINICAL HISTORY

The patient is a 7-month-old infant boy who was reported discovered unresponsive at home in a playpen placed on a sofa. Autopsy revealed a subdural membrane.

* Note: I have reviewed autopsy photographs and a letter requesting neuropathologic consultation provided by Dr. Laura Knight in synthesizing the clinical history above.

NEUROPATHOLOGIC GROSS DESCRIPTION

The brain is received with two generous portions of detached dura mater. Their surfaces show red/brown subdural membrane, geographic over the left hemisphere and parasagittal on the right. The included venous sinuses are patent and contain only post-mortem blood clot. The post-fixation weight of the brain is 1,030 grams. The leptomeninges over the convexities of the brain are thin and translucent and show moderate venous congestion. There are non-hemorrhagic lacerations of the bilateral cerebral convexities consistent with artifact from removal of the brain from the cranial cavity. The cerebral cortex shows the normal pattern of convolutions. There is no evident atrophy of the cerebral hemispheres. No significant edema is appreciated. The uncinate processes are symmetrical. There is no evidence of hippocampal, parahippocampal, or tonsillar herniation. No focal lesions are seen. The vessels at the base of the brain are intact and symmetric. There is no evidence of a saccular or fusiform aneurysm. The cranial nerves are intact. The mammillary bodies are of normal bulk.

Sequential coronal sections of the cerebrum display a poorly-defined gray/white matter junction with normal myelination. There is no apparent cortical atrophy, although the white matter volume is moderately diminished. There is no evidence of cingulate herniation or midline shift. The centrum semiovale, corpus callosum, and corpus striatum are unremarkable. Hippocampi are symmetric and unremarkable. No focal lesions are noted. The ventricular system is symmetric and not dilated. At the level of the mammillary bodies the lateral ventricles measure 0.1 cm (left) and 0.1 cm (right), and the transverse diameter of the 3rd ventricle is 0.5 cm.

Sequential transverse sections of the brainstem perpendicular to its long axis display a normal non-pigmented substantia nigra and locus ceruleus. The basis pedunculi are symmetrical. The basis pontis is unremarkable with no focal lesions seen. The medulla displays normal inferior olives and symmetrical pyramids.

Sagittal sections of the cerebellar vermis and parasagittal sections of the cerebellar hemispheres display normal folia and white matter. The dentate nucleus appears normal.

Sections submitted for microscopic examination as follows:

1) Left dura mater and subdural membrane
2) Left middle frontal gyrus
3) Left basal ganglia
4) Left hippocampus
5) Left occipital calcarine sulcus
6) Midbrain
7) Pons
8) Medulla
9) Right cerebellum with dentate nucleus

NEUROPATHOLOGIC MICROSCOPIC DESCRIPTION

All histologic sections are stained with hematoxylin and eosin (H&E). Dura mater is comprised of dense fibrous tissue. Sections demonstrate a well-formed, well-vascularized fibrous subdural membrane with a developed inner membrane, relatively large-caliber vascular sinusoids with thin walls, and patchy areas of extravasation of blood. Scattered hemosiderin-laden macrophages are evident on H&E stained sections. Iron staining highlights frequent siderophages; control stains appropriately. The leptomeninges are thin and without significant inflammation. The ependymal lining is unremarkable.

The neocortex within the frontal, temporal, and occipital lobes displays normal cortical architecture with no significant neuronal cell loss. Cerebral hemispheric white matter is mildly gliotic. The hippocampus shows no significant cell loss within the dentate fascia or pyramidal cell layer. No intranuclear or intracytoplasmic neuronal or glial inclusions are identified on H&E stained sections. The subiculum and entorhinal cortex are unremarkable.

The putamen and globus pallidus show normal cytoarchitecture, without evidence of significant neuronal cell loss, gliosis, or microscopic infarcts. Scattered vessels show perivascular rarefaction. The internal capsule is unremarkable without evidence of demyelination.

Sections of the brainstem include midbrain, pons, and medulla. The substantia nigra displays a normal complement of neurons. The red nucleus, periaqueductal gray matter, and oculomotor nuclei display normal cytoarchitecture without significant abnormalities. Within the pons, the tegmental nuclei are unremarkable. There is no evidence of demyelination or infarction within the pons. There is mild subependymal gliosis within the medulla along the ventral aspect of the fourth ventricle. There is no neuronal cell loss or gliosis within medullary nuclei. The inferior olives have normal cytoarchitecture. No ischemic changes are identified in the brainstem sections examined.

The cerebellum shows good preservation of the molecular, Purkinje cell, and internal and external granule cell layers. There is no significant decrease in white matter volume. The dentate fascia is unremarkable.

NEUROPATHOLOGIC DIAGNOSES

1. Organizing subdural membrane, bilateral cerebral convexities, with patchy areas of rebleeding

COMMENT

Histopathologic characteristics of the subdural membrane indicate it is likely at least 3-4 weeks old. Rebleeding can occur within the forming membrane as neovascularization progresses; delicate new capillaries can easily tear and are the source of the acute extravasation of blood seen within the neomembrane.

Andrea L. Wiens, DO

Date signed: November 30, 2016

Andrea L. Wiens, DO
Forensic Pathologist & Neuropathologist
Office of the Chief Medical Examiner, Eastern Division
1115 West 17th Street
Tulsa, Oklahoma 74107
Phone: 918-295-3400
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Amended: December 11, 2016

9/20/2017,11:46:49 AM,rbenavidez-Las Vegas Review Journal-Art Kane

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OFFICE OF THE CHIEF MEDICAL EXAMINER
BOARD OF MEDICOLEGAL INVESTIGATIONS

Amendment to Neuropathology Report

Date: December 11, 2016

NEUROPATH CONSULT FOR DR. LAURA KNIGHT – ME CASE #NP2016-022

OCME Case Identification # NP2016-022
Washoe County Medical Examiner's Office case #2016-03215
Patient Name: W[redacted] E[redacted]

Item Amended:

The name of the referring physician in the *Note for the CLINICAL HISTORY section in the original Neuropathology Report was erroneously listed as "Dr. Emily Berry" and has been amended to "Dr. Laura Knight" in the attached Amended Neuropathology Report dated December 11, 2016.

Andrea L. Wiens, DO

Andrea L. Wiens, DO

Date signed: December 11, 2016

9/20/2017 11:46:49 AM,rbenavidez-Las Vegas Review Journal-Art Kane

AUTOPSY PROTOCOL

E[redacted] W[redacted] 16-03215A-LAN

DATE OF DEATH:	10/08/2016 7:05 AM
DATE OF AUTOPSY:	10/10/2016 10:00 AM
CONSENT GRANTED BY:	Lander County Sheriff/Coroner
AUTOPSY PERFORMED AT:	Washoe County Medical Examiner's Office
INVESTIGATOR:	Nicole Franklin
PATHOLOGIST:	Laura D. Knight, M.D.

FINAL PATHOLOGICAL DIAGNOSES

I. Sudden unexplained infant death.
   A. Scene findings: unsafe sleep environment including blankets, toys, and propped bottle.
   B. Epicardial, thymic, and pleural petechiae; non-specific findings.
   C. No anatomic cause of death.

II. Reported history of diarrhea.
   A. Stool immunoassay positive for Rotavirus.
   B. Heavy disposable diaper accompanying body, containing urine and abundant soft green stool.
   C. See vitreous electrolyte assessment below, and Opinion.

III. Organizing subdural membrane, bilateral cerebral convexities, with patchy areas of re-bleeding.
   A. See separate Neuropathology report; age of subdural hemorrhage estimated at least 3-4 weeks (or more).
   B. Head circumference well above 95th percentile for age.

IV. Contusion, right frontal head.

V. Two minimal, crusted (healing) abrasions, occipital head.

VI. Metabolic screening negative for inborn errors of metabolism.

VII. Other microbiological studies unremarkable.
   A. No respiratory virus isolated (negative for adenovirus, influenza A and B, parainfluenza types 1-3, and respiratory syncytial virus).
   B. Mixed bacteria in lung and blood culture, predominantly various types of gram negative bacilli normally encountered in lower GI tract; likely postmortem contamination of blood through decompositional change/bacterial migration from GI tract.

VIII. Vitreous electrolyte assessment and interpretation:

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A. Vitreous sodium 118 mmol/L; interpretation: low sodium level, likely due to long pre-autopsy postmortem interval (decompositional pattern).
B. Remainder of vitreous electrolytes and glucose analysis unable to be completed due to inadequate specimen quantity (vitreous quantity decreased due to prolonged postmortem interval prior to autopsy).

IX. See separate toxicology report; no alcohol or commonly abused drugs detected in blood.

OPINION

Based on consideration of the circumstances surrounding the death, review of available medical history/records, autopsy examination, neuropathology consultation, toxicological analysis, and other ancillary testing, the cause of the death of W[redacted] B[redacted] remains **undetermined**. As the cause of death is undetermined, the manner of death is also **undetermined**. By law, manner of death certification resides with the Lander County Sheriff/Coroner.

Comment: Sudden unexplained infant deaths frequently involve unsafe sleep environments and potential for asphyxia. The blankets and head/neck position in this case are potential risk factors for asphyxia; it is also unknown what role the propped bottle may have played. However, accidental asphyxia is not the only possibility in sudden infant deaths, and in this case in specific. It appears the decedent also may have had a viral diarrheal illness, though the severity is unclear. However, due to the long interval from death to autopsy (>48 hours), the ability to diagnose dehydration (secondary to diarrhea) with vitreous electrolyte analysis is unfortunately lost. The vitreous fluid diminished in quantity and in quality during that time interval, limiting the testing and limiting the ability to interpret the one result obtained. Finally, this infant has an unexplained, organizing and non-acute (3-4 weeks or older, according to the neuropathologist consultant) subdural hemorrhage on the surface of his brain. The relatively small quantity and non-acute nature of this hemorrhage make it an unlikely candidate for the cause of death.

Laura D. Knight, M.D.
Chief Medical Examiner

9/1/2017
Date Signed

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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **NOTICE OF ENTRY OF ORDER**

TO: THE PARTIES HERETO AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on the 9th day of November, 2017, an Order Granting Petitioner LVRJ's Public Records Act Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus was entered in the above-captioned action. A copy of the Order is attached hereto as Exhibit 1.

Respectfully submitted this 9th day of November, 2017.

/s/ Margaret A. McLetchie
Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
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Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2017, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing NOTICE OF ENTRY OF ORDER in *Las Vegas Review-Journal v. Clark County Office of the Coroner/Medical Examiner,* Clark County District Court Case No. A-17-758501-W, to be served electronically using the Odyssey File & Serve electronic filing service system, to all parties with an email address on record.

I hereby further certify that on the 9th day of November, 2017, pursuant to Nev. R. Civ. P. 5(b)(2)(B) I mailed a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Mary-Anne Miller and Laura Rehfeldt
Clark County District Attorney's Office
500 S. Grand Central Pkwy., Ste. 5075
Las Vegas, NV 89106
Counsel for Respondent, Clark County Office of the Coroner/Medical Examiner

/s/ Pharan Burchfield
An Employee of MCLETCHIE SHELL LLC

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EXHIBIT 1

ORDR
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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER,

Respondent.

Case No.: A-17-758501-W

Dept. No.: XXIV 11/8/17

ORDER GRANTING PETITIONER LVRJ'S PUBLIC RECORDS ACT APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/ PETITION FOR WRIT OF MANDAMUS

The Las Vegas Review-Journal's Public Records Act Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus, having come on for hearing on September 28, 2017, the Honorable Jim Crockett presiding, Petitioner Las Vegas Review-Journal (the "LVRJ") appearing by and through its counsel, Margaret A. McLetchie and Alina M. Shell, and Respondent Clark County Office of the Coroner/Medical Examiner ("Coroner's Office") appearing by and through its counsel, Laura C. Rehfeldt, and the Court having read and considered all of the papers and pleadings on file and being fully advised, and good cause appearing therefor, the Court hereby makes the following findings of fact and conclusions of law:

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☐ Voluntary Dismissal	☑ Summary Judgment
☐ Involuntary Dismissal	☐ Stipulated Judgment
☐ Stipulated Dismissal	☐ Default Judgment
☐ Motion to Dismiss by Deft(s)	☐ Judgment of Arbitration

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I.

PROCEDURAL HISTORY AND FINDINGS OF FACT

1. On April 13, 2017, the LVRJ sent the Coroner's Office a request pursuant to the Nevada Public Records Act, Nev. Rev. Stat. § 239.001 *et seq.* (the "NPRA").

2. The LVRJ's request sought all autopsy reports of autopsies conducted of anyone under the age of 18 from 2012 through the date of the request.

3. The Coroner's Office responded via email on April 13, 2017. It provided a spreadsheet with information consisting of the Coroner case number, name of decedent, date of death, gender, age, race, location of death, and cause and manner of death, but refused to provide "autopsy reports, notes or other documents."

4. In its April 13, 2017 email, the Coroner's Office stated it would not disclose the autopsy reports because they contain medical information and confidential information about a decedent's body. The Coroner's Office relied on Attorney General Opinion, 1982 Nev. Op. Atty. Gen. No. 12 ("AGO 82-12") as the basis for non-disclosure.

5. The LVRJ followed up by emailing the Clark County District Attorney's Office on April 13, 2017, requesting legal support for the refusal to provide records.

6. The District Attorney's Office, Civil Division, on behalf of the Coroner's Office, responded via email on April 14, 2017, again relying on AGO 82-12 and also relying on Assembly Bill 57, 79th Sess. (Nev. 2017) (a bill then pending consideration in the 2017 session of the Nevada Legislature and proposing changes to Nevada law regarding a coroner's duty to notify next-of-kin of the death of a family member but not addressing public records) as the bases for its refusal to disclose the requested records.

7. The Coroner's Office did not assert any other basis for withholding records within five (5) business days.

8. On May 9, 2017, following a meeting between the Coroner and the LVRJ, the Coroner mailed a second spreadsheet to the LVRJ listing child deaths dating back to 2011 in which the Coroner conducted autopsies.

9. On May 23, 2017, counsel for the LVRJ wrote to the Coroner's Office to address concerns with the Coroner's Office's refusal to provide access to any of the requested juvenile autopsy reports.

10. On May 26, 2017, the Coroner's Office (via the District Attorney) responded to the May 23, 2017 letter, again relying on the legal analysis in AGO 82-12, and agreed to consider providing redacted versions of autopsies of juveniles if the LVRJ provided a specific list of cases it wished to review.

11. In its May 26, 2017 response, the Coroner's Office for the first time also asserted that the records may be protected by Nev. Rev. Stat. § 432B.407 and that privacy interests outweighed public disclosure.

12. The LVRJ provided the Coroner's Office with a list of specific cases it wanted reports for via email on May 26, 2017.

13. The Coroner's Office responded to the May 26, 2017 email on May 31, 2017.

14. In its May 31, 2017 response, the Coroner's Office stated that responsive records were "subject to privilege will not be disclosed" and that it would also redact other records. However, it did not assert any specific privilege.

15. The Coroner's Office also asked the LVRJ to specify the records it wanted to receive first, which the LVRJ did on June 12, 2017.

16. On July 9, 2017, in a response to a further email from the LVRJ inquiring on the status of the records, the Coroner's Office indicated it would not produce any records that pertained to any case that was subsequently handled by a child death review team pursuant to Nev. Rev. Stat. § 432B.407. By that time, the Coroner had determined which cases were not handled by the child death review team and provided a list to the LVRJ.

17. On July 11, 2017, the Coroner's Office provided sample files of redacted autopsy reports for other autopsies of juveniles that were not handled by a child death review team. The samples files were heavily redacted; the Coroner's Office asserted that the redacted language consisted of information that was medical, related to the health of the

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decedent's mother, could be marked with stigmata or considered an invasion of privacy. Statements of diagnosis or opinion that were medical or health related that went to the cause of death were not redacted.

