

1 I know the Court's familiar with the legal
2 standard governing requests under the Open Records Act.
3 There's just one point that I want to reemphasize from the
4 pleading and that is that the burden is on Metro and it's a
5 heavy burden, a burden to make a showing that the law
6 enforcement justifications for confidentiality clearly
7 outweigh the public's interest in the materials related to
8 the murder of Tupac Shakur. And following the 2007
9 amendments to the Act, those law enforcement justifications
10 are to be construed narrowly in favor of a liberal
11 application of the Act.

12 And we would submit that the showing that's been
13 made on the factors identified by the Nevada Supreme Court
14 in the *Bradshaw* case hasn't been made and hasn't been
15 addressed. Rather, Metro has essentially adopted the same
16 position that the Reno Police Department advanced in
17 *Bradshaw* 30 years ago and that was rejected by the Court
18 then. And that is that records relating to a,
19 quote/unquote, open criminal investigation are just per se
20 confidential and not subject to disclosure under the Act.
21 And that position was rejected by the Nevada Supreme Court
22 then and this Court should do so again.

23 And just touching on the factors briefly, say
24 three out of the four, there's no dispute that they weigh
25 in favor of disclosure. There's no pending or anticipated

1 criminal proceeding, there's no suspect whose right to a
2 fair trial can be impeded, there's no danger to law
3 enforcement personnel. All we're left with, essentially,
4 is a very conclusory and vague declaration from Detective
5 Mogg, and I submit that the claims about jeopardy to the
6 entire investigation, and witness tampering, and, you know,
7 the destruction of evidence in a 22-year old case, are just
8 the type of hypothetical and speculative concerns that the
9 Nevada Supreme Court has repeatedly held is insufficient to
10 warrant withholding under the Act.

11 As to the assertion that witness interviews are in
12 the process of being scheduled, I don't know what in the
13 process of being scheduled means. I don't know when those
14 are being scheduled. I don't know when an action was taken
15 to actually schedule those. Was it after my client's
16 request for the public records?

17 Similarly, we have no information about the
18 historical level of activity in this case. What was being
19 done in the year prior to the CIR's request? The two years
20 prior? The five years prior?

21 So, I think Metro's clearly failed to make the
22 required showing under the heavy burden of the Act. And,
23 even if it did make a showing that some information should
24 be maintained confidential, the Open Records Act requires
25 that Metro go through the file, redact confidential

1 information, and produce the rest. And it's just
2 inconceivable in a 22-year old case that every single piece
3 of information in the file is confidential.

4 THE COURT: Okay. Let me give them time as well.

5 MR. ERWIN: That was where I was ending. So, --

6 THE COURT: No worries.

7 MR. ERWIN: Thank you, Your Honor.

8 THE COURT: Counsel for defense.

9 MR. CROSBY: Good morning, Your Honor. And I will
10 be brief.

11 THE COURT: And you know I'm going to ask you the
12 question about the age of the case, the fact that it's a
13 blanket no, and the fact that, while I'm appreciative that
14 this is on an OST and you jumped in real quickly to kind of
15 do some of the responses, the request have been for several
16 months outstanding. Okay? Those are the questions I'm
17 going to ask you to go ahead, counsel.

18 MR. CROSBY: Understand, Your Honor. And I think
19 that the age of the case, 22 years, doesn't have any
20 bearing under the Public Records Act or common law
21 exceptions related thereto or any of the case progeny
22 relating to those issues.

23 Specifically, Your Honor has noted in the
24 responsive pleading, where would the Court draw the line
25 when a case is too old for the purpose of the Public Record

1 Act? Is it 22 months? Is it 22 years? Is it 22 days? Is
2 it 22 hours? The focus, Your Honor, does go back to the
3 *Bradshaw* factors, specifically, whether or not there is an
4 anticipated criminal proceeding and this Court can see on
5 paragraph 10 of Detective Mogg's -- or paragraph 11 of
6 Detective Mogg's declaration, which is identified as
7 Exhibit A to the responsive pleading, he identified that
8 these witnesses have a potential to lead to criminal
9 proceedings.

10 The Department is put in a very precarious
11 position in these types of cases when it's being accused of
12 not being forthright or providing vague declarations while,
13 at the same time, they can't disclose the information --
14 the very information it seeks to protect to ensure the
15 integrity of the criminal investigation. In this
16 particular case, there is -- I know for a fact there is a
17 specific interview that is being conducted. I believe it's
18 this week, if I'm not mistaken.

19 The --

20 THE COURT: And when was it set up? Was it set up
21 after --

22 MR. CROSBY: Prior to this, I believe.

23 THE COURT: Which prior?

24 MR. CROSBY: Prior to the filing of --

25 THE COURT: Prior to the first request by their

1 client?

2 MR. CROSBY: I don't know --

3 THE COURT: Historically?

4 MR. CROSBY: I don't know with respect to the
5 requests, but I believe it was set up prior to the filing
6 of this -- the Writ Petition. But --

7 THE COURT: Okay. No worries. Thank you.

8 MR. CROSBY: But the -- Your Honor, this is what's
9 challenging for the Department is we can't come out and say
10 we're interviewing so-and-so for this reason and here are
11 the people that we've interviewed in the past because, at
12 that point, you are divulging your leads, you're divulging
13 your investigative techniques, you're divulging information
14 that will challenge the investigator's ability to gauge the
15 veracity of any witness who comes forward, whether that
16 witness, when they're telling us, I saw X on this date,
17 whether they know that from being there or whether they
18 know that from reading it in the public domain.

19 The Department disagrees with the analysis adopted
20 by petitioners with respect to its application of the
21 *Donrey* case. That case didn't involve an active, open
22 criminal investigation. It involved a closed matter on a -
23 - I believe it was a public bribery or a bribery of a
24 public official case. It's remarkably different when
25 you're dealing with a murder case, where there's no statute

1 of limitations.

2 The Department doesn't -- despite petitioner's
3 argument to the contrary, doesn't have a policy to just
4 deny public records requests. The only cases that the
5 general public gets to see are the ones that we are
6 disputing. They don't see hundreds, and hundreds, and
7 hundreds of --

8 THE COURT: Sure.

9 MR. CROSBY: -- public records requests we respond
10 to every single day. There are -- there's a fee schedule
11 for public records requests that we comply with. There's a
12 process that we -- that people are required to comply with.
13 So, to say that we just deny everything is specious, at
14 best, and certainly counsel doesn't have the institutional
15 knowledge of my client to say that that's every -- to say
16 that that's all that the Police Department does.

17 But, most notably, if the Court feels that this --
18 the declaration of Detective Mogg is insufficient at this
19 point in time to articulate to the Court that, at this
20 point in time, this time in the case, the balance tips in
21 the favor of nondisclosure, an in-camera hearing is
22 appropriate. As I'm sure this Court is aware, in *Donrey*,
23 the Court conducted an in-camera review of the actual
24 investigative report that it was seeking to find. Judge
25 Cadish, in the Route 91 case, regarding the release of

1 search warrant affidavits, conducted a sealed, in-camera
2 hearing prior to releasing the redacted versions of those
3 search warrant materials, which also came after the FBI
4 released its search warrant materials to -- and not only
5 that this case with the Route 91 case is not appropriate
6 and was -- most specifically, there are a lot of different
7 factors that paly in that case and this case. Notably,
8 there was only one person responsible for the crimes in the
9 Route 91 festival and that person was dead upon our
10 arrival. It doesn't change the fact that we have to
11 conduct a criminal investigation, but we're not necessarily
12 as worried about providing information regarding our
13 investigations and our conclusions that we've reached so
14 far to potential suspects or persons of interest or
15 witnesses so that we can further verify and test our
16 hypotheses with respect to our investigation.

17 So, at the very least, if this Court feels that
18 Detective Moggs's declaration and arguments associated in
19 the responsive brief are insufficient at this point in
20 time, we'd ask this Court to conduct an in-camera hearing
21 so that the Court can hear, in a candid fashion, the actual
22 specifics as to what are going on in this case, currently,
23 what have happened, if the Court would like a historical
24 perspective of it, so that the Court can engage in that
25 balancing factor in an open manner, meaning my detective or

1 my representative of my Department can come and explain to
2 the Court with facts that can't be released to the public,
3 but so the Court can satisfy its balancing test to its
4 sufficiency.

5 THE COURT: Okay. Can you -- did you say that the
6 interview is taking place this week?

7 MR. CROSBY: I believe there's an interview on
8 Thursday, if memory serves.

9 THE COURT: So, is that the only interview that
10 you're aware of that's being scheduled?

11 MR. CROSBY: I don't know how many are on
12 Thursday, but I know that there is at least one on
13 Thursday. But, yes, that's the only one I know of right
14 now.

15 THE COURT: So, would it meet your client's needs
16 if things were released after Thursday? Because you're
17 going to take time to get an Order, and get it signed,
18 right? And, then, have a release date, would that --

19 MR. CROSBY: Well, --

20 THE COURT: If your concern is that those may in
21 some way be impacted, isn't that --

22 MR. CROSBY: Well, --

23 THE COURT: -- a timing issue versus a substance
24 issue?

25 MR. CROSBY: Absolutely not, Your Honor. It's a

1 substance issue.

2 THE COURT: Okay.

3 MR. CROSBY: I was offering up that because
4 counsel suggested and argued that my declaration is vague
5 and I'm trying to offer some more facts without disclosing
6 the very --

7 THE COURT: Okay. No worries.

8 MR. CROSBY: -- information we're trying to
9 protect, but it's -- that wouldn't help the cause, Your
10 Honor, because I don't know if that witness is going to be
11 the last witness they interview and what that witness is
12 going to say. And I have a feeling, based upon my
13 discussions with my client, the investigators in this case,
14 that it will not be and there's an end-run goal with
15 respect to a hypothesis that the Department has with
16 respect to person or persons of interest.

17 THE COURT: I appreciate it and I'm going to allow
18 them a brief response because, in a moment, I'm going to
19 have to -- as soon as -- we don't have a call yet, right?

20 THE LAW CLERK: No.

21 THE COURT: Okay. We're going to have a call in
22 just a moment. Sorry, on the other inmate case.

23 Go ahead, counsel.

24 MR. ERWIN: Yeah, on this witness interview, I
25 just find it hard to believe that after 22 years the case

1 is going to be broken open in 2018 and I'd really like to
2 know when this witness interview was scheduled. I
3 understand it may have been before the Petition, but as
4 Your Honor noted, this dialogue has been continuing for
5 months and I sent multipole letters threatening to go into
6 court to file a Petition. So, when did this activity
7 start?

8 But, setting that aside, that's just one piece of
9 a 22-year old file. What about the rest of the file?
10 Things dating back from the '90s. I think that should all
11 be subject to disclosure.

12 And the age of the case does matter. It matters
13 with regard to the analysis and *Bradshaw* factors. As to
14 *Bradshaw*, that case made no distinction between open and
15 closed investigatory records. There is no distinction in
16 the law. Everything is analyzed under the factors, which
17 will be -- which are to be narrowly construed against
18 Metro.

19 And, as to Metro's approach, I think their
20 response to my client's public records request speaks for
21 itself. We received no response for months. If there's
22 some policy of compliance, then why not respond and comply
23 wit the obligations that they have? They haven't done so
24 here and they should be required to do so by this Court.
25 Thank you.

1 THE COURT: I have the request about the in-camera
2 hearing before the disclosure's made.

3 MR. ERWIN: Your Honor, we --

4 THE COURT: If I can set an in-camera hearing in a
5 very short order, i.e. next week.

6 MR. ERWIN: We object to a closed hearing where
7 we're not entitled to participate and there's some --

8 THE COURT: Oh, no. You'd be entitled to --
9 you're not --

10 MR. ERWIN: That's not what --

11 THE COURT: Are you anticipating that --

12 MR. ERWIN: -- I understood the --

13 THE COURT: I thought you wanted a sealed record,
14 but they'd be able to -- entitled to participate to have an
15 understanding of what you're requesting so that they can
16 make well-reasoned arguments.

17 MR. CROSBY: My initial preference would be in-
18 camera with exclusion of counsel. But if counsel and the
19 Court believes counsel should be present, it should be
20 sealed such that that information doesn't get out to the
21 public domain.

22 MR. ERWIN: We'd like to -- if that's the case,
23 we'd like the opportunity to cross-examine Detective Mogg
24 about his declaration, but we'd also object to any
25 subsequent proceedings. This was their opportunity to

1 submit evidence in support of their case and they chose to
2 piecemeal it.

3 THE COURT: Here's what I think the Court's
4 looking at is I have to take into account an ex parte
5 nature, you know what I mean, in a shortened time type
6 hearing. And when there's a request for a hearing -- what
7 the Court's inclined to do is the following.

8 Court's inclined that my current trial has told me
9 that they're going to be done -- I have to double-check
10 with them, by end of day today to see where they're at, but
11 it looks like I may have some time next Wednesday the 23rd
12 at 9 a.m. because they -- oh, excuse me. It would have to
13 be 10 a.m. because I've got CD before that. But at 10
14 a.m., that I can hold a hearing where counsel -- it would
15 be a sealed hearing, but counsel for both parties would
16 have an opportunity to be present and to cross-examine any
17 witnesses so that you have an opportunity to the extent you
18 feel, from a due process standpoint, that your client needs
19 a little bit of extra time because of the shortened nature
20 of the hearing and to explain things further versus in an
21 affidavit purpose, but the same time that the movement
22 would have an opportunity to cross-examine to fully flush
23 out everything. That's where I'm inclined to go to balance
24 everybody's interests.

25 So, let me give each of you a moment because we

1 have -- oh, he's on the line? So, why don't you just tell
2 him about three minutes. Tell him about three minutes.

3 So, I'm going to give you each one minute to
4 respond to my inclination. Go ahead.

5 MR. ERWIN: We'd ask that Metro be required to
6 produce anything that they're going to use in that hearing
7 by Friday and we'd also like a log pursuant to the *Givens*
8 case of what's actually being withheld and what we're
9 looking at. I understand the argument that we can't give
10 you a log because that would -- that would divulge
11 confidentiality, but the Nevada Supreme Court has expressly
12 said that we're -- a requesting party under the Act is not
13 supposed to blindly argue against nothing.

14 THE COURT: Does a log exist for the last 22 years
15 -- I mean, presumably some log and the various information
16 if he's doing new witness interviews this Thursday, he has
17 to have some basis, because he has only been in this
18 Department for 15 years and the case is 22 years old. So,
19 he'd have to be relying on something.

20 MR. CROSBY: There is a Table of Contents for the
21 file --

22 THE COURT: And can that be produced under seal?
23 You all do a stipulation under seal and only this Court can
24 unseal it and so it would be provided only to counsel, not
25 disclosed to anybody else until the Court makes a

1 substantive ruling on the matter? Can you present that and
2 then we can do a hearing next week?

3 For you all -- I'm saying next week to try and
4 balance everyone's interests with regards to timing.

5 MR. CROSBY: Here's my --

6 THE COURT: Because --

7 MR. CROSBY: -- hesitation with that, Your Honor,
8 is two-fold. I -- candidly, I don't -- that Table of
9 Contents isn't going to provide a whole lot of information
10 of the specifics behind each tab.

11 And, secondarily, if -- even if it's out under
12 seal and this Court were to find that, for example, I have
13 to produce some things but I can redact persons of interest
14 or witnesses, counsel would already have those names. And
15 I'm not -- nothing against Mr. Erwin, but it seems to me
16 that it would be more appropriate that if the Court and
17 he's here in the hearing, that's fine, to discuss it, but I
18 don't want those documents floating out --

19 THE COURT: How do they prepare for a hearing
20 then?

21 MR. CROSBY: Well, I think you only --

22 THE COURT: I mean, you wouldn't want to show up
23 without -- I mean, all experienced counsel always tell me
24 they need to prepare for hearings and then the Court
25 reminds them --

1 MR. CROSBY: I understand, Your --

2 THE COURT: -- the Court needs to prepare for
3 hearings, too, so please provide me information. But okay.

4 I -- the -- there's a couple of different options.
5 One option is you provide everything and then you redact
6 what's confidential and then we have the -- you have the
7 dispute down the road of what you think is not
8 confidential. You know what I mean? You produce
9 everything other than what you assert is confidential in a
10 redacted format. The confidential, you know, gets redacted
11 and then the Court addresses any future concerns at an
12 appropriate future date that the parties agree to. Choice
13 two is I hold a hearing over everything but they have to
14 have some information in which to present their side of the
15 case and to do a cross-examination because otherwise really
16 super silly is a hearing. I mean, they'd have nothing but
17 speculat -- I presume they've done more than --

18 MR. CROSBY: I guess my inquiry is I don't know
19 what the names of potential suspects or a suspect would
20 have with respect to counsel's need to cross-examination --
21 cross-examine an officer on what is going on in the case.

22 THE COURT: So, are you suggesting you provide
23 everything that you can provide in a redacted format and if
24 there's any questions regarding the redacted information
25 that the Court also address that at the hearing?

1 MR. CROSBY: No. My preference would be, Your
2 Honor, is to take it all at once at the hearing rather than
3 me have those -- that information out ahead of time.
4 Because by ordering me to produce it, even in a redacted
5 version, that's essentially setting a precedent, albeit not
6 controlling, but a precedent that I have to do that in
7 every case I have --

8 THE COURT: No. It's a sealed proceeding -- well,
9 let's put it this way. If you all agree that it's for
10 purposes of this case only and this is sealed and then, you
11 know, you can ask me to seal today's portion, I would
12 temporarily do it under the Supreme Court rules and then
13 reevaluate it at the appropriate time and then you've got
14 that all taken care of.

15 Do you know what I mean? There's lot of ways to
16 work this to get this done to meet everybody's needs and --

17 MR. CROSBY: Well, and my concern --

18 THE COURT: -- the best possible -- it's going to
19 happen. So you're either going to provide things to them
20 so that they can have a well-reasoned opportunity to have a
21 hearing or you going to provide things subject to redaction
22 and then let you all dispute down the road whether those
23 redactions are proper because at -- as of this juncture,
24 this Court doesn't have -- and I was trying to be
25 appreciative of the short time frame here, the Court

1 doesn't have that you've met the burden under *Donrey*,
2 *Bradshaw*, or the statutory provision. Okay? As to the
3 totality of everything. Which you may have it with certain
4 things and a certain hearing on Thursday and certain
5 witness meetings that may have Thursday and certain
6 documents that may be related to that. You may have an
7 argument but I don't have enough information in that area,
8 which is why I was doing it next Wednesday. It would be
9 after the hearing. You would then have the full
10 opportunity to know that your client already obtained or
11 didn't obtain, you'd have an opportunity to speak again
12 with your client so that they would have a well-reasoned
13 opportunity to respond to the various issues raised, and by
14 giving plaintiff's counsel, the petitioner, an opportunity
15 to have some information, they can have a full opportunity
16 to do their cross-examination on behalf of their client
17 and, therefore, you're meeting the parties' needs but
18 you're also meeting the public's needs and I'm also
19 complying with the statute and applicable case law.

20 So, I'm giving you an option one and an option
21 two.

22 MR. CROSBY: So, option one would be to produce
23 the documents with redactions.

24 THE COURT: Right. And, then, you argue about --

25 MR. ERWIN: And then we fight over the

1 confidential stuff.

2 MR. CROSBY: And then --

3 THE COURT: Yeah.

4 MR. CROSBY: -- option two being that we --

5 THE COURT: You have a hearing on everything but

6 you provide under seal some type of Index or some type of

7 log so that they can prepare for purposes of a full

8 evidentiary --

9 MR. CROSBY: I'll do option 2, Your Honor.

10 MR. ERWIN: And we'd ask that that log include

11 dates, times, things of that nature so that we know when

12 these things are happening rather than just titles.

13 MR. CROSBY: And any --

14 THE COURT: I'm going to have to balance this at

15 this juncture to ask them to do -- something that they

16 would have to produce by Friday when today's already

17 Tuesday. There has to be some basis of what they need to

18 produce, which they have available to them with some

19 reasonable work that they may need to do to provide it to

20 you.

21 MR. ERWIN: I understand.

22 THE COURT: If they had to go back through 22

23 years and put all the dates and times on everything, since

24 this one is a 22-year -- in that case, the 22-year works

25 towards their side of that. I can see as being overly

1 burdensome and if you dispute what they've provided you,
2 then we have the opportunity next Wednesday really to hear
3 all of that and then that's something that the Court has to
4 take into consideration if --

5 MR. ERWIN: I understand, Your Honor.

6 THE COURT: Trying to balance everybody here.

7 MR. ERWIN: Perfect.

8 THE COURT: And in accordance with the statute and
9 applicable case law.

10 So, hearing next Wednesday, 10 a.m. Everyone's
11 schedule?

12 MR. ERWIN: We're clear. Thank you.

13 MR. CROSBY: I couldn't get logged on, but I'll
14 make it work.

15 THE COURT: Okay. Because I've got to get to Mr.
16 -- I've got to get to -- counsel, you can start coming
17 forward, because I've got to get to this inmate as well and
18 I appreciate trying to take you as well and take care of
19 everyone's needs.

20 Okay. So, hearing next Wednesday at 10 a.m. You
21 all will send me a letter by Friday, please, I prefer
22 Thursday, of how long the estimate is going to be for each
23 side so that we can make sure we block out the appropriate
24 amount of time. Okay? For you all. And if you're going
25 to have witnesses, live testimony, if you all -- and I'm

1 going to ask you all, you're going to provide me a
2 stipulated confidentiality agreement that covers what you
3 need to cover for a temporary basis. Okay?

4 With regards to Friday, since you may not be able
5 to get me that temp -- that confidentiality agreement by
6 Friday, because you may be working to get the information
7 to plaintiff's counsel, can I have an agreement here in
8 open court that to the extent that information is provided,
9 it will be viewed as being sealed pursuant to Supreme Court
10 rule and it will not be disclosed to anyone other than
11 direct counsel?

12 MR. ERWIN: Sealed, attorneys' eyes only.

13 MR. CROSBY: I was going to say attorneys' eyes
14 only and then -- correct, Your Honor.

15 THE COURT: Does that meet your needs?

16 MR. ERWIN: Absolutely.

17 MR. CROSBY: And then --

18 THE COURT: Okay.

19 MR. CROSBY: -- same would apply for the hearing
20 itself as being --

21 THE COURT: I've got to do it in two stages. By
22 the hearing, I'm sure you all are going to give me a
23 written document. I'm appreciative that while you're
24 trying to put together the information that you need for
25 Friday, you probably want to spend your time getting that

1 information together and you probably want to receive it.
2 And, so, if you all are here in open court telling me that
3 whatever gets presented on Friday, which is going to be a
4 concrete document that you all are going to say is Exhibit
5 Blank on next Wednesday anyway. Right? You're going to
6 ask me to do a Court's Exhibit. It's attorneys' eyes only.
7 I've taken care of the immediate need, today's hearing. Is
8 there any -- you really haven't said anything, but is there
9 anything you need today's hearing to be sealed for any
10 reason?

11 MR. CROSBY: I don't know if we could.

12 MR. ERWIN: Yeah. I don't know --

13 THE COURT: I mean, you've got -- okay. That's
14 what I'm saying.

15 MR. ERWIN: -- that's possible, but --

16 THE COURT: I --

17 MR. ERWIN: From our standpoint, no.

18 MR. CROSBY: No. I don't think the Court would be
19 able to do it anyway --

20 THE COURT: Okay. I'm just -- I'm trying to make
21 sure I click off each and every need that potentially could
22 be out there.

23 Okay. Have I taken care of all of the issues to -
24 - that I can address today?

25 MR. ERWIN: I believe so, Your Honor.

1 MR. CROSBY: I believe so, Your Honor.
2 THE COURT: It is so ordered. Thank you for your
3 time.
4 MR. ERWIN: Thank you, Judge.
5 MR. CROSBY: Thank you, Judge.
6 THE COURT: Thank you.
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8 PROCEEDING CONCLUDED AT 9:41 A.M.
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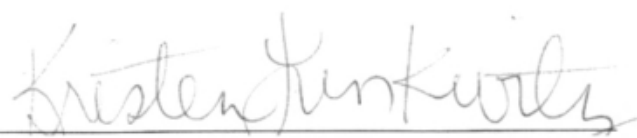
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CERTIFICATION

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

AFFIRMATION

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.


KRISTEN LUNKWITZ
INDEPENDENT TRANSCRIBER

1 that regard, LVMPD failed to address why redaction would not address its purported concern that
2 the wholesale release of the records would jeopardize its allegedly “open” investigation. The Act
3 explicitly provides “that the records should be redacted and the remaining document [made] open
4 to inspection” in the event some, but not all, of the requested records are confidential. *Reno*
5 *Newspapers*, 126 Nev. at 219-20, 234 P.3d at 927-28 (applying NRS 239.010(3) and compelling
6 production of public records with redactions of confidential information).

7
8 It is inconceivable that every piece of information in the investigatory file is confidential
9 under the stringent standards of the Act. Nevertheless, LVMPD made no effort to review the
10 records, redact allegedly confidential information, and produce the remaining portions as required
11 by NRS 239.010(3).⁶ While CIR disputes LVMPD’s assertion that the FBI’s investigation did not
12 involve Tupac Shakur’s murder, *see* Resp. at 4-5, the fact that the FBI released its investigatory file
13 with redactions demonstrates that there is likely abundant information in LVMPD’s records that is
14 not confidential.⁷ Accordingly, the Court should, at a minimum, require LVMPD to produce a
15

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17
18 ⁶ CIR also disagrees with LVMPD’s suggestion that it is not required to produce a log identifying
19 the withheld documents pursuant to *Gibbons*. *See* Resp. at 10. The Nevada Supreme Court
20 expressly held that “after the commencement of a NPRA lawsuit, the requesting party generally is
21 entitled to a log unless, for example, the state entity withholding the records demonstrates that the
22 requesting party has sufficient information to meaningfully contest the claim of confidentiality
23 without a log.” *Id.* at 882-83, 266 P.3d at 629. LVMPD does not even try to argue that CIR can
24 meaningfully contest its claim of confidentiality in the absence of a log. Rather, LVMPD cursorily
25 asserts that the same confidentiality reasons that preclude disclosure of the records also inhibit the
26 production of a log. *See* Resp. at 10. While LVMPD’s attempt to demonstrate confidentiality under
27 the Act is woefully deficient, LVMPD’s claim that CIR should be required to “blindly argue for
28 disclosure not only runs contrary to the spirit of the NPRA and our NPRA jurisprudence but it
seriously distorts the traditional adversary nature of our legal system’s form of dispute resolution.”
Gibbons, 127 Nev. at 882, 266 P.3d at 629. This is just another example of LVMPD’s total
disregard for its obligations under the Act.

⁷ As to LVMPD’s claim that the FBI did not actually investigate Tupac Shakur’s murder—despite
collecting information related to the murder—the FBI also released hundreds of pages from its
investigatory file regarding the March 1997 unsolved murder of Christopher Wallace aka Notorious
B.I.G. While the FBI may have focused on the extortion angle in relation to Tupac Shakur, there
is no question that the FBI’s investigation of the murder of Christopher Wallace concerned the

1 redacted version of its investigatory file regarding the murder of Tupac Shakur in the unlikely event
2 it finds that LVMPD raised a valid law enforcement interest that warrants confidentiality over some
3 limited information.

4 **D. The Court Should Deny LVMPD's Request For A One-Sided *In-Camera***
5 **Hearing.**

6 CIR objects to LVMPD's request for an *in-camera* hearing or any other supplemental
7 proceedings in which Detective Mogg is permitted to provide additional testimony regarding the
8 status of LVMPD's investigation. LVMPD had ample opportunity to meet its burden under the Act
9 and chose to rely exclusively on the cursory and vague two-page declaration of Detective Mogg.
10 LVMPD easily could have provided general information regarding the past and current level of
11 activity in its investigation without disclosing the specific details that it seeks to protect, yet it made
12 no attempt to do so. LVMPD should not get a second bite of the apple and be allowed to delay this
13 proceeding any further.

14
15 To the extent the Court is inclined to entertain LVMPD's request for additional proceedings
16 in which Detective Mogg will provide live testimony, CIR requests that its counsel be permitted to
17 attend and cross-examine Detective Mogg. CIR submits that it would be highly inequitable and
18 contrary to the adversarial process to allow Detective Mogg to give unchallenged testimony about
19 the state of LVMPD's investigation. LVMPD clearly seeks to thwart CIR's ability to obtain any
20 information regarding LVMPD's investigation into the murder of Tupac Shakur, which directly
21 contradicts the policy and law underlying the Act.
22

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28 killing itself. See FBI Records: The Vault regarding Christopher Wallace, available at
[https://vault.fbi.gov/Christopher%20\(Biggie%20Smalls\)%20Wallace%20](https://vault.fbi.gov/Christopher%20(Biggie%20Smalls)%20Wallace%20).

1 **III. CONCLUSION**

2 Based on the foregoing, CIR respectfully requests that the Court grant its Verified Petition for
3 Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS
4 239.011 in its entirety.

5 DATED this 14th day of May, 2018.

6 CAMPBELL & WILLIAMS

7 By /s/ Philip R. Erwin

8 PHILIP R. ERWIN, ESQ. (11563)

9 SAMUEL R. MIRKOVICH, ESQ. (11662)

10 700 South Seventh Street

11 Las Vegas, Nevada 89101

12 Attorneys for Petitioner
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CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 14th day of May, 2018, submit for service upon the following attorneys in this action a copy of the foregoing **Reply in Support of Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011** by the Court's ECF System through Wiznet:

MARQUIS AURBACH COFFING
Nick D. Crosby, Esq.
Jackie V. Nichols, Esq.
10001 Park Run Drive
Las Vegas, Nevada 89145

*Attorneys for Las Vegas
Metropolitan Police Department*

By: /s/ Lucinda Martinez
An Employee of Campbell & Williams

EXHIBIT 1

EXHIBIT 1

1 **Marquis Aurbach Coffing**

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15 Attorneys for Respondent Las Vegas

16 Metropolitan Police Department

17 **DISTRICT COURT**18 **CLARK COUNTY, NEVADA**19 American Broadcasting Companies, Inc.; The
20 Associated Press; Cable News Network, Inc.;
21 Chesapeake Media I, LLC, d/b/a KSNV-TV; Los
22 Angeles Times Communications, LLC; The New
23 York Times Company; and WP Company LLC
24 d/b/a The Washington Post,

25 Petitioners,

26 vs.

27 Las Vegas Metropolitan Police Department,

28 Respondent.

Case No.: A-17-764030-W

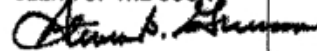
A-17-764169-W

Dept. No.: 2

29 **ORDER GRANTING AMENDED PUBLIC RECORDS ACT APPLICATIONS**
30 **PURSUANT TO NEV. REV. STAT. § 239.011/PETITION FOR WRIT OF MANDAMUS**31 This matter came before the Court on Petitioners American Broadcasting Companies,
32 Inc. ("ABC"), the Associated Press ("AP"), Cable News Network, Inc. ("CNN"), Chesapeake
33 Media I, LLC, d/b/a KSNV-TV ("KSNV-TV"), Los Angeles Times Communications, LLC
34 ("Los Angeles Times"), The New York Times Company ("The New York Times"), Scripps
35 Broadcasting Holdings, LLC d/b/a KTNV-TV ("KTNV-TV") and WP Company LLC d/b/a The
36 Washington Post's ("Washington Post") (collectively the "Coalition") Amended Public Records
37 Act Application Pursuant to Nev. Rev. Stat. § 239.011/ Petition for Writ of Mandamus; and
38 Petitioner Las Vegas Review-Journal's ("Review-Journal", and collectively with the Coalition,

Page 1 of 7

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1 "Petitioners") Amended Public Records Act Application Pursuant to Nev. Rev. Stat. 239.011/
2 Petition for Writ of Mandamus (collectively, the "Petitions").

3 The Review-Journal filed its Opening Brief in Support of Amended Public Records Act
4 Application Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus on December
5 8, 2017. The Coalition filed its Substantive Joinder thereto on December 15, 2017. Metro filed
6 its Opposition to Petitioner Las Vegas Review Journal's Public Records Act Application
7 Pursuant to Nev. Rev. Stat. § 239.001/Petition for Writ of Mandamus on January 8, 2018. Metro
8 filed its Opposition to the Coalition's Petition on January 16, 2018. The Review-Journal filed its
9 Reply on January 22, 2018. Finally, the Coalition filed its Reply on January 31, 2018.

10 At the February 7, 2018 hearing on the Petitions, Joel E. Tasca, Esq., of the law firm
11 Ballard Spahr LLP appeared on behalf of the Coalition; Maggie McLetchie, Esq., of the law firm
12 McLetchie Shell LLC, appeared on behalf of the Review-Journal; and Nick D. Crosby, Esq. and
13 Jacqueline Nichols, Esq., of the law firm Marquis Aurbach Coffing, appeared on behalf of the
14 Las Vegas Metropolitan Police Department ("Metro"). Based on the Court's careful review of
15 the parties' briefs, oral argument by counsel and the pleadings and papers on file, for the reasons
16 stated by the Court and reflected in the record, and for good cause shown, the Court rules as
17 follows:

- 18 1. The Nevada Public Records Act (the "Act") is codified at Nev. Rev. Stat. § 239.
- 19 2. The Act provides that public records must be made available to the public for
20 inspection or copying.
- 21 3. The purpose of the Act is to foster democratic principles by providing members of
22 the public with access to inspect and copy public records to the extent permitted under Nevada
23 law.
- 24 4. The Act, as well as the First Amendment to the Constitution, provides the press
25 with the ability to obtain and publish information about issues that affect the public interest and
26 information about the conduct of government officials. They further provide the press with the
27 tools to ensure that the government is responsible and efficient.

28

1 5. Furthermore, they provide the press with the tools that assist the public in holding
2 its government accountable.

3 6. Government records are presumed to be public records. Any restriction to the
4 public's right of access to public records must be narrowly applied.

5 7. Metro bears a heavy burden in preventing disclosure of public records pursuant to
6 the Act.

7 8. Metro must satisfy a two-pronged test to justify non-disclosure. Metro must first
8 establish, by a preponderance of the evidence, that the public records sought are confidential.
9 Metro must then prove, by a preponderance of the evidence, that its interest in non-disclosure
10 outweighs the public's interest in access.

11 9. The Act establishes a presumption in favor of public access.

12 10. The Court recognizes that governmental entities are generally required to provide
13 citations to legal authority supporting non-disclosure within five (5) business days pursuant to
14 Nev. Rev. Stat. § 239.0107(d). However, as to the Petitioners' argument that Metro waived the
15 right to withhold public records in this case by failing to timely respond, the Court rejects this
16 argument.

17 11. The Court finds that there was no implied, express, or statutory waiver due to
18 Metro's pre-petition conduct, particularly with respect to the extraordinary circumstances
19 surrounding the October 1 Massacre.

20 12. The Court finds that Metro had a duty to redact confidential information and
21 produce the non-confidential portions of the public records, if it contended that the requested
22 public records were confidential or otherwise protected from disclosure. Wholesale withholding
23 of public records with the general claim of confidentiality suggests to this Court that the records
24 have not been sufficiently scrutinized.

25 13. The Court finds that asserting a blanket protection over all categories of public
26 records is improper.

27 14. Metro had a duty to prove, by a preponderance of the evidence, that each public
28 record (or part thereof) is confidential. The Court finds that Metro failed to meet this burden.

1 15. The Court finds that there exists no rule that records can be withheld merely
2 because they relate to an ongoing investigation. Metro still has the duty to show that the public
3 records of the ongoing investigation are confidential.

4 16. In light of Metro's preliminary report concerning the October 1 Massacre, the
5 entire universe of investigative records cannot be so sensitive as to warrant wholesale
6 withholding.

7 17. Additionally, Sheriff Lombardo publicly stated that it is Metro's responsibility to
8 ensure timely disclosure of public records in this case.

9 18. Metro, however, failed to specifically explain how the public record production
10 would impede the investigation.

11 19. To the extent that the disclosure might have some detrimental impact on the
12 investigation, that impact is outweighed by the public interest. The public has the right to know
13 the manner in which its government officials are carrying out their public safety responsibilities.

14 20. The Court finds that any personal privacy concerns implicated by the public
15 records disclosure can be remedied by redactions, including individual names (other than
16 government officials), addresses, phone numbers, social security numbers, descriptions of
17 individuals, and social media data for all individuals.

18 21. The Court also rejects Metro's contention -- that the horrifying 911 calls may be
19 traumatic to close family members who hear the voices of their loved ones -- as too speculative to
20 weigh against disclosure.

21 22. In the rare and limited circumstances that any such concern may arise, Metro may
22 prepare a privilege log for future review and consideration by this Court.

23 23. The Court denies Metro's request for an in camera review. The Court finds that
24 the time has passed for Metro to assert any valid objection to production.

25 24. The Court finds that Metro has engaged in wholesale withholding of public
26 records with insufficiently specific reasons to do so.

27 25. The Court concludes that Metro failed to prove by a preponderance of the
28 evidence that any of the requested public records are confidential.

1 26. The Court further concludes that the strong public interest in favor of disclosure,
2 together with the strong presumption in favor of production, outweighs any governmental
3 interest in withholding the public records.

4 27. The Court finds that the public records sought include: 911 calls, body camera
5 data, as well as dash cams, CCTV videos, evidence logs, dispatch information, interview reports,
6 search warrant returns, affidavits of probable cause, purchase orders and no-bid contracts, and
7 information on any weapons obtained during the investigation into the October 1 Massacre.

8 Accordingly, and in light of the Court's findings in this case, the Court orders as follows:

9 IT IS HEREBY ORDERED that the Petitions are GRANTED in their entirety;

10 IT IS HEREBY FURTHER ORDERED that Metro shall immediately begin producing
11 public records responsive to the public records request at issue in the Petitions;

12 IT IS HEREBY FURTHER ORDERED that Metro shall produce the public records on a
13 rolling basis, as public records are appropriately redacted and available for disclosure, without
14 unnecessary delay;

15 IT IS HEREBY FURTHER ORDERED that Metro shall exercise the utmost good faith
16 in producing the public records on a timely basis;

17 IT IS HEREBY FURTHER ORDERED that, if Metro comes across any individual public
18 record that may be highly confidential or where redactions may not be practicable, Metro shall
19 meet and confer with Petitioners in an attempt to resolve the issue. The Court cautions that this
20 right to potentially seek a protective order is to be used very sparingly;

21 IT IS HEREBY FURTHER ORDERED that any protective order Metro may seek is not
22 to be used to withhold entire groups of public records;

23 IT IS HEREBY FURTHER ORDERED that the filing of any subsequent motion for a
24 protective order shall not cause any delay in the production of all other requested public records;

25 IT IS HEREBY FURTHER ORDERED that the Court will hold a Status Conference in
26 30 days to review a report, to be given by the Parties, covering what has and has not been
27 produced pursuant to this Order. The Status Conference shall be held on March 7, 2018 at 9:00
28 a.m.;

1 IT IS HEREBY FURTHER ORDERED that at the Status Conference, the Parties shall
2 have an opportunity to explain whether there has been good faith communication regarding the
3 production;

4 IT IS HEREBY FURTHER ORDERED that at the Status Conference, the Court shall
5 hear any objections with respect to the delay in disclosure or the need for more time for Metro to
6 produce;

7 IT IS HEREBY FURTHER ORDERED that acceptable redactions shall include
8 individual names (other than government officials), addresses, phone numbers, social security
9 numbers, descriptions of individuals, and social media data for all individuals. To the extent that
10 any public record produced might specifically identify the names of the individuals or the
11 description of the individuals (or any other personal information), that information shall be
12 redacted; and

13 IT IS HEREBY FURTHER ORDERED that Metro shall make any and all public records
14 subject to this proceeding available at Metro's office for review by Petitioners, particularly
15 where production of those public records is either too burdensome or impossible otherwise.

16 IT IS HEREBY FURTHERED ORDERED that the Court is not waiving the payment
17 obligation and Petitioners shall pay the fees associated with the production of the public records
18 in accordance with NRS Chapter 239.

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IT IS HEREBY FURTHER ORDERED that the Parties shall submit supplemental briefing regarding the fee amount to be charged with respect to the production of the public records.

IT IS SO ORDERED.

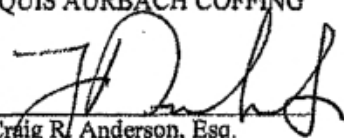
DATED this 27th day of February, 2018.


DISTRICT COURT JUDGE

Respectfully Submitted By:

BH

MARQUIS AURBACH COFFING

By: 

Craig R. Anderson, Esq.
Nevada Bar No. 6882
Nick D. Crosby, Esq.
Nevada Bar No. 8996
Jackie V. Nichols, Esq.
Nevada Bar No. 14246
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Respondent Las Vegas Metropolitan Police Department

A-18-773883-W Center for Investigative Reporting Inc, Plaintiff(s)
vs.
Las Vegas Metropolitan Police Department, Defendant(s)

May 15, 2018 09:00 AM Verified Petition for Writ of Mandamus and Incorporated
Application for Order and Expedited Hearing Pursuant to NRS
239.011

HEARD BY: Kishner, Joanna S. COURTROOM: RJC Courtroom 12B

COURT CLERK: Jolley, Tena

RECORDER: Harrell, Sandra

REPORTER:

PARTIES PRESENT:

Nick D Crosby Attorney for Defendant

Philip R. Erwin, ESQ Attorney for Plaintiff

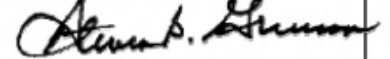
Samuel R. Mirkovich, ESQ Attorney for Plaintiff

JOURNAL ENTRIES

The Court disclosed to the parties that an extern will be starting sometime next week and indicated the Court would screen off the extern from handling any Campbell Williams firm's cases to avoid any conflict of interest. Counsel waived any objection based on the limited information provided.

Mr. Erwin argued that the burden is on Metro to make a showing the the law enforcement justifications for confidentiality clearly outweighs the public's interest for disclosure of the records; that the law enforcement justifications are to be construed narrowly in favor of a liberal application; finally the open records act requires redaction and production. Mr. Crosby requested an in camera hearing to hear testimony for purposes of balancing in favor of non-disclosure. Mr. Erwin objected to a closed hearing and requested an opportunity to cross examine the witness; requested that Metro provide anything they intend to utilize at the hearing, as well as a log of what is being withheld. Mr. Crosby indicated there would be a Table of Content of the File but it is nonspecific. Colloquy regarding scope of the hearing and the preparation prior thereto. COURT ORDERED, matter SET for Sealed Hearing. Counsel to provide a letter to Chambers to identify the length of time required for the hearing and a stipulated confidentiality agreement for sealing and non disclosure - for attorneys eyes only.

5/23/18 10:00 AM SEALED HEARING



1 TRAN

DISTRICT COURT

CLARK COUNTY, NEVADA

* * * * *

6 CENTER FOR INVESTIGATIVE)
7 REPORTING, INC.,)

CASE NO. A-18-773883

8 Plaintiff,)

DEPT. NO. XXXI

9 vs.)

10 LAS VEGAS METROPOLITAN POLICE)
11 DEPARTMENT,)

Transcript of Proceedings

12 Defendant.)

13 BEFORE THE HONORABLE JOANNA S. KISHNER, DISTRICT COURT JUDGE

14 **VERIFIED PETITION FOR WRIT OF MANDAMUS AND INCORPORATED**
APPLICATION FOR ORDER AND EXPEDITED HEARING PURSUANT TO NRS
15 **239.011**

16 TUESDAY, MAY 15, 2018

17 APPEARANCES:

18 For the Plaintiff: PHILIP R. ERWIN, ESQ.
19 SAMUEL R. MIRKOVICH, ESQ.

20 For the Defendant: NICHOLAS CROSBY, ESQ.

21
22 RECORDED BY: SANDRA HARRELL, DISTRICT COURT
23 TRANSCRIBED BY: KRISTEN LUNKWITZ

24 Proceedings recorded by audio-visual recording, transcript
25 produced by transcription service.

1 TUESDAY, MAY 15, 2018 AT 9:03 A.M.

2

3 THE COURT: Okay. The other parties that were
4 here early and if they wish to be called next, I'd be fine
5 doing so is Center for Investigative Reporting versus Las
6 Vegas Metro PD, 773883.

7 Page 11. See, when people are here early, we call
8 them.

9 MR. ERWIN: Phil Erwin, Campbell and Williams, on
10 behalf of the Center for Investigative Reporting.

11 MR. MIRKOVICH: Good morning, Your Honor. Samuel
12 Mirkovich, Campbell and Williams, on behalf of the Center.

13 MR. CROSBY: Good morning, Your Honor. Nick
14 Crosby with Marquis, Aurbach, Coffing on behalf of the Las
15 Vegas Metropolitan Police Department.

16 THE COURT: Thank you. And we were not waiting
17 for anyone else on behalf of defense. Right?

18 MR. CROSBY: Correct, Your Honor.

19 THE COURT: Okay. I didn't -- I appreciate that
20 we had a couple of calls, people were going to be late, but
21 I understood that you all were now here.

22 Okay. So, page 11. It's a Petition for a Writ of
23 Mandamus. So, since no one requested this be on anything
24 other than a 9 o'clock calendar, you know, that's the
25 quick, few minutes of argument calendar, because no one

1 requested a special setting.

2 Okay. So, let me do the following. You're the
3 petitioner. Go ahead.

4 MR. ERWIN: Okay. And, Your Honor, keeping in
5 mind that we are on the 9 o'clock calendar, I'll be brief,
6 as I think the issues were addressed in detail in the
7 pleadings.

8 THE COURT: I appreciate the very nice, well-
9 tabbed binder.

10 MR. ERWIN: We tried.

11 THE COURT: Thank you.

12 MR. ERWIN: I think what we're confronted with,
13 and this isn't about opposing counsel, but this is about
14 Metro, is Metro's systematic refusal to comply with the
15 open records law in Nevada. We've seen it in this case.
16 We've seen it in other cases that have been reported in the
17 media and in recent litigation. Metro's approach seems to
18 be to make things as difficult for the requesting party in
19 the hopes that they just give up and go away.

20 In that regard, my client made a request in
21 December, had to follow-up on that request on three
22 separate occasions without receiving a response, in
23 violation of the Act. We only received a substantive
24 response when our firm got involved and pressed the issue
25 and even that response was severely lacking, in our view,

1 with conclusory justifications for withholding and
2 erroneous citations to law.

3 So, we filed the Petition and I know Your Honor is
4 familiar with the legal standard governing open --

5 THE COURT: You know what? I'm sorry, counsel. I
6 meant to make a disclosure in this case and my apologies.
7 So let me stop you for a quick moment. And I understood
8 that you all had spoken among yourselves about the
9 disclosure. I have an extern coming in in a couple of
10 weeks. Did you have a chance to speak about that?

