

IN THE SUPREME COURT OF THE STATE OF NEVADA

LAS VEGAS REVIEW-JOURNAL,  
INC.; KEITH MOYER; GLENN  
COOK; ANASTASIA HENDRIX;  
BRIANA ERICKSON; AND ARTHUR  
KANE,

*Appellants,*

v.

THE STATE OF NEVADA; ROBERT  
TELLES; AND LAS VEGAS  
METROPOLITAN POLICE  
DEPARTMENT,

*Respondents.*

Electronically Filed  
Aug 07 2023 05:32 PM  
Elizabeth A. Brown  
Clerk of Supreme Court  
Supreme Court Case No. 85553

**MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE  
PRESS AND 53 MEDIA ORGANIZATIONS FOR LEAVE TO FILE BRIEF  
AS AMICI CURIAE IN SUPPORT OF APPELLANTS**

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## ARGUMENT

Pursuant to NRAP 29(c), the Reporters Committee for Freedom of the Press (“the Reporters Committee”) and 53 media organizations (together, “proposed amici”) request leave to file as amici curiae in support of appellants in this matter.

The Reporters Committee is an unincorporated nonprofit association founded by journalists and media lawyers in 1970, when the nation’s press faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists. A complete statement of identity of proposed amici is included in the attached proposed brief. Together, as members of the news media and organizations that advocate on behalf of the rights of journalists, proposed amici have a substantial interest in upholding the reporter-source confidentiality on which Jeff German’s investigative journalism relied.

The proposed brief will aid the Court in resolving this case by providing proposed amici’s perspective—informed by proposed amici’s broad and deep experience—on the importance of protecting reporter-source communications and the identities of confidential sources. The brief will further explain that the best reading of the Nevada shield law avoids the potentially drastic consequences that

would result from allowing law enforcement officers and members of the district attorney's office to review confidential materials stored on Mr. German's devices.

### **CONCLUSION**

For all of the reasons given above, proposed amici respectfully request that this Court grant the motion for leave and accept for filing the accompanying brief.

Dated: August 7, 2023

McDONALD CARANO LLP

By: /s/ Adam Hosmer-Henner  
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## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on August 7, 2023, a true and correct copy of the foregoing MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 53 MEDIA ORGANIZATIONS FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT OF APPELLANTS was e-filed and e-served on all registered parties to the Supreme Court's electronic filing system.

*/s/ Pamela Miller* \_\_\_\_\_  
An employee of McDonald Carano LLP

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## **NRAP 26.1 DISCLOSURE STATEMENT**

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a), and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

The Reporters Committee for Freedom of the Press (“Reporters Committee”) is an unincorporated association of reporters and editors with no parent corporation and no stock.

The Associated Press is a global news agency organized as a mutual news cooperative under the New York Not-For-Profit Corporation law. It is not publicly traded.

The Atlantic Monthly Group LLC is a privately-held media company, owned by Emerson Collective and Atlantic Media, Inc. No publicly held corporation owns 10% or more of its stock.

Bloomberg L.P., the publisher of Bloomberg News, is a limited partnership. Its general partner is Bloomberg Inc., which is privately held. No publicly held corporation owns 10 percent or more of Bloomberg L.P.’s limited partnership interests.

Boston Globe Media Partners, LLC, is a privately held company. No publicly held corporation owns 10% or more of its stock.

BuzzFeed Inc. is a privately owned company, and National Broadcasting Company (NBC) owns 10% or more of its stock.

The Center for Investigative Reporting (d/b/a Reveal) is a California non-profit public benefit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no statutory members and no stock.

The Committee to Protect Journalists is a nonprofit organization with no parent corporation and no stock.

Courthouse News Service is a privately held corporation with no parent corporation and no publicly held corporation holds more than 10 percent of its stock.

The E.W. Scripps Company is a publicly traded company with no parent company. No individual stockholder owns more than 10% of its stock.

First Amendment Coalition is a nonprofit organization with no parent company. It issues no stock and does not own any of the party's or amicus' stock.

Forbes Media LLC is a privately owned company and no publicly held corporation owns 10% or more of its stock.

Freedom of the Press Foundation does not have a parent corporation, and no publicly held corporation owns 10% or more of the stock of the organization.

Gannett Co., Inc. is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. BlackRock, Inc. and the Vanguard Group, Inc. each own ten percent or more of the stock of Gannett Co., Inc.

Guardian US's legal entity is Guardian News & Media LLC, a company incorporated in Delaware, whose registered office is at 315 West 36th St, New York, NY 10018. Guardian News & Media LLC's parent corporation is Guardian News & Media Limited, a private company. No publicly held corporation owns 10% or more of Guardian US's stock.

Hearst Corporation is privately held and no publicly held corporation owns 10% or more of Hearst Corporation.

The International Documentary Association is a not-for-profit organization with no parent corporation and no stock.

Los Angeles Times Communications LLC is wholly owned by NantMedia Holdings, LLC.

The McClatchy Company, LLC is privately owned by certain funds affiliated with Chatham Asset Management, LLC and does not have publicly traded stocks.

The Media Institute is a 501(c)(3) non-stock corporation with no parent corporation.

The Media Law Resource Center has no parent corporation and issues no stock.

The Foundation for National Progress, dba Mother Jones, is a nonprofit, public benefit corporation. It has no publicly-held shares.

The National Freedom of Information Coalition is a nonprofit organization that has not issued any shares or debt securities to the public, and has no parent companies, subsidiaries, or affiliates that have issued any shares or debt securities to the public.

