

**LAS VEGAS METROPOLITAN POLICE DEPARTMENT
DECLARATION OF ARREST REPORT**

TCR1119381

County Jail City Jail Adult Juvenile Bureau: NEAC

ID# 2729994		EVENT # LLV210100000721		ARRESTEE'S NAME (LAST) FRANCO			(FIRST) PEDRO		(MIDDLE)		SSN# [PII]
RACE W	SEX M	DOB [PII] 1991	HGT 5'10"	WGT 130	HAIR BLK	EYES BRO	POB MEXICO				
ARRESTEE'S ADDRESS 6235 ADENMOOR							STREET		CITY LAS VEGAS	STATE NV	ZIP CODE 89156
OCCURRED DATE: 1/1/2021		TIME: 02:00		ARREST DATE: 1/23/2021		TIME: 10:30		LOCATION OF ARREST (NUMBER, STREET, CITY, STATE, ZIP CODE) 6235 ADENMOOR LAS VEGAS NEVADA 89156			
LOCATION OF CRIME (NUMBER, STREET, CITY, STATE, ZIP CODE) E LAKE MEAD / N CHRISTY LAS VEGAS NEVADA 89156											
CHARGES / OFFENSES PC - LVJCR - 60835 - G - ATT IMPERSONATE POLICE OFFICER OR UNIFORM											
CONNECTING REPORTS (TYPE OR EVENT NUMBER) RFP, WIT, ICR, DOAR											

The undersigned makes the following declarations subject to the penalty of perjury and says: That I am a peace officer with the Las Vegas Metropolitan Police Department, Clark County, Nevada, being so employed for a period of approximately 14 year(s).

That I learned the following facts and circumstances which lead me to believe that the above named subject committed or was committing the offenses above at the location of E LAKE MEAD / N CHRISTY LAS VEGAS NEVADA 89156 and that the offense(s) occurred at approximately 02:00 hours on the 1st day of January, 2021.

Details for Probable Cause:

LVMPD Event LLV210100000721

On 01/1/21 Sabrina Jensen was on her way home with some friends driving her vehicle. She was traveling westbound on Lake Mead near the intersection of N Christy. While she was driving, she was a newer white Hyundai hatchback only travelling 35 MPH going westbound. She passed this driver since it was not going the speed limit. She noticed the license plate for the Hyundai to be 192B45- NV. Sabrina made a southbound turn on N Christy. While she was driving, that same Hyundai pull along side of her and was acting as if it wanted to race her down the street. Sabrina continued to drive normally when suddenly the Hyundai slammed on the brakes and then pulled directly behind her vehicle. The Hyundai activated a red and blue light system to which Sabrina described it to be like police vehicle emergency lights. Sabrina noticed that these lights were clipped on the front bumper of the Hyundai and there were no other emergency lights on the vehicle. She said that when she had earlier passed the Hyundai, there were no police markings on the vehicle. At first Sabrina thought she was being pulled over so she slowed her vehicle and started to merge to the right of the roadway on Christy. She became fearful that this might not be a police officer so she kept driving slowly. The Hyundai suddenly sped off southbound and tried to pull over an orange SUV. The orange SUV did pull over for the Hyundai. Sabrina's friend Carrie Bravard called police to assist since they thought it was not a true police officer. The occupant of the Hyundai never exited his vehicle but remained parked behind the orange SUV. Sabrina described the family in the orange SUV as a black family. While the Hyundai was parked behind the SUV, Sabrina honked her horn multiple times to get the Hyundai to leave. This action eventually made the Hyundai leave the area. Sabrina followed the Hyundai but eventually lost sight of it at the 6200 block of Viewpoint.

A similar event occurred on 01/23/21. Below is the narrative of that report:

LVMPD Event LLV210100101104

On 01/22/21, Eric Garcia DOB [PII] 93 hailed Officer Gariano P#15658 in reference of a suspicious vehicle that attempted to pull him over on the freeway. The following details are merely summarizations of Garcia's account and are not verbatim. On the same date at an unspecified time Garcia was travelling on the freeway near I-95 and Sunset

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Arresting Officer: KYLE RACE

P#: 9196

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CONTINUATION REPORT

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Road. While doing so, a white Hyundai Tucson bearing NV Plate 192B45 began to follow Garcia at a close distance. While doing so, the described Hyundai activated red and blue lights similar to what is seen on emergency vehicles. Assuming he was being pulled over, Garcia began to pull over to the right shoulder of the road: which is outlined on NRS when being stopped by an emergency vehicle. Once Garcia pulled over, the Hyundai then sped off. Garcia followed the above described vehicle, which was how Garcia observed the license plate of the vehicle.

On 01/23/21 at approximately 0030 hours while operating as unmarked patrol unit, Officer N Nelson P#18006 was travelling southbound on Mt Hood Rd. While do so, a white Hyundai SUV similar to the description provided by Garcia utilized red and blue lights in an attempt to pull over Officer Nelson in his unmarked LVMPD vehicle. Officer Nelson compiled and pulled over, but after doing so the white Hyundai continued to travel in the same direction of travel. Officer Nelson began to follow the vehicle and observed the same plate which was provided by Garcia.