11 MR. ERWIN: I didn't speak to opposing counsel
12 about that. I spoke to your staff about that.

13 MR. CROSBY: I -- this is the first I'm hearing
14 about this.

15 THE COURT: Okay. Then let me make the
16 disclosure. My apologies. I understood that you all were
17 going to speak about it. Since no one was raising it, --

18 MR. ERWIN: Oh, I didn't under -- I'm sorry.

19 THE COURT: No worries.

20 MR. ERWIN: My apologies, Your Honor.

21 THE COURT: Okay. No worries. Let's just make it
22 clear on the record.

23 I have an extern coming in in a couple of weeks.
24 Okay? An extern normally if -- and I understand that this
25 extern will be externing for me for a couple of -- during

1 part of the summer. Okay? It's an extern, not a law
2 clerk. Extern coming in and, at the same time, will be
3 externing a couple days a week at the Campbell Williams
4 firm. Okay?

5 MR. ERWIN: And, to be clear, she hasn't started
6 at our firm yet. So, --

7 THE COURT: Right. She hasn't started with me and
8 she hasn't started with them.

9 MR. CROSBY: Okay.

10 THE COURT: Okay? So, in fact, she's due to start
11 here the 29th, I believe. The 29th or -- I'd have to double-
12 check. Anyway, it's a couple of weeks away.

13 MR. ERWIN: I think it's the 30th for our office.

14 THE COURT: Okay. Which would make sense. Okay.
15 So, she's going to work a couple of days a week here, a
16 couple of days a week at their firm.

17 Generally, this Court's policy, if an extern has
18 any relationship -- because, as you know, sometimes externs
19 sometimes have relatives, friends, family, whatever, okay,
20 we've had it with your firm. So, that what we do is that
21 we make sure that they play no role in any case in any way
22 and they wouldn't have any responsibility, do you know what
23 I mean? Or any knowledge of -- I mean, and as you know, an
24 extern only does limited amount of work. We try to give
25 them the full experience, you know, to ensure they have a

1 full opportunity, but it's a different role. Okay?

2 And, so, but I did want to make that disclosure in
3 case there was any issue. This Court doesn't find --
4 because the Court can find -- short answer, she's not even
5 here yet. So, that's a nonissue, right now. Down the
6 road, depending on what issues come up in this case, it's
7 very, very simple. With the full workload that we have in
8 the Department, there's lots of other matters that she can
9 work on and what I understand is the Campbell Williams
10 similarly would be shielding her --

11 MR. ERWIN: She would be completely screened off
12 the matter.

13 MR. CROSBY: I'm fine. If the Court doesn't
14 believe there's any concern with it, I wouldn't have any
15 reason to --

16 THE COURT: The only thing would be is if you all
17 had a future hearing when she was here, we offer externs
18 the full opportunity to be at every single hearing, but
19 they would -- she would not be playing any role in any
20 briefing or anything like that. Could she potentially pick
21 up the phone and one of you all call? It would be the same
22 as anybody else say, you know, put it in a piece of paper
23 and put it on a fax. Possibly. But that's -- so, any
24 questions at all?

25 MR. CROSBY: No, Your Honor.

1 THE COURT: Before you make a well-reasoned
2 decision, I just wanted to see if you had any further
3 questions.

4 MR. CROSBY: I mean, I -- and, I guess, I'd just
5 ask that she had the job with Campbell Williams before she
6 had the externship [indiscernible] with the Court?

7 THE COURT: I don't -- I think she was pursuing
8 them at the same time, but I'm not really sure.

9 MR. ERWIN: I think it was parallel.

10 THE COURT: I didn't ask --

11 MR. CROSBY: Okay.

12 THE COURT: She's -- her -- she's an out of state
13 law student, American University, back in Washington. Has
14 family here, attorneys that --

15 MR. CROSBY: I'm fine with that, Your Honor.

16 THE COURT: So, she pursued an externship. She
17 had the qualifications. We give everyone an opportunity
18 who has the qualifications who wishes to extern. We don't
19 ask where else they may be -- we're just more than glad to
20 accommodate. So, we wouldn't have asked those follow-up
21 questions. I don't know if you did on your end.

22 MR. ERWIN: no. And to be fair, I think she was
23 slated to begin with us before we filed this case because
24 it's been an expedited proceeding and when we got the
25 judicial assignment, I called to ask what the policy was,

1 and was informed of that, and our understanding was we
2 would screen her off completely, and she would have no
3 involvement in the case.

4 MR. CROSBY: Fair enough.

5 THE COURT: So, do you have any further questions?

6 MR. CROSBY: I do not, Your Honor.

7 THE COURT: Do you have any issues? Do you want
8 to waive? Do you not want to waive? Do you want to
9 consider it and have me continue this hearing? What would
10 you like to do?

11 MR. CROSBY: I don't think, based upon what the
12 Court's represented and what Mr. Erwin's represented, I
13 don't see a concern or a need to proceed -- or to continue
14 the hearing. So, I'll waive, --

15 THE COURT: Okay.

16 MR. CROSBY: -- based upon the limited information
17 I have now.

18 THE COURT: And that's the limited information --
19 I mean, it doesn't fall anywhere within 2.11. I mean, it's
20 not even a law clerk, however this Court does have a policy
21 of -- I mean, I disclose who my kids played soccer with a
22 decade ago, so --

23 MR. CROSBY: I understand, Your Honor.

24 THE COURT: -- just because I disclose something
25 doesn't mean I felt it should have concern, but I view the

1 comment within the section where it says anything can -- I
2 do it in a very, very broad manner because if I were in you
3 all's shoes, I'd want it to be in a broad manner.

4 MR. CROSBY: Appreciate it, Your Honor. Thank
5 you.

6 THE COURT: Okay.

7 [Colloquy between the Court and the Law Clerk]

8 THE COURT: Sorry. Just one second.

9 [Colloquy between the Court and the Law Clerk]

10 THE COURT: Okay. I just got a notification that
11 our inmate case that was on at 9 o'clock, I'm sorry, does
12 need to be taken care of right now because you can
13 appreciate somebody who is in CCDC only have --

14 MR. ERWIN: Sure.

15 THE COURT: -- a very limited window. So, my
16 apologies. I'm going to have to recall you in a few
17 moments. I was hoping to get you taken care of before he
18 was on the line, but we just have a notification that he's
19 on the line.

20 So, stay tuned. Talk among yourselves for a few
21 moments outside in the ante rooms, if you wish to, and
22 we'll recall you as soon this inmate case is taken care of.
23 Okay? I appreciate it. Thank you so much.

24 Okay. My apologies.

25 [Case trailed at 9:10 a.m.]

1 [Case recalled at 9:19 a.m.]

2 THE COURT: And we're recalling, thank you for
3 your patience, page 11, *Center for Investigative Reporting*
4 *versus Las Vegas Metro PD*, case 773883. And, counsel,
5 since I had to call an intervening matter, if you don't
6 mind restating your appearances, please.

7 MR. ERWIN: Phil Erwin, Campbell and Williams, on
8 behalf of the petitioner.

9 MR. MIRKOVICH: Samuel Mirkovich, Campbell and
10 Williams, on behalf of the Center for Investigative
11 Reporting.

12 MR. CROSBY: Nick Crosby with Marquis, Aurbach,
13 Coffing on behalf of Las Vegas Metropolitan Police
14 Department.

15 THE COURT: Okay. I do appreciate it. Thank you
16 so very much.

17 So, before I had to take that one, just to let you
18 know, in 10 minutes, I have another inmate. So, I'm going
19 to --

20 MR. ERWIN: I'm going to move it.

21 THE COURT: Go ahead, counsel for plaintiff.
22 You're in the midst of making oral argument. Feel free to
23 continue.

24 MR. ERWIN: All right. I'll pick up where I left
25 off.

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One of Tupac's songs was about "a character, somewhat like myself. . . . He's, in his mind, a dynamo. He's Rudolph Valentino and Frank Sinatra."

ner cities. And the real Tupac was trying to leave Death Row when he was killed.

UNFAIRLY or not, Tupac Shakur's name has become synonymous with violent rap lyrics and "thug life" (a phrase Tupac had tattooed across his midriff). While he was alive, he was censured by politicians and, like other rappers, was kept from performing in some concert arenas because promoters could not insure the events against the threat of mayhem from fans. At the same time, however, he was suspected by many in his core ghetto audience of not being cold-blooded enough to measure up to his status as the archetypal gangsta rapper.

These conflicting views of Tupac reflect, to a degree, racial and social chasms. Rap fans insist that performers be authentic representatives of ghetto life: that they live the life they rap about; that life conform to art, so to speak. Rap's critics, on the other hand, are terrified that life *will* conform to art, that the behavior—the drug dealing and the violence—described by rappers will seep into the mainstream culture. The majority of ardent fans and consumers of rap are, in fact, middle-class white youths. (Seventy per cent of those who buy rap records are white.) It is the fear of a violent, marginalized culture's influence on susceptible young people that fuels much of the political debate, and this fear is exacerbated by the widespread adoption of hip-hop style.

Controversy, of course, has never hurt sales. To the contrary. Tupac understood this very well, as did the record-company executives who stood to profit from his talents, and his notoriety. The more trouble Tupac got into with the law, the more credibility he gained on the street—and the more viable a rap star he became. The huge commercial success of gangsta rap created a peculiarly volatile nexus between the worlds of inner-city gangs and the multibillion-dollar record industry. Tupac sometimes said that he thought of his songs as parables, and now it is his own life—his journey into those two worlds, and his immolation at the point at which they converged—that seems almost allegorical.

THE world of Suge Knight and South Central Los Angeles is at a far remove from the one in which Tupac Shakur grew up, though each, in its own way, romanticized violence. Afeni Sha-

kur, Tupac's mother, was a member of the Black Panther Party. Early in 1971, while she was pregnant with Tupac, she was on trial for conspiring to blow up several New York department stores. She and her codefendants—the Panther 21—were acquitted just a month before Tupac was born. He was named for "the last Inca chief to be tortured, brutalized, and murdered by Spanish conquistadores . . . a warrior," Afeni says. His surname, Shakur, is a kind of clan name taken by a loose group of black nationalists in New York.

The phrase "Black Power" had been "like a lullaby when I was a kid," Tupac recalled in a deposition he gave in 1995 (in a civil suit in which it was charged that some of Tupac's lyrics had influenced a young man who murdered a Texas state trooper). He remembered that when he was a teen-ager, living in Baltimore, "we didn't have any lights. I used to sit outside by the street lights and read the autobiography of Malcolm X. And it made it so real to me, that I didn't have any lights at home and I was sitting outside on the benches reading this book. And it changed me, it moved me. And then of course my mother had books by people like . . . Patrice Lumumba and Stokely Carmichael, 'Seize the Time' by Bobby Seale and 'Soledad Brother' by George Jackson. And she would tell these stories of things that she did or she saw or she was involved with and it made me feel a part of something. She always raised me to think that I was the Black Prince of the revolution."

Tupac had indeed become a Black Prince by the time he was killed, but not along the lines laid out by the political activists of the sixties. Afeni and her friends were involved in what they perceived as revolutionary activity for the good of their community. Tupac and his fellow gangsta rappers sported

diamond-encrusted gold jewelry, drove Rolls-Royce Corniches, and vied with one another in displays of gargantuan excess. Nevertheless, Tupac did not forget who his forebears were. "In my family every black male with the last name of Shakur that ever passed the age of fifteen has either been killed or put in jail," Tupac said in his deposition. "There are no Shakurs, black male Shakurs, out right now, free, breathing, without

bullet holes in them or cuffs on his hands. None."

The leaders of the black nationalist movement to which the other Shakurs belonged had been virtually eliminated, largely through the efforts of the F.B.I. In 1988, Tupac's stepfather, Dr. Mutulu Shakur, who had received a degree in acupuncture in Canada and used his skills to develop drug-abuse-treatment programs, was sentenced to sixty years in prison for conspiring to commit armed robbery and murder. The crimes he was accused of included the attempted robbery of a Brink's armored car in 1981, in which two police officers and a guard were killed (and for which the Weather Underground leader Kathy Boudin was also convicted). Mutulu was also found guilty of conspiring to break Tupac's "aunt," Assata Shakur (Joanne Chesimard), out of prison. She had been convicted in 1977 of murdering a New Jersey state trooper, but escaped two years later and fled to Cuba. Tupac's godfather, Elmer (Geronimo) Pratt, is a former Black Panther Party leader who was convicted of killing a schoolteacher during a robbery in Santa Monica in 1968. He was imprisoned for twenty-seven years. His conviction was reversed a few weeks ago on the ground that the government suppressed evidence favorable to him at his trial (most significantly that the principal witness against him was a paid police informant).

It was a haunting lineage, and Tupac would frequently invoke the names of Mutulu, Geronimo, and other "political prisoners" in his lyrics. "It was like their words with my voice," he said. "I just continued where they left off. I tried to add spark to it, I tried to be the new breed, the new generation. I tried to make them proud of me." But, at the same time, he did not want to *be* them. Their revolution, and in most cases their lives, too, were ashes.

IN the Panther 21 trial, Tupac's mother defended herself with a withering cross-examination of a key prosecution witness, who turned out to be an undercover government agent; after her acquittal, this unschooled but intellectually powerful woman was lionized in liberal circles, invited to speak at Harvard and Yale, and subsidized in an apartment on New York's Riverside Drive. Tupac and his sister Sekyiwa, who was born in



1975, became small Panther celebrities on the radical-chic circuit. "Then everything changed, the political tide changed over," Tupac said in his deposition. "We went on welfare, we lived in the ghettos of the Bronx, Harlem, Manhattan." He estimated that he'd lived in "like eighteen different places" when he started junior high school.

In his deposition, Tupac says that by the time he was twelve or thirteen years old Afeni had developed serious drug and alcohol problems. (Afeni disagrees. She says he was seventeen.) Tupac did not know who his father was, but he was close to Mutulu, who was the father of Sekyiwa and lived with them for a number of years. Then Mutulu, too, left him, going underground when Tupac was ten, after the Brink's holdup. While their contact was not altogether broken ("When I would feel he needed me, I'd do whatever I had to to get there, even if it was just so that he could see me—and he'd wave, so happy," Mutulu recalled), the connections came at some cost to Tupac. "He had to keep secrets," Mutulu said. F.B.I. agents would approach Tupac at school to ask if he had seen his stepfather. (Mutulu was on the F.B.I.'s "Ten Most Wanted" list until he was captured, in 1986.)

The family moved to Baltimore, and when Tupac was fourteen he was admitted to a performing-arts school there. "For a kid from the ghetto, the Baltimore School for the Arts is heaven," Tupac said in his deposition. "I learned ballet, poetry, jazz, music, everything, Shakespeare, acting, everything as well as academics." Asked by his attorney whether he'd been in any gangs at that time, Tupac responded, "Shakespeare gangs. I was the mouse king in the Nutcracker. . . . There was no gangs. I was an artist." He had started writing poetry when he was in grammar school in New York, and it was only a short step from writing poetry to rapping. He wrote his lyrics with great speed and ease, and was soon performing at benefits for Geronimo Pratt and other prisoners.



"Do you have any references besides Batman?"

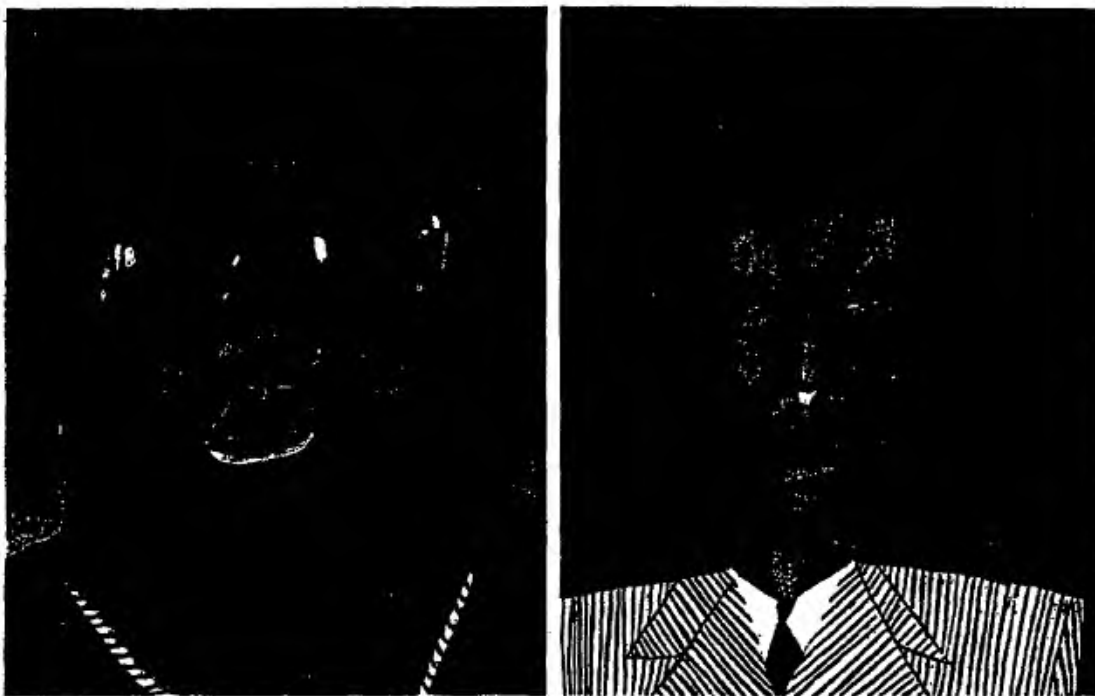
Tupac spent two years at the Baltimore School for the Arts. When he first came in, Donald Hicken, a former teacher, recalls, "he was a truly gifted actor, with a wonderful mimetic instinct and an ability to transform a character. . . . His work was always original, never imitative, never off the rack. Even in this talented group of kids, he stood out." One of his schoolmates, Avra Warsofsky, told me that there was no suggestion of the belligerent, confrontational side of Tupac that would later come to dominate his public image. "He was a dear, sweet person," Warsofsky said. "There were inner-city kids at the school who were tough, who stole—but he was not that, not one bit."

This idyll ended when Tupac's life at home became intolerable. As he described it in his deposition, he had no money for food or clothes; for a time he stayed at the home of a wealthy classmate and wore *his* clothes. That didn't last, though. "So I had to go back home. . . . But my mother was pregnant, on dope, dope crack. She had a boyfriend that was violent toward her. We weren't staying in our own spot, we were staying in someone else's spot. We never could pay the rent. She always had to

sweet-talk this old white man that was the landlord into letting us [stay] for another month. And he was making passes at my mom. So I didn't want to be there anymore. So I sacrificed my future at the School for the Arts to get on a bus to go cross-country to California with no money." He was not quite seventeen.

Tupac stayed for a time with Linda Pratt, the wife of the incarcerated Geronimo Pratt, in Marin City, a poor community north of San Francisco, and then with his mother, who also moved to California. But school in California did not provide a haven for him. "I didn't fit in. I was the outsider. . . . I dressed like a hippie, they teased me all the time. I couldn't play basketball, I didn't know who basketball players were. . . . I was the target for . . . the street gangs. They used to jump me, things like that. . . . I thought I was weird because I was writing the poetry and I hated myself, I used to keep it a secret. . . . I was really a nerd."

TUPAC'S mother was at once a mythic figure to him and fallen, and his identification with his radical heritage was profoundly ambivalent. "At times he resented being the nineties' voice of the



A violent rivalry emerged between East Coast rappers like Biggie Smalls (left) and L.A.-based stars like Snoop Doggy Dogg.

Black Panther Party," Karen Lee, one of his publicists, told me, "and at times he wanted to be." Lee said that he was furious that his mother's former comrades made no move to try to rescue her and her children when she became addicted to drugs. Indeed, when he was living in Marin City—deserted, with no place to stay (his mother and he had fought bitterly, and he accused her of lying to him about her drug use)—it was mainly street people who tried to help him. Man Man (Charles Fuller), a friend who would later become his road manager, provided him with a bed, and kept him from becoming a full-fledged drug dealer.

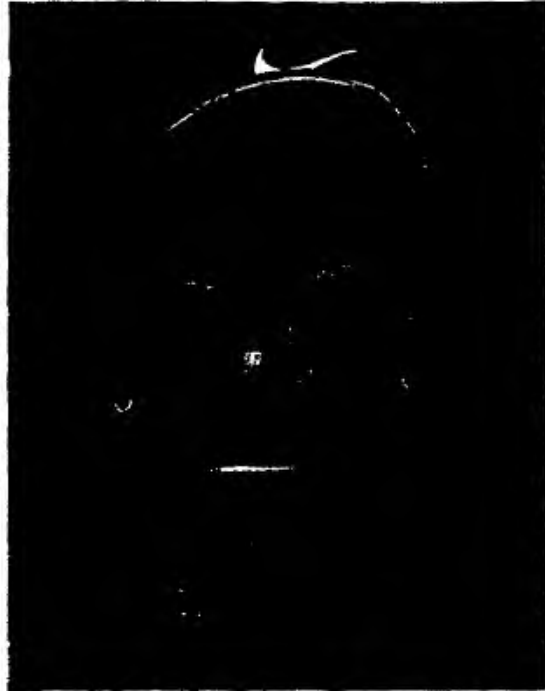
His fortunes began to brighten slightly in 1990 when he got a job with the rap group Digital Underground, as a road manager and dancer. But his real break came the following year, when he was picked up by Interscope—a small company that had just been founded by the record producer Jimmy Iovine and the entertainment magnate Ted Field (an heir to the Marshall Field fortune) as a joint venture with Time Warner. Tom Whalley, who signed Tupac at Interscope, had brought in a demo tape Tupac had made, and Ted Field

gave it to his teen-age daughter. She told her father how much she liked it. Whalley recalls being struck as much by Tupac's looks and by his "presence" as by his talent. He remembers saying to his assistant, "Have you ever seen eyes like that?"

Interscope had positioned itself as something of a maverick in the music business, producing mostly "alternative" rock and gangsta rap, which drew on the culture of the gangs of South Central Los Angeles for its material. Rap was originally an East Coast phenomenon, an element of the hip-hop culture of the nineteen-seventies, which also included graffiti and break dancing. Although hip-hop music broke into the mainstream in 1979 with the international hit "Rapper's Delight," it was not until the late eighties, with the emergence of gangsta rap, that it showed signs of becoming hugely commercial—especially when it gained a wide audience of white youths, much as blues, jazz, and early rock and roll had. In 1991, Interscope released Tupac's first album, "2pacalypse Now," which was replete with militant lyrics depicting violence between young black men and the police. This was the al-

bum that Vice-President Dan Quayle said had "no place in our society."

In the deposition Tupac gave in 1995, when he was asked to interpret several of the songs on "2pacalypse Now," he explained that it was his practice to introduce a central character through whom he could develop a narrative, because he believed that "before you can understand what I mean, you have to know how I lived or how the people I'm talking to live. . . . You don't have to agree with me, but just to understand what I'm talking about. Compassion, to show compassion." He also said that he was not advocating violence against the police but was simply telling stories that described reality for young black men—and cautionary stories at that, in which violence against the police often leads to death or imprisonment. On one track he says, "They claim that I'm violent just cuz I refuse to be silent." The song on the album that proved to be the most popular was entitled "Brenda's Got a Baby." Tupac said that he had written the song after reading a newspaper story about a twelve-year-old girl who became impregnated by her cousin and threw her newborn baby down an in-



David Kenner (left) wound up at the top of one of the hottest black labels, Death Row, which was cofounded by Dr. Dre.

cinerator. Asked by his lawyer whether he considered the song a political statement, Tupac said, "Yes. . . . When this song came out, no male rappers at all anywhere were talking about problems that females were having, number one. Number two, it talked about sexual abuse, it talked about child molestation, it talked about families taking advantage of families, it talked about the effects of poverty, it talked about how one person's problems can affect a whole community of people. It talked about how the innocent are the ones that get hurt. It talked about drugs, the abuse of drugs, broken families . . . how she couldn't leave the baby, you know, the bond that a mother has with her baby and how . . . women need to be able to make a choice."

Rap music is notorious for having lyrics that are degrading to women, and—much as Tupac would appear to be an advocate for women in "Brenda's Got a Baby," and also, even more, in a later song, "Keep Ya Head Up"—he wrote lyrics that were misogynistic as well. In "Tha' Lunatic," another song on "2pacalypse Now," he boasted, "This is the life, new bitch every night." In the deposition, when asked how he

could reconcile the conflicting sentiments, he says, "I wrote this when I was seventeen. . . . It's about a character, somewhat like myself, who just got into the rap business, went from having no girls to now there's girls all the time and he's just getting so much sexual attention and he's, in his mind, a dynamo. He's Rudolph Valentino and Frank Sinatra, he's everybody. . . . He can get anybody he wanted. . . . I'm an actor and I was a poet. So I felt like . . . I have to tell the multifaceted nature of a human being. . . . A man can be sexist and compassionate to women at the same time. I was. Look at 'Tha' Lunatic' and look at 'Brenda's Got a Baby.'"

TUPAC moved to Los Angeles early in 1992, and the stories he told in his music began to reflect more specifically his fascination with gang life. "Each gang element wanted to claim him," his stepbrother, Maurice Harding, a rapper known as Mopreme, says. "The cover of 'Strictly 4 My N.I.G.G.A.Z.'"—Tupac's second solo album—"was red, so everybody thought at first he was a Blood." But though he hung out with Bloods and, more often, their rival Crips, Tupac

did not join either gang. He was at bottom an observer and chronicler, profoundly utilitarian in his approach to experience and, some thought, people as well. And South Central L.A.—which is almost like a foreign country within a city, so singular and baroque are the gang customs, culture, and laws that govern it—was the richest territory he'd ever seen.

"He could be with this poet, this pimp, this thug—he could suck everything from each of them and that would be part of him," said Man Man, the friend who moved with him from Northern California to L.A. and became his road manager. "He started hanging around thugs. He would suck it up out of them and then use that, in his music and his acting. People would be saying, 'Fred just got killed' . . . next thing you know, it's in his song. . . . He was saying, 'If you don't know what's going on in the ghetto, this is what's going on.'"

Tupac was particularly vulnerable, however, to the charge that he had not paid his dues, that he was not a "real" gangster. For all the swaggering machismo that would come to dominate his public image as a gangsta rapper, he was



"So this is infidelity."

considered within that world to be a novice. When he moved to L.A., Tupac said in his deposition, he "didn't have a slingshot, I didn't have a knife, I didn't even have sharp nails." But soon he had bought a gun and was practicing shooting it on firing ranges. He muscled his slight, lithe dancer's body with weight training and began to cover his torso with tattoos. Even so, his countenance, when caught in repose—delicate, fey, androgynous, a face with long-lashed, limpid eyes—tended to betray him. But he was adamantly tough. "It irked him when they said, 'Fake gangsta rapper,'" Mopreme told me. "He was saying, 'I'm from the dirt! Y'all should be applauding me! I made it through the ghetto. I made it through school with no lights. I'm real. We the same person!'"

By 1993, Tupac seemed to have become obsessed with gang life. He was spinning from one altercation and arrest to the next. He got involved in a fight with a limo driver in Hollywood, tried to hit a local rapper with a baseball bat during a concert in Michigan, and col-

lected criminal charges and civil suits. According to Man Man and others, many of these incidents were a consequence of someone challenging Tupac's right to rap hard lyrics. "People would test him," Man Man explains. "And Pac felt, I have to prove that I'm hard. I would say to him, 'Most gangsters are people who wish they didn't have to be hard.'"

At Tupac's instigation, he, Man Man, and another friend had all got a "50 NIGGAZ" tattoo (symbolizing a black confederation among the fifty states). "Niggas," in Tupac's lexicon, stood for "Never Ignorant Getting Goals Accomplished." In "Words of Wisdom," he raps, "Niggas, what are we going to do? Walk blind into a lie or fight. Fight and die if we must. Die like niggas." "I never could have had that word tattooed on me before," Man Man told me. "But Pac said, 'We're going to take that word that they used and turn it around on them... to make it positive.'"

When Tupac got his "thug life" tattoo, his manager, Watani Tychimba, a former Black Panther who had been

close to Tupac since he was a small boy, was apoplectic. "I said, 'What have you done?'" Tychimba recalled. "We talked about it, and it became clear that he did it to make sure he never forgot the dispossessed, never forgot where he came from. He was straddling two worlds. And he saw that we never make it as black people unless we sell out. He was saying he never would." Tupac collaborated with four other rappers on the album "Thug Life, Vol. 1" (which grew out of an earlier project called "Underground Railroad"). The idea was that the album would enable gang members to escape street life by becoming musicians. There were to be subsequent volumes of "Thug Life," with a new group of gang-member rappers each time. Some of the songs that Tupac and his fellow-artists wanted to include were rejected by Interscope. Tupac acknowledged that he "wouldn't play 'Thug Life' to kids. Not that it's anything that would make them go crazy or anything, but I wouldn't." Still, he knew that it was the harder lyrics that sold the best, and were perceived by the audience to most closely mirror life in the ghetto.

Pac became the spokesperson for the ghetto. He rapped our pain," Syke (Tyruss Himes), a West Coast rapper who appeared on the "Thug Life" album, told me. "In the L.A. ghetto, four or five people get killed every week. You don't hear about it. Only their families know." Through Syke and others, Tupac was now experiencing that life directly. In several of his songs, Tupac says, "Remember Kato." "Big Kato was like my brother," Syke said. "He got killed for my car. It had Dayton rims—they cost twenty-five hundred dollars. They killed him for it." Mental illness, another rapper with whom Tupac became friendly through Syke, was also killed; and Syke's brother killed himself. ("I guess from the stress," Syke said.)

"If you're rapping this hard stuff, you have to live it," Syke declared. "Otherwise people check your résumé and say, 'You don't look like you're hard from your résumé, let's see if you are.' Pac always felt he had to prove something to his homeboys." He points to the "rags," or bandannas, Tupac wore. "He started wearing red around Crips, and blue around Bloods—so that when he was around Crips, Bloods wouldn't think he was a Crip, and blue around Bloods, so

Crips wouldn't think he was a Blood. His behavior was not right; he was on the edge. But they just figured he was Tupac the Rapper."

Mopreme recalled an incident that was emblematic. "There was a fight at the Comedy Store, and some gang members were after him. So he put on his [bullet-proof] vest and all his guns, and he went to their place. He said, 'Y'all looking for me? Here I am!' " After that, Mopreme added, the gang, duly impressed, didn't bother him. Legendary as such an exploit became, the reality was rather more complicated. Watani Tyehimba told me that it was the "Rolling Sixties" set of the Crips that Tupac had gotten in trouble with and that he and Mutulu Shakur each contacted their leadership. "I did it from the street, Mutulu did it from prison, and together we got it under control. Then he went to the Crips' place. After that they were under orders not to harm him." Regarding Tupac's dramatic gesture, Tyehimba said, "It was machismo."

Of all Tupac's much publicized, violent confrontations in the tempestuous year 1993, none better illustrated the degree to which he had become the exemplar of the gangsta-rap mandate than his arrest for shooting two off-duty police officers in Atlanta. The officers, he would later say, had been harassing a black motorist. The charges were dropped when it emerged that the policemen had been drinking and had initiated the incident, and when the prosecution's own witness testified that the gun one of the officers threatened Tupac with had been seized in a drug bust and then stolen from an evidence locker.

The shooting in Atlanta made Tupac a hero to some, a demon to others. "They were acting as bullies, and they drew their guns first," Mutulu Shakur says of the officers. Tupac's response "sealed him as not only a rapper but a person who was true to the game. That made him, to the people who were his audience, real—and if not liked, respected." However, to the law-enforcement community and the political conservatives who were rap's most vocal critics Tupac was not only propagating insurrectionist rhetoric in his lyrics but acting it out as well. Gangsta rap had been provoking concern among law-enforcement authorities in this country since at least 1989, when an F.B.I. public-affairs

officer wrote a letter to Ruthless/Priority Records, which distributed records by the group N.W.A. (Niggaz With Attitude). The F.B.I. was concerned, specifically, with the song "Fuck tha Police." "Advocating violence and assault is wrong, and we in the law enforcement community take exception to such action," the F.B.I. officer wrote. In 1992, police groups and their allies—most visibly Vice-President Quayle—denounced Time Warner for having put out the song "Cop Killer," by Ice-T. The following year, Time Warner released Ice-T from his contract, citing creative differences.

Officer Gregory White, of the L.A.P.D., who works in a special gang unit, explains that gangsta rap is a legitimate concern of law-enforcement agencies because it often involves criminal activity. "Rap is a way to launder dirty drug money," he says. According to White, some record companies provide fronts for the gangs. But he adds that it is rap music's virulently antipolice rhetoric

that is considered particularly pernicious.

Charles Ogletree, Jr., a black attorney who is a professor at Harvard Law School and who represented Tupac on a number of cases in the last year of his life, notes that "people in law enforcement not only disliked Tupac but despised him. This wasn't just a person talking, but someone who had generated a following among those who had problems with the police, and who spoke to them. He was saying, 'I understand your pain, I know the source of it, and I can tell you what to do about it.' Police officers knew him by name, Bob Dole mentioned him by name."

Mutulu Shakur believes that his own relationship to Tupac was a source of continuing concern to law-enforcement authorities. Mutulu, who wears long dreadlocks and is revered within the black-nationalist community, had been a target of the F.B.I. and other police agencies for years before the Brink's robbery. During his trial, the federal district court judge confirmed that "the rights of



"Please welcome Big Alcobol."

Dr. Shakur... were violated by the COINTELPRO program." (COINTELPRO was initiated by the F.B.I. to neutralize black-activist leaders as well as certain right-wing extremists.) Recently, in a development not unlike that in the case of Geronimo Pratt, Mutulu was granted permission to file a motion for a new trial on the ground that evidence was discovered indicating that the government withheld information that would have been favorable to his defense.

In the spring of 1994, about six months after Tupac shot the police officers in Atlanta, Mutulu was moved from the penitentiary in Lewisburg, Pennsylvania, to the super-maximum-security federal prison in Marion, Illinois, and from there to the country's most maximum-security institution, in Florence, Colorado. In a memorandum written in February, 1994, the warden of Lewisburg argued that Mutulu needed "the controls of Marion," in part because of his "outside contacts and influence over the younger black element."

Mutulu is convinced that Tupac became a lightning rod after he shot the policemen in Atlanta. "These disenfranchised—the young blacks who are poor and hopeless—have no leader," Mutulu said. "Their heroes are cultural and sports heroes. No one—not Jesse Jackson, not Ben Chavis, not Louis Farrakhan—has as much influence with this segment as rappers. So when Tupac stands up to a white cop, shoots it out, wins the battle, gets cut free, and continues to say the things he's been saying—the decision to destroy his credibility is clear."

WHETHER by happenstance or not, about two weeks after the Atlanta shooting something occurred that could not have been better designed to remove Tupac from circulation—and that would ultimately lead to his undoing. While in New York for the filming of the movie "Above the Rim," Tupac had been socializing with a Haitian-born music promoter, Jacques Agnant. Tupac was playing the part of a gangster named Birdie in the movie, and he told friends that spending time with Agnant helped him in his portrayal of Birdie—much as hanging out with the gangs in South Central provided him with material for his lyrics. "He said that he was studying Jacques—that Jacques was Birdie," Watani Tyehimba recalls. But

Tyehimba was alarmed by the relationship, and warned Tupac to keep his distance. "I told Tupac the first time I met him, Charles Fuller told Tupac, everyone told him he should stay away from Jacques."

Tupac ignored the warnings. "Jacques had all this gold and diamond jewelry," Man Man says. "He had money. He had a nice B.M.W. He could get you in any club. Pac was just starting to be known then, and he couldn't get in all the clubs. Jacques spent about four or five thousand dollars on Tupac in the beginning—he just overwhelmed him." According to someone else who knew Agnant, Madonna (with whom Tupac would become close) was one of Agnant's celebrity friends.

On November 14, 1993, Jacques Agnant and Tupac went to Nell's, the downtown New York club. A friend of Agnant's, identified only as "Tim," introduced Tupac to a nineteen-year-old woman named Ayanna Jackson. She expressed her interest in him; they danced together, and she performed oral sex in a corner of the dance floor. They went to his hotel, where they had intercourse. The next day, she called and left many messages on his voice mail, saying, among other things, how much she'd enjoyed his prowess. Four days later, on November 18th, she returned to his hotel suite. There, she found Tupac, Man Man, Agnant, and an unidentified friend of Agnant's. They all watched television in the living room, and then she and Tupac went into the bedroom; later, the three other men entered the room. What ensued is disputed; Jackson claims that she was forced to perform oral sex on Tupac while Agnant partly undressed her and grabbed her from behind, and that they then made her perform oral sex on Agnant's friend while

Tupac held her. (Man Man, she acknowledged, did not touch her.) Tupac claimed that he left the room when the other men entered and did not witness whatever happened. In any case, Jackson testified that she left the suite in tears and that Agnant told her to calm down, saying that he "would hate to see what happened to Mike [Tyson] happen to Tupac": that is, a woman charging him with sexual assault, which is what Jackson promptly did. She summoned the hotel's security officers, who called the police. Tupac, Man Man, and Agnant were arrested. (Agnant's friend left.)

Indictments were handed down on sex-

abuse, sodomy, and also weapons charges (two guns were found in the hotel room), and Agnant's lawyer, Paul Brenner, who had represented the Patrolmen's Benevolent Association for many years, moved that his client's case be severed from his two codefendants', on the ground that only Tupac and Man Man had been charged with the weapons offenses, and that therefore the indictment was improperly joined. The prosecutor did not oppose the motion—something that Tupac's lawyers say is highly unusual—and the judge granted it.

It was apparently after Agnant's case was severed that Tupac became convinced that Agnant was a government informer and had set him up. Tupac's suspicions were, inevitably, shaped by the experience of his extended family; "Jacques didn't smell right to me," says Watani Tyehimba, who considers himself particularly attuned to the presence of undercover agents because of his long history with the Panthers and what he learned from COINTELPRO files obtained through the Freedom of Information Act.

One night in November, 1994, during the trial of Tupac and Man Man, Tupac was at a club with the actor Mickey Rourke and a friend of Rourke's, A. J. Benza, a reporter for the *Daily News*. Tupac told Benza that he believed that Agnant had set him up. A couple of days later Benza wrote an account of the conversation, recalling that Tupac had told him that Mike Tyson had called him up from prison to warn him that Agnant was "bad news." On the night of November 30th, while the jury was deliberating, Tupac went to a Times Square music studio to rap for an artist, Little Shawn, who, according to Man Man, had ties to Agnant. When Tupac and his entourage entered the lobby of the studio, three black men followed them, drew guns, and ordered them to lie down. Tupac reached for his own gun, which he usually wore in his waistband, cocked. The men then shot Tupac five times, grabbed his gold jewelry, and fled.

Convinced that the shooting had also been a setup, and that the shooters would return to finish the job, Tupac checked himself out of the hospital a few hours after surgery, and moved secretly to the house of the actress Jasmine Guy to recuperate. When he returned to the courtroom, bandaged and in a wheelchair, he was acquitted of the three sodomy counts and the weapons charges but, in an ap-



parent compromise verdict, convicted of two counts of sexual abuse—specifically, forcibly touching Ayanna Jackson's buttocks. Bail was set at three million dollars, and Tupac turned himself in and was incarcerated. On February 7, 1995, he was sentenced to a term of not less than one and a half to not more than four and a half years in prison.

A few months after Tupac was sentenced, Jacques Agnant's indictment was dismissed, and he pleaded guilty to two misdemeanors. When I asked Melissa Mourges, the assistant district attorney who had tried the case against Tupac, why Agnant had been dealt with in such a favorable way, she said that Ayanna Jackson was "reluctant to go through the case again." Jackson had, however, brought a civil suit against Tupac following the trial. (The suit was subsequently settled.)

Agnant's lawyer, Paul Brenner, believes that Tupac should never have been convicted. "It was a very weak case," he says. "A lot went on" at Nell's. Brenner suspects that the police planted the gun they found in the hotel room. "I worked for the P.B.A. for ten years, I know the police. . . . The police are friends of mine," he says. "But Tupac had no friends in the police. I couldn't find a policeman who had a good word to say about Tupac."

Tupac's conviction that Agnant had set him up seemed only to deepen with time. He went public with it on his last album, "The Don Killuminati":

I hope my true mutha-fuckas know
This be the realest shit I ever wrote. . .
Listen while I take you back
and lay this rap
A real live tale
About a snitch named Haitian Jack
Knew he was working for the feds. . .
Set me up
Wet me up
Nigga stuck me up.

Agnant has filed a suit for libel against Tupac's estate, Death Row, Interscope, the producer and the engineer of the song, and the publishing company. Ayanna Jackson has always maintained that she was not involved in any setup.

What role Agnant, the police, or any other governmental entity may have played in the sexual-assault case against Tupac is conjectural. But this much is plain: once the gears of the criminal-justice system were set in motion, Tupac was penalized more for who he was—a charismatic gangsta rapper with a political background—than for what he had done.



"I imagine serenity's pretty much the same, one season to the next?"

Melissa Mourges seemed to share the animus many police officers felt for Tupac; Charles Ogletree argued in his appeal that her conduct was so prejudicial (she railed against Tupac as a "thug," among other things) that a new trial was warranted on that ground alone. The setting of bail at three million dollars, Ogletree commented, was "inhumane," and the sentence was "out of line with the conviction." Tupac was sent to the Clinton Correctional Facility in Dannemora, New York, a maximum-security prison. "The entire case," Ogletree said, "reeked of improbity."

In the very beginning, prison granted Tupac a sort of grace, extricating him from the manic, overcharged existence he had created for himself. Outside, he drank heavily and smoked marijuana constantly. Now his mind was clear. And in Dannemora he was liberated from the demands

of his music. His gangsta-rapping had been a pose, he said. He had been required to maintain the pose and he did not regret doing so, but it was a pose nonetheless, and one he was abdicating. He had laid down the tracks of a new album, "Me Against the World," before he was incarcerated and, having finished that, he told *Vibe* magazine, "I can be free. When you do rap albums, you got to train yourself. You got to constantly be in character. You used to see rappers talking all that hard shit, and then you see them in suits and shit at the American Music Awards. I didn't want to be that type of nigga. I wanted to keep it real, and that's what I thought I was doing. But . . . let somebody else represent it. I represented it too much. I was thug life."

With the opportunity to reflect, sober, on the events that led to his incarceration, he said he realized that, "even though I'm innocent of the charge they



"Sam is very focused."

gave me, I'm not innocent in terms of the way I was acting. . . . I'm just as guilty for not doing nothing as I am for doing things." He accepted blame for not having intervened on behalf of Ayanna Jackson. "I know I feel ashamed—because I wanted to be accepted and because I didn't want no harm done to me, I didn't say nothing."

In April of 1995, while he was still in prison, he married Keisha Morris, whom he'd been dating for about six months before he was put in jail. Eminently responsible and levelheaded, she was going to school and holding down a job; she didn't smoke marijuana; and she didn't immediately have sex with him. Morris told me that on their first date they saw a movie, and then Tupac prevailed on her to stay in his hotel room. When she insisted on going to bed fully dressed, he protested only that "you *could* take off your sneakers." In the deposition he gave in the civil case brought against him by the family of the young man who had murdered the Texas state trooper, Tupac described his new wife: "She's twenty-two, she's a Scorpio, she . . . just graduated from John Jay College with a degree in criminal science, and she's taken a year off, she's going to go to law

school . . . she's nice, she's quiet, she's a square, she's a good girl. She's my first and only girlfriend I ever had in my entire life and now she's my wife."

Tupac and Morris talked about moving to Arizona, and what they would name their kids. He started to organize his finances, and attempted to settle the numerous lawsuits pending against him across the country. But in the forbidding, almost feudal backdrop of the Clinton Correctional Facility, his efforts seemed increasingly irrelevant. His lawyers were filing appeals in his case, and under those circumstances he could have been allowed to post bail, but the district attorney's office was fighting his right to do so, and the proceedings dragged on, month after month. What he had spoken of initially when he was at Rikers Island as prison's "gift"—of respite and introspection—now had been overshadowed by the nightmare of incarceration.

"Dannemora was a hellhole—he had a one-to-four-year sentence, and they put him in a maximum-security prison!" one of his lawyers, Stewart Levy, says. Levy recalls that while he was visiting Tupac one day, "Tupac had a rectal search when he came in"—to the visiting area. "Then we spent six hours there

in full view of the guards. Then the guards started saying 'Tupac! Tupac!' in this falsetto voice, putting up their fingers with these plastic gloves, waving them—'It's time! It's time!' Why a second rectal search, when he'd been sitting there in plain view with his lawyer, why, except to humiliate him?" Yaas-myn Fula, who had known him since he was a baby, and who visited him often in prison, recalls, "It was a terrible experience for him—to be captive, in a horrific situation, with guards threatening to kill him, inmates threatening to kill him. . . . He said, 'I have never had people demean me and disgrace me as they have in this jail.'"

Other factors weighing on Tupac contributed to his anxiety about being in prison. He was the breadwinner for a large extended family—his mother, his sister, her baby, his aunt and her family, and more. Iris Crews, one of his attorneys in

the sex-abuse case—who had been leery of representing Tupac but became beguiled and devoted ("Had he been this foulmouthed, woman-hating kid, I wouldn't have done it")—recalled that one day as he sat in court with a bunch of young children climbing all over him during a recess he had remarked to her, "If I don't work, these kids don't eat." "He'd been deprived of his childhood, and then, at twenty, he had twenty people to support," she said. Beyond that, he had enormous legal fees for cases all over the country. After nearly six months in prison, despite the money being advanced by Interscope, Tupac's funds were depleted.

DEATH ROW RECORDS offered to solve all Tupac's financial problems. Death Row had been started by Suge Knight and the rap producer Dr. Dre in 1992. Knight was a former University of Nevada football star who had grown up in Compton in South Central L.A. In the late eighties, he had worked as a bodyguard in the burgeoning L.A. rap scene, eventually developing a friendship with Dre, who was then a member of the group N.W.A. Knight persuaded Dre that he was getting

cheated by his record company and that he should leave. Knight is alleged to have threatened Dre's producer with baseball bats and pipes in order to break his contract.

The release of Dre's album "The Chronic" shortly after Death Row was founded helped establish the company as a major force. By the summer of 1995, it was one of the top record companies in the rap-music world. "Suge and Dre really were a magical combination," a black entertainment executive who was then at one of the big music companies told me. They were trusted on the streets. "White black executives, no matter what their thinking, were not going to be trusted. We're square to them." And Knight was formidable manager. "He never really seemed to sleep. He had an instinct with people about what he thought their marketability could be. He could motivate Dre to finish what he started. And he didn't take no for an answer. Dre had essentially all the ideas, and Suge the management muscle to get it done."

