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**Written Testimony of
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**For a Hearing on:
“State and Local Responses to Domestic Terrorism:
The Attack on The U.S. Capitol and Beyond”**

**Before the
U.S. House of Representatives Committee on Homeland Security
Subcommittee on Intelligence and Counterterrorism**

Wednesday, March 24, 2021 at 9:30AM EST/6:30 AM PST

Chairwoman Slotkin, Ranking Member Pfluger, and distinguished Members of the Subcommittee, my name is Aaron D. Ford, Attorney General for the State of Nevada. Thank you for inviting Nevada, along with other members of the National Association of Attorneys General (NAAG) to this important conversation about ways in which we can collaborate and respond to domestic terrorism.

A. Nevada is no stranger to violent acts and domestic terrorism.

Nevada is no stranger to violent acts. Las Vegas became the site of the largest mass casualty incident in the United States on October 1, 2017, which tragically took the lives of 60 innocent people and injured nearly 1,000, all who were simply trying to enjoy a music festival. This tragic incident shook our community and terrified the nation.

As much I would like to say that this was an isolated incident of violence in our state, it is only one of a handful of tragic events that have occurred within the Silver State over the last decade. Nevada continues to grapple with domestic violent extremism, whether it be anti-government extremists who have threatened to, or have committed, violence against the government; racially or ethnically motivated violent extremists that target certain population groups; or extremists that utilize undefined ideologies to justify their violence.

An incident in 2014, in Bunkerville, Nevada, involved an armed militia comprised of anti-government activists who confronted the Bureau of Land Management over a land dispute. They aimed loaded weapons at law enforcement in what came to be known as the “Battle of Bunkerville.” Many in law enforcement consider the activists to be extremists or domestic terrorists. While there was no loss of life because of this event, the standoff was the largest armed uprising against the federal government in decades, inspiring militias across the United States. People involved in the “Battle of Bunkerville” later moved to Oregon and led a 41-day occupation of the Malheur National Wildlife Refuge.

Not long after, in 2014, two Las Vegas Metropolitan Police Department (LVMPD) officers and a Good Samaritan were ambushed in Las Vegas by anti-government extremists, losing their lives. Had the extremists survived, there is a possibility they may have been charged as terrorists under Nevada law. And just last year, a Nevada Highway Patrol trooper was killed in the line of duty by an individual who demonstrated anti-government extremist tendencies.

Terms such as “domestic violent extremism” and “domestic terrorism” do not always mean the same thing to everyone. In fact, the 2017 shooting was not considered an act of terrorism under federal law, presumably due to the lack of known political motivation and lack of international nexus. The perpetrator of this heinous crime was commonly referred to as a “lone wolf.” The phrase “lone wolf” has been used to reference many culprits of mass violence who are usually white. Calling someone a “lone wolf” implies that they are not terrorists because they are not connected to a state sponsor of terrorism or other group centrally organized around a political ideology. However, had the perpetrator of the 2017 mass shooting survived, he could have, and likely would have been, charged as a terrorist under Nevada law because Nevada law does not require a political motive or link to international terror groups.

B. Nevada’s definition of terrorism allows for prosecution based on the extent and type of harm rather than on the motivation underlying it.

Nevada Revised Statutes defines “Acts of Terrorism” and creates criminal penalties for Acts of Terrorism or Attempted Acts of Terrorism. This law was passed in the aftermath of 9/11 and has proved to be a powerful tool for Nevada in charging terrorists. The Nevada terrorism statute does not require us to prove hate, political ideology, or other motivation. Nev. Rev. Stat. §202.4415 defines terrorism as an attempted use of sabotage, coercion or violence which is intended to “Cause great bodily harm or death to the general population” or substantial destruction, contamination or impairment to a building, infrastructure, utilities or natural resources/environment. The laws used to prosecute terrorism and other related crimes as I just defined include:

- Nev. Rev. Stat. §202.445: Acts of terrorism or attempted acts of terrorism.
- Nev. Rev. Stat. §202.4408: Threats or conveying false information concerning acts of terrorism.
- Nev. Rev. Stat. §203.117: Criminal Syndicalism (rarely used).

- Nev. Rev. Stat. §412.604: Laws Relating to “Militias” where it is unlawful to drill or parade with arms by voluntary company or voluntary organization without license or consent of Governor (rarely used).
- Nev. Rev. Stat. §203.080: Makes it a misdemeanor for “any body of individuals other than municipal police, university or public school cadets or companies, militia of the State or troops of the United States, to associate themselves together as a military company with arms without the consent of the Governor.”