National Newspaper Association is a non-stock nonprofit Florida corporation. It has no parent corporation and no subsidiaries.

The National Press Club Journalism Institute is a not-for-profit corporation that has no parent company and issues no stock.

The National Press Club is a not-for-profit corporation that has no parent company and issues no stock.

National Press Photographers Association is a 501(c)(6) nonprofit organization with no parent company. It issues no stock and does not own any of the party's or amicus' stock.

The Nevada Press Association is a non-profit organization.

The New York Times Company is a publicly traded company and has no affiliates or subsidiaries that are publicly owned. No publicly held company owns 10% or more of its stock.

The News Leaders Association has no parent corporation and does not issue any stock.

News/Media Alliance is a nonprofit, non-stock corporation organized under the laws of the commonwealth of Virginia. It has no parent company.

Newsday LLC is a Delaware limited liability company whose members are Tillandsia Media Holdings LLC and Newsday Holdings LLC. Newsday Holdings LLC is an indirect subsidiary of Cablevision Systems Corporation. Cablevision Systems Corporation is (a) directly owned by Altice USA, Inc., a Delaware corporation which is publicly traded on the New York Stock Exchange and (b) indirectly owned by Altice N.V., a Netherlands public company.

The News Guild – CWA is an unincorporated association. It has no parent and issues no stock.

Nexstar Media Inc. is a media corporation that owns and operates commercial broadcast television stations. It has no corporate parent company and no publicly held corporation has a ten percent or greater ownership interest in its stock.

Online News Association is a not-for-profit organization. It has no parent corporation, and no publicly traded corporation owns 10% or more of its stock.

Informed California Foundation, d/b/a Open Vallejo, is a California nonprofit corporation and an educational public charity organized pursuant to section 501(c)(3) of the U.S. Code. It has no parent corporation and issues no stock.

PEN American Center, Inc. has no parent or affiliate corporation.

No publicly held corporations own any stock in the Philadelphia Inquirer, PBC, or its parent company, the non-profit Lenfest Institute for Journalism, LLC.

POLITICO LLC's parent corporation is Capitol News Company. No publicly held corporation owns 10% or more of POLITICO LLC's stock.

Pro Publica, Inc. (“ProPublica”) is a Delaware nonprofit corporation that is tax-exempt under section 501(c)(3) of the Internal Revenue Code. It has no statutory members and no stock.

Pulitzer Center on Crisis Reporting is a non-profit organization with no parent corporation and no stock.

Radio Television Digital News Association is a nonprofit organization that has no parent company and issues no stock.

Reuters News & Media Inc. is a Delaware corporation whose parent is Thomson Reuters U.S. LLC, a Delaware limited liability company. Reuters News & Media Inc. and Thomson Reuters U.S. LLC are indirect and wholly owned subsidiaries of Thomson Reuters Corporation, a publicly-held corporation, which is traded on the New York Stock Exchange and Toronto Stock Exchange. There are no intermediate parent corporations or subsidiaries of Reuters News & Media Inc. or Thomson Reuters U.S. LLC that are publicly held, and there are no publicly-held companies that own 10% or more of Reuters News & Media Inc. or Thomson Reuters U.S. LLC shares.

The Seattle Times Company: The McClatchy Company, LLC owns 49.5% of the voting common stock and 70.6% of the nonvoting common stock of The Seattle Times Company.

Sinclair Broadcast Group, Inc. is a Maryland corporation which is publicly traded on NASDAQ under the symbol SBGI.

The Society of Environmental Journalists is a 501(c)(3) non-profit educational organization. It has no parent corporation and issues no stock.

Society of Professional Journalists is a non-stock corporation with no parent company.

Student Press Law Center is a 501(c)(3) not-for-profit corporation that has no parent and issues no stock.

Tribune Publishing Company is a publicly held corporation. Alden Global Capital and affiliates own over 10% of Tribune Publishing Company's common stock. Nant Capital LLC, Dr. Patrick Soon-Shiong and California Capital Equity, LLC together own over 10% of Tribune Publishing Company's stock.

The Tully Center for Free Speech is a subsidiary of Syracuse University.

VICE Media is a wholly-owned subsidiary of Vice Holding Inc., which is a wholly-owned subsidiary of Vice Group Holding Inc. The Walt Disney Company is the only publicly held corporation that owns 10% or more of Vice Group Holding Inc.'s stock.

WP Company LLC d/b/a The Washington Post is a wholly-owned subsidiary of Nash Holdings LLC, a holding company owned by Jeffrey P. Bezos. WP Company LLC and Nash Holdings LLC are both privately held companies with no securities in the hands of the public.

The law firm who has appeared for the Media Amici in this appeal is McDonald Carano LLP.

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## **STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE**

Amici curiae are the Reporters Committee for Freedom of the Press, The Associated Press, The Atlantic Monthly Group LLC, Bloomberg L.P., Boston Globe Media Partners, LLC, BuzzFeed, Inc., The Center for Investigative Reporting (d/b/a Reveal), Committee to Protect Journalists, Courthouse News Service, Criminal Justice Journalists, The E.W. Scripps Company, First Amendment Coalition, Forbes Media LLC, Freedom of the Press Foundation, Gannett Co., Inc., The Guardian U.S., Hearst Corporation, International Documentary Assn., Los Angeles Times Communications LLC, The McClatchy Company, LLC, The Media Institute, Media Law Resource Center, Mother Jones, National Freedom of Information Coalition, National Newspaper Association, National Press Club Journalism Institute, The National Press Club, National Press Photographers Association, Nevada Broadcasters Association, Nevada Press Association, The New York Times Company, The News Leaders Association, News/Media Alliance, Newsday LLC, The NewsGuild - CWA, Nexstar Media Inc., Online News Association, Open Vallejo, PEN America, The Philadelphia Inquirer, POLITICO LLC, Pro Publica, Inc., Pulitzer Center on Crisis Reporting, Radio Television Digital News Association, Reuters News & Media Inc., The Seattle Times Company, Sinclair Broadcast Group, Inc., Society of Environmental Journalists, Society of Professional Journalists, Student Press Law Center, Tribune Publishing Company, Tully Center

for Free Speech, Vice Media Group, and The Washington Post (together, “Media Amici”).

