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February 27, 2019

The Honorable Aaron Bean
The Florida Senate
404 South Monroe Street, Room 405 SOB
Tallahassee, FL 32399-1100

Re: SB 1146 Exemption/Photographs or Video or Audio Recordings that
Depict or Record the Killing of a Person

Dear Senator Bean:

We are writing to express our concerns regarding SB 1146, substantially expanding the public record exemption in s. 406.136, F.S., for photographs, videos, or audio recordings depicting the killing of a law enforcement officer while on active duty to include images and recordings of “a person.” We recognize that such recordings may be highly sensitive, Senator Bean; however, access to such information by citizens and the media is vital to ensure oversight of governmental action and to ensure government officials and employees are held accountable for their actions.

We recognize that SB 1146 excludes photographs or recordings of the killing of a person while in the care and custody of a governmental agency. However, we remain concerned about the breadth of the exemption.

The important role of public access to these recordings is evidenced by the case of Trayvon Martin. In February 2012, Martin, an unarmed teenager, was fatally shot by George Zimmerman, a Neighborhood Watch coordinator. After the Sanford Police Department announced that no arrest would be made in Martin’s killing, audio recordings and photographs depicting the events leading up to and immediately following his death were released. The ensuing public outcry that followed led the Sanford Police to arrest Zimmerman and charge him with Martin’s murder. Under SB 1146, those recordings and photographs would be exempt from public disclosure. Although Zimmerman was ultimately acquitted on self-defense grounds, the public’s access to the audio recording and photographs were essential to ensure that a trial was held.

At the heart of our concern is the overly inclusive definition of the phrase “killing of a person,” which is defined as “all acts or events that cause or otherwise relate to” a person’s death “including any related acts or events immediately preceding or subsequent to the acts or events that were the proximate cause of death.” This extremely broad definition encompasses all events leading to or immediately following a person’s death, and its breadth precludes any opportunity for the public to gauge what happened or what might have prevented a person’s death.

Additionally, while the bill permits family members and certain government 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 requirement presents a significant burden to citizens and members of the media who must pay court costs and legal fees in order to copy or view the records, which greatly restricts public access and oversight of the actions of government employees.

At a time when police and citizen confrontations remain important state and national issues, video and audio recordings are crucial in determining the facts. The importance of public access to such photographs and recordings cannot be overstated. Last year, the Broward Sheriff’s Office released video of a police officer shooting and killing Jean Pedro Pierre, who was unarmed. In defending the release of the video, the county sheriff stated, “We need to be open, and the community needs to see what happened.” If your bill was law today, releasing a video that promptly informed the public and reduced tensions over a deadly confrontation between law enforcement and an unarmed man would be prohibited.

It is our opinion that this exemption is unnecessarily broad and unduly compromises the public’s constitutional right of government oversight and accountability. We respectfully suggest that SB 1146 be withdrawn from consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'B.A.P.', with a stylized flourish.

Barbara A. Petersen, President

Cc: The Honorable Bill Galvano, President, The Florida Senate
Carol LoCicero, Chair, First Amendment Foundation
Bob Shaw, Chair, FAF Legislative Committee