18. On July 11, 2017, the Coroner's Office also demanded that the LVRJ commit to payment for further work in redacting files for production, and declined to produce records without payment. The Coroner's Office indicated it would take two persons 10-12 hours to redact the records it was willing to produce, and that the LVRJ would have to pay $45.00 an hour for the two reviewers, one of which would be an attorney. The Coroner's Office contended that conducting a privilege review and redacting autopsy reports required the "extraordinary use of personnel" under Nev. Rev. Stat. § 239.055. The Coroner's Office stated it did not intend to seek fees for the work associated with the previously provided spreadsheets and redacted reports.

19. On July 17, 2017, the LVRJ filed its Application Pursuant to Nev. Rev. Sta. § 239.001/Application for Writ of Mandamus/Application for Declaratory and Injunctive Relief ("Application"), and requested expedited consideration pursuant to Nev. Rev. Stat. § 239.011(2).

20. On August 17, 2017, the LVRJ submitted a Memorandum in support of its Application. The Coroner's Office submitted its Response on August 30, 2017, and the LVRJ submitted its Reply on September 7, 2017. The LVRJ also submitted a Supplement on September 25, 2017 that included autopsy records the LVRJ had received from White Pine County and Lander County in response to public records requests.

21. The Court held a hearing on the LVRJ's Application on September 28, 2017.

II.

CONCLUSIONS OF LAW

22. The purpose of the NPRA is to foster democratic principles by ensuring easy and expeditious access to public records. Nev. Rev. Stat. § 239.001(1) ("The purpose of this chapter is to foster democratic principles by providing members of the public with

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access to inspect and copy public books and records to the extent permitted by law"); *see also Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 878, 266 P.3d 623, 626 (2011) (holding that "the provisions of the NPRA are designed to promote government transparency and accountability").

23. To fulfill that goal, the NPRA must be construed and interpreted liberally; government records are presumed public records subject to the Act, and any limitation on the public's access to public records must be construed narrowly. Nev. Rev. Stat. §§ 239.001(2) and 239.001(3); *see also Gibbons*, 127 Nev. at 878, 266 P.3d at 626 (noting that the Nevada legislature intended the provisions of the NPRA to be "liberally construed to maximize the public's right of access").

24. The Nevada Legislature has made it clear that—unless they are explicitly confidential—public records must be made available to the public for inspection or copying. Nev. Rev. Stat. § 239.010(1); *see also Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 879-80, 266 P.3d 623, 627 (2011).

A. The Coroner's Office Has Not Met Its Burden in Withholding or Redacting Records.

25. The NPRA "considers all records to be public documents available for inspection unless otherwise explicitly made confidential by statute or by a balancing of public interests against privacy or law enforcement justification for nondisclosure." *Reno Newspapers v. Sheriff*, 126 Nev. 211,212, 234 P.3d 922, 923 (2010).

26. If a statute explicitly makes a record confidential or privileged, the public entity need not produce it. *Id.*

28. If a governmental entity seeks to withhold a document that is not explicitly made confidential by statute, it must prove by a preponderance of the evidence that the records are confidential or privileged, and must also prove by a preponderance of the evidence that the interest in nondisclosure outweighs the strong presumption in favor of public access. *See, e.g., Gibbons*, 127 Nev. at 880, 266 P.3d at 628; *see also Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 635, 798 P.2d 144, 147–48 (1990).

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29. In balancing those interests, "the scales must reflect the fundamental right of a citizen to have access to the public records as contrasted with the incidental right of the agency to be free from unreasonable interference." *DR Partners v. Bd. of Cty. Comm'rs of Clark Cty.*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000) (quoting *MacEwan v. Holm*, 226 Or. 27, 359 P.2d 413, 421–22 (1961)).

30. Pursuant to the NPRA and Nevada Supreme Court precedent, the Court hereby finds that the Coroner's Office has not established by a preponderance of the evidence that the withheld records are confidential or privileged such that withholding the autopsy records pertaining to cases that were subsequently handled by a child death review team pursuant to Nev. Rev. Stat. § 432B.407(6) in their entirety is justified, nor has it established by a preponderance of the evidence that any interest in nondisclosure outweighs the strong presumption in favor of public access.

31. Further, with regard to the proposed redactions to the autopsy reports the Coroner's Office was willing to disclose, the Court finds that the Coroner's Office has not established by a preponderance of the evidence that the redacted material is privileged or confidential.

The Coroner's Office Did Not Comply With the NPRA's Mandate to Provide Legal Authority in Support of Its Decision to Withhold or Redact Records Within Five Days.

32. The NPRA provides that a governmental entity must provide timely and specific notice if it is denying a request because the entity determines the documents sought are confidential. Nev. Rev. Stat. § 239.0107(1)(d) states that, within five (5) business days of receiving a request,

> [i]f the governmental entity must deny the person's request because the public book or record, or a part thereof, is confidential, provide to the person, in writing: (1) Notice of that fact; and (2) A citation to the specific statute or other legal authority that makes the public book or record, or a part thereof, confidential.

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33. The Coroner's Office cannot rely on privileges, statutes, or other authorities that it failed to assert within five (5) business days to meet its burden of establishing that privilege attaches to any of the requested records.

The Attorney General Opinion Does Not Justify Non-Disclosure.

34. In its April 13, 2017 response to the LVRJ's records request, the Coroner's Office relied on a 1982 Attorney General Opinion, 1982 Nev. Op. Atty. Gen. No. 12 as a basis for its refusal to produce the requested autopsy reports.

35. The Court finds that, consistent with Nevada Supreme Court precedent, Attorney General Opinions are not binding legal authority. *See Univ. & Cmty. Coll. Sys. of Nevada v. DR Partners*, 117 Nev. 195, 203, 18 P.3d 1042, 1048 (2001) (citing *Goldman v. Bryan*, 106 Nev. 30, 42, 787 P.2d 372, 380 (1990)); *accord Redl v. Secretary of State*, 120 Nev. 75, 80, 85 P.3d 797, 800 (2004).

36. Because it is not binding legal authority, the legal analysis contained in AGO 82-12 does not satisfy the Coroner's Office's burden of establishing that the records are confidential and that the interest in non-disclosure outweighs the presumption in favor of access.

Nevada Assembly Bill 57 Does Not Justify Non-Disclosure.

44. The Coroner's Office also cites to Assembly Bill 57, a bill adopted during the 2017 legislative session which made changes to Nevada laws pertaining to next-of-kin notifications as evidence that the privacy interest in autopsy reports outweighs the public's right of access.

45. The Court finds that Assembly Bill 57 (which had not been passed by Nevada Legislature at the time the Coroner's Office cited it in its April 14, 2017 email) is not "legal authority" as required by Nev. Rev. Stat. § 239.0107(d)(1).

46. Moreover, the Court finds that Assembly Bill 57 does not demonstrate a legislative intent to undermine or negate the NPRA's mandates regarding producing public records. Thus, the Coroner's Office cannot rely on Assembly Bill 57 to meet its burden of

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establishing that the records are confidential and that the interest in non-disclosure outweighs the presumption in favor of access.

Nev. Rev. Stat. § 432B.407 Does Not Justify Non-Disclosure.

37. On July 9, 2017, in a response to a further email from the LVRJ inquiring on the status of the records, the Coroner's Office indicated it would not produce any records that pertained to any case that was subsequently handled by a child death review team pursuant to Nev. Rev. Stat. § 432B.403, *et. seq*. The Coroner's Office specifically cited Nev. Rev. Stat. § 432B.407, a statute which pertains to information acquired by child death review teams, as a basis for refusing to produce the records.

38. In addition to not being timely cited, Nev. Rev. Stat. § 432B.407 does not satisfy the Coroner's Office's burden of establishing that any interest in nondisclosure outweighs the public's interest in the records.

39. Pursuant to Nev. Rev. Stat. § 432B.403, the State can organize child death review teams to review the records of selected cases of children under the age of 18 to assess and analyze the deaths, make recommendations for changes to law and policy, support the safety of children, and a prevent future deaths.

40. Under Nev. Rev. Stat. § 432B.407(1), a child death review team may access, inter alia, "any autopsy and coroner's investigative records" relating to the death of a child. Nev. Rev. Stat. § 432B.407(1)(b). Section 432B.407(6) in turn provides that "information acquired by, and the records of, a multidisciplinary team to review the death of a child are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding."

41. However, the Court finds that nothing in the language of Nev. Rev. Stat. § 432B.407(6) indicates that records obtained by child death review teams are automatically confidential simply because the Coroner's Office transmitted those records at some point in time to a child death review team.

42. Moreover, to the extent that Nev. Rev. Stat. § 432B.407 renders any records confidential, nothing in the language of Nev. Rev. Stat. § 432B.407 indicates

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records obtained by a child death review team must be kept confidential in perpetuity. Instead, the records of a child death review team must be kept confidential only during a child death review team's review of a child fatality.

43. Thus, the Coroner's Office's reliance on Nev. Rev. Stat. § 432B.407 does not meet its burden of establishing that the records are confidential and that the interest in non-disclosure outweighs the presumption in favor of access.

HIPAA Does Not Justify Non-Disclosure.

44. In addition to its reliance on Nev. Rev. Stat. § 432B.407, the Coroner's Office in its September 7, 2017 Response also pointed to privacy protections for medical data under the Health Insurance Portability and Privacy Act (HIPAA) and NRS Chapter 629, as persuasive authority for its position that the requested records should be kept confidential.

47. However, in addition to that fact that the Coroner's Office failed to timely cite HIPAA as a basis for withholding or redacting the requested records, the Coroner's Office, it is not a covered entity under HIPAA.

48. Pursuant to 45 C.F.R. § 160.103, a covered entity is defined as: (1) a health plan; (2) a "health care clearinghouse;" or (3) "[a] health care provider who transmits any health information in electronic form in connection with a transaction covered by [HIPAA]." Moreover, 42 C.F.R. § 160.102 specifically states that HIPAA only applies to those three categories of health care entities. Thus, by its plain language, HIPAA is not intended to apply to autopsy records, and cannot be used by the Coroner's Office to withhold the requested records.

49. Accordingly, both because the Coroner's Office did not timely assert any legal or statutory authority to meet its burden in withholding the records, and because it has not met its burden in withholding or redacting the requested records, the Court finds that the Coroner's Office must disclose the requested records to the LVRJ in unredacted form.

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B. The NPRA Does Not Permit Government Entities to Charge to Redact or Withhold Records or to Conduct a Privilege Review.

50. The fees provisions relevant to public records requests are those set forth in Nev. Rev. Stat. §§ 239.052 and 239.055(1).

51. The Coroner's Office relied on Nev. Rev. Stat. § 239.055(1) for fees for "extraordinary use." That statute provides that "... if a request for a copy of a public record would require a governmental entity to make extraordinary use of its personnel or technological resources, the governmental entity may, in addition to any other fee authorized pursuant to this chapter, charge a fee not to exceed 50 cents per page for such extraordinary use...." In its Responding Brief, even the Coroner's Office acknowledged that in 2013, the Nevada Legislature modified Nev. Rev. Stat. § 39.055 to limit fees for the " extraordinary use of personnel" to 50 cents per page.

52. The Court finds that Nev. Rev. Stat. § 239.055(1) does not allow governmental entities to charge a fee for privilege review or to redact or withhold records. Interpreting Nev. Rev. Stat. § 239.055 to limit public access by requiring requesters to pay public entities to charge for undertaking a review for responsive documents, confidentiality, and redactions would be inconsistent with the plain terms of the statute and with the mandate to liberally construe the NPRA. *See* Nev. Rev. Stat. § 239.001(3).

53. Further, allowing a public entity to charge a requester for legal fees associated with reviewing for confidentiality is impermissible because "[t]he public official or agency bears the burden of establishing the existence of privilege based upon confidentiality." *DR Partners v. Bd. of Cty. Comm'rs of Clark Cty.*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000).

54. Moreover, the Court finds that no provision within the NPRA allows a governmental entity to charge a requester for a privilege review. Rather, the NPRA provides that a governmental entity may charge for providing a copy of a record, (Nev. Rev. Stat. § 239.052(1)), for providing a transcript of an administrative proceeding, (Nev. Rev. Stat. § 239.053), for information from a geographic information system (Nev. Rev. Stat. §

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239.054), or for the "extraordinary use" of personnel or technology. Nev. Rev. Stat. § 239.055. A privilege review does not fall within any of these provisions.

55. The Court therefore finds that the Coroner's Office cannot charge the LVRJ a fee under Nev. Rev. Stat. § 239.055(1) to conduct a review of the requested records.

56. Pursuant to Nev. Rev. Stat. § 239.052(1) "a governmental entity may charge a fee for providing a copy of a public record." However, that fee may not exceed the "actual cost to the governmental entity to provide a copy of the public records ..." *Id.*

57. The LVRJ indicated it wished to receive electronic copies of the requested records. The LVRJ is not requesting hard copies, and the NPRA does not permit a per page fee to be charged for electronic copies. Thus, because the only cost for electronic copies is that of the medium (a CD), the Court finds that the Coroner's Office may not charge any additional fee besides the cost of the CD.

III.

ORDER

58. Based on the foregoing findings of fact and conclusions of law, the Court hereby orders as follows:

59. The Coroner's Office shall produce autopsy reports of autopsies conducted of anyone under the age of 18 conducted from 2012 through April 13, 2017 to the LVRJ in unredacted form.

60. The Coroner's Office shall make the records available to the LVRJ expeditiously and on a rolling basis. The Coroner's Office must provide all the requested records to the LVRJ by no later than December 28, 2017.

61. At the hearing, the Coroner's Office stated it would be able to produce CDs with electronic copies of the requested records at a cost of $15.00 per CD, and the LVRJ stated it was willing to pay such a fee or provide its own CD. In producing the requested records, the Coroner's Office may charge the LVRJ a fee of up to $15.00 per CD consistent with Nev. Rev. Stat. § 239.052(1). No additional fees shall be permitted.

///

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A758501 - ORDER GRANTING PETITIONER LVRJ'S PUBLIC RECORDS ACT APPLICATION PURSUANT TO NRS 239.001 PETITION FOR WRIT OF MANDAMUS

ORDER

It is so ORDERED this 8 day of Nov., 2017.

DISTRICT COURT JUDGE

Prepared and submitted by:

Margaret A. McLetchie, NBN 10931
Alina M. Shell, NBN 11711
McLetchie Shell, LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Counsel for Petitioner

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Clark County Coroner/Medical Examiner

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No: Dept. No:	A-17-758501-W XXIV

NOTICE OF APPEAL

Notice is hereby given that the Clark County Office of the Coroner/Medical Examiner, defendant above named, hereby appeals to the Supreme Court of Nevada from the ORDER GRANTING PETITIONER LVRJ'S PUBLIC RECORDS ACT APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/PETITION FOR WRIT OF MANDAMUS entered in this action on November 9, 2017.

DATED this 28 day of November, 2017.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: Laura C. Rehfeldt
LAURA C. REHFELDT
District Attorney
State Bar No. 005101
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Defendant
Clark County Coroner Medical Examiner

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Clark County District Attorney and that on this 28th day of November, 2017, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** to the following parties by the method shown below:

ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Margaret A. McLetchie, Esq, Alina M. Shell, Esq. McLetchie Shell LLC 701 East Bridger Avenue #520 Las Vegas, NV 89101 alina@nvlitigation.com maggie@nvlitigation.com	***Petitioner Las Vegas Review Journal***	☑ Electronic Service ☐ Fax Service ☐ Mail Service ☐ Personal Service (ROC)

An Employee of the Clark County District Attorney's Office – Civil Division

MAFC
MARGARET A MCLETCHIE, Nevada Bar No. 10931
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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS**

Petitioner, the Las Vegas Review-Journal (the "LVRJ"), by and through its undersigned counsel, hereby moves this Court to award the Review-Journal its reasonable costs and attorneys' fees as the prevailing party in the above-captioned action. The LVRJ is entitled to its fees and costs pursuant to Nev. Rev. Stat. §§ 18.010(2)(b) and 239.011(2).

This Motion is made pursuant to Nev. Rev. Stat. Chapter 239 and Nev. R. Civ. P. 54(d)(2)(B), and is based on the following Memorandum of Points and Authorities, any attached exhibits, the attached Declaration of Margaret A. McLetchie, the papers and pleadings already on file herein, and any oral argument the Court may permit at the hearing of this Motion.