The Reporters Committee for Freedom of the Press is an unincorporated nonprofit association founded by journalists and media lawyers in 1970, when the nation’s press faced an unprecedented wave of government subpoenas forcing reporters to name confidential sources. Today, its attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists.

The Associated Press (“AP”) is a news cooperative organized under the Not-for-Profit Corporation Law of New York. The AP’s members and subscribers include the nation’s newspapers, magazines, broadcasters, cable news services and Internet content providers. The AP operates from 280 locations in more than 100 countries. On any given day, AP’s content can reach more than half of the world’s population.

The Atlantic Monthly Group LLC is the publisher of The Atlantic and TheAtlantic.com. Founded in 1857 by Oliver Wendell Holmes, Ralph Waldo Emerson, Henry Wadsworth Longfellow and others, The Atlantic continues its 160-year tradition of publishing award-winning journalism that challenges assumptions and pursues truth, covering national and international affairs, politics and public policy, business, culture, technology and related areas.

Bloomberg L.P. is the owner and operator of Bloomberg News. Bloomberg's newsroom of more than 2,700 journalists and analysts delivers thousands of stories a day, producing content that is featured across multiple platforms, including digital, TV, radio, print and live events.

Boston Globe Media Partners, LLC publishes The Boston Globe, the largest daily newspaper in New England.

BuzzFeed, Inc. is a social news and entertainment company that provides shareable breaking news, original reporting, entertainment, and video across the social web to its global audience of more than 200 million.

The Center for Investigative Reporting (d/b/a Reveal), founded in 1977, is the nation's oldest nonprofit investigative newsroom. Reveal produces investigative journalism for its website <https://www.revealnews.org/>, the Reveal national public radio show and podcast, and various documentary projects. Reveal often works in collaboration with other newsrooms across the country.

The Committee to Protect Journalists is an independent, nonprofit organization that promotes press freedom worldwide. We defend the right of journalists to report the news without fear of reprisal. CPJ is made up of about 40 experts around the world, with headquarters in New York City. A board of prominent journalists from around the world helps guide CPJ's activities.

Courthouse News Service is a California-based legal news service that publishes a daily news website with a focus on politics and law. The news service also publishes daily reports on new civil actions and appellate rulings in both state and federal courts throughout the nation. Subscribers to the daily reports include law firms, universities, corporations, governmental institutions, and a wide range of media including newspapers, television stations and cable news services.

Criminal Justice Journalists, a non-profit, member supported organization, was founded in 1997. Our goal is to improve the quality and accuracy of news reporting on crime, law enforcement, and the judicial system.

The E.W. Scripps Company is the nation's fourth-largest local TV broadcaster, operating a portfolio of 61 stations in 41 markets. Scripps also owns Scripps Networks, which reaches nearly every American through the national news outlets Court TV and Newsy and popular entertainment brands ION, Bounce, Grit, Laff and Court TV Mystery. The company also runs an award-winning investigative reporting newsroom in Washington, D.C., and is the longtime steward of the Scripps National Spelling Bee.

First Amendment Coalition (FAC) is a nonprofit public interest organization dedicated to defending free speech, free press and open government rights in order to make government, at all levels, more accountable to the people. The Coalition's mission assumes that government transparency and an informed electorate are

essential to a self-governing democracy. FAC advances this purpose by working to improve governmental compliance with state and federal open government laws. FAC's activities include free legal consultations on access to public records and First Amendment issues, educational programs, legislative oversight of California bills affecting access to government records and free speech, and public advocacy, including extensive litigation and appellate work. FAC's members are news organizations, law firms, libraries, civic organizations, academics, freelance journalists, bloggers, activists, and ordinary citizens.

Forbes Media LLC is the publisher of Forbes Magazine as well as an array of investment newsletters and the leading business news website, Forbes.com. Forbes has been covering American and global business since 1917.

Freedom of the Press Foundation (FPF) is a non-profit organization that supports and defends public-interest journalism in the 21st century. FPF works to preserve and strengthen First and Fourth Amendment rights guaranteed to the press through a variety of avenues, including building privacy-preserving technology, promoting the use of digital security tools, and engaging in public and legal advocacy.

Gannett is the largest local newspaper company in the United States. Our 260 local daily brands in 46 states—together with the iconic USA TODAY—reach an estimated digital audience of 140 million each month.

Guardian US is the New York City-based American online presence, through the website <https://www.theguardian.com/us>, of the British print newspaper The Guardian and its website [theguardian.com](http://theguardian.com). Launched in September 2011, Guardian US covers American and international news for an online, global audience. Guardian US is renowned for the Paradise Papers investigation and other award-winning work including the NSA revelations, Panama Papers and The Counted investigations. The website [theguardian.com](http://theguardian.com) is one of the world's leading English-language newspaper websites and operates two international online editions of the Guardian - Guardian US (Guardian News & Media LLC) and Guardian Australia (GNM Australia PTY Ltd). Traffic from outside the UK now represents around two-thirds of the Guardian's total digital audience.

