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**TESTIMONY IN SUPPORT OF 17-S 68 –  
RELATING TO ACCESS TO PUBLIC RECORDS  
February 7, 2017**

Five years ago, the General Assembly passed important legislation updating and strengthening the state's Access to Public Records Act. It enacted a "balancing test" so that individually identifiable records were no longer automatically exempt from disclosure under the law. It increased penalties for violations of the law, established new procedures for access to police arrest logs, and gave requesters the ability to determine the format in which they would receive records.

As important as those revisions were, it has become clear that much more needs to be done. A report by ACCESS/RI examining how state and municipal agencies were implementing the 2012 amendments revealed deep areas of non-compliance. In addition, Attorney General advisory opinions interpreting the statute in the past few years in ways unfriendly to requesters – ruling, for example, that agencies could charge requesters for the time to write a letter denying access to documents, or allowing agencies to ignore APRA requests if they happen to be directed to the wrong personnel – cry out for correction. In addition, other loopholes have made themselves known since then, and revisions that were suggested in the original 2012 bill but ultimately jettisoned deserve reconsideration.

For all these reasons, the ACLU of Rhode Island supports S-68, the latest effort to make our open records law stronger and more useful to members of the public. Attached to this testimony is a brief summary of each of the bill's provisions. The proposed changes cover a number of important issues: slightly tightening up the exemptions for so-called "investigatory" records and police incident reports; requiring an agency's procedures for handling APRA requests to be more easily available; calling for greater explanation when records are withheld; and making Attorney General advisory opinions interpreting the statute more easily accessible on the web. We have also proposed an additional amendment to the bill, addressing costs, designed to address concerns that were raised in testimony last year.

Promoting transparency and the public's right to know is critical to any democratic society. In the spirit of encouraging that transparency, we urge the committee to review this bill carefully and to adopt its recommendations.

**2017-S 68,  
AMENDMENTS TO ACCESS TO PUBLIC RECORDS ACT**

1. Page 1, line 9-10. This clarifies the meaning of the privacy language in the purpose section of the statute.
2. Page 1, lines 19, Page 2, lines 1-2 Specifies that college police departments employing police officers are subject to the Act.
3. Page 2, lines 8-10, Page 4, lines 22-23. Addresses and limits the current exemption for elected official correspondence.
4. Page 2, line 13. Clarifies that all withheld records are subject to “reasonable segregable” provision.
5. Page 2, lines 30-32. Clarifies that past as well as present employment information is public.
6. Page 3, lines 30-33. Includes definition of narrative report for police records.
7. Page 3, lines 33-34. Addresses the availability of non-arrest police incident reports.
8. Page 4, lines 15-16. This language is moved to another section for clarity. (See #18).
9. Page 4, lines 22-23. See #3.
10. Page 4, line 33. Allows for disclosure of “investigatory records” for good cause.
11. Page 5, line 32. Clarifies that records of a public body are subject to disclosure even if maintained at another location.
12. Page 6, lines 7-9. Clarifies the scope and process for releasing “reasonably segregable” records.
13. Page 6, lines 21-24. Requires public bodies to include a prominent link to their APRA procedures on their website.
14. Page 6, lines 19-21. This language is moved to another subsection for clarity. See #20.
15. Page 6, lines 25-27. Allows requests to be filed by mail, fax or email.
16. Page 6, line 33 to Page 7, line 1. Strengthens language governing requests for extension of time to respond to APRA requests.
17. Page 7, lines 28-29. This language has been moved from another subsection for clarity. See #8.

18. Page 7, lines 30-31. Clarifies that failure by a requester to follow all the technical procedures in filing a request is not a basis for ignoring the request.

19. Page 7, lines 32-34. Requires public bodies to forward APRA requests to the appropriate person within the agency, and extends the timeframe available for responding to request under those circumstances.

20. Page 8, lines 2-4. This language has been moved from another subsection for clarity. See #14.

21. Page 8, lines 20-21. Revises provision regarding timeframe for access to police logs.

22. Page 8, lines 21-22. Requires AG to establish uniform arrest log form for police departments to use.

23. Page 8, lines 29-32. Requires AG to post online information about public body compliance with certification requirement of the law.

24. Page 9, line 2. Reduces copying cost from 15 cents to 10 cents a page.

25. Page 9, lines 6-11. With a proposed amendment, this bars charging for the redaction of documents or for denial of records and expands from one to two hours the initial free time for search and retrieval of records.

26. Page 9, lines 23-24. Requires reduction or waiver of costs for requests that are in the public interest, and allows for appeals of any denials of waivers.

27. Page 10, lines 4-6. Allows court to award damages and impose daily fines for violations.

28. Page 10, line 16. Clarifies that settlements of legal claims by, as well as against, public agencies are public.

29. Page 10, lines 22-24. Restores AG opinions on website for easy reference.

2/7/17

## AMENDMENT TO APRA REFORM BILL, 17-S 68

AMEND RIGL 38-2-4 by striking the revised language on Page 9, lines 6-24, and substituting the following:

(b) A reasonable charge may be made for the search or retrieval of documents; provided, however, no charge shall be imposed for the redaction of documents or if the request for records is denied. Hourly costs for a search and retrieval shall not exceed fifteen dollars (\$15.00) per hour and no costs shall be charged for the first ~~hour~~ two hours of a search or retrieval. For the purposes of this subsection, multiple requests from any person or entity to the same public body within a thirty (30) day time period shall be considered one request, unless the request is eligible for a waiver or reduction of fees pursuant to subsection (e).

(c) Copies of documents shall be provided and the search and retrieval of documents accomplished within a reasonable time after a request. A public body upon request, shall provide an estimate of the costs of a request for documents prior to providing copies.

(d) Upon request, the public body shall, within seven (7) days, provide a detailed itemization of the costs charged for search and retrieval, an explanation for the amount of time taken to perform the task and why it could not be accomplished in a shorter period of time.

(e) A public body shall ~~court may~~ reduce or waive the fees for costs charged for search or retrieval if requested and if it determines that the information sought requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Any denial of a request for a reduction or waiver of fees may be challenged in accordance with the provisions of §38-2-9, but shall be reviewed de novo by the court.