Under Nevada law, terrorism can also be charged as an enhancement (Nev. Rev. Stat. §193.1685). Enhancements allow for an additional penalty of 1–20 years in prison that must run consecutive to an underlying conviction. Hate motivated crimes can only be charged as an enhancement under current Nevada law (Nev. Rev. Stat. §193.1675). In Nevada there are also prohibitions against certain persons possessing firearms (Nev. Rev. Stat. §202.360) or the sale or possession of tear gas, bombs or weapons which are not permitted under Nevada law (Nev. Rev. Stat. §202.360).

C. Nevada is addressing the growing threat of “Paper Terrorists.”

You may be familiar with the term "sovereign citizens." These individuals do not recognize the authority of local, state, or federal governments or our laws. For years, the FBI has recognized the sovereign citizen movement as domestic terrorism extremism. Experts with the Southern Nevada Counter Terrorism Center estimate that as many as 500 sovereign citizens reside in Nevada, representing the largest domestic terrorism threat in our state. The movement also has racist and antisemitic ties, believing that certain racial and ethnic groups have taken over the government and financial institutions.

A common tactic of sovereign citizens is to serve false legal documents such as summons, fines, or even arrest warrants on representatives of the government from their own made-up courts. Sovereign citizens often target law enforcement officers, prosecutors, and judges as we are viewed as enforcing laws they do not recognize. Some sovereign citizens file false liens against properties to prevent their sale, fake tax returns, or other documents as the basis of financial fraud. For example, sovereign citizens have served fake court documents to Nevadans, especially seniors, ordering that person to pay a fine or another amount as part of a scam.

What can begin as a nuisance can quickly escalate to violence. In 2014, the two Las Vegas Metropolitan Police officers referenced earlier were murdered by sovereign citizens. After shooting the officers, the murderers draped the Gadsden flag¹ over their bodies with a note to "Tell the Police that the revolution has begun." In another incident, Las Vegas Metropolitan Police infiltrated a plot to kidnap and execute police. When testifying on the bill I sponsored, a detective with the Las Vegas Metropolitan Police assigned to the

¹ Sottile, Leah (August 19, 2020). [*Inside the Boogaloo: America's Extremely Online Extremists.*](#) *The New York Times*. Retrieved November 7, 2020.

Southern Nevada Counter Terrorism Center stated that he and other officers received fake indictments and arrest warrants for treason and "the penalty for treason is death."

In 2019, I sponsored a bill in the Nevada state legislature that criminalized simulated or fake legal documents purporting to be from false courts with the intent to harass or defraud someone. The goal of this legislation was to crack down on this tactic used by sovereign citizens, whether the tactic is being used as part of a scam or used to target and threaten violence.

D. We are working to address gaps in prevention, investigations, and partnerships across local, state, and federal agencies.

Federal funding is a much-needed resource in a state's fight against domestic terrorism. Federal assistance after a domestic terrorism event is critical to a state's ability to respond to, and recover from, a mass violence or domestic terrorism event, and should be considered in the analysis of a federal law change. The way an incident is defined in law has an impact on how response and recovery can be funded.

After the 2017 mass shooting, Nevada received federal funding, but it did not fall under the Stafford Disaster Relief and Emergency Assistance Act. Other mass casualty incidents that preceded 1 October, such as the Pulse nightclub shooting, were not granted assistance under the Stafford Act. The definition of "major disaster" in the Stafford Act that dictates eligibility is very restrictive as it relates to terrorist attacks if the event does not include a fire or explosion. We can all agree that mass shootings can be no less deadly or horrific than an explosion, but it is uncertain if the current definition in the Stafford Act would include these events. In the case of the 2017 mass shooting, the Nevada Department of Health and Human Services received a grant from U.S. Department of Justice's Anti-terrorism Emergency Assistance Program, which was utilized for the overtime needed to respond to the event, as well as mental health treatment.²

On the investigatory side of terrorism, more tools are needed for prevention and further legislation could help satisfy that need. Existing law enforcement tools used by first responders working to mitigate domestic terrorism include fusion centers, emergency management systems, and information sharing through Suspicious Activity Reports (SARS). Still, we can do better by increasing partnerships, improving the accuracy of shared information, and more expedient SARS follow-up. One suggestion I have heard from law enforcement would be to implement a statewide notification process like the Amber Alert System.

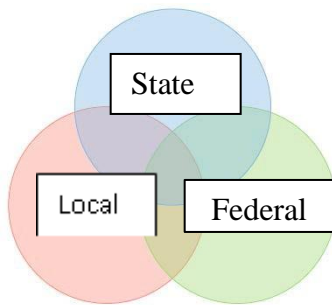
We need more data to determine trends and provide information about who are domestic terrorists. It would be helpful to have more flexibility for federal law enforcement agencies to share information with local law enforcement, especially when

² Antiterrorism and Emergency Assistance Program (AEAP), available at <https://ovc.ojp.gov/program/antiterrorism-and-emergency-assistance-program-aeap/overview>.

serving on joint task forces. The Domestic National Terrorism Data Act, Sect 5602 of FY 2020 National Defense Authorization Act, may help in some of these areas.

