

MOTION BY SUPERVISORS HILDA L. SOLIS

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AND SHEILA KUEHL

Senate Bill 98 (McGuire): Protecting the Press from Law Enforcement

Interference and Harassment During Constitutionally Protected Activities

The First Amendment in the United States Constitution provides multiple rights that involve religion and speech, but it also allows the public to peaceably assemble and “to petition the Government for a redress of grievances” and protects the freedom of the press.

In the last several years, culminating into a global solidarity uplifting the murder of George Floyd in May 2020, people across the world have poured out in the streets, in front of government institutions, and places symbolizing trauma and harm to demand not just reforms, but transformations of racist systems and infrastructures that have historically oppressed Black, Indigenous, and people of color.

The First Amendment protected the public’s right to rally and protest, despite attempts and clear examples of those in power, including law enforcement, silencing this right in the form of excessive uses of force, including the reckless use of chemicals

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and projectiles causing immense harm, including the loss of sight.

The public was able to indirectly participate in and learn of the civil unrest, protests, and rallies through mass media—photos, videos, and articles that told these stories. Unfortunately, members of the press were also assaulted by law enforcement.

Sadly, in the past year there were several high-profile cases of journalists in Los Angeles County who were physically assaulted, detained or arrested despite the right of the media to report on these incidents—one example is Josie Huang, an award-winning journalist for NPR affiliate KPCC and LAist.

On September 12, 2020, Ms. Huang was near the St. Francis Medical Center in the city of Lynwood, covering an arrest outside where two LA County Sheriff's deputies were being treated for gunshot wounds. Despite Ms. Huang verbally identifying herself as a member of the press and wearing a neck lanyard with her press credentials, she was “tackled to the ground”¹ by five LA Sheriff's deputies, arrested and charged for “obstructing justice”². She ended up bruised and cut and after five hours in the county jail, she was released.

At the time of Ms. Huang's arrest, LASD stated in a tweet that she had “ignored repeated commands to stay back”³, she “did not identify herself as press”⁴ and “later admitted [that] she did not have proper press credentials on her person.”⁵

In Ms. Huang's own account and accompanying videos, it clearly showed that

¹ <https://www.buzzfeednews.com/article/tasneemnashrulla/josie-huang-reporter-arrest-los-angeles-sheriff>

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

she was not only wearing the neck lanyard, but shouted, “I’m a reporter...I’m with KPCC.”⁶

In response to incidents of law enforcement harassing the press, Senator McGuire with co-authors Senators Gonzalez, Portantino, and Wiener and Assembly Members Carrillo and Wicks put forward Senate Bill 98 to allow a “duly authorized representative of any news service, online news service...be allowed to enter those closed areas”⁷ at a demonstration, march, protest...and it would “prohibit a peace officer or other law enforcement officer from intentionally assaulting, interfering with, or obstructing”⁸ a “duly authorized representative”⁹ who is “gathering, receiving...for communication to the public.”¹⁰ It would also prohibit said representative from being cited for entering a closed area for “failure to disperse, a violation of curfew...”¹¹

Unfortunately, during the bill process, an amendment was introduced that would only allow a member of the press to enter into a closed area, “with authorization from a commanding officer on scene.”¹² This amendment creates an extra obstacle for access that does not currently exist under the law. Instead of supporting press to navigate spaces to provide accurate and inclusive reporting, this challenge will likely result in law enforcement dictating, overstepping, and repressing information that the public has a right to know.

Due to this, it hampers the true intent of the bill to support existing freedoms for

⁶ <https://laist.com/news/arrest-of-laist-reporter-josie-huang-in-her-own-words>

⁷ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB98

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

press, including being free of harassment from law enforcement.

WE, THEREFORE, MOVE that the Board of Supervisors direct the Los Angeles County's Sacramento Advocates to oppose Senate Bill 98, unless amended to remove reference to "with authorization from a commanding officer on scene" from Section 1 of the California Penal Code 409.7, subsection a, subsection 1.

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