Hearst is one of the nation's largest diversified media, information and services companies with more than 360 businesses. Its major interests include ownership of 15 daily and more than 30 weekly newspapers, including the San Francisco Chronicle, Houston Chronicle, and Albany Times Union; hundreds of magazines around the world, including Cosmopolitan, Good Housekeeping, ELLE, Harper's BAZAAR and O, The Oprah Magazine; 31 television stations such as KCRA-TV in Sacramento, Calif. and KSBW-TV in Monterey/Salinas, CA, which reach a combined 19 percent of U.S. viewers; ownership in leading cable television networks such as A&E, HISTORY, Lifetime and ESPN; global ratings agency Fitch

Group; Hearst Health; significant holdings in automotive, electronic and medical/pharmaceutical business information companies; Internet and marketing services businesses; television production; newspaper features distribution; and real estate.

The International Documentary Association (IDA) is dedicated to building and serving the needs of a thriving documentary culture. Through its programs, the IDA provides resources, creates community, and defends rights and freedoms for documentary artists, activists, and journalists.

Los Angeles Times Communications LLC is one of the largest daily newspapers in the United States. Its popular news and information website, [www.latimes.com](http://www.latimes.com), attracts audiences throughout California and across the nation.

The McClatchy Company, LLC is a publisher of iconic brands such as the Miami Herald, The Kansas City Star, The Sacramento Bee, The Charlotte Observer, The (Raleigh) News & Observer, and the Fort Worth Star-Telegram. McClatchy operates media companies in 30 U.S. markets in 16 states, providing each of its communities with high-quality news and advertising services in a wide array of digital and print formats. McClatchy is headquartered in Sacramento, California.

The Media Institute is a nonprofit foundation specializing in communications policy issues founded in 1979. The Media Institute exists to foster three goals: freedom of speech, a competitive media and communications industry, and

excellence in journalism. Its program agenda encompasses all sectors of the media, from print and broadcast outlets to cable, satellite, and online services.

The Media Law Resource Center, Inc. (“MLRC”) is a non-profit professional association for content providers in all media, and for their defense lawyers, providing a wide range of resources on media and content law, as well as policy issues. These include news and analysis of legal, legislative and regulatory developments; litigation resources and practice guides; and national and international media law conferences and meetings. The MLRC also works with its membership to respond to legislative and policy proposals, and speaks to the press and public on media law and First Amendment issues. It counts as members over 125 media companies, including newspaper, magazine and book publishers, TV and radio broadcasters, and digital platforms, and over 200 law firms working in the media law field. The MLRC was founded in 1980 by leading American publishers and broadcasters to assist in defending and protecting free press rights under the First Amendment.

Mother Jones is a nonprofit, reader-supported news organization known for ground-breaking investigative and in-depth journalism on issues of national and global significance.

The National Freedom of Information Coalition is a national nonprofit, nonpartisan organization of state and regional affiliates representing 45 states and

the District of Columbia. Through its programs and services and national member network, NFOIC promotes press freedom, litigation and legislative and administrative reforms that ensure open, transparent and accessible state and local governments and public institutions.

National Newspaper Association is a 2,000 member organization of community newspapers founded in 1885. Its members include weekly and small daily newspapers across the United States. It is based in Pensacola, FL.

The National Press Club Journalism Institute is the non-profit affiliate of the National Press Club, founded to advance journalistic excellence for a transparent society. A free and independent press is the cornerstone of public life, empowering engaged citizens to shape democracy. The Institute promotes and defends press freedom worldwide, while training journalists in best practices, professional standards and ethical conduct to foster credibility and integrity.

The National Press Club is the world's leading professional organization for journalists. Founded in 1908, the Club has 3,100 members representing most major news organizations. The Club defends a free press worldwide. Each year, the Club holds over 2,000 events, including news conferences, luncheons and panels, and more than 250,000 guests come through its doors.

The National Press Photographers Association (“NPPA”) is a 501(c)(6) non-profit organization dedicated to the advancement of visual journalism in its creation,

editing and distribution. NPPA's members include television and still photographers, editors, students and representatives of businesses that serve the visual journalism industry. Since its founding in 1946, the NPPA has vigorously promoted the constitutional rights of journalists as well as freedom of the press in all its forms, especially as it relates to visual journalism. The submission of this brief was duly authorized by Mickey H. Osterreicher, its General Counsel.

The Nevada Press Association is the formal trade organization for the newspaper industry in Nevada. It is a voluntary nonprofit association that represents 6 daily and 37 nondaily newspapers in Nevada, as well as four online news services.

The New York Times Company is the publisher of The New York Times and The International Times, and operates the news website [nytimes.com](http://nytimes.com).

The News Leaders Association was formed via the merger of the American Society of News Editors and the Associated Press Media Editors in September 2019. It aims to foster and develop the highest standards of trustworthy, truth-seeking journalism; to advocate for open, honest and transparent government; to fight for free speech and an independent press; and to nurture the next generation of news leaders committed to spreading knowledge that informs democracy.

The News/Media Alliance represents news and media publishers, including nearly 2,000 diverse news and magazine publishers in the United States—from the largest news publishers and international outlets to hyperlocal news sources, from

digital-only and digital-first to print news. Alliance members account for nearly 90% of the daily newspaper's circulation in the United States. Since 2022, the Alliance is also the industry association for magazine media. It represents the interests of close to 100 magazine media companies with more than 500 individual magazine brands, on topics that include news, culture, sports, lifestyle and virtually every other interest, avocation or pastime enjoyed by Americans. The Alliance diligently advocates for news organizations and magazine publishers on issues that affect them today.

