STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

March 30, 2015

The Honorable Andy Biggs
President of the Senate
Arizona State Senate
1700 W. Washington
Phoenix, AZ 85007

RE: Senate Bill 1445 (public records; peace officer's name)

Dear President Biggs:

Just weeks ago, Arizonans saw the courage of our police officers and first responders on full display, as men and women who wear the badge rushed into harm's way to stop a mass shooting in Mesa and hunt down the perpetrator. If not for their valor, this incident would have likely been even more horrific for our state and for the Mesa community. We continue to pray for the victims and pay gratitude to the officers who selflessly did their job to protect others and save lives.

It's easy to forget that these heroes do this every day, all across our state and nation. We take it for granted, but the families and loved ones of police officers don't have that luxury. They know that these brave men and women walk into dangerous and unpredictable circumstances all the time. As the son of a cop, I know this first-hand. Watching my dad put on the badge and serve, I learned to respect law enforcement and understand the trust society places in those who protect us. I'm committed to respecting them and honoring their work in my administration.

Arizona has lost 246 officers in the line of duty over the years, a testament to the dangers of the job that officers knowingly and heroically accept. But sadly, there is sometimes a troubling tone in the treatment towards our police officers. Too often of late, there is a rush to judgement when a police officer is left with no choice in the protection of innocent civilians. In an era of social media and 24-hour news commentary, these officers and their families have been subjected to public scorn, harassment and vicious attacks.

That's not the treatment upstanding officers deserve. Our officers are on the front lines – the first to show up on the scene of a crime. They should be respected; not ridiculed. They and their families protected; not put at risk.

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Therefore, I am more than sympathetic to the aim of Senate Bill 1445, and I respect the supporters of this legislation for seeking to address these issues. I know that the goal of this legislation is to protect officers and their families, and it's a goal I share.

In determining how to act on this bill my number one consideration was this: *What will best protect our officers and their families?*

I've heard from many voices on this bill – from all sides – and have weighed all the arguments carefully and with great consideration. Unfortunately, I don't believe this bill in its current form best achieves the objectives we share, and I worry it could result in unforeseen problems. Among the arguments most impactful to me in this decision were concerns raised by the chiefs of police. Under current law and in practice, chiefs have the authority to make decisions in the best interests of their officers and departments. Their concern, and mine, is that setting an arbitrary 60-day benchmark for release of names would limit their ability to best manage these often tenuous situations and result in unintended consequences.

As the chiefs have demonstrated, Arizona's Public Records Act already gives police departments the authority to withhold the names of police officers who are involved in shootings – longer than 60 days, if necessary. Under the Act, a department may withhold the name where confidentiality, privacy, or the best interests of the State outweigh the public's right to know the name. The law also permits the department to consider whether releasing a name "might lead to substantial and irreparable private or public harm." *Carlson v. Pima County,* 141 Ariz. 487, 491 (1984).

There are many examples of our police departments exercising this authority in a manner that protects the officer's identity while ultimately providing disclosure after the situation has cooled. Recently, the City of Phoenix Police Department waited for seven days after a shooting before releasing the officer's name.

There are other considerations for not limiting the authority of police chiefs to make these decisions. With the proliferation of social media, rumors regularly run wild and unfiltered. An officer's name could very easily come to light. The wrong officer's name could circulate. Speculation replaces fact. It's very easy to see news outlets running with information that is unconfirmed or erroneous, and under this proposed law, police chiefs' hands would be tied and they would have no way to respond or set the record straight. The result could be the exact opposite of what this bill aims to do, escalating – rather than deescalating – the situation and potentially putting completely innocent officers' reputations and safety on the line.

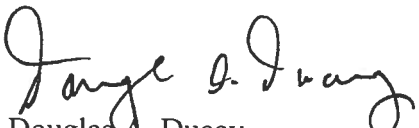
For all these reasons, it makes sense to allow departments to make informed decisions based on the facts at hand. I believe that is the best way to protect our officers.

Additionally, some provisions of Senate Bill 1445 contain ambiguities that seem to stretch outside the scope of protecting officers and their families from unjustified retaliation by creating new and expansive exceptions to the Public Records Act. Subsection (B) would require a police officer's name to be redacted on all disciplinary records. Although ambiguous, subsection (B) could be applied to any police officer's disciplinary record, regardless of whether that officer

was involved in a death. In addition, subsection (B) has no time limitation and it will likely impose practical challenges when a department attempts to redact names and other identifying information.

Again, the treatment and safety of our officers and their families is on the top of my mind. My office is more than willing to discuss ways that we can address this moving forward. I look forward to working together and to finding ways to protect our heroes who wear the badge.

Sincerely,



Douglas A. Ducey
Governor
State of Arizona

cc: The Honorable David Gowan
The Honorable Steve Smith