State, local, and federal agencies work both independently and in collaboration with each other to combat domestic terrorism. Imagine a Venn diagram where the work we do intersects. When these partnerships fail, domestic terrorism thrives. It matters who is investigating domestic terrorism and the diversity of thought and background within the ranks of law enforcement. Diversity is an advantage in law enforcement because it helps guard against groupthink and blind spots.

1) Local Prosecutors are on the Frontline.



The Clark County District Attorney's Office, Major Violator's Unit, has been most active in prosecuting crimes under Nevada's Terrorism statutes. Since 2016, the CCDA has been working hand-in-hand with federal agents through the Southern Nevada Counter Terrorism Center. This enables them to work with federal prosecutors wherein subjects can be charged both under federal and state law. The number of domestic terrorism cases the CCDA prosecutes varies each year and can range between 7–15 prosecutions per year. Currently, the CCDA and the United States Attorney for the District of Nevada are jointly prosecuting a case against the boogaloo boys or boogaloo bois, which is a loosely organized, far-right anti-government extremist political movement in the United States. My office has primary jurisdiction over crimes committed in the Nevada Department of Corrections and we have coordinated with the CCDA to investigate or prosecute crimes of violence and domestic terrorism coordinated between persons incarcerated and those on the streets. This kind of coordination mostly pertains to members of various gangs.

2) Fusion centers and regional intelligence centers are instrumental (located in both Northern and Southern Nevada).

Our office coordinates with local law enforcement agencies and federal agencies through the Southern Nevada Counter Terrorism Center. The three main intelligence-sharing entities include the Northern Nevada Regional Intelligence Center (NNRIC), the Southern Nevada Counter Terrorism Center (SNCTC) and the Nevada Threat Analysis Center (NTAC). My staff and I have solicited input from directors of fusion centers and incorporated some of their thoughts and information herein. During the 2021 election season and local events relating to the certification of the presidential election, the fusion centers were vital in our ability to obtain public concerns and complaints regarding potential or threatened acts of violence to both local and federal partners in real time. The way the fusion centers are structured is what makes this a particularly powerful tool in combatting domestic terrorism. For example, the SNCTC represents a collaboration of

government and private entities working to prevent criminal activity that may result in the loss of life or critical infrastructure.

3) Joint Terrorism Task Forces (JTTF) are located throughout the United States.

Partnerships strengthen our ability to investigate and disrupt domestic terrorism. One of those partnerships is the Joint Terrorism Task Forces (JTTF). The JTTF comprises locally based investigators, analysts, linguists, and other specialists from law enforcement. As you know, these JTTFs exist in many, if not all states. According to the FBI, there are about 200 task forces around the country, including at least one in each of the FBI's 56 field offices, with hundreds of participating state, local, and federal agencies.

My office has participated in Nevada's JTTF. However, there are serious challenges for such a task force, given the existing federal legislation. Because so much of what we combat on the local level is not associated with foreign state sponsors or organized foreign terrorist groups, the task force has limited jurisdiction and goals. Our work with the JTTF has revolved around cases involving fraudulent documents. This is what led to us sponsoring Nevada's Assembly Bill 15 during the 2019 legislative session. Prior to the passage of this law, we used a mishmash of statutes to address the illegal filings of "sovereign citizens."

E. We need to balance fundamental rights with security concerns.

One of the questions staff posed to us in advance of this hearing is whether, in light of the January 6, 2021, attack on the Capitol, additional federal legislation is needed to combat domestic terrorism. So, in my opinion, does federal law need a refresh? Probably—or to use a lawyer's term of art—it depends. Federal law defines the term "domestic terrorism," but does not provide a law under which it can be specifically and directly prosecuted.

There are no easy fixes in the fight against domestic terrorism. Unfortunately, the ability to prosecute domestic terrorism after the fact does not address the lack of investigatory tools needed to prevent domestic violent extremism events from happening in the first place. With the rise of domestic violent extremism in Nevada and across the nation there is no question that something needs to change so we can ensure public safety. As leaders, we must devise ways to combat these threats while still honoring the constitutional protections that exist for our citizens. Any law that seeks to criminalize domestic terrorism will have to be narrowly tailored to ensure that our civil rights are not unreasonably impacted by the changes in law.

I recommend we take a measured approach to enacting new laws regarding counterterrorism to include the protection of privacy, free speech, and the right to bear arms. It is important for us to assess and balance the rights of individuals with matters of security and safety. We cannot ban all vulgar, derisive, or controversial rhetoric as terrorism. The United States Supreme Court has opined that to prosecute specific conduct or language as being evidence of intimidation or other malevolence, there must be a real

threat.³ Other considerations to weigh when crafting new federal legislation include states' rights, freedom of peaceful assembly, and freedom of association. We must also consider implicit and explicit biases throughout the criminal justice system that may penalize violent extremists from one race or ethnicity less harshly and less frequently than those belonging to immigrant or minority groups. Equally important is the need to safeguard or insulate prosecutorial discretion from the political process or from those in power who would seek to punish political rivals.