Newsday LLC ("Newsday") is the publisher of the daily newspaper, Newsday, and related news websites. Newsday is one of the nation's largest daily newspapers, serving Long Island through its portfolio of print and digital products. Newsday has received 19 Pulitzer Prizes and other esteemed awards for outstanding journalism.

The News Guild-CWA is a labor organization representing more than 25,000 employees of newspapers, newsmagazines, news services and other media enterprises. Guild representation comprises, in the main, the editorial and online departments of these media outlets. The News Guild is a sector of the Communications Workers of America. CWA is America's largest communications and media union, representing over 500,000 men and women in both private and public sectors.

Nexstar Media Inc. (“Nexstar”) is a leading diversified media company that leverages localism to bring new services and value to consumers and advertisers through its traditional media, digital and mobile media platforms. Nexstar owns, operates, programs or provides sales and other services to 199 television stations and related digital multicast signals reaching 116 markets or approximately 62% of all U.S. television households.

The Online News Association is the world’s largest association of digital journalists. ONA’s mission is to inspire innovation and excellence among journalists to better serve the public. Membership includes journalists, technologists, executives, academics and students who produce news for and support digital delivery systems. ONA also hosts the annual Online News Association conference and administers the Online Journalism Awards.

Open Vallejo is an award-winning, independent, non-partisan, nonprofit newsroom serving the public interest. Open Vallejo seeks to illuminate a small city long burdened by police violence, corruption, and neglect. As the first project of the Informed California Foundation, Open Vallejo is also a permanent design laboratory for open source, high-impact, broadly-accessible frameworks for ensuring local transparency, accountability, and information justice.

PEN American Center (“PEN America”) is a non-profit association of writers that includes novelists, journalists, editors, poets, essayists, playwrights, publishers,

translators, agents, and other professionals. PEN America stands at the intersection of literature and human rights to protect open expression in the United States and worldwide. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible, working to ensure that people everywhere have the freedom to create literature, to convey information and ideas, to express their views, and to make it possible for everyone to access the views, ideas, and literatures of others. PEN America has approximately 7,500 members and is affiliated with PEN International, the global writers™ organization with over 100 Centers in Europe, Asia, Africa, Australia, and the Americas.

The Philadelphia Inquirer, owned by the Lenfest Institute for Journalism, is the largest newspaper in the United States operated as a public-benefit corporation. It publishes The Inquirer as well as the Philadelphia Daily News in print, and online at [www.inquirer.com](http://www.inquirer.com). The Inquirer has won 20 Pulitzer Prizes. Under the non-profit ownership of the Institute, which is dedicated solely to the mission of preserving local journalism, the Inquirer is dedicated to public service journalism and news innovation.

POLITICO is a global news and information company at the intersection of politics and policy. Since its launch in 2007, POLITICO has grown to nearly 300 reporters, editors and producers. It distributes 30,000 copies of its Washington

newspaper on each publishing day and attracts an influential global audience of more than 35 million monthly unique visitors across its various platforms.

Pro Publica, Inc. (“ProPublica”) is an independent, nonprofit newsroom that produces investigative journalism in the public interest. It has won six Pulitzer Prizes, most recently a 2020 prize for national reporting, the 2019 prize for feature writing, and the 2017 gold medal for public service. ProPublica is supported almost entirely by philanthropy and offers its articles for republication, both through its website, [propublica.org](http://propublica.org), and directly to leading news organizations selected for maximum impact. ProPublica has extensive regional and local operations, including ProPublica Illinois, which began publishing in late 2017 and was honored (along with the Chicago Tribune) as a finalist for the 2018 Pulitzer Prize for Local Reporting, an initiative with the Texas Tribune, which launched in March 2020, and a series of Local Reporting Network partnerships.

Pulitzer Center on Crisis Reporting, based in Washington, DC, was founded in 2006 as a non-profit journalism center dedicated to supporting in-depth engagement with underreported global affairs through sponsorship of quality international journalism across all media platforms and a unique program of outreach and education to schools and universities. The Center supports over 150 international reporting projects each year, working in tandem with major international news outlets.

Radio Television Digital News Association (“RTDNA”) is the world’s largest and only professional organization devoted exclusively to electronic journalism. RTDNA is made up of news directors, news associates, educators and students in radio, television, cable and electronic media in more than 30 countries. RTDNA is committed to encouraging excellence in the electronic journalism industry and upholding First Amendment freedoms.

Reuters, the news and media division of Thomson Reuters, is the world’s largest multimedia news provider. Founded in 1851, it is committed to the Trust Principles of independence, integrity and freedom from bias. With unmatched coverage in over 16 languages, and reaching billions of people worldwide every day, Reuters provides trusted intelligence that powers humans and machines to make smart decisions. It supplies business, financial, national and international news to professionals via desktop terminals, the world's media organizations, industry events and directly to consumers.

The Seattle Times Company, locally owned since 1896, publishes the daily newspaper The Seattle Times, together with the Yakima Herald-Republic and Walla Walla Union-Bulletin, all in Washington state.

