



First Amendment FOUNDATION

January 26, 2021

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Criminal Justice & Public Safety Subcommittee
417 House Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300

Re: Open Government Bill Before House Criminal Justice & Public Safety Committee

The First Amendment Foundation writes to express our opposition to HB 1, combatting public disorder. As noted in the bill analysis, dozens of people were arrested on charges of battery and rioting during protests last summer. Sufficient criminal charges already exist to prosecute incidents of violence at protests. Adding offenses and increasing penalties may have a chilling effect on peaceful protests. Participants may be unsure whether simply being in the vicinity of or associating with others could make them criminally liable for other demonstrators' actions. The overbroad definition of riot may deter protestors fearing criminal sanctions for the mere participation in a riot that becomes a public disturbance.

The First Amendment has limits; it does not protect hate speech or true threats, and the government may under certain limited circumstances restrict the time, place, and manner of speech. However, the harm of this bill – specifically the chilling effect on peaceful protestors – outweighs the need to create new offenses when statutes already exist for offenses taking place during a protest.

The First Amendment guarantees that "Congress shall make no law... abridging the freedom of speech, or of the press, or of the people peaceably to assemble" Through the Fourteenth Amendment, the first ten amendments of the U.S. Constitution are applied to the states via the incorporation doctrine. As a result, it would be wise to be thoughtful and cautious when

legislating in ways that could potentially abridge the rights of speech, press and assembly.

Please don't hesitate to contact us if you have any questions or concerns.

With best regards,



Pamela C. Marsh
President

cc: The Honorable Chris Sprowls, Speaker, Florida House
The Honorable Juan Alphonso Fernandez-Barquin, Florida House
Jim Baltzelle, Associated Press, Chair, First Amendment Foundation
Mr. Samuel Morley, General Counsel, Florida Press Association
Ms. Lisa Nellessen Savage, Chair, Florida Society of News Editors

