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METRO'S OFFICERS HAVE A NONTRIVIAL PRIVACY INTEREST IN THEIR UNIT
ASSIGNMENTS.

Summary

In an opinion drafted by Justice Stiglich, the Nevada Supreme Court considered the scope of its recent opinion in *Clark County School District (CCSD)* and whether that scope applies to more than investigative reports.² The Court ruled that courts should apply the test adopted in *CCSD* when the government asserts any nontrivial privacy interest. The Court reversed and remanded the case for consideration as to whether disclosure of a unit assignment is likely to advance a significant public interest under *CCSD* and for the district court to balance that interest against the government's nontrivial privacy interest.

Background

The Las Vegas Review-Journal submitted a request for all of Metro's sex-trafficking case files for an investigative piece on how Metro handles sex-trafficking cases. The request also sought access to solicitation and trespass arrest reports and officers' names, badge numbers, and unit assignments from 2014–2016. Metro provided most of the requested records but refused to disclose the officers' unit assignments because it claimed a privacy interest in that information. The Review-Journal then sought a writ of mandamus directing Metro to provide the officers' unit assignments. Metro argued that it could not disclose the officers' unit assignments because it would reveal the identities of undercover officers, risking the safety of its officers.

In response, the Review-Journal narrowed its request to include only patrol officer unit assignments. But Metro again asserted that it would undermine officer safety by revealing covert officers' identities through the process of elimination. The district court granted the Review-Journal's petition in part, applying a broad balancing test. It concluded that Metro failed to demonstrate that its nondisclosure interest outweighed the strong presumption of public access and ordered Metro to disclose patrol officer unit assignments from 2014–2016. Metro appealed the district court's decision.

Discussion

The CCSD framework applies whenever a personal privacy interest may warrant redaction.

The Court first addressed whether the district court failed to consider Metro's privacy interests. It found that the district court applied the *CCSD* balancing test but did not consider the officers' privacy interests in maintaining their anonymity and the confidentiality of their work assignments. The Court ruled that Metro's officers have a nontrivial privacy interest in their unit

¹ By Jessica Phipps.

² *Clark County School Dist. (CCSD)² v. Las Vegas Review-Journal*, 134 Nev. 700, 429 P.3d 313 (2018).

assignments and that the officers did not surrender their privacy interests by swearing an oath of public office, contrary to what the district court found.

Metro demonstrated the existence of a nontrivial privacy interest

Next, the Court addressed whether police officers have a nontrivial privacy interest in their unit assignments. It found that unit assignments reveal the locations of officers, which could lead to harassment or harm against the officers in the wrong hands. It explained that revealing an officer's unit assignment could pose a risk of harassment, endangerment, or similar harm. Thus, it found that the district court erred in determining that Metro failed to establish that its officers have a nontrivial privacy interest in their unit assignments. The Court remanded the case to the district court to consider whether the Review-Journal can meet its burden in showing that requesting the officer's unit assignments is likely to advance a significant public interest under the *CCSD* test.

Conclusion

The Nevada Supreme court reversed and remanded the district court's decision. It determined that Metro has a privacy interest in the officers' unit assignments and that the Review-Journal must show that the disclosure of the unit assignments advance a significant public interest. It also extended the *CCSD* test to cases where the government exerts any nontrivial privacy interest.