



FIRST AMENDMENT FOUNDATION

336 East College Avenue, Suite 101 Tallahassee, FL 32301

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February 25, 2011

The Honorable Ellyn Setnor Bogdanoff
The Florida Senate
212 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

RE: Senate Bill 416 Recordings Depicting the Killing of a Person

Dear Senator Bogdanoff:

We are writing to express our concerns regarding Senate Bill 416, which makes confidential and exempt a photograph, video or audio recording that depicts or records the killing of a person. We recognize that photographs, videos or audio recordings depicting the killing of a person can be painful for surviving family members to view or listen to; however, as currently drafted, the bill will result in greatly restricted oversight of governmental action and less accountability.

As you may recall, in January of 2006, Martin Lee Anderson, a resident of the Bay County Boot Camp, which was operated by the Bay County Sheriff's Office, died a day after entering boot camp from suffocation. A videotape of the events surrounding his death, specifically the activities of boot camp employees, resulted in the Legislature closing boot camps, but only after the news media and others made the video public. Also, in 1990, the execution of Jesse Joseph Tafero was botched causing his head to catch fire. Videos or photos of this event would be protected under this bill, also limiting oversight. Further, under the bill, traffic stops by law enforcement officers which end up with the officer, driver or other passengers being killed would be protected, making it more difficult to determine what really resulted in any of their deaths. While videos, photos and audio tapes of these types of events are gruesome, access to them by individuals outside of the government and the media is vital to ensure oversight of governmental action and to ensure governmental officials and employees are held accountable.

While the bill permits family members and certain governmental authorities to access these public records, it requires other persons to petition a court to obtain the right to view or copy the record upon a showing of good cause. This requires citizens and the media to pay court costs and legal fees in order to copy or even view the records, which greatly restricts oversight of the actions of governmental employees. While we do not wish to disparage government officers or employees, experience has shown us that private citizens and the news media are sometimes required to ensure that bad actors are caught and punished or policies changed. This bill restricts that opportunity by requiring activists and the media to have to go to court to view or copy the records, to rely upon a judge to grant them the right to view or copy the record, and by

requiring requestors to have to pay court costs and fees to exercise a constitutional right of access.

We would suggest that the restriction on access proposed by this bill is bad public policy that will have a negative impact on oversight and accountability of our government and unnecessarily infringe upon a constitutional right of access to public records. As such, we respectfully request that you withdraw Senate Bill 416.

Please do not hesitate to contact us if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to be 'B. Petersen', written in a cursive style.

Barbara A. Petersen, President

cc: Jon Kaney, FAF Senior Counsel, Cobb & Cole, P.A.
Sandy D'Alemberte, Palmer and D'Alemberte, P.A.
Sam Morley, General Counsel, Florida Press Association
Carol LoCicero, Thomas and LoCicero, P.A.