Respectfully submitted this 29th day of November, 2017.

/s/ Margaret A. McLetchie
Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLETCHIE SHELL LLC
Counsel for Petitioner

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES.

YOU WILL TAKE NOTICE that the undersigned will bring on for hearing the above-noted PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS and to be heard the **11** day of **Jan.** 201**8**, at the hour of **9:00** a.m./~~p.m.~~, in the above-entitled Court or as soon thereafter as counsel may be heard.

Respectfully submitted this 29th day of November, 2017.

/s/ Margaret A. McLetchie
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Alina M. Shell, Nevada Bar No. 11711
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MEMORANDUM OF POINTS AND AUTHORITIES

Because the Las Vegas Review-Journal (the "LVRJ") is the prevailing party in this action, it is entitled to recover fees and costs pursuant to Nev. Rev. Stat. § 18.010(2)(b). The total requested fees are $32,377.50 and the final requested costs are $825.02. The billable time and costs for the LVRJ's attorneys' fees are more particularly set forth in the attached declaration of Ms. McLetchie and supporting exhibits.

I. PROCEDURAL HISTORY AND STATEMENT OF RELEVANT FACTS

A. The LVRJ's Request

On April 13, 2017, the LVRJ sent the Clark County Coroner's Office a request pursuant to the NPRA (the "Request"). (*See* Petition Exhibit ("Exh.") 1 at LVRJ006; *see also* November 8, 2017 Order ("Order"), p. 2, ¶ 1.) [1] The Request sought all autopsy reports of autopsies conducted of anyone under the age of 18 conducted from 2012 through the date of the Request (the "Requested Records"). (Order, p. 2, ¶ 2.)

B. The Coroner's Office's Response and Demand for Payment to Conduct Privilege Review

The Coroner's Office responded to the Request on April 13, 2017 by providing a spreadsheet with some information. (*Id.* at LVRJ009-14; Order, p. 2 ¶ 3.) However, the Coroner's Office refused to provide "autopsy reports, notes, or other documents." (*Id.* at LVRJ004; Order, p. 2 ¶ 3.) The Coroner's Office relied on Attorney General Opinion, 1982 Nev. Op. Atty. Gen. No. 12 ("AGO 82-12") as the basis for non-disclosure. (Order, p. 2 ¶ 4.) That same day, the LVRJ followed up on the Request by emailing the Clark County District Attorney's Office, and asked the Office to provide legal support for the refusal to provide records. (Exh. 2 at LVRJ005; Order, ¶ 5.) The District Attorney's Office, Civil Division, on behalf of the Coroner's Office, responded via email on April 14, 2017, again relying on AGO 82-12 and also relying on Assembly Bill 57, 79th Sess. (Nev. 2017) (a bill then pending consideration in the 2017 session of the Nevada Legislature and proposing changes to Nevada law regarding a coroner's duty to notify next-of-kin of the death of a family member

[1] These exhibits are on file with the Petition.

but not addressing public records) as the bases for its refusal to disclose the requested records. (*Id.* at ¶ 6.)

On May 9, 2017, following a meeting between the Coroner and the LVRJ, the Coroner provided a second spreadsheet to the LVRJ listing child deaths dating back to 2011 in which the Coroner conducted autopsies. (*Id.* at ¶ 8.)

On May 23, 2017, counsel for the LVRJ wrote to the Coroner's Office to address concerns with the Coroner's Office's refusal to provide access to any of the requested juvenile autopsy reports. (*Id.* at ¶ 9.) On May 26, 2017, the Coroner's Office (via the District Attorney) responded to the May 23, 2017 letter, again relying on the legal analysis in AGO 82-12, and agreed to consider providing redacted versions of autopsies of juveniles if the LVRJ provided a specific list of cases it wished to review. (*Id.* at ¶ 10.) In its May 26, 2017 response, the Coroner's Office for the first time also asserted that the records may be protected by Nev. Rev. Stat. § 432B.407 and that privacy interests outweighed public disclosure. (*Id.* at ¶ 11.)

The LVRJ provided the Coroner's Office with a list of specific cases it wanted reports for via email on May 26, 2017. (*Id.* at ¶ 12.) The Coroner's Office responded to the May 26, 2017 email on May 31, 2017. (*Id.* at ¶ 13.) In its response, the Coroner's Office stated that responsive records "subject to privilege will not be disclosed" and that it would also redact other records. However, it did not assert any specific privilege. (*Id.* at ¶ 14.) The Coroner's Office also asked the LVRJ to specify the records it wanted to receive first, which the LVRJ did on June 12, 2017. (*Id.* at ¶ 15.)

On July 9, 2017, in a response to a further email from the LVRJ inquiring on the status of the records, the Coroner's Office indicated it would not produce any records that pertained to any case that was subsequently handled by a child death review team pursuant to Nev. Rev. Stat. § 432B.407. (*Id.* at ¶ 16.) By that time, the Coroner had determined which cases were not handled by the child death review team and provided a list to the LVRJ. (*Id.*)

On July 11, 2017, the Coroner's Office provided sample files of redacted autopsy reports for other autopsies of juveniles that were not handled by a child death review team.

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(*Id.* at ¶ 17.) The sample files were heavily redacted; the Coroner's Office asserted that the redacted language consisted of information that was medical, related to the health of the decedent's mother, could be marked with stigmata or considered an invasion of privacy. (*Id.*) Statements of diagnosis or opinion that were medical or health related that went to the cause of death were not redacted. (*Id.*)

The Coroner's Office also demanded that the LVRJ commit to payment for further work in redacting files for production, and declined to produce records without payment. (*Id.* at ¶ 18.) The Coroner's Office indicated it would take two persons 10-12 hours to redact the records it was willing to produce, and that the LVRJ would have to pay $45.00 an hour for the two reviewers, one of which would be an attorney. (*Id.*) The Coroner's Office contended that conducting a privilege review and redacting autopsy reports required the "extraordinary use of personnel" under Nev. Rev. Stat. § 239.055. The Coroner's Office stated it did not intend to seek fees for the work associated with the previously provided spreadsheets and redacted reports.

C. The LVRJ Files Suit and Obtains an Order Granting its Public Records Petition.

On July 17, 2017, the LVRJ filed a Petition for Writ of Mandamus with this Court pursuant to Nev. Rev. Stat. § 239.011. On August 16, 2017, the LVRJ filed a Memorandum in support of its Petition to this Court. The Coroner's Office filed a Response on August 30, 2017, and the LVRJ filed its Reply on September 7, 2017. The LVRJ also filed a Supplement to its Memorandum on September 25, 2017. As discussed in the Supplement, the Coroner's Office's refusal to disclose the requested autopsy records—even after acknowledging that they are in fact public records—stands in sharp contrast to the response the LVRJ received from other coroners in Nevada. At or around the same time that it requested juvenile autopsy reports from the Clark County Coroner's Office, the LVRJ requested autopsy reports pertaining to juvenile deaths from the White Pine County Coroner's Office and the Lander County Sheriff's Office. (*See* September 25, 2017 Supplement, p. 2:21-27.) Both government

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entities produced those records without redaction.[2] (*Id.*; *see also* Exh. 3 and 4 to Supplement.)

At a September 28, 2017 hearing, the Court orally granted the Review-Journal's motion, and entered a written order on November 8, 2017. In the Order, the Court found that the Coroner's Office failed to comply with Nev. Rev. Stat. § 239.0107(1)(d) to provide the LVRJ with a "citation to the specific statute or other legal authority" that it believed made the requested records confidential, and thus could not "rely on privileges, statutes, or other authorities that it failed to assert" as required by § 239.0107(1)(d). (Order, p. 6-7, ¶¶ 32-33.) The Court then rejected each of the authorities cited by the Coroner's Office as bases for withholding the requested autopsy records. (*Id.*, pp. 6-9, ¶¶ 34-48.) Because the Coroner's Office did not timely assert any legal or statutory authority to meet its burden in withholding the records, and because it had not met its burden in withholding or redacting the requested records, the Court found that the Coroner's Office must disclose the requested records to the LVRJ in unredacted form. (*Id.*, ¶ 49.)

The Court also held that nothing within Nev. Rev. Stat. § 239.055 or the NPRA permitted the Coroner's Office to charge a fee for privilege review or to redact or withhold records. (*Id.*, p. 10, ¶ 52.) The Court found that permitting a public entity to charge for a privilege review or redaction was contrary to the plain language of the NPRA, and was also impermissible because "[t]he public official or agency bears the burden of establishing the existence of privilege based upon confidentiality." (*Id.*, ¶ 53 (quoting *DR Partners v. Bd. of Cty. Comm'rs of Clark Cty.*, 116 Nev. 616, 621, 6 P.3d 465, 468 (2000)).

The Court then ordered the Coroner's Office to produce the requested juvenile autopsy reports in unredacted, electronic form on a rolling basis to the LVRJ, and further directed that it must complete its production of the records by no later than December 8, 2017. (Order, p. 11, ¶¶ 59-60.) This motion follows.

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[2] To comply with Nevada law regarding the redaction of social security numbers, dates of birth, and other restricted personal information in court filings, the Review-Journal redacted the records it's received from White Pine County and Lander County prior to submitting them as exhibits.

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II. LEGAL ARGUMENT

A. Legal Standard for Reasonable Attorneys' Fees.

Recovery of attorney fees as a cost of litigation is permissible by agreement, statute, or rule. *See Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001). In this case, recovery of attorneys' fees is authorized by statute. Nevada's Public Records Act [NPRA] provides that "...[i]f the requester prevails, the requester is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record." Nev. Rev. Stat. § 239.011(2). As the Nevada Supreme Court has explained, "...by its plain meaning, this statute grants a requester who prevails in NPRA litigation the right to recover attorney fees and costs, without regard to whether the requester is to bear the costs of production." *LVMPD v. Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615 (2015), *reh'g denied* (May 29, 2015), *reconsideration en banc denied* (July 6, 2015).

B. The LVRJ is the Prevailing Party.

The Nevada Supreme Court has held that a party is the prevailing party if it "succeeds on any significant issue in litigation which achieves some of the benefit it sought in bringing suit." *Valley Elec. Ass'n v. Overfield*, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005) (quotations omitted); *accord Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615. The LVRJ is the prevailing party in this matter. In a public records case, if a requester obtains access to records, it is entitled to fees and costs, which also furthers the important purposes of the NPRA (*see, e.g.*, Nev. Rev. Stat. § 239.001(1) and (2).). When the Coroner's Office refused to produce the requested juvenile autopsy records in response to a request from the LVRJ, the paper was forced to seek the assistance of undersigned counsel and—after counsel's attempts to obtain the records failed—initiate the instant litigation. In its November 8, 2017, the Court granted the LVRJ all the relief it had requested in its Petition. Thus, the Review-Journal is the prevailing party in this matter. The NPRA thus requires that the LVRJ be awarded reasonable fees and costs.

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C. The Review-Journal's Attorney Fees Are Reasonable and Fully Documented

1. The Review-Journal's Attorneys' Fees Are Reasonable.

Any fee-setting inquiry begins with the calculation of the "lodestar:" the number of hours reasonably expended multiplied by a reasonable hourly rate. *See, e.g.*, *Blum v. Stenson*, 465 U.S. 886, 896-97 (1984); *accord Herbst v. Humana Health Ins. of Nevada*, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989). Relevant factors include the preclusion of other employment by the attorney due to acceptance of the case; time limitations imposed by the client or the circumstances; the amount involved and results obtained; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69–70 (9th Cir.1975). In most cases, the lodestar figure is a presumptively reasonable fee award. *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 978 (9th Cir. 2008).

2. The Review-Journal Seeks Fees for a Reasonable Number of Hours, and Exercised Appropriate Billing Judgment.

Pursuant to Nev. R. Civ. P. 54(d)(2)(B), statements "swearing that the fees were actually and necessarily incurred and were reasonable" are set forth in the attached declaration of Margaret A. McLetchie ("McLetchie Decl.") attached hereto as Exhibit 1 and supported by the billings for the Review-Journal's attorney fees and costs attached hereto as Exhibits 2 (fees by date), 3 (fees by biller) and 4 (costs)..

As detailed above, the litigation in this matter was complex and time-consuming. The Review-Journal's counsel exercised appropriate billing judgment and structured work on this case to maximize efficiencies, and the hours listed in the fee request are neither duplicative, unnecessary nor excessive. (McLetchie Decl., ¶ 11); *see also Hensley v. Eckerhart,* 461 U.S. 424, 434 (1983) ("Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission.").

To keep billing as low as possible, Ms. Shell conducted work where appropriate. (*Id.* at ¶ 12.) Further, counsel utilized a paraprofessional to perform tasks such as research

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and organization to assure that attorneys with higher billing rates were not billing for tasks that lower billers could perform. (*Id.*) Potentially duplicative or unnecessary time has not been included. (*Id.* at ¶ 11.) In all these ways, counsel for the Review-Journal has charged a reasonable and reduced rate for the attorneys' time. (*Id.* at ¶¶ 14.) Counsel also exercised appropriate billing judgment by *not* including in this application certain time, even time which would likely be compensable. (*Id.* at ¶ 15.)

3. The *Brunzell* Factors

In addition to calculating the lodestar, a court must also consider the requested amount in light of the factors enumerated by the Nevada Supreme Court in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Pursuant to *Brunzell*, a court must consider four elements in determining the reasonable value of attorneys' services:

> (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

a. An Analysis of the *Brunzell* Factors Supports the Award of the Fees the Review-Journal Seeks.

As discussed above, the Nevada Supreme Court's opinion in *Brunzell* sets forth several factors that should be used to determine whether a requested amount of attorney fees is reasonable. *See Brunzell*, 85 Nev. 345, 349, 455 P.2d 31, 33. Each of these factors supports the amount sought.

i) <u>The Advocates.</u>

To be considered in determining the reasonable value of an attorney's services are the qualities of the advocate, including ability, training, education, experience, professional standing, and skill. *Id.* The Review-Journal's attorneys include attorneys and

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paraprofessionals from McLetchie Shell LLC. Lower billing attorneys and paraprofessionals were utilized whenever possible and appropriate to keep fees low.

Ms. McLetchie, as an outside attorney who handles the Review-Journal's public records, FOIA, and court access matters, has extensive experience handling NPRA litigation and similar matters. Indeed, she frequently represents the Review-Journal and other clients in pursuing NPRA matters and overcoming objections to NPRA requests without having to litigate. From 2007 through 2009, while working at the ACLU of Nevada, Ms. McLetchie helped litigate issues pertaining to the Clark County School District's refusal to provide certain records in *Karen Gray v. Clark County School District et al.*, Eighth Judicial Dist. Ct. Case No. 07A543861. In that case, over seven years ago, the ACLU of Nevada was awarded $46,118.00. Ms. McLetchie worked a total of 27.9 hours on this case; her time was billed at the rate of $450.00 per hour with some time entries reduced, resulting in a total billed of $12,465.00.

Alina M. Shell, working a total of 51.3 billed hours on this case, is a Partner at McLetchie Shell with almost eight years of legal experience. Prior to transitioning into private practice, Ms. Shell was an attorney with the Federal Public Defender ("FPD") for the District of Nevada. While employed by the FPD, Ms. Shell represented numerous defendants in a variety of criminal cases which ran the gamut from revocations of supervised release to complex mortgage fraud cases. She also wrote and argued several complex criminal appeals before the United States Court of Appeals for the Ninth Circuit. Since moving into private practice in June 2015, Ms. Shell has represented plaintiffs in state and federal court in civil matters, including several civil rights cases. Ms. Shell has also represented the Review-Journal in both state and federal court in public records matters. Ms. Shell's time on this case was billed at the rate of $350.00 per hour with some time entries reduced (McLetchie Decl., ¶ 8), resulting in a total of $17,220.00.

Leo Wolpert, working a total of 2.1 hours, is a research and writing attorney for McLetchie Shell. Mr. Wolpert is 2011 graduate of the University of the Virginia School of Law and has experience with public records matters. Mr. Wolpert's time on this case was

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billed at a rate of $175.00 per hour, for a total billed of $367.50. (McLetchie Decl., ¶ 9.)

