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**COMMENTS IN SUPPORT OF 17-H 5393 – PEN REGISTERS AND TRAP AND
TRACE DEVICES
February 28, 2017**

The ACLU of Rhode Island supports efforts to regulate and limit the use of cell-site simulators, or “stingrays.” As technology improves, Rhode Island’s technological privacy laws remain woefully out of date. Despite the tremendous intrusion on privacy that stingray use will bring, nothing currently protects innocent Rhode Islanders from having their data collected and exploited by these devices.

Stingray devices are the next step in location tracking, designed to trick cell phones into reporting location information as if the stingray was a normal cell phone tower. They therefore raise all the same concerns as the larger location tracking conversation, with one added caveat: telecommunications companies do not need to be involved whatsoever in the tracking of innocent cell phone users. Instead, law enforcement entities nationwide install and operate stingrays, capture the cell phone location information of any who pass by, and use the information as they see fit. There is very little information available about the scope of these programs. The public knows little about where stingrays are located, or how they are used, and nothing in the law requires otherwise.

Following significant ACLU advocacy nationwide, the Federal Bureau of Investigation has begun getting search warrants to use stingray devices, but law enforcement in other states and municipalities continue to use the devices in secret, without judicial oversight. With at least 71 agencies in 24 states, including the District of Columbia currently owning stingrays – and many others hiding suspected of using stingrays in secret – it is not a question of whether such devices will be used in Rhode Island, but if they are already. This legislation, which requires judicial oversight before a stingray may be used, is an important first step in ensuring that any stingray use in Rhode Island is narrow and legitimate. Four states – Virginia, California, Minnesota, and Utah have already passed similar legislation restricting the use of stingrays.

As stingray devices capture the location information not only of the person under investigation but on all other people who pass by the device, we believe this legislation should be amended to limit the collection and use of data over and above simply requiring a warrant. If the committee sees favorably upon this legislation, we are happy to work with the sponsor to provide those comprehensive protections. Regardless, we respectfully encourage the committee to support this legislation and bring Rhode Island’s privacy laws one step closer to the twenty-first century.