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John C. Greiner Testimony on H.B. 8.

Mr. Chairman, thank you for allowing me to address the Committee. I am an attorney and I practice law in Cincinnati. It has been my privilege for the last 22 years to represent The Cincinnati Enquirer and a number of other clients in the area of public records and open meetings. My belief in the need for transparency and accountability has grown stronger in that nearly quarter century.

House Bill 8 would add exception (ff) to the Public Records Act. If it is this body's desire to lap the alphabet twice, so that exception (aaa) is on the horizon, this bill aids that effort.

And the fact that House Bill adds one more exception to a list that is too long already is not even the worst part of the bill. The bigger problem with the bill is that it is unnecessary and counterproductive.

It is unnecessary because both state and federal laws exist to protect student privacy. On the federal level, FERPA – the Federal Education Records Privacy Act – has been the law since the 70's. Ohio has adopted its own version of this law as well. The protections offered by these laws are more than adequate to protect the reasonable expectation of privacy. And it is instructive that these laws, which have been well considered by experts in the educational field, do not generally prohibit the release of "directory information" or records of law enforcement. But for some reason, House Bill 8 would place a veil of secrecy over these records in the event of a school bus accident. There is no reason to do this.

FERPA demonstrates that the release of a student's name and address is not an invasion of any reasonable expectation of privacy. FERPA also demonstrates that the public's interest in law enforcement records supersedes any privacy interests, particularly where the information consists merely of a name and address.

The bill is counterproductive because, in the interest of protecting a non-existent privacy right, the bill threatens to seal off valuable information about matters of public safety. Any accident involving a school vehicle threatens the safety of students, staff and the public. Particularly in a fatal accident, the public will have a strong interest in what happened, and whether the accident could have been prevented. The school district, which potentially faces liability in that scenario, may have an interest in not having the pertinent facts come to light. Even if the school district handles the

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matter appropriately, public perception may be affected by even the prospect of a conflict of interest.

Transparency ensures that the public will have the opportunity to understand how an accident occurs and whether it could have been avoided. The press frequently acts as a watchdog in these scenarios. One way that the press does its job is to interview witnesses to the event. Passengers can provide details as to sights, sounds and smells that may lead to a better understanding of the cause of the accident. House Bill 8 makes that investigation significantly more difficult. To the extent that difficulty leads to an incomplete investigation, and incomplete public knowledge, public safety is put at risk.

Several years ago I handled a mandamus suit for The Cincinnati Enquirer where the Cincinnati Health Department refused to produce records regarding the remediation of lead paint in residences, schools and day care centers. The city argued that the information, which was gleaned in part from the results of blood tests of unidentified children, was private health information that could not be released. The Ohio Supreme Court wisely rejected that argument. Upon release of the records, it was discovered that the City Health Department had failed miserably in its duty to remediate the existence of lead in buildings throughout the city. That led to the passage of laws at the local and state level to better address the situation.

Had those records not been released the public health problems associated with lead paint would have persisted. I am concerned that House Bill 8 will have a minimal benefit for student privacy interests and potentially a dramatic and adverse impact on public safety.