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January 15, 2008

The Hon. Donald Carcieri  
Governor  
State House  
Providence, RI 02903

Dear Governor Carcieri:

I am writing to seek clarification from you regarding the chain of command in your office when you are out of state. As you know, this issue came to the fore last month during the major snowstorm the state experienced while you were away.

We understand that you have indicated that Maj. Gen. Robert Bray, the head of the R.I. National Guard, will be in charge during “potential weather emergencies” in your absence. We are hoping you can clarify exactly what this means by providing some information in response to the questions below:

\* Is this authority actually limited to “weather” emergencies, or does it cover any other situation deemed an “emergency”?

\* How is the determination of an emergency made in your absence?

\* Has this authorization been put in writing?

\* In the absence of a constitutional provision authorizing the delegation of Gubernatorial powers to another when you are not in the state, exactly what powers has Maj. Gen. Bray been authorized to exercise?

\* Has any analysis been conducted to support the notion that exercise of those powers by him is consistent with the constitutional provision that has been an issue during this public debate?

\* Finally, all of these important questions are made more critical in light of Maj. Gen. Bray’s status as head of the state National Guard. As you know, the Rhode Island Constitution – similar to the United States Constitution – contains an explicit and important provision that “The military shall be held in strict subordination to the civil authority.” Article 1, Section 18. Has any consideration been given to this in placing him “in command” during your absence?

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We are prompted to ask these questions because it is extremely unclear whether all of these issues have been considered. However, we think it is critical that answers be in place now, rather than when an actual emergency strikes and confusion reigns as to exactly what powers are involved, how they may be exercised, and whether appropriate authority exists for the exercise of those powers. I trust you agree with that notion.

Thank you in advance for your attention to this inquiry, and I look forward to your response.

Sincerely,

Steven Brown  
Executive Director



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March 4, 2008

The Hon. Donald Carcieri HAND-DELIVERED  
Governor  
State House  
Providence, RI 02903

Dear Governor Carcieri:

Please consider this a formal request pursuant to the Access to Public Records Act (APRA), R.I.G.L. §38-2-1 et seq.

I wrote to you back on January 15th, seeking clarification about the chain of command in your office when you are out of state, based on your comments at the time regarding the authority being given Maj. Gen. Bray in your absence. I never received a response to that letter, but I remain interested in the answers to the questions I had raised, especially in light of the story in today's *Providence Journal* highlighting many of those questions. I have taken the liberty of enclosing a copy of my initial letter to you for your reference.

At this time, I am writing you, pursuant to APRA, to obtain documents relating to this matter. Specifically, I would appreciate it if you would provide me copies of any materials or documents generated, maintained or received by your office (1) setting out the chain of command for state governance in your absence; (2) authorizing Maj. Gen. Bray to officially act in your absence; (3) describing the powers given Maj. Gen. Bray in your absence, and any limits on those powers; (4) describing the circumstances that trigger Maj. Gen. Bray's authority to act in your absence; (5) establishing the procedures for Maj. Gen. Bray to assume any powers in your absence; and (6) analyzing any of the constitutional issues raised by Article I, Section 18 of the Rhode Island Constitution under these circumstances.

As provided for by the Act, I look forward to receiving the requested documents within 10 business days. As the Act also provides, we are willing to pay reasonable copying costs for the documents. If you have any questions about this request, please feel free to let me know.

Thank you in advance for your prompt attention to this request.

Sincerely,

Steven Brown

Executive Director