Pharan Burchfield, working a total of 8.9 credited hours on this case, is a paraprofessional at McLetchie Shell. Ms. Burchfield has an associate's degree in paralegal studies, and has been a paralegal for three years. Ms. Burchfield's time on this case was billed at the rate of $150.00 per hour, for a total billed of $1,335.00. (McLetchie Decl., ¶ 10.)

In sum, the attorneys and employees at McLetchie Shell worked a total of 96 hours on this case. With reduced entries as described above and in the declaration of Ms. McLetchie, the combined total of $31,552.50 for that work is well under market for the experience brought to bear on this action. Reasonable costs for documents, filing fees, and the like were calculated for a total billed of $825.02. With costs, the total billed for McLetchie Shell is $32,377.52. Further qualification and qualities, including a declaration from Kathleen J. England, Esq. in support of counsel's rates (Exhibit 5), and an itemization of these bills are included in the attached declaration of Ms. McLetchie (Exhibit 1) and Exhibits 2-4.

ii) <u>The Character and Difficulty of the Work Performed.</u>

Turning to the second *Brunzell* factor, the character and difficulty of the work performed, this case required not just an analysis and application of the NPRA—it also required extensive research regarding the Coroner's asserted privileges. This included research regarding HIPAA, Chapter 432B of the Nevada Revised Statutes, the legislative history of AB 57, and a review of other state and federal court rulings regarding public access to autopsy reports.

iii) <u>The Work Performed, Including Skill, Time, and Attention.</u>

The work actually performed by the lawyer is relevant to the reasonableness of attorneys' fees, including the skill, time, and attention given to the work. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As demonstrated by the billing statement attached in Exhibit 2 and the attached declaration of Ms. McLetchie, a substantial portion of the work in this case was done by attorneys and staff with lower billing rates. Even though some of the work was done by lower billing attorneys and staff, Ms. McLetchie was still required to analyze the research

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and apply it strategically to the various arguments posed by the Coroner's Office. As discussed above, counsel for the Review-Journal fully briefed this matter, including filing a petition and supporting memorandum, reply, and supplement.

iv) The Result.

Lastly, "the result: whether the attorney was successful and what benefits were derived" is relevant to this inquiry. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As noted above, the Review-Journal is the prevailing party in this matter: it obtained full access to the records it sought. Because each of these factors weighs in the Review-Journal's favor, this Court should award the Review-Journal reasonable attorneys' fees and costs in the sum of $32,377.52.

III. CONCLUSION

Based on the foregoing, the Review-Journal respectfully requests that this Court award the Review-Journal all its attorneys' fees and costs, pursuant to Nev. Rev. Stat. § 239.011(2), in the total amount of $32,377.52. The Review-Journal hereby reserves the right to supplement its request for fees with additional fees and costs incurred by counsel in defending the instant motion for fees and costs, and further reserves the right to supplement this request for fees should it prevail in the appeal filed by the Clark County Office of the Coroner/ Medical Examiner.

Respectfully submitted this 29th day of November, 2017.

/s/ Margaret A. McLetchie

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 29th day of November, 2017, I did cause a true copy of the foregoing PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS in *Las Vegas Review-Journal v. Clark County Office of the Coroner/Medical Examiner,* Clark County District Court Case No. A-17-758501-W, to be served electronically using the Odyssey File & Serve electronic filing service system, to all parties with an email address on record.

Pursuant to NRCP 5(b)(2)(B) I hereby further certify that on the 29th day of November, 2017, I mailed a true and correct copy of the foregoing PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Mary-Anne Miller and Laura Rehfeldt
Clark County District Attorney's Office
500 S. Grand Central Pkwy., Ste. 5075
Las Vegas, NV 89106
Counsel for Respondent, Clark County Office of the Coroner/Medical Examiner

/s/ Pharan Burchfield
An Employee of MCLETCHIE SHELL LLC

INDEX OF EXHIBITS	
Exhibit	**Description**
1	Declaration of Margaret A. McLetchie
2	Attorney's Fees (by Date)
3	Attorney's Fees (by Biller)
4	Attorney's Costs and Expenses
5	Declaration of Kathleen Jane England

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EXHIBIT 1

DECLARATION OF MARGARET A. MCLETCHIE

I, MARGARET A. MCLETCHIE, declare, pursuant to Nev. Rev. Stat. § 53.330, as follows:

1. I have personal knowledge of the facts set forth below, and, if called as a witness, could testify to them.

2. I am an attorney duly licensed to practice law in Nevada.

3. I am a partner at the law firm of McLetchie Shell, LLC, and I am lead counsel for the Las Vegas Review-Journal in *Las Vegas Review-Journal v. Clark County Office of Coroner/ Medical Examiner,* Clark County District Court Case No. A-17-758501-W.

4. I am making this declaration to provide information justifying the fee and costs request in this case, to authenticate documents attached as exhibits in support of Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees, and to verify factual representations contained in the Motion.

5. The work performed by my firm is detailed in the summary attached to the Motion as Exhibit 2 (organized by date) and Exhibit 3 (organized by biller). I certify that this bill accurately reflects work by my firm. I manage work flow at my firm and routinely review time entries made by other attorneys and staff at the firm, and attest that the entries listed reflect work in fact conducted by my firm in this matter, *less reductions made in the spirit of cooperation.*

6. I billed and structured my firm on this matter with an eye to avoiding duplicative work and using lower billing attorneys (or staff people) wherever possible (both within my firm and among co-counsel). At the time my office performed work in this matter, I believed the work we were all doing was reasonably necessary to protect and further the interests of this client.

7. As the partner at my firm responsible for this matter, I have carefully reviewed the billing statement and corrected any errors. I also exercised my billing judgment and deducted and/or removed a number of entries to err on the side of avoiding billing for

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potentially duplicative work—and in the spirit of cooperation. The fee request in this matter includes 27.9 hours at my rate ($450.00), which totals $12,555.00. (*See* Exhibit 3.)

8. The time spent on this case included in the fee request also includes time for work performed by Ms. Shell. I routinely monitor the work performed by all people who work at my firm, including Ms. Shell. For this case, I reviewed the time entry records for Ms. Shell and reduced time entries as appropriate. (*Id.*) I am billing Ms. Shell at the current rate of $350.00 per hour with some time entries reduced. (*Id.*) Thus, the reduced total for Ms. Shell's time on this matter is $17,220.00. (*Id.*)

9. The time spent on this case for which I am seeking compensation also includes work for Leo Wolpert as a research and writing attorney. I am billing Mr. Wolpert at the current rate of $175.00. (*Id.*) I reviewed each of Mr. Wolpert's entries, resulting in a total of 2.1 hours on this case. (*Id.*) Thus, the total for Mr. Wolpert's time I am seeking compensation for is $367.50. (*Id.*)

10. The time spent on this case for which I am seeking compensation also includes work for Pharan Burchfield, my paralegal. I am billing Ms. Burchfield at the current rate of $150.00. (*Id.*) I reviewed each of Ms. Burchfield's entries, resulting in a total of 8.9 hours on this case. (*Id.*) Thus, the total for Ms. Burchfield's time I am seeking compensation for is $1,335.00. (*Id.*)

11. I exercised appropriate billing judgment and structured work on this case to maximize efficiencies, and the hours listed in the fee request are neither duplicative, unnecessary nor excessive.

12. To keep billing as low as possible, Ms. Shell conducted work where appropriate. Further, I utilized a paraprofessional to perform tasks such as research and organization to assure that attorneys with higher billing rates were not billing for tasks that lower billers could perform.

13. The rates I billed in this matter are reasonable. I manage my firm, and set the firm's billing rates, which exceed those charged in this matter. Further, the work performed by my firm in this matter was more complex and required more specialized

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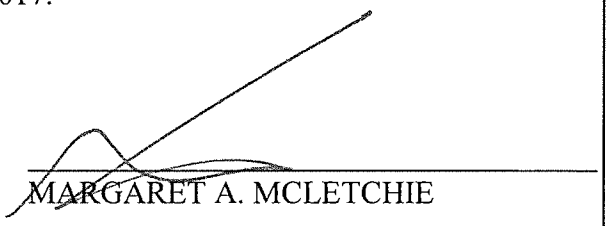
expertise than in routine matters.

14. In all these ways, I have charged a reasonable and reduced rate for the attorneys' time.

15. I exercised appropriate billing judgment by *not* including in this application certain time, even time which would likely be compensable.

16. I am also seeking compensation for $825.02 of expenses reasonably and necessarily incurred in this matter. (Attached as Exhibit 4.)

17. I certify and declare under the penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, and this declaration was executed at Las Vegas, Nevada, the 29th day of November, 2017.



MARGARET A. MCLETCHIE

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EXHIBIT 2

Date	Quantity	Rate	Total	Discount	After Discount	Description	User
7/10/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review email from Art Kane re his conversation with District Attorney's office, and NRS 432B.407, and analyze statute. Attention to contacting District Attorney's office.	Margaret McLetchie
7/11/2017	0.2	$ 450.00	$ 90.00	$ 90.00	$ -	Confer with client reprentative re case.	Margaret McLetchie
7/11/2017	0.4	$ 450.00	$ 180.00		$ 180.00	Call with Laura Rehfeldt from Disrict Attorney's Office re: (1) refusal to provide any records subsequently provided tot he child death review team; (2) redactions; (3) and fees [discuss with her lack of authority to charge in excess of NPRA permitted fees; (and lack of authority for charging requester for review/redactions); and (4) request for sample redacted document. Update file and email to client.	Margaret McLetchie
7/14/2017	0.6	$ 150.00	$ 90.00		$ 90.00	Review communication between Mr. Kane and Ms. Rehfeldt; prepare hard copy and electronic files re same.	Pharan Burchfield
7/14/2017	1.0	$ 450.00	$ 450.00		$ 450.00	Review correspondence re requests for autopsy records to use as exhibits for petition; follow up with Mr. Kane to be sure file/ record is complete. Review additional materials received and begin outlining facts for petition.	Margaret McLetchie
7/17/2017	0.1	$450.00	$ 45.00		$ 45.00	Emails with clients regarding draft petition.	Margaret McLetchie
7/17/2017	0.2	$450.00	$ 90.00		$ 90.00	Direct paralegal re preparing exhibits / for filing of petition.	Margaret McLetchie
7/17/2017	0.2	$450.00	$ 90.00		$ 90.00	Calls the District Attorney's office re schedule and accepting service of petition.	Margaret McLetchie
7/17/2017	1.5	$ 350.00	$ 525.00		$ 525.00	Review and edit of application for writ of mandamus pursuant to Nev. Rev. Stat. 239.011: Check factual and legal citations for accuracy (1.0). Review final draft of the petition for errors and citations (.5).	Alina Shell
7/17/2017	3.2	$ 150.00	$ 480.00		$ 480.00	Review and create hard-copy and electronic file (communications and documents from Mr. Kane and District Attorney's office); prepare exhibits for Petition; draft Civil Cover Sheet; and Initial Appearance Fee Disclosure; open/create new case and file all re same.	Pharan Burchfield
7/17/2017	7.0	$ 450.00	$ 3,150.00		$ 3,150.00	Initial drafting of petition and compilation/review of correspondence re PRA requests; incorporate edits.	Margaret McLetchie
7/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Review Eighth Judicial District Court Rules to determine briefing scheduling for petition.	Alina Shell
7/18/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Draft Summons; prepare Petition and Summons to be served on Coroner's Office today. Notarize Ms. Lopez's Affidavit of Service re same; and file executed Summons.	Pharan Burchfield
7/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review email from Coroner. Confer with DA office to ensure I can coordinate directly with him.	Margaret McLetchie
7/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Attention to effectuating service/ confer with paralegal re same; approve summons.	Margaret McLetchie
7/18/2017	1.1	$ 25.00	$ 27.50		$ 27.50	Served Civil Summons to John Fudenberg at the Clark County Office of The Coroner: 1704 Pinto Ln, Las Vegas, NV 89106.	Admin Admin
7/18/2017	1.2	$ 25.00	$ 30.00		$ 30.00	Civil Summons issued to the Clark County Office of The Coroner at the Nevada District Court: 200 Lewis Ave. Las Vegas NV, 89101 3rd Floor.	Admin Admin
7/19/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Call to / email with District Attorney's office re briefing schedule in coroner's case.	Margaret McLetchie
7/20/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Begin creating shell draft of Memorandum of Points and Authorities in Support of Petition.	Pharan Burchfield

7/25/2017	5.8	$ 350.00	$ 2,030.00		$ 2,030.00	Draft opening brief in support of petition filed pursuant to NRS 239.011 re autopsy report records.	Alina Shell
7/26/2017	0.2	$ 350.00	$ 70.00		$ 70.00	Phone call from Laura Rehfeldt re briefing schedule; email to Ms. McLetchie summarizing discussion with Ms. Rehfeldt.	Alina Shell
7/26/2017	0.5	$ 150.00	$ 75.00		$ 75.00	Draft Stipulation and Order Regarding Briefing Schedule for attorneys' review/approval.	Pharan Burchfield
7/27/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Email to opposing counsel, to propose stipulated expedited schedule. Further emails re same.	Margaret McLetchie
7/28/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Attention to stipulation re briefing schedule; email to Ms. King.	Margaret McLetchie
7/31/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Attention to stipulation, and emails with opposing counsel re same. Revise stipulation per edits from opposing counsel.	Margaret McLetchie
8/1/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Finalize draft Stipulation and Order re briefing schedule; email communications with Ms. Rehfeldt re same; arrange pick-up and delivery to Department 24 for approval.	Pharan Burchfield
8/1/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Email to Mr. Kane re briefing schedule, anticipated next steps, and obtaining samples of autopsies received made public in other counties.	Margaret McLetchie
8/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Emails with clients re strategy and status.	Margaret McLetchie
8/1/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off Stipulation and Order Regarding Briefing Schedule at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
8/1/2017	0.6	$ 25.00	$ 15.00		$ 15.00	Picked up Stipulation and Order Regarding Briefing Schedule from Mary Ann Miller at the Clark County District Attorney's Office: 500 S. Grand Central Pkwy. Ste. 5075 Las Vegas, NV, 89106.	Admin Admin
8/3/2017	0.7	$ 25.00	$ 17.50		$ 17.50	Picked up: Stipulation and Order Regarding Briefing Schedule at the Las Vegas Phoenix Building 330 S. Third Street, 11th Floor Las Vegas 89101.	Admin Admin
8/4/2017	0.2	$ 150.00	$ 30.00		$ 30.00	File Stipulation and Order Regarding Briefing Schedule; draft, file, and serve/mail Notice of Entry of Order re same; calendar accordingly; email clients re same.	Pharan Burchfield
8/11/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review autopsies/ materials received in response to other PRAs for autopsies. (.2) Emails to Art Kane re same, strategy in case and status of briefing. (.1)	Margaret McLetchie
8/14/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Attention to reviewing/ revising memorandum of points and authorities in support of petition. (.5) Confer with Ms. Shell re confirming incorporation of research / authority from other states. (.1)	Margaret McLetchie
8/14/2017	1.1	$ 350.00	$ 385.00		$ 385.00	Review, edit, and update memorandum of points and authorities drafted 7/25/2017 (0.6). Legal research to locate additional cases finding coroner reports to be public records (0.5).	Alina Shell
8/14/2017	2.1	$ 350.00	$ 735.00		$ 735.00	Per Ms. McLetchie's request, conduct research regarding state laws/case law re whether autopsy records are public or confidential (1.5). Create chart of same (0.6).	Alina Shell
8/15/2017	0.2	$ 350.00	$ 70.00		$ 70.00	Research regarding precedential value of district court orders.	Alina Shell
8/15/2017	1.7	$ 350.00	$ 595.00		$ 595.00	Continue drafting brief, incorporatng research and checking citations.	Alina Shell
8/16/2017	0.4	$ 350.00	$ 140.00		$ 140.00	Incorporate Mr. Wolpert's edits and corrections into final draft of memo in support of petition. (.3) Final hard copy review of memo and authenticating declaration. (.1)	Alina Shell