Death Row owed its start to Interscope. Jimmy Iovine and Ted Field had decided to fund Death Row and distribute its products in 1992, when other companies had shied away. One executive at a major studio who had turned down the prospective Death Row venture told me that he and his colleagues felt that "life is too short" to assume the risk that they believed an association with Knight might pose. "Jimmy is comfortable with gangsters, he can deal with them, it doesn't bother him," the executive said. "He's a street guy himself." Iovine—the son of a Brooklyn longshoreman, who, many say, aspired to be the next David Geffen—wanted to make his mark fast, and he was impatient with the progress of his new business at first. So he gambled, and reaped the payoff: gangsta rap turned out to be a gold mine.

But the disadvantage of being involved with Death Row was continuing reproaches from social critics and incensed shareholders. Time Warner had succumbed to pressure of that nature when it disengaged itself from Ice-T in 1993. By early 1995, however, the profitability of gangsta rap seemed to be tipping the scales of greed and fear. When Time Warner was discussing raising its stake in Interscope from twenty-five percent to fifty percent, they sought assurances that the relationship with Death

Row would continue. Then, in the late spring of 1995, Time Warner again came under attack for its involvement in gangsta rap, this time by the joined forces of William Bennett and C. DeLores Tucker, the chairwoman of the National Political Congress of Black Women. Tucker, pointing to Tupac, Snoop Doggy Dogg, and Dr. Dre (the latter two at Death Row), all of whom had problems with the law, declared that "Interscope is a company Time Warner needs to get out of business with immediately."

Tupac was too promising an artist for Interscope to consider jettisoning; but there was a compromise solution that might make it appear that Interscope was insulated from him, and the solution apparently made sense to everyone involved—except Tupac.

Suge Knight had wanted Tupac at Death Row for some time, although he had not been a Tupac supporter at first. "He was not into the Tupac-artist thing," a producer who knows Suge says. "But then came his thug notoriety—being called a rapist, getting in brawls. . . . With his problems, he became more attractive to Suge." Knight had been making overtures to Tupac with Interscope's blessing. A music executive who worked with Interscope recalls Iovine saying to Knight, "Take this kid, take him *please*. He's out of control. You can control him. Take him." Watani Tyehimba remembers a meeting in 1993 attended by Tupac, Knight, Iovine, and himself, at which Iovine, saying it made sense for Tupac to work with Dr. Dre, argued strongly that he should sign with Death Row. Tyehimba was surprised, but Iovine explained that Interscope and Death Row had a "unique relationship"—suggesting that Death Row's gain of Tupac would not mean Interscope's significant loss.

The exact nature of that "unique relationship" may be of more than academic interest to federal authorities in-

vestigating possible criminal activities at Death Row. Suge Knight has always been at pains to portray himself as an independent operator. For example, he boasted that Death Row, unlike other small companies, owns its masters (the original recordings of the albums). Since the long-term value of rap recordings is only speculative at this point, the ownership of the masters is a matter of ego more than economics, a music executive explained to me, and in the case of Death Row "it was important for the image to say they were black-owned." But in fact Death Row's masters are heavily mortgaged, and have been used as security against loans and advances from Interscope. Indeed, Death Row has been financially dependent on Interscope from the beginning.

While Knight clearly had a great deal of autonomy, he and Iovine worked together closely. "It was Jimmy and Suge, Jimmy and Suge," someone who knew them both well told me. Since no one wanted to tell Knight anything that "set his fuse," he said, it was Iovine who dealt with Knight. The relationship was very hands-on. Promotions and marketing for Death Row were handled by an Interscope employee. If a production company was making a video for Death Row, its contract might well be with Interscope. The closeness between the two companies was underscored by their physical proximity. Until last year they were located just across the hall from each other in an office building in Westwood.

ON a business flowchart, it may have meant just shifting Tupac from one box to another, but for Tupac to go from Interscope to Death Row, only a hallway apart, was to enter a different, and far more sinister, world. It was widely believed that one of the major investors in Death Row was a drug dealer named Michael (Harry-O) Harris, who was serving time for attempted murder as well as drug convictions. He was said to have provided the seed money for Death Row. Knight and Harris's lawyer, David Kenner, who had also become the lawyer for Death Row, were supposed to be guarding Harris's interests. There were even rumors that the company was being used to launder drug money on a continuing basis. Moreover, it was said that there were contracts out on Knight, and that Harris was unhappy



with Knight's business practices. How many of these stories had reached Iovine is not clear. He did, of course, know of Knight's criminal record and propensity for brutality when he first made the deal with Death Row, and as time went on he became aware of the continuing climate of violence that enveloped the company. A lawsuit against Death Row and Interscope was filed on behalf of a man stomped to death at a Death Row party in early 1995.

As for Michael Harris's bankrolling of Death Row, Iovine told federal investigators that he had heard a rumor about it in 1994 or 1995, but it was not until December, 1995, when Harris threatened to sue the company, claiming that he owned half of it, that Iovine took the rumor seriously. If this was true, then Iovine was strangely insulated, for in L.A. music circles Harris's role was widely gossiped about. Indeed, in the summer of 1995, months before Harris wrote to Iovine about his intentions to sue, the head of the Time Warner music division, Michael Fuchs, made an overture to arrange a prison meeting with Harris. He was trying to decide whether the company should yield to the political pressure about gangsta rap and sell its interest in Interscope, and he believed that it might well be Harris, not Knight, who could speak with authority to Time Warner about the future direction of Death Row. The meeting never took place, because Time Warner executives and the board of directors quickly decided that the company should shed its troublesome investment by selling its fifty-per-cent stake back to Interscope. Interscope was able to exploit that rebuff by turning around and selling the fifty-per-cent stake to MCA Music Entertainment Group (now known as Universal), for a profit of roughly a hundred million dollars.

TEMPTING as Knight's offers were (Death Row was the premier rap label, putting out one multi-platinum record after another), Tupac had consistently declined to leave Interscope. But in the summer of 1995, when it seemed as though his incarceration might continue indefinitely—for years even, if he was not allowed to post bail—he was more desperate than he'd ever been. It was in this bleak moment that Knight—and, apparently, Iovine as well—saw the opportunity to arrange things the way

they wanted to. It had become not only attractive but vital to Death Row that Tupac join the label. One of the company's biggest stars, Snoop Doggy Dogg, was facing a murder trial, and it was rumored on the street that Dr. Dre was leaving. (Dre would indeed leave by early 1996.) Death Row could not afford to lose both artists. And Knight surely knew that Tupac would be more popular than ever after his prison term, more "real" to his audience than he had been before.

Even though Interscope advanced Tupac six hundred thousand dollars during the nine months he was in prison, he was broke and frustrated. To TyeHimba, there seemed to be an unmistakable synchrony at work. Interscope would not or could not provide enough funds for Tupac. And as Knight became a more and more importunate suitor, Interscope "was squeezing us to get us to go to Death Row," TyeHimba says. Knight—accompanied by Death Row's lawyer, David Kenner, who had come to play a major role in the company, far exceeding specific legal tasks—made repeated trips to Dannemora to visit Tupac. Knight promised to solve Tupac's most intractable problems. According to several people close to Tupac, Knight claimed that Kenner could cure the legal logjam and win permission to post bail. Knight further promised that he would put up some portion of the bail and, more important, make Death Row the corporate guarantor for the entirety. Knight swore he would make Tupac a superstar, much bigger than he'd been with Interscope. And he would solve Tupac's financial worries. He would even buy Afeni a house.

It was a dazzling hand. What was probably Knight's trump card, however, was the thing that he, and he alone, could offer Tupac—the aura of gangster power. Even though Tupac had claimed that he had outgrown the gangster pose, his stay in Dannemora had made him feel more vulnerable than ever before. "He wanted to get out of jail, and he needed a label that could back him," a friend who visited him in prison that summer says. "The street shit had to be dealt with, and Suge had power on the street." Tupac brooded about being shot in the Times Square recording studio and about what he believed was the setup by Jacques Agnant. He also suspected people who were there in the studio that night: Andre Harrell, now the head of Mo-

town; Bad Boy Entertainment C.E.O. Sean (Puffy) Combs; the rapper Christopher Wallace, known both as Biggie Smalls and as the Notorious B.I.G.; and others. (They all denied any involvement.) At first, Man Man said, Tupac did not believe that Biggie, who had been a good friend of his, and who had come to visit him when he was recuperating from his wounds, had been involved in any way. "But when Tupac was in jail he was getting letters from people saying Biggie had something to do with it, he started thinking about it, it got so out of hand, it grew—and once it got that big, publicly, you had to go with it."

Watani TyeHimba, Stewart Levy, and Charles Ogletree all say they argued vigorously with Tupac about his decision to go to Death Row. "Tupac told us, 'The trouble with all of you is, you're too nice,'" Levy recalls. TyeHimba told me that at his last meeting with Tupac at the prison, Tupac hugged him, wept, and said, "I know I'm selling my soul to the devil." Kenner drafted a handwritten, three-page agreement for Tupac to sign. Within a week, in a stunning coincidence, the New York Court of Appeals granted him leave to post bail. (The money was provided by Interscope and a division of Time Warner, although Tupac always gave Suge full credit.)

Knight and Kenner arrived in a private plane and white stretch limousine to pick Tupac up. Underscoring the degree of porousness between Interscope and Death Row, Tupac was, according to someone familiar with the negotiation, given a "verbal release" from his Interscope contract. As for Kenner's handwritten document, Ogletree, who would not see it until much later, says, "It wasn't a legal contract. . . . It was absurd that anyone with an opportunity to reflect would agree to those terms. It was only because he was in prison that he signed it. Tupac was saying, 'My freedom is everything. If you can get me my freedom, you can have access to my artistic product.'"

IN ways large and small, in both art and life, Tupac Shakur instinctively pushed past customary boundaries, and when he came out of prison and joined Death Row that impulse was heightened. He would work the longest hours (nineteen-hour stretches, despite the consumption of enormous amounts of alcohol and marijuana), he would be-

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Tupac with Suge Knight, the head of Death Row. "Suge would get him all stirred up," a friend says. "And he'd try to behave like a gangster."

come the biggest star, he would become a "superpower" within the Death Row-dominated world of gangsta rap. Just nine months earlier, he had said, "Thug life to me is dead." Now he embraced it. "Pac was like a chameleon," Syke says, echoing a common view among Tupac's friends. "Whatever he was around, that's what he turned into. And when he got around Death Row, he tried to be that."

While Tupac had transgressed many social limits, he had also drawn to him people who tried, with varying degrees of success, to moderate his behavior. But when he set out for the province of Death Row, he left behind virtually all of these putative guardians—among them, Watani Tyehimba, Karen Lee, Man Man, even his wife, Keisha. (Their marriage was later annulled.) Yaasmyn Fula, who was one of the few old friends who remained close to Tupac, says that he was "out of his element. It was a completely different soldier mentality. He was fascinated by it because of the absence of a male figure who could say, 'Leave it alone.'"

"He was always looking for a father," Watani Tyehimba says, "in me some, in Mutulu some. But what he missed was one father with the good and the bad, not a composite." By the time Tupac met the man who said he was his father (a former Black Panther named Billy Garland, who materialized at Tupac's

hospital bedside in New York after Tupac was shot in the Times Square lobby), the encounter failed to satisfy him. It was in Suge Knight, many thought, especially when they saw the two together—the slender, lithe youth shadowed by the other's massive bulk, the one all animation, the other exuding authority—that he found that connection. Tupac and Knight seemed almost inseparable in the months after Tupac's release from prison; they worked together long hours in the studio, and socialized when they were through. One of Tupac's friends remembers watching them sing a song from the soundtrack of "Gridlock'd": "You Ain't Never Had a Friend Like Me."

The combination of Tupac and Knight seems to have been combustible, with each activating the most explosive elements in the other. Someone who has known Knight well for years points out that it was after Tupac arrived at Death Row that its signature excess became even more pronounced—fancy clothes, gold and diamond jewelry (especially heavy medallions, laden with diamonds and rubies, bearing the Death Row symbol of a hooded figure in an electric chair), Rolls-Royces (four were purchased to celebrate Snoop Doggy Dogg's acquittal on murder charges), and lots of women. Before Tupac, a knowledgeable insider pointed out, "Death Row had not

had a real star. They had Snoop and Dre—they're entertainers. Snoop could be sitting quietly over there in a corner—he gestured to one end of the restaurant we were sitting in—but if Tupac were here he would create such a ruckus. People would be saying, 'That's Tupac!' He had star aura. Suge saw that, and he liked that. All of a sudden, there were all these pictures of Suge, together with Tupac, feeding off each other."

ONCE Tupac came out of prison and joined Death Row, he probably did more to stoke the flames of a much publicized feud between East and West Coast rappers than anyone. For all the posturing and the displays of bravado and the aspersions cast on everyone's integrity, this was primarily a feud about money. Rap had originated in the East, but, starting in the late eighties, the gangsta rappers from Los Angeles were more successful. Then Puffy Combs's Bad Boy Records, which was based in New York, began putting out its own version of gangsta rap—which the West insisted was merely derivative. Watani Tyehimba told me that much of Tupac's anger at Biggie Smalls, Puffy's most successful rapper, was based on professional jealousy: Tupac was in jail, and Biggie's single "One More Chance" was No. 1 on the charts. In an interview in *The Source* in March, 1996, Tupac claimed he'd been sleeping with Biggie's wife, the singer Faith Evans, and he went so far as to taunt Biggie about it in a song: "I fucked your bitch, you fat motherfucker."

Some of those close to Tupac were appalled at the Faith Evans imbroglio. (She denies that such an encounter with Tupac ever took place.) "The trouble with what Pac was doing, with this East Coast-West Coast thing, was it was just something that got out of hand, a publicity thing, but brothers in the street think something is really going on, and they're gonna die for it," Syke contended. "Pac was like a person starting a fire, and it got out of control."

When the East Coast-West Coast war was simply



"Still, he might be remembered as the 'no cloning' President."

verbal, it was useful for its marketing possibilities. But it may also have played into a real, not hyped, desire for vengeance on Knight's part, since he is said to have blamed Puffy for a close friend's murder. The feud moved to a new plane at a Christmas bash in 1995, hosted by Death Row at the Château Le Blanc mansion, in the Hollywood Hills. A record promoter from New York, Mark Anthony Bell, who is an associate of Puffy Combs, is said to have been lured upstairs to a room where Knight, Tupac, and their entourage had been drinking. Bell was allegedly tied to a chair, interrogated about the killing of Suge's friend, and hounded for the address of Puffy and Puffy's mother. He is alleged to have been beaten with broken champagne bottles, and Knight is said to have urinated into a jar and told Bell to drink from it.

Bell received an estimated six-hundred-thousand-dollar settlement from Death Row, and he declined to press charges. But a friend of Bell's told me that he had reached him in Jamaica about a month after the incident, and Bell had said to him, "I'm here till I heal. They busted me up bad!" People who were with Tupac the last year of his life are not surprised that he would be involved in something like this. "When Tupac was with Suge," one friend says, "Suge would get him all stirred up, and he'd try to behave like a gangster." He recalled another incident, in the spring of 1996, when a producer said that he wanted to leave Death Row with Dr. Dre. "He came out all bloodied up," Tupac's friend said. "And Tupac was a part of that. He had to show Suge what he was made of."

"TUPAC always wanted to be a leader, not a follower," Preston Holmes, the president of Def Pictures, who had worked with Tupac in the movies "Juice" and "Gridlock'd," says. "And in order to be on top in that world, he had to act a certain way—screwing the most women, stomping the most guys, talking the most shit. But I had conversations with him in this period, when he would say, 'Gangsta rap is dead.' I think he was trying to extricate himself."



In February, Tupac had decided to start his own production company, called Euphania, and he asked his old friend Yaasmyn Fula to come to L.A. to run it. Fula began trying to organize Tupac's business affairs. "We weren't getting copies of the financial accountings," she said. "We'd ask for them, and they'd send a present"—like a car. "I felt like there was this dark cloud over us. I knew so much was wrong—but Pac would say, 'Yas, you can't keep telling me things, I know what I am doing.'" Fula felt that Afeni, from whom she was becoming estranged, had been influenced by Knight's attentions and largesse. Tupac's signing with Death Row had transformed the lives of his extended family, even more than his contract with Interscope had. "They had lived lives of scarcity, worrying about the next meal, worrying about how to pay the rent," Fula says, but now they stayed at the elegant Westwood Marquis hotel for several months, racking up an "astronomical" bill. "Pac felt he was cursed with this dysfunctional family," Fula says, "although he loved them. And as his success grew, especially in the last year, this presence grew. They were always there."

Afeni Shakur says that "Death Row in the beginning treated us much better

than Interscope had." But she suggests that she was not oblivious of the dark side of Knight and Death Row. She told me that Tupac had not allowed either Syke or Tupac's young cousins—the Outlawz, who travelled with him and whom he supported (and one of whom, Yafeu Fula, Yaasmyn's son, was shot and killed two months after Tupac's murder)—to sign with Death Row, because he "didn't want any of them to live in bondage." She also told me that when Tupac encouraged her to go out socially with Knight's mother, she believed that he was doing that in order to protect her. "Suge's mother was very nice," Afeni said, "but I never gave her my phone number. We both understood it was the rules of war."

The document that Kenner had drafted and Tupac had signed in prison stipulated not only that he would become an artist for Death Row but also that Knight would become his manager and Kenner his lawyer. For Kenner, Death Row's lawyer, also to represent Tupac was at best bad judgment and at worst a clear case of conflict of interest. And if Kenner possessed an ownership interest in Death Row as well, something which has long been rumored in Los Angeles music-industry circles but



which Kenner has consistently denied, the conflict would be even more patent. It also might explain how he—a white criminal-defense lawyer who in the eighties handled some of L.A.'s most high-profile drug, racketeering, and murder cases but had virtually no experience in entertainment law—could have emerged at the top of one of the hottest black-music record labels.

Kenner's entrée, it now seems plain, came through Michael Harris. Paul Palladino, a private investigator who has worked closely with Kenner for years, told me that back in 1991 or so "David was representing Michael Harris on his appeal, and Harris introduced him to Suge." In his unfiled complaint against Death Row and Interscope, Harris alleged that he had had a prison meeting in September, 1991, with Kenner and Knight, to discuss the terms of his investment in what would become Death Row. Harris and Knight were to be equal partners, he alleged, and Kenner was to set up the corporation and help Knight manage it. (Knight and Kenner deny this.) In its first couple of years, other lawyers who were retained by Death Row told me, Kenner was doing its criminal-defense work, and he did not appear to have a broader role. But by

1995 he was, some thought, the proverbial power behind the throne. To many of Tupac's friends, the relationship between Knight and Kenner fit a familiar pattern: a black gangster who has access to the streets works in consort with a white player who is connected to levers of power in the world at large. Knight might wear a ring with the initials "M.O.B."—"Member of Bloods"—but in their eyes Kenner was the real thing.

DAVID KENNER began to represent Tupac as his entertainment lawyer and as his lawyer for civil and criminal cases in California, but Tupac asked Charles Ogletree to continue to represent him as well. Ogletree told me that he repeatedly wrote letters to Death Row, asking to see the contract Tupac had signed with Death Row in prison and to negotiate a formal contract under more conscionable circumstances; but all his efforts, he said, were "met with silence, diversions, and outright misrepresentations."

Ogletree was also handicapped in his efforts to carry out Tupac's instructions to settle some of his numerous civil lawsuits. "Tupac came out of jail with no money. He would say, 'I want to take care of this case.' I would negotiate a settlement; he would say, 'Good, Death

Row has my money, tell them to send the check.'" When the check didn't come, Ogletree continued, "I would call Kenner. He would say, 'It's in the mail.' Then, when it never arrived, he would say he was sending it FedEx. Then, when it didn't arrive, he would say he'd wire it." Ogletree added, "We should have been able to close the deal, but it was never possible. We had to go through the record company. It was as though he had no life except that given to him by Death Row."

By the late spring, Ogletree says, Tupac was carefully plotting his escape. "He had Euphania, he had the Outlawz, he had his movie deals—he was building something that was all to be part of one entity. . . . He had a strategy—the idea was to maintain a friendly relationship with Suge but to separate his business." The precedent of Dr. Dre's departure from Death Row did not seem especially encouraging. A music-business executive who was friendly with Dre says that Dre left because he was uncomfortable with Knight's "business practices." Dre abandoned his interest in the company in return for a relatively modest financial settlement, and Interscope facilitated the divorce by giving him a lucrative new contract. "Look at Dre," Ogletree says. "Such a brilliant, creative musician. He started Death Row, and in order to get out he had to give up almost everything. . . . Now, what would it take for Tupac, the hottest star around, whose success was only growing?" From a legal standpoint, Ogletree said, it was not so difficult; the contract signed in prison could be challenged. "But you have to live after that. . . . It was a question of how to walk away with your limbs attached and bodily functions operating."

"I remember seeing him just before his twenty-fifth birthday," Ogletree continued. "He felt it was a glorious day. He never imagined he'd live to be twenty-five—but there was a sadness in his eyes, because he still had these chains binding him. This was not where he wanted to be. I said, 'You can be anything you want to be.' He said, 'Can I be a lawyer?' I said, 'You'd be a damn good lawyer!' I sent him a Harvard Law School sweatshirt."

Through most of the summer, Tupac was on the set of "Gang Related," a film in which he was costarring with Jim

Belushi. The night it wrapped, Tupac celebrated by taking one of his lawyers, Shawn Chapman, to dinner at the Peninsula Hotel in Beverly Hills. He had been seeing a lot of Kidada Jones, Quincy Jones's daughter, but that didn't deter him from flirting with Chapman. She remembers him driving away from the Peninsula in his midnight-blue Rolls-Royce with the top down, playing Sinatra's "Fly Me to the Moon." It was a romantic and lighthearted interlude—and a stark contrast to the grave business Tupac was transacting.

Just a few days earlier, on August 27th, Tupac had severed a critical tie to Death Row. "He had been on the set all day, and in the studio all night," Fula recalls. "He sent us to the studio to get cassettes of what he'd done the night before—he wanted to listen to it. They said no, that Kenner wouldn't allow it. Pac went crazy! He fired Kenner... I typed the letter... and he gave me permission to hire another lawyer."

"Tupac waited far longer than I wanted him to," Ogletree says. But, to Tupac's more streetwise friends, firing Kenner seems impossibly rash. Syke didn't know that had happened until I told him, and when I did he looked at me for a long moment, as if he was having difficulty processing what I had said. Then he murmured—repeatedly—"He fired Kenner?"

"Tupac was brilliant, but he wasn't smart," another friend says. "He didn't realize, or he refused to accept, what anyone from the street would have known—that you *can't* fire Kenner, you don't leave Death Row." Suge Knight is said now to maintain that Tupac's differences were with Kenner, not with him.

Knight had planned a big party at his Las Vegas club, 662 (on a phone pad the numbers spell "M.O.B."), on September 7th, following the heavyweight-boxing-title fight between Mike Tyson and Bruce Seldon. Tupac was supposed to attend with the Death Row contingent. He had just got back to L.A. from New York that morning, and he decided he was not going to Las Vegas; he told Fula he was going to Atlanta to settle problems with some relatives there, instead. But just a few hours later she learned that he had changed his plans; Knight had persuaded him to go to Las Vegas after all.

After the almost nonexistent fight—Tyson knocked Seldon out in less than two minutes—Knight, Tupac, and their entourage were on the way out of the M.G.M. Grand when they came upon Orlando Anderson, a reputed member of the Southside Crips, the Bloods' longstanding enemies. According to an affidavit that would later be filed by a detective with the Compton Police Department, some Crips had robbed a member of Death Row of his company medallion a month or so earlier; now, in the hotel, the victim is said to have whispered to Tupac that Anderson was the thief. Tupac, predictably, took off after Anderson, followed by Knight and the rest of the Death Row entourage; they set upon him, beating and kicking him, until hotel security guards arrived and broke up the melee.

Tupac went to his hotel briefly, then rejoined the others; about two hours after the fight, they were on their way to Knight's club, in a long convoy of cars. Afeni Shakur says that Kidada Jones, who was in Las Vegas that night, told her that Tupac had wanted to drive his Hummer, which is akin to a combat vehicle; but Knight, insisting that they had things to discuss, had prevailed upon Tupac to ride with him. Knight drove his black B.M.W., and Tupac rode in the front passenger seat, with his window down. A former Death Row bodyguard told me that the situation was aberrant; ordinarily, an armed bodyguard would have been riding with them, and additional armed bodyguards would follow in the car behind. This night, however, Knight and Tupac rode alone. The Outlawz were in the car behind them, with a bodyguard who was unarmed.

A white Cadillac pulled up alongside Knight's B.M.W. and a black man who was riding in it fired about thirteen shots from a .40-calibre Glock pistol into the passenger side, hitting Tupac, who struggled to get into the back seat. Knight (by his own account in a subsequent police interview) pulled him down. Tupac was hit four times; Knight's forehead was

grazed. (He would later maintain he had a bullet lodged in his head.) At the hospital, Tupac went into emergency surgery, where doctors removed one shattered lung, and he was listed in critical condition. According to his mother and others who saw him over the next several days, he was first unconscious and then, because he was so agitated, he was heavily sedated. Knight, interviewed several weeks later by *Time* magazine, claimed that when he was sitting on Tupac's bed, Tupac "called out to me and said he loved me."

Tupac died on the afternoon of September 13th. Afeni says that doctors tried to resuscitate him several times, and that she then told them not to try again. She later told me that when he was thrashing about she surmised that he was trying to tell one of his cousins that he wanted him to "pull the plug." She also said repeatedly that "Tupac would not have wanted to live as an invalid."

ON March 9th, six months after Tupac was murdered in Las Vegas, Biggie Smalls, who had been singled out by Tupac as a traitor and mortal enemy, was shot in his car as he left a music-industry party in Los Angeles. No arrests have been made in either Tupac's or Biggie's murder. While the Las Vegas police would appear to have been almost lackadaisical in their approach to Tupac's murder (they made only a perfunctory attempt to question Tupac's cousins, who were riding in the car behind Knight's, for example), it is also true that in that group of witnesses—and among their peers—giving information to the police is taboo. When Knight was interviewed on "Primetime Live," he said that even if he knew who had shot Tupac, he would not say. "I don't get paid to solve homicides," he declared.

There have been many theories about who killed Tupac; one of the most prevalent rumors, which began to circulate shortly after Tupac was shot and has persisted to this day, is that Knight himself had something to do with Tupac's murder. In mid-March he gave an interview from jail to "America's Most Wanted" and said that he had not been involved. But many of those who were close to Tupac continue to suspect—based only on circumstantial evidence and their understanding of the street—that it was his



attempt to leave Death Row that led to his death. Dre had managed to do it, but only by relinquishing any claim on Death Row. A music-business veteran who is close to Dre told me that "if Tupac had left Death Row... it would have been worse than devastating—it's an insult. It's a public slap in the face. It is not tolerable. 'I've made you and you're going to leave me? And six months after Dre did it?' In another culture," he concluded, "people sue you."

In the last few months, Knight has been buffeted by one damaging revelation after another. The *Los Angeles Times* reported in October that he had given a recording contract to the daughter of the deputy district attorney Lawrence Longo, who had helped strike his probation deal in the assault case, and also that David Kenner had rented a nineteen-thousand-dollar-a-month Malibu Colony house from the Longo family and that Knight had stayed in it. (Longo denies any wrongdoing.) Then, in December, the *Los Angeles Times* reported that Steve Cantrock, Death Row's accountant and a principal in the L.A. office of Gelfand, Rennert & Feldman, a division of Coopers & Lybrand, had signed a document saying that he stole four and a half million dollars from Death Row. Cantrock was said to have told federal investigators that he had been invited to a San Fernando Valley house where Knight, Kenner, and others were gathered, that he had been forced to his knees and, fearing for his life, signed the handwritten confession that Kenner had drafted on the spot. (Knight says that no force was involved. Cantrock denies stealing the money.) Cantrock, who is in hiding, has since been forced out by his firm. He has also been reported to have been an intermediary between Knight and alleged organized-crime figures; federal investigators have reportedly been examining possible links between Death Row and organized-crime families in New York and Chicago. When federal grand jury subpoenas were sent out last February, they focussed not only on Knight's role but on Kenner's as well.

In mid-April, Afeni Shakur filed a racketeering suit against Death Row, Suge Knight, and David Kenner, alleging that they were engaged in a conspiracy to steal from Tupac. The suit included a claim against Kenner for

malpractice and breach of fiduciary duty, charging that his "purported representation of Tupac was in hopeless conflict" with his own interests—inasmuch as Kenner, the suit alleges, was both an attorney for Death Row and an owner of it. Several people close to the situation say that the suit is on the verge of being settled, and that Interscope has helped to make that possible.

Since Tupac's death, Interscope has repeatedly sought to mollify Afeni. In October, when she found Knight and Kenner unresponsive and she was threatening to block the release of Tupac's last album unless she got an accounting of the money due to him, it was Jimmy Iovine who met with Afeni and her lawyer, Richard Fischbein, and agreed that Interscope would pay her an immediate three million dollars with more to come. And it was Interscope, not Death Row, that underwrote a memorial service for Tupac in Atlanta in November.

Interscope has, in a way, been a model of corporate responsibility. Indeed, in a strictly corporate sense it has done more than was required. Tupac was not officially Interscope's artist, after all. But Interscope executives may feel a level of responsibility for having pushed Tupac into Suge's arms. And there is also a compelling business rationale for Interscope to do everything possible to quell the skirmishing between Tupac's estate and Death Row. As one lawyer close to the situation points out, if Afeni didn't get what she wanted from Death Row she would surely sue not only Death Row but Interscope as well, on the theory that the companies were so closely related as to have shared exposure. Being subject to a legal process of discovery on this issue could hardly have been an attractive prospect for Interscope—particularly in light of the ongoing criminal probe of Death Row.

IF Interscope escapes unscathed in the federal probe, Suge Knight's undoing could well prove a boon. "Joint ventures are only as successful as the operators are frugal," an executive close to Interscope points out, and at Death Row the spending was "obscene." "If they can shift the Death Row assets within Interscope, they'll come out

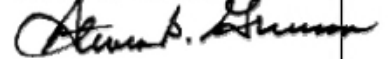
smelling like roses—and not have the wild card of Suge and Kenner." A couple of months ago, it was reported that Seagram, the parent of Universal, is considering buying, for three hundred and fifty million dollars, the half of Interscope that Universal does not already own. This would mean a colossal profit for Iovine and Field.

To many blacks in the music business, the lack of congruency in this particular morality tale is bitterly familiar. Suge Knight has retained Milton Grimes, who defended Rodney King, to represent him in the federal investigation. Grimes argues that Death Row did not operate in a vacuum. "Their money came from Interscope, and from MCA, and they"—Interscope—"were hands-on. So if there are going to be indictments, let them take on the industry—not just this one black business."

That Interscope is widely regarded as the most successful new label since Geffen Records cannot be attributed solely to its affiliation with Death Row. Interscope has hugely successful rock groups, including Nine Inch Nails, Bush, and the Wallflowers, and the pop groups No Doubt and God's Property. But it was Death Row that rescued them from their early doldrums and that delivered one multi-platinum album after another. And the legacy of Death Row to Interscope is a rich one. "Death Row served an amazing purpose for Interscope," an entertainment executive told me. "It helped put them in the black-music business. Today, no matter what happens, they have that. People in that community feel that they gave a black man power. They gave a black man autonomy. They gave a black man money."

Iovine and Field did bet on Suge Knight and Dre when other companies would not. They have justified what they did by alluding to the First Amendment, and to their belief in giving a chance to black artists and entrepreneurs from the street. But Death Row was no enterprise zone. And anyone who got near it could have predicted that there would be a price to pay for its cultivation of gangsterism—in lyrics, in social conduct, and perhaps in business practices as well.

Tupac, of course, paid the heaviest price of all. ♦



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DISTRICT COURT

CLARK COUNTY, NEVADA

THE CENTER FOR INVESTIGATIVE
REPORTING INC., a California Nonprofit
Organization,

Petitioner,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

CASE NO.: A-18-773883-W
DEPT. NO.: XXXI

Hearing Date: May 15, 2018
Hearing Time: 9:00 a.m.

**REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF MANDAMUS AND
INCORPORATED APPLICATION FOR ORDER AND EXPEDITED HEARING
PURSUANT TO NRS 239.011**

Petitioner The Center for Investigative Reporting Inc. ("CIR"), a California nonprofit organization, by and through its counsel, hereby submits the following Reply in Support of its Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011. CIR's Reply is based upon the papers and pleadings on file herein, the exhibits attached hereto, the Points and Authorities that follow, and any oral argument at the time of hearing.

POINTS AND AUTHORITIES

I. INTRODUCTION

*[T]here exists no rule that records can be withheld merely because they relate to an ongoing investigation. Metro still has the duty to show that the public records of the investigation are confidential.*¹

That was the express finding of the Honorable Richard F. Scotti in his March 2, 2018 Order compelling LVMPD to produce public records related to its open investigation of the October 1, 2017 shooting at the Route 91 Harvest Festival. In opposing the media's public records requests in connection with that incident, LVMPD employed the same tactics that it used in response to CIR's request for the production of public records related to the September 1996 murder of Tupac Shakur. First, LVMPD stonewalled the media's requests in violation of the unequivocal requirements of the Act. Next, LVMPD argued that its blanket withholding of public records related to the October 1 shooting was appropriate because its criminal investigation was open and active. As in this case, LVMPD attempted to meet its burden of demonstrating confidentiality with erroneous interpretations of Nevada law, hypothetical concerns about the alleged danger resulting from public disclosure, and a vague declaration from a law enforcement official. LVMPD's misguided positions (including its request for subsequent *in-camera* proceedings) were categorically rejected as Judge Scotti (and later the Honorable Stephanie Miley) compelled disclosure of the October 1 investigatory file pursuant to the Act.²

Here, LVMPD has doubled down on its baseless strategy by arguing that the Court should create a blanket prohibition against the disclosure of public records related to allegedly "open" criminal

¹ See Exhibit "1," Order Granting Amended Public Records Act Application, *American Broadcasting Corporations et al. v. Las Vegas Metropolitan Police Department*, Eighth Judicial District Court, Case No. A-17-764030-W.

² LVMPD sought extraordinary writ relief from the Nevada Supreme Court in response to this ruling, but the Nevada Supreme Court denied its request for an emergency stay and effectively mooted the appeal.

1 investigations. *See* Resp. at 8 (“[I]t is important that this Court recognize that, until a criminal
2 investigation case has concluded, the public records that are prepared and maintained in a current
3 investigation of possible criminal activity cannot be subject to disclosure.”). That is not the law. In
4 keeping with the inherent presumption of openness and liberal application of the Nevada Public
5 Records Act (“the Act”), the Nevada Supreme Court has held that investigatory records concerning
6 criminal investigations are subject to disclosure provided the public’s interest in the information
7 outweighs the narrowly construed justifications for confidentiality advanced by law enforcement. To
8 that end, LVMPD has failed to carry its heavy burden of demonstrating that each and every record
9 related to Tupac Shakur’s 22-year-old murder are confidential. As a result, the Court should grant
10 CIR’s Petition in its entirety and compel LVMPD to fully respond to CIR’s request for public records.

11 II. ARGUMENT

12 A. Public Records Related To An Allegedly “Open” Criminal Investigation Are 13 Not Confidential As A Matter Of Law.

14 LVMPD asserts “[t]he Nevada Public Records Act was never intended to provide the public
15 with access to open criminal investigations, as disclosure of a law enforcement agency’s
16 investigative file would significantly jeopardize and interfere with an investigation.” *See* Resp. at
17 2. In that regard, LVMPD asserts that “every single open criminal investigation would be available
18 for the public’s viewing” if the Court accepts CIR’s interpretation of the Act and compels the
19 production of the disputed records. LVMPD’s specious argument is based on the false premise that
20 the Nevada Supreme Court held that records pertaining to open criminal investigations are
21 confidential as a matter of law in *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630 (1990).³ As
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26 ³ Notably, LVMPD abandoned its arguments based on the federal law enforcement privilege and
27 FOIA exception for records and information compiled by law enforcement. Similarly, LVMPD
28 did not even reference *Pub. Emps. Ret. Sys. (PERS) v. Reno Newspapers*, 129 Nev. Adv. Op. 88,
313 P.3d 221 (2013) despite its prior claim that the Nevada Supreme Court’s opinion in that case
confirmed the confidentiality of records related to open criminal investigations. LVMPD’s shifting
arguments confirm the utter absence of legal support for its position.

1 demonstrated in CIR's Petition, LVMPD's argument is directly contradicted by the plain language
2 and holding of *Bradshaw*.

3 In *Bradshaw*, the Nevada Supreme Court assessed the confidentiality of an investigatory
4 report prepared by the Reno Police Department and held that investigative materials "are subject to
5 disclosure if policy considerations so warrant." 106 Nev. at 634, 798 P.2d at 147. In doing so, the
6 Nevada Supreme Court rejected the Reno Police Department's argument—which is parroted by
7 LVMPD here—that an Attorney General's opinion from 1983 and certain exceptions to NRS
8 Chapter 179A mandated the confidentiality of investigatory records maintained by law enforcement
9 agencies. *Id.* at 633-34, 798 P.2d at 145-47. Instead, the Nevada Supreme Court adopted a
10 balancing test and identified certain factors that should be considered by courts when assessing the
11 confidentiality of investigatory records under the Act. *Id.* at 635-36, 798 P.2d at 147-48.

13 Contrary to LVMPD's wishful thinking, the Nevada Supreme Court did not create a
14 distinction between open and closed criminal investigations in *Bradshaw*. To the contrary, the
15 Nevada Supreme Court clearly contemplated the possibility that the requested records may relate
16 to an open criminal investigation by instructing courts to consider the existence of anticipated (*i.e.*
17 future) criminal proceedings, revealing of confidential sources, and potential jeopardy to law
18 enforcement personnel. Accordingly, LVMPD's alarmist argument that CIR's interpretation of the
19 Act would lead to the wholesale disclosure of investigatory files "[w]hether a case has been open
20 two months or ten years" is misguided in the extreme.⁴ See Resp. at 9. Simply put, if LVMPD is
21 capable of demonstrating that the *Bradshaw* factors weigh in favor of confidentiality under the
22 particular facts of a case, then the requested investigatory records are not subject to disclosure.
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27 ⁴ Although it is not determinative of the facts of this case, CIR would simply point out that the
28 media's public records requests related to the October 1 shooting were submitted just days after the
incident, and Judge Scotti compelled disclosure in the midst of an investigation that had been open
for mere months.

1 Otherwise, LVMPD is required to produce the requested investigatory records pursuant to the Act.
2 This case falls into the latter category, and the Court should decline LVMPD's invitation to adopt
3 the same arguments that were rejected by the Nevada Supreme Court in *Bradshaw* almost 30 years
4 ago.

5 **B. LVMPD Has Failed To Meet Its Burden Of Demonstrating That Records**
6 **Related To Tupac Shakur's 1996 Murder Are Confidential Under The Act.**

7 Before turning to LVMPD's analysis of the *Bradshaw* factors (or lack thereof), CIR must
8 again note that LVMPD bears the burden of proving that each and every requested record is
9 confidential by a preponderance of the evidence. *Reno Newspapers v. Sheriff*, 126 Nev. 211, 215,
10 234 P.3d 922, 925 (2010). The Court presumes that the requested records are subject to disclosure
11 because "open records are the rule, and any nondisclosure of records is the exception." *Reno*
12 *Newspapers v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 627 (2011). Moreover, "by virtue of the
13 2007 amendments to the [Act], the balancing test under *Bradshaw* now requires a narrower
14 interpretation of private or government interests promoting confidentiality or nondisclosure to be
15 weighed against the liberal policy for an open and accessible government." *Id.* "More specifically,
16 in order for requested records to be withheld under this balancing test, the state entity bears the
17 burden to prove that its interest in nondisclosure clearly outweighs the public's right to access." *Id.*
18 at 880, 266 P.3d at 627.
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21 As to the *Bradshaw* factors, LVMPD cannot dispute that there is no pending or anticipated
22 criminal proceeding; nor can it claim that a hypothetical suspect's right to a fair trial—that is
23 nowhere in sight and may never occur—will be impacted by the release of the requested records.
24 Similarly, LVMPD does not allege that the disclosure of the records related to Tupac Shakur's
25 decades-old murder will result in potential jeopardy to law enforcement personnel. While LVMPD
26 makes vague references to the possible existence of "person(s) of interest and potential suspects,"
27 these justifications are entirely "hypothetical and speculative," which is patently insufficient to
28

1 establish confidentiality under the Act. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116
2 Nev. at 628, 6 P.3d at 472-73 (“Rather, the County seeks to meet its burden by voicing non-
3 particularized hypothetical concerns.”); *Gibbons*, 127 Nev. at 880, 266 P.3d at 628 (“[O]ur caselaw
4 stresses that the state entity cannot meet this burden with a non-particularized showing or by
5 expressing hypothetical concerns.”) (internal citations omitted). As such, it is undisputed that three
6 out of the four enumerated *Bradshaw* factors clearly weigh in favor of disclosure.

7
8 LVMPD’s defense rests entirely on Detective Clifford H. Mogg’s claim that he is “in the
9 process of scheduling additional witness interviews in the coming weeks/months” and the
10 “[d]isclosure of the information contained in LVMPD’s investigative file will jeopardize LVMPD’s
11 entire investigation and has the potential to interfere with enforcement proceedings.” *See* Resp. at
12 Ex. A. With all due respect to Detective Mogg, his non-specific and extraordinarily vague
13 representations about witness interviews that may or may not be scheduled sometime in the next
14 few months and have “the potential to lead to criminal proceedings” are insufficient to meet
15 LVMPD’s heavy burden under the Act. *Id.* Similarly, Detective Mogg’s suppositions about
16 possible witness tampering and potential interference with enforcement proceedings are
17 hypothetical and speculative. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116 Nev. at
18 628, 6 P.3d at 472-73; *Gibbons*, 127 Nev. at 880, 266 P.3d at 628. Detective Mogg’s conclusory
19 declaration barely allows CIR and the Court to assess the basis of LVMPD’s claim of
20 confidentiality, and is certainly insufficient to meet LVMPD’s heavy burden under the Act.
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23 In reality, Detective Mogg’s declaration only raises additional questions about LVMPD’s
24 dubious claim that the investigation into Tupac Shakur’s 1996 murder is open and active. As to the
25 purported witness interviews, Detective Mogg does not state whether such interviews have, in fact,
26 been scheduled or whether his contact with the potential interviewees preceded CIR’s public
27 records request under the Act. More importantly, Detective Mogg does not provide any historical
28 information about the level of activity in LVMPD’s investigation of Tupac Shakur’s murder prior

1 to CIR's public records request. Suffice it to say, LVMPD cannot prevent disclosure under the Act
2 if it was not actively investigating the murder of Tupac Shakur prior to CIR's public records request
3 and only took action to thwart disclosure under the Act. Regardless, the mere fact that Detective
4 Mogg is "in the process"—an exceedingly vague description in and of itself—of scheduling witness
5 interviews does not create an inference let alone establish that LVMPD's investigation is open and
6 active.

7
8 There is simply no valid basis to preclude disclosure of LVMPD's records pertaining to the
9 murder of Tupac Shakur. Orlando Anderson, the primary suspect in the killing, and Yafeu Fula,
10 the only witness at the scene who claimed to be able to identify the assailant, have been dead for
11 two decades along with numerous other witnesses. *See* Petition, Exs. 9 and 11. LVMPD does not
12 dispute that its investigation was at a "standstill" just one year after the murder, which makes it
13 exceedingly hard to believe that the investigation has broken new ground in 2018. While LVMPD
14 may still receive "tips" about Tupac Shakur's murder (just as law enforcement agencies continue
15 to receive tips about the disappearance of Jimmy Hoffa),⁵ such sporadic and amorphous activity
16 does not establish the existence of an open investigation. Nor does it rise to the level of a policy
17 justification that would preclude disclosure. LVMPD's submission of Detective Mogg's two-page
18 declaration paired with speculative attorney argument about the potential dangers of disclosure does
19 not meet the heavy burden required to overcome the presumption of openness under the Act.
20

21 **C. LVMPD's Blanket Withholding Of Each And Every Record Related To The**
22 **Murder Of Tupac Shakur Is Wholly Improper.**

23 Noticeably absent from LVMPD's Response is any explanation of why each piece of
24 information in its investigatory file is confidential and not subject to disclosure under the Act. In
25
26

27
28 ⁵ To be clear, the FBI released its investigatory file regarding the disappearance of Jimmy Hoffa
in 2002. *See* FBI Records: The Vault regarding Jimmy Hoffa, *available at*
<https://vault.fbi.gov/jimmy-hoffa>.

1 that regard, LVMPD failed to address why redaction would not address its purported concern that
2 the wholesale release of the records would jeopardize its allegedly “open” investigation. The Act
3 explicitly provides “that the records should be redacted and the remaining document [made] open
4 to inspection” in the event some, but not all, of the requested records are confidential. *Reno*
5 *Newspapers*, 126 Nev. at 219-20, 234 P.3d at 927-28 (applying NRS 239.010(3) and compelling
6 production of public records with redactions of confidential information).

7
8 It is inconceivable that every piece of information in the investigatory file is confidential
9 under the stringent standards of the Act. Nevertheless, LVMPD made no effort to review the
10 records, redact allegedly confidential information, and produce the remaining portions as required
11 by NRS 239.010(3).⁶ While CIR disputes LVMPD’s assertion that the FBI’s investigation did not
12 involve Tupac Shakur’s murder, *see* Resp. at 4-5, the fact that the FBI released its investigatory file
13 with redactions demonstrates that there is likely abundant information in LVMPD’s records that is
14 not confidential.⁷ Accordingly, the Court should, at a minimum, require LVMPD to produce a
15

16
17
18 ⁶ CIR also disagrees with LVMPD’s suggestion that it is not required to produce a log identifying
19 the withheld documents pursuant to *Gibbons*. *See* Resp. at 10. The Nevada Supreme Court
20 expressly held that “after the commencement of a NPRA lawsuit, the requesting party generally is
21 entitled to a log unless, for example, the state entity withholding the records demonstrates that the
22 requesting party has sufficient information to meaningfully contest the claim of confidentiality
23 without a log.” *Id.* at 882-83, 266 P.3d at 629. LVMPD does not even try to argue that CIR can
24 meaningfully contest its claim of confidentiality in the absence of a log. Rather, LVMPD cursorily
25 asserts that the same confidentiality reasons that preclude disclosure of the records also inhibit the
26 production of a log. *See* Resp. at 10. While LVMPD’s attempt to demonstrate confidentiality under
27 the Act is woefully deficient, LVMPD’s claim that CIR should be required to “blindly argue for
28 disclosure not only runs contrary to the spirit of the NPRA and our NPRA jurisprudence but it
seriously distorts the traditional adversary nature of our legal system’s form of dispute resolution.”
Gibbons, 127 Nev. at 882, 266 P.3d at 629. This is just another example of LVMPD’s total
disregard for its obligations under the Act.