Officer Nelson followed the vehicle to a residence located at 6235 Adenmoor Ct, LV, NV 89156. Once at the residence, the driver was identified as Pedro Franco, DOB [PII] 1991. (ID#2729994). Pedro exited the Hyundai and was taken into custody.

Upon closed inspection, after market red and blue lights were located affixed to the front grill of the Hyundai. A manual style light switch that activate the red and blue lights was located inside the Hyundai near the center console/gear shift area.

With Franco falsely impersonating a police officer and performing the act o utilizing emergency red and blue lights to pull over Garcia and Officer Nelson which affects the rights of both persons in an unlawful manner, Pedro Franco was arrested. Franco was transported to CCDC and booked accordingly.

I Detective K Race, P#9196 was assigned this case.

I was able to review the jail phone calls that Pedro has made since he was arrested from LVMPD Event LLV210100101104. He has made the following calls and comments.

According to recorded inmate phone calls while at CCDC on 01/23/21 Pedro Franco calls a female named Adena and his mother:

LEP-O, EV

Based on the above facts and circumstances, there is probable cause to believe Pedro Franco committed the crime of Impersonating a Police Officer. He was rebooked at CCDC for this addition charge reference LVMPD Event LLV210100000721.

***** End *****

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are misdemeanor).

Arresting Officer: KYLE RACE

P#: 9196

PII

Personal Identifying Information

The record(s) you seek contain personal identifying information.

NRS 239.001 provides that public records are open to inspection. However, NRS 239.010(1) expressly creates exemptions to the disclosure of records falling under various statutes, including NRS 239B.030. NRS 239B.030 makes “personal information” confidential. NRS 603A.040 defines “personal information” to include social security numbers, driver’s license numbers, account numbers, and the like.

Here, because the record(s) you seek contain confidential personal identifying information, they have been redacted.

LEP-0

Law Enforcement Privilege – Open/Active Criminal Investigations

The record(s) you seek are law enforcement records that pertain to an open criminal investigation.

In *Donrey v. Bradshaw*, 106 Nev. 630, 798 P.2d 144, fn. 4 (1990), the Nevada Supreme Court referred to Exemption 7 of the federal Freedom of Information Act and recognized that law enforcement files are confidential when pertaining to a “pending or anticipated criminal proceeding” or if there is a danger of “denying someone a fair trial.” Exemption 7 is codified at 5 USC § 552(b)(7). Subparts (A)-(B) make law enforcement records confidential if disclosure “could reasonably be expected to interfere with enforcement proceedings” or “would deprive a person of a fair trial.”

Nevada law further recognized the importance of ensuring the confidentiality of an open criminal investigation in *Las Vegas Metro. Police Dep’t v. Anderson (In re 12067 Oakland Hills, Las Vegas)*, -- Nev. --, 435 P.3d 672 (2018). See also Att. Gen. Op. 83-3 (recognizing the “legitimate public policy interests in maintaining confidentiality of criminal investigation records and criminal reports”).

Here, the record(s) you seek pertain to an open criminal investigation. LVMPD’s interest in nondisclosure clearly outweighs the public’s interest in access. Thus, they are confidential and must be withheld or redacted.

EV

Evidence

Your request is for evidence, not a public record.

A “record” is “[a] documentary account of past events, usually designed to memorialize those events.” BLACK’S LAW DICT., 7th ed. ab., at p. 1023 (2000). A “public record” is “[a] record that a governmental unit is required by law to keep, such as land deeds kept at a county courthouse.” *Id.* “A public record, strictly speaking, is one made by a public officer in pursuance of a duty, the immediate purpose of which is to disseminate information to the public, or to serve as a memorial of official transactions for public reference.” “Evidence,” on the other hand, is “[s]omething (including testimony, documents, and tangible objects) that tends to prove or disprove the existence of an alleged fact.” BLACK’S LAW DICT., 7th ed. ab., at p. 457 (2000).

Materials obtained from a third-party during a criminal investigation by legal process such as a warrant, subpoena or even consent are not public records – they are evidence. The government only possesses the evidence for the purpose of the criminal investigation. The evidence was not created by the government nor is it owned by the government. *Piedmont Publishing Co. v. City of Winston-Salem*, 434 S.E.2d 176, 177 (N.C. 1993) (holding that discovery of materials gathered by state for use in criminal prosecution may be obtained by defendant pursuant to rules of discovery, not by newspaper through a public records request).

Moreover, providing evidence obtained through legal process, including consent, would exceed the authority granted either by the court or by the owner. See e.g., *Wilson v. Layne*, 526 U.S. 603, 119 S. Ct. 1692 (1999) (holding

that when balancing a person's Fourth Amendment right to be secure in their persons, houses, papers, and effects, probable cause may justify a *police* entry and seizure but it does not justify the *media's* entry and/or seizure).

Here, you seek evidence, not a public record. Feel free to reformulate your request. If you seek a particular record that is not evidence and is readily available, LVMPD can proceed with researching your request.