Sinclair Broadcast Group, Inc. is a diversified media company and leading provider of local news and sports. The Company owns, operates and/or provides services to 185 television stations in 86 markets; is a leading local news provider in

the country; owns multiple national networks; and has TV stations affiliated with all the major broadcast networks and owns and/or operates 21 RSN brands. Sinclair's content is delivered via multiple-platforms, including over-the-air, multi-channel video program distributors, and digital and streaming platforms. Sinclair, either directly or through its venture subsidiaries, makes equity investments in strategic companies. Sinclair Broadcast Group, Inc. was founded in 1986, went public in 1995 and is traded on the NASDAQ Global Select Market under the ticker symbol SBGI.

The Society of Environmental Journalists is the only North-American membership association of professional journalists dedicated to more and better coverage of environment-related issues.

Society of Professional Journalists ("SPJ") is dedicated to improving and protecting journalism. It is the nation's largest and most broad-based journalism organization, dedicated to encouraging the free practice of journalism and stimulating high standards of ethical behavior. Founded in 1909 as Sigma Delta Chi, SPJ promotes the free flow of information vital to a well-informed citizenry, works to inspire and educate the next generation of journalists and protects First Amendment guarantees of freedom of speech and press.

Student Press Law Center ("SPLC") is a nonprofit, nonpartisan organization which, since 1974, has been the nation's only legal assistance agency devoted

exclusively to educating high school and college journalists about the rights and responsibilities embodied in the First Amendment to the Constitution of the United States. SPLC provides free legal assistance, information and educational materials for student journalists on a variety of legal topics.

Tribune Publishing Company is one of the country's leading media companies. The company's daily newspapers include the Chicago Tribune, New York Daily News, The Baltimore Sun, Sun Sentinel (South Florida), Orlando Sentinel, Hartford Courant, The Morning Call, the Virginian Pilot and Daily Press. Popular news and information websites, including [www.chicagotribune.com](http://www.chicagotribune.com), complement Tribune Publishing's publishing properties and extend the company's nationwide audience.

The Tully Center for Free Speech began in Fall, 2006, at Syracuse University's S.I. Newhouse School of Public Communications, one of the nation's premier schools of mass communications.

VICE Media is the world's preeminent youth media company. It is a news, content and culture hub, and a leading producer of award-winning video, reaching young people on all screens across an unrivaled global network.

The Washington Post (formally, WP Company LLC d/b/a The Washington Post) is a news organization based in Washington, D.C. It publishes The Washington Post newspaper and the website [www.washingtonpost.com](http://www.washingtonpost.com), and

produces a variety of digital and mobile news applications. The Post has won Pulitzer Prizes for its journalism, including the award in 2020 for explanatory reporting.

Pursuant to NRAP 29(d)(3), the Media Amici has concurrently filed a Motion for Leave to File Amicus Curiae Brief, which, if granted, will provide the authority to file this brief. Further, the Media Amici file in support of Appellants as they have a substantial interest in upholding the reporter-source confidentiality on which Jeff German's investigative journalism relied.

## SUMMARY OF ARGUMENT

Over a celebrated, four-decade career, the Las Vegas Review-Journal's Jeff German relied on a range of sources to investigate and report stories of significant public interest to the people of Nevada. *See, e.g.*, Jeff German, *FBI Seizes Nevada GOP Chief's Cellphone as Part of Invalid Elector Probe*, Las Vegas Review-Journal (June 23, 2022), <https://perma.cc/D73Q-WG8E>; Jeff German, *Teacher Who Reported Strip Searches Back at Work, Faces Suspension*, Las Vegas Review-Journal (April 25, 2022), <https://perma.cc/ASS2-MZMY>; Jeff German, *Murder in Sin City* (2001). Now, in the wake of Mr. German's tragic murder, the seizure of his devices by law enforcement—along with the district court's adoption of a search protocol that would allow police and members of the district attorney's office to review their contents—threatens the confidentiality of his sources.

Amici the Reporters Committee for Freedom of the Press and 53 media organizations (together, "Media Amici") write to underscore the danger the district court's order poses to press freedom in Nevada. "[S]ociety's interest in protecting the integrity of the newsgathering process," and with it "the free flow of information to the public," is a mainstay of American law. *Shoen v. Shoen*, 5 F.3d 1289, 1292 (9th Cir. 1993). In recognition of that bedrock principle, Nevada's shield law "confers upon journalists an absolute privilege from disclosure of their sources and information in any proceeding." *Diaz v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*,

116 Nev. 88, 94 (2000). The Las Vegas Metropolitan Police Department’s justifications for piercing that shield here would have wide-ranging consequences for journalists working in Nevada, and this Court should reject them.

## ARGUMENT

### **I. State and federal law reflect a powerful nationwide consensus that confidential sources play an essential role in gathering the news.**

“[J]ournalists frequently depend on informants to gather news, and confidentiality is often essential to establishing a relationship with an informant.” *Zerilli v. Smith*, 656 F.2d 705, 711 (D.C. Cir. 1981). Much of the most consequential reporting on the functioning of government has depended on those relationships. As the *Washington Post*’s Carl Bernstein would later recall, “Almost all of the articles I co-authored with Mr. Woodward on Watergate could not have been reported or published without the assistance of our confidential sources and without the ability to grant them anonymity, including the individual known as Deep Throat.” David Kravets, *Reporters Challenge Bonds’ Leak Subpoena*, The Associated Press (May 31, 2006), <https://perma.cc/2JS6-5N7C>. And the long list of stories that could never have been broken without the benefit of reporter-source confidentiality also includes the disclosure of illegal NSA wiretapping programs, *see* James Risen & Eric Lichtblau, *Bush Lets U.S. Spy on Callers Without Courts*, N.Y. Times (Dec. 16, 2005), <https://perma.cc/5RK3-2V3T>; the use of so-called “enhanced” interrogation techniques on terrorism suspects, *see* Scott Shane et al., *Secret U.S. Endorsement of*

*Severe Interrogations*, N.Y. Times (Oct. 4, 2007), <https://perma.cc/8DFFLEVE>; and the private sector's use of offshore financial havens to launder money and evade taxes, see Ferderik Obermaier et al., *About the Panama Papers*, *Suddeutsche Zeitung* (2016), <https://perma.cc/RC9J-2QWZ>.

