



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

ACLU OF RI POSITION: AMEND

TESTIMONY ON 21-H 5596, RELATING TO STATE AFFAIRS AND GOVERNMENT – STATEWIDE PUBLIC SAFETY COMPUTER AIDED DISPATCH RECORDS MANAGEMENT SYSTEM March 1, 2021

H-5596 would allow the Rhode Island State Police to develop a statewide records management system. Although the ACLU has a general concern any time the government creates a large database of personal information, we recognize the interjurisdictional gaps in information among police departments that have generated this proposal, and we are pleased that Section §42-28.10-5 (page 2, line 30) of the bill notes that privacy and civil liberties protections must be prioritized in the usage of this system.

More precisely, that section's limits on access to, and dissemination of, information in the system, its requirement for the timely destruction of information, and its mandate for enactment of a privacy policy are all important safeguards that we applaud. Our comments are therefore not aimed at the bill's concept, but rather at urging the adoption of amendments that codify the inclusion of some explicit protections in the system.

In particular, we believe that in a few instances, more specificity, based in large part on safeguards enshrined in federal regulation for *federal* criminal database systems, would better ensure the protection of privacy and civil rights. We refer particularly to 28 CFR Part 23 which establishes operating principles for those federal databases.

Specifically, we would urge that the bill include:

- * A requirement that the privacy policy mandated by §42-28.10-5(c) be publicly promulgated and adopted prior to the system's implementation.

- * A requirement similar to 28 C.F.R. §23.20(b), generally restricting the collection of information about First Amendment-protected activities.

- * A requirement similar to 28 C.F.R. §23.20(a), allowing for the collection and maintenance of "criminal intelligence information concerning an individual only if there is reasonable suspicion that the individual is involved in criminal conduct or activity and the information is relevant to criminal conduct or activity."

- * In accordance with best practices, a formal requirement that the system be set up to log who accesses the system of records, how and for what purpose, and that there be a mechanism for

independent auditing of those logs to guard against illegitimate repurposing of the records or other abuses.

Finally, we believe it would be an important step if the legislation explicitly addressed some of the flaws that exist with the current BCI database, which often maintains and disseminates information that should have been expunged and fails to include disposition information. Efforts to correct inaccurate or incomplete information in the BCI database are onerous, and those errors cause real harm to people seeking employment, housing or other benefits. Procedures for ensuring the accuracy of information, whether generated by the system or received from other entities, and establishing a simple method for individuals to obtain a copy of the information about them and seek corrections would help address this concern.

In that regard, we would also urge an amendment to the provision on Page 3, lines 9 and 10, requiring Access to Public Records Act requests to be “made to the agency that created the record.” In many instances, it may be unclear to a requester what agency was responsible for creating the record, and a person may want access to a compilation of information rather than having to hunt down numerous sources for the record. Further, because the system authorizes, among other things, the “manipulation” of information, there may be an independent interest in obtaining records directly from this system, not a third party law enforcement agency.

In sum, we are pleased that this bill appropriately grants importance to the intersection of statewide records systems and civil liberties and the balance that must be maintained between the two. With these suggested changes, the bill will ensure from the start a much more robust incorporation of civil liberties into the development and enactment of this new system.

Thank you for your consideration of our comments, and we hope they will be given favorable consideration.

Submitted by: Steven Brown, Executive Director