⁷ As to LVMPD’s claim that the FBI did not actually investigate Tupac Shakur’s murder—despite
collecting information related to the murder—the FBI also released hundreds of pages from its
investigatory file regarding the March 1997 unsolved murder of Christopher Wallace aka Notorious
B.I.G. While the FBI may have focused on the extortion angle in relation to Tupac Shakur, there
is no question that the FBI’s investigation of the murder of Christopher Wallace concerned the

1 redacted version of its investigatory file regarding the murder of Tupac Shakur in the unlikely event
2 it finds that LVMPD raised a valid law enforcement interest that warrants confidentiality over some
3 limited information.

4 **D. The Court Should Deny LVMPD's Request For A One-Sided *In-Camera***
5 **Hearing.**

6 CIR objects to LVMPD's request for an *in-camera* hearing or any other supplemental
7 proceedings in which Detective Mogg is permitted to provide additional testimony regarding the
8 status of LVMPD's investigation. LVMPD had ample opportunity to meet its burden under the Act
9 and chose to rely exclusively on the cursory and vague two-page declaration of Detective Mogg.
10 LVMPD easily could have provided general information regarding the past and current level of
11 activity in its investigation without disclosing the specific details that it seeks to protect, yet it made
12 no attempt to do so. LVMPD should not get a second bite of the apple and be allowed to delay this
13 proceeding any further.

14
15 To the extent the Court is inclined to entertain LVMPD's request for additional proceedings
16 in which Detective Mogg will provide live testimony, CIR requests that its counsel be permitted to
17 attend and cross-examine Detective Mogg. CIR submits that it would be highly inequitable and
18 contrary to the adversarial process to allow Detective Mogg to give unchallenged testimony about
19 the state of LVMPD's investigation. LVMPD clearly seeks to thwart CIR's ability to obtain any
20 information regarding LVMPD's investigation into the murder of Tupac Shakur, which directly
21 contradicts the policy and law underlying the Act.
22

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28 killing itself. See FBI Records: The Vault regarding Christopher Wallace, available at
[https://vault.fbi.gov/Christopher%20\(Biggie%20Smalls\)%20Wallace%20](https://vault.fbi.gov/Christopher%20(Biggie%20Smalls)%20Wallace%20).

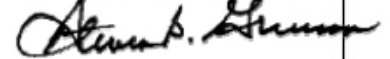
CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 14th day of May, 2018, submit for service upon the following attorneys in this action a copy of the foregoing **Reply in Support of Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011** by the Court's ECF System through Wiznet:

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By: /s/ Lucinda Martinez
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Attorneys for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

THE CENTER FOR INVESTIGATIVE
REPORTING INC., a California Nonprofit
Organization,

Petitioner,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

CASE NO.: A-18-773883-W
DEPT. NO.: XXXI

Hearing Date: May 15, 2018
Hearing Time: 9:00 a.m.

**NOTICE OF ERRATA TO REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT
OF MANDAMUS AND INCORPORATED APPLICATION FOR ORDER AND
EXPEDITED HEARING PURSUANT TO NRS 239.011**

PLEASE TAKE NOTICE that The Center for Investigative Reporting ("CIR") hereby
provides the corrected version of its Reply in Support of its Verified Petition for Writ of Mandamus
and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011.

.....

.....

.....

1 CIR inadvertently excluded Exhibit 1 to its Reply and the corrected version of the filing is
2 attached hereto.

3 DATED this 14th day of May, 2018.

4 CAMPBELL & WILLIAMS

5 By /s/ Philip R. Erwin

6 PHILIP R. ERWIN, ESQ. (11563)
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8 700 South Seventh Street
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10 Attorneys for Petitioner
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CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 14th day of May, 2018, submit for service upon the following attorneys in this action a copy of the foregoing **Notice of Errata to Reply in Support of Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011** by the Court's ECF System through Wiznet:

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DISTRICT COURT

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**REPLY IN SUPPORT OF VERIFIED PETITION FOR WRIT OF MANDAMUS AND
INCORPORATED APPLICATION FOR ORDER AND EXPEDITED HEARING
PURSUANT TO NRS 239.011**

Petitioner The Center for Investigative Reporting Inc. ("CIR"), a California nonprofit organization, by and through its counsel, hereby submits the following Reply in Support of its Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011. CIR's Reply is based upon the papers and pleadings on file herein, the exhibits attached hereto, the Points and Authorities that follow, and any oral argument at the time of hearing.

POINTS AND AUTHORITIES

I. INTRODUCTION

*[T]here exists no rule that records can be withheld merely because they relate to an ongoing investigation. Metro still has the duty to show that the public records of the investigation are confidential.*¹

That was the express finding of the Honorable Richard F. Scotti in his March 2, 2018 Order compelling LVMPD to produce public records related to its open investigation of the October 1, 2017 shooting at the Route 91 Harvest Festival. In opposing the media's public records requests in connection with that incident, LVMPD employed the same tactics that it used in response to CIR's request for the production of public records related to the September 1996 murder of Tupac Shakur. First, LVMPD stonewalled the media's requests in violation of the unequivocal requirements of the Act. Next, LVMPD argued that its blanket withholding of public records related to the October 1 shooting was appropriate because its criminal investigation was open and active. As in this case, LVMPD attempted to meet its burden of demonstrating confidentiality with erroneous interpretations of Nevada law, hypothetical concerns about the alleged danger resulting from public disclosure, and a vague declaration from a law enforcement official. LVMPD's misguided positions (including its request for subsequent *in-camera* proceedings) were categorically rejected as Judge Scotti (and later the Honorable Stephanie Miley) compelled disclosure of the October 1 investigatory file pursuant to the Act.²

Here, LVMPD has doubled down on its baseless strategy by arguing that the Court should create a blanket prohibition against the disclosure of public records related to allegedly "open" criminal

¹ See Exhibit "1," Order Granting Amended Public Records Act Application, *American Broadcasting Corporations et al. v. Las Vegas Metropolitan Police Department*, Eighth Judicial District Court, Case No. A-17-764030-W.

² LVMPD sought extraordinary writ relief from the Nevada Supreme Court in response to this ruling, but the Nevada Supreme Court denied its request for an emergency stay and effectively mooted the appeal.

1 investigations. *See* Resp. at 8 (“[I]t is important that this Court recognize that, until a criminal
2 investigation case has concluded, the public records that are prepared and maintained in a current
3 investigation of possible criminal activity cannot be subject to disclosure.”). That is not the law. In
4 keeping with the inherent presumption of openness and liberal application of the Nevada Public
5 Records Act (“the Act”), the Nevada Supreme Court has held that investigatory records concerning
6 criminal investigations are subject to disclosure provided the public’s interest in the information
7 outweighs the narrowly construed justifications for confidentiality advanced by law enforcement. To
8 that end, LVMPD has failed to carry its heavy burden of demonstrating that each and every record
9 related to Tupac Shakur’s 22-year-old murder are confidential. As a result, the Court should grant
10 CIR’s Petition in its entirety and compel LVMPD to fully respond to CIR’s request for public records.

11 II. ARGUMENT

12 A. Public Records Related To An Allegedly “Open” Criminal Investigation Are 13 Not Confidential As A Matter Of Law.

14 LVMPD asserts “[t]he Nevada Public Records Act was never intended to provide the public
15 with access to open criminal investigations, as disclosure of a law enforcement agency’s
16 investigative file would significantly jeopardize and interfere with an investigation.” *See* Resp. at
17 2. In that regard, LVMPD asserts that “every single open criminal investigation would be available
18 for the public’s viewing” if the Court accepts CIR’s interpretation of the Act and compels the
19 production of the disputed records. LVMPD’s specious argument is based on the false premise that
20 the Nevada Supreme Court held that records pertaining to open criminal investigations are
21 confidential as a matter of law in *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630 (1990).³ As
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24

25
26 ³ Notably, LVMPD abandoned its arguments based on the federal law enforcement privilege and
27 FOIA exception for records and information compiled by law enforcement. Similarly, LVMPD
28 did not even reference *Pub. Emps. Ret. Sys. (PERS) v. Reno Newspapers*, 129 Nev. Adv. Op. 88,
313 P.3d 221 (2013) despite its prior claim that the Nevada Supreme Court’s opinion in that case
confirmed the confidentiality of records related to open criminal investigations. LVMPD’s shifting
arguments confirm the utter absence of legal support for its position.

1 demonstrated in CIR's Petition, LVMPD's argument is directly contradicted by the plain language
2 and holding of *Bradshaw*.

3 In *Bradshaw*, the Nevada Supreme Court assessed the confidentiality of an investigatory
4 report prepared by the Reno Police Department and held that investigative materials "are subject to
5 disclosure if policy considerations so warrant." 106 Nev. at 634, 798 P.2d at 147. In doing so, the
6 Nevada Supreme Court rejected the Reno Police Department's argument—which is parroted by
7 LVMPD here—that an Attorney General's opinion from 1983 and certain exceptions to NRS
8 Chapter 179A mandated the confidentiality of investigatory records maintained by law enforcement
9 agencies. *Id.* at 633-34, 798 P.2d at 145-47. Instead, the Nevada Supreme Court adopted a
10 balancing test and identified certain factors that should be considered by courts when assessing the
11 confidentiality of investigatory records under the Act. *Id.* at 635-36, 798 P.2d at 147-48.

13 Contrary to LVMPD's wishful thinking, the Nevada Supreme Court did not create a
14 distinction between open and closed criminal investigations in *Bradshaw*. To the contrary, the
15 Nevada Supreme Court clearly contemplated the possibility that the requested records may relate
16 to an open criminal investigation by instructing courts to consider the existence of anticipated (*i.e.*
17 future) criminal proceedings, revealing of confidential sources, and potential jeopardy to law
18 enforcement personnel. Accordingly, LVMPD's alarmist argument that CIR's interpretation of the
19 Act would lead to the wholesale disclosure of investigatory files "[w]hether a case has been open
20 two months or ten years" is misguided in the extreme.⁴ See Resp. at 9. Simply put, if LVMPD is
21 capable of demonstrating that the *Bradshaw* factors weigh in favor of confidentiality under the
22 particular facts of a case, then the requested investigatory records are not subject to disclosure.
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27 ⁴ Although it is not determinative of the facts of this case, CIR would simply point out that the
28 media's public records requests related to the October 1 shooting were submitted just days after the
incident, and Judge Scotti compelled disclosure in the midst of an investigation that had been open
for mere months.

1 Otherwise, LVMPD is required to produce the requested investigatory records pursuant to the Act.
2 This case falls into the latter category, and the Court should decline LVMPD's invitation to adopt
3 the same arguments that were rejected by the Nevada Supreme Court in *Bradshaw* almost 30 years
4 ago.

5 **B. LVMPD Has Failed To Meet Its Burden Of Demonstrating That Records**
6 **Related To Tupac Shakur's 1996 Murder Are Confidential Under The Act.**

7 Before turning to LVMPD's analysis of the *Bradshaw* factors (or lack thereof), CIR must
8 again note that LVMPD bears the burden of proving that each and every requested record is
9 confidential by a preponderance of the evidence. *Reno Newspapers v. Sheriff*, 126 Nev. 211, 215,
10 234 P.3d 922, 925 (2010). The Court presumes that the requested records are subject to disclosure
11 because "open records are the rule, and any nondisclosure of records is the exception." *Reno*
12 *Newspapers v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 627 (2011). Moreover, "by virtue of the
13 2007 amendments to the [Act], the balancing test under *Bradshaw* now requires a narrower
14 interpretation of private or government interests promoting confidentiality or nondisclosure to be
15 weighed against the liberal policy for an open and accessible government." *Id.* "More specifically,
16 in order for requested records to be withheld under this balancing test, the state entity bears the
17 burden to prove that its interest in nondisclosure clearly outweighs the public's right to access." *Id.*
18 at 880, 266 P.3d at 627.

19
20
21 As to the *Bradshaw* factors, LVMPD cannot dispute that there is no pending or anticipated
22 criminal proceeding; nor can it claim that a hypothetical suspect's right to a fair trial—that is
23 nowhere in sight and may never occur—will be impacted by the release of the requested records.
24 Similarly, LVMPD does not allege that the disclosure of the records related to Tupac Shakur's
25 decades-old murder will result in potential jeopardy to law enforcement personnel. While LVMPD
26 makes vague references to the possible existence of "person(s) of interest and potential suspects,"
27 these justifications are entirely "hypothetical and speculative," which is patently insufficient to
28

1 establish confidentiality under the Act. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116
2 Nev. at 628, 6 P.3d at 472-73 (“Rather, the County seeks to meet its burden by voicing non-
3 particularized hypothetical concerns.”); *Gibbons*, 127 Nev. at 880, 266 P.3d at 628 (“[O]ur caselaw
4 stresses that the state entity cannot meet this burden with a non-particularized showing or by
5 expressing hypothetical concerns.”) (internal citations omitted). As such, it is undisputed that three
6 out of the four enumerated *Bradshaw* factors clearly weigh in favor of disclosure.

7
8 LVMPD’s defense rests entirely on Detective Clifford H. Mogg’s claim that he is “in the
9 process of scheduling additional witness interviews in the coming weeks/months” and the
10 “[d]isclosure of the information contained in LVMPD’s investigative file will jeopardize LVMPD’s
11 entire investigation and has the potential to interfere with enforcement proceedings.” *See* Resp. at
12 Ex. A. With all due respect to Detective Mogg, his non-specific and extraordinarily vague
13 representations about witness interviews that may or may not be scheduled sometime in the next
14 few months and have “the potential to lead to criminal proceedings” are insufficient to meet
15 LVMPD’s heavy burden under the Act. *Id.* Similarly, Detective Mogg’s suppositions about
16 possible witness tampering and potential interference with enforcement proceedings are
17 hypothetical and speculative. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116 Nev. at
18 628, 6 P.3d at 472-73; *Gibbons*, 127 Nev. at 880, 266 P.3d at 628. Detective Mogg’s conclusory
19 declaration barely allows CIR and the Court to assess the basis of LVMPD’s claim of
20 confidentiality, and is certainly insufficient to meet LVMPD’s heavy burden under the Act.
21

22
23 In reality, Detective Mogg’s declaration only raises additional questions about LVMPD’s
24 dubious claim that the investigation into Tupac Shakur’s 1996 murder is open and active. As to the
25 purported witness interviews, Detective Mogg does not state whether such interviews have, in fact,
26 been scheduled or whether his contact with the potential interviewees preceded CIR’s public
27 records request under the Act. More importantly, Detective Mogg does not provide any historical
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10 the only witness at the scene who claimed to be able to identify the assailant, have been dead for
11 two decades along with numerous other witnesses. *See* Petition, Exs. 9 and 11. LVMPD does not
12 dispute that its investigation was at a "standstill" just one year after the murder, which makes it
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14 may still receive "tips" about Tupac Shakur's murder (just as law enforcement agencies continue
15 to receive tips about the disappearance of Jimmy Hoffa),⁵ such sporadic and amorphous activity
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17 justification that would preclude disclosure. LVMPD's submission of Detective Mogg's two-page
18 declaration paired with speculative attorney argument about the potential dangers of disclosure does
19 not meet the heavy burden required to overcome the presumption of openness under the Act.
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27 ⁵ To be clear, the FBI released its investigatory file regarding the disappearance of Jimmy Hoffa
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NEWS (/NEWS)

WEATHER (/WEATHER)

TRAFFIC (/TRAFFIC) WATCHSPORTS (/SPORTS)
(/weather)

LAS VEGAS (KSNV News3LV) — There is new light touching a case buried more than thirty years ago.

The Las Vegas Metropolitan Police Department's Cold Case Unit is pursuing new information on a murder mystery from 1979.

They named her Sahara Sue. She was a Jane Doe found in an empty lot in August of 1979. Police believe she was somewhere between the ages of 16 and 21 when she was beaten and stabbed to death. She had dentures and there was pollen on her jacket which they later traced to Napa Valley or Central Valley, Calif.

RELATED LINK | [A Face on Jane Doe: New technology used in hopes of solving 1979 cold-case murder \(http://news3lv.com/news/special-reports/a-face-on-jane-doe-new-technology-used-in-hopes-of-solving-1979-cold-case-murder\)](http://news3lv.com/news/special-reports/a-face-on-jane-doe-new-technology-used-in-hopes-of-solving-1979-cold-case-murder)



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<http://news3lv.com/news/local/las-vegass-oldest-cold-case-gets-a-new-lead>

5/10/2018



Not much else was known or made public about the case.

That is, until August of 2016.

37 years later, police say they have a lead that tells them the girl may have gone by the name Shauna or Shawna.

That lead also tells them she may have worked at the Holiday Inn on Las Vegas Boulevard and possibly lived at a trailer park on East Lake Mead Boulevard.

They are asking for any help with the case. If you know anything that may lead to the identity of the Jane Doe, you can call 1-800-THE-LOST.

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EXHIBIT E

FEDERAL BUREAU OF INVESTIGATION

**FREEDOM OF INFORMATION
AND
PRIVACY ACTS**

SUBJECT: TUPAC SHAKUR

FEDERAL BUREAU OF INVESTIGATION

FOIPA

DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

01/03/1997

Total Deleted Page(s) ~ 28

Page 4 ~ Duplicate
Page 5 ~ Duplicate
Page 6 ~ Duplicate
Page 7 ~ Duplicate
Page 8 ~ Duplicate
Page 9 ~ Duplicate
Page 10 ~ Duplicate
Page 11 ~ Duplicate
Page 12 ~ Duplicate
Page 13 ~ Duplicate
Page 14 ~ Duplicate
Page 15 ~ Duplicate
Page 16 ~ Duplicate
Page 17 ~ Duplicate
Page 22 ~ Duplicate
Page 23 ~ Duplicate
Page 34 ~ Duplicate
Page 35 ~ Duplicate
Page 36 ~ Duplicate
Page 37 ~ Duplicate
Page 38 ~ Duplicate
Page 42 ~ b7C
Page 43 ~ b7C



FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807(HQ)

SECTION NUMBER 1



FEDERAL BUREAU OF INVESTIGATION

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/03/1997

To: FBI Headquarters

Attn: NSD, CT Branch, DTS, DTOU

From: Los Angeles
NSD-6

Approved By: [REDACTED]

Drafted By: [REDACTED]

mpbh/mw

Case ID #: 266A-LA-201807-83

Title: [REDACTED] ET AL
TUPAC SHAKUR-VICTIM (DECEASED);
ERIC WRIGHT, AKA EAZY-E-VICTIM (DECEASED);
AOT-DT-DEATH THREATS
OO: LOS ANGELES

b7C

ARMED AND DANGEROUS

Synopsis: Status of investigation and request for extension to PI.

Previous Title: [REDACTED]

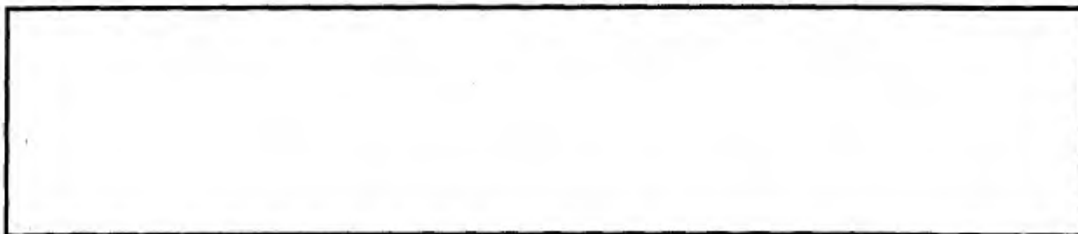
ET AL;
TUPAC SHAKUR-VICTIM (DECEASED);
EAZY-E-VICTIM (DECEASED);
AOT-DT-DEATH THREATS;
OO: LOS ANGELES

Preliminary Inquiry Initiated: 10/17/1996, set to expire 01/17/1997.

Enclosures: One original and five copies of a Letterhead Memorandum, dated 01/03/1997.

Details: Title marked changed to reflect the true name of EAZY-E.

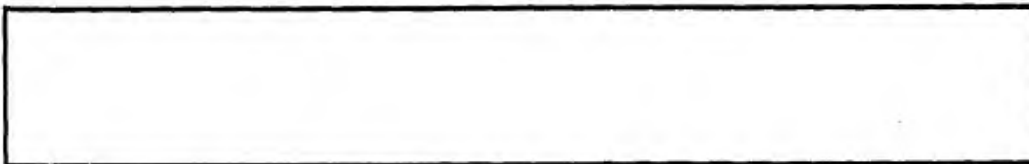
Enclosed for the Bureau are one original and five copies of a Letterhead Memorandum, dated 01/03/1997, which contains the current status of captioned matter.



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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9-30-99 BY 60427 NLS/EP/mkb
433281

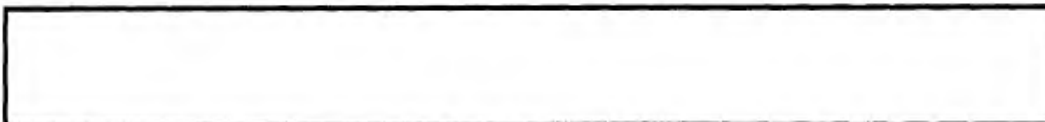
To: FBI Headquarters From: Los Angeles
Re: 266A-LA-201807, 01/03/1997



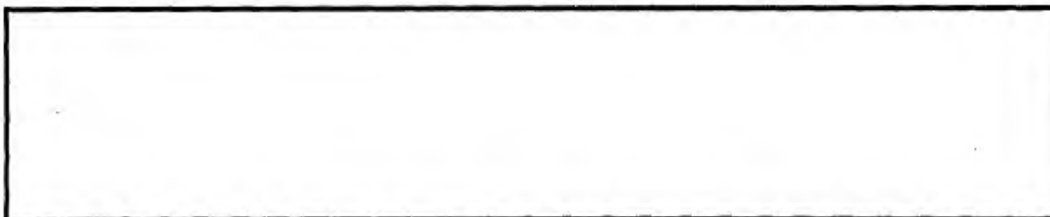
b7D
b7C

Several leads remain outstanding at Los Angeles regarding captioned matter. Los Angeles anticipates several interviews of witnesses and victims. Several LAFO files need to be reviewed for background information on [redacted] wherein he is referenced, to include the following files: b7C

12-61-0
26-66697
87-473
92-6836
179-914
183-1734



b3
b7C



b7C
b7D

It is requested that this Preliminary Investigation be extended thirty days as a result of pending investigation.

ARMED AND DANGEROUS

envelope

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MEMO IS UNCLASSIFIED
DATE 9-29-99 BY 60262/MS/EP/ONK
#433289

(6) enclosures to FBHQ
to go with Los Angeles report, letter
dated 01/03/1997, desc:

Re: _____
Los Angeles file number 266A-LA-201 P07
file number _____

360

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

TRANSMIT VIA:

☒ Teletype

DATE: 1/14/97

^PAGE 1 OF 2

PRECEDENCE:

☐ Immediate☐ Priority☒ Routine

CLASSIFICATION:

☐ TOP SECRET☐ SECRET☐ CONFIDENTIAL☐ UNCLAS E F T O☒ UNCLAS

FM DIRECTOR FBI

TO FBI LOS ANGELES (266A-LA-201807)/ROUTINE/

BT

b7C

UNCLAS

CITE: //0541//

SUBJECT: [REDACTED] ET AL; TUPAC SHAKUR - VICTIM
(DECEASED); ERIC WRIGHT, AKA EAZY-E-VICTIM (DECEASED); AOT-DT-
DEATH THREATS; OO: LOS ANGELES.

REFERENCE LOS ANGELES EC DATED 1/3/97.

PRELIMINARY INQUIRY (PI) INITIATED 10/17/97, TO EXPIRE ON
1/17/97, EXTENDED TO 2/16/97.

PI IS EXTENDED FOR A 30-DAY PERIOD TO ALLOW ADDITIONAL TIME
FOR LOS ANGELES TO DETERMINE WHETHER SUBJECT [REDACTED] AND OTHERS ARE
ENGAGED IN CRIMINAL ACTIVITY IN FURTHERANCE OF THEIR SOCIAL
AND/OR POLITICAL GOALS. DURING THIS INVESTIGATIVE PERIOD, LOS

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Approved By RM/Kay

MRI/JUL

Transmitted 2300Z/Kay

JAN 14 1997

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DATE 9-30-99 BY 60247 NLS/EP/mks

ISN 114

b7C

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

^PAGE 2 UNCLAS

ANGELES SHOULD ATTEMPT TO DETERMINE WHETHER THE EXTORTIONATE
ACTIVITY BEING CONDUCTED BY AND OTHERS IS TO PROVIDE b7C
FINANCIAL BACKING FOR THEIR ORGANIZATION OR IS ONLY FOR PERSONAL
FINANCIAL GAIN.

IF LOS ANGELES DESIRES FURTHER EXTENSION OF THIS PI, A
REQUEST FOR SUCH EXTENSION SHOULD BE SUBMITTED TO THE DOMESTIC
TERRORISM OPERATIONS UNIT, FBIHQ, PRIOR TO THE 2/16/97 EXPIRATION
DATE.

BT

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

ADMINISTRATIVE NOTE/TICKLER COUNT:

NOTE: THIS TELETYPE AUTHORIZES A 30-DAY EXTENSION OF CAPTIONED PI. THIS IS THE FIRST EXTENSION OF THIS PI.

Drafted By: PJG:tjg Room/TL #: 11741 Phone No:

COPY DESIGNATIONS:1 - MR.

1 - MR.

1 - MR.

b7C

APPROVED:

Director	Crim. Inv.	Laboratory	Off. of EEO
	Crim. Jus. Info.	Legal Counsel	Affairs
	Ident.	National Sec.	Off. of Public
	Finance	Personnel	& Cong. Affs.
	Intell. Div.	Training	
Deputy Director	Inspection		

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

TRANSMIT VIA:

☒ Teletype

DATE: 2/14/97

^PAGE 1 OF 2

PRECEDENCE:

☐ Immediate☒ Priority☐ Routine

CLASSIFICATION:

☐ TOP SECRET☐ SECRET☐ CONFIDENTIAL☐ UNCLAS E F T O☒ UNCLAS

FM DIRECTOR FBI

b7C

TO FBI LOS ANGELES (266A-LA-201807)/PRIORITY/

BT

UNCLAS

CITE: //0541//

SUBJECT: ET AL; TUPAC SHAKUR - VICTIM
(DECEASED); ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED); AOT-DT-
DEATH THREATS; OO: LOS ANGELES.

REFERENCE LOS ANGELES EC DATED 2/12/97.

PRELIMINARY INQUIRY (PI) INITIATED 10/17/96, TO EXPIRE ON
2/16/97, EXTENDED TO 3/18/97.

PI IS EXTENDED FOR THIRTY DAYS TO ALLOW TIME FOR LOS ANGELES
TO RECEIVE RESPONSES TO OUTSTANDING LEADS AND TO DETERMINE
WHETHER THE EXTORTIONATE ACTIVITIES OF SUBJECT ARE IN FURTHERANCE

266A-LA-201807-117

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Approved By

MRI/JUL

Transmitted

RMB/Hyp

5/3/049

1525Z/103

FEB 18 1997

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DATE 9-30-99 BY 60267NLS/EP/1996

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

^PAGE 2 UNCLAS

OF THE SOCIAL AND/OR POLITICAL GOALS OF THE JEWISH DEFENSE
LEAGUE.

IF LOS ANGELES DESIRES A FURTHER EXTENSION OF THIS PI, A
REQUEST FOR SUCH EXTENSION MUST REACH THE DOMESTIC TERRORISM
OPERATIONS UNIT, FBIHQ, PRIOR TO THE 3/18/97 EXPIRATION DATE.

BT

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DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

ADMINISTRATIVE NOTE/TICKLER COUNT:

NOTE: THIS TELETYPE AUTHORIZES A 30-DAY EXTENSION OF CAPTIONED
PI. THIS IS THE SECOND EXTENSION OF THIS PI.

Drafted By: TJG:tjq Room/TL #: 11741 Phone No:

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☐ Facsimile
☐ AIRTEL

PRECEDENCE:

☐ Immediate
☒ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 3/17/97FM FBI LOS ANGELES (266A-LA-201807) (P) ¹⁴³

TO DIRECTOR FBI/ROUTINE/

BT

UNCLAS

b7C

CITE: //3410:NSD-6//

PASS: FBIHQ FOR NSD, CT BRANCH, DT SECTION, DTOUT.

SUBJECT: ET AL; TUPAC SHAKUR - VICTIM
(DECEASED); ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED); AOT-
WITH THREATS; OO: LOS ANGELES.

REFERENCE BUREAU TT DATED 02/18/97.

PRELIMINARY INQUIRY (PI) INITIATED 10/17/96, TO EXPIRE
16/97, EXTENDED TO 3/18/97.

FOR INFORMATION OF THE BUREAU, CAPTIONED MATTER EXPIRED
ON 03/18/97. LOS ANGELES CONDUCTED NO INVESTIGATION WAS
CONDUCTED AFTER THE EXPIRATION DATE.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9-30-97 BY 60267 dls/ET/mks

Approved: _____ Original file: _____
Time Received: _____ Tel: _____
MRI/JULIAN DATE: _____ V: _____
FOX DATE & TIME OF ACCEPTANCE: _____

^PAGE 2 FBILA, 266A-LA-201807, UNCLAS

LOS ANGELES REQUESTS AN EXTENSION TO THE PI DUE TO RECENT
INFORMATION CONCERNING AN ADDITIONAL VICTIM NAMED [REDACTED]
[REDACTED] THE ALLEGATION IMPLICATES [REDACTED] AS OPERATING ON BEHALF
OF THE JEWISH DEFENSE LEAGUE (JDL) WHILE EXTORTING [REDACTED]
LAFO REQUESTS PI EXTENSION TO DETERMINE WHETHER THE
EXTORTIONATE ACTIVITIES OF SUBJECT ARE IN FURTHERANCE OF THE
SOCIAL AND/OR POLITICAL GOALS OF THE JDL.

BT

b7C

418

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

TRANSMIT VIA:

☒ Teletype

DATE: 4/1/97

^PAGE 1 OF 2

PRECEDENCE:

☐ Immediate
☒ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

FM DIRECTOR FBI

TO FBI LOS ANGELES (266A-LA-201807)/PRIORITY/

BT

UNCLAS

CITE: //0541//

SUBJECT: ET AL; TUPAC SHAKUR - VICTIM
 (DECEASED); ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED); AOT-DT-
 DEATH THREATS; OO: LOS ANGELES.

REFERENCE LOS ANGELES EC DATED 3/17/97.

b7C

PRELIMINARY INQUIRY (PI) INITIATED 10/17/96, EXTENDED TO
 4/17/97.

PI IS EXTENDED FOR THIRTY DAYS TO ALLOW TIME FOR LOS ANGELES
 TO RECEIVE RESPONSES TO OUTSTANDING LEADS AND TO DETERMINE
 WHETHER THE EXTORTIONATE ACTIVITIES OF SUBJECT ARE IN FURTHERANCE

266A-LA-201907-11/7

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Approved By

SL/KAP

MRI/JUL

1235/092

Transmitted

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APR 02 1997

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 DATE 9-30-99 BY 60327/000/000

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

^PAGE 2 UNCLAS

OF THE SOCIAL AND/OR POLITICAL GOALS OF THE JEWISH DEFENSE
LEAGUE.

LOS ANGELES IS REMINDED THAT THIS IS THE THIRD AND FINAL
EXTENSION OF THIS PI. AT THE END OF THIS INVESTIGATIVE PERIOD,
LOS ANGELES MUST EITHER CONVERT THIS MATTER TO A FULL
INVESTIGATION (IF WARRANTED) OR CLOSE THIS INVESTIGATION.

BT

////

DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
COMMUNICATION MESSAGE FORM

PAGE 3

ADMINISTRATIVE NOTE/TICKLER COUNT:

NOTE: THIS TELETYPE AUTHORIZES A 30-DAY EXTENSION OF CAPTIONED
PI. THIS IS THE THIRD AND FINAL EXTENSION OF THIS PI.

Drafted By: TJG:tja Room/TL #: 11741 Phone No:

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F1 FBI LOS ANGELES (266A-LA-201807) (P)

TJ DIRECTOR FBI/ROUTINE/

BT

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CITE: //3410:NSD-6//

PASS: FBIHQ FOR NSD, CT BRANCH, DT SECTION, DTQU.

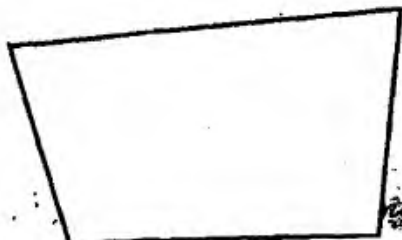
SUBJECT: ET AL; TUPAC SHAKUR - VICTIM
(DECEASED); ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED); ADT-
DT-DEATH THREATS; OO: LOS ANGELES.

b7C

REFERENCE BUREAU TT DATED 02/18/97.

PRELIMINARY INQUIRY (PI) INITIATED 10/17/96, TO EXPIRE ON
2/16/97, EXTENDED TO 3/18/97.

FOR INFORMATION OF THE BUREAU, CAPTIONED MATTER EXPIRED
ON 03/18/97. LOS ANGELES CONDUCTED NO INVESTIGATION AFTER THE
EXPIRATION DATE.



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DATE 4-30-93 BY 60362 dls/ef/omk

4/4/97

d.

PAGE TWO DE FBILA 0006 UNCLAS

LOS ANGELES REQUESTS AN EXTENSION TO THE PI DUE TO RECENT
INFORMATION CONCERNING AN ADDITIONAL VICTIM NAMED [REDACTED]

[REDACTED] THE ALLEGATION IMPLICATES [REDACTED] AS OPERATING ON BEHALF
OF THE JEWISH DEFENSE LEAGUE (JDL) WHILE EXTORTING [REDACTED]

b7C

LAFO REQUESTS PI EXTENSION TO DETERMINE WHETHER THE
EXTORTIONATE ACTIVITIES OF SUBJECT ARE IN FURTHERANCE OF THE
SOCIAL AND/OR POLITICAL GOALS OF THE JDL.

BT

#0006

NNNN

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/22/1997

To: FBI Headquarters

Attn: NSD, CT BRANCH,
DTOU

Birmingham
Boston
Cincinnati
Dallas
Indianapolis
Las Vegas
New York
San Diego
San Francisco
Seattle

Attn: Santa Rosa RA

From: Los Angeles

NSD-6

Contact: SA [REDACTED]

Approved By: [REDACTED]

Drafted By: [REDACTED] mpbh/wls

b7C

Case ID #: 266A-LA-201807

Title: [REDACTED]

AOT-DT-DEATH THREATS;
OO: LOS ANGELES

Synopsis: Request for subscriber checks.

Previous Title: [REDACTED]

ET AL;
TUPAC SHAKUR - VICTIM (DECEASED);
Eazy-E - VICTIM (DECEASED);
AOT-DT-DEATH THREATS;
OO: LOS ANGELES

b7C

Full Field Investigation Instituted: 04/15/1997.

Details: For information of receiving offices, on October 17, 1996, a preliminary inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED] a known organized crime figure, along with a group of unidentified individuals were utilizing death threats in the furtherance of extortion attempts targeted towards two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

b7C

On September 11, 1996, [REDACTED]

reported that [REDACTED]

b7D

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DATE 10-1-99 BY 60260NLS/EP/mms

b7C

To: FBI Headquarters From: Los Angeles
Re: 266A-LA-201807, 09/22/1997

JDL, and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [redacted] and other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a "fee". Source reported that ERIC WRIGHT, also known as EAZY-E, who owned RUTHLESS RECORDS, Woodland Hills, California, was a victim of this extortion scheme prior to dying from AIDS. [redacted] had also reportedly targeted TUPAC SHAKUR prior to his recent murder in Las Vegas, Nevada.

b7C

b7C

b7D
b7C

On March 27, 1995, [redacted] filed a civil lawsuit against RONALD SWEENEY, Entertainment Attorney for the WRIGHT estate. This lawsuit, titled "COMPTOWN RECORDS INC, et al V. LAW OFFICES RONALD SWEENEY, et al", civil case number BC 124555 was filed in Los Angeles Superior Court, Los Angeles, California and pertains to property rights of RUTHLESS RECORDS. During the lawsuit, [redacted] offered as evidence two letters purportedly signed by ERIC WRIGHT, granting [redacted] part ownership of RUTHLESS RECORDS. The letters were deemed forged by an expert witness. [redacted] advised the results of this lawsuit were classified "confidential" and require a subpoena, which is pending. It is believed that [redacted] received approximately \$1.5 million in the court settlement.

b7C

b7C

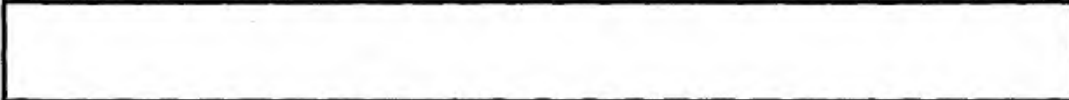
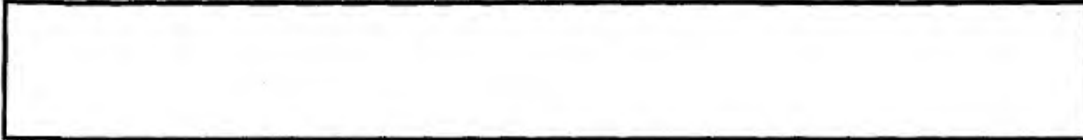
b7C

b7C

To: FBI Headquarters From: Los Angeles
Re: 266A-LA-201807, 09/22/1997

b7C
b7D

from the aforementioned court settlement.

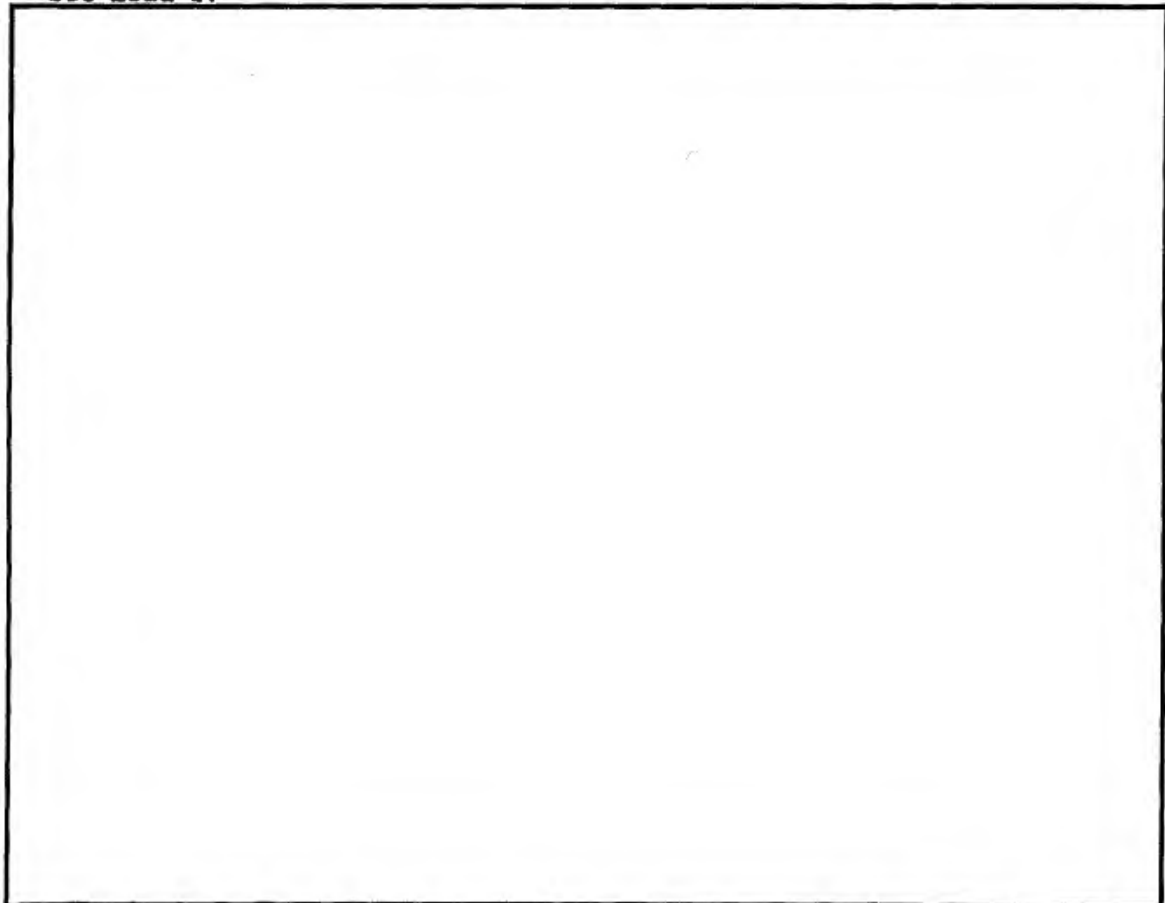


Los Angeles appreciates the assistance of receiving
offices in this matter.

b7D

LEAD (s):

Set Lead 1:



b7C

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/20/1997

To: NSD
Los Angeles

Attn: CT Branch DTON
Attn: SA [REDACTED]
NSD-6

From: Sacramento

Contact: IA [REDACTED]

Approved By: [REDACTED]

b7C

Drafted By: [REDACTED] epg

Case ID #: 266A-LA-201807 (Pending)

Title: [REDACTED]

ET AL;
TUPAC SHAKUR - VICTIM (DECEASED);
Eazy-E - VICTIM (DECEASED);
AOT - DT - DEATH THREATS
OO: LA

Synopsis: No subscriber info available for [REDACTED] without
issuance of subpoena or court order to Pacific Bell.

Full Field Investigation Instituted: 04/15/1997

Reference: 266A-LA-201807 Serial 289

Details: A review of current local directories and Sacramento
indices was negative for telephone [REDACTED] b7C

It is noted that [REDACTED] is handled by Pacific
Bell Telephone Company, which now requires a subpoena or court
order for any published or nonpublished subscriber information,
directed to Custodian of Records, Pacific Bell Telephone Company,
2150 Webster Street, Room 735A, Oakland, California 94612.

♦♦

b7C

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UPLOADED



FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807

SECTION NUMBER 1



FEDERAL BUREAU OF INVESTIGATION

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/17/1996

To: FBIHQ

Attn: NSD, CT Branch,
DTS, DTOU

Los Angeles

From: Los Angeles

NSD-6

Contact: SA [REDACTED]

Approved By: [REDACTED]

b7C

Drafted By: [REDACTED]

mpbh

Case ID #: 266A-LA-NEW (Pending)

Title: [REDACTED]

ET AL;
TUPAC SHAKUR-VICTIM (DECEASED);
Eazy-E-VICTIM (DECEASED);
AOT-DT-DEATH THREATS;
OO: LOS ANGELES

ALL INFORMATION
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DATE 10/17/00 BY 80622/ace/pv
911922 906464
904666 919689
445069 915041

ARMED AND DANGEROUS

Synopsis: Request to open a 266A matter regarding death threats and extortion involving rap music stars TUPAC SHAKUR (deceased), EAZY-E (deceased), and other victims yet unidentified.

Details: On 9/11/96, writer interviewed [REDACTED]

[REDACTED] was contacted concerning matter captioned: "UNSUB(S); BOMBING OF THE AMERICAN-ARAB ANTI-DISCRIMINATION COMMITTEE (ADC) OFFICE, 1905 E. 17TH STREET, SANTA ANA, CALIFORNIA, 10/11/85; ALEXANDER MICHEL ODEH-VICTIM (DECEASED); EXPLOSIVE AND INCENDIARY DEVICE; OO: LOS ANGELES (174A-3595).

During the interview, [REDACTED] advised writer that

b7C

b7D

[REDACTED] and others yet unidentified have been

266-LA-201807-1

extorting money from various rap music stars via death threats. The scheme involves [] and other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a fee. The victim and their family are taken to a "safe haven", usually a private estate, and are protected by gun-toting body guards associated with the JEWISH DEFENSE LEAGUE (JDL). The subjects convince the victim they have worked a "deal" out with the person(s) making the death threats and the threats cease. The victim then pays the subjects for the protection services rendered and resume their normal lifestyle with no fear of further death threats. b7C b7D

[] identified EAZY-E (deceased) who reportedly was targeted by subjects for extortion prior to dying from complications associated with AIDS. EAZY-E resided in Van Nuys, California. []

In addition to the aforementioned, on 10/8/96, Det. [] (LAPD) and writer interviewed a Los Angeles source of proven reliability, concerning the ODEH bombing matter. During that interview, source corroborated the above information. According to source, [] reportedly enlists the services of one [] (not further identified at this time), whom source described as a capper or ambulance chaser, to assist with the extortion scheme. Source stated that [] used this same scheme when he would rip off drug dealers. Source stated the monetary amount being extorted is in the \$50,000 range. b7C

Writer is familiar with captioned subjects as their names have surfaced in the ODEH investigation and also a case captioned "JEWISH DEFENSE LEAGUE; DS/T; OO: LOS ANGELES" (100A-LA-169742-Closed).

Since two independent sources have reported captioned matter, it is recommended that a 266A matter be opened and assigned to writer with Det. [] and Dep. [] [] (LASD) as co-case agents.

♦♦

To Front Page - College Press Network

Shakur a victim of his message

Rapper cannot escape world he idealized

Tupac Shakur: One of the leading figures of gangsta rap.
1993 file photo.

By ARMANDO BONICHE
CPNet Opinion Editor

Last Friday, dozens of Tupac Shakur fans gathered outside University Medical Center in Las Vegas to mourn the death of their slain idol.

Mortally wounded during a drive-by shooting near the Vegas strip, Shakur finally met the end he so vehemently invoked in many of his songs.

But in this time of grief and mourning, what was the real impact of his message?

In a society where racial equality has yet to be reached, Shakur simply polarized the opposing sides with his message of hate and intolerance. Instead of using his talents to bring the races together, he did everything imaginable, whether intentional or not, to make peaceful co-existence impossible.

Living in a country where homicide rates are the highest in the world, Shakur blindly promoted the indiscriminate use of guns and violence to make amends. Shakur even became a victim of his own message when he was shot five times during a 1994 robbery attempt.