Given the vital importance of such reporting, state and federal law consistently recognizes that “[i]f reporters were routinely required to divulge the identities of their sources, the free flow of newsworthy information would be restrained and the public’s understanding of important issues and events would be hampered in ways inconsistent with a healthy republic.” *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 287 (4th Cir. 2000). As lead amicus the Reporters Committee has documented, 48 states and the District of Columbia recognize a reporter’s privilege either by statute or as a matter of state constitutional or common law. Reporters Comm. for Freedom of the Press, *Introduction to the Reporter’s Privilege Compendium*, <https://perma.cc/YZG7-YCVR>. And as discussed in greater detail below, that broad, national consensus on the importance of reporter-source confidentiality to investigative journalism emphatically includes Nevada.

Federal law, too, recognizes the need to protect reporter-source communications and source identities. The clear majority of federal circuit courts recognize a reporter’s privilege under either the First Amendment or federal common law. See *Introduction to the Reporter’s Privilege Compendium, supra*. In

the same spirit, the U.S. Department of Justice has long restricted the seizure of information from members of the news media, and it tightened those limits still further last year. *See* Reporters Comm. for Freedom of the Press, *New Justice Department Policy Marks ‘Historic Shift’ in Press Protection* (Oct. 26, 2022), <https://perma.cc/MMW2-3NZN>. As Attorney General Merrick Garland explained, that step was necessary to vindicate “the important national interest in protecting journalists from compelled disclosure of information revealing their sources, sources they need to apprise the American people of the workings of their government.” Memorandum from Attorney General Merrick Garland, U.S. Dep’t of Justice, *Use of Compulsory Process to Obtain Information from, or Records of, Members of the News Media at 1* (July 19, 2021), <https://perma.cc/BQ5Y-DJZT>. Those regulatory guardrails complement the federal Privacy Protection Act, *see* 42 U.S.C. § 2000aa, which prohibits newsroom searches and the seizure of journalistic work product absent narrowly defined exceptional circumstances.

Simply put, it is well understood that confidentiality is essential to the integrity and efficacy of the newsgathering process. “Forcing reporters to divulge those confidences would dam the flow to the press, and through it to the people, of the most valuable sort of information: not the press release, not the handout, but the firsthand story based on the candid talk of a primary news source.” Alexander M. Bickel, *The Morality of Consent* 84 (1975). That principle is at stake here.

**II. Nevada’s shield law protects the confidential newsgathering materials—including source identities—contained in Jeff German’s seized devices.**

Under the district court’s search protocol, designated officials of the Department and the district attorney’s office will be entitled to sift through a raft of Mr. German’s newsgathering materials,<sup>1</sup> irreparably undermining the confidentiality of the Review-Journal’s investigative work. Despite Metro’s efforts to justify that result, it remains inconsistent with the Nevada shield law’s “absolute privilege from disclosure of [journalists’] sources and information in any proceeding.” *Diaz*, 116 Nev. at 94. The district court’s order should be vacated to avoid undermining the confidentiality on which reporters throughout the state rely.

A. Permitting government officials to review Mr. German’s confidential materials would put sources—and the journalistic process—at risk.

The sensitivity of the newsgathering material on the devices cannot be overstated and is put at risk by the district court’s order. The very reporting that allegedly led to Mr. German’s murder—his investigation of defendant Robert Telles and the Clark County Public Administrator’s Office—would not have been possible without information gathered from sources in the Administrator’s Office, some of whom sought to remain anonymous. *See* Jeff German, *County Office in Turmoil*

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<sup>1</sup> The discussion below refers primarily to information stored on Mr. German’s devices, but the same concerns are implicated by the apparent seizure of Mr. German’s telephone metadata. *See New York Times Co. v. Gonzales*, 459 F.3d 160, 168 (2d Cir. 2006) (any privilege available to news organization also extends to records held by any third party that “plays an ‘integral role’ in reporters’ work”).

*with Secret Video and Claims of Bullying, Hostility*, Las Vegas Review-Journal (May 16, 2022), <https://perma.cc/XH6K-TBUG>; see also Nicholas Bogel-Burroughs & Mike Baker, *A Slain Reporter, a City of Sin and a Politician Charged with Murder*, N.Y. Times (Sept. 11, 2022), <https://perma.cc/5HMV-YQ2Y> (describing Mr. German’s meeting “with two new sources” who “shared about troubles in the office of the public administrator” and “wonder[ed] if Mr. German might be interested in writing an article”). Those sources are now placed at acute risk of harm—both personal and professional—by the district court’s order.

But the harms of the search protocol stretch beyond the boundaries of Mr. German’s reporting about Mr. Telles and the Clark County Public Administrator’s Office. Mr. German was working on any number of ongoing investigations at the time of his death. See, e.g., Kaitlyn Radde & Michael Martin, *One Journalist Was Killed. Another Finished What He Started*, NPR (Feb. 7, 2023), <https://perma.cc/H43C-QGAJ> (describing Mr. German’s then-unfinished reporting on an alleged Ponzi scheme). As amici understand it, the Review-Journal has reason to believe that the seized devices contain the identities of many, if not all, of Mr. German’s sources—including confidential sources that may be employed by law enforcement or the district attorney. The chilling effect that disclosure of their identities would inflict is in no way diminished by Mr. German’s killing. Cf. *Swidler & Berlin v. United States*, 524 U.S. 399, 408 (1998) (“Posthumous disclosure of

[attorney-client privileged] communications may be as feared as disclosure during the client's lifetime.”). On the contrary: Denying those sources confidentiality now could make Mr. German's killing a perverse windfall for local officials hostile to the free flow of information about the public offices they run.

