

**COMMENTS ON 13-H 5940 and H-5941,
and 13 S-800 and S-801
RELATING TO SCHOOL SAFETY PLANS**

April 3, 2013

In light of the tragedy at Newtown, the ACLU recognizes the understandable interest in examining the issue of school safety. But we strongly believe that that examination cannot be complete, thorough or optimal if it is conducted largely in secret. That is what prompts our concerns about this legislation.

Under current state law, school committees are required to review and update on an annual basis a “school safety plan and school emergency response plan.” Those plans are “available for public comment,” and meetings of school safety teams “shall comply with the open meetings law.” R.I.G.L. 16-21-25. This law was adopted in 2001, two years after the Columbine tragedy. In response to Newtown, however, these new legislative proposals seek to undo the transparency established by the 2001 law, and instead shroud the school safety process in secrecy. Doing so, we believe, undermines important public policy goals, is more likely to encourage the adoption of flawed safety plans, and may foster concern and distrust among parents – all without enhancing school safety.

Under H-5941 and S-801, unlike current law, school safety plans are to be adopted by school committees in executive session. [Page 1, line 15.] In addition, “documents produced by school safety teams” are exempt from the Access to Public Records Act. [Page 7, lines 1-2.] Language in the bill regarding the substance of school

safety plans tracks to some extent, but is more expansive than, current statutory language listing the content of these plans. One significant difference is that the plans to be devised under this bill are to look to a model plan developed by the department of education under a new section of law. [Page 7, lines 9-24.] Although this new section does not explicitly address the issue, one could assume that the department will be able to argue that the model plan itself should be exempt from public disclosure.

We believe it is a serious mistake to shroud in secrecy both school safety plans and the discussions surrounding those plans by those in charge of establishing and implementing them.

Ways to best protect students from these very rare, but terrible, tragedies are now the subject of lengthy nationwide debate, as they should be. Passage of this legislation would quash much of that debate in Rhode Island at the local level. Will hiring school resource officers be more helpful or harmful to the school environment? Will school officials be giving serious consideration, as the NRA has just recommended, to having an armed guard in every school? What sort of training should school officials be given in order to be able to best respond to a crisis? What methods should be used to contact parents in the event of an emergency? In trying to determine best approaches to the goal of school safety, where do the costs associated with some types of school security improvement get taken from, in light of the limited financial resources that each school district has? Based on state department of education standards, how well has the school district complied with school safety recommendations? Under this legislation, all of these discussions could take place in secret, and any policies, practices or procedures emanating from those discussions could be secret as well.

Thus, in the name of security, parents will be largely left to wonder and worry exactly what schools have done to promote safety, whether their schools meet statewide recommended standards, and if not, whether anything is being done to address the problems. This is a major undermining of the public's right to know.

We recognize that these proposed exemptions are themselves framed in terms of safety, and on the concern that release of such information might jeopardize students' security. It is quite possible that there are very specific and discrete pieces of security-related school information that should be confidential. But as noted from the examples above, the amount and types of information that will be withheld from parental, and public, view are vast. Indeed, by their very nature, a fair amount of the plans will need to be publicized to students and others in order to ensure that safety protocols are followed properly.

The problem is that by withholding so much information and holding these important discussions in private, the public is offered no opportunity to consider or offer meaningful input on the appropriateness of a school district's safety plan, or to point out for discussion possible safety flaws that could be corrected or strengthened, or to hold school officials accountable if their standards, or implementation of those standards, fall short. In other words, underlying the exemptions is the assumption that all of the withheld plans are as good and protective of the public as they could be, and that the public has nothing to offer in terms of recommending changes or providing oversight.

As far as we know, the school shooting tragedies that have led to this understandable focus on security were not undertaken by people who first reviewed school safety plans to wreak their havoc. It is worth noting that the Columbine shootings

took place in a school that had an armed officer, and we understand that the Newton shooter broke through a locked and buzzered door that had only recently been installed to tighten security.

The ACLU firmly believes that there is much more to be lost than gained by keeping so much of the discussion and documentation of school safety plans hidden from the public and from the parents of the school children they are designed to protect. We believe most parents will be more secure knowing what the school is doing to protect their children, rather than being left to guess.

If there are particular types of security documents that deserve confidentiality, they should be clearly specified. But those documents, and discussions regarding those documents, should be few and far between. We urge the committee to defeat this effort to leave this entire process wrapped in secrecy.