Although Shakur tried to convey a positive image of women and fatherhood in some of his early songs, whatever credibility he possessed quickly deteriorated when in 1995 he was arrested and sentenced to jail for sexually attacking a 21-year-old woman.

Shakur's detrimental message fueled the fires of political conservatives who called for such extremes as censorship and nation-wide imposition of what they considered to be "true" family values. Even in pronouncing his own First Amendment rights, Shakur managed to attract negative publicity to this most intrinsic right guaranteed to all Americans.

Last Sunday, the Rev. Jesse Jackson was quoted in a Los Angeles newspaper as

Oct 18 1996

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DATE 01/11/00 BY 5906 GEL/PCP
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saying: "This is so, so sad. Sometimes the lure of violent culture is so magnetic that even when one overcomes it with material success, it continues to call." What I would like to know is what the Rev. Jackson considers overcoming violence. As I recall, Shakur overcame violence by explicitly endorsing it. Therefore, he could never have overcome it. On the contrary, he just became another victim in a hopelessly tragic way of life he himself helped advance.

Of course, Shakur is not alone. He joins the long list of "dead heroes" who in living have done their part to propagate a perilous way of life without regard to future consequences. Just as Jerry Garcia in his promotion of drug use during the 60s and 70s, Shakur will forever be remembered for leading a generation down the road of neglect and despair.

Unfortunately in our world, all the wrong role models attract the attention of the masses. Whether they be athletes or politicians, these individuals degrade the most basic values of integrity and rectitude. To make matters worse, in shame they are still heralded by their fellow peers.

Tragically, those who seek to make a positive difference, simply go overlooked or are suppressed by the powers that be. It is disappointing that 28 years after his death, Dr. Martin Luther King's message of non-violence and assimilation can be superseded by the narrow, intolerant message professed by individuals such as white supremacists, anti-Semite and in this case, Tupac Shakur.

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Posted: September 18, 1996.

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Inside The Mind Of 2pac Shakur

Disclaimer: The following is an excerpt from Vibe Magazine.

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911922 906444
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There was never a beef, only a difference of opinion. My homeboy Suge gave me the best advice that I could ever get from anybody. When people ask him if he's beefing with Bad Boy and with Puffy, he's says it's like me going to the playground to pick on little kids. That's like me being mad at my little brother cause he's getting cash now. I'm not mad at that, I'm just mad at my little brother when he don't respect me. And when you don't respect me, I'm a spank that ass. I don't give a fuck how rich you got on the block I'm your big brother. I'm a break your big ass down. That's my only point. I feel as though he wrong, he got out of hand. He got seduced by the power-not because he's an evil person, but because money is evil; if it's not handled right. If you lose your composure you could do anything. Fear got stronger than love and niggas did things that they weren't really supposed to do. They know in their hearts, that's why their in hell now. They can't sleep. That's why they're telling all the reporters and all the people "Why they doing this? They fucking up hip-hop, blah, blah, blah" cause they in hell. They can't make money, they can't go anywhere, they can't look at themselves cause they know the prodigal son has returned. I'm alive; the ghost is walking around. And I'm around talking, in jail I didn't talk. Now, everybody who thinks that I disrespected, I love my east coast fans. I'm from there. I'm eating New York Pizza, I drive New York jeeps but I'm saying let's keep it real for a second. If you're half the lover of music that you are, go back and study. Study how Party And Bullshit was me before I met Biggie. You don't hear my style in his raps. Study how after I met Biggie, Ready To Die comes out and his whole style changes study. Study why I would be mad when half of the major New York rappers or their managers, or their agents or their somebody was there when I got shot-and nobody couldn't give me no information. Just study that. Study how when Wu-Tang got their chain snatched at six-six-duece, I not only found who did it but gave them the message that if they wanted to see the niggas that

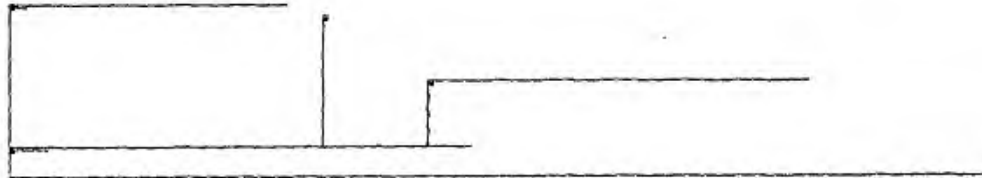
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did it, they could see them. Man to Man, just you and them-no guns, no nothing if you feel like that. That's all I ask for. If you're going to act like a gangster or a "G" or a king of New York, I'm a expect that. And when you don't come through, then I'm going to want to crush your empire. And that's what it's time for. for the latest on

Visit [Vibe Magazine Online](#) and check out the rest of this interview. Its pretty interesting, and definitely check out the video clips of the interview also available on Vibe Magazine Online.

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Shakur Hurt in Drive-By Shooting

Controversial Rapper Critically Injured After Tyson Fight

By Sharon Waxman
Special to The Washington Post
Monday, September 9 1996; Page D01
The Washington Post

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LOS ANGELES, Sept. 8 -- "Gangsta" rap star Tupac Shakur was in critical condition in a Las Vegas hospital today after an assailant pumped four bullets into his head and chest during a drive-by shooting Saturday night.

The 25-year-old rap star was shot as he and Marion "Suge" Knight, chairman of Death Row Records, Shakur's label, were on their way to a nightclub about 11:15 p.m. after watching the Mike Tyson-Bruce Seldon heavyweight title fight at the MGM Grand Hotel, police said.

Shakur underwent emergency surgery for multiple gunshot wounds and remained under heavy police and private guard in the trauma-intensive care unit, according to a spokesman for University Medical Center. Knight, 31, was hit in the head by shrapnel and was released from the hospital today.

The shooting was the most serious in a string of violent incidents involving the rap star, who appeared Wednesday at the MTV Video Music Awards, where he and members of his entourage got into an argument with several men in the lobby of New York's Radio City Music Hall. Police were called to break it up.

In November 1994, Shakur was shot five times in the lobby of a New York recording studio when muggers stealing his jewelry opened fire. He has spent much of the past 2 1/2 years in court or in custody on various charges.

A handsome, swaggering man with long eyelashes and a penchant for showy jewelry, Shakur has been a prominent symbol for gangsta rap music, enthusiastically followed by teenage fans and long criticized by adults for its explicitly violent and sexual images. Saturday's incident underscored the link between some rap stars -- despite their celebrity status -- and the dangerous milieu that gave rise to their music.

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In the weekend shooting, Knight was driving with Shakur in a convoy of 10 cars about a quarter-mile from the glittering casino strip when a white Cadillac with four people inside pulled up alongside their black BMW and a passenger opened fire. Local media reports said dozens of witnesses looked on in horror.

Police said they had begun an investigation into the shooting but had no suspects yet. "Drive-by shootings are not unknown here, but they usually occur between rival gang members whose reasons are for retaliation for other shootings," said Las Vegas Police Lt. Marc Maston. "I can't tell you the motivation behind this."

But he said police were optimistic they would find the assailants. "This particular incident apparently had several witnesses. If they are credible, with good information, this should be solvable."

Spokesmen for Death Row Records could not be reached for comment as to possible motives for the shooting. Shakur said earlier this year that he believed the 1994 robbery-shooting was a setup, fueling speculation in the hip-hop industry that rivalry between East Coast and West Coast rap labels may have taken a violent turn.

Shakur himself has had many run-ins with the law in recent years. In June, the singer faced a 120-day sentence for probation violations stemming from offenses including assault and battery and a 1994 sexual abuse conviction in New York. He had been allowed to remain free on \$1.4 million bail -- paid by Death Row Records -- pending his appeal.

Shakur served 11 months in prison for his involvement in the attack on a 21-year-old woman in a New York hotel room. He had been convicted in Los Angeles of assault and battery on a music video producer and for carrying a loaded, concealed weapon, and was scheduled for sentencing this week on the weapons charge.

But in the world of rap, Shakur's convictions seemed only to enhance his status. His fourth solo album, "All Eyez on Me," a two-volume, 27-track recording featuring guest turns by fellow rappers Snoop Doggy Dogg, Rappin' 4-Tay and Method Man, debuted earlier this year and has sold more than 5 million copies. His previous album, "Me Against the World," had the dubious distinction of being the first album to reach No. 1 while its singer was in prison.

Shakur also starred opposite Janet Jackson in the 1993 movie "Poetic Justice" and has been working on another film, "Gridlock."

In interviews earlier this year, Shakur had said he was tired of living up to his outlaw image, one he had chronicled in a tattoo on his chest that pronounced "Thug Life."

"I lived Thug Life," he said. "It was stupid . . . it's suicidal."

But the rapper also said that he expected he would die violently. In July, Shakur told the British newspaper the Observer: "It's going to happen. All the [black people] who change the world die in violence. They don't get to die like regular ways. [Expletives] come take their lives."

Shakur Hurt in Drive-By Shooting

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@CAPTION: Tupac Shakur in New York at the MTV Video Music Awards, three days before the attack.

@CAPTION: Rapper Tupac Shakur, shown here last week, took four bullets in the head and chest in a drive-by shooting Saturday night in Las Vegas.

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Tupac and the Fall on the Road to Calvary

By Jordan Pelaez

The first time I entered the gallery in The Prado where Raphael's *The Fall on the Road to Calvary* (ca. 1517) hangs, I simply stared at this monstrous ten foot high, eight foot wide canvas, and let the tears flow for ten minutes. If the friend I was with hadn't snapped me out of it, I might still be in Madrid.

Raphael painted a mob scene, teeming with Roman soldiers, execution spectators, horses, carts, mourners, and, way off in the distance at the end of the procession, Calvary, more a mound than a hill, where two crosses have already been erected. But at the painting's center are just two figures. Jesus, fallen with his left hand on a rock and his right still trying to support the massive weight of the cross, looks back over his left shoulder. There stands a group of five women--first and foremost among them, Mary, his mother. Mary holds her hand outstretched, willing even now to do anything she can to save her child. Her look personifies despair and alienation. The look in Jesus's eyes bespeak compassion for the trial of his mother; even in this crisis, he seems like he's trying to console her.

I knew those looks well. They were the looks, I thought that first time, that passed between my wife and my daughter as the latter lay dying of cancer. But further viewings brought me to a different understanding. My own face once bore one of those looks, and so does the face of every mother, and every child, who faces an untimely death.

So when I got the news that Tupac Shakur had died of his drive-by wounds, I thought instantly of his mother. Given the life of distress that Tupac and his mother lived, how many times had they shared such glances, held them, broken them off only because the pain of sustaining such moments of intensity is finally too much for any heart to bear?

The other day on the AOL discussion group *The Velvet Rope*, some fool mocked the idea that Tupac could be compared in any way to John Lennon. But Tupac and Lennon and Elvis at least had this in common: The first, perhaps greatest, love of their life was their mother. And this is no small thing, because all of them made some of their most important music because of it: Lennon's "Julia," the early Elvis ballads that are clearly directed at his mom (catch the end of his second film, *Loving You*), and Tupac's "Dear Mama."

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Of course, that's not the only comparison, or even necessarily the most important one that could be made between Tupac and the great rock rebels. Fools are reluctant to admit Tupac to full equality in this matter, because that would mean admitting other things. For instance, that Tupac equaled the greats in the emotional intensity and rhythmic power of his records. Or that the majority of Tupac's songs were uplifting, positive, respectful of women, and concerned with encouraging young black men not to commit crime, which he generally portrayed as a foolish and ugly thing even when it's seductive or unavoidable. It would require admitting that Tupac was sent to prison for a crime that white rock stars have committed, and continue to commit, with absolute impunity. It would require acknowledging that although Tupac did once shoot two men, it was in self-defense; they were off-duty Georgia cops who had drawn down on him in the after-midnight streets of Atlanta. It would require recognizing that Tupac is not the only rock star with unsavory associates.

But refusing to allow Tupac to enter the lists of rock's fallen greats is the least of the sins fools make when talking about them. These fools, who include just about every writer I've read on the subject, spend all their time avoiding a simple truth: Tupac was not a murderer; he got murdered. He was not the criminal this time; he was the victim of a shooting. But of course, if you tell the story that way, you can't come out and say, as the media from Newsweek to The Village Voice have done, that this thuggish young nigger got what's coming to him.

On that basis, so did Jesus, who preferred the company of whores, thieves, tax cheats (from the government end), and other miscreants. Not that Tupac was anything like Jesus. But those Bible stories exist to try to teach us not about Jesus so much as about forgiveness and compassion. What cases like Tupac's prove, over and over again, is that we live in a time and a place where the concept of forgiveness does not exist. Our society isn't about forgiveness, it's about vengeance--which, it's tempting to say, is one reason it turns out so much art like Tupac's, and so little like Raphael's.

But that wouldn't be a terribly accurate thing to say, either. In the first place, Raphael's society is our society--the hideous American cultural landscape of today grew straight up out of the culture that produced the Renaissance, and the colonialism that brought Tupac's ancestors and my own to America. And while it may be true that Raphael's world valued harmony and order far more than ours, that's mostly true of its artistic productions--for most people, who had no access to art at all, the Renaissance world was a miserably impoverished and dangerous place to dwell.

It may be true, as John Berger puts it in his new book, *Titian: Nymph and Shepherd* (Prestel, \$24.50), that "our century [is]...always searching for rage and wisdom, rather than harmony." But it is not the decline of belief in God or the holy Roman Catholic church or the clinical application of the artistic values of the Renaissance that has made it so. It is rather the way we have allowed the other side--the colonizing, predatory, "nature red in tooth and claw"

side--to dominate. In the society that worships not God or Jesus but the free market, competition and "the sanctity of the contract," compassion and forgiveness have been erased. When was the last time you offered a cold cup of water to the sick or visited the imprisoned?

But no artist is bound entirely by the prejudices of his time. Great artists transcend our everyday pettiness. There is no excuse for the Tupac lyrics that demean other people, and in portraying violence with so much explicitness that it became for some sad souls allegedly attractive, he played a dangerous game. Great art, we have been reassured, escapes the small-minded bigotry of its time. Maybe not always. If we looked at *The Fall on the Road to Calvary* the way the art of Tupac and other rap performers is usually seen, Jesus and Mary would not be the central figures. For standing just above Jesus in the picture, closer to its center and with a more directly active role in the proceedings, is a large muscular man. His head is turned to the right, where a mounted Roman officer waves papers at him; this is surely Simon the Cyrene, the man who according to the gospels was ordered to help Jesus carry the cross after he stumbled. Simon is represented here, however, in another unmistakable way: Raphael drew this Libyan Jew, alone among the company, with a huge hooked nose, which in his time was a way of saying "Hymietown." Judged the way our society judges rap--by caricature, not context--*The Fall on the Road to Calvary* is antisemitic.

According to Luke (23:28-31), the women looking on wept when Jesus stumbled, and he found the energy to speak to them. "Daughters of Jerusalem," Luke has him say, "weep not for me, but weep for yourselves, and for your children. For behold the days are coming in the which they shall say, 'Blessed are the barren, and the wombs that never bare, and the paps which never gave suck. Then shall they begin to say to the mountains, 'Fall on us'; and to the hills, 'Cover us.'"

If I do not quite believe that we have reached those days, Tupac is one of the reasons. With all my heart, I wish that he had had the time to grow in wisdom and maturity; that he could have avoided the lethal situations into which he continued to fall. But I have seen his video for "I Ain't Mad At Cha" and I know that he had come much further along the path than those who treat him as if he were the murderer.

That video has mostly been described in terms of its sensational opening moments, in which Tupac is shot in the chest and dies, "just like in reality"; and inevitably, in terms of the dead musical celebrities that Tupac then encounters in heaven. But those details have nothing to do with what the video is about, nor is it surprising that folks would rather talk about anything else, including trivia. Because the true topic of "I Ain't Mad At Cha" is precisely compassion and forgiveness.

In the video, Tupac forgives everyone--the brothers known and unknown who could not stay the course, his partners in Thug Life, the mother about whom his music often expressed such deep but conflicted emotion but who stayed beside him (that look undoubtedly upon her face) that long week in the hospital, those who condemned him from the start and along the way.

He also prays for other ghetto youth to have a better chance--and a happier result. The video's final images tell the true story. The friend who was with Tupac when he was shot dresses up, visits his friend's grave, then goes home, where he hugs mother, wife and baby girl. Fade to a black screen, on which is written: Dedicated to Mutula Shakur and Geronimo Pratt. Tupac's fathers. In the end, the son forgives his fathers, which is as close as I could imagine anyone coming in this life to reaching a kind of emotional maturity.

We will not be permitted to know what kind of grown man or mature artist Tupac Shakur might have become. Those who do not think this is a tragedy, or believe that what he had done to him is only what he had done to others, miss the point far, far more than those of us who, all along, forgave him his sins because of his talent.

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2pac Newz

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Tupac Shakur has lined up his next acting gig. The rapper will co-star opposite Tim Roth in the dark comedy "Gridlock." Actor Vondie Curtis Hall wrote the script and will direct. The movie is about two druggies who want to go straight, but can't get into any rehab centers. They are framed for the murder of a drug dealer and then the police come after them as well as the real murderers. Tupac has also completed the script for an upcoming movie called "Live to Tell", he will also be starring in this one.

Back in April 2pac was sentenced to 120 days for violating his parole, he was to start serving this sentence on June 7/96 but the judge granted him an extension until Tupac has finished production on an upcoming movie. Tupac is appealing this sentence, and the word right now is that he should win. 2pac will you please stay out of jail!!!

Last Month 2pac appeared in court to face Illegal weapon charges and instead of the Judge giving Tupac jail time, he ordered 2pac to put on a benefit concert in California for underprivileged youths.

As I had stated in last month's 2pac Pages Newzletter, 2pac has finished making two videos, "2 of Americaz Most Wanted", and "How Do U Want It". Well, 2pac is also making a video for his new track called "Hit 'Em Up", which is not available on his new album So, y'all be on the lookout for that.

NEW ALBUM, 2pac will be releasing a new album. The material on this new album will be similar to "Me Against the World". A release date has not been set yet.

Within the month, there will be an Official 2pac Homepage coming up on the net, I will post the address as soon as I receive it. On the Official 2pac Homepage you will be able to purchase those hard to find singles and other merchandise, as well as kept up to date with 2pac's future projects.

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Oct 18 1996

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The New 2pac Track

There was some concern from some of you that I was being hypocritical because I praised the 2Pac record that attacks bad boy while at the same time I've been advocating peace...I wanted to clarify a couple of points... First and foremost..I'm definitely for peace.. If there is anyway I can help facilitate that.. I would and will do that.. One of the things I would most likely not do is play the song on my radio show without a brief commentary before and after.... What I first thought about hit u up was its ferocity.. It was a straight up dis song... and in the context of throwing down and being competitive on wax..I liked it on that level.. Up until now people have been beating around the bush..by using fancy metaphors and similes and saying something but not saying nothing..ie LALA.. The 2Pac song reminded me of Tim Dog's song.. and my first thoughts were will Tim Dog come back with a response...after I printed the message..I remembered that he did..but it was weak... So really I guess I just liked the directness of the song and considering what was said some of the remarks were in line... ie Mobb Deep a week after 2Pac had been shot were down in Washington DC on stage making jokes about it.. They kept saying they knew who shot Pac...So they got stepped too...Because if it's a Biggie/2pac thing..why is Mobb Deep entering the arena..? Chino..who I like a lot, also spoke.. In one of his rhymes he spoke about getting bent over in jail like 2Pac.. There was a rumor going around that said he got pumped in jail..Again why jump in?...So Pac called them out on record.. Now at this juncture in the game one of two things will happen..either this dissing on wax will continue..or fools will sit down and talk and work it all out..or they'll do like Luke and Dre did make dis records so they all make money.. I will admit..Pac went a bit too far by talking about Biggie's wife..But as a straight up dis record which we have always had in hip hop..I found the song funny... I think at this point in time.. the wars will cease..... and soon these records will retire and be viewed the way we look at Mc Shan and KRS-One...old battle records.. And if folks recall there was an awful lot of tension between BDP and the Juice Crew back then..

Davey D

<http://www.daveyd.com>

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What are your comments, do you think 2pac is justified in making this track? And for all of y'all that have heard this track "Hit 'Em Up", What do you think? Is it on point?

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Sunrise 1963
Sunset 1995

This page is dedicated in the memory of Eric "Eazy-E" Wright (R.I.P)

Eric "Eazy-E" Wright got the whole U.S.A plus the rest of the world to wake up when it came to the blacks situation in the American community in the middle of the 80's. Under his alias, Eazy-E, he started a record company, -Ruthless Records-, with help of money that he had collected as a small thief and drug-dealer, and created the gangsta-rap, a part of hip hop that had millions of head lines world wide. 31 years old, he died, only 2 months after that he found out that he had AIDS.

He was born in Compton in a middle-class family in 1963, he lost his grip in the teenagers and became a criminal, the life as a small gangsta didn't have the plans for the future that Eazy-E were dreaming of, so after completed the school, he started in the music business. Together with Ice-Cube, Dr.Dre, MC Ren and DJ Yella, he 1986 putted together one of the most controversial rap-group ever, N.W.A (Niggaz With Attitudes). When their "Boyz n' the Hood" started to conquer the lists in USA, they putted Compton and Los Angeles on the rap-map. With fat bases and heavy funk, **Boyz n' the Hood** soon became the national-song of hip hop. Everybody that were living in the so called "projects" suddenly had something that was their, a song with lyrics that showed the hard reality that got the "white America" to tripp.

That was just the beginning. With N.W.A, Ruthless Records got a dream start and 1989 the album **Straight outta Compton**, that was a real classic were out. The fans celebrated. With songs like **Fuck the Police** and **Gangsta**, **Gangsta made the FBI and the LAPD to shake teeth** and the politicians started to show interests in hip hop but not in a positive way. The gangsta rap also splitted into two camps between those who thought N.W.A just descrined things as they were and those who thought that hip-hop had a responsibility to take and no encourage and glorify that violence that was about to strangle the Latin Americans and the black people.

In the middle of that Eazy saw how his life work was falling apart. **Ice-Cube** left first, then to be followed by **Dr.Dre** that started **Deth Row Records** together with Suge Knight, with artists like **Snoop Doggy Dogg**, **Tha Dogg Pound** among others. It was hard for Eazy-E when Dr. Dre left Ruthless Records. Dr. Dre were the inventor of the West Coast sound and Eazy, that actually didn't do so much on the records suddenly became a second-part-figure on the rap-stage. Plus that the old members sue each other, and if that wasn't enough, they came out with solo albums were they didn't back for anything just to diss eachother, Eazy-E even publicat pictures of Dr. Dre in eye-liner and lipstick on his second solo album, **It's on (Dr.Dre) 187um Killa** 1993. Eaven dogh it wasn't easy, Eazy-E continiude on his way, hard-headed he stuck to his visions and his gangsta mentality. His records wasn't sellin' as

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good anymore, but 1994, he got into contact with the group **Bone Thugs n' Harmony** from Cleveland. Eazy-E had nose for talents, and Ruthless once again had a group that could sell millions of records.

Just then, fate stroke with all it's power. Eazy-E's self buring lifestyle demanded it's tribute. A cold showed up to be a inflammation of the lungs, may seems like a piece of cake, but not in this case. AIDS the doctors confirmed and two months later he was dead. After 11 523 days on the earth, Eric Wright died the 26th Mars 1995, in a hospital bed, with only his family at his side. The gangsta pionee Eazy-E didn't became no victim of a bullet, it was AIDS, a much bigger threat to the humanity than the gangstas.

R.I.P | PERSONS HAS SHOWED THAT YOU ARN'T FOROGTEN!

This page might be good, but it ain't the official, so check [Out The Real One Out!](#)

Some Lyrics

Just Tah Let Ya know (Str8 off tha streetz of muthaphukkin' Compton) Wut would U do
(Str8 off tha streetz of muthaphukkin' Compton) Exxxtra special thankz (Its on (Dr.Dre)
187um killa) 4 tha E (video verision) (Yella - One moe nigga to go)

Phat Link

[Eazy-E Homepage](#)

[Eazy-E Memorial Page](#)

[Ruthless Records Official Site](#)

[Official Eazy-E Homepage](#)

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Eazy-E **(Eric Wright)** **1963-1995**

Eric Wright was born in Compton, California to a middle-class family in 1963. As a teenager, Eric had trouble with the law, but he found that life as a small-time gangsta didn't give him much hope for the future. Eric finished school and in 1986 became Eazy-E as he teamed with Ice-Cube, Dr. Dre, MC Ren and DJ Yella, forming one of the most controversial rap groups in history, *N.W.A. N.W.A.* put gangsta rap on the map with their hit album *Boyz n' the Hood*, and gave Los Angeles/Compton rap credibility in the rap scene.

Eazy-E's *Ruthless Records*, started with money he collected as a small-time thief and drug dealer, found its first hit with *Boyz n' the Hood*, but that was just the beginning. *Straight Outta Compton* was *Ruthless Records* next release, and it proved as big a hit as *Boyz* and just as controversial. Songs like *Fuck the Police* and *Gangsta, Gangsta* rubbed police and politicians the wrong way and gave rap a bad name in non-rap circles. This only proved a challenge to Eazy, who thought that hip-hop had a responsibility to shed light on the violence that Latin and African Americans were living with every day.

At this time, *N.W.A.* started to fall apart. Ice-Cube was the first to leave, planning a solo-career, and Dr. Dre wasn't far behind. Dre went on to start *Death Row Records*, and the animosity between Eazy's *Ruthless Records* and Dre's *Death Row* had begun. Lawsuits between *N.W.A.*'s members and public battles between the now estranged rappers made more headlines than the artists themselves. Eazy-E's second solo album *It's on (Dr. Dre) 187um Killa*, released in 1993, was a direct attack on Dr. Dre and the public lost interest as the original vision of Eazy's work was lost.

Eazy got back on track when, in 1994, *Ruthless Records* signed Cleveland rap-artists *Bone Thugs n' Harmony*. As Eazy was climbing back onto his feet, he was diagnosed with the AIDS virus. Two months later, on March 26, 1995, Eric Wright, better known as Eazy-E, was dead.

Eazy-E biography edited from the [Eazy-E: The Hip-Hop Thugster](#) page.

With special thanks to [Nils Hagmark](#)

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Fresh Out Of Jail

Street Heat representatives met up with Tupac Shakur in Las Vegas during November 1995. Pac and tha Dogg Pound performed after the Holyfield-Bowe fight at Club 662. Everybody was there...including ,Rappin' 4-Tay, Tha Alkaholiks, Pepa, and the posse down with Pac and tha Dogg Pound. On the day of the show we caught up with Pac and kicked it for awhile.

We were in the back of the club in owner Suge Knight's office. Suge, you may know, is the owner of Death Row Records. Suge and Death Row now handle Pac's career and Pac spent the month of November in the studio runnin' through the final touches of his double album.

So, Pac, a lot of people want to know, since Death Row Records put up your bail money, is that why you left Interscope?

"It didn't have nothing to do with the money," said Pac. "It had nothing to do with the bail. I was already, um, I hollered at Suge before the bail situation when I was still an inmate in the correctional facility and I was looking at like serving three years, I called Suge and said, 'yo, I want to be with the Row. I want you to manage me because I'm in jail--and no one is handling my bizniz while I'm in jail, nobody's putting it down like I want to put it down.' I knew he's a man that would put things down. I trust him, his word, you know, um. I really couldn't trust nobody in bizniz no more, so I chose him, you know?"

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Wasn't it during the time that Interscope was rumored to be leaving Warners and all that?

"Yeah, that was another factor," replied Tupac. "Because I was like, 'Dang, they don't care about us.' I mean, it's not Interscope's fault, but they really don't owe us anything and at any minute we could be you know, alone without a contract after you put all your heart on the line, your music on the line, you went out there and gave all your talent up and all of a sudden, it's not good enough any more and they'll kick you off. So I was like, by going to Death Row, it's like two superpowers joining up. You know, it would be similar to the US and England teamin' up against anybody, you know what I mean? So I felt it was like joining two super powers. And if rap music was going to have to fight for its right to be uncensored, then this was the team for me to get on, to wage that battle."

Did jail change your perspective on the world?

"Yeah...Doing eleven months of maximum security penitentiary time for a crime you didn't

Oct 18 1996

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commit would definitely make you a little bitter," said Tupac. "But I'm trying not to be bitter. I'm trying to let that be my ambition. Now I'm very ambitious. This year will mark a new ground for Tupac where I'm relentless. There's no boundaries. I'm not looking at no stop signs. I'm going full speed ahead. I'm planning on touching everything with my name on it, and there's a lot of stuff with my name on it, so I'm out there. So I got with the Row, that's move number one, I wrote a movie, that's move number two. Did the double album -- that's never been done before -- that's move number three. Got the divorce, that's move number four. And now it's just about standing by my grind, stay up on my music, stay out of trouble."

Tupac has often said that the media have misrepresented him. What is the real Tupac Shakur like?

"He's a human being with all sides," replied Pac. "Multi-faceted, ups and downs. Goods and bads. Mistakes. Everything, you know. All they want to show is one side, which is distorted. That's a distorted view. So what I said was true. If they would show the good things and the bad things, I would have no complaints, and it would even make them look better. When you just show me doing all this bad stuff, then people gonna just start thinking like 'wait a minute, this dude can't be doing all this bad stuff.' I mean, come on. They don't show nothing else. So it's really helpin' me, cause it's making it look one-sided and untrue. But the thing that bothers me is that it's just not across the board. They do this to rappers or young black males -- inner city people. You know, they do that to us but they don't do that for everybody else. But that bothers me, but I'm not gonna harp on everything that's unfair, 'cause life is unfair. Nobody said it's gonna be easy or fair. I'm not even gonna trip off it. I'm just gonna push forward. When I stop, I stop. When the wheels fall off, the wheels fall off. But until then I'm gonna put the foot to the metal."

Tupac has already starred in a number of movies including "Above the Rim" and "Poetic Justice." So we asked what his future acting projects are.

"I just wrote a movie called "Live To Tell." We talking about doing a movie now, me and Snoop, that Pooh is working on, and everything else is before me. I haven't even started looking into that, but it's going down."

Tupac talked about his upcoming double album, the first by a hip-hop star.

"The last album was one side of Tupac," he said. "And it's the other side, you know what I mean? I did what I had to do with "Me Against the World" as far as lettin' people know that rappers think and we feel and we care. I did that. Now it's time for me to just get into the music. This album is more like about unrestricted. I'm not rying to tell a message. I'm just getting a lot of frustrations out from being in jail for eleven months. And just speaking my mind, talking about things that I see and just groovin', having fun. They like more upbeat tracks than this. My last album was kinda sad and down. This one is like way high. There's

only two slow songs on there."

Street Heat gives props George Pryce and Greg Howard of Death Row Records for getting us with Tupac.

Street Heat Homepage

This Page is Webmastered by Gurjeet Litt yu108654@yorku.ca

Oct 18 1996

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TROUBLE

LIVING DANGEROUSLY

Rap star Tupac Shakur is gunned down again—this time in Las Vegas

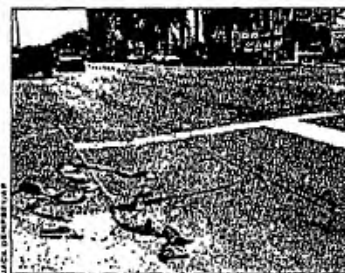


Though Shakur renounced the "thug life" in 1995, violence caught up with the rapper and producer Knight (above left, in Las Vegas last January) near the Vegas Strip (right).

NO ONE CAN SAY THAT TUPAC Shakur hasn't experienced firsthand the gangsta life he raps about. Two years ago, while awaiting the verdict and his eventual imprisonment on rape charges, he was beaten, robbed and shot five times outside a Manhattan recording studio. Shakur, now 25, survived the attack—and even bragged about it on his latest album, this year's *All Eyez on Me* ("five shots and they still couldn't kill me"). Last week in Las Vegas, after he attended a Mike Tyson fight, danger came calling again. At 11:15 p.m. on Sept. 7, Shakur and Marion "Suge" (pronounced Shoog) Knight, the head of Shakur's Death

Row Records label, stopped for a light near the Strip while riding in Knight's black BMW 750. A late-model white Cadillac pulled up alongside them, and someone unleashed a hail of bullets into the passenger side of Knight's car before speeding away.

The 31-year-old record executive suffered only minor injuries, but Shakur was severely wounded in his chest, pelvis and hands. He was taken to Las Vegas's University Medical Center, where doctors performed three emergency surgeries to repair internal injuries and to remove his right lung. Four days later, Shakur was still bleeding internally as doctors searched frantically for the source.



At midweek he remained in critical condition, and his prognosis was guarded. But there was no doubt about the support the singer, whose *All Eyez* has sold more than 5 million copies, was receiving from other black celebrities, his family and friends. In

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TROUBLE

► "It seems like he has an image he has to keep up to sell records," says a friend about Shakur's gangsta pose. But at the Sept. 4 MTV Awards, Shakur (right, with Snoop Doggy Dogg) nearly came to blows with fellow rapper Nas.

Y "He's not the bad person everyone thinks he is," says ex-wife Keisha Morris, who stood by Shakur as he recovered from a 1994 shooting (below, in New York City).



Y "This tragedy just breaks your heart," says movie producer Brad Krevoy of Shakur (on Saturday Night Live in February).



addition to his mother, Afeni Shakur, a founding member of the Black Panthers, the unconscious Shakur was visited by the Rev. Jesse Jackson, rapper Hammer and actress Jasmine Guy, who would say only that "Tupac's family is grateful for the public's support." No one else close to Shakur would comment on the shooting, but one friend,

artist manager Joan Hyler, stresses that the singer was not to blame for the shooting. "Just because he's had problems in the past, is it fair to condemn him?" Hyler asks. "He's extremely talented and bright. I just hope he can distance himself from his past." Shakur's ex-wife Keisha Morris, with whom he remains on good terms, says, "He's an entertainer, not a gangster. As a person, Tupac is very misunderstood."

In fact the shooting itself seems equally difficult to fathom. Las Vegas police, who say they have no leads, complained that they were receiving little cooperation from anyone in Shakur's camp, even though there were about 10 cars full of bodyguards and friends with Knight. "They're telling us they didn't see anything and don't know anything," says Las Vegas Metropolitan Police Sgt. Kevin Manning. He adds that police have concluded the shootings are not related to a shouting match Shakur got into with an unidentified man during the Tyson fight. The flashy-dressing, 315-lb. Knight, who reportedly boasted that rivals had contracts out on his life, was still dodging police days after the incident. Although his company has amassed a fortune estimated at over \$100 million, the Compton, Calif., na-

tive is reputed to have ties to the Bloods street gang.

For Shakur, who once studied theater at the Baltimore School for the Arts and drew praise for his sensitivity and social consciousness, the shooting comes at a time when he is free on \$1.4 million bail (posted by Knight), while appealing his rape conviction and making a concerted effort to keep two careers on track. Shakur, who starred in 1992's *Juice* and with Janet Jackson in 1993's *Poetic Justice*, recently returned to making movies. His latest, *Gridlock*, a dark comedy costarring *Pulp Fiction*'s Tim Roth, is due out in February. And just the week before he was shot, Shakur wrapped *Gang Related*, in which he plays a corrupt cop. "He was a great spirit on the set, positive and uplifting," says *Gang* producer Brad Krevoy. "Considering what you heard about him, that was all in his past."

What effect the shooting might have on Shakur's future as a performer remains to be seen. The question last week was, Would he survive? While he continues to battle for his life, those close to the rapper remain hopeful as they keep up their vigil. "My prayers are with him," says ex-wife Morris. "He's a survivor, and I know he will pull through."

■ CLOSING THOUGHTS

■ KAREY BRAUNFORD in Las Vegas, TOM CUNNEFF in Los Angeles and BRADNE STACHYRA in New York City

Tupac's death: A gangsta omen?

By Bruce Haring
USA TODAY

A record from slain rapper Tupac Shakur, *The Don Killuminati: The 7-Day Theory*, is out today, but record executives, managers and artists say the gangsta rap style he helped popularize is no longer the force that it once was.

The major players in the feud that has divided the gangsta rap world for most of the past year — Marlon "Suge" Knight, head of Shakur's record company, Death Row, and Bad Boy Entertainment head Sean "Puffy" Combs — were already expanding their artistic scope before Shakur died of gunshot wounds Sept. 13, seeking new horizons beyond gritty tales of urban mayhem.

But an industry that has already made millions from gangsta rap isn't exactly racing away from the style, with huge sales still expected from the 2Pac album and an upcoming one from Snoop Doggy Dogg.

"I think the record company that 2Pac's on is probably eating it up because now he's probably even selling more records," says rocker Tairrie B. of Manhole, a former rapper for Eazy-E's Ruthless Records. "It's a sad thing to say. But it's like when Kurt Cobain died."

Knight has said little about Death Row's future in the wake of the Shakur slaying. A Death Row spokesman declined requests for interviews, as did Death Row's distributors, MCA Music Entertainment and Interscope Records.

Heavy D, the rapper turned head of Uptown Entertainment, also says there won't be a wholesale rush away from the genre. "At the end of the day, from a business standpoint, it's all about money."

Sales of gangsta rap albums have declined from their early '90s peak — a trend mirrored by the overall flat sales in the music industry. Still, 2Pac's *All Eyez on Me*, which topped the *Billboard* 200 earlier this year, was still No. 20 after 36 weeks.



Death Row Records
Shakur: Record producers are wondering what effect, if any, his death will have on the future of gangsta rap.

Knight, who was with Shakur when he was shot, is currently under arrest for parole violations. The 31-year-old has been accused in a federal racketeering suit of visiting Ruthless Records with baseball bats to settle a business dispute.

But Death Row made its first foray beyond gangsta rap this summer with R&B artist Danny Boy, who quickly dropped off the charts, and soon plans to release an album by pop rapper Hammer. Such safe material may become more commonplace in the future, some executives predict.

Steve Rifkind, president of Loud Records, a label whose acts include Wu-Tang

Clan, says caution will be the rap watchword for large record distributors, most of them publicly traded. They "will censor it a little more — from album artwork to whatever they say lyrically just to avoid pressure from the outside," he says.

But ultimately, the genre is unlikely ever to vanish completely.

"I honestly wish that it would change. For the better, that is," Heavy D says. "I'm hoping maybe people will think twice about the types of lyrics that they're choosing to use now. But to say it's going to change, especially overnight, I would have to say no."

Chris Lighty, manager for LL Cool J and head of Violator Records, admits corporate doors may be closing, if only to newcomers.

"I think it will make it harder if you're the new-up-and-coming gangsta rap label and you're trying to break in the door right now, you're going to meet resistance."

Russell Simmons, whose Del Jam Records is one of rap's leading labels, says no one should expect much change because of Shakur.

"Jimi Hendrix died of an O.D. Did the rock 'n' roll world forget its preoccupation with drugs?" Simmons asks. "Real life inspires art. It reflects the reality that (people) live, saw or that they internalize. They spit it back out through their music or painting or plays or poetry."

Chuck D of Public Enemy says if any change comes post-Shakur, record companies — particularly black music divisions — need to take greater interest in directing young artists, much as the National Basketball Association offers its rookies counseling.

"You could say whatever you want to say in a song, but when it comes down to whether or not you get thrown out of a hotel, fight backstage, or get arrested in other states, that needs to be checked," he says, "because what it does is it sheds a bad light and a shadow on the art form."

Bad Boy's Combs denies feuding with Death Row

Sean "Puffy" Combs wants to clear the air between his Bad Boy Entertainment, leaders of the East Coast school of rap, and the West Coast's Death Row Records.

"I think people have a misconception that first of all we were in a feud," he says. "I don't think you can be in a feud with somebody if there's not two people arguing. I mean, I've never had a prob-

lem with Tupac or a problem with Suge Knight or problem with Death Row, a problem with anybody in the industry, for that matter.

"The only thing I've heard is the records that you've heard. I've never been approached on any other level besides that. So it was more hype than anything."

Combs is branching out in a big way. He has just signed

a lucrative joint venture with Arista Records; he's opening his own restaurant in Manhattan, Justin's, devoted to soul and Caribbean food; and his debut album as an artist is due out in January, with contributions from most of his Bad Boy roster.

Reflecting on his fortunes, Combs agrees that some gangsta rap — particularly that made by imitators of the

original stylists — is passing from the scene.

"I think there are different types of hard-core rap or gangsta rap," he says. "There are the things that are real, affecting people's lives, and then people that are just saying anything that sounds hard-core or sounds dark and dismal — I think some of those things may be on their way out."

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TTY-13
LA Computerized Record Request Form



TO: TELETYPE ROOM

RETURN TO: [REDACTED]

DATE: 11-05-96

FILE NUMBER: 266A-LA-201807

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Driver's License
☐ Data (L1)

Driver's License
☐ Photograph

Registered
☐ Vehicle Data

Los Angeles
☐ County Wants

CA State NCIC
☐ Wants

CA State Criminal
☐ History (CII)*

NCIC Criminal
☐ History (III)*

10-28/Vehicle
☐ Registration

☒ EVENT INDEX

Name of Subject: SHAKUR, TUPAC (10)

Alias(es): _____

Address: _____

Previous Address: _____

Driver's License Number: _____

Date of Birth (or approximate age): _____

Vehicle License Number and State: _____

Sex: ☒ Male ☐ Female

Social Security Number: _____

Height/Weight/Hair/Eyes: _____

Other Identifying Information (Specify): _____

Reason*: _____

Comments: RUN NAME THROUGH "EVENT INDEX"

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*Per DOJ, a reason for the request and a file number are mandatory.

EI10 - EVENT NAME SEARCH - JDS

EVENT# _____

NAME: SHAKUR / TUPAC / _____ / _____ SEX M RACE _ DOB-YR _

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NOTE: ENTER 'Y' FOR EXACT MATCH - LAST NAME / FIRST NAME / SEX REQUIRED

EI10-PARTIAL EVENT NAME INQUIRY - JDS

CRITERIA: LAST SHAKUR FIRST TUPAC MIDDLE _____ SUR _____

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	20989	030928694	100	SHAKUR	TUPAC MISC. Felo	M	A	3244	042994	042994 4
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SHAKUR	TUPAC <i>Robbery</i>	M S	0400	121695	121695	420622	050648425	100
SHAKUR	TUPAC <i>Rape by Force</i>	M S	0021	072093	072093	000999	930643009	100
SHAKUR	TUPAC <i>ADW</i>	M S	0053	030296		000333	960294403	100
SHAKUR	TUPAC <i>Non-Crime</i>	A M A	4400	031193	031193	420182	030108031	100
SHAKUR	TUPAC <i>Fel. Assault</i>	A M A	0500	031393	031393	420668	030611340	100
SHAKUR	TUPAC <i>Robbery</i>	A M S	0300	072093	072093	420979	030930671	100

JD5000 NO MORE INFORMATION AVAILABLE FOR INQUIRY.

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FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807

SECTION NUMBER 2



FEDERAL BUREAU OF INVESTIGATION



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
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Los Angeles, CA 90024

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January 3, 1997

b7C

[REDACTED] ET AL
TUPAC SHAKUR - VICTIM (DECEASED);
ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED);
ACT OF TERRORISM
DOMESTIC TERRORISM - DEATH THREATS
OFFICE OF ORIGIN: LOS ANGELES

All informants mentioned herein have provided reliable information in the past.

Date Investigative Summary Prepared: January 3, 1997.

On October 17, 1996, a preliminary inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED] a known organized crime figure, along with a group of unidentified individuals are utilizing death threats in the furtherance of extortion attempts targeted towards two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

b7C

[REDACTED] and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [REDACTED] and other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a "fee" [REDACTED] reported that ERIC WRIGHT, also known as EAZY-E, who owned RUTHLESS RECORDS, Woodland Hills, California, was a victim of this extortion scheme prior to dying from AIDS. [REDACTED] had also reportedly targeted TUPAC SHAKUR prior to his recent murder in Las Vegas, Nevada.

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Following ERIC WRIGHT's death, [redacted] sued for 50% ownership of RUTHLESS RECORDS. [redacted] would be able to provide further details regarding [redacted] but that she was not available for interview until mid-January, 1997. b7C

On March 27, 1995, [redacted] filed a civil lawsuit against RONALD SWEENEY, Entertainment Attorney for the WRIGHT estate. This lawsuit is titled "COMPTOWN RECORDS INC, et al V. LAW OFFICES RONALD SWEENEY, et al", civil case number BC 124555 was filed in Los Angeles Superior Court, Los Angeles, California b7C pertains to property rights of RUTHLESS RECORDS. During the lawsuit, [redacted] offered as evidence two letters purportedly signed by ERIC WRIGHT, granting [redacted] part ownership of RUTHLESS RECORDS. The letters were deemed forged by an expert witness. [redacted] advised the results of this lawsuit were classified "confidential" and require a subpoena, which is pending.

[redacted] filed a lawsuit against [redacted] in early 1996 alleging that [redacted] made telephonic death threats to her and her family after ERIC WRIGHT died. These records have not yet been reviewed at Los Angeles. b7C

[redacted] b7C

Los Angeles Field Office is currently compiling the court transcripts and related documents mentioned in the above court cases for review prior to the interview of [redacted]. Investigators are awaiting the results of several records checks and anticipate several interviews of witnesses and victims in this matter. In addition, investigators continue to review FBI files as they relate to [redacted] including the copyright matter.

Investigation continuing at Los Angeles.

b7C

COMPANY TOWN

THE BIZ / CHUCK PHILIPS and ALAN ABRAHAMSON

Rapper Leaves Tangled Financial, Legal Legacy

12/24/96

12

Slain rap star Tupac Shakur sold more than \$60 million worth of albums this year alone, making him one of the top-selling domestic artists. Yet, at the time of his death, the rapper owed his record company \$4.9 million, Shakur's attorney says.

Shakur's mother—who last week won a court battle forcing Death Row Records and two other companies to stop selling unauthorized Tupac merchandise—believes Death Row shortchanged her son out of royalty payments and has hired an auditor to conduct an independent accounting of the rap label's books.

The allegations stem from an unusual handwritten three-page contract drafted and signed while Shakur was in prison in 1995.

The dispute illustrates how recording artists' contracts are skewed in favor of record companies. Even if Shakur had recorded additional albums, he would likely have remained in debt for years to come, sources said.

"Tupac was one of the most successful artists in the music business—and yet somehow, on the day he died, he had absolutely nothing to show for it," said New York attorney Richard Fischbein, who along with Afeni Shakur is co-administrator of the rap star's estate. "We believe that Death Row withheld royalty payments from Tupac and failed to deliver many of the advances promised under his contract."

