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Senior Editor, *The Miami Herald*

February 7, 2019

The Honorable Tom Lee  
The Florida Senate  
404 South Monroe Street, Room 408 SOB  
Tallahassee, FL 32399-1100

Re: SB 186 Exemption/Victims of Mass Violence

Dear Senator Lee:

We are writing to express our concerns regarding SB 186, creating a public record exemption for photographs and video or audio recordings depicting the “killing of a victim of mass violence.” Of particular concern is the overly-broad definition of the phrase, “killing of a victim of mass violence,” defined as “all acts or events that cause or *otherwise relate to* the death of a person, . . . who is killed in an incident in which three or more people are killed . . .”

While sensitive to the issues at the root of the proposed exemption, it is our belief that the exemption could be used to hamper and frustrate the public’s constitutional right to oversee law enforcement and hold it accountable for its actions.

After the Pulse nightclub shooting, a consortium of media interests requested copies of the 911 tapes and dispatch audio recordings. When the requests were denied, the consortium filed suit, requesting court orders for the release of the requested recordings and showing good cause. A similar lawsuit was filed in response to the Parkland school shooting, as Florida media attempted to access to video recordings taken outside the school, as well as the 911 tapes and dispatch recordings. The First Amendment Foundation was a party in both lawsuits.

We faced significant resistance from various local government agencies in both cases, but ultimately the courts ordered the disclosure of most of the requested records which ultimately proved hugely significant in revealing flaws in law enforcement’s response to the shootings. In the case of Parkland, for example, we learned, specifically:

- That law enforcement deputies were slow to respond to the unfolding emergency.
- That law enforcement response violated currently accepted best practices in active shooter situations.
- That those in command failed to take charge and then gave flawed directions to their troops.

- That rescuers were blocked from entering the building as people inside lay dying.

Body camera footage also proved critical, yielding things such as a deputy taking multiple minutes to put on his bulletproof vest, then hiding behind his car. These are key details from a public policy perspective – many law enforcement agencies require officers to wear their vests in responding to an incident so valuable time isn't lost, and current training tells police to rush immediately toward the sound of the gunfire in an active shooter situation. The same body camera footage proved that some deputies had lied about their response in statements given after the fact.

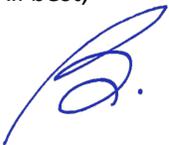
To the broader issue, our experience in both Pulse and Parkland illustrates precisely why a government agency cannot – and should not – be counted on to police itself, and why the role of the public and the media is so critical. By fighting for access to these critically important records – records that would be confidential and exempt if SB 186 becomes law – and reporting the facts, the media was able to inform the public about two horrific incidents; those media reports showed both what was wrong and also what was right in law enforcement's response and in turn, the public was able to pressure a reconsideration of response protocols and hold law enforcement accountable for its actions.

I'm fully aware that SB 186 allows access to the protected photos and recordings through court order upon a showing of good cause. These lawsuits are not only arduous, they are sometimes long and always costly, and plaintiffs incur the significant cost of insuring oversight and accountability.

In short, access to these records are absolutely critical to the public's understanding of what happened at Pulse and Parkland, and I would appreciate the opportunity to discuss our concerns with you, Senator, in the hopes we can fashion language that will address those concerns while protecting the families of those who lost loved ones as a result of mass violence.

I look forward to hearing from you.

All best,

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

Barbara A. Petersen, President

Cc: Senator Keith Perry, Chair, Senate Criminal Justice Committee

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