8/16/2017	0.5	$ 150.00	$ 75.00		$ 75.00	Finalize/prepare for filing, file and serve/mail Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief.	Pharan Burchfield
8/16/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Final coordination and approval of opening brief.	Margaret McLetchie
8/16/2017	0.9	$ 175.00	$ 157.50		$ 157.50	Edit and proof memorandum brief.	Leo Wolpert
8/18/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Art Kane re samples of other county responses to PRAs.	Margaret McLetchie
8/30/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Preliminary review of response to opening brief. Forward to team.	Margaret McLetchie
8/31/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Email clients file-stamped copy of Response to Petition and Memorandum Supporting Writ for Mandamus for Access to Autopsy Reports of Juvenile Deaths.	Pharan Burchfield
8/31/2017	2.1	$ 350.00	$ 735.00		$ 735.00	Review District Attorney's response to petition and memorandum in support of petition regarding access to juvenile death records (.5). Research regarding privileges cited in District Attorney's response (1.6).	Alina Shell
9/1/2017	0.9	$ 350.00	$ 315.00		$ 315.00	Additional legal research regarding privileges asserted by District Attorney in response to memorandum.	Alina Shell
9/5/2017	6.3	$ 350.00	$ 2,205.00		$ 2,205.00	Draft reply to Coroner's response to memorandum in support of petition for writ of mandamus relating to autopsy reports.	Alina Shell
9/6/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Prepare draft Reply for clients' review; send email to clients re same.	Pharan Burchfield
9/6/2017	1.2	$ 450.00	$ 540.00		$ 540.00	Review opposition (.6) and review / revise reply brief (.6).	Margaret McLetchie
9/6/2017	2.9	$ 350.00	$ 1,015.00		$ 1,015.00	Continue drafting reply to Coroner's Office response to memo in support of petition for public records.	Alina Shell
9/7/2017	0.2	$ 150.00	$ 30.00		$ 30.00	Prepare Reply to Response to Petition for Writ of Mandamus for filing; file and serve/mail re same.	Pharan Burchfield
9/7/2017	0.2	$ 150.00	$ 30.00		$ 30.00	Prepare courtesy hearing binder for Honorable Judge Crockett for September 28 hearing re Petition for Mandamus.	Pharan Burchfield
9/7/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review/ approve final reply brief.	Margaret McLetchie
9/7/2017	1.2	$ 350.00	$ 420.00		$ 420.00	Address Ms. McLetchie's comments and suggestions for changes to Reply to Response to Memorandum in support of petition for autopsy records. Also review and incorporate Mr. Wolpert's edits to same.	Alina Shell
9/7/2017	1.2	$ 175.00	$ 210.00		$ 210.00	Edit and proofread reply brief; check citations.	Leo Wolpert
9/14/2017	0.7	$ 25.00	$ 17.50		$ 17.50	Dropped off courtesy copy of Petition, Memo (declaration/exhibits), Response, and Reply at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101.	Admin Admin
9/22/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Begin drafting supplement to petition for writ of mandamus re samples from other counties.	Pharan Burchfield
9/22/2017	2.2	$ 350.00	$ 770.00		$ 770.00	Draft supplement to petition to public records with autopsy reports received from Lander County and White Pine County. Review and redact records.	Alina Shell
9/25/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Direct Ms. Shell re supplement.	Margaret McLetchie
9/25/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Prepare Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief for filing; file and serve/mail re same.	Pharan Burchfield
9/25/2017	0.8	$ 350.00	$ 280.00		$ 280.00	Review redactions made to autopsy reports received from Lander County and White Pine County, both on the computer and on hard copy (0.4). Edit supplement (0.4).	Alina Shell

9/26/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Email clients file-stamped copy of the Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief and send/email hearing reminder with location and time details.	Pharan Burchfield
9/26/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunction Relief at the Phoenix Building: 330 S. Third Street, Las Vegas, NV, 89101 in Department 24.	Admin Admin
9/27/2017	0.9	$ 450.00	$ 405.00		$ 405.00	Direct Ms. Shell re preparing materials for argument. (.2) Confer with Ms. Shell re case strategy. (.1) Review materials in preparation for argument. (.6)	Margaret McLetchie
9/27/2017	1.1	$ 350.00	$ 385.00		$ 385.00	Per Ms. McLetchie's request, compile cases, statutes, and regulations cited in briefing.	Alina Shell
9/27/2017	1.7	$ 350.00	$ 595.00		$ 595.00	Additional preparation for hearing on petition for autopsy reports. Revise argument outline.	Alina Shell
9/27/2017	1.8	$ 150.00	$ 270.00		$ 270.00	Prepare/index hearing binder and legal authority binder (case law/statutes/codes) for tomorrow's hearing on Petition for Writ of Mandamus for Ms. McLetchie.	Pharan Burchfield
9/27/2017	2.6	$ 350.00	$ 910.00		$ 910.00	Per Ms. McLetchie's request, draft argument outline for hearing on petition (2.0). Review and compile additional exhibits and materials for use at hearing (0.6).	Alina Shell
9/28/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Read and respond to email from court reporter regarding completion of transcript of hearing on petition.	Alina Shell
9/28/2017	0.6	$ 25.00	$ 15.00		$ 15.00	Dropped off check to Court Reporter Bill Nelson at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
9/28/2017	2.1	$ 350.00	$ 735.00	$ 735.00	$ -	In court for hearing on petition for writ of mandamus re public records.	Alina Shell
9/28/2017	3.0	$ 450.00	$ 1,350.00		$ 1,350.00	Prepare for and attend hearing.	Margaret McLetchie
10/4/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Review transcript of hearing on petition received from court reporter.	Alina Shell
10/4/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Emails with DA re order, related matters.	Margaret McLetchie
10/5/2017	3.6	$ 350.00	$ 1,260.00		$ 1,260.00	Draft proposed order: Review transcript from 9/28/2017 and pleadings filed by RJ and the Coroner's Office.	Alina Shell
10/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Call to Ms. Rehfeldt re whether she intended to appeal and what her expected timeframe for compliance with order was. (.1) Update clients. (.1)	Margaret McLetchie
10/9/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Revisions to proposed order.	Margaret McLetchie
10/9/2017	1.3	$ 350.00	$ 455.00		$ 455.00	Continue drafting proposed order: meeting with Ms. McLetchie to review 10/5/2017 draft of proposed order. Discuss necessary revisions. Incorporate same into draft proposed order.	Alina Shell
10/13/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Email Ms. Rehfeldt revised version of proposed order.	Alina Shell
10/13/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Research service issue raised by Laura Rehfeldt (she asserted we failed to serve her - was incorrect). Call with Ms. Rehfeldt re same.	Margaret McLetchie
10/13/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Attention to addressing Ms. Rehfeldt's comments to order. Call with Ms. Rehfeldt re same.	Margaret McLetchie
10/13/2017	1.2	$ 350.00	$ 420.00		$ 420.00	Review and discuss Ms. Rehfeldt's redlines to proposed order with Ms. McLetchie. Accept and reject changes as necessary, and address formatting issues,	Alina Shell
10/16/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Revise/approve letter to chambers re proposed order.	Margaret McLetchie

10/16/2017	0.4	$ 450.00	$ 180.00		$ 180.00	Provide Ms. Rehfeldt with support for inclusions in order. After she indicated she would not agree, finalize proposed order for submission to court.	Margaret McLetchie
10/16/2017	0.5	$ 25.00	$ 12.50		$ 12.50	Dropped off: Proposed Order Granting Public Records Act Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus, and letter to Judge Crockett dated 10/18/2017 at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
10/17/2017	0.3	$ 350.00	$ 105.00		$ 105.00	Phone call with Ms. Rehfeldt re efforts to reach agreement re proposed order. Conference call to Judge Crockett's law clerk re same.	Alina Shell
10/17/2017	1.3	$ 450.00	$ 585.00		$ 585.00	Further efforts to come to agreement with Ms. Rehfeld re form of order / further revisions to order.	Margaret McLetchie
10/17/2017	1.6	$ 350.00	$ 560.00		$ 560.00	Per Ms. McLethie's request, revise order re petition for public records. Also draft letter to court re same.	Alina Shell
10/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Send Ms. Rehfeldt via email the revised proposed order and correspondence with Court.	Alina Shell
10/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Finish drafting letter to court regarding revised proposed order.	Alina Shell
10/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review Coroner's Office final proposed order letter from DA's office arguing for its proposed order, and consider whether to address.	Margaret McLetchie
10/18/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Approve final revised proposed order and approve letter to court re same.	Margaret McLetchie
10/18/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off: Revised Proposed Order Granting Public Records Act Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus, and letter to Judge Crockett dated 10/18/2017 at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
10/31/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Mr. Kane re status of order.	Margaret McLetchie
11/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review Board of County Commissioner (BCC) agenda consent item re appeal. (1.) Check BCC approved (.1) and emails with client re same. (.1)	Margaret McLetchie
11/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review consent agenda re appeal in coroner case. Call to opposing counsel. Provide quote to Mr. Kane.	Margaret McLetchie
11/6/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Phone call to court chambers regarding status of proposed order.	Alina Shell
11/6/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Follow up re status of order.	Margaret McLetchie
11/6/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Confer with Ms. Shell re status of order.	Margaret McLetchie
11/7/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Brian Barrett re AP requests.	Margaret McLetchie
11/8/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Review final signed order.	Margaret McLetchie
11/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Confer with paralegal re notice of entry of order, associated deadlines, and updating clients.	Margaret McLetchie
11/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review final order; direct Ms. Burchfield to update client and check calendaring of deadline to appeal, deadline for attorney's fees.	Margaret McLetchie
11/9/2017	0.3	$ 150.00	$ 45.00		$ 45.00	File Order Granting Petitioner LVRJ's Public Records Act Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus; draft, file, and serve/mail Notice of Entry of Order re same; email clients file-stamped copy re same; and calendar deadlines triggered by filing as appropriate.	Pharan Burchfield
11/27/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Check schedule/ attention to calendaring dates.	Margaret McLetchie
11/27/2017	0.6	$ 350.00	$ 210.00		$ 210.00	Draft declaration for Kathleen Jane England in support of motion for attorney's fees and email same to Ms. England for review and editing.	Alina Shell
11/27/2017	2.2	$ 350.00	$ 770.00		$ 770.00	Begin drafting motion for attorney's fees and costs	Alina Shell
11/28/2017	1.3	$ 350.00	$ 455.00		$ 455.00	Complete draft of motion for attorney's fees and costs and email same to Ms. McLetchie for review.	Alina Shell

11/29/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Provide instruction to Ms. Burchfield regarding exhibits and supporting documentation for motion for attorney's fees.	Alina Shell
11/29/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Follow-up email to Ms. England regarding declaration in support of motion for attorney's fees.	Alina Shell
11/29/2017	0.4	$ 350.00	$ 140.00		$ 140.00	Edit draft spreadsheet of fees and costs for inclusion with motion for attorney's fees.	Alina Shell
11/29/2017	1.0	$ 350.00	$ 350.00		$ 350.00	Revise and edit motion for attorney's fees	Alina Shell
11/29/2017	1.0	$ 450.00	$ 450.00		$ 450.00	Review time entries and billing for accuracy and inclusion in attorney fee application.	Margaret McLetchie
11/29/2017	2.2	$ 450.00	$ 990.00		$ 990.00	Revise and direct fianlization of attorney fee application.	Margaret McLetchie
			$ 32,377.50	**$ 825.00**	**$ 31,552.50**	**TOTAL FEES**	

EXHIBIT 3

Date	Quantity	Rate	Total	Discount	After Discount	Description	User
7/18/2017	1.1	$ 25.00	$ 27.50		$ 27.50	Served Civil Summons to John Fudenberg at the Clark County Office of The Coroner: 1704 Pinto Ln, Las Vegas, NV 89106.	Admin Admin
7/18/2017	1.2	$ 25.00	$ 30.00		$ 30.00	Civil Summons issued to the Clark County Office of The Coroner at the Nevada District Court: 200 Lewis Ave. Las Vegas NV, 89101 3rd Floor.	Admin Admin
8/1/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off Stipulation and Order Regarding Briefing Schedule at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
8/1/2017	0.6	$ 25.00	$ 15.00		$ 15.00	Picked up Stipulation and Order Regarding Briefing Schedule from Mary Ann Miller at the Clark County District Attorney's Office: 500 S. Grand Central Pkwy. Ste. 5075 Las Vegas, NV, 89106.	Admin Admin
8/3/2017	0.7	$ 25.00	$ 17.50		$ 17.50	Picked up: Stipulation and Order Regarding Briefing Schedule at the Las Vegas Phoenix Building 330 S. Third Street, 11th Floor Las Vegas 89101.	Admin Admin
9/14/2017	0.7	$ 25.00	$ 17.50		$ 17.50	Dropped off courtesy copy of Petition, Memo (declaration/exhibits), Response, and Reply at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101.	Admin Admin
9/26/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunction Relief at the Phoenix Building: 330 S. Third Street, Las Vegas, NV, 89101 in Department 24.	Admin Admin
9/28/2017	0.6	$ 25.00	$ 15.00		$ 15.00	Dropped off check to Court Reporter Bill Nelson at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
10/16/2017	0.5	$ 25.00	$ 12.50		$ 12.50	Dropped off: Proposed Order Granting Public Records Act Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus, and letter to Judge Crockett dated 10/18/2017 at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
10/18/2017	0.4	$ 25.00	$ 10.00		$ 10.00	Dropped off: Revised Proposed Order Granting Public Records Act Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus, and letter to Judge Crockett dated 10/18/2017 at the Las Vegas Phoenix Building: 330 S 3rd St. Las Vegas NV, 89101 Department 24.	Admin Admin
	6.6	**$25.00**	**$ 165.00**	**$ -**	**$ 165.00**	**TOTAL FOR ADMIN**	
7/17/2017	1.5	$ 350.00	$ 525.00		$ 525.00	Review and edit of application for writ of mandamus pursuant to Nev. Rev. Stat. 239.011: Check factual and legal citations for accuracy (1.0). Review final draft of the petition for errors and citations (.5).	Alina Shell
7/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Review Eighth Judicial District Court Rules to determine briefing scheduling for petition.	Alina Shell
7/25/2017	5.8	$ 350.00	$ 2,030.00		$ 2,030.00	Draft opening brief in support of petition filed pursuant to NRS 239.011 re autopsy report records.	Alina Shell
7/26/2017	0.2	$ 350.00	$ 70.00		$ 70.00	Phone call from Laura Rehfeldt re briefing schedule; email to Ms. McLetchie summarizing discussion with Ms. Rehfeldt.	Alina Shell
8/14/2017	1.1	$ 350.00	$ 385.00		$ 385.00	Review, edit, and update memorandum of points and authorities drafted 7/25/2017 (0.6). Legal research to locate additional cases finding coroner reports to be public records (0.5).	Alina Shell

