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The right of the people to petition their government for a redress of grievances is foundational to our democracy and is guaranteed by both the First Amendment of the United States Constitution and the Declaration of Rights in the Nevada Constitution. A recent incident during a legislative hearing, however, threatens to undermine these fundamental rights and chill the speech of every Nevadan. The American Civil Liberties Union of Nevada and the undersigned organizations urge you to take swift action to ensure this doesn't happen.

On Thursday, March 21, 2019, the Nevada State Assembly Committee on Judiciary held a hearing on Assembly Bill 325, which proposed to overhaul the state's broken cash bail system. Affected community members, including black, brown, and lower income constituents, and other supporters of criminal justice reforms gathered in Carson City and in Las Vegas to voice their support for these overdue reforms.

During this hearing, Daryl DeShaw, representing the Surety Bail Agents of Nevada association (which opposes AB 325) ran background checks on the constituents who were assembled to testify in support of the bill. It is our understanding that during this search Mr. DeShaw discovered one active warrant related to



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failure to pay on a misdemeanor traffic infraction.¹ Mr. Deshaw was then seen and heard approaching Legislative Police to demand that this person - a community member speaking in support of AB 325 - be arrested. Several other community members who were planning to testify in support of AB 325 witnessed the exchange. These individuals understandably felt intimidated by Mr. DeShaw's actions and chose not to testify out of fear of reprisal.

Mr. DeShaw was confronted after the hearing by several people who witnessed his actions. Mr. DeShaw stated the association had searched the criminal histories of "these people" — community members who had spoken to the news media about their criminal justice reform goals and shared their personal stories — in an attempt to prove they were lying to the public. He also confirmed he did report the warrant, even though he had no legal authority to effectuate the arrest of a person with whom he did not have a contract.

There is no doubt that Mr. DeShaw's intent was to intimidate and silence community members from expressing their support of AB 325. In fact, earlier that same morning, legislators received an incendiary flyer asserting that a mass shooter would be released on bail if AB 325 became law — a scare tactic and a lie noted by several members of the Assembly Committee on Judiciary during the hearing.

Legislative Counsel Bureau director Rick Combs confirmed details of the incident in an email to the news media: After Mr. DeShawn demanded the Legislative Police make the arrest, the officer contacted Las Vegas City Marshals, who declined to respond to the request.

¹ Of note, the Nevada Legislature has recognized the problematic nature of turning simple traffic infractions into criminal offenses and is currently considering legislation to reform this system.



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Although the undersigned organizations appreciate the Legislative Counsel Bureau's statement that Legislative Police "will not be taking any action with regard to reports on misdemeanor warrants" in the future, the statement was made without the benefit of observing the intimidation tactics used or the potential for chilled speech, especially if the police are party to these types of tactics.

The Nevada Legislature is considering numerous criminal justice reforms, and lawmakers need to hear from community members who have been caught up in the criminal justice system. The Legislature should denounce these intimidation tactics and take active steps to protect free speech, so that the Legislature sends the message that it is safe for advocates — many of whom belong to our state's most marginalized communities — to testify at public hearings.

If these intimidation tactics go unchecked, it will have a profound impact on people of color, who are already over-policed and may feel unsafe around law enforcement. The effects of not taking a strong stance against intimidation and chilled speech extend beyond debates on criminal justice reforms as well. If the Legislature is discussing immigration policy matters, will immigrants feel it is safe to participate and testify? Will Legislative Police protect them from harassment or instruct would-be harassers to "take the matter up with the proper authorities," as Mr. Combs wrote in his statement?"

With these questions in mind, the undersigned organizations urge you to act swiftly to ensure the First Amendment rights of all Nevadans are protected. It is clear to us that written policies must be enacted immediately to protect First Amendment rights at all legislative hearings, and updated training for Legislative Police must occur to protect the rights of those participating in the democratic process.

Legislators need to hear from vulnerable and marginalized Nevadans. We plead with you to make it clear that Legislative Police will not be manipulated or used as a cudgel by special interest groups to stop these important voices from being heard.

The Nevada Legislature must make it clear that the right to speak on a public matter, during a public hearing in a public building, will not be infringed upon by those who disagree, with or without the assistance of the legislative police, or any law enforcement when seeking to silence, intimidate, or harass.

In liberty,

Tod Story, ACLU of Nevada

Roxann McCoy, NAACP Las Vegas

Annette Magnus, Battle Born Progress

Laura Martin, Progressive Leadership Alliance of Nevada

Leo Murrieta, Make the Road Nevada

Cecia Alvarado, Mi Familia Vota

The 3,000 Members of Indivisible Northern Nevada (Reno, Tahoe and Douglas)

Denise Lopez, ACTIONN

Pastor Ralph Williamson, Faith Organizing Alliance

Grace Vergara-Mactal, SEIU Local 1107

John Piro, Nevada Attorneys for Criminal Justice

Erika Washington, Make It Work Nevada

Robert Langford, Concerned citizen

Gary Peck, Concerned citizen

Chris Giunchigliani, Be the Change Project

Geoconda Arguello-Kline, Culinary Union

Beverly Schreiber, NextGen Nevada



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