Please see THE BIZ, D7

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THE BIZ: Rapper Shakur's Tangled Legacy

Continued from D1

A representative for Death Row denied that the company has mishandled Shakur's account, blaming the rapper's debts on his own extravagant spending habits.

In the year preceding his slaying, Death Row had advanced Shakur large sums of cash to buy several cars, for himself and a house for his mother—funds that the rapper was required to pay back, Death Row sources said. Shakur also charged to the company lease-payments for three residences as well as a slew of lavish bills, including a \$300,000 tab at the Peninsula Hotel and hundreds of thousands of dollars in invoices for jewelry, furniture, security and limo service, sources said.

In addition, Shakur ran up more than \$2 million in advances for recording and video costs—which, according to standard industry practice, must be recouped by the record company before his account can turn a profit, Death Row sources said.

Nevertheless, when Shakur's mother threatened in October to sue Death Row and bar the release of her son's posthumous "Makaveli: The Don Killuminati" album, Death Row's distributor Interscope Records worked out a deal to pay an immediate \$3-million "nonrefundable" advance to Shakur's es-

'Tupac was one of the most successful artists in the music business—and yet somehow, on the day he died, he had absolutely nothing to show for it. . . .

We believe that Death Row withheld royalty payments from Tupac and failed to deliver many of the advances promised under his contract.'

RICHARD FISCHBEIN
Attorney and co-administrator of the rap star's estate

tate, Fischbein said.

The papers were drawn up at a Nov. 1 meeting between Shakur's mother, Fischbein, Interscope co-founder Jimmy Iovine and a group of attorneys. Death Row owner Marion "Suge" Knight was in jail at the time on a probation violation and could not attend the meeting. Death Row attorney David Kenner was also not present.

During the meeting, Interscope's attorneys also pledged an additional \$2 million in advances to be paid before April and helped negotiate an upgrade in the royalty rate (from 12% to 18%) paid to her son for past releases.

Fischbein insists that Interscope attorneys forgave about 50% of the \$4.9-million debt—a point with which Death Row adamantly dis-

agrees.

"It was Jimmy Iovine who took the lead in getting the ball rolling to straighten this mess out," Fischbein said. "Nothing would have happened if it wasn't for him. Death Row never even came to the table to have a discussion."

Shakur's mother has also cast doubt on the validity of the recording contract that Death Row struck with her son on Sept. 16, 1996.

Unlike a standard recording agreement, typically thick and laced with dozens of complicated terms and conditions, Shakur's pact with Death Row is hand-written and just three pages long. Shakur signed the agreement, Fischbein suggests, because he was unhappy and had been incarcerated for months on a sex abuse

charge before Knight showed up with a promise to bail him out.

"This contract is not like any other agreement I've ever seen in my life," Fischbein said. "It's nothing but toilet paper."

The agreement, which grants Death Row the right to release as many as four albums, spells out a series of advance payments promised to Shakur—many of which Fischbein alleges the rapper never received.

Fischbein also complains that Shakur did not have proper representation when he signed the agreement. According to Fischbein, the rapper appears to have been represented by Kenner, who also was the attorney for Knight and Death Row at the time.

Fischbein accuses of Kenner of having a conflict of interest when he drafted the contract and gave advice to Shakur about signing it. Kenner—who was fired by Shakur about three weeks before the rapper died—denied any conflict of interest, insisting that Shakur was represented at the time by attorney Charles Ogletree. Ogletree could not be reached for comment Monday.

It's unclear whether Shakur's mother would seek to have the handwritten contract disavowed. But Fischbein said Death Row has yet to provide the necessary books that would allow the estate to conduct an independent audit.

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THE BIZ: Rapper Shakur's Tangled Legacy

Continued from D1

A representative for Death Row denied that the company has mishandled Shakur's account, blaming the rapper's debts on his own extravagant spending habits.

In the year preceding his slaying, Death Row had advanced Shakur large sums of cash to buy several cars for himself and a house for his mother—funds that the rapper was required to pay back, Death Row sources said. Shakur also charged to the company lease-payments for three residences as well as a slew of lavish bills, including a \$300,000 tab at the Peninsula Hotel and hundreds of thousands of dollars in invoices for jewelry, furniture, security and limo service, sources said.

In addition, Shakur ran up more than \$2 million in advances for recording and video costs—which, according to standard industry practice, must be recouped by the record company before his account can turn a profit, Death Row sources said.

Nevertheless, when Shakur's mother threatened in October to sue Death Row and bar the release of her son's posthumous "Makaveli: The Don Killuminati" album, Death Row's distributor Interscope Records worked out a deal to pay an immediate \$3-million "nonrefundable" advance to Shakur's es-

'Tupac was one of the most successful artists in the music business—and yet somehow, on the day he died, he had absolutely nothing to show for it. We believe that Death Row withheld royalty payments from Tupac and failed to deliver many of the advances promised under his contract.'

RICHARD FISCHBEIN

Attorney and co-administrator of the rap star's estate

tate, Fischbein said.

The papers were drawn up at a Nov. 1 meeting between Shakur's mother, Fischbein, Interscope co-founder Jimmy Iovine and a group of attorneys. Death Row owner Marion "Suge" Knight was in jail at the time on a probation violation and could not attend the meeting. Death Row attorney David Kenner was also not present.

During the meeting, Interscope's attorneys also pledged an additional \$2 million in advances to be paid before April and helped negotiate an upgrade in the royalty rate (from 12% to 18%) paid to her son for past releases.

Fischbein insists that Interscope attorneys forgave about 50% of the \$4.9-million debt—a point with which Death Row adamantly dis-

agrees.

"It was Jimmy Iovine who took the lead in getting the ball rolling to straighten this mess out," Fischbein said. "Nothing would have happened if it wasn't for him. Death Row never even came to the table to have a discussion."

Shakur's mother has also cast doubt on the validity of the recording contract that Death Row struck with her son on Sept. 16, 1995.

Unlike a standard recording agreement, typically thick and laced with dozens of complicated terms and conditions, Shakur's pact with Death Row is handwritten and just three pages long. Shakur signed the agreement, Fischbein suggests, because he was unhappy and had been incarcerated for months on a sex abuse

charge before Knight showed up with a promise to bail him out.

"This contract is not like any other agreement I've ever seen in my life," Fischbein said. "It's nothing but toilet paper."

The agreement, which grants Death Row the right to release as many as four albums, spells out a series of advance payments promised to Shakur—many of which Fischbein alleges the rapper never received.

Fischbein also complains that Shakur did not have proper representation when he signed the agreement. According to Fischbein, the rapper appears to have been represented by Kenner, who also was the attorney for Knight and Death Row at the time.

Fischbein accuses of Kenner of having a conflict of interest when he drafted the contract and gave advice to Shakur about signing it. Kenner—who was fired by Shakur about three weeks before the rapper died—denied any conflict of interest, insisting that Shakur was represented at the time by attorney Charles Ogletree. Ogletree could not be reached for comment Monday.

It's unclear whether Shakur's mother would seek to have the handwritten contract disavowed. But Fischbein said Death Row has yet to provide the necessary books that would allow the estate to conduct an independent audit.

(Mount Clipping in Space Below)

THE BIZ / CHUCK PHILIPS and ALAN ABRAHAMSON

Rapper Leaves Tangled Financial, Legal Legacy

Slain rap star Tupac Shakur sold more than \$60 million worth of albums this year alone, making him one of the top-selling domestic artists. Yet, at the time of his death, the rapper owed his record company \$4.9 million, Shakur's attorney says.

Shakur's mother—who last week won a court battle forcing Death Row Records and two other companies to stop selling unauthorized Tupac merchandise—believes Death Row shortchanged her son out of royalty payments and has hired an auditor to conduct an independent accounting of the rap label's books.

The allegations stem from an unusual handwritten three-page contract drafted and signed while Shakur was in prison in 1995.

The dispute illustrates how recording artists' contracts are skewed in favor of record companies. Even if Shakur had recorded additional albums, he would likely have remained in debt for years to come, sources said.

"Tupac was one of the most successful artists in the music business—and yet somehow, on the day he died, he had absolutely nothing to show for it," said New York attorney Richard Fischbein, who along with Afeni Shakur is co-administrator of the rap star's estate. "We believe that Death Row withheld royalty payments from Tupac and failed to deliver many of the advances promised under his contract."

Please see **THE BIZ, D7**

(Indicate page, name of newspaper, city and state.) **LOS ANGELES TIMES**

PAGE D1 **LOS ANGELES, CA**

Date: **12-24-96**

Edition:

Title:

Character:

or

Classification:

Submitting Office:

LOS ANGELES

Indexing:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/1/00 BY 3400240/BCE/PC

445069

FBI/DOJ

266A-12-701507-51a

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/12/1997

To: FBI Headquarters

Attn: NSD, CT Branch, DTS, DTOU

From: Los Angeles
NSD-6

Approved By: [REDACTED]

Drafted By: [REDACTED]

mpbh mb

Case ID #: 266A-LA-201807

Title: [REDACTED] ET AL
TUPAC SHAKUR-VICTIM (DECEASED);
ERIC WRIGHT, AKA EAZY-E-VICTIM (DECEASED);
AOT-DT-DEATH THREATS
OO: LOS ANGELES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED b7C
DATE 10/16/00 BY 3102CEW/PCF/PC
445069 915241
906464 911922
919689 904066

ARMED AND DANGEROUS

Synopsis: Status of investigation and request for extension of PI.

Preliminary Inquiry Initiated: 10/17/1996, extended to expire 02/16/1997.

Enclosures: One original and five copies of a Letterhead Memorandum, dated 02/05/1997.

Enclosed for the Bureau are one original and five copies of a Letterhead Memorandum, dated 02/05/1997, which contains the current status of captioned matter.

b2
b7D
b7C

Several leads remain outstanding at Los Angeles regarding captioned matter. [REDACTED]

b7D

[REDACTED] which may assist in identifying [REDACTED] associates. The civil case file has not been located at the Superior Court, Los Angeles. In addition, the LAFO copyright matter which was closed in 1995 has not been located for review purposes. Searches are on for both case files.

b7C

On 01/17/1997, Case Agent met with Detective [REDACTED] LOS ANGELES POLICE DEPARTMENT, Administrative Vice Unit, who has an informant who knows [REDACTED]

b7C

[REDACTED] The informant has agreed to meet with Case Agent in the next two weeks concerning [REDACTED]

266A-LA-201807-116

SEARCHED
INDEXED
SERIALIZED
FILED

—
—
SN
SN

To: FBI Headquarters From: Los Angeles
Re: 266A-LA-201807

It is anticipated that investigation during the next thirty days will resolve the issue of whether the extortionate activity being conducted by [redacted] others is to provide financial backing for their organization or is only for personal financial gain. b7C

It is requested that this Preliminary Investigation be extended another thirty days as a result of outstanding leads.

ARMED AND DANGEROUS



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

11000 Wilshire Blvd.
Los Angeles, CA 90024

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 10/16/00 BY SP10CEW/JSK/aw February 12, 1997

448069

[REDACTED] ET AL
TUPAC SHAKUR - VICTIM (DECEASED);
ERIC WRIGHT, AKA EAZY-E - VICTIM (DECEASED);
ACT OF TERRORISM
DOMESTIC TERRORISM - DEATH THREATS
OFFICE OF ORIGIN: LOS ANGELES

b7C

b7C

All informants mentioned herein have provided reliable information in the past.

Date Investigative Summary Prepared: February 5, 1997.

On October 17, 1996, a preliminary inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED] a known organized crime figure, along with a group of unidentified individuals are utilizing death threats in the furtherance of extortion attempts targeted towards two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

[REDACTED]
[REDACTED] and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [REDACTED] and other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a "fee". [REDACTED] reported that ERIC WRIGHT, also known as EAZY-E, who owned RUTHLESS RECORDS, Woodland Hills, California, was a victim of this extortion scheme prior to dying from AIDS. [REDACTED] had also reportedly targeted TUPAC SHAKUR prior to his recent murder in Las Vegas, Nevada.

b2
b7D
b7C

b7C

b7C

Following ERIC WRIGHT's death, [redacted] sued for 50% ownership of RUTHLESS RECORDS. [redacted] would be able to provide further details regarding [redacted] but that she was not available for interview until mid-January, 1997. b7C

On March 27, 1995, [redacted] filed a civil lawsuit against RONALD SWEENEY, Entertainment Attorney for the WRIGHT estate. This lawsuit is titled "COMPTOWN RECORDS INC, et al V. LAW OFFICES RONALD SWEENEY, et al", civil case number BC 124555 was filed in Los Angeles Superior Court, Los Angeles, California and b7C pertains to property rights of RUTHLESS RECORDS. During the lawsuit, [redacted] offered as evidence two letters purportedly signed by ERIC WRIGHT, granting [redacted] part ownership of RUTHLESS RECORDS. The letters were deemed forged by an expert witness. [redacted] advised the results of this lawsuit were classified "confidential" and require a subpoena, which is pending.

[redacted] filed a lawsuit against [redacted] in b7C early 1996 alleging that [redacted] made telephonic death threats to her and her family after ERIC WRIGHT died. These records have not yet been reviewed at Los Angeles as they have reportedly been misfiled at the Superior Court, Los Angeles.

[redacted] b7C

Los Angeles Field Office is currently compiling the court transcripts and related documents mentioned in the above court cases for review prior to the interview of [redacted] b7C
[redacted] investigators are awaiting the results of several records checks. b7C

[redacted] b7C
[redacted] b7D

Investigation continuing at Los Angeles.



FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807

SECTION NUMBER 4



FEDERAL BUREAU OF INVESTIGATION

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/15/1997

To: FBIHQ

Attn: NSD, CT Branch,
DTS, DTOU

~~Los Angeles~~

From: Los Angeles
NSD-6

Approved By: [REDACTED]

Drafted By: [REDACTED]

mpbh

Case ID #: 266A-LA-201807 (Pending)

Title: [REDACTED]

ET AL;
TUPAC SHAKUR-VICTIM (DECEASED);
Eazy-E-VICTIM (DECEASED);
AOT-DT-DEATH THREATS;
OO: LOS ANGELES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/16/02 BY 8906 b7C

445069 906464
911922 919689
904666 913241

ARMED AND DANGEROUS

Synopsis: Request Field SSA authorization to open a Full Field Investigation.

Details: Reference Los Angeles EC, dated 04/03/1997 which contains criminal history and criminal associates of [REDACTED]

b7C

On 10/17/1996, a Preliminary Inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED] a known organized crime figure, along with a group of unidentified individuals are utilizing death threats in the furtherance of extortionate activity targeted towards two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

b7C

b7C

b7D

266A-LA-201807-170

SEARCHED	INDEXED
SERIALIZED	FILED
APR 22 1997	
FBI - LOS ANGELES	

To: FBIHQ From: Los Angeles
Re: 266A-LA-201807, April 15, 1997

[redacted] and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [redacted] other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a "fee". ERIC WRIGHT, also known as EAZY-E, who owned RUTHLESS RECORDS, Woodland Hills, California, was a victim of this extortion scheme prior to dying from AIDS. [redacted] also reportedly targeted TUPAC SHAKUR prior to SHAKUR's recent murder in Las Vegas, Nevada. b7C

[redacted] b7C
[redacted] b7D
[redacted]

On March 27, 1995, [redacted] filed a civil lawsuit against RONALD SWEENEY, Entertainment Attorney for the WRIGHT estate. This lawsuit is titled "COMPTOWN RECORDS INC, et al vs. LAW OFFICES RONALD SWEENEY, et al", civil case number BC 124555. b7C This case was filed in Los Angeles Superior Court, Los Angeles, California and pertains to property rights of RUTHLESS RECORDS. During the lawsuit, [redacted] offered as evidence two letters purportedly signed by ERIC WRIGHT, granting [redacted] part ownership of RUTHLESS RECORDS. The letters were deemed forged by an expert witness. [redacted] advised the case was settled out of court and the results of were classified "confidential" by the judge.

[redacted] later filed a lawsuit against [redacted] in early 1996 alleging that [redacted] made telephonic death threats to her and her family after ERIC WRIGHT died. b7C

[redacted] b7C
[redacted]
[redacted]
[redacted]
[redacted]

To: FBIHQ From: Los Angeles
Re: 266A-LA-201807, April 15, 1997

[REDACTED] b7C
[REDACTED] b7C
[REDACTED] b7C

[REDACTED] b7C
[REDACTED]

On 04/11/1997, investigators were provided a copy of a civil court complaint, dated 03/11/1996, entitled [REDACTED] an individual, WATERSIDE CANTINA, INC., a California Corporation, MISSION BAY RESTAURANT and CEUE, INC., a California Corporation, Plaintiffs, vs. [REDACTED] b7C

[REDACTED] individuals; R.M.L. REALTY, INC.; PHASE ONE DEVELOPMENT, INC., California corporations, BELMONT PARK ASSOCIATES, a limited partnership, and Does 1 through 50, inclusive, Defendants". [REDACTED] is believed to be the [REDACTED]

The civil complaint alleges that on Friday, 07/28/1995, at approximately 10:00 p.m., several individuals forcibly entered a business [REDACTED]. These individuals were identified as [REDACTED] and two unidentified subjects referred to as UNSUB #1, and UNSUB #2. UNSUB #1 is believed to be [REDACTED] who claimed to represent [REDACTED]. During the incident, UNSUB #1 brandished a concealed weapon at [REDACTED] UNSUB #2 stated he represented [REDACTED] and RUTHLESS RECORDS. After physical and psychological intimidation, [REDACTED] considered the threat to his patrons and left the business he occupied. The complaint further alleges that [REDACTED] had committed and caused to be committed the same acts against RUTHLESS RECORDS. Following the takeover of [REDACTED] nightclub on 07/28/1995, [REDACTED] reportedly asked [REDACTED] "Don't you know who I am? I'm with the JDL". b7C

To: FBIHQ From: Los Angeles
Re: 266A-LA-201807, April 15, 1997

It has since been learned that [] dropped the lawsuit against [] and the other defendants based on fear and intimidation. b7C

FBI records checks of the defendants in [] civil lawsuit reveal the following: b7C

[] FOIMS references
in the following files: b7C

HQ 192-1866	(Hobbs Act - Commercial Institutions)
LA 192B-290	(Hobbs Act - Commercial Institutions)
NK 100A-57409	(Domestic Security - JDL related case)
NK 174A-2760-1	(JDL related case)
NY 183G-3546	(RICO)

[] FOIMS references in the following files: b7C

NY 281A-192451 (OC/DI)
NY 281A-201963

[] FOIMS references
in the following case: b7C

SA 245C-34965-H1 (OCDE)

[]
which FOIMS references in the following case:

LA 179B-914 (ECT)

[] which
FOIMS references in the following case:

LA 281A-102832 (OC/DI) b7C

To: FBIHQ From: Los Angeles
Re: 266A-LA-201807, April 15, 1997

b7C

[redacted]
[redacted] in FOIMS, unknown if identical.

Further checks regarding the above individuals will be necessary to fully identify them.

Investigators are currently compiling the court transcripts and related documents mentioned in the above court cases for review and analysis for lead potential. Investigators are awaiting the results of several records checks to include [redacted] b7C b7D

Based on the extortionate activity presented herein, and other criminal activity yet unidentified, it is recommended that a Full Field Investigation be initiated in this matter. There appears to be a "reasonable indication" that [redacted] has been conducting extortionate/criminal activity for some time and will continue to do so as long as he is successful and not held criminally liable. Los Angeles sources believe [redacted] to be acting in concert with or on behalf of the JDL and its associates. b7C

It is anticipated a Full Field Investigation will identify whether the extortionate activity is being perpetrated on behalf of [redacted] et al, for personal gain and/or on behalf of the JDL.

ARMED AND DANGEROUS

b7C

♦♦

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 04/21/1997

To: Los Angeles

From: Los Angeles
NSD-6

b7C

Approved By: [REDACTED]

Drafted By: [REDACTED]

mpbh

Case ID #: 266A-LA-201807
LA 66-598 SUB A-178

Title: [REDACTED] ET AL

ET AL;
TUPAC SHAKUR - VICTIM (DECEASED)
Eazy-E - VICTIM (DECEASED)
AOT - DT - DEATH THREATS
OO: LOS ANGELES

ARMED AND DANGEROUS

Synopsis: Request for authorization of mail cover.

Full Field Investigation Instituted: 04/15/1997.

Details: On October 17, 1996, a preliminary inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED] a known organized crime figure, along with a group of unidentified individuals are utilizing death threats in the furtherance of extortion attempts targeted towards two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

b7C

b7D

[REDACTED] and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [REDACTED] and other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a "fee". [REDACTED] reported that ERIC WRIGHT, also known as Eazy-E, who owned RUTHLESS RECORDS, Woodland Hills, California, was a victim of this extortion scheme prior to dying from AIDS. [REDACTED] had also reportedly targeted TUPAC SHAKUR prior to his recent murder in Las Vegas, Nevada.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11/14/92 BY 3008WPC/PL

9110122 443069
9101616 919689
C101611 913241

266A-LA-201807-207

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 10 1997	
FBI - LOS ANGELES	

[redacted] b7C
[redacted] that [redacted] b7D
[redacted] b7D
[redacted]

Following ERIC WRIGHT's death, [redacted] sued for 50% ownership of RUTHLESS RECORDS. The civil lawsuit is titled "COMPTOWN RECORDS INC, et al V. LAW OFFICES RONALD SWEENEY, et al", civil case number BC 124555 and was filed in Los Angeles Superior Court, Los Angeles, California. During the lawsuit, [redacted] offered as evidence two letters purportedly signed by ERIC WRIGHT, granting [redacted] part ownership of RUTHLESS RECORDS. The letters were deemed forged by an expert witness. [redacted] could produce no original letters. [redacted] advised the results of this lawsuit were classified "confidential" and require a subpoena, which is pending. [redacted] b7C

[redacted]
[redacted] In addition, [redacted] filed a lawsuit b7C against [redacted] in early 1996 alleging that [redacted] made telephonic death threats to her and her family after ERIC WRIGHT died.

On 04/11/1997, investigators were provided a copy of a civil court complaint, dated 03/11/1996, entitled [redacted] an individual, WATERSIDE CANTINA, INC., a California Corporation, MISSION BAY RESTAURANT and CLUB, INC., a California Corporation, Plaintiffs, vs. [redacted] b7C

[redacted] individuals; R.M.L. REALTY, INC.; PHASE ONE DEVELOPMENT, INC., California corporations, BELMONT PARK ASSOCIATES, a limited partnership, and Does 1 through 50, inclusive, Defendants". [redacted]

The civil complaint alleges that on Friday, 07/28/1995, at approximately 10:00 p.m., several individuals forcibly entered a business owned and operated [redacted] These individuals were identified [redacted] b7C and two unidentified subjects referred to as UNSUB #1, and UNSUB #2. UNSUB #1 is believed to be [redacted] who claimed to represent [redacted] During the incident, UNSUB #1 brandished a concealed weapon [redacted] UNSUB #2 stated he represented [redacted] RUTHLESS RECORDS. After physical and psychological intimidation, [redacted] considered the threat to his patrons and left the business he occupied. The complaint further alleges [redacted] had committed and caused to be committed the same acts against RUTHLESS RECORDS. Following the takeover of [redacted] nightclub on 07/28/1995 [redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

b7C

[Redacted]

[Redacted]

[Redacted]

b7C

The focus of the requested mail cover includes the following individuals:

[Redacted]

It is requested the mail cover include first and second class mail and last for a period of thirty days commencing on the date the request is received by the District Postal Inspector in Charge, located in Pasadena, California.

To the best of my knowledge, the name and address of an attorney who represents the mail cover subject is unknown. If, during the period of the mail cover, the name and address of an attorney retained by the mail cover subject becomes known to the case agent, such information will be promptly furnished.

Mail cover subject is allegedly in violation of the following U.S. laws:

- 1) Title 18, U.S. Code, Section 1951
Punishable by fine or imprisonment not more than twenty years or both; and
- 2) Title 21, U.S. Code, Section 841 and 846.
Punishable depending on quantity and type of narcotics.

No subject of this mail cover is presently under indictment or formally charged with any violation of criminal law. Should any subject be indicted or formally charged during the period of the mail cover, the postal inspector will be

promptly advised so the mail cover may be immediately canceled.

It is understood the results of the mail cover, PS Form 2009, are the property of the U.S. Postal Service and its use is limited to law enforcement agencies. The results can be retained in the case agent's office as an investigative tool for a period of 60 days and then returned to the following address:

b7C

Postal Inspector
ISOSG
Mail Cover Section
P.O. Box 9000
South San Francisco, CA 94083-900

It is recommended that a mail cover request be authorized to enhance captioned investigation.

Investigation continuing at Los Angeles.



FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807

SECTION NUMBER 6



FEDERAL BUREAU OF INVESTIGATION

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.)

Date:
Edition:9-10-97
LA Times

Title:

Character:
orClassification:
Submitting Office: LA

Indexing:

266A-LA-201807-313

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIEDDATE 10/17/00 BY 60324 JRE/jr
911922 906464
904666 919689
445069 915241

2c

Man Named as Suspect in Death of Shakur Sues the Rapper's Estate

■ **Courts:** Orlando Anderson says he was assaulted by the star and others in a Las Vegas hotel hours before fatal shooting.

By CHUCK PHILIPS
TIMES STAFF WRITER

A reputed Los Angeles gang member once named by police as a suspect in the murder of Tupac Shakur has filed a lawsuit against the slain rap star's estate—a year and a day after Shakur was gunned down.

Orlando Anderson's lawsuit contends that he was assaulted by the rapper and several Death Row Records employees in the lobby of the MGM Grand Hotel in Las Vegas just hours before Shakur was gunned down. No arrests have been made.

It is unusual for gang disputes to end up in civil lawsuits, but Anderson's action is particularly surprising because it could subject him to renewed scrutiny in connection with Shakur's death.

Shakur, one of the brightest stars in rap and a budding actor, was fatally wounded just off the Las Vegas Strip by gunfire while riding in a car driven by Death Row founder Marion "Suge" Knight. Ever since, there has been widespread speculation about the relationship between the killing and the MGM altercation.

The suit, filed late Monday in Los Angeles Superior Court, also names Death Row and Knight as defendants, and alleges that Anderson suffered physical injuries and severe emotional and mental distress.

Representatives for Shakur's estate and Death Row declined comment Tuesday.

Please see SHAKUR, B3



Los Angeles Times

Rapper Tupac Shakur was gunned down in Las Vegas in September 1996.

9/10/97 LATIMES

(Indicate page, name of newspaper, city and state.)

(Mount Clipping in Space Below)

Date:
Edition:

SHAKUR

Continued from B1

Renee L. Campbell, who represents Anderson, acknowledged that her client was told last fall that he was a suspect in Shakur's killing, but denied that he had anything to do with the shooting.

"It is clear that if there is any victim, my client is the victim," Campbell said.

Knight was sent to prison in February for a probation violation stemming from his role in the assault on Anderson, which was captured on a hotel surveillance videotape. At a hearing last fall, Anderson testified that Knight did not participate in the beating but tried to help stop the attack.

When asked whether Anderson, who is listed in police files as a member of the Southside Crips gang in Compton, had perjured himself on the stand in November, Campbell said her client "testified the way he did out of fear for his safety."

On the evening of Sept. 7, 1996,

Shakur and Knight had gone to the Mike Tyson-Bruce Seldon heavyweight fight at the MGM. On the way out, Shakur, Knight and several Death Row employees kicked, punched and struck Anderson in the lobby, the lawsuit states.

About three hours later, Shakur and Knight were sitting in Knight's 750 BMW at a red light when gunfire erupted from a white late-model Cadillac carrying four men—that had pulled up in the next lane. Shakur died six days later in a Las Vegas hospital.

Before Shakur died, detectives in Las Vegas and Compton were inundated with a flurry of tips from informants contending that Anderson—a Lakewood resident who goes by such gang monikers as "Lando" and "Lane"—was responsible for the rapper's shooting, according to a Compton police affidavit prepared Sept. 25 to obtain search warrants for a pending gang raid.

According to the affidavit, the ruckus in the MGM lobby was the result of gang rivalry between

Death Row-affiliated members of the Mob Piru Bloods and the Southside Crips, of which Anderson and several of his relatives are allegedly members. Anderson was attacked, the affidavit said, because he had allegedly stolen a gold chain from one of the Death Row employees during a gang scuffle a month earlier at a Lakewood mall.

According to the affidavit, Anderson was seen several days after the shooting with a Glock .40-caliber handgun—the same kind of weapon used in the homicide—and his cousin was seen driving a white late-model Cadillac into an auto shop in Compton. That same week, Las Vegas detectives examined a box of .40-caliber rounds confiscated by Compton police from a residence where Anderson's cousin was living. They also confiscated weapons from a Compton residence of Anderson's uncle, Dwayne Keith "Keefee D" Davis, who sources said is listed in police files as a member of the Southside Crips.

During an Oct. 2 gang raid

red by shootings after Shakur's death, Anderson was taken custody on an outstanding warrant stemming from a slaying npton unrelated to Shakur's. A Las Vegas detective who participated in the raid told Anderson that he was a suspect in his shooting, according to son's former attorney, Ed Faal.

Anderson was released Oct. 4. Los Angeles prosecutors declined to file charges against him in Compton slaying. In February, Las Vegas police told The that Anderson was still listed a suspect in Shakur's slaying. But the investigation re-stalled.

The allegations against my client, the affidavit is totally unfounded," Campbell said. She said they had no subsequent contact with Anderson. But the of his uncle, Davis, resurfaced months later during the investigation of the killing of Shakur's musical rival, Christopher Wallace, New York rap star known as

Notorious B.I.G., who was gunned down March 9 outside of the Petersen Automotive Museum in the Mid-Wilshire district.

In May, Los Angeles investigators seized Davis' Chevy Impala from his girlfriend's house in Compton. The two-door sedan matched the description of the car used in Wallace's shooting.

Police have not returned the vehicle. Sources say investigators interviewed Davis in June but told him that he is not a suspect in Wallace's murder. No arrests have been made in the case.

Investigators have been focusing on the idea that Wallace's shooting stemmed from a personal dispute with a Compton gang member—possibly the result of an unpaid security bill, sources said. Police sources said that Wallace and his record company chairman, Sean "Puffy" Combs, often employed members of the Southside Crips as security—an allegation Combs adamantly denies.

During an interview in June with police, Davis told investiga-

tors that he met Wallace nearly two years before the rapper was slain, sources said. The two were introduced by a mutual friend after a concert in Anaheim.

The friend, a drug dealer from Harlem, brought Davis to Wallace's hotel after the show and told the rapper that he could provide protection in Los Angeles for Wallace's entourage should he ever need it, sources said. Wallace turned down the offer, explaining that his record company had already hired bodyguards, sources said.

Davis told police that he also attended the March music industry party at the Petersen Museum and spoke with Wallace and several members of his entourage less than an hour before the rapper was shot, sources said.

Davis could not be reached for comment. Attorney Faal denied the suggestion that Davis had anything to do with Wallace's murder.

Law enforcement sources say investigators have not uncovered any evidence that Wallace's murder was connected to the Shakur slaying.

FBI/DOJ

FEDERAL BUREAU OF INVESTIGATION

FOIPA

DELETED PAGE INFORMATION SHEET

Serial Description ~ COVER SHEET

02/05/1998

Total Deleted Page(s) ~ 1

Page 3 ~ b7C, b7D



FREEDOM OF INFORMATION
AND
PRIVACY ACTS

SUBJECT Tupac Shakur

FILE NUMBER 266A-LA-201807

SECTION NUMBER 7



FEDERAL BUREAU OF INVESTIGATION

(12/31/1995)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/05/1998

To: Los Angeles ✓

Attn: SA [REDACTED]

From: Los Angeles ✓

NSD-6

Contact: [REDACTED]

b7C

Approved By: [REDACTED]

Drafted By: [REDACTED]

Case ID #: 266A-LA-201807 (Pending) ✓

Title: [REDACTED] ETAL;

AOT - DT - DEATH THREATS

OO: LOS ANGELES

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/10/00 BY 3903 elw/jep/pw

911922

919689

913241

904216

445069

900464

Synopsis: Requesting approval to interview [REDACTED]
a reporter for THE NEW YORKER MAGAZINE.

Details: For your information, on October 17, 1996, a preliminary inquiry (PI) was initiated at Los Angeles Field Office to corroborate source information that [REDACTED]

b7C

[REDACTED] a known organized crime figure, along with a group of unidentified individuals were utilizing death threats in the furtherance of extortion attempts targeting two former prominent rap musicians from the Los Angeles area and other victims yet unidentified.

[REDACTED] and others yet unidentified have been extorting money from various rap music stars via death threats. The scheme involves [REDACTED] and the other subjects making telephonic death threats to the rap star. Subjects then intercede by contacting the victim and offering protection for a fee. Source reported ERIC WRIGHT, also known as EAZY-E and then owner of RUTHLESS RECORDS in Woodland Hills, California, was a victim of this extortion scheme, prior to dying from AIDS. [REDACTED] had also reportedly targeted TUPAC SHAKUR before his recent murder in Las Vegas, Nevada.

b7C

b7D

b7D

b7C

b7C

attached
documents

266A-LA-201807-368

To: Los Angeles From: Los Angeles
Re: 266A-LA-201807, 02/05/1998

LEAD (s):

Set Lead 1:

LOS ANGELES

AT AT LOS ANGELES

Los Angeles Field Office is requesting permission to interview reporter [redacted] from THE NEW YORKER MAGAZINE, telephone number (212) 536-5400 or 840-3800 via telephone or by sending a lead to New York Field Office and have that office conduct same regarding the above mentioned information. Research revealed [redacted] wrote an article on TUPAC SHAKUR for THE NEW YORKER MAGAZINE in the July 7, 1997, issue.

b7C



Jimmy Iovine (left), the head of Interscope, is brokering a settlement in a suit brought by Shukur's mother, Afeni, against Death Row.

A REPORTER AT LARGE

THE TAKEDOWN OF TUPAC

Tupac Shakur was one of gangsta rap's biggest stars. But he got caught in a collision of cultures when inner-city gangs met up with the multibillion-dollar record industry.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

BY CONNIE BRUCK

DATE 10/19/05 BY 9802 RDD/CEC/PS
911922 443069 910689
9061106 906046 915201

WHEN twenty-five-year-old Tupac Shakur was shot and killed in Las Vegas last fall, he was riding in the passenger seat of a B.M.W. 750 sedan driven by Marion (Suge) Knight, the head of Death Row Records. Death Row, the leading purveyor of West Coast "gangsta rap," is a music-business phenomenon. The company earned seventy-five million dollars in revenues last year. The first album Tupac made for Death Row, "All Eyez on Me," which was released in early 1996, sold over five million units. Tupac had made three earlier albums, but they had never reached the stratosphere of "quintuple platinum." Still, the days preceding his murder were anything but halcyon for him. It had become increasingly clear that there was a steep penalty to pay for having thrown in with Suge Knight.

Even for the rough-edged music industry, which has historically been prone to excess and to connections with criminal elements, Death Row was a remarkable place. It was nothing for Knight to hand over a stack of hundred-dollar bills to Tupac for a weekend's expenses. Knight's office in Los Angeles was decorated in red, the color of the Bloods, one of the city's principal gangs. A guard holding a metal detector stood at the front door of the Death Row studio. "I have not been to one other studio to this day where you have to be searched before you get in," a veteran of the L.A. music business who worked with Tupac told me. "They have a checklist of people who can go in with guns. So you have to figure, These guys have guns, and it's a long run to the front door, and there's security at the front door that may try to stop you, even if you get there. . . . Some of the security guys . . .

were gangsters just out of the penitentiary. They would look at you, staring right through you. No words would have to be said."

Intimidation was Suge Knight's stock-in-trade. It is said that he forced a black music executive at a rival company to strip in the men's room and then made him walk naked through his company's offices. A mammoth, three-hundred-and-fifteen-pound man, Knight has a substantial criminal record, replete with violent acts. Even when he was on his best behavior—say, dealing with a white executive at one of the major entertainment companies—menace hung heavy in the air. One man told me about a negotiation he had in the apparent safety of his own office. Knight was attended by a bodyguard, and when they reached a difficult point in the deal, the bodyguard ostentatiously leaned forward and let his gun, which was worn in a holster under his jacket, slip into full view.

For a time, the aura of violence served Knight well. It granted him enormous license in small things (like keeping other executives waiting for hours, without a murmur of objection) and in larger ones. Music and video producers who claimed that Death Row owed them money were too frightened to demand it, or to sue. The potential for violence was also a powerful disincentive to anyone who might have considered talking to law-enforcement authorities about questionable practices. Moreover, it did not keep him from doing business with two of the entertainment industry's corporate giants. Death Row has been funded since its inception by its distributor, Interscope, which for years was partially owned by Time Warner, and which Universal has had a fifty-per-cent interest in since early last year.

After Tupac's murder, however, things began to unravel for Knight. In the summer of 1992, he had pulled a gun on two rappers, George and Stanley Lynwood, for using a phone at the studio. After beating one of them with the gun, he ordered them both down on their knees, threatened to kill them, and forced them to take off their pants. He was convicted on assault charges and put on probation. But four years later, just before Tupac was killed, Knight took part in the beating of a man in Las Vegas, and this put him in violation of his probation. In February of this year he began serving a nine-year sentence and is now in San Luis Obispo state prison. In addition, hundreds of millions of dollars' worth of suits have now been filed against Death Row (the largest being that of Tupac's estate, charging that he was defrauded of over fifty million dollars, and seeking damages of a hundred and fifty million). And there may be more to come. A team of agencies, including the F.B.I., the D.E.A., and the I.R.S., are investigating allegations of money laundering, links to street gangs, drug trafficking, and organized crime at Death Row.

"I think, Tupac, you brought down one of the most evil empires of my time," one of his friends, who grew up in the music business, says. He did not intend to romanticize Tupac; this friend, like many others, acknowledges that Tupac was famously split between what he himself referred to as his "good" and his "evil" sides, and that it was his darker side that seemed to have gained dominion during much of his tenure at Death Row. Nonetheless, these friends insist, that was not the real Tupac. The real Tupac was gifted, sympathetic, intent on articulating the pain of young blacks in the in-

ILLUSTRATIONS BY MARK ULRICKSEN

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS METROPOLITAN
POLICE DEPARTMENT,

Appellant,

vs.

THE CENTER FOR INVESTIGATIVE
REPORTING, INC., A CALIFORNIA
NONPROFIT ORGANIZATION,

Respondent.

Electronically Filed
May 10 2019 03:10 p.m.
Nos. 77617/77985
Elizabeth A. Brown
Clerk of Supreme Court

Appeal from the Eighth Judicial District
Court, the Honorable Elizabeth
Gonzalez Presiding

JOINT APPENDIX
(Volume 1, Bates Nos. 1–250)

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MAC:14687-141 3721464_1.docx

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Exhibits to Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011		
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1	Application for Order Shortening Time	Vol. 1, Bates Nos. 14–17
2	Emails from December 2017 to March 2018 Regarding Records Request	Vol. 1, Bates Nos. 18–23
3	March 28, 2018 Letter from Philip Erwin to LVMPD	Vol. 1, Bates Nos. 24–31
4	Case Report No. LLV960907002063	Vol. 1, Bates Nos. 32–34
5	Emails from March 2018 to April 2018 Regarding Records Request Production	Vol. 1, Bates Nos. 35–37
6	April 12, 2018 Letter from LVMPD to Philip Erwin	Vol. 1, Bates Nos. 38–40
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9	Las Vegas Sun Article “The Death of Tupac Shakur One Year Later (dated 09/06/97)	Vol. 1, Bates Nos. 47–50
10	Billboard Article “Weapon Used in Tupac’s Murder Suddenly Disappears” (dated 12/17/17)	Vol. 1, Bates Nos. 51–53

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11	Los Angeles Times Article “Possible Suspect in Tupac Shakur Death Killed in Shootout” (dated 05/30/98)	Vol. 1, Bates Nos. 54–55
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A	Declaration of Clifford H. Mogg (dated 05/08/18)	Vol. 1, Bates Nos. 68–70
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C	Las Vegas Now Article “I-Team: DNA Evidence Links Man to Las Vegas Cold Case Murder” (dated 10/12/16)	Vol. 1, Bates Nos. 74–76
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10	Declaration of Philip R. Erwin, Esq. in Support of Petitioner The Center for Investigative Reporting Inc.'s Supplemental Brief Regarding Its Prevailing Status Under NRS 239.011 (dated 10/12/18)	Vol. 2, Bates Nos. 336–338
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Respondent Las Vegas Metropolitan Police Department's Notice of Appeal (filed 12/04/18)		Vol. 4, Bates Nos. 773–775
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1	Order, <i>Las Vegas Review-Journal v. Clark Cty. Office of the Coroner/Med. Exam'r</i> , 2018 WL 1896250 (Nev. Dist. Ct. Feb. 1, 2018)	Vol. 4, Bates Nos. 801–809
2	Order, <i>Las Vegas Review-Journal v. Clark Cty. School Dist.</i> , 2018 WL 1896249 (Nev. Dist. Ct. Mar. 22, 2018)	Vol. 4, Bates Nos. 810–821
3	Order Granting, in Part, Petitioners' Motion for Attorneys' Fees and Costs in Carson City District Court Case No. 14OC000031B (filed 04/11/14)	Vol. 4, Bates Nos. 822–831

<u>DOCUMENT DESCRIPTION</u>		<u>LOCATION</u>
Exhibits to The Center for Investigative Reporting Inc.'s Reply in Support of Motion for Attorneys' Fees and Costs (cont.)		
Exhibit	Document Description	
4	Defendant Stephens Media, LLC's Motion for Attorney's Fees in Clark County District Court Case No. A669057 (filed 03/30/15)	Vol. 4, Bates Nos. 832–862
5	Order in Clark County District Court Case No. A669057 (filed 06/22/15)	Vol. 4, Bates Nos. 863–873
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DISTRICT COURT

CLARK COUNTY, NEVADA

THE CENTER FOR INVESTIGATIVE
REPORTING INC.,

Petitioner,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

CASE NO.: A-18-773883-W
DEPT. NO.: Department 31

DEPARTMENT XXXI
NOTICE OF HEARING
DATE 5/15/18 TIME 9:00 am
APPROVED BY JCW

**VERIFIED PETITION FOR WRIT OF MANDAMUS AND INCORPORATED
APPLICATION FOR ORDER AND EXPEDITED HEARING PURSUANT TO
NRS 239.011**

Petitioner The Center for Investigative Reporting Inc., a California nonprofit organization, by and through its counsel, hereby moves this Honorable Court for a writ of mandamus compelling Respondent Las Vegas Metropolitan Police Department to produce records and documents as set forth in more detail below related to the September 1996 murder of Tupac Shakur in Las Vegas, Nevada. This petition is brought pursuant NRS 34.160, 239.010, and 239.011, and Petitioner declares that it has no plain, speedy or adequate remedy at law to compel Respondent to produce the records sought.

Petitioner further submits its Application for Order Shortening Time, which is attached as Exhibit "1" and incorporated herein.

PARTIES

1. Petitioner The Center for Investigative Reporting Inc. ("CIR"), a California nonprofit organization, owns and operates *Reveal*, a website, public radio program, and podcast. CIR was founded in 1977 as the nation's first nonprofit investigative journalism organization and its work has been recognized for its excellence with recent awards including two national News & Documentary Emmys, a George Foster Peabody Award, a Webby award, a Military Reporters and Editors Award, a Bartlett & Steele Gold Award for investigative business journalism, Alfred I. DuPont-Columbia University awards, a George Polk award, IRE Awards for multiplatform journalism and an Edward R. Murrow Award for investigative reporting. CIR was also named as a finalist for the Pulitzer Prize in 2012, 2013, and 2018.

2. Respondent Las Vegas Metropolitan Police Department ("LVMPD") is a state agency and the joint city-county police force for the City of Las Vegas and Clark County, Nevada.

FACTS

3. On or about December 11, 2017, Andy Donohue, the Managing Editor of CIR, contacted LVMPD's Office of Public Information to request information under the Nevada Open Records Act (the "Act") concerning the murder of Tupac Shakur in Las Vegas, Nevada in September 1996. Specifically, Mr. Donohue formally requested the opportunity to inspect or obtain copies of "[a]ny and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka Makaveli, including but not limited to law enforcement files involving his murder." See Exhibit "2," E-mail Correspondence between Andy Donohue and LVMPD Office of Public Information.

4. The purpose of Mr. Donohue's request was to gather information for a piece of investigative journalism about the decades-old unsolved murders of Tupac Shakur and Christopher

Wallace aka Notorious B.I.G. that would be broadcast to a national audience on one of CIR's platforms.

5. If LVMPD refused to comply with CIR's public records request, Mr. Donohue asked that LVMPD cite each specific exemption justifying such refusal under Nevada law. *Id.* To the extent LVMPD determined that some, but not all, of the information in the subject records was exempt from disclosure, Mr. Donohue further requested that LVMPD redact that information and produce the segregable portions of the records. *Id.*

6. Although Nevada law requires that a governmental entity respond to a request for public records under the Act with five (5) business days, LVMPD did not respond to Mr. Donohue's December 11, 2017 e-mail.

7. On January 10, 2018, Mr. Donohue followed up on CIR's public records request and noted that LVMPD had failed to comply with its statutory obligations under the Act. Ex. 2. That same day, LVMPD's Office of Public Information responded to Mr. Donohue by stating that his e-mail had been forwarded to PIO Officer Lawrence Hadfield for "follow-up." *Id.* Nevertheless, neither Officer Hadfield nor any other individual from LVMPD provided a determination to CIR regarding its public records request. *Id.*

8. On January 22, 2018, Mr. Donohue followed up on CIR's public records request for a second time and noted that LVMPD's determination was more than one month overdue. *Id.* Again, LVMPD did not respond to Mr. Donohue's e-mail. *Id.*

9. On March 15, 2018, Mr. Donohue followed up on CIR's public records request for a third time and pointed out that LVMPD's determination was now more than three months overdue. *Id.* Consistent with its prior failures to comply with the requirements of the Act, LVMPD did not respond to Mr. Donohue's e-mail. *Id.*

10. On March 28, 2018, the undersigned counsel sent a letter to LVMPD Director of Public Information, Carla Alston, setting forth LVMPD's failure to comply with its statutory

obligations under the Act and demanding a complete response to CIR's public records request on or before April 4, 2018. *See* Exhibit "3," 3/28/2018 Letter from Philip R. Erwin, Esq.

11. On April 5, 2018, LVMPD produced a two-page police report concerning the murder of Tupac Shakur. *See* Exhibit "4" Police Report. In direct contravention of its obligations under NRS 239.0107(d), LVMPD did not indicate whether additional documents existed or were withheld based on alleged confidentiality grounds.

