

Cost, confusion plague Nevada public records

By Ken Ritter, AP

Cost and confusion can be obstacles to obtaining public records in Nevada, where reporters are sometimes quoted high fees for research, redaction and copying.

Sure, the Silver State has open record and open meeting laws. But it might be unique in the U.S. for not defining what a public record actually is, officials said.

"There is no single definition that can be found within Nevada Revised Statutes," said Colby Williams, a Las Vegas attorney who has handled access-to-records cases for the Associated Press, the *Las Vegas Review-Journal* and *National Review*.

State law section 239 lets agencies at all levels charge 50 cents per printed page for "extraordinary use of personnel or technological resources." But Barry Smith, executive director of the Nevada Press Association, said he thinks some entities use the rule as a moneymaker – or a barrier.

"The trouble comes when some agencies see it as an opportunity to discourage people from obtaining public documents by jacking up fees as much as possible," Smith said. "I hear from newspapers and reporters that they want to charge for redaction by an attorney at \$100 an hour. That can easily run into thousands of dollars."

The Nevada System of Higher Education told the *Las Vegas Sun* that agency staff members spent 54 hours, at a cost of \$5,579, to compile 844 pages of documents sought for a story, said Ric Anderson, managing editor of the newspaper.

University administrators eventually agreed to limit the

overall cost to 50 cents per page, or \$422. Anderson said the *Sun* arranged to have a reporter review the documents at the system office in Las Vegas to avoid the cost.

Clark County charged \$150 – tallying three hours of work at \$50 per hour – to produce 125 emails by seven Clark County commissioners after a reporter asked last May for communications relating to medical marijuana licensing, Anderson said.

“We believe documents should be readily obtainable and available at minimum cost,” Anderson said. “We understand there are instances where frivolous requests tie up peoples’ time. Our requests are reasonable. We’re working on behalf of the public.”

Sparks police charged AP in Reno \$67 for 1,300 pages of records relating to an October 2013 school shooting, or a little less than 20 cents a page. Reno police charged \$50.95 for a compact disc with 1,168 pages of documents about a December 2013 shooting at Renown Regional Medical Center, just less than 23 cents per page.

Wes Henderson, executive director of the Nevada Association of Cities and Municipalities, denied that government officials try to gouge people who make freedom of information requests.

“The argument that the intent is to limit public access or to make money is a red herring,” Henderson told a state Legislature panel taking up a bill to let public agencies begin charging 50 cents per page for electronic documents. The association supports the bill.

“Most requests for copies or records, people ask for it; they get it. No charge,” Henderson said in an interview. “We want to be able to recoup some of the cost for the requests that take more time and effort.”

The measure, Senate Bill 28, would let agencies collect an

additional fee for a record requiring more than 30 minutes of staff time, or totaling more than 25 pages.

Henderson said the intent was to clarify confusion about the "extraordinary use" clause.

He acknowledged the proposal is unpopular with the media. He pointed to a *Las Vegas Review-Journal* editorial calling it the worst bill of the 2015 state Legislature.

Stanton Tang, news director at KOL0-TV, the ABC affiliate in Reno, said reporters and editors understand that it takes time for staff members to make physical printouts.

"But to drag-and-drop a file takes moments," Tang said. "What's the need for them to increase expenses for these files other than to discourage people from asking?"

Agencies that field open-record requests counter that turning over email records is nothing like pulling a piece of paper from a file and making a copy.

Police employees have to review the entire record to remove birthdates, Social Security numbers and other personal identifiers, said Charlotte Bible, a Las Vegas Metropolitan Police Department lawyer.

"We always have to be concerned that the records that are produced ... may be posted on the Internet," Bible told the state Senate Committee on Government Affairs.

Smith said another impediment to openness and transparency is the lack of any entity with authority to enforce open-record laws.

"In Nevada, the only recourse we have when someone denies a record or tries to charge us is to go to court," the press association chief said. "That, in itself, can be a barrier."

But Williams said that once a civil complaint is filed, state

judges and the Nevada Supreme Court usually order a record to be released.

“I’d give the courts an ‘A’ in the way they interpret the statute,” he said.