Another element worthy of discussion at the federal level is how people are radicalized and the proliferation of terrorism planning using the internet and social media. A person can now be radicalized in a relatively short period of time from online interactions and viewings. Online algorithms are designed to serve up news and information exclusive to a person's appetite, leading to an increasingly isolated point of view. In several recent terrorist attacks, the perpetrators used the internet to post manifestos or hate speech leading up to an attack. The perpetrator of the 2015 shooting at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, had his own website where he posted his white-supremacist screed. The perpetrator of the 2016 shooting at Pulse nightclub in Orlando, Florida, watched violent jihadist videos online. The perpetrator of the 2018 shooting at the Tree of Life synagogue in Pittsburgh, Pennsylvania, frequently posted antisemitic and anti-immigrant hate speech on a social media platform called Gab, even announcing online "I'm going in" just five minutes before he started shooting. The perpetrator of the 2019 Escondido, California, mosque fire and the shooting at the Chabad of Poway synagogue posted a racist and antisemitic manifesto on 8kun, previously called 8chan. Likewise, the perpetrator of the El Paso, Texas, Wal-Mart shooting posted an anti-Hispanic racist manifesto on 8kun. Both of those perpetrators cited the Christchurch, New Zealand, mosque shooting that was livestreamed on social media as their inspiration.

We need to examine why our country appears to be growing increasingly vulnerable to domestic terrorism and how isolation can lead to radicalization and even violence. Of course, the internet is the twenty-first century's town square and we do not lose our First Amendment rights to free speech when we go online. Not every person who uses hate speech online goes on to commit a violent attack. But nearly every person who has committed domestic terrorism in recent years has used the internet to plan their attack or participate in a hate-fueled social media discourse preceding the attack. Often, these terrorists are hiding in plain sight.

³ *Virginia v. Black*, 538 U.S. 343, 123 S. Ct. 1536, 155 L. Ed. 2d 535 (2003). This case sets guidance on what is a true threat. Ku Klux Klan member appealed his conviction under a Virginia State Statute classifying cross burning in itself as prima facie evidence of an intent to intimidate. Supreme Court found statute unconstitutional because cross burning is protected as long as the intent is to exercise political speech and not intimidate.

Brandenburg v. Ohio, 395 U.S. 444, 89 S. Ct. 1827, 23 L. Ed. 2d 430 (1969). Ku Klux Klan member appealed conviction of violating Ohio Criminal Syndicalism Act during Klan meeting. Supreme Court overturned because the act "failed to distinguish mere advocacy from incitement to imminent lawless action, violates First and Fourteenth Amendments."

F. We have much to learn from each other.

One of the values I promote throughout the office is community engagement. Through community engagement we can work with educational institutions, community groups, and local and federal law enforcement agencies. We help build resiliency in our communities through training and education to increase cultural understanding and to recognize blind spots relative to racial and ethnic needs. Deep and trusting relationships between community members and between law enforcement and the communities they serve increases public safety and helps prevent violence. When people in a community know each other well enough to recognize when someone is at risk of radicalization or violent behavior, and when those community members trust law enforcement enough to report that information, we have an opportunity to intervene and prevent violence. We can ensure that person receives mental health services and other resources. My office frequently holds virtual town halls so the community can view us as a resource and an ally.

Building community relationships and trust helps prevent “othering,” or viewing another group of people as intrinsically different than you. It is much more difficult to harm someone you view as your neighbor or believe a conspiracy theory about someone you know and trust. All of our institutions have a responsibility to foster this community building, from civic education in our children's classroom, to the media that provides us information about the world, to law enforcement and every level of our government. When we invest the time and resources into community building, the results serve us all.

As part of NAAG, I work with and learn from other Attorneys General to tackle tough problems. D.C. Attorney General Karl Racine and current president of NAAG has made fighting hate his Presidential Initiative. Michigan Attorney General Dana Nessel shares lessons learned from the failed attempt to kidnap and execute Governor Whitmer. Illinois Attorney General Kwame Raoul is working with the United States Secret Service and Homeland Security to educate communities on how to combat hate and terrorism. This program is designed towards prevention and education by bringing together community leaders, after-school program administrators, volunteer program administrators, hospital staff and administrators, community safety and security personnel, mental health professionals, and law enforcement. To paraphrase a quote from the Bible, “We don’t fight against flesh and blood.” That is, we do not fight against our fellow Americans. We fight against misinformation, radicalization, and ignorance. We fight against hate. In doing so, we must learn from each other, share information with each other and make our communities safer to defeat domestic terrorism.