



**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

Division of Law Enforcement
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**DEM/Division of Law Enforcement
ACCESS TO PUBLIC RECORDS ACT
R. I. GEN. LAWS § 38-2-1 ET SEQ.**

The DEM/Division of Law Enforcement is committed to providing the public with access to public records, while protecting from disclosure information about individuals maintained that would constitute an unwarranted invasion of personal privacy, R.I. Gen. Laws § 38-2-1.

Pursuant to R. I. Gen. Laws § 38-2-3(c), the DEM/Division of Law Enforcement has established the following procedure regarding access to public records:

1. Please inform the officer/staff at the front desk that you wish to make a request for public records. Capt. Daniel White is the *Public Records Officer* for DEM, Division of Law Enforcement (Telephone No. is 222-2284). The hours for the records office are 9:00am to 3:30pm.
2. The officer/staff will provide you with a form to complete which lets this Department know the precise public documents you seek and assists us in processing your request in an expeditious manner.
3. If the public records are readily available, we will provide them, however; there are times/circumstances when the records will not be available at the time that you make the request. If the records are not readily available, they can either be mailed to you or you can pick them up on a designated date. The Access to Public Records Act grants a public body ten (10) business days to respond to your request. R. I. Gen. Law § 38-2-7(a). The Act further provides that "for good cause, this limit may be extended for a period not to exceed thirty (30) business days." We thank you in advance for your understanding if it is necessary, for good cause, to request this extension. Improper release of certain information could compromise the civil rights or personal safety of your fellow citizens, and we must review documents to prevent such harm.
4. Cost. The Access to Public Records Act gives you the opportunity to view and/or copy public records. The cost per copied page of written public documents will be \$.15 for documents copyable on common business or legal-size paper. You may elect to obtain public records in any and all media in which we are capable of providing them. The Act permits a reasonable charge for search and retrieval of documents. The hourly costs for a search and retrieval shall not exceed fifteen (\$15.00) per hour with no charge for the

first hour. We will provide you with an estimate at your request. Upon a request, we will provide a detailed itemization of the costs charged for search and retrieval.

5. Public Records. A “public record” is defined as “documents, paper, or other material regardless of physical form or Characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. “Specifically with respect to police records, in addition to other records maintained by this Department that constitute “public records”, the Access to Public Records Act deems public “[r]ecords relating to the management and direction of law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult.” R. I. Gen. Laws § 38-2-2(4)(i)(D).
6. Redaction. Although a document may constitute a public record, there may be some information contained on the document that may be redacted/deleted as it is exempt for disclosure under R. I. Gen Laws. § 38-2-2. In *Direct Action for Rights and Equality v. Gannon*, 713 A.2d 218 (R.I. 1998) and the *Rake v. Gorodetsky*, 452 A.2d 1144 (R.I. 1982), the Rhode Island Supreme Court held that final reports on civilian complaints of police brutality were subject to disclosure in redacted form. In addition, the Rhode Island Supreme Court has stated that “in passing the APRA, The General Assembly intended to limit access to certain documents in order to avoid disclosure of confidential information to protect individuals from invasion of their privacy.” *Providence Journal Company v. Kane*, 577 A.2d 661,663 (R. I. 1990). “There is no public interest to be weighed in disclosure of nonpublic records.” *Id.* A “balancing of interest arises only after a record has first been determined to be a public record.” *Id.*
7. Exemptions. The Access to Public Records Act exempts some records from public disclosure. See, R. I. Gen. Laws § 38-2-2(4). The following are some explanations as to why a document or part thereof may be exempt from disclosure.

(A)(I) . . . all personal or medical information relating to an individual in any files, -- including information relating to medical or psychological facts. . . R. I. Gen.

Laws § 38-2-2(4)(i)(A)(I);

(C). . . records of juvenile proceedings before the family court;

(D) All records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by any law enforcement agency. Provided, however, such records shall not be deemed public only to the extent that the disclosure of the records or information may (a) reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonable be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority, or private institution which furnished information on a confidential basis, or the information furnished by a confidential source. (e) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical safety of any individual . . (S) Record, reports, opinions, information, and statements required to be kept confidential by federal law or

regulation or state rule of court, law or regulation, (i.e. information regarding juveniles, etc.)

Please be advised that this is not a complete list of documents that the Act exempts from disclosure. For a full list see R. I. Gen. Laws § 38-2-2.

8. Appeal of Denial. Any person or entity denied the right to inspect a record of a public body by the Public Records Officer may petition the chief administrative officer of that public body for review of the determinations made by his or her subordinates. Any petitions from a denial should be made to the Director of the RI Department of Environmental Management. A final determination whether or not to allow public inspection will be made within ten (10) business days after the submission of the review petition. R. I. Gen Laws § 38-2-8.

9. Complaint to the Attorney General. If the chief administrative officer determined that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the Attorney General. (150 South Main Street, Providence, RI 02903, telephone No. 274-4400) or may retain private counsel for the purposes of instituting proceedings for injunctive or declaratory relief in the superior court where the record is maintained. The Act provides that “[t]he court shall impose a civil fine not exceeding one thousand dollars (\$1,000.00) against a public body or official found to have committed a knowing and willful violation of this chapter and shall award reasonable attorney fees and cost to the prevailing plaintiff. The court shall further order a public body found to have wrongfully denied access to [provide the] public records at no cost to the prevailing party; provided further, that in the event that the court, having found in favor of the defendant, finds further that the plaintiff’s case lacked a grounding in fact or in existing law or in good faith argument for the extension modification, or reversal of existing law, the court may award attorney’s fees and costs to the prevailing defendant.” R. I. Gen. Laws §38-2-9(d).