8/14/2017	2.1	$ 350.00	$ 735.00		$ 735.00	Per Ms. McLetchie's request, conduct research regarding state laws/case law re whether autopsy records are public or confidential (1.5). Create chart of same (0.6).	Alina Shell
8/15/2017	0.2	$ 350.00	$ 70.00		$ 70.00	Research regarding precedential value of district court orders.	Alina Shell
8/15/2017	1.7	$ 350.00	$ 595.00		$ 595.00	Continue drafting brief, incorporatng research and checking citations.	Alina Shell
8/16/2017	0.4	$ 350.00	$ 140.00		$ 140.00	Incorporate Mr. Wolpert's edits and corrections into final draft of memo in support of petition. (.3) Final hard copy review of memo and authenticating declaration. (.1)	Alina Shell
8/31/2017	2.1	$ 350.00	$ 735.00		$ 735.00	Review District Attorney's response to petition and memorandum in support of petition regarding access to juvenile death records (.5). Research regarding privileges cited in District Attorney's response (1.6).	Alina Shell
9/1/2017	0.9	$ 350.00	$ 315.00		$ 315.00	Additional legal research regarding privileges asserted by District Attorney in response to memorandum.	Alina Shell
9/5/2017	6.3	$ 350.00	$ 2,205.00		$ 2,205.00	Draft reply to Coroner's response to memorandum in support of petition for writ of mandamus relating to autopsy reports.	Alina Shell
9/6/2017	2.9	$ 350.00	$ 1,015.00		$ 1,015.00	Continue drafting reply to Coroner's Office response to memo in support of petition for public records.	Alina Shell
9/7/2017	1.2	$ 350.00	$ 420.00		$ 420.00	Address Ms. McLetchie's comments and suggestions for changes to Reply to Response to Memorandum in support of petition for autopsy records. Also review and incorporate Mr. Wolpert's edits to same.	Alina Shell
9/22/2017	2.2	$ 350.00	$ 770.00		$ 770.00	Draft supplement to petition to public records with autopsy reports received from Lander County and White Pine County. Review and redact records.	Alina Shell
9/25/2017	0.8	$ 350.00	$ 280.00		$ 280.00	Review redactions made to autopsy reports received from Lander County and White Pine County, both on the computer and on hard copy (0.4). Edit supplement (0.4).	Alina Shell
9/27/2017	1.1	$ 350.00	$ 385.00		$ 385.00	Per Ms. McLetchie's request, compile cases, statutes, and regulations cited in briefing.	Alina Shell
9/27/2017	1.7	$ 350.00	$ 595.00		$ 595.00	Additional preparation for hearing on petition for autopsy reports. Revise argument outline.	Alina Shell
9/27/2017	2.6	$ 350.00	$ 910.00		$ 910.00	Per Ms. McLetchie's request, draft argument outline for hearing on petition (2.0). Review and compile additional exhibits and materials for use at hearing (0.6).	Alina Shell
9/28/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Read and respond to email from court reporter regarding completion of transcript of hearing on petition.	Alina Shell
9/28/2017	2.1	$ 350.00	$ 735.00	$ 735.00	$ -	In court for hearing on petition for writ of mandamus re public records.	Alina Shell
10/4/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Review transcript of hearing on petition received from court reporter.	Alina Shell
10/5/2017	3.6	$ 350.00	$ 1,260.00		$ 1,260.00	Draft proposed order: Review transcript from 9/28/2017 and pleadings filed by RJ and the Coroner's Office.	Alina Shell
10/9/2017	1.3	$ 350.00	$ 455.00		$ 455.00	Continue drafting proposed order: meeting with Ms. McLetchie to review 10/5/2017 draft of proposed order. Discuss necessary revisions. Incorporate same into draft proposed order.	Alina Shell
10/13/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Email Ms. Rehfeldt revised version of proposed order.	Alina Shell
10/13/2017	1.2	$ 350.00	$ 420.00		$ 420.00	Review and discuss Ms. Rehfeldt's redlines to proposed order with Ms. McLetchie. Accept and reject changes as necessary, and address formatting issues,	Alina Shell

10/17/2017	0.3	$ 350.00	$ 105.00		$ 105.00	Phone call with Ms. Rehfeldt re efforts to reach agreement re proposed order. Conference call to Judge Crockett's law clerk re same.	Alina Shell
10/17/2017	1.6	$ 350.00	$ 560.00		$ 560.00	Per Ms. McLethie's request, revise order re petition for public records. Also draft letter to court re same.	Alina Shell
10/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Send Ms. Rehfeldt via email the revised proposed order and correspondence with Court.	Alina Shell
10/18/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Finish drafting letter to court regarding revised proposed order.	Alina Shell
11/6/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Phone call to court chambers regarding status of proposed order.	Alina Shell
11/27/2017	0.6	$ 350.00	$ 210.00		$ 210.00	Draft declaration for Kathleen Jane England in support of motion for attorney's fees and email same to Ms. England for review and editing.	Alina Shell
11/27/2017	2.2	$ 350.00	$ 770.00		$ 770.00	Begin drafting motion for attorney's fees and costs	Alina Shell
11/28/2017	1.3	$ 350.00	$ 455.00		$ 455.00	Complete draft of motion for attorney's fees and costs and email same to Ms. McLetchie for review.	Alina Shell
11/29/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Provide instruction to Ms. Burchfield regarding exhibits and supporting documentation for motion for attorney's fees.	Alina Shell
11/29/2017	0.1	$ 350.00	$ 35.00		$ 35.00	Follow-up email to Ms. England regarding declaration in support of motion for attorney's fees.	Alina Shell
11/29/2017	0.4	$ 350.00	$ 140.00		$ 140.00	Edit draft spreadsheet of fees and costs for inclusion with motion for attorney's fees.	Alina Shell
11/29/2017	1.0	$ 350.00	$ 350.00		$ 350.00	Revise and edit motion for attorney's fees	Alina Shell
	51.3	**$ 350.00**	**$ 17,955.00**	**$ 735.00**	**$ 17,220.00**	**TOTAL FOR ALINA M. SHELL**	
8/16/2017	0.9	$ 175.00	$ 157.50		$ 157.50	Edit and proof memorandum brief.	Leo Wolpert
9/7/2017	1.2	$ 175.00	$ 210.00		$ 210.00	Edit and proofread reply brief; check citations.	Leo Wolpert
	2.1	**$ 175.00**	**$ 367.50**	**$ -**	**$ 367.50**	**TOTAL FOR LEO S. WOLPERT**	
7/10/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review email from Art Kane re his conversation with District Attorney's office, and NRS 432B.407, and analyze statute. Attention to contacting District Attorney's office.	Margaret McLetchie
7/11/2017	0.2	$ 450.00	$ 90.00	$ 90.00	$ -	Confer with client reprentative re case.	Margaret McLetchie
7/11/2017	0.4	$ 450.00	$ 180.00		$ 180.00	Call with Laura Rehfeldt from Disrict Attorney's Office re: (1) refusal to provide any records subsequently provided tot he child death review team; (2) redactions; (3) and fees [discuss with her lack of authority to charge in excess of NPRA permitted fees; (and lack of authority for charging requester for review/redactions); and (4) request for sample redacted document. Update file and email to client.	Margaret McLetchie
7/14/2017	1.0	$ 450.00	$ 450.00		$ 450.00	Review correspondence re requests for autopsy records to use as exhibits for petition; follow up with Mr. Kane to be sure file/ record is complete. Review additional materials received and begin outlining facts for petition.	Margaret McLetchie
7/17/2017	0.1	$450.00	$ 45.00		$ 45.00	Emails with clients regarding draft petition.	Margaret McLetchie
7/17/2017	0.2	$450.00	$ 90.00		$ 90.00	Direct paralegal re preparing exhibits / for filing of petition.	Margaret McLetchie
7/17/2017	0.2	$450.00	$ 90.00		$ 90.00	Calls the District Attorney's office re schedule and accepting service of petition.	Margaret McLetchie
7/17/2017	7.0	$ 450.00	$ 3,150.00		$ 3,150.00	Initial drafting of petition and compilation/review of correspondence re PRA requests; incorporate edits.	Margaret McLetchie
7/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review email from Coroner. Confer with DA office to ensure I can coordinate directly with him.	Margaret McLetchie
7/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Attention to effectuating service/ confer with paralegal re same; approve summons.	Margaret McLetchie

7/19/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Call to / email with District Attorney's office re briefing schedule in coroner's case.	Margaret McLetchie
7/27/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Email to opposing counsel, to propose stipulated expedited schedule. Further emails re same.	Margaret McLetchie
7/28/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Attention to stipulation re briefing schedule; email to Ms. King.	Margaret McLetchie
7/31/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Attention to stipulation, and emails with opposing counsel re same. Revise stipulation per edits from opposing counsel.	Margaret McLetchie
8/1/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Email to Mr. Kane re briefing schedule, anticipated next steps, and obtaining samples of autopsies received made public in other counties.	Margaret McLetchie
8/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Emails with clients re strategy and status.	Margaret McLetchie
8/11/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review autopsies/ materials received in response to other PRAs for autopsies. (.2) Emails to Art Kane re same, strategy in case and status of briefing. (.1)	Margaret McLetchie
8/14/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Attention to reviewing/ revising memorandum of points and authorities in support of petition. (.5) Confer with Ms. Shell re confirming incorporation of research / authority from other states. (.1)	Margaret McLetchie
8/16/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Final coordination and approval of opening brief.	Margaret McLetchie
8/18/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Art Kane re samples of other county responses to PRAs.	Margaret McLetchie
8/30/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Preliminary review of response to opening brief. Forward to team.	Margaret McLetchie
9/6/2017	1.2	$ 450.00	$ 540.00		$ 540.00	Review opposition (.6) and review / revise reply brief (.6).	Margaret McLetchie
9/7/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review/ approve final reply brief.	Margaret McLetchie
9/25/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Direct Ms. Shell re supplement.	Margaret McLetchie
9/27/2017	0.9	$ 450.00	$ 405.00		$ 405.00	Direct Ms. Shell re preparing materials for argument. (.2) Confer with Ms. Shell re case strategy. (.1) Review materials in preparation for argument. (.6)	Margaret McLetchie
9/28/2017	3.0	$ 450.00	$ 1,350.00		$ 1,350.00	Prepare for and attend hearing.	Margaret McLetchie
10/4/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Emails with DA re order, related matters.	Margaret McLetchie
10/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Call to Ms. Rehfeldt re whether she intended to appeal and what her expected timeframe for compliance with order was. (.1) Update clients. (.1)	Margaret McLetchie
10/9/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Revisions to proposed order.	Margaret McLetchie
10/13/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Research service issue raised by Laura Rehfeldt (she asserted we failed to serve her - was incorrect). Call with Ms. Rehfeldt re same.	Margaret McLetchie
10/13/2017	0.6	$ 450.00	$ 270.00		$ 270.00	Attention to addressing Ms. Rehfeldt's comments to order. Call with Ms. Rehfeldt re same.	Margaret McLetchie
10/16/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Revise/approve letter to chambers re proposed order.	Margaret McLetchie
10/16/2017	0.4	$ 450.00	$ 180.00		$ 180.00	Provide Ms. Rehfeldt with support for inclusions in order. After she indicated she would not agree, finalize proposed order for submission to court.	Margaret McLetchie
10/17/2017	1.3	$ 450.00	$ 585.00		$ 585.00	Further efforts to come to agreement with Ms. Rehfeld re form of order / further revisions to order.	Margaret McLetchie
10/18/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review Coroner's Office final proposed order letter from DA's office arguing for its proposed order, and consider whether to address.	Margaret McLetchie
10/18/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Approve final revised proposed order and approve letter to court re same.	Margaret McLetchie
10/31/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Mr. Kane re status of order.	Margaret McLetchie
11/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review Board of County Commissioner (BCC) agenda consent item re appeal. (1.) Check BCC approved (.1) and emails with client re same. (.1)	Margaret McLetchie

11/1/2017	0.3	$ 450.00	$ 135.00		$ 135.00	Review consent agenda re appeal in coroner case. Call to opposing counsel. Provide quote to Mr. Kane.	Margaret McLetchie
11/6/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Follow up re status of order.	Margaret McLetchie
11/6/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Confer with Ms. Shell re status of order.	Margaret McLetchie
11/7/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Emails with Brian Barrett re AP requests.	Margaret McLetchie
11/8/2017	0.1	$ 450.00	$ 45.00		$ 45.00	Review final signed order.	Margaret McLetchie
11/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Confer with paralegal re notice of entry of order, associated deadlines, and updating clients.	Margaret McLetchie
11/9/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Review final order; direct Ms. Burchfield to update client and check calendaring of deadline to appeal, deadline for attorney's fees.	Margaret McLetchie
11/27/2017	0.2	$ 450.00	$ 90.00		$ 90.00	Check schedule/ attention to calendaring dates.	Margaret McLetchie
11/29/2017	1.0	$ 450.00	$ 450.00		$ 450.00	Review time entries and billing for accuracy and inclusion in attorney fee application.	Margaret McLetchie
11/29/2017	2.2	$ 450.00	$ 990.00		$ 990.00	Revise and direct fianlization of attorney fee application.	Margaret McLetchie
	27.9	**$ 450.00**	**$ 12,555.00**	**$ 90.00**	**$ 12,465.00**	**TOTAL FOR MARGARET A. MCLETCHIE**	
7/14/2017	0.6	$ 150.00	$ 90.00		$ 90.00	Review communication between Mr. Kane and Ms. Rehfeldt; prepare hard copy and electronic files re same.	Pharan Burchfield
7/17/2017	3.2	$ 150.00	$ 480.00		$ 480.00	Review and create hard-copy and electronic file (communications and documents from Mr. Kane and District Attorney's office); prepare exhibits for Petition; draft Civil Cover Sheet; and Initial Appearance Fee Disclosure; open/create new case and file all re same.	Pharan Burchfield
7/18/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Draft Summons; prepare Petition and Summons to be served on Coroner's Office today. Notarize Ms. Lopez's Affidavit of Service re same; and file executed Summons.	Pharan Burchfield
7/20/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Begin creating shell draft of Memorandum of Points and Authorities in Support of Petition.	Pharan Burchfield
7/26/2017	0.5	$ 150.00	$ 75.00		$ 75.00	Draft Stipulation and Order Regarding Briefing Schedule for attorneys' review/approval.	Pharan Burchfield
8/1/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Finalize draft Stipulation and Order re briefing schedule; email communications with Ms. Rehfeldt re same; arrange pick-up and delivery to Department 24 for approval.	Pharan Burchfield
8/4/2017	0.2	$ 150.00	$ 30.00		$ 30.00	File Stipulation and Order Regarding Briefing Schedule; draft, file, and serve/mail Notice of Entry of Order re same; calendar accordingly; email clients re same.	Pharan Burchfield
8/16/2017	0.5	$ 150.00	$ 75.00		$ 75.00	Finalize/prepare for filing, file and serve/mail Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief.	Pharan Burchfield
8/31/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Email clients file-stamped copy of Response to Petition and Memorandum Supporting Writ for Mandamus for Access to Autopsy Reports of Juvenile Deaths.	Pharan Burchfield
9/6/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Prepare draft Reply for clients' review; send email to clients re same.	Pharan Burchfield
9/7/2017	0.2	$ 150.00	$ 30.00		$ 30.00	Prepare Reply to Response to Petition for Writ of Mandamus for filing; file and serve/mail re same.	Pharan Burchfield
9/7/2017	0.2	$ 150.00	$ 30.00		$ 30.00	Prepare courtesy hearing binder for Honorable Judge Crockett for September 28 hearing re Petition for Mandamus.	Pharan Burchfield
9/22/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Begin drafting supplement to petition for writ of mandamus re samples from other counties.	Pharan Burchfield

9/25/2017	0.3	$ 150.00	$ 45.00		$ 45.00	Prepare Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief for filing; file and serve/mail re same.	Pharan Burchfield
9/26/2017	0.1	$ 150.00	$ 15.00		$ 15.00	Email clients file-stamped copy of the Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief and send/email hearing reminder with location and time details.	Pharan Burchfield
9/27/2017	1.8	$ 150.00	$ 270.00		$ 270.00	Prepare/index hearing binder and legal authority binder (case law/statutes/codes) for tomorrow's hearing on Petition for Writ of Mandamus for Ms. McLetchie.	Pharan Burchfield
11/9/2017	0.3	$ 150.00	$ 45.00		$ 45.00	File Order Granting Petitioner LVRJ's Public Records Act Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus; draft, file, and serve/mail Notice of Entry of Order re same; email clients file-stamped copy re same; and calendar deadlines triggered by filing as appropriate.	Pharan Burchfield
	8.9	**$ 150.00**	**$ 1,335.00**	**$ -**	**$ 1,335.00**	**TOTAL FOR PHARAN BURCHFIELD**	

