

INNOCENCE PROJECT

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Nevada State Assembly Judiciary Committee
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Jailhouse informants are a tool of prosecution which have a concerning outsized representation in cases of wrongful conviction. Jailhouse informants are detained or incarcerated individuals who provide testimony about a defendant, often about how a defendant confessed to a crime, and who request, receive, or may receive a benefit in return. Informants increase the risk of wrongful convictions for several reasons. First, the actual or perceived promise of leniency, reduced sentences, or other benefits creates strong incentives for an informant to fabricate evidence. Second, because of the secrecy surrounding the use of incentivized witnesses, legal procedures such as cross examination are ineffective at weeding out perjured informant testimony. Third, the use of informant testimony is largely unregulated by state legislatures or courts, despite many documented miscarriages of justice that have resulted from this type of evidence.

Assembly Bill 101 is a reasonable and effective solution to these issues. AB 101 has been built upon the legislative experience of other states, model policy developed by other District Attorneys and the American Legislative Exchange Council and is supported by a wide range of stakeholders in Nevada. For these reasons, expounded upon in the information provided below, the Innocence Project respectfully requests that the Nevada Assembly Judiciary Committee pass Assembly Bill 101.

Key Issues

- **Lack of transparency/Potential for constitutional violations:** Defense attorneys cannot effectively utilize built-in safeguards against unreliable jailhouse informants—such as filing motions to suppress unreliable statements and cross-examination—unless the state discloses impeaching evidence on these witnesses.

The U.S. Supreme Court¹ has ruled that prosecutors must disclose discrediting evidence on state witnesses to the defense, including promised benefits and their complete criminal

¹ *Giglio v. United States*, 405 U.S. 150 (1972).