B. The district court's search protocol violates Nevada's shield law.

“Nevada is often recognized as having the strongest news shield law in the country,” Reporters Comm. for Freedom of the Press, *Reporter's Privilege Compendium: Nevada* (June 2020), <https://perma.cc/2F8Z-MBFV>, extending its protections to “any published or unpublished information” obtained in the course of newsgathering, as well as “the source of any information” a journalist gathers, NRS. 49.275(1). That privilege applies here; holding otherwise would have grave consequences for Nevada journalists who depend on the statute's guarantees.

Despite Mr. German's tragic death, the shield law continues to protect a broader set of interests beyond those of any individual journalist. The law's plain text extends not just to the “reporter” but also to any “editorial employee” of the newspaper, and this Court has already held that that language entitles a newspaper's institutional leadership to assert the privilege as well. *See Las Vegas Sun, Inc. v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 104 Nev. 508, 515 n.7 (1988), *overruled on other grounds*, *Diaz*, 116 Nev. at 101 (“We are satisfied that the legislature meant to include newspaper publishers in its definition of ‘editorial employees.’”).

Otherwise, the death of the particular reporter to whom a source spoke would extinguish the guarantee of confidentiality on which they may well have depended in choosing to speak up. That result is incompatible with the statute’s core purpose: The risk against which the shield law guards—that sources facing threats to their employment, liberty, or life if their identities are revealed will be unwilling to talk to the press—plainly survives a reporter’s untimely death.

Courts have consistently reached the same conclusion in related contexts. The attorney-client privilege survives the death of the client to encourage candor in life, *see Swidler & Berlin*, 524 U.S. at 408, as does the privilege for confidential marital communications, *see, e.g., United States v. Burks*, 470 F.2d 432, 436 (D.C. Cir. 1972). And while the facts of this case are shocking, courts routinely allow news organizations to assert the privilege on behalf of their reporters. *See, e.g., Bruno & Stillman, Inc. v. Globe Newspaper Co.*, 633 F.3d 583, 594 (1st Cir. 1980) (assertion of privilege by “[t]he Globe... on *its* part to refuse to disclose a reporter’s confidential source” (emphasis added)); *United States v. Cuthbertson*, 630 F.2d 139, 147 (3d Cir. 1980) (noting reporter’s privilege that “belongs to CBS”). Any other rule would devastate the shield law’s effectiveness—not just for the Review-Journal today, but for any Nevada journalist hoping to guarantee their sources’ confidentiality tomorrow.

For much the same reason, it would make little sense—and would badly undermine the rights of the press in Nevada—to conclude that the Review-Journal waived the privilege by disclosing by disclosing some portion of what Mr. German had uncovered with law enforcement officials investigating his death. This Court in *Diaz* squarely held that “Nevada’s waiver statute does not apply with respect to the news shield statute”—full stop. 116 Nev. at 10. The plain language of the shield law is similarly absolute: It protects “any published or unpublished information,” without reference to whether that information has been kept confidential. NRS 49.275(1). And for good reason. Often, in the course of the reporting process, journalists share limited information with potential sources in order to verify their facts or encourage further disclosures. But those contacts fall “clearly within the scope of [a journalist’s] role as a newspaper reporter” and cannot “forfeit his privilege as a reporter.” *People ex rel. Scott v. Silverstein*, 89 Ill. App. 3d 1039, 1045 (Ill. Ct. App. 1980), *rev’d on other grounds*, 87 Ill. 2d 167 (1981). Holding otherwise would either eviscerate the privilege or discourage the press from making responsible efforts to confirm the information that they gather.

At base, “Nevada provides absolute protection against compelled disclosure to ensure that through the press, the public is able to make informed political, social and economic decisions.” *Diaz*, 116 Nev. at 58. The search protocol threatens to

undermine that “important public interest”—it will chill going forward the same vital newsgathering to which Mr. German devoted his life and career. *Id.*

This Court should reject that result and vacate the district court’s order.

### **CONCLUSION**

For the foregoing reasons, Media Amici respectfully urge this court to vacate the order below.

Dated: August 7, 2023

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**NRAP 32(A)(9) CERTIFICATE OF COMPLIANCE**

I hereby certify that this Brief of Amici Curiae complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because this Brief of Amici Curiae has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman Typeface. I further certify that this Brief complies with the type-volume limitation under NRAP 32(a)(7) and NRAP 29(e) as it contains 5,824 words, excluding the portions of the brief exempted by NRAP 32(a)(7)(c).

Finally, I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

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I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: August 7, 2023

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## CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I hereby certify that I am an employee of McDONALD CARANO LLP and that on August 7, 2023, a true and correct copy of the foregoing BRIEF OF AMICI CURIAE **THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS AND 53 MEDIA ORGANIZATIONS IN SUPPORT OF APPELLANTS** was e-filed and e-served on all registered parties to the Supreme Court’s electronic filing system.

*/s/ Pamela Miller*  
\_\_\_\_\_  
An employee of McDonald Carano LLP