EXHIBIT 4

Date	Price	Note
7/17/2017	$ 281.60	E-filing fee: Public Records Act Application Pursuant to NRS 239.001/ Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011; Appendix of Exhibits in Support of Public Records Act Application Pursuant to NRS 239.001/ Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011; Civil Cover Sheet; and Initial Appearance Fee Disclosure.
7/18/2017	$ 3.50	E-filing fee: Executed Summons.
7/18/2017	$ 0.49	Civil Summons issued to the Clark County Office of The Coroner at the Nevada District Court: 200 Lewis Ave. Las Vegas NV, 89101 3rd Floor. Total miles:0.9 at $0.54 per mile.
7/18/2017	$ 2.16	Served Civil Summons to John Fudenberg at the Clark County Office of The Coroner: 1704 Pinto Ln, Las Vegas, NV 89106. Total miles: 4.0 at $0.54 per mile.
7/31/2017	$ 13.20	Copying Costs: July 1, 2017 - July 31, 2017: 165 pages at $0.08 per page.
7/31/2017	$ 40.43	Legal Research: WestLawNext - charges for 36 transactions for July 2017.
8/1/2017	$ 1.67	Picked up Stipulation and Order Regarding Briefing Schedule from Mary Ann Miller at the Clark County District Attorney's Office: 500 S. Grand Central Pkwy. Ste. 5075 Las Vegas, NV, 89106. Total miles: 3.1 at $0.54 per mile.
8/4/2017	$ 3.50	E-filing fee: Notice of Entry of Order.
8/4/2017	$ 3.50	E-filing fee: Stipulation and Order Regarding Briefing Schedule.
8/4/2017	$ 0.67	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel.
8/16/2017	$ 3.50	E-filing fee: Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief.
8/16/2017	$ 2.87	Postage: mailing expense - Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief to District Attorney's office.
8/31/2017	$ 5.68	Copying Costs: August 1, 2017 - August 31, 2017: 71 pages at $0.08 per page.
8/31/2017	$ 63.32	Legal Research: WestLawNext - charges for 90 transactions for August 2017.
9/7/2017	$ 3.50	Postage: mailing expense - Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief to opposing counsel.
9/7/2017	$ 6.65	Postage: mailing expense - Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief sent to opposing counsel.
9/25/2017	$ 3.50	E-filing fee: Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief.
9/25/2017	$ 6.65	Postage: mailing expense - Supplement to Reply to Response to Petition and Memorandum in Support of Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief sent to District Attorney's office.
9/30/2017	$ 130.48	Copying Costs: September 1, 2017 - September 30, 2017: 1,631 pages at $0.08 per page.
9/30/2017	$ 228.07	Legal Research: WestLawNext - charges for 141 transactions for September 2017.
10/31/2017	$ 8.00	Copying Costs: October 1, 2017 - October 31, 2017: 100 pages at $0.08 per page.
10/31/2017	$ 3.47	Legal Research: WestLawNext - charges for 2 transactions for October 2017.
11/9/2017	$ 3.50	E-filing fee: Order Granting Petitioner LVRJ's Public Records Act Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus.
11/9/2017	$ 3.50	E-filing fee: Notice of Entry of Order.
11/9/2017	$ 1.61	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel.
	$ 825.02	**TOTAL COSTS**

EXHIBIT 5

DECLARATION OF ATTORNEY KATHLEEN J. ENGLAND

I, Kathleen Jane England, hereby declare under the penalty of perjury that the following is true and correct:

1. I am an attorney fully licensed to practice in all courts in Nevada. The facts stated below are based on my personal knowledge and belief, are true and correct and I am competent to so testify. I am making this Declaration in support of a portion of a fee petition and the hourly rates being sought colleagues of mine.

2. After graduating from Suffolk University Law School in Boston in 1978, I moved to Nevada, clerked for the Las Vegas City Attorney and became a Deputy City Attorney in 1979 after passing the Nevada bar. In 1982, I joined Vargas & Bartlett where I worked on many large civil litigation matters in state and federal for seven years. Twice I was appointed and served as co-chair of Defendants' Settlement Committee in the MGM Grand Fire Litigation, MDL #453. In 1989, I started the law firm of Combs & England, doing employment and complex civil litigation. In 1994, I created England Law Office. In 1999, I re-joined my colleagues at Kummer Kaempfer Bonner & Renshaw as a partner from 1999 to 2001. In 2001, I restarted the England Law Office where I practiced as a solo practitioner or with one or two associates. In September 2016, I joined The Law Offices of Gary M. Gilbert, PC, and a national law employment law firm. We created the Gilbert & England Law Firm, a NV Rule 7.5A multijurisdictional law firm, where I am the managing resident Nevada attorney.

3. In addition to Nevada, I am admitted to practice, in the US District Court (Nevada) (1980), the Court of Appeals for the Ninth Circuit (1980) and the U.S. Supreme Court (1997.)

4. I have been asked by the McLetchie Shell law firm to provide my declaration in support of a fee petition in the state court matter entitled *The Las Vegas Review-Journal v. Clark County Coroner's Office*, Case No. A-17-758501-W. It is my understanding that this is a case

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regarding the Las Vegas Review-Journal's efforts to obtain public records from the Clark County Coroner's Office pursuant to the Nevada Public Records Act ("NPRA").

5. I am familiar Ms. McLetchie and Ms. Shell, their reputation for handling civil rights matters and cases and their expertise in matters involving constitutional law. Their reputation is excellent and well-deserved. For the past few years, I have often referred them cases which I am unable to handle, or which are outside of my expertise or which would benefit from their particular expertise in constitutional law. I call upon their expertise informally on matters of case strategy and handling. Since 2012, I have enlisted Ms. McLetchie and now Ms. Shell as co-counsel to assist me in representing clients with difficult and complex cases against large, well-funded employer-defendants. In the past two years, I have viewed and relied upon their research and work product, and I have worked alongside them and their highly competent staff in drafting, revising and finalizing pleadings. Based on those interactions, I can safely say they are entitled to command the highest rates for their work.

6. Ms. McLetchie, who I understand was first admitted to the California bar in 2002, has diverse and extensive legal experience, including in criminal matters and in complex litigation. Ms. McLetchie previously served as a Staff Attorney, Legal Director, and Interim Southern Program Director for the American Civil Liberties Union of Nevada, where I had occasion to work with her on some cases.

7. I have had the opportunity to work or consult with Ms. McLetchie during both her time at the ACLU of Nevada and her time in private practice. Based on my experience in working with her, I know that Ms. McLetchie is a versatile, experienced, and creative litigator.

8. As noted above, it is my understanding that this matter involves a dispute over the Review-Journal's request for public records from the Clark County Coroner's Office. I have had several opportunities to consult with Ms. McLetchie regarding public records requests. In my

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experience, Ms. McLetchie is one of the most knowledgeable attorneys in the state regarding the NPRA. Her knowledge of public records law is unparalleled, and I have relied on her advice in crafting my own public records request to governmental entities.

9. Ms. Shell, I understand who was admitted to the Nevada bar in 2009, has almost eight years of legal experience. I understand that Ms. Shell was an attorney with the Federal Public Defenders (FPD) for the District of Nevada from then until going into private practice in 2015. While employed by the FPD, I understand that Ms. Shell represented numerous defendants in a variety of criminal cases in federal courts and that she wrote and argued several complex criminal appeals in the United States Court of Appeals for the Ninth Circuit. Her subsequent work since moving into private practice in June 2015 shows the high level of past work she engaged in and how she has transitioned those skills from criminal work to the civil side, which is quite impressive in this short period of time. I am aware that Ms. Shell has represented plaintiffs in state and federal court in civil matters, including civil rights and employment cases. I applaud her commitment to do so because very few practitioners aspire to do this kind of work.

10. I have had several occasions to work with or consult with Ms. Shell during her time in private practice, and have found her to be an intelligent and effective researcher, writer and advocate for her clients.

11. Pharan Burchfield is a paraprofessional (paralegal) at McLetchie Shell. I understand that Ms. Burchfield has an associate's degree in paralegal studies (2014 from the College of Southern Nevada) and has been a paralegal for three years, which surprises me because her work product and her work ethic is equivalent to someone with 10-15 years of paralegal litigation experience. Ms. Burchfield has assisted me in preparing a number of complex filings in federal civil matters. Ms. Burchfield is one of the best paralegals I have had a chance to work with; she has great attention for detail, and has the highest level of computer skills. She is organized, is

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able to organize others and is calm in the face of nerve-wracking deadlines and last minute obstacles. She is a problem-solver, and works very efficiently and very effectively.

12. I have been practicing in this field for the last 37 years and have submitted and received multiple fee awards in state and federal courts and so I keep myself generally informed of prevailing market rates in Las Vegas. As a result of a recent case where my client was granted partial summary judgment by the U.S. District Court, I have recently re-familiarized myself with the prevailing hourly rates for experienced employment law/civil rights attorneys and their staff in the local Las Vegas legal community, both on the defense side (where the attorneys may accept lower hourly rates in exchange for regular and non-contingent billings and immediate payments by their clients who provide streams of billable work.

13. I understand that McLetchie Shell, LLC's billing rates are as follows:

Attorney/Biller	**Year of Admission**	**Billing Rate**
Margaret McLetchie, Attorney	2002 (California) 2008 (Nevada)	$450.00
Alina Shell, Attorney	2009	$350.00
Leo Wolpert, Attorney	2012	$175.00
Support staff and paralegal	n/a	$150.00

14. In my opinion, and based on my recent research on fees and hourly rates, and because these often involve matters which are hotly disputed by opposing counsel and well-funded defendants (especially public entities), the rates for each billing person set forth above are reasonable for the McLetchie Shell folks in question, of whom I have personal knowledge, are not just reasonable but might even be understated and low for the work that they represent in this legal community, which is difficult work and not as remunerative as other practice areas. Thus, I think

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these McLetchie Shell rates are below the market rates these folks could otherwise command in southern Nevada.

15. Further your affiant sayeth naught.

Dated this 29th day of November, 2017

KATHLEEN J. ENGLAND, Attorney
Gilbert & England Law Firm
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 529-2311

11/29/17

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MARGARET A MCLETCHIE, Nevada Bar No. 10931
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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **NOTICE OF ENTRY OF ORDER**

TO: THE PARTIES HERETO AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on the 1st day of February, 2018, an Order Granting Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs was entered in the above-captioned action. A copy of the Order is attached hereto as Exhibit 1.

Respectfully submitted this 1st day of February, 2018.

/s/ Margaret A. McLetchie
Margaret A. McLetchie, Nevada Bar No. 10931
Alina M. Shell, Nevada Bar No. 11711
MCLETCHIE SHELL LLC
701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
Telephone: (702) 728-5300
Email: maggie@nvlitigation.com
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of February, 2018, pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I did cause a true copy of the foregoing NOTICE OF ENTRY OF ORDER in *Las Vegas Review-Journal v. Clark County Office of the Coroner/Medical Examiner,* Clark County District Court Case No. A-17-758501-W, to be served electronically using the Odyssey File & Serve electronic filing service system, to all parties with an email address on record.

I hereby further certify that on the 1st day of February, 2018, pursuant to Nev. R. Civ. P. 5(b)(2)(B) I mailed a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Mary-Anne Miller and Laura Rehfeldt
Clark County District Attorney's Office
500 S. Grand Central Pkwy., Ste. 5075
Las Vegas, NV 89106
Counsel for Respondent, Clark County Office of the Coroner/Medical Examiner

/s/ Pharan Burchfield
An Employee of MCLETCHIE SHELL LLC

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EXHIBIT 1

ORDR
MARGARET A MCLETCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
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701 East Bridger Ave., Suite 520
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Counsel for Petitioner

DISTRICT COURT

CLARK COUNTY NEVADA

LAS VEGAS REVIEW-JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No.: A-17-758501-W Dept. No.: XXIV **ORDER GRANTING PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS**

The Las Vegas Review-Journal's Motion of Attorney's Fees and Costs, having come on for hearing on January 11, 2018, the Honorable Jim Crockett presiding, Petitioner Las Vegas Review-Journal (the "LVRJ") appearing by and through its counsel, Margaret A. McLetchie, and Respondent Clark County Office of the Coroner/Medical Examiner ("Coroner's Office") appearing by and through its counsel, Laura C. Rehfeldt, and the Court having read and considered all of the papers and pleadings on file and being fully advised, and good cause appearing therefor, the Court hereby makes the following findings of fact and conclusions of law:

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I.

PROCEDURAL HISTORY AND FINDINGS OF FACT

The Records Request and The Coroner's Office's Response

1. On April 13, 2017, the LVRJ sent the Coroner's Office a request pursuant to the Nevada Public Records Act, Nev. Rev. Stat. § 239.001 *et seq.* (the "NPRA").

2. The LVRJ's request sought all autopsy reports of autopsies conducted of anyone under the age of 18 from 2012 through the date of the request.

3. The Coroner's Office responded via email on April 13, 2017. It provided a spreadsheet with information consisting of the Coroner case number, name of decedent, date of death, gender, age, race, location of death, and cause and manner of death, but refused to provide "autopsy reports, notes or other documents." In its April 13, 2017 email, the Coroner's Office stated it would not disclose the autopsy reports because they contain medical information and confidential information about a decedent's body. The Coroner's Office relied on Attorney General Opinion, 1982 Nev. Op. Atty. Gen. No. 12 ("AGO 82-12") as the basis for non-disclosure.

4. The LVRJ followed up by emailing the Clark County District Attorney's Office on April 13, 2017, requesting legal support for the refusal to provide records.

5. The District Attorney's Office, Civil Division, on behalf of the Coroner's Office, responded via email on April 14, 2017, again relying on AGO 82-12 and also relying on Assembly Bill 57, 79th Sess. (Nev. 2017) (a bill then pending consideration in the 2017 session of the Nevada Legislature and proposing changes to Nevada law regarding a coroner's duty to notify next-of-kin of the death of a family member but not addressing public records) as the bases for its refusal to disclose the requested records.

6. The Coroner's Office did not assert any other basis for withholding records within five (5) business days.

7. On May 9, 2017, following a meeting between the Coroner and the LVRJ, the Coroner mailed a second spreadsheet to the LVRJ listing child deaths dating back to 2011 in which the Coroner conducted autopsies.

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8. On May 23, 2017, counsel for the LVRJ wrote to the Coroner's Office to address concerns with the Coroner's Office's refusal to provide access to any of the requested juvenile autopsy reports.

9. On May 26, 2017, the Coroner's Office (via the District Attorney) responded to the May 23, 2017 letter, again relying on the legal analysis in AGO 82-12 to justify non-disclosure, and agreed to consider providing redacted versions of autopsies of juveniles if the LVRJ provided a specific list of cases it wished to review.

10. In its May 26, 2017 response, the Coroner's Office for the first time also asserted that the records may be protected by Nev. Rev. Stat. § 432B.407 and that privacy interests outweighed public disclosure.

11. The LVRJ provided the Coroner's Office with a list of specific cases it wanted reports for via email on May 26, 2017.

12. The Coroner's Office responded to the May 26, 2017 email on May 31, 2017.

13. In its May 31, 2017 response, the Coroner's Office stated that responsive records were "subject to privilege will not be disclosed" and that it would also redact other records. However, it did not assert any specific privilege.

14. The Coroner's Office also asked the LVRJ to specify the records it wanted to receive first, which the LVRJ did on June 12, 2017.

15. On July 9, 2017, in a response to a further email from the LVRJ inquiring on the status of the records, the Coroner's Office indicated it would not produce any records that pertained to any case that was subsequently handled by a child death review team pursuant to Nev. Rev. Stat. § 432B.407. By that time, the Coroner had determined which cases were not handled by the child death review team and provided a list to the LVRJ.

16. On July 11, 2017, the Coroner's Office provided sample files of redacted autopsy reports for other autopsies of juveniles that were not handled by a child death review team. The samples files were heavily redacted; the Coroner's Office asserted that the redacted language consisted of information that was medical, related to the health of the

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decedent's mother, could be marked with stigmata or considered an invasion of privacy. Statements of diagnosis or opinion that were medical or health related that went to the cause of death were not redacted.

17. On July 11, 2017, the Coroner's Office also demanded that the LVRJ commit to payment for further work in redacting files for production, and declined to produce records without payment. The Coroner's Office indicated it would take two persons 10-12 hours to redact the records it was willing to produce, and that the LVRJ would have to pay $45.00 an hour for the two reviewers, one of which would be an attorney. The Coroner's Office contended that conducting a privilege review and redacting autopsy reports required the "extraordinary use of personnel" under Nev. Rev. Stat. § 239.055. The Coroner's Office stated it did not intend to seek fees for the work associated with the previously provided spreadsheets and redacted reports.

