

## DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

# ACLU of Nevada

American Civil Liberties Union of Nevada  
325 South Third Street  
Las Vegas, NV 89101  
775- 786-3827 (Reno contact)

## MEMORANDUM

DATE: May 13, 2003  
TO: Chairman Mark Manendo, and Assembly Government Affairs Committee  
FROM: Richard Siegel, President, ACLU of Nevada  
RE: SB 342 - Police Complaints

The ACLU calls on your committee to vote down SB342, a bill that, in essence, was already ruled unconstitutional in the ruling by U.S. Federal District Judge David Hagen of Nevada in Eakins v. Nevada in June 2002.

It is a glaring misreading of the Eakins decision to conclude that the law would have a better chance if broadened to seek to punish those who complain against any public official. The Court has clearly ruled that any such sanctions against the most highly protected first Amendment right, the right to complain and petition concerning the performance of public officials, must be ruled by the courts null and void. It is not pertinent which public officials are protected by a criminal or other sanction against those who complain, and it is not pertinent what form the complaint takes as long as it is peaceful. Although the law of slander or libel may be invoked in a civil suit, this will be successful only for speech that meets the New York Times tests, statements that go well beyond simply making a knowingly false complaint.

### Additionally:

- This bill is vague and overbroad in terms of what is a "written complaint." The Eakins case involved prosecution based on a citizen's letter to the Mayor of Reno. This law would potentially cover written letters of complaint, sent to anyone, that addresses the conduct of a legislator, the Governor, or a school teacher. Do you really want to be part of this subjugation of democracy? The equal protection argument must deal with a "protected class" of citizens, principally those discriminated on based on race, nationality, gender or religion, and this bill in no way provides any resolution of equal protection issues raised by Judge Hagen.
- This legislation will inevitably cost the State of Nevada additional funds for the Attorney General's Office and for the ACLU's

ASSEMBLY GOVERNMENT AFFAIRS

DATE: 5/14/03 ROOM: 3143 EXHIBIT 17.10/2

SUBMITTED BY: Richard Siegel

attorney's fees (estimated at \$50,000) when we rewrite our Eakins briefs and ask for the inevitable summary judgment.

- After Judge Hagen's Eakins decision Nevada Solicitor General Tony Clark was quoted as saying that the State would not appeal because "the law would not stand constitutional muster. There is no point throwing good money after bad." This is not quite the same law but it is even more violative of the U.S. and Nevada constitutions.

# ACLU of Nevada

American Civil Liberties Union of Nevada  
325 South Third Street  
Las Vegas, NV 89101  
775- 786-3827 (Reno contact)

## MEMORANDUM

DATE: May 13, 2003

TO: Chairman Mark Manendo, and Assembly Government Affairs Committee

FROM: Richard Siegel, President, ACLU of Nevada

RE: SB 342 – Police Complaints

---

The ACLU calls on your committee to vote down SB342, a bill that, in essence, was already ruled unconstitutional in the ruling by U.S. Federal District Judge David Hagen of Nevada in Eakins v. Nevada in June 2002.

It is a glaring misreading of the Eakins decision to conclude that the law would have a better chance if broadened to seek to punish those who complain against any public official. The Court has clearly ruled that any such sanctions against the most highly protected first Amendment right, the right to complain and petition concerning the performance of public officials, must be ruled by the courts null and void. It is not pertinent which public officials are protected by a criminal or other sanction against those who complain, and it is not pertinent what form the complaint takes as long as it is peaceful. Although the law of slander or libel may be invoked in a civil suit, this will be successful only for speech that meets the New York Times tests, statements that go well beyond simply making a knowingly false complaint.

### Additionally:

- This bill is vague and overbroad in terms of what is a “written complaint.” The Eakins case involved prosecution based on a citizen’s letter to the Mayor of Reno. This law would potentially cover written letters of complaint, sent to anyone, that addresses the conduct of a legislator, the Governor, or a school teacher. Do you really want to be part of this subjugation of democracy? The equal protection argument must deal with a “protected class” of citizens, principally those discriminated on based on race, nationality, gender or religion, and this bill in no way provides any resolution of equal protection issues raised by Judge Hagen.
- This legislation will inevitably cost the State of Nevada additional funds for the Attorney General’s Office and for the ACLU’s

X-H Siegel

attorney's fees (estimated at \$50,000) when we rewrite our Eakins briefs and ask for the inevitable summary judgment.

- After Judge Hagen's Eakins decision Nevada Solicitor General Tony Clark was quoted as saying that the State would not appeal because "the law would not stand constitutional muster. There is no point throwing good money after bad." This is not quite the same law but it is even more violative of the U.S. and Nevada constitutions.