12. On April 11, 2018, the undersigned counsel e-mailed Officer Hadfield and asked for confirmation that the two-page police report was the only document in LVMPD's possession responsive to CIR's public records request. *See* Exhibit "5," 4/11/2018 E-mail Correspondence from Philip R. Erwin, Esq. The undersigned counsel likewise requested that LVMPD confirm that it did not withhold any responsive documents—*e.g.* investigative files, correspondence, memoranda, et cetera—based on confidentiality grounds. *Id.* If LVMPD did withhold responsive documents on confidentiality grounds, the undersigned counsel demanded that it provide notice of that fact along with a citation to the supporting statute(s) or other legal authorities as required by NRS 239.0107(d). *Id.*

13. On April 12, 2018, Charlotte M. Bible, Assistant General Counsel for LVMPD, sent a letter in response to the undersigned counsel's April 11, 2018 e-mail. *See* Exhibit "6," 4/12/2018 Letter from Charlotte M. Bible, Esq. Ms. Bible first confirmed that LVMPD failed to advise CIR that it would research its public records request and respond within 30 days as required by NRS 239.0107(1)(c). *Id.* Ms. Bible then claimed that the criminal investigation of Tupac Shakur's murder is an "open active investigation" and, as such, the requested records are (i) not public records under NRS 239.010(1), (ii) declared by law to be confidential, (iii) subject to the "law enforcement privilege," and (iv) protected from disclosure because law enforcement policy justifications for nondisclosure outweigh the public's interest in access to the records. *Id.* Notwithstanding LVMPD's continued refusal to comply with CIR's public records request, Ms.

1 Bible conceded that LVMPD had failed to notify CIR that responsive documents were withheld
2 and did not provide supporting legal authorities as required by the Act. *Id.* In sum, Ms. Bible
3 declared that “disclosure of the investigative file would jeopardize apprehending a murder suspect”
4 although she did not provide any information or evidence to suggest that LVMPD’s purported
5 investigation into Tupac Shakur’s murder was, in fact, “open” and “active.” *Id.*

6 14. On April 23, 2018, the undersigned counsel responded to Ms. Bible’s letter and
7 disputed LVMPD’s legally unsupported position that any and all records related to Tupac Shakur’s
8 22-year-old murder are confidential as a matter of law because LVMPD has labeled its
9 investigation as “open” and “active.” *See* Exhibit “7,” 4/23/2018 Letter from Philip R. Erwin, Esq.
10 In addition, the undersigned counsel pointed out that LVMPD’s stated reason for withholding the
11 requested records—*i.e.* that the mere categorization of a criminal investigation as “open” precluded
12 the public dissemination of records under the Act—was recently rejected in the widely-publicized
13 public records litigation related to the October 1 shooting at Mandalay Bay. *Id.* In short, the
14 undersigned counsel submitted that the production of records related to the murder of Tupac
15 Shakur was required under Nevada law and requested that LVMPD confirm its intention to comply
16 with its statutory obligations by April 27, 2018. *Id.*

17 15. On April 27, 2018, Ms. Bible responded and maintained LVMPD’s position that
18 the requested records are confidential and, therefore, not subject to disclosure under the Act. *See*
19 Exhibit “8,” 4/27/2018 Letter from Charlotte M. Bible, Esq. Although Ms. Bible attempted to
20 expand on LVMPD’s policy justifications for nondisclosure, she did not provide any additional
21 information or evidence to suggest that the LVMPD’s alleged investigation into the decades-old
22 murder of Tupac Shakur was “open” and “active.” *Id.* Ms. Bible also did not indicate whether
23 LVMPD had actually reviewed the requested records to determine whether each and every
24 document is confidential. *Id.* Instead, LVMPD maintained its blanket objection to CIR’s request
25
26
27
28

1 on confidentiality grounds and refused to produce any documents other than the two-page police
2 report.

3 POINTS AND AUTHORITIES

4 **A. Legal Standard**

5 16. In Nevada, writs of mandamus are governed by NRS 34.150, *et seq.* A writ of
6 mandamus is available to compel the performance of an act that the law requires as a duty resulting
7 from an office, trust or station, or to control an arbitrary or capricious exercise of discretion. *See* NRS
8 34.170; *DR Partners v. Bd. of County Comm'rs of Clark County*, 116 Nev. 616, 621-22, 6 P.3d
9 465, 468 (2000). Specifically, NRS 34.160 authorizes the District Court to compel the performance
10 of an act which the law otherwise requires:

12 The writ may be issued by the supreme court, a district court or a judge of the district
13 court, to compel the performance of an act which the law especially enjoins as a duty
14 resulting from an office, trust or station; or to compel the admission of a party to the
15 use and enjoyment of a right or office to which he is entitled and from which he is
16 unlawfully precluded by such inferior tribunal, corporation, board or person.

17 17. Writs of mandamus are appropriate where there is no "plain, speedy and adequate
18 remedy in the ordinary course of law." *See* NRS 34.170.

19 18. In analyzing NRS 34.160 and its accompanying provisions, the Nevada Supreme
20 Court has consistently ruled that a writ of mandamus is appropriate where a public official has failed
21 to perform an act that is required by law. *See, e.g., Nova Horizon, Inc. v. City Council of the City of*
22 *Reno*, 105 Nev. 92, 769 P.2d 721 (1989); *State, ex rel Johns v. Gragson*, 89 Nev. 478, 515 P.2d 65
23 (1973); *Henderson v. Henderson Auto Wrecking*, 77 Nev. 118, 359 P.2d 743 (1961). Mandamus is
24 the appropriate procedural remedy to compel the production of public records under NRS 239.010, *et*
25 *seq.* *See, e.g., DR Partners*, 116 Nev. at 622, 6 P.3d at 468 (compelling disclosure of billing
26 statements documenting county officials' use of publicly owned cellular telephones); *Donrey of*
27 *Nev., Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990) (compelling disclosure of a police
28 investigative report concerning the City Attorney's dismissal of charges against a defendant); *Las*

1 *Vegas Metro. Police Dep't v. Blackjack Bonding, Inc.*, 131 Nev. Adv. Op. 10, 343 P.3d 608 (2015)
2 (compelling disclosure of records for telephones used by county jail inmates).

3 19. The Nevada Public Records Act expressly provides that "all public books and
4 public records of a governmental entity, the contents of which are not otherwise declared by law
5 to be confidential, must be open at all times during office hours to inspection by any person." NRS
6 239.010. "The purpose of the [Nevada Public Records Act] is to ensure the accountability of the
7 government to the public by facilitating public access to vital information about governmental
8 activities." *DR Partners*, 116 Nev. at 622, 6 P.3d at 468.

9 20. In 2007, the Legislature amended the Act to ensure the presumption of openness,
10 and provided that all statutory provisions related to the Act must be construed liberally in favor of
11 the Act's purpose of fostering the principles of democracy by allowing public access to information
12 about government activities. *Reno Newspapers v. Sheriff*, 126 Nev. 211, 214, 234 P.3d 922, 924
13 (2010); *Reno Newspapers v. Gibbons*, 127 Nev. 873, 880, 266 P.3d 623, 628 (2011) ("First, we
14 begin with the presumption that all government-generated records are subject to disclosure."). The
15 Legislature likewise provided that any exemption, exception, or balancing of interests that restricts
16 the public's right to access a governmental entity's records must be construed narrowly. *Id.* As a
17 result, Nevada courts presume that all public records are open to disclosure unless (1) the
18 Legislature has expressly and unequivocally created an exemption or exception by statute, or (2)
19 balancing the private or law enforcement interests for nondisclosure against the general policy in
20 favor of an open and accessible government requires restricting public access to government
21 records. *Id.* at 214-15, 234 P.3d at 924-25. In accordance with the underlying policy of ensuring
22 an open and accountable government, the burden is on LVMPD to prove confidentiality by a
23 preponderance of the evidence. *Id.* at 215, 234 P.3d at 925.

24 21. If a request for production of public records under the Nevada Public Records Act
25 is denied, then NRS 239.011 provides that relief shall be granted expeditiously as follows:
26

1 If a request for inspection is denied, the requester may apply to the district court in the
2 county in which the book or record is located for an order permitting him to inspect or
3 copy it. The court shall give this matter priority over other civil matters to which
4 priority is not given by other statutes.

5 **B. Records Related To LVMPD's Investigation Of Tupac Shakur's Murder Are Not**
6 **Confidential And Disclosure Is Required Pursuant To The Act.**

7 22. LVMPD claims that the criminal investigation into the murder of Tupac Shakur is
8 an "open active investigation." Ex. 6. More specifically, LVMPD asserts that it "obtained
9 evidence, conducted an investigation and continues its investigation concerning the murder of
10 Tupac Shakur because it is the law enforcement agency with jurisdiction to enforce the laws of the
11 State of Nevada to protect the public." Ex. 8. Based on its supposedly open investigation, LVMPD
12 submits that "the requested records are not public records under NRS 239.010(1), as such records
13 are declared by law to be confidential." Ex. 6.

14 23. In support of its position that records related to an open criminal investigation are
15 confidential as a matter of law, LVMPD cited the Nevada Supreme Court's opinion in *Pub. Emps.*
16 *Ret. Sys. (PERS) v. Reno Newspapers*, 129 Nev. Adv. Op. 88, 313 P.3d 221 (2013). The Nevada
17 Supreme Court, however, did not address the confidentiality of criminal investigative materials in
18 *PERS*. *Id.* Rather, the Nevada Supreme Court in *PERS* considered whether records related to
19 retired state employees who were collecting pensions were confidential. *Id.* As such, the Nevada
20 Supreme Court's opinion in *PERS* is not controlling in this matter. *See Blackjack Bonding*, 343
21 P.3d at 613-14 (stating that "the scope of the holding in *PERS* is gleaned from the facts of that
22 case" and rejecting LVMPD's reliance on *PERS* to support withholding of public records).

23 24. Next, LVMPD relies on the so-called "law enforcement privilege" which appears
24 to be a self-manufactured combination of the Freedom of Information Act ("FOIA") exception for
25 "records and information compiled for law enforcement purposes," *see* 5 U.S.C. § 552(b)(7), and
26 the "federal law enforcement privilege, a qualified privilege designed to prevent the disclosure of
27 information [in a civil suit for damages] that would be contrary to the public interest in the effective
28

1 information [were] present. There [was] no pending or anticipated criminal proceeding; there
2 [were] no confidential sources or investigative techniques to protect; there [was] no possibility of
3 denying someone a fair trial; and there [was] no potential jeopardy to law enforcement personnel.”
4 *Id.* at 635-36, 798 P.2d at 148-49.

5 27. In its original iteration, the balancing test “equally weighed the general policy in
6 favor of open government against privacy or law enforcement policy justifications for
7 nondisclosure.” *Reno Newspapers*, 126 Nev. at 217, 234 P.3d at 926. “However, in light of the
8 Legislature’s declaration of the rules of construction of the Act [in its 2007 Amendments]—
9 requiring the purpose of the Act to be construed liberally and any restriction to government
10 documents to be construed narrowly—the balancing test under *Bradshaw* now requires a narrower
11 interpretation of private or government interests promoting confidentiality or nondisclosure to be
12 weighed against the liberal policy for an open and accessible government.” *Id.* at 217-18, 234 P.3d
13 at 926. Turning to the *Bradshaw* factors, it is abundantly clear that the disclosure of records related
14 to the murder of Tupac Shakur is warranted especially where, as here, the incident in question
15 occurred 22 years ago.
16

17 28. The first *Bradshaw* factor addresses the existence of a pending or anticipated
18 criminal *proceeding*, not a criminal investigation as initially argued by LVMPD. Ex. 6. A
19 “criminal proceeding” is defined as “[a] judicial hearing, session, or prosecution in which a court
20 adjudicates whether a person has committed a crime or, having already fixed guilt, decides on the
21 offender’s punishment; a criminal hearing or trial.” Black’s Law Dictionary (10th ed. 2014); *see*
22 *also United States v. Quinones*, 201 F.Supp.3d 789, 796-97 (S.D. W.Va. 2016) (“By
23 commencement of criminal proceedings, I mean the initiation of an actual case in a court of law,
24 such as the filing of a criminal complaint.”). It is undisputed that there is no pending or anticipated
25 criminal proceeding related to the unsolved murder of Tupac Shakur.
26
27
28

1 29. As to the second *Bradshaw* factor regarding the protection of confidential sources
2 or investigative techniques, LVMPD claims that “[d]isclosing the investigative records may alert
3 persons of interest or possible suspects of the investigation and investigative leads which could
4 cause the destruction or concealment of evidence or other circumvention of the investigation.” Ex.
5 8. To begin, LVMPD has not provided any concrete evidence to support its dubious contention
6 that it is still gathering evidence, pursuing leads, and actively investigating the decades-old murder
7 of Tupac Shakur. *DR Partners*, 116 Nev. at 628, 6 P.3d at 472-73 (holding county failed to meet
8 its burden to establish confidentiality where “no offer of proof of any kind was submitted to the
9 district court for the purpose of balancing important or critical privacy interests against the
10 presumption in favor of public disclosure of these redacted records.”); *Reno Newspapers*, 126 Nev.
11 at 219, 234 P.3d at 927 (compelling disclosure where Washoe County Sheriff failed to provide
12 evidence that public access to records would increase crime or create an unreasonable risk of
13 harm). LVMPD’s claim that its investigation is “open” and “active” is particularly hard to believe
14 when the LVMPD Homicide Sergeant in charge of the case stated “[w]e’re at a standstill” *in*
15 *1997*—just one year after Tupac Shakur’s murder. See Exhibit “9,” Cathy Scott, *The Death of*
16 *Tupac Shakur One Year Later*, Las Vegas Sun, Sept. 6, 1997. Simply put, the mere fact that
17 LVMPD may still label the Tupac Shakur murder investigation as “open”—while not actively
18 pursuing the case—is patently insufficient to establish a justifiable law enforcement interest
19 against disclosure. See, e.g., *Coastal States Gas Corp. v. Dep’t of Energy*, 617 F.2d 854, 870 (D.
20 D.C. 1980) (“There is no reason to protect yellowing documents contained in long-closed files.
21 DOE made no effort whatsoever in the district court to demonstrate that any of these cases are still
22 under investigation or being actively pursued).

23
24
25 30. Moreover, LVMPD’s argument that disclosure of investigative records may alert
26 possible suspects of the investigation and result in the destruction or concealment of evidence is a
27 purely hypothetical justification for withholding the requested materials. Indeed, LVMPD has not
28

identified any suspects who could potentially destroy or conceal evidence of a 22-year-old crime. Ex. 8 (stating that “*If a suspect is identified...*”) (emphasis added). Moreover, it has been widely-reported that the murder weapon was already discovered by the Compton Police Department in 1998, but subsequently misplaced by state and federal authorities in California. See, e.g., Exhibit “10,” Shenequa Golding, *Weapon Used in Tupac’s Murder Suddenly Disappears*, Billboard, December 17, 2017. Here, LVMPD has only pointed to “merely hypothetical and speculative” justifications to prevent disclosure, which the Nevada Supreme Court has repeatedly held are insufficient to establish confidentiality under the Act. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116 Nev. at 628, 6 P.3d at 472-73 (“Rather, the County seeks to meet its burden by voicing non-particularized hypothetical concerns.”); *Gibbons*, 127 Nev. at 880, 266 P.3d at 628 (“[O]ur caselaw stresses that the state entity cannot meet this burden with a non-particularized showing or by expressing hypothetical concerns.”) (internal citations omitted); *Star Pub. Co. v. Parks*, 875 P.2d 837, 838 (Ariz. 1993) (“[I]t is insufficient [for the public entity] to hypothesize cases where secrecy might prevail and then contend the hypothetical controls all cases.”).

31. The third *Bradshaw* factor contemplates the possibility of denying someone a fair trial and LVMPD again attempts to meet its burden with hypothetical prognostications. Ex. 8 (stating that “[i]f a suspect is identified then the suspect has a right to a fair and impartial trial and a right to view the evidence prior to the media or any other person.”) (emphasis added). Suffice it to say, a hypothetical suspect’s right to a fair trial is insufficient to warrant nondisclosure when 22 years have passed since Tupac Shakur’s murder and no suspects have been identified or apprehended. *PERS*, 129 Nev. at 839, 313 P.3d at 225; *DR Partners*, 116 Nev. at 628, 6 P.3d at 472-73; *Star Pub. Co.* 875 P.2d at 838. This is especially true when many of the witnesses and/or persons with knowledge including Orlando Anderson—the gang member who brawled with Tupac Shakur on the night of the murder and was a primary suspect in the case—are now dead. See, e.g., Exhibit “11,” Eric Malnick and Chuck Philips, *Possible Suspect in Tupac Shakur Death Killed in*

1 *Shootout*, L.A. Times, May 30, 1998; Ex. 9 (reporting that the sole witness who claimed to be able
2 to identify the shooter was killed two months after Tupac Shakur's murder before police could
3 question him at length).

4 32. As to the final *Bradshaw* factor, LVMPD has not claimed—nor can it—that the
5 disclosure of investigative records from a murder that occurred in 1996 will endanger law
6 enforcement personnel. Accordingly, this and the other three *Bradshaw* factors clearly weigh in
7 favor of compelling disclosure of the records related to the murder of Tupac Shakur.

8 33. Lastly, the public's interest in information related to the murder remains at a fever
9 pitch to this day. It is undisputed that Tupac Shakur's murder and the unsolved question of who
10 killed him has resulted in countless pieces of print journalism, documentaries, television shows,
11 and movies. In that regard, the nationally televised drama *Unsolved: The Murders of Tupac and*
12 *Notorious B.I.G.* aired its final episode just days ago. In recognition of the public's significant
13 interest in information related to the murder of Tupac Shakur, the Federal Bureau of Investigation
14 began releasing its investigatory file to the public as early as 2011 thereby confirming the absence
15 of any law enforcement justifications for maintaining secrecy over this information. Simply put,
16 LVMPD cannot identify a single compelling interest that would override the public's right to
17 obtain records related to Tupac Shakur's unsolved murder and the Court should issue a writ of
18 mandamus compelling disclosure under the Act.
19
20

21 **PRAYER FOR RELIEF**

22 Accordingly, Petitioners respectfully requests that the Court:

- 23 1. Conduct an expedited hearing on the instant matter;
24 2. Order Respondent to produce any and all documents responsive to the following
25 request: "Any and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka
26 Makaveli, including but not limited to law enforcement files involving his murder."
27 3. Award Petitioner its attorney fees and costs; and
28

4. Grant such other and further relief as the Court deems just and proper..

DATED this 2nd day of May, 2018.

CAMPBELL & WILLIAMS

By /s/ Philip R. Erwin

PHILIP R. ERWIN, ESQ. (11563)

SAMUEL R. MIRKOVICH, ESQ. (11662)

700 South Seventh Street

Las Vegas, Nevada 89101

Attorneys for Petitioner

EXHIBIT 1

EXHIBIT 1

CAMPBELL & WILLIAMS
PHILIP R. ERWIN, ESQ. (11563)
pre@cwlawlv.com
SAMUEL R. MIRKOVICH, ESQ. (11662)
srm@cwlawlv.com
700 South Seventh Street
Las Vegas, Nevada 89101
Telephone: (702) 382-5222
Facsimile: (702) 382-0540
Attorneys for Petitioner

DISTRICT COURT
CLARK COUNTY, NEVADA

THE CENTER FOR INVESTIGATIVE
REPORTING INC., a California Nonprofit
Organization,

Petitioner,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

CASE NO.:
DEPT. NO.:

**APPLICATION FOR ORDER
SHORTENING TIME**

Petitioner The Center for Investigative Reporting Inc., a California nonprofit organization, by and through its counsel, hereby moves this Court for an Order Shortening Time. This Application is made and based upon Petitioner's Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011 and the attached declaration.

DATED this 2nd day of May, 2018.

CAMPBELL & WILLIAMS

By /s/ Philip R. Erwin

PHILIP R. ERWIN, ESQ. (11563)
SAMUEL R. MIRKOVICH, ESQ. (11662)
700 South Seventh Street
Las Vegas, Nevada 89101
Attorneys for Petitioner

1 **DECLARATION IN SUPPORT OF PETITION FOR WRIT OF**
2 **MANDAMUS AND REQUEST FOR EXPEDITED HEARING THEREON**

3 I, ANDY DONOHUE, declare under penalty of perjury as follows:

- 4 1. I am the Managing Editor of The Center for Investigative Reporting.
- 5 2. I make this Declaration in support of the Petition for Writ of Mandamus and
- 6 Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011.
- 7 3. I have read the contents of the Petition and know the same to be true and correct to
- 8 the best of my knowledge.
- 9 4. I declare there to be no plain, speedy or adequate remedy to compel Respondent to
- 10 produce the requested public records.
- 11 5. Pursuant to NRS 239.011, which provides that this matter is entitled "to priority over
- 12 other civil matters to which priority is not given by other statutes," I respectfully request that an
- 13 expedited hearing be set on this matter.
- 14 6. I declare under penalty of perjury of the laws of the State of Nevada that the
- 15 foregoing is true and correct to the best of my knowledge.

16 DATED this 2nd day of May, 2018.

17 
18 _____
19 ANDY DONOHUE
20
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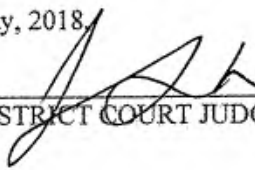
ORDER SHORTENING TIME

Upon the motion of the Petitioner, by and through their attorneys of record, and for good cause appearing:

IT IS HEREBY ORDERED that Petitioner's Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011 is hereby set for hearing on the 15 day of May, 2018, at the hour of 9:00 o'clock before the above entitled Court.

DATED this 7 day of May, 2018.

JOANNA S. KISHNER


DISTRICT COURT JUDGE

Motion must be filed/served by: 5/7/18 @ 12pm
Opposition must be filed/served by: 5/10/18 @ 5pm
Reply must be filed/served by: 5/14/18 @ 12pm
Please provide courtesy copies to Chambers upon filing.

EXHIBIT 2

EXHIBIT 2

REDACTED

REDACTED

----- Forwarded message -----

From: **Andy Donohue** <adonohue@revealnews.org>

Date: Thu, Mar 15, 2018 at 12:30 PM

Subject: Re: Records request

To: PIO <PIO@lympd.com>, Victoria Baranetsky <vbaranetsky@revealnews.org>

Hello,

You are now nearly three months past the legal deadline for responding to this records request. I've attempted to work with you on this cordially, but if I do not get a response very soon, my attorney will be in

Page 1 of 5

touch directly. She is copied on this email.

Andy Donohue
Managing Editor
o: [510.809.2205](tel:510.809.2205) c: [619.847.7076](tel:619.847.7076)

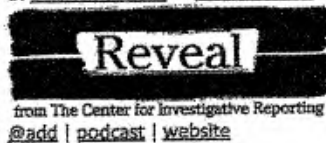


On Mon, Jan 22, 2018 at 11:18 AM, Andy Donohue <adonohue@revealnews.org> wrote:

Hello,

I still haven't received any response to my records request. It is my understanding that under state public records law, you were to have responded by Dec. 18, more than one month ago. I have copied my attorney, Victoria Baranetsky, on this conversation.

Andy Donohue
Managing Editor
o: [510.809.2205](tel:510.809.2205) c: [619.847.7076](tel:619.847.7076)



On Wed, Jan 10, 2018 at 1:22 PM, PIO <PIO@lvmpd.com> wrote:

Hello Andy,

I have forwarded your e-mail over to PIO Officer Hadfield for follow-up. He will be back in the office tomorrow.

Thank you,

Office of Public Information
Las Vegas Metropolitan Police Department
[400-B South Martin L. King Boulevard, Las Vegas, Nevada 89106](#)
☎ [702.828.4082](tel:702.828.4082) office | ☎ [702.828.1550](tel:702.828.1550) fax | ✉ PIO@LVMPD.com
Follow us on [Facebook](#), [Twitter](#) and [Instagram](#)

mg

From: Andy Donohue [<mailto:adonohue@revealnews.org>]
Sent: Wednesday, January 10, 2018 12:59 PM

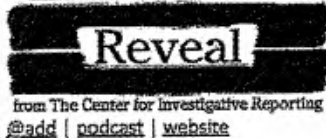
To: PIO <PIO@LVMPD.COM>; Victoria Baranetsky <vbaranetsky@revealnews.org>
Subject: Re: Records request

I'm writing to follow up on the below request, which was filed December 11.

It is my understanding that under the Nevada Public Records Act, a request must be fulfilled or acknowledged within five business days of receipt. I have yet to receive any communication from the department.

Please advise when the request will be fulfilled. Thank you.

Andy Donohue
Managing Editor
o: 510.809.2205 c: 619.847.7076



On Mon, Dec 11, 2017 at 3:03 PM, Andy Donohue <adonohue@revealnews.org> wrote:

Las Vegas Police Department

Office of Public Information

PIO@lvmpd.com

December 11, 2017

Via email

Re: Nevada Open Records Act Request

Under the Nevada Open Records Act § 239 et seq., I am requesting an opportunity to inspect or obtain copies of the following records:

* Any and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka Makaveli, including but not limited to law enforcement files involving his murder.

* Any and all records related to the American rapper Christopher Wallace, aka Notorious B.I.G., aka Biggie Smalls, including but not limited to law enforcement files involving his murder.

The FBI has long since released its records, doing so in 2011, indicating that there should be no privacy or law enforcement concerns in releasing these files. Additionally all privacy concerns are moot, where both men have been deceased now for more than two decades, as are many of the people involved.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$50. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of unsolved murders of major historical figures. This information is not being sought for commercial purposes.

If access to the records I am requesting will take longer than a 'reasonable' amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Additionally, if you determine that some but not all of the information in the requested records is exempt from disclosure, please redact that information and make all segregable portions available.

Thank you for considering my request.

Sincerely,

Andy Donohue
Managing Editor
o: 510.809.2205 c: 519.847.7076

Reveal

from The Center for Investigative Reporting
@add | [podcast](#) | [website](#)

Victoria D. Baranetsky

General Counsel

(w) 510-982-2890

(c) 201-306-4831

PGP EA48 1FB7 98E3 156E 3AFF 6748 F7B1 8B23 0838 D7F5

the
center for investigative
reporting

EXHIBIT 3

EXHIBIT 3



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

March 28, 2018

VIA E-MAIL (PIO@LVMPD.COM)

Carla Alston
Director of Public Information
Las Vegas Metropolitan Police Department
400 Stewart Avenue
Las Vegas, Nevada 89101

Dear Ms. Alston:

Please be advised that this firm represents The Center for Investigative Reporting ("CIR").

On December 11, 2017, CIR's Managing Editor, Andy Donohue, served a public records request on the Las Vegas Metropolitan Police Department ("LVMPD") pursuant to NRS 239.010 for (i) any and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka Makaveli, including but not limited to law enforcement files involving his murder, and (ii) any and all records related to the American rapper Christopher Wallace, aka Notorious B.I.G., aka Biggie Smalls, including but not limited to law enforcement files involving his murder. See Exhibit "1," E-mail Correspondence. The LVMPD did not provide the requested records or otherwise respond to Mr. Donohue's request.

On January 10, 2018, Mr. Donohue followed up on his original request and was informed by the Office of Public Information that his request had been forwarded to PIO Officer Hadfield. *Id.* Nevertheless, neither the Officer Hadfield nor anyone else from the Office of Public Information responded to Mr. Donohue's original request for public records. *Id.* Mr. Donohue subsequently contacted the Office of Public Information on January 22, 2018 and, again, did not receive a response. *Id.* Finally, Mr. Donohue contacted the Office of Public Information for a fourth time on March 15, 2018 and achieved the same unsuccessful result. *Id.*

Pursuant to NRS 239.0107, the LVMPD was required to respond to Mr. Donohue's original request within five (5) business days yet it has failed to comply with its statutory obligations for more than three (3) months. Accordingly, we hereby demand that the LVMPD fully respond to Mr. Donohue's public records request by no later than the close of business on Wednesday, April 4, 2018. If the LVMPD fails to comply with the requirements of Nevada's Public Records Act by the foregoing date, the CIR will make application for judicial relief pursuant to NRS 239.011 and seek its attorney's fees and costs.

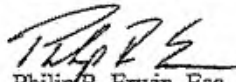
700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/382-5222
FAX: 702/382-0540

Ms. Carla Alston
March 28, 2018
Page 2

Thank you in advance for your cooperation and please do not hesitate to contact me with any questions.

Very truly yours,

CAMPBELL & WILLIAMS


Philip R. Erwin, Esq.

cc: Liesl K. Freedman, Esq., via e-mail at L8706@lvmpd.com
D. Victoria Baranetsky, Esq., General Counsel at The Center for Investigative Reporting

REDACTED

REDACTED

----- Forwarded message -----

From: **Andy Donohue** <adonohue@revealnews.org>

Date: Thu, Mar 15, 2018 at 12:30 PM

Subject: Re: Records request

To: PIO <PIO@lvmpd.com>, Victoria Baranetsky <vbaranetsky@revealnews.org>

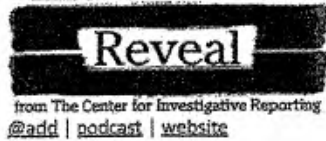
Helio,

You are now nearly three months past the legal deadline for responding to this records request. I've attempted to work with you on this cordially, but if I do not get a response very soon, my attorney will be in

Page 1 of 5

touch directly. She is copied on this email.

Andy Donohue
Managing Editor
o: 510.809.2205 c: 519.847.7076

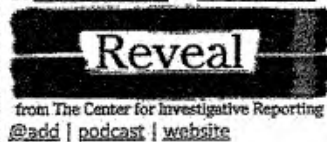


On Mon, Jan 22, 2018 at 11:18 AM, Andy Donohue <adonohue@revealnews.org> wrote:

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Managing Editor
o: 510.809.2205 c: 519.847.7076



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I have forwarded your e-mail over to PIO Officer Hadfield for follow-up. He will be back in the office tomorrow.

Thank you,

Office of Public Information
Las Vegas Metropolitan Police Department
400-B South Martin L. King Boulevard, Las Vegas, Nevada 89106
☎ 702.828.4082 office | ☎ 702.828.1550 fax | ✉ PIO@LVMPD.com
Follow us on [Facebook](#), [Twitter](#) and [Instagram](#)

mg

From: Andy Donohue [mailto:adonohue@revealnews.org]
Sent: Wednesday, January 10, 2018 12:59 PM

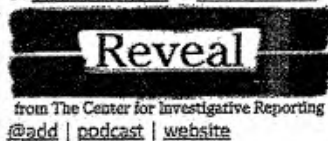
To: PIO <PIO@LVMPD.COM>; Victoria Baranetsky <vbaranetsky@revealnews.org>
Subject: Re: Records request

I'm writing to follow up on the below request, which was filed December 11.

It is my understanding that under the Nevada Public Records Act, a request must be fulfilled or acknowledged within five business days of receipt. I have yet to receive any communication from the department.

Please advise when the request will be fulfilled. Thank you.

Andy Donohue
Managing Editor
o: 510.809.2205 c: 619.847.7076



On Mon, Dec 11, 2017 at 3:03 PM, Andy Donohue <adonohue@revealnews.org> wrote:

Las Vegas Police Department

Office of Public Information

PIO@lvmpd.com

December 11, 2017

Via email

Re: Nevada Open Records Act Request

Under the **Nevada Open Records Act § 239 et seq.**, I am requesting an opportunity to inspect or obtain copies of the following records:

* Any and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka Makaveli, including but not limited to law enforcement files involving his murder.

* Any and all records related to the American rapper Christopher Wallace, aka Notorious B.I.G., aka Biggie Smalls, including but not limited to law enforcement files involving his murder.

The FBI has long since released its records, doing so in 2011, indicating that there should be no privacy or law enforcement concerns in releasing these files. Additionally all privacy concerns are moot, where both men have been deceased now for more than two decades, as are many of the people involved.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$50. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of unsolved murders of major historical figures. This information is not being sought for commercial purposes.

If access to the records I am requesting will take longer than a 'reasonable' amount of time, please contact me with information about when I might expect copies or the ability to inspect the requested records.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. Additionally, if you determine that some but not all of the information in the requested records is exempt from disclosure, please redact that information and make all segregable portions available.

Thank you for considering my request.

Sincerely,

Andy Donohue

Managing Editor

o: [510.809.2205](tel:510.809.2205) c: [619.847.7076](tel:619.847.7076)

Reveal

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Victoria D. Baranetsky
General Counsel
(w) 510-982-2890
(c) 201-306-4831
PGP EA48 1FB7 98E3 156E 3AFF 6748 F7B1 8823 0838 D7F5

the
center for investigative
reporting

EXHIBIT 4

EXHIBIT 4

Las Vegas Metropolitan Police Department
400 S. Martin Luther King Blvd.
Las Vegas, NV 89106



Case Report No: LLV960907002063

Administrative

Location 160 E FLAMINGO RD, Bldg#
Occurred On (Date and Time) 9/7/1996 11:17:00 PM
Reporting Officer
Entered By

Or Between (Date and Time)
Report Taken On 9/7/1996 12:30:00 AM
Entered On 9/19/1996 8:04:00 PM

Sector / Beat M2

Offenses:

MURDER

Completed No Domestic Violence No Hate/Bias

Victims:

Name: CROOKS, LESANE PARISH

Victim Type Individual
DOB [REDACTED] Age 25 Sex Male Written Statement No Can ID Suspect No
Height 6' 11" Weight 165 Race Black or African American
Employer/School Hair Color Black Eye Color Brown
Occupation/Grade Work Schedule
Injuries

Addresses

Nature/Cause GSW, Pronounced Date/Time
Transported To UMC Transported By MERCY Coroner Notified No
Medical Attendant Name DR CARRINGTON, Medical Attendant Type PHYSICIAN
Notified By Medical Clearance Required No Next Of Kin Notified No
Medical Clearance By

Notes

: KNIGHT, MARION

Victim Type Individual
DOB [REDACTED] Age 31 Sex Male Written Statement No Can ID Suspect No
Height 6' 2" Weight 315 Race Black or African American
Employer/School Hair Color Black Eye Color Brown
Occupation/Grade Work Schedule
Injuries

Suspects:

Name: NAME NOT GIVEN

Aliases:

NAME NOT GIVEN,

Written Statement No
DOB Age 0 Sex Male Race Black or African American
Height 0' 0" Weight 0 Hair Color Eye Color

Name: NAME NOT GIVEN

Aliases:

NAME NOT GIVEN,

Written Statement No
DOB Age 0 Sex Male Race Black or African American
Height 0' 0" Weight 0 Hair Color Eye Color

The Use and Dissemination of this
Record is Regulated by Law. Secondary
Dissemination of any kind is Prohibited
and could subject the offender to Criminal
and Civil Liability.

This Information Released To:

By: [Signature] Date: 9/18/16
Las Vegas Metro Police Dept.

Properties:

Type:	Used	In the Commission of a Crime	Quantity	Value	Color
Description	CADILLAC SEVILLE AND STS / SLS [
]				
Manufacturer	CADILLAC		Model	SEVILLE AND STS / SLS	Serial Number/VIN
Vehicle Year	1990	Lic Plate #		Lic Plate State Nevada	Lic Plate Exp
Body Style	4-door		Vehicle Type		

Vehicle Colors

Primary	White
Secondary	White
Tertiary	White
Notes	

Type:	Stolen Locally - Recovered Locally	Quantity	Value	Color	
Description	CADILLAC SEVILLE AND STS / SLS [
]				
Manufacturer	CADILLAC		Model	SEVILLE AND STS / SLS	Serial Number/VIN
Vehicle Year	1990	Lic Plate #		Lic Plate State Nevada	Lic Plate Exp
Body Style	4-door		Vehicle Type		

Vehicle Colors

Primary	White
Secondary	White
Tertiary	White
Notes	

Narrative:

Subject: NARRATIVE # 002

Author: BECKER, B 2838 [2838]

Entered Date: 09/07/1996 00:30

Narrative Type: ENTRY-SU

PER OFFICER'S INCIDENT CRIME REPORT ATTEMPTED MURDER SHOULD BE ATTEMPTED MURDER 2CTS. ON 090796 AT 2317 LESANE CROOKS (AKA TUPAC SHAKUR) WAS SHOT MULTIPLE TIMES WHILE RIDING IN A CAR DRIVEN BY MARION KNIGHT AT FLAMINGO AND KOVAL. KNIGHT ALSO SUFFERED A MINOR GSW. THE SUSPECTS WERE IN A WHITE CADILLAC WHICH FLED THE SCENE.

EXHIBIT 5

EXHIBIT 5

Subject: Re: LVMPD Request
Date: Wednesday, April 11, 2018 at 1:47:40 PM Pacific Daylight Time
From: Phil Erwin
To: Lawrence Hadfield
CC: Samuel R. Mirkovich, Victoria Baranetsky
Attachments: 20180405154727644.pdf, image001.jpg, image002.jpg, image003.png, image004.jpg, image005.jpg

Dear Officer Hadfield,

On April 5, 2018, the Las Vegas Metropolitan Police Department ("LVMPD") produced the attached two-page police report in response to Mr. Andy Donohue's multiple public records requests and my letter dated March 28, 2018. The LVMPD did not produce a log of responsive documents or otherwise indicate whether additional documents exist or were withheld based on alleged confidentiality grounds.

Can you please confirm that the attached police report is the only document in the LVMPD's possession that is responsive to our public records request? Can you likewise confirm that the LVMPD did not withhold any responsive documents—e.g. investigative files, correspondence, memoranda, etc.—based on confidentiality? If the LVMPD did withhold certain documentation due to confidentiality, please provide notice of that fact along with a citation to the supporting statute(s) or other legal authorities as required by NRS 239.0107.

Given the prior delays associated with our public records request and the statutory deadlines in Nevada's Public Records Act, we would ask that you respond to this e-mail by no later than the close of business on Friday, April 13, 2018. Thank you and please do not hesitate to contact me with any questions.

Philip R. Erwin, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, Nevada 89101
Tel: (702) 382-5222
Fax: (702) 382-0540
pre@campbellandwilliams.com

** This message is intended for the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this information in error, please notify us immediately by telephone, and return the original message to us at the above address via U.S. Postal Service. Thank You.**

From: Lawrence Hadfield <L7171H@LVMPD.COM>
Date: Wednesday, March 28, 2018 at 1:10 PM
To: Phil Erwin <pre@cwlawlv.com>, Lucinda Martinez <Imm@cwlawlv.com>
Cc: Sam Mirkovich <srm@cwlawlv.com>

Subject: LVMPD Request

Mr. Erwin,

We are in receipt of your letter to the director of the PIO. Your request is being processed via our Records section.

Officer Larry Hadfield

Office of Public Information

Las Vegas Metropolitan Police Department

400-B South Martin L. King Boulevard, Las Vegas, Nevada 89106

☎ 702.828.4082 office | 📠 702.828.1550 fax | ✉ L7171H@lvmpd.com



EXHIBIT 6

EXHIBIT 6



LAS VEGAS METROPOLITAN
POLICE DEPARTMENT

JOSEPH LOMBARDO, Sheriff

Partners with the Community

April 12, 2018

pre@cwlawlv.com
Phil R. Erwin, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 89101

Re: Public Records Request dated December 11, 2017
LVMPD PIO Request Number 171212-02

Dear Mr. Erwin:

Your email dated April 11, 2018 addressed to Officer Lawrence Hadfield assigned to the Las Vegas Metropolitan Police Department (LVMPD) Office of Public Information was forwarded to the Office of General Counsel for response. In your email you are addressing concerns about a public records request that Mr. Andy Donohue submitted. Mr. Donohue requested the following records:

- Any and all records related to the American rapper Tupac Amaru Shakur, aka 2Pac, aka Makaveli, including but not limited to law enforcement files involving his murder.
- Any and all records related to the American rapper Christopher Wallace, aka Notorious B.I.G., aka Biggie Smalls, including but not limited to law enforcement files involving his murder.

Mr. Donohue made his initial public records request on December 11, 2017. LVMPD's practice is to forward the request to the custodians of records who may have records responsive to the request. You should have been advised LVMPD would research your request and respond to you within 30 days. See, NRS 239.0107(1)(c). In response to your records request, LVMPD provided you on or about March 18, 2018 a report responsive to your request. When your record request was forwarded to the Homicide Bureau, which is the custodian of records of other responsive records to your request, it was learned the criminal investigation of the murder of Lesane Parrish Crooks also known as Tupac Shakur is an open active investigation. For this reason, no other records were provided. Unfortunately, this information was not communicated to you or



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your client. Due to the open investigation, the requested records are not public records under NRS 239.010(1), as such records are declared by law to be confidential. *See Pub. Employees Ret. Sys. v. Reno Newspapers* 129 Nev. Adv. Op. 88, 313 P.3d 221, 224-25 (2013).

The public records law does not require the disclosure of materials that are confidential as a matter of law. *See, Civil Rights for Seniors v. Admin-Office of the Courts* 129 Nev. Adv. Op. 80, 313 P.3d 216, 219-20 (2013). The open criminal investigation is confidential because it subject to the law enforcement privilege and is protected from disclosure. *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 636, 798 P.2d 144, 148, (1990)); *Miller v. Mehlretter*, 478 F. Supp. 2d 415 (W.D.N.Y.)(2007); *See also*, 5 U.S.C. section 552(b)(7)(Nevada Supreme Court cites to the FOIA exemptions as analogous authority for the Nevada Public Records Act).

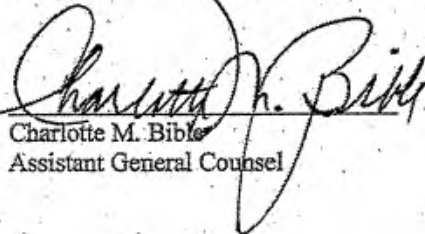
The requested documents are protected from disclosure because when the interests are weighed, the law enforcement policy justifications for nondisclosure clearly outweigh the public's interest in access to the records. In this case, disclosure of the investigative file would jeopardize apprehending a murder suspect. *See, Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 636, 798 P.2d 144, 148, 1990 (acknowledging that law enforcement policy justifications for nondisclosure such as pending criminal investigations, confidential investigative techniques, potential jeopardy to law enforcement personnel, and a defendant's right to a fair trial may outweigh the general policy in favor of open government).

Based on the foregoing, there are no other public records responsive to your request.

Sincerely,

JOSEPH LOMBARDO, SHERIFF

By:


Charlotte M. Bible
Assistant General Counsel

CMB:sa

EXHIBIT 7

EXHIBIT 7



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

April 23, 2018

VIA E-MAIL (C9479B@LVMPD.COM)

Charlotte M. Bible, Esq.
Associate General Counsel
Las Vegas Metropolitan Police Department
400 Stewart Avenue
Las Vegas, Nevada 89101

Dear Ms. Bible:

I am in receipt of your letter dated April 12, 2018, which states that there are no other public records responsive to Mr. Andy Donohue's repeated public records requests because the criminal investigation of the 1996 murder of Lesane Parrish Crooks a/k/a Tupac Shakur is an "open active investigation" and "disclosure of the investigative file would jeopardize apprehending a murder suspect." Suffice it to say, we disagree with the legal grounds for the Las Vegas Metropolitan Police Department's ("LVMPD") blanket refusal to produce the requested records as Nevada law clearly provides that disclosure is required here.

Under the Nevada Public Records Act (the "Act"), all public records generated by government entities are public information and subject to disclosure unless otherwise declared to be confidential. *Reno Newspapers v. Sheriff*, 126 Nev. 211, 214, 234 P.3d 922, 924 (2010). In 2007, the Legislature amended the Act to ensure the presumption of openness, and provided that all statutory provisions related to the Act must be construed liberally in favor of the Act's purpose of fostering the principles of democracy by allowing public access to information about government activities. *Id.* The Legislature likewise provided that any exemption, exception, or a balancing of interests that restricts the public's right to access a governmental entity's records must be construed narrowly. As a result, Nevada courts presume that all public records are open to disclosure unless either (1) the Legislature has expressly and unequivocally created an exemption or exception by statute, or (2) balancing the private or law enforcement interests for nondisclosure against the general policy in favor of an open and accessible government requires restricting public access to government records. *Id.* at 214-15, 234 P.3d at 924-25.

Beginning with the first prong, you cite *Pub. Emps. Ret. Sys. (PERS) v. Reno Newspapers*, 129 Nev. Adv. Op. 88, 313 P.3d 221, 224-25 (2013) for the proposition that "[d]ue to the open investigation, the requested records are not public records under NRS 239.010(1), as such records are declared by law to be confidential." The Nevada Supreme Court, however, did not address the confidentiality of criminal investigative materials in *PERS*. Rather, the Nevada Supreme Court in *PERS* assessed the confidentiality of records related to retired state employees who were collecting pensions were confidential. As such, the Nevada Supreme Court's opinion in *PERS* is wholly inapplicable to this matter.

700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/382-5222
FAX: 702/382-0540

Ms. Charlotte M. Bible, Esq.
April 23, 2018
Page 2

Similarly unavailing is your suggestion that "[t]he open criminal investigation is confidential because it is subject to the law enforcement privilege and is protected from disclosure." The Nevada Supreme Court in *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 634, 798 P.2d 144, 147 (1990) expressly held that investigative materials prepared by law enforcement agencies "are subject to disclosure if policy considerations so warrant." As to your apparent reliance on the federal "law enforcement privilege," I would simply note that the Honorable Richard F. Scotti recently rejected this exact argument when it was advanced by the LVMPD in response to public records requests concerning the October 1 Massacre. See March 2, 2018 Order, *Am. Broad. Cos. v. Las Vegas Metro. Police Dep't*, Case No. A-17-764030-W. To that end, Judge Scotti compelled the production of the file related to that incident on grounds "that there exists no rule that records can be withheld merely because they relate to an ongoing investigation."

Turning to the balancing of interests, we recognize that law enforcement justifications may outweigh the general policy in favor of open government in some limited circumstances. *Bradshaw*, 106 Nev. at 635-36, 798 P.2d at 147-48. We would further note, however, that "the balancing test under *Bradshaw* now requires a narrower interpretation of private or government interests promoting confidentiality or nondisclosure to be weighed against the liberal policy for open and accessible government" as a result of the Legislature's amendments to the Act in 2007. *Reno Newspapers*, 126 Nev. at 217-18, 234 Nev. at 926.