The Litigation

18. On July 17, 2017, the LVRJ filed its Application Pursuant to Nev. Rev. Stat. § 239.001/Application for Writ of Mandamus/Application for Declaratory and Injunctive Relief ("Application"), and requested expedited consideration pursuant to Nev. Rev. Stat. § 239.011(2).

19. On August 17, 2017, the LVRJ submitted a Memorandum in support of its Application. The Coroner's Office submitted its Response on August 30, 2017, asserting a number of arguments against production of the public records. The LVRJ submitted its Reply on September 7, 2017.

20. The Court held a hearing on the LVRJ's Application on September 28, 2017.

21. Subsequently, on November 9, 2017, the Court entered an order rejecting each of the Coroner's Office's arguments and granting the LVRJ's Application, requiring the Coroner's Office to produce the requested records. The Court also ordered that the Coroner's Office was not entitled to any fees or costs for the record, other than the medium the records were to be electronically provided on.

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The LVRJ's Motion for Attorney's Fees and Costs

22. On November 29, 2016. The LVRJ filed a Motion for Attorney's Fees and Costs pursuant to Nev. Rev. Stat. § 239.011(2).

23. In its Motion and supporting exhibits, the LVRJ requested compensation at the following rates for work performed by its attorneys and support staff:

Attorney/Biller	Hours	Billing Rate	Total Billed
Margaret A. McLetchie	27.9	$450.00	$12,465.00[1]
Alina M. Shell	51.3	$350.00	$17,220.00[2]
Leo Wolpert	2.1	$175.00	$367.50
Pharan Burchfield	8.9	$150.00	$1,335.00
Administrative Support	6.6	$25.00	$165.00
		Total Fees Requested	**$31,552.50**

24. The LVRJ also requested $825.02 in costs associated with the litigation, for a combined total request for $32,377.52 in fees and costs.

25. The LVRJ provided detail for the work performed, as well as declarations supporting the reasonableness of the rates and the work performed.

26. The Coroner's Office filed an Opposition to the LVRJ's Motion on December 14, 2017, and the LVRJ filed a Reply on January 4, 2018.

27. In its Opposition, the Coroner's Office asserted that pursuant to Nev. Rev. Stat. § 239.012—a provision of the NPRA which provides immunity from damages for public officers who act in good faith in disclosing or refusing to disclose records—the LVRJ had to establish the Coroner's Office acted in bad faith in refusing to disclose the requested

[1] This total reflected voluntary reductions for some time entries, made by counsel for the LVRJ in her billing discretion.

[2] *See supra* n.1.

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records to obtain attorney's fees and costs.

28. Alternatively, the Coroner's Office argued the fees and costs sought by counsel for the LVRJ should be apportioned and reduced, largely relying on case law regarding prevailing market rates from federal cases (including Prison Litigation Reform Act case law).

29. This Court conducted a hearing on the LVRJ's Motion on January 11, 2018.

II.

CONCLUSIONS OF LAW

Legal Standard for the Recovery of Attorney's Fees in NPRA Cases

30. Recovery of attorney fees as a cost of litigation is permissible by agreement, statute, or rule. *See Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001).

31. In this case, recovery of attorney's fees is authorized by the NPRA, which provides in pertinent part that "[i]f the requester prevails [on a petition for public records], the requester is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record." Nev. Rev. Stat. § 239.011(2).

32. Thus, pursuant to Nev. Rev. Stat. § 239.011(2) (the "Fees Statute"), a prevailing party (in this case, the LVRJ) is entitled to its reasonable fees and costs.

33. The Fees Statute is explicit and plain. There is no limitation on the entitlement to fees it contains other than the fact that the fees and costs be "reasonable." The Fees Statute does not have any language requiring a prevailing requester to demonstrate that a public officer or employee acted in bad faith in refusing to disclose public records.

34. The fact that a separate statute, § 239.012 (the "Damages Immunity Statute"), provides for immunity for good faith actions of public officers of employees in responding to NPRA requests does not change the interpretation of the Fees Statute for multiple reasons.

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35. First, as set forth above, the language of the Fees Statute is plain: if a requester prevails in an action to obtain public records, "the requester is entitled to recover his or her reasonable costs and attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record." Nev. Rev. Stat. § 239.011(2). The Fees Statute does not require a requester to demonstrate a governmental entity acted in bad faith; it only requires that the requester prevail.

36. Because the Fees Statute is clear on its face, this court "cannot go beyond the statute in determining legislative intent." *State v. Lucero*, 127 Nev. 92, 95, 249 P.3d 1226, 1228 (2011) (citation and internal quotation marks omitted); *see also Robert E. v. Justice Court*, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983) (same); *see also State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004) ("We must attribute the plain meaning to a statute that is not ambiguous."); *see also Coast Hotels & Casinos, Inc. v. Nevada State Labor Comm'n*, 117 Nev. 835, 840, 34 P.3d 546, 550 (2001) ("When the language of a statute is plain and unambiguous, a court should give that language its ordinary meaning and not go beyond it.")

37. Second, the separate Damages Immunity Statute only provides for immunity from *damages*—not immunity from fees. *See* Nev. Rev. Stat. § 239.012 (specifying that a public officer or his or her employer are "immune from liability for damages, either to the requester or to the person whom the information concerns"). Damages and fees are different. *See, e.g., Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956 35 P.3d 964, 968 (2001) (comparing procedure for seeking attorney's fees as a cost of litigation with fees sought as special damages pursuant to Nev. R. Civ. P. 9(g)); *see also Carolina Cas. Ins. Co. v. Merge Healthcare Sols. Inc.*, 728 F.3d 615, 617 (7th Cir. 2013) (noting that "an award of attorneys' fees differs from 'damages'"); *see also United Labs., Inc. v. Kuykendall,* 335 N.C. 183, 437 S.E.2d 374 (1993) (noting that attorney fees may be awarded for unfair practice, while punitive damages are awarded for tort based on same conduct).

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38. Third, the Damages Immunity Statute specifically only refers to immunity for actions of "[a] public officer or employee," (i.e., an individual), whereas the Fees Statute makes "governmental entit[ies]" liable for fees for failing to disclose records. Nev. Rev. Stat. § 239.011(2).

39. Nev. Rev. Stat. § 239.005(5) defines "governmental entity" as follows:

> (a) An elected or appointed officer of this State or of a political subdivision of this State;
> (b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State, including, without limitation, an agency of the Executive Department, or of a political subdivision of this State;
> (c) A university foundation, as defined in NRS 396.405; or
> (d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools.

40. The officers and employees whose "good faith" actions are subject to immunity pursuant to the Damages Immunity Statute are not governmental entities. In contrast, the Respondent (in this case, the Coroner's Office) is a "governmental entity" within the meaning of Nev. Rev. Stat. § 239.005(5) and is therefore responsible for fees pursuant to the Fees Statute. Thus, the difference in terms between the Fees Statute and the Damages Immunity Statute supports not reading a "good faith" requirement from the separate Damages Immunity Statute into the Fees Statute.

41. Fourth, the Damages Immunity Statute provides immunity to public officers or employees for disclosing *or* refusing to disclose public records, whereas a prevailing party's entitlement to fees and costs under Nev. Rev. Stat. § 239.011(2) attaches only in those instances where a requester successfully petitions court after a governmental entity refuses to disclose public records. This fact further urges against reading a "good faith" requirement from the separate Damages Immunity Statute into the Fees Statute.

42. Fifth, it is not necessary to read a good faith requirement into the Fees Statute to reconcile it with the separate Damages Immunity Statute. This is so because the good faith provision applies to an entirely different matter than the attorney fees and costs provision. As set forth above, the Damages Immunity Statute addresses when a public

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officer or employee (and his or her employer) is immune from *damages* to *anyone* for *producing* records or for failing to produce records if the *officer or employee* acted in good faith. In contrast, the Fees Statute sets forth when a *governmental entity* is responsible to a *requester* for fees and costs in a petition to obtain records). *See Coast Hotels & Casinos, Inc. v. Nevada State Labor Comm'n*, 117 Nev. 835, 841, 34 P.3d 546, 550 (2001) ("Courts must construe statutes to give meaning to all of their parts and language, and this court will read each sentence, phrase, and word to render it meaningful within the context of the purpose of the legislation.") (citation omitted) (emphasis added).

43. Sixth, reading a "good faith" exception into the Fees Statute would be inconsistent with the legislative mandates regarding interpretation of the NPRA, which specifically sets forth "[l]egislative findings and declaration." Nev. Rev. Stat. § 239.001. Nev. Rev. Stat. § 239.001(1) explains that "[t]he purpose of [the NPRA] is to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law." Nev. Rev. Stat. § 239.001(2) and (3) in turn provide that "[t]he provisions of this chapter must be construed liberally to carry out this important purpose;" and that [a]ny exemption, exception or balancing of interests which limits or restricts access to public books and records by members of the public must be construed narrowly." Reading a good faith limitation into the Fees Statute would be inconsistent with these mandates, and would hinder access to records by making it more expensive for requesters to seek court redress when governmental entities fail to produce public records.

44. Seventh, even if it were relevant, the legislative history of the NPRA does not support the Coroner's Office's position and makes clear there is no bad faith requirement in the fees and costs provision. In 1993, via AB 365,[3] the NPRA was amended to strengthen the NPRA. Section 2 of AB 365 addressed fees and costs, while Section 3 separately

[3] The LVRJ attached the complete legislative history of AB 365 as Exhibit 6 to its Reply to Respondent's Opposition to Motion for Attorney's Fees and Costs, and the page references in this Order correspond to the numbering therein.

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addressed good faith liability from damages. With regard to Section 2, on May 7, 1993, there was discussion making clear that, as initially written, Section 2 mandated that if the requester prevails, "he was entitled to recover his costs and fees and attorney's fees in the proceeding, from the agency whose officer had custody of the record." (*Id.*, pp. 43-44.) That is all it said as originally written. The Legislature did, however, write one (and only one) limitation into the fees and costs provision: it added the word "reasonable" to qualify the fees and costs to which a requester is entitled. (*Id.*, p. 44.) Then, a separate discussion ensued regarding Section 3 and addressing good faith immunity (*id.*, p. 44 (*after passing a motion finalizing the fees and costs language*, the committee went on to discuss Section 3).) The discussion included an explanation that Section 3 "was for a civil penalty to be imposed on a public employee who acted in bad faith." (*Id.*, p. 45.) Thus, the legislative history does not support a "good faith" limitation on the Fees Statute.

45. Further, a strict reading of the Fees Statute (one without a good faith exception read into it) is more in keeping in with the policy favoring access expressed in the NPRA as well as the provision allowing for a court remedy upon a governmental entity's failure to produce public records. *See McKay v. Bd. of Sup'rs of Carson City*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) "(We conclude a strict reading of the statute is more in keeping with the policy favoring open meetings expressed in NRS chapter 241 and the spirit of the Open Meeting Law...").

46. Accordingly, the LVRJ, which prevailed in this litigation, is entitled to its reasonable attorney's costs and fees that it expended in this matter to obtain public records from the Coroner's Office, regardless of whether the Coroner's Office acted in "good faith."

The LVRJ's Requested Fees and Costs Are Reasonable, and the Brunzell Factors Support a Full Award of Fees and Costs to the LVRJ.

47. As noted above, the LVRJ is entitled to its "reasonable" attorney's fees and costs in this matter.

48. Pursuant to *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969), a court must consider four elements in determining the reasonable value of

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attorneys' services:

> (1) the qualities of the advocate: his ability, his training, education, experience, professional standing and skill; (2) the character of the work to be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility imposed and the prominence and character of the parties where they affect the importance of the litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to the work; (4) the result: whether the attorney was successful and what benefits were derived.

Brunzell, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

49. The Court has carefully reviewed and considered the motion for fees, supporting detail of work performed and costs, and supporting declarations in light of the *Brunzell* factors in determining an appropriate award of fees and costs to the LVRJ

50. As to the first factor, the "qualities of the advocate," the Court finds that the rates sought are reasonable in light of their ability, training, education, experience, professional standing and skill. The rates sought for staff are also reasonable, and compensable.

51. The Court also finds that the second *Brunzell* factor, the "character of the work" performed in this case, *Brunzell*, 85 Nev. at 349, 455 P.2d at 33, weighs in favor of a full award of fees and costs to the LVRJ.

52. As the Coroner's Office noted in its Opposition to the LVRJ's Motion for Attorney's Fees and Costs, this case involved an unsettled and contentious area of public records law with serious legal questions of public importance. The Coroner's Office asserted a number of claims of confidentiality requiring versatility and comfort with various areas of law. And, as the NPRA reflects, the work involved in seeking access to public records is important: access to public records fosters democratic principles. Nev. Rev. Stat. § 239.001(1). Representing the newspaper of record also necessarily involves a high level of responsibility and immediate attention. Further, NPRA matters involve matters of high prominence.

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53. As to the third factor, the work actually performed by counsel, the Court finds that counsel for the LVRJ exercised appropriate discretion in the time and attention they dedicated to litigating this matter, and how they structured work in this matter. LVRJ counsel deducted or omitted entries where appropriate.

54. Further, counsel necessarily had to dedicate significant time in this case due both to its character and due to the fact that the Coroner's Office asserted numerous purported bases for refusing to provide public records.

55. Thus, this factor weighs in favor of a full award of costs and fees to the LVRJ.

56. The final *Brunzell* factor requires this Court to consider "the result: whether the attorney was successful and what benefits were derived." *Brunzell*, 85 Nev. at 349, 455 P. 2d at 33.

57. As set forth above, the LVRJ is the prevailing party in this public records litigation, and as a result of its counsel's efforts, obtained an order from this Court directing the Coroner's Office to produce the requested autopsy records.

58. Thus, this final factor weighs in favor of an award of fees and costs to the LVRJ.

59. Having considered the *Brunzell* factors, and having considered the papers and pleadings on file in this matter, including the documentation provided by the LVRJ in support of its Motion for Attorney's Fees and Costs, the Court finds the LVRJ is entitled to all its attorney's fees and costs through November 9, 2017 in the sum of $32,377.52.

III.

ORDER

60. Based on the foregoing findings of fact and conclusions of law, the Court hereby ORDERS that the Coroner's Office must pay the LVRJ $32,377.50 to compensate it for the costs and reasonable attorney's fees it expended through November 9, 2017 in litigating this matter. Costs of $825.02. Attorney's Fees of $31,552.50.

MS

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61. Nothing in this Order precludes the LVRJ from seeking compensation for fees and costs incurred after November 9, 2017 if appropriate upon conclusion of the appeal in this matter.

ORDER

It is so ORDERED this 30 day of January, 2018.

DISTRICT COURT JUDGE

MS

Prepared and submitted by:

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DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW JOURNAL, Petitioner, vs. CLARK COUNTY OFFICE OF THE CORONER/MEDICAL EXAMINER, Respondent.	Case No: Dept. No:	A-17-758501-W XXIV

NOTICE OF APPEAL

Notice is hereby given that the Clark County Office of the Coroner/Medical Examiner, respondent above named, hereby appeals to the Supreme Court of Nevada from the ORDER GRANTING PETITIONER LVRJ'S MOTION FOR ATTORNEY'S FEES AND COSTS RESULTING FROM A PUBLIC RECORDS ACT APPLICATION PURSUANT TO NEV. REV. STAT. § 239.001/PETITION FOR WRIT OF MANDAMUS entered in this action on February 1, 2018.

DATED this 5 day of February, 2018.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: _____
LAURA C. REHFELDT
District Attorney
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Clark County Coroner Medical Examiner

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Office of the Clark County District Attorney and that on this 5 day of February, 2018, I served a true and correct copy of the foregoing **NOTICE OF APPEAL** to the following parties by the method shown below:

ATTORNEYS OF RECORD	PARTIES REPRESENTED	SERVICE METHOD
Margaret A. McLetchie, Esq. Alina M. Shell, Esq. McLetchie Shell LLC 701 East Bridger Avenue #520 Las Vegas, NV 89101 alina@nvlitigation.com maggie@nvlitigation.com	***Petitioner Las Vegas Review Journal***	☑ Electronic Service ☐ Fax Service ☐ Mail Service ☐ Personal Service (ROC)

An Employee of the Clark County District Attorney's Office – Civil Division