In that regard, the *Bradshaw* factors clearly weigh in favor of disclosure of the requested records especially where, as here, the murder of Tupac Shakur occurred in 1996. First, your reference to "pending criminal investigations" mischaracterizes the Nevada Supreme Court's opinion in *Bradshaw* as the relevant consideration is whether there is a pending or anticipated criminal proceeding—and there is none. Second, the LVMPD cannot credibly claim that there are confidential sources or investigative techniques to protect in the criminal investigation of a murder that took place twenty-two years ago. This is especially true when many of the witnesses and/or persons with knowledge have since passed away. Lastly, there is no possibility of denying someone a fair trial nor is there any potential jeopardy to law enforcement personnel. While the LVMPD may still label the Tupac Shakur murder investigation as "open," any claimed justification for withholding the requested records would be "merely hypothetical and speculative[.]" which is insufficient to prevent disclosure under the Act. *PERS*, 129 Nev. at 839, 313 P.3d at 225. Simply put, the LVMPD cannot demonstrate that law enforcement justifications "clearly outweigh" the public interest in access to the requested records concerning a decades-old unsolved murder.

Based on the foregoing, we again demand that the LVMPD produce the requested records as required by Nevada law. We further request that the LVMPD confirm its intention to produce the requested records in writing on or before the close of business on Friday, April 27, 2018. Should the LVMPD fail to respond by that date and/or maintain its improper refusal to produce the requested records, we will promptly seek judicial intervention along with our attorney's fees and costs pursuant to NRS 239.111.

Ms. Charlotte M. Bible, Esq.
April 23, 2018
Page 3

Thank you and please do not hesitate to contact me with any questions.

Very truly yours,

CAMPBELL & WILLIAMS


Philip R. Erwin, Esq.

cc: Liesl K. Freedman, Esq., via e-mail at L8706@lvmpd.com
Lawrence Hadfield, via e-mail at L7171H@lvmpd.com
D. Victoria Baranetsky, Esq., General Counsel at The Center for Investigative Reporting

EXHIBIT 8

EXHIBIT 8



**LAS VEGAS METROPOLITAN
POLICE DEPARTMENT**

JOSEPH LOMBARDO, Sheriff

Partners with the Community

April 27, 2018

SENT VIA EMAIL: pre@cwlawlv.com

Philip R. Erwin, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, Nevada 89101

Dear Mr. Erwin:

I am in receipt of your letter sent to my email address. I am very familiar with the 1 October public records request and the proceedings that have occurred. As you should know a District Court order is not precedent, should not be cited as authority and is not binding other than in the case. For your information, LVMPD is appealing Judge Scotti's orders.

Regarding the application of the public records law and its exceptions to the Tupac Shakur murder investigation, I may not have been as clear as I could have been in explaining the public policy justification for non-disclosure of the investigative file. LVMPD's interest in protecting the investigative file is to avoid interference with the investigation of the murder of Tupac Shakur which LVMPD is actively pursuing. Disclosing the investigative records may alert persons of interest or possible suspects of the investigation and investigative leads which could cause the destruction or concealment of evidence or other circumvention of the investigation. If a suspect is identified then the suspect has a right to a fair and impartial trial and a right to view the evidence prior to the media or any other person. Based on these reasons, the policy justification for nondisclosure of the records clearly outweighs the media's interest in disclosure. LVMPD obtained evidence, conducted an investigation and continues its investigation concerning the murder of Tupac Shakur because it is the law enforcement agency with jurisdiction to enforce the laws of the State of Nevada to protect the public.

Contrary to your understanding of *Donrey of Nevada, Inc. v. Bradshaw*, 106 Nev. 630, 798 P.2d 144 (1990), LVMPD understands *Donrey* to protect open, ongoing law enforcement investigations from interference by premature disclosure of the investigative records or information. Preventing interference with a criminal investigation is a strong policy justification for denying the request for disclosure. LVMPD asserts the law enforcement privilege in good faith. Accordingly, LVMPD maintains the records are confidential by law and will not be producing the records requested at this time.

Sincerely,

JOSEPH LOMBARDO, SHERIFF

By:


Charlotte M. Bible
Assistant General Counsel

75a



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EXHIBIT 9

EXHIBIT 9

The death of Tupac Shakur one year later

Cathy Scott

Saturday, Sept. 6, 1997 | 3:16 a.m.

A year has passed since rap and film star Tupac Shakur was shot to death near the Las Vegas Strip.

The murder has yet to be solved, and, according to investigators, it may never be.

"We're at a standstill," said Metro Police homicide Sgt. Kevin Manning, who is heading the investigation.

Still, detectives receive "information constantly" about the murder, he said.

The information, however, hasn't moved the case forward. In addition to bona fide tips, police have received many false tips from people claiming to know who did it.

Police say the case slowed early in the investigation as few new clues came in and witnesses clammed up. The murder weapon has not been found, and no one has fingered a suspect.

The Shakur slaying is one of the biggest murder cases in Las Vegas history.

The case attracted national media attention, and has been featured on television shows such as "America's Most Wanted," "Unsolved Mysteries," "Prime Time Live" and "Hard Copy."

Before his death, Shakur, 25, was a music icon for many who saw him as a voice for young people rebelling against their lot in life.

Since his death and the release of the critically acclaimed film "Gridlock'd" and his last album, "Don Killuminati -- The 7-Day Theory," he's been likened to a prince.

But he also was heavily criticized, before and after his death, for his violent lyrics and negative depictions of women.

Fateful night

On Sept. 7, 1996, Shakur and Death Row Records owner Marion "Suge" Knight were driving to a nightclub with an entourage behind them on East Flamingo Road. They were in town for the Mike Tyson-Bruce Seldon heavyweight championship boxing match. Tyson was to meet them later at Club 662, where Shakur and other rap artists were scheduled to perform.

They never made it.

A light-colored late-model Cadillac pulled up next to Knight's rented BMW 750 and a gunman in the back seat opened fire on the passenger side. Shakur was hit three times.

He died six days later at University Medical Center.

So the question remains: Who killed Tupac Shakur? Was it as simple as jealousy over women and money? Was it related to street gangs, namely the Crips and Bloods? Was it because of an East Coast-West Coast rap music rivalry?

On Nov. 13, two months after Shakur's death, 19-year-old Yafeu Fula, a backup singer in Shakur's group Outlaw Immortalz, was shot gangland-style in the hallway of a housing project in Orange, N.J. The 19-year-old was part of Shakur's entourage in Las Vegas and was a passenger in a car directly behind Shakur's when Shakur was shot.

Police say Fula's murder was unrelated to the Shakur case, even though Fula was the only witness who told Metro investigators that night that he could possibly identify Shakur's assailant. Fula was killed before police could question him at length.

Then five months later, on March 9, Christopher Wallace, who also went by the name Biggie Smalls and performed under the name The Notorious B.I.G., was killed in Los Angeles in a shooting similar to Shakur's.

There was bad blood between the rappers. Wallace, on the East Coast, and Shakur, on the West Coast, had been involved in what has been termed a "bi-coastal rivalry" about who was the best rapper. Wallace, like Shakur, was a platinum-selling recording artist.

Metro's Manning said at the time of Wallace's death that it resembled "about 90 percent of drive-by shootings."

The 24-year-old drug dealer-turned-rap artist was killed as he sat in the passenger seat of his GMC Suburban while leaving a crowded party following the 11th annual Soul Train Music Awards.

Los Angeles Police have yet to solve Smalls' murder.

Lawsuits galore

Shakur's estate has been hit with a slew of lawsuits since his death. And his mother, Afeni Shakur, has been fighting to gain some control and benefit from his record sales as well as from as-yet-unreleased records. Afeni Shakur filed a suit against Death Row Records and its owner and chief executive officer, Marion "Suge" Knight.

Her New York attorney, Richard Fischbein, said he was close to reaching a settlement that would give his client a share of Shakur's earnings.

In another suit, Jacquelyn McNealey, now a paraplegic after being shot during one of Shakur's concerts, was awarded an undisclosed judgment in November against the late rapper's estate. She claimed Shakur "taunted and challenged" rival gang members in the audience, which caused a frenzy ending in her being shot, the lawsuit alleges.

And in yet another legal action, C. Delores Tucker, who in 1994 formed an anti-rap campaign with former U.S. drug czar William Bennett and is mentioned derogatorily in one of Shakur's songs, filed a lawsuit for damages against Shakur's estate. She claimed that her sex life with her husband was adversely affected because of some of Shakur's lyrics.

The latest suit was filed by Shakur's estranged father, Billy Garland of New Jersey. He's trying to share control of the estate with Afeni Shakur, even though he left the family when Shakur was 4 and remained absent until visiting Shakur in 1994 at a New York hospital.

Estimates of Shakur's worth vary because Death Row Records, the label under which Shakur recorded his last two albums, has claimed that Shakur was given hundreds of thousands of dollars in jewelry, cars, homes and cash that have been deducted from his platinum-selling records. Death Row Records wants millions of dollars in reimbursement it claims was advanced to Shakur.

The 32-year-old Knight has been imprisoned since November for violating a 1995 parole. He was sentenced to nine years in the California state prison system. A Los Angeles Superior Court judge said Knight violated his probation

by taking part in a fight at the MGM Grand hotel-casino on Sept. 7 following the Tyson-Seldon bout. About three hours later, Shakur was shot and Knight was grazed in the drive-by shooting on East Flamingo Road.

Police later identified the person beaten in the fight as Orlando Anderson of Compton, Calif. He was held for questioning by Compton and Las Vegas police, but later released. He has contended, through his attorney Edi O. Faal, that he had nothing to do with Shakur's killing.

Knight's downfall

Since the Shakur murder, more information has been learned about Knight's activities in Las Vegas, including a 1987 arrest at the Rancho Sahara Apartments at 1655 E. Sahara Ave., where Knight lived at the time. He was arrested on charges of attempted murder and grand larceny on Halloween night after Knight shot a man in the wrist and leg during an argument. Knight pleaded guilty to a misdemeanor.

On Nov. 3, 1989, Knight and Sharitha Lee Golden were married in Las Vegas.

Then, on June 6, 1990, Knight was charged with assault after he broke a man's jaw outside a house in West Las Vegas. Knight later pleaded guilty to felony assault with a deadly weapon.

Knight had attended UNLV and played on the Rebel football team in 1985 and 1986 but dropped out shortly before graduation, according to his teammates.

In May, several months after his parole violation conviction, Knight was transferred to the California Men's Colony East in San Luis Obispo, where he is serving out his nine-year sentence.

Since Knight's incarceration, his now-estranged wife, Sharitha Knight, has been taking care of the day-to-day operations of Death Row Records.

archive

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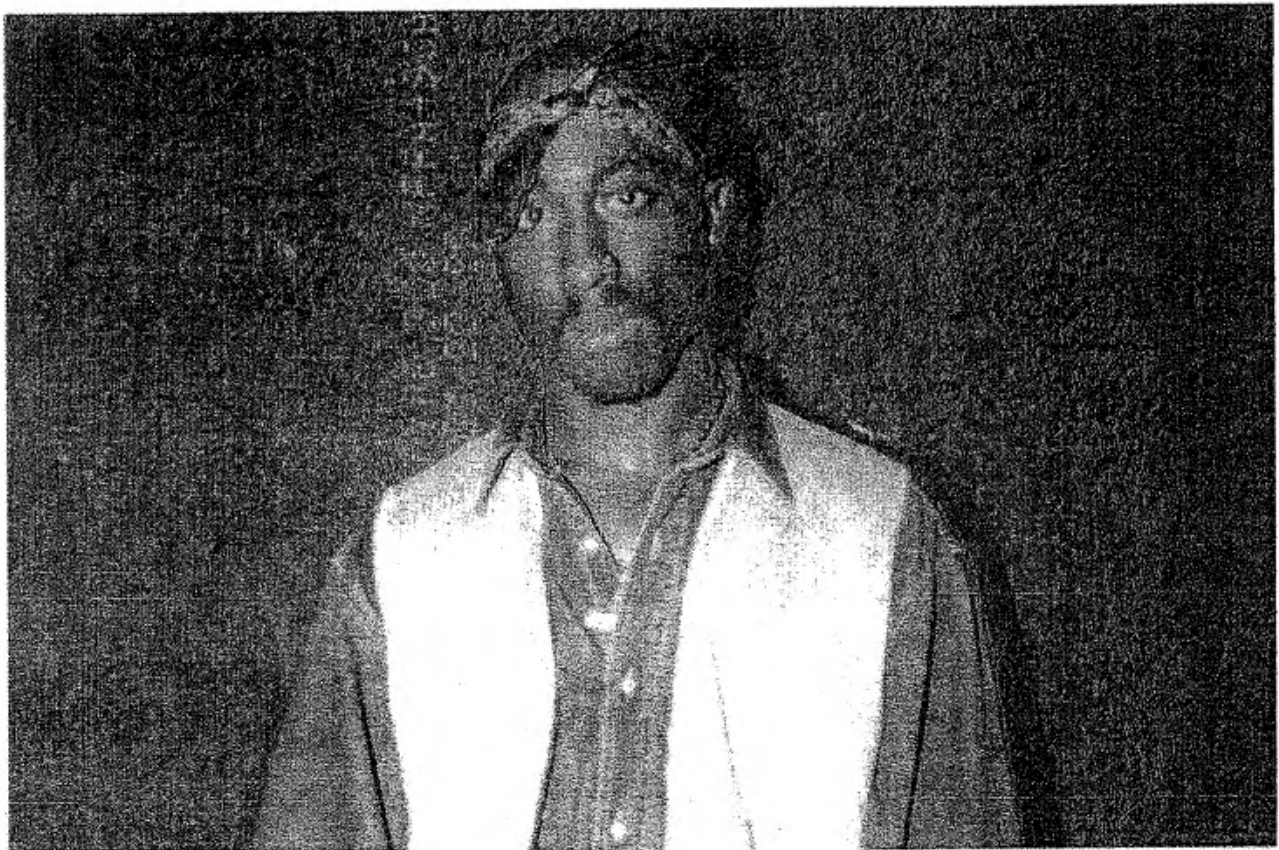
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EXHIBIT 10

EXHIBIT 10

Weapon Used in Tupac's Murder Suddenly Disappears

12/17/2017 by Shenequa Golding



Raymond Boyd/Michael Ochs Archives/Getty Images

Tupac Shakur

The handgun used to shoot and kill Tupac Shakur in September of 1996 was reportedly found in a Compton backyard. However, new reports indicate the gun's current location is a mystery.

According to *TMZ*, the latest detail in the cold case involving the beloved rapper was discovered after an A&E producer for the *Who Killed Tupac?* series found documents outlining the gun's disappearance.

In 1998, an unidentified citizen called Compton police after finding a .40 caliber Glock in his backyard. Police arrived and records show the handgun was booked on May 30, 1998 as found property. In 2000, the Los Angeles Sheriff's Department took over the Compton Police Department and confiscated about 3,800 firearms, including the Glock used in Tupac's murder. All the guns were transported.

READ MORE

Billboard 200 Chart Moves: 2Pac Returns to Top 40 After More Than 10 Years

Now, this is where things get a bit sticky.

In 2006, Deputy T. Brennan, who was also working the Biggie Smalls case, began combing through records and recognized the address where the gun was originally found to be that home of a Crip gang member who allegedly had issues with the "Dear Mama" singer.

Brennan ordered ballistics testing and the results matched the Glock used to kill Tupac. Reportedly, a federal prosecutor assigned to the case claimed news of the gun's discovery would alert conspirators and ordered the gun not be transported to the Las Vegas Police Department. While it's not outlined in the document, the belief is fear of renewed gang violence may erupt.

Tupac's brother was said to be frustrated that a vital piece of evidence in his brother's case was not handled properly.

This article originally appeared on Vibe.

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EXHIBIT 11

EXHIBIT 11

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Possible Suspect in Tupac Shakur Death Killed in Shootout

May 30, 1998 | ERIC MALNIC and CHUCK PHILIPS | TIMES STAFF WRITERS

Orlando Anderson--once named by police as a suspect in the Las Vegas slaying of rap star Tupac Shakur--was killed Friday in a gang shootout in Compton that also claimed the life of another man, sources close to the case said.

Police withheld formal identification of the victims, saying that the next of kin had yet to be notified. Officers said only that two men were dead, a third man was in critical condition and a fourth, who was treated for gunshot wounds, had been booked on suspicion of murder.

Anderson, whose grandmother had died of natural causes earlier in the day, told friends about 2 p.m. that he was "going to the store." A few minutes later, he left his home in Compton and drove off with friends, the sources said.

About 3:10 p.m., Anderson and another man--both believed to be members of the Southside Crips--drove up to a carwash at Alondra Boulevard and Oleander Avenue where several members of a rival gang had gathered, police said.

"There was an altercation," Compton Police Lt. Robert Baker said. "Both sides began shooting."

The brief but intense gun battle scattered bystanders and left four men sprawled on the pavement, all of them gang members, according to police.

The four were taken to Martin Luther King Jr./Drew Medical Center in nearby Willowbrook, where Anderson, 23, and another man were pronounced dead a short time later.

A third man was in critical condition and "just clinging to life," according to a nurse at the hospital.

The fourth--Michael Reed Dorrough, 24--was treated for lesser wounds before being booked by Compton police on suspicion of murder.

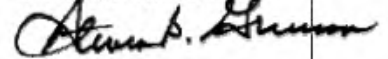
Investigators said the confrontation that preceded the shooting apparently stemmed from a dispute over money. The shootout occurred next to Compton High School, but police said that although classes were in session, no students or staff members were involved.

Although Las Vegas police say there was never any direct evidence linking Anderson to Shakur's death, Los Angeles police said as recently as last September that they still considered Anderson a suspect in the unsolved murder.

Last September, Shakur's mother filed a wrongful-death lawsuit against Anderson, saying he was the one who gunned down the rap star on the Las Vegas Strip in September 1996.

According to the lawsuit, the rapper's shooting followed a fight in a hotel lobby between Shakur's entourage and Anderson. An affidavit filed with the lawsuit contends that Anderson was seen carrying a Glock .40-caliber handgun--the same type of weapon used to kill Shakur--several days after the rapper's death.

Times staff writer Nieson Himmel contributed to this report.



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DISTRICT COURT**CLARK COUNTY, NEVADA**

10 THE CENTER FOR INVESTIGATIVE
 11 REPORTING, INC.,

12 Petitioner,

Case No.: A-18-773883-W
 Dept. No.: 31

13 vs.

14 LAS VEGAS METROPOLITAN POLICE
 DEPARTMENT,

15 Respondent.

16 **RESPONDENT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S**
 17 **RESPONSE TO VERIFIED PETITION FOR WRIT OF MANDAMUS AND**
 18 **INCORPORATED APPLICATION FOR ORDER AND EXPEDITED HEARING**
PURSUANT TO NRS 239.011

19 Respondent Las Vegas Metropolitan Police Department ("LVMPD" or the
 20 "Department"), by and through its attorney of record Nicholas Crosby, Esq. and Jackie Nichols,
 21 Esq., of the law firm of Marquis Aurbach Coffing, hereby files its Response to Petitioner's
 22 Verified Petition for Petition for Writ of Mandamus and Incorporated Application for Order and
 23 Expedited Hearing Pursuant to NRS 239.011.

24 ///

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1 This Response is made and based upon the papers and pleadings on file herein, the
2 Memorandum of Points and Authorities, and any oral argument allowed by the Court at a hearing
3 on this matter.

4 Dated this 10th day of May, 2018.

5
6 MARQUIS AURBACH COFFING

7
8 By: /s/ Jackie V. Nichols
9 Nick D. Crosby, Esq.
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17
18 **MEMORANDUM OF POINTS & AUTHORITIES¹**

19 **I. INTRODUCTION**

20 The Nevada Public Records Act was never intended to provide the public with access to
21 open criminal investigations, as disclosure of a law enforcement agency's investigative file,
22 while a criminal case remains open, would significantly jeopardize and interfere with an
23 investigation. The public policy interests the court in *Donrey of Nevada* considered
24 demonstrates Nevada's recognition of the confidentiality surrounding an open criminal
25 investigation. Keeping this in mind, the public policy considerations in maintaining the
26 confidentiality of open criminal investigations significantly weigh in favor of LVMPD's interest
27 in nondisclosure compared to the public's interest in access.

28 In essence, Petitioner is requesting that this Court find that the public's interest in access
to open criminal investigations—not just Tupac's murder—outweighs any interest LVMPD has
in nondisclosure, and specifically, in conducting proper criminal investigations. If that were the
case, every single open criminal investigation would be available for the public's viewing.

¹ LVMPD reserves its right to address the request for attorney's fees and costs after the Court's
determination on Petitioner's Writ of Mandamus.

1 hindering LVMPD's ability to accomplish any investigation as evidence could be destroyed
2 and/or fabricated, witnesses may refuse to come forward or alter their story, and suspects will be
3 tipped-off to investigator's plans or strategies. LVMPD's investigation into Tupac's murder is
4 an open criminal investigation and not subject to disclosure. If the Court is inclined to grant the
5 Petition, LVMPD requests that the Court entertain an *in camera* proceeding, either through a
6 hearing or briefing, in order for LVMPD to provide specific facts to demonstrate disclosure
7 would, in fact, jeopardize the investigation—facts which cannot be disclosed in open Court
8 without jeopardy to the investigation.

9 **II. STATEMENT OF FACTS**

10 **A. FACTUAL BACKGROUND.**

11 After receiving requests from the Petitioner concerning any and all records related to
12 Tupac Shakur ("Tupac"), including law enforcement files related to his murder, LVMPD
13 disclosed the police report from the September 6, 1996 shooting. *See* Petition at **Exhibit 4**. Not
14 satisfied with record provided, Petitioner inquired into whether additional responsive documents
15 existed. *Id.* at **Exhibit 5**. In response, LVMPD explained that the requested records were
16 subject to an open, active criminal investigation. *Id.* at **Exhibit 6**. LVMPD further justified
17 nondisclosure in reliance on several legal authorities pursuant to NRS 239.0107(1)(d) and
18 reasoned the disclosure would jeopardize the apprehension of a suspect(s). *Id.* Disagreeing with
19 LVMPD's interpretation of the law, and in particular the application of *Donrey of Nevada v.*
20 *Bradshaw*, Petitioner asserted there was no justification for withholding the records, as the case
21 is decades old and no public policy considerations apply. *Id.* at **Exhibit 7**. LVMPD clarified its
22 reliance on *Donrey of Nevada* and further explained:

23 LVMPD's interest in protecting the investigative file is to avoid interference with
24 the investigation of the murder of Tupac Shakur which LVMPD is actively
25 pursuing. Disclosing the investigative records may alter persons of interest or
26 possible suspects of the investigation and investigative leads which could cause
27 the destruction or concealment of evidence or other circumvention of the
28 investigation.

Id. at **Exhibit 8**. Shortly thereafter, Petitioners initiated this Writ of Mandamus proceeding
pursuant to NRS 239.011.

1 **B. THE OPEN INVESTIGATION.**

2 On September 6, 1996, Marion “Suge” Knight and Tupac were shot in Las Vegas,
3 Nevada. Tupac died as a result of the gunshot wounds a week later on September 13, 1996.
4 LVMPD is the law enforcement agency with jurisdiction over the investigation of Tupac’s
5 murder. *See* Declaration of Detective Clifford Mogg attached hereto as **Exhibit A**. As part of its
6 investigation over the years, LVMPD has obtained evidence, taken and received several witness
7 statements, conducted numerous interviews of witnesses and alleged suspects, compiled various
8 information on alleged suspects, and prepared officer reports based on the information provided.
9 *Id.* The information contained within LVMPD’s investigative file is sensitive and disclosure to
10 the public will alert person(s) of interest, including potential suspect(s) of LVMPD’s
11 investigative leads. *Id.* More importantly, Detective Mogg is scheduling witness interviews to
12 corroborate evidence, which may lead to criminal charges. *Id.* Undoubtedly, disclosure will
13 interfere with the investigation as potential and past witnesses will modify their version of events
14 to conform to the disclosed information, tainting the investigation. *Id.*

15 In support of disclosure, Petitioner hangs its hat on the fact that Tupac’s murder has
16 remained unsolved for 22 years. LVMPD, however, has faced similar cold cases before. Almost
17 25 years after the death of Carol Bishop in east Las Vegas, LVMPD detectives ran fingerprints
18 that were initially collected at the crime scene and solved the cold case. *See Exhibit B*.
19 Similarly, around October 2016, LVMPD detectives solved two cold cases involving one suspect
20 dating back to a 1998 murder and 2004 sexual assault. *See Exhibit C*. Furthermore, LVMPD
21 detectives, like in the instant case, frequently receive information and investigative leads on cold
22 cases. Less than two years ago, LVMPD detectives obtained a lead on Las Vegas’ oldest cold
23 case—a murder of a young woman in 1979. *See Exhibit D*. The length of Tupac’s murder
24 investigation is no exception and remains open.

25 **C. THE FBI’S DISCLOSURE.**

26 To defeat LVMPD’s public policy and law enforcement justifications, Petitioner cites to
27 the release of the Federal Bureau of Investigation’s (the “FBI”) “investigatory file” in 2011.
28 While it is true the FBI released significantly redacted records of its investigation, it did not

1 involve Tupac's murder. Rather, the FBI's investigation concerned possible extortion by
2 individuals within the Jewish Defense League involving rappers, including Tupac and Eazy-E.
3 See FBI Disclosures attached hereto as **Exhibit E**. Although the FBI's investigative file contains
4 articles on Tupac's death, there is nothing relevant within the disclosures that pertain to
5 LVMPD's investigation—no witnesses or suspects are named, no information on investigative
6 leads are included and nothing pertaining to the evidence is discussed.

7 **D. THE FAME SURROUNDING TUPAC'S MURDER.**

8 The Petition also relies on different articles to prove disclosure of the investigative file is
9 warranted. See Petition at **Exhibits 9-11**. In one article published in 1997, Petitioner points out
10 that the Sergeant of the investigation, Kevin Manning, stated the investigation was at a standstill.
11 Quite tellingly, Petitioner ignored the following line that reads "[s]till, detectives receive
12 'information constantly' about the murder." *Id.* at **Exhibit 9**. Another article relied on by
13 Petitioner relates to a gun found in the Compton area allegedly connected to Tupac's murder. *Id.*
14 at **Exhibit 11**. The article, however, does not substantiate the theory with any evidence. Rather,
15 it relies upon an alleged statement by Deputy T. Brennan, who was employed with the Los
16 Angeles Police Department—notably, not the law enforcement agency charged with
17 investigating Tupac's Murder. Admittedly, Petitioner recognizes the countless theories
18 surrounding Tupac's death. This Court cannot simply rely on unsubstantiated theories and
19 conjectures to support Petitioner's hypothesis that the case is closed to justify disclosure.

20 **III. LEGAL ARGUMENT**

21 **A. LEGAL STANDARD.**

22 Under the Nevada Public Records Act ("NPRA"), a person or entity may request a
23 governmental entity to inspect, or for the production of, public records. NRS 239.010. In
24 declining a request to inspect or produce public records based on confidentiality, a governmental
25 entity must provide the requester, in writing, notice of the fact and a citation to legal authority
26 that supports confidentiality. NRS 239.0107(1)(d). Upon denial, the requester may seek judicial
27 intervention for an order permitting inspection or requiring production. NRS 239.011(1).
28 Generally, this court will presume that all public records are open to disclosure unless either: (1)

1 the Legislature has expressly and unequivocally created an exemption or exception by statute; or
2 (2) balancing the private or law enforcement interests for nondisclosure against the general
3 policy in favor of an open and accessible government requires restricting public access to
4 government records. See *Donrey of Nevada v. Bradshaw*, 106 Nev. 630, 635–36, 798 P.2d 144,
5 147–48 (1990); *Reno Newspapers v. Sheriff*, 126 Nev. 211, 234 P.3d 922 (2010); NRS
6 239.0113(2). The governmental entity has the burden of proving by a preponderance of the
7 evidence that the public book or record, or a part thereof, is confidential. NRS 239.0113.

8 **B. LVMPD'S INTEREST IN NONDISCLOSURE SIGNIFICANTLY**
9 **OUTWEIGHS THE PUBLIC'S INTEREST IN ACCESS.**

10 The NPRA specifically acknowledges that confidentiality may be granted through a
11 balancing of interests. The Supreme Court routinely employs a balancing test when a statute
12 fails to unambiguously declare certain documents to be confidential. *Donrey of Nevada*, 106
13 Nev. 630, 635–36, 798 P.2d 144, 147–48 (1990). The government bears the burden of showing
14 that its interest in nondisclosure clearly outweighs the public's interest in access. *PERS v. Reno*
15 *Newspapers Inc.*, 129 Nev. 833, 839, 313 P.3d 221, 225 (2013).

16 Petitioner's reliance on *Donrey of Nevada* in support of disclosure is misplaced. In
17 *Donrey of Nevada*, the court ultimately determined the investigative reports at issue were not
18 confidential by statute and the balancing test weighed in favor of public access. 106 Nev. at 636,
19 798 P.2d at 148. The Reno City Attorney's office entirely dismissed criminal charges against an
20 individual. *Id.* at 631, 798 P.2d at 145. Opposed to the dismissal, the Reno Police Department
21 undertook an *investigation of the circumstances of the dismissal* and prepared a written report
22 that was later distributed to the Reno City Attorney's office, the District Attorney, and a
23 municipal judge. *Id.* Reno Newspapers sought a copy of the investigative report pursuant to the
24 NPRA. *Id.*

25 The Court found that no statute specifically declared investigative reports to be
26 confidential. *Id.* at 635, 748 P.2d 147. However, the lack of statutory authority did not,
27 automatically, render the investigative report subject to disclosure. *Id.* To determine whether
28 the investigative reports were disclosable under the NPRA, the court employed a balancing test

1 of the interests involved. *Id.* at 635-36, 748 P.2d at 147-48. In applying the balancing test, the
2 court ruled that none of the public policy considerations outlined in the case law and the
3 Attorney General's opinion justified nondisclosure, including no pending or anticipated criminal
4 proceeding, no confidential sources or investigative techniques to protect, there was no
5 possibility of denying someone a fair trial, and no potential jeopardy to law enforcement
6 personnel. *Id.* Importantly, the cases relied upon the court in applying the balancing test
7 recognized additional policy considerations including whether disclosure would be detrimental to
8 the best interests of the state (*Carlson v. Pima County*, 687 P.2d 1242, 1245 (Ariz. 1984)) and
9 whether an investigation of alleged or actual criminal activity is active or concluded (*Irvin v.*
10 *Macon Telegraph Pub. Co.*, 316 S.E.2d 449, 452 (Ga. 1984) (relying on *Houston v. Rutledge*,
11 229 S.E.2d 624, 626-27 (Ga. 1976)).² *Id.*

12 Likewise, the Attorney General's opinion recognized a strong public policy for protection
13 of investigative records based upon the necessity of maintaining effective law enforcement. *See*
14 Nev. Op. Atty. Gen. 9, *3 (1983). The Attorney General reasoned that there are legitimate
15 interests in maintaining the confidentiality of criminal investigation records, including, the
16 protection of the elements of an investigation of a crime from premature disclosure, avoidance of
17 prejudice to the later trial of a the defendant, protection of the privacy of persons who are not
18 arrested from the stigma of being singled out as a criminal suspect, and protection of the identity
19 of informants. *Id.*

20 First and foremost, the public policy considerations concerning investigative reports
21 outlined in *Donrey of Nevada* are not exhaustive. More importantly, however, the investigative
22 report at issue in *Donrey of Nevada* was not related to an ***open criminal investigation***. In fact,
23 the report concerned the dismissal of the criminal charges. Based on the public policy interests
24 the court considered, including the interest of pending or anticipated criminal proceedings and
25 the need for a fair trial, the court surely recognized the confidential nature of open criminal
26

27 ² The Georgia Legislature later codified an exemption to public records concerning records of law
28 enforcement. *See* OCGA § 50-18-72(a)(4)

1 investigations. Thus, the Nevada Supreme Court has not explicitly determined investigative
2 reports pertaining to an open criminal investigation are subject to disclosure under the NPRA.

3 Unlike *Donrey of Nevada*, the investigation of Tupac's murder is an open and active
4 criminal investigation and disclosure of the investigative materials will severely impact, if not
5 entirely jeopardize, LVMPD's investigation. Disclosure of the investigative file will inform
6 person(s) of interest and potential suspect(s) of LVMPD's investigative leads. Based upon the
7 information within the investigative file, it is likely such person(s) will flee if LVMPD's
8 investigative leads are revealed. The upcoming witness meetings Detective Mogg has scheduled
9 will be circumvented if LVMPD is forced to prematurely turnover its file. The purpose of the
10 upcoming interviews is to corroborate evidence LVMPD already possesses. If the witnesses gain
11 access to this information ahead of time, they may fabricate statements to conform to the
12 evidence. Disclosure will also likely lead to the circumvention of witness statements by enabling
13 witnesses to change their previous testimony. Similarly, other individuals may come forward
14 and falsify information, further hindering the investigation. Given the publicity surrounding
15 Tupac's death, there is no doubt the release of this information will be nationalized, solidifying
16 interference with LVMPD's investigation.

17 Nevertheless, it is important that this Court recognize that, until a criminal investigation
18 case has concluded, the public records that are prepared and maintained in a current investigation
19 of possible criminal activity cannot be subject to disclosure. *See Irvin*, 316 S.E.2d at 452. Given
20 the public policy considerations outlined in *Donrey of Nevada*, there is no doubt Nevada
21 similarly follows this common law. *See also Nichols v. Bennett*, 544 N.W.2d 428, 431, n. 4
22 (Wis. 1996) (finding that documents integral to the criminal investigation and prosecution
23 process are protected from public disclosure).

24 In further support of the exemption of investigative records subject to an open
25 investigation, the Nevada Legislature has specifically codified access to criminal records,
26 including to the media, and explicitly excluded investigative material from the records permitted
27 to be disseminated. *See* NRS 179A.100(5) and NRS 179A.070; *see also, Pennsylvania State*
28 *Police v. Kim*, 150 A.3d 155 (Pa. 2016) (recognizing that records part of a criminal investigation

1 were exempt from disclosure pursuant to Pennsylvania's Criminal History Record Information
2 Act); *Tennessee v. Metropolitan Government of Nashville*, 485 S.W.3d 857, 870-71 (Tenn.
3 2016) (holding that the police department's investigative records are exempt from the Public
4 Records Act pursuant to Tenn. R. Crim. P. 16(a)(2)).

5 The public policy interests regarding LVMPD's open criminal investigation concerning
6 Tupac's murder substantially outweighs the public's interest in access. By way of example, as
7 we learned through the inadvertent disclosure of Douglas Haig's name³ earlier this year,
8 premature disclosure of information in an open criminal investigation can have significant
9 consequences, including death threats. Certainly, the same scenario can also occur with the
10 alleged suspects identified in LVMPD criminal investigative file—and in any future criminal
11 investigation. Premature disclosure of LVMPD's investigative files will undeniably interfere
12 with LVMPD's ability to process criminal investigations. This is not limited to Tupac's murder
13 investigation but would allow public access to any criminal investigation undertaken by the
14 LVMPD. Indeed, under Petitioner's interpretation of the NPRA, every criminal case—open or
15 closed—is subject to disclosure. Whether a case has been open for two months or 10 years,
16 Petitioner's argument is that the file must be disclosed. Such an interpretation is absurd and
17 would all but eliminate law enforcement's ability to properly investigate crimes.

18 **C. LVMPD REQUESTS THE COURT TO HOLD AN *IN-CAMERA***
19 **HEARING.**

20 In the event this Court finds that the affidavit provided by Detective Mogg is insufficient
21 and LVMPD did not meet its burden in demonstrating that its interest in nondisclosure
22 significantly outweighs the public's interest in access, LVMPD requests that this Court hold an
23 *in camera* hearing for Detective Mogg to testify about the open investigation. As it relates to the
24 NPRA, the *Gibbons* court determined that, in certain instances, a log, similar to that of the
25 *Vaughn* index in Freedom of Information Act cases, may be needed to discern whether records

26
27 ³ Douglas Haig's name was contained in the Route 91 search warrant materials ordered to be redacted and
28 released. Upon release of the redacted search warrant materials, it was discovered the court inadvertently
left Haig's name unredacted. Soon after, the media published his name as a person of interest.

1 are disclosable. *See Reno Newspapers, Inc. v. Gibbons*, 127 Nev. 873, 881-82, 266 P.3d 623,
2 628-29 (2011).

3 Petitioner claims that LVMPD has not provided any evidence of suspects or witnesses
4 that have resulted in investigative leads in the decades-long investigation. Of course, LVMPD
5 cannot provide evidence of the very information it seeks to prevent from public disclosure as the
6 release of individual names will tip-off persons of interest and potential suspects. Furthermore,
7 identification of documents is not feasible in this case because much of the investigative file is a
8 compilation of information related to witnesses and suspects. In other words, much of the
9 information is arranged by witnesses and suspects' names. Any index provided would have to
10 eliminate the names of any and all witnesses and suspects and would not prove fruitful as all the
11 documents contain similar and/or related information regarding the open investigation.

12 On the other hand, Detective Mogg can provide testimony before this Court regarding the
13 specific details of the investigation to demonstrate the investigation is open and that disclosure of
14 the requested records would likely result in witness tampering, interference with the open
15 investigation, and either the fabrication or destruction of evidence. Alternatively, LVMPD can
16 submit a supplemental brief and declaration, *in camera*, with details of the investigation and
17 specific explanations how disclosure would harm LVMPD's investigation. Importantly, any *in*
18 *camera* hearing or briefing will not prejudice Petitioner as LVMPD's reasoning remains the
19 same. The only additional information that will be included in the *in camera* proceeding will be
20 identifiable information supporting the bases for disclosure.

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1 **IV. CONCLUSION**

2 Based on the foregoing, LVMPD respectfully requests the Court denies the Verified
3 Petition for Writ of Mandamus Pursuant to NRS 239.011. LVMPD further requests that this
4 Court entertain an *in camera* proceeding for LVMPD to provide details related to the open
5 criminal investigation if it finds Detective Mogg's declaration is insufficient.

6 Dated this 10th day of May, 2018.

7
8 MARQUIS AURBACH COFFING

9
10 By: /s/ Jackie V. Nichols
11 Nick D. Crosby, Esq.
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17 *Attorneys for Respondent, Las Vegas*
18 *Metropolitan Police Department*
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing **RESPONDENT LAS VEGAS METROPOLITAN POLICE DEPARTMENT'S RESPONSE TO VERIFIED PETITION FOR WRIT OF MANDAMUS AND INCORPORATED APPLICATION FOR ORDER AND EXPEDITED HEARING PURSUANT TO NRS 239.011** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of May, 2018. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:⁴

Philip R. Erwin, Esq.
Samuel Mirkovich, Esq.
Campbell & Williams
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pre@cwlawlv.com
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maw@cwlawlv.com

Attorneys for Petitioner The Center for Investigative Reporting, Inc.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

N/A



An employee of Marquis Aurbach Coffing

⁴ Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

EXHIBIT A

DECLARATION OF CLIFFORD H. MOGG

Clifford H. Mogg, declares as follows:

1. I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

2. I have been employed by the Las Vegas Metropolitan Police Department ("LVMPD") for the past 22 years, the last 15 years of which have been as a Detective for the Homicide Section.

3. I make this declaration in support of Respondent Las Vegas Metropolitan Police Department's Opposition to Verified Petition for Writ of Mandamus and Incorporated Application for Order and Expedited Hearing Pursuant to NRS 239.011 in the case *The Center for Investigative Reporting, Inc. v. Las Vegas Metropolitan Police Department*, Case No. A-18-773883-W.

4. On September 6, 1996, Lesane Parish Crooks, also known as Tupac Shakur ("hereinafter Tupac"), was murdered in Las Vegas, Nevada.

5. Tupac died as a result of the gunshot wounds on September 13, 1996.

6. LVMPD is the law enforcement agency responsible for the investigation into Tupac's murder and I am the lead detective on the case.

7. As part of its investigation, LVMPD has taken and received several witness statements, conducted numerous interviews of witnesses and alleged suspects, and prepared officer reports based on the information provided.

8. This information, if disclosed, will alert persons of interest, including possible suspects, of LVMPD's current investigative leads. Likewise, this information will likely lead to the destruction or concealment of evidence.

9. Despite the case being 22-years old, this is an active, open investigation and LVMPD continues to receive information and leads regarding Tupac's murder.

1 10. I am currently in the process of scheduling additional witness interviews, in the
2 coming weeks/months regarding additional information surrounding Tupac's murder that
3 corroborates existing information.

4 11. Based upon my discussions with the witnesses, I believe the information to be
5 provided by these witnesses has the potential to lead to criminal proceedings involving Tupac's
6 murder. Furthermore, this information will also likely require me to re-interview previous
7 witnesses. If this information were to be revealed to the public, there is a substantial likelihood
8 that witness tampering will occur, allowing individuals to change their stories prior to me being
9 able to conduct the interviews.

10 12. Disclosure of the information contained in LVMPD's investigative file will
11 jeopardize LVMPD's entire investigation and has the potential to interfere with enforcement
12 proceedings.

13 Pursuant to NRS § 53.045, I declare under penalty of perjury under the laws of the State of
14 Nevada that the foregoing is true and correct.

15 Dated this 8th day of May, 2018.

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CLIFFORD H. MOGG

EXHIBIT B

News**I-Team: Police solve 1991 cold case murder****By:** George Knapp

Updated: Jul 15, 2016 07:12 AM PDT

(Interactive Media Not Supported by Print)

LAS VEGAS - A 25-year-old Las Vegas murder case has been solved, and the killer has confessed. The victim was killed in her east Las Vegas home, and police were stymied for more than two decades.

Two veteran detectives, brought out of retirement to work nothing but cold cases, took the clues gathered by previous investigators and traveled to another state to confront the suspect.

"You still hear that great sense of relief in a family member that somebody has been caught. Somebody is going to pay a price for what happened," said retired Metro Police Detective Ken Hefner.

For the first time since Hefner came out of retirement last fall to work cold case homicides, he and his partner Dean O'Kelley have had reason to call the families of murder victims to give them good news.

This victim was Carol Bishop, who worked at a 7-Eleven on Maryland Parkway near Tropicana Avenue and lived in a house a few blocks away. On the morning of November 11, 1991, Bishop failed to show up for work. Her boss called, then came to her home to check on her.

"After knocking on the door, he went inside and found her lying on the bedroom floor dead," said Metro Police Lt. Kyle Edwards in 1991.

Investigators scoured the crime scene and collected fingerprints, including from a statue that had been used to bash Bishop's head. She was also stabbed multiple times. A pizza delivery man saw Bishop in her home with a guest prior to the murder.

"The crime scene suggests there were two people there eating pizza and drinking," Hefner said. "The pizza man saw a guy in the door when he delivered the pizza."

The fingerprint system in 1991 wasn't as integrated as it is today. Prints from inside the home were checked back then, but no match was found.

Hefner says a detective who worked cold cases before him did an update on the prints a few years ago, checked again and found a match. Because of Metro's budget crunch, however, that was as far as it went.

Hefner and O'Kelley took it from there. The physical evidence led them to a suspect named Dale Bryant, who served time in Idaho for rape and burglary. He was arrested in Las Vegas as far back as 1981, escaped, then robbed and stabbed a local woman.

"In 1987, he gets out. He times out. He's done his time. Three days later, he is right back here," Hefner said. "He is registered as an ex-felon, and he was here until this murder, after which he fled the state. Three months after fleeing Nevada and this murder, he kills another woman in Arkansas and was captured and convicted."

In late May, Hefner and O'Kelley flew to Little Rock, Arkansas to interview Bryant in prison. He eventually told them he could not remember the events, because he was a heavy drinker back then. The detectives told Bryant, since he is never getting out of prison alive, he might as well confess.

"He doesn't say anything for several minutes, and Dean and I are sitting there and waiting, and he tells us, 'I'm not going to give you a statement, but I did it,'" Hefner said.

Hefner says Bryant and his victim lived near each other, frequented local bars and were drinkers. It's not clear what set him off that day, but, based on Bryant's history, he had serious problems with booze and women.

"She died a violent tragic death for no reason," said Hefner.

This is the second cold case murder solved by Metro Homicide in the last few weeks.

If you have information on a Las Vegas cold case, contact Metro Police at 702-828-8973 or [e-mail them](#).

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EXHIBIT C

News

I-Team: DNA evidence links man to Las Vegas cold case murder

By: George Knapp

Updated: Oct 12, 2016 11:25 PM PDT

(Interactive Media Not Supported by Print)

• I-Team: DNA links 2 cold cases, points to possible suspect

LAS VEGAS - Metro detectives have made an arrest in a cold case murder mystery first highlighted last year by 8 news NOW.

A suspect arrested Wednesday morning is being charged with a 2004 sexual assault, but police have evidence linking the same man to a murder six years earlier near the Oliver Ranch.

The I-Team first revealed the link between the two crimes last October.

Cold case detectives have known for a while now that the murder and the rape were related because DNA evidence connected the two, but they could not find a match in any DNA data bases, that is, until this week. The suspect gave them the evidence they needed after he was arrested on a different charge.

Metro detectives previously obtained a grainy image, footage from a security camera at a fast food restaurant, recorded in 2004. The driver bought some food for a deaf woman he'd picked up, then drove her to Kyle Canyon Road and sexually assaulted her at knife point. Last October, cold case detectives Dean O'Kelley and Ken Hefner said they were hopeful the attacker might still be in town.

"We're hoping somebody might be able to look at it and say, hey, that's so and so, and we can go from there," Hefner said.

The reason these homicide veterans were working a rape case is that the DNA from the sexual assault was a match for a sample taken from a murder scene six years earlier.

The bludgeoned body of a woman was found in 1998 under a Joshua tree off State Route 159 near Oliver Ranch. There were signs of a violent struggle. The woman was identified as Annie Miller, who'd often been homeless. DNA evidence from the murder scene was entered into the CODIS database, but it wasn't until 2012 that the connection was made to the 2004 sexual assault case.

"They are definitely linked. The same male deposited semen in both locations. No question about that," said Dean O'Kelley, cold case detective.

But detectives still didn't have a name. They do now. Back in May, Brandon McGuire was arrested for a domestic violence incident. His DNA was collected at the time. Metro just learned that it matched the profile from the earlier crimes.

McGuire was apprehended Wednesday morning. He is being held on sexual assault and kidnapping charges. A murder case will take longer to put together, but cold case detectives are already working on it.

The sexual assault team meanwhile thinks McGuire may have other victims out there.

"With additional testing, we still may find additional victims who lived through it and this same sample might lead to additional cases in the future," said Lt. David Valenta, Metro sexual assault unit.

The cold case detectives who worked the murder case say Brandon McGuire is someone they've had on their radar screen for a while, and not necessarily for the 1998 homicide by itself.

As the I-Team reported last year, advances in DNA testing means that their sexual assault team expects to make additional arrests of rape suspects who might think they got away with a crime.

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EXHIBIT D

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PR

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by John Treanor
Wednesday, August 17th 2016



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