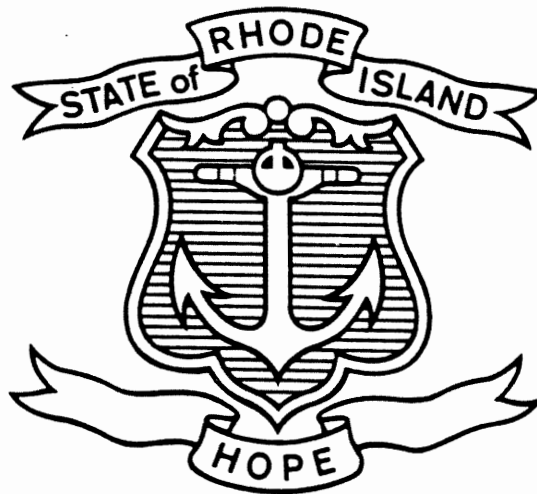


RHODE ISLAND GENERAL ASSEMBLY

**REPORT OF THE
SPECIAL LEGISLATIVE COMMISSION
TO REVIEW AND REVISE
THE LAW ENFORCEMENT OFFICERS'
BILL OF RIGHTS**



**Senator Paul J. Tavares
Chairman**

**Representative Stephen Anderson
Vice Chairman**

April, 1995

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ACKNOWLEDGEMENTS

The Commission extends its appreciation to Senate Majority Leader, Paul S. Kelly; Speaker of the House of Representatives, John B. Harwood; Senate Legal Counsel, Edward M. Fogarty; and Senate Staff person, Sandra P. Do Vale for their support and commitment to the work of this Commission. Also necessary of acknowledgement are all the effected entities who by virtue of their representation on the Commission demonstrated their willingness to address and resolve the concerns related to this very important issue.

The Senators and Representatives serving on the Commission wish to extend a special thanks to all Commission members for their sincerity and diligence. Completing the Commission's charge and arriving at mutually agreeable resolutions were made possible by the frank, open, and cooperative participation of the Commission members.

INTRODUCTION

In February, 1994, Senator Paul Tavares, et al. introduced Joint Resolution 94 - S 2497 Substitute A, which would create a fifteen member special legislative commission whose charge was to review and revise the Police Officer's Bill of Rights (42-28.6). The Commission was to be comprised of representative members of all entities directly affected by this act and would report back to the legislature no later than February 14, 1995 and whose, life shall expire on April 14, 1995. Said resolution was crafted with participation of the affected parties, supported by the same and passed in the 1994 legislative session.

COMPOSITION OF COMMISSION

The fifteen member Commission was designed to include representatives of the legislature, presiding justice of the superior court, the RI State Police, the RI League of Cities and Towns, the RI Police Chiefs' Association, RI State Lodge, FOP, the RI Troopers Association, and the International Brotherhood of Police Officers. Members include as follows:

REPRESENTATIVE/DESIGNEE	AGENCY/ASSO. REPRESENTING
Senator Paul J. Tavares, Chairman	Majority Senator
Representative Stephen J. Anderson, Vice Chair	Majority Representative
Senator David E. Bates	Minority Senator
Representative Charles E. Millard, Jr.	Minority Representative
Joseph F. Rodgers, Jr.	Presiding Justice Superior Court
Colonel Edmond S. Culhane	Superintendent Division of State Police
Lt. Bruce Bowie	Designee, Div. of State Police
Thomas Bercher, Town Manager Town of Burrillville	RI League Cities and Towns
Michael Embury, Town Manager Town of Middletown	RI League Cities and Towns

REPRESENTATIVE/DESIGNEE	AGENCY/ASSO. REPRESENTING
(cont.)	
Colonel Michael Brady Chief of Police, Town of Charlestown	RI Police Chiefs' Association
John Lynch	RI State Lodge, FOP
Paul Verrecchia	RI State Lodge, FOP
Peter St. Jean	RI State Lodge, FOP
Joseph Broadmeadow	RI State Lodge, FOP
Frank Clifford	RI Troopers Association
Paul Saccoccia	In'tl Brotherhood Police Officers

HISTORY

The Law Enforcement Officer's Bill of Rights was originally enacted in 1976. The purpose of this act was to protect police officers from any impairment of their rights when their conduct was questioned and to establish a procedure for conducting investigations, hearings, and related matters.

Since its enactment the process has come under criticism from both management and labor alike for the inordinate amount of time it took to commence and ultimately complete a hearing process. Management complained of loss of management's rights and excessive costs in dealing with disciplinary matters. The court system had concerns as to their role in the process and the general public and media had evidenced their concern with the secrecy in which the process was shrouded.

Over the years, various attempts to amend the law failed to garner consensus among the affected parties and thus, failed to gain legislative approval.

FINDINGS/RECOMMENDATIONS

The Commission met six times: December 1, 1994; December 8, 1994; December 15, 1994; January 5, 1995; January 12, 1995; and January 19, 1995 (minutes from all meetings can be found in the appendix).

The results of the Commission's work was the creation and introduction of 95 - S 0320 and 95 - H 5609 (both identical pieces of legislation), which proposed 27 actual modifications to the existing law. All proposed changes were unanimously approved by the commission at their January 19, 1995 meeting. They included but were not limited to the following:

- . Establishing maximum time limits for the selection of panel members, commencement, conduct and conclusion of hearings and the rendering of final decisions in all matters deliberated under the Bill of Rights.

- . Change the existing appeal procedure to equalize the rights of both the law enforcement agency and the affected officer.

- . Change the law as related to secrecy to allow for release of information to the public about criminal matters relating to an officer.

- . Provide procedures and clarification as to a law enforcement agency's right to suspend an officer.

- . Allow for the discharge of an officer convicted of a felony or who pleads guilty or no contest to a felony charge.

- . The elimination of the two-day summary punishment from the Law Enforcement Officers Bill of Rights; and subject it to existing contractual agreements.

- . Composition of Hearing Panel to establish a neutral member on the panel who will serve as the Chairperson; establish process for the Presiding Justice of Superior Court to select panel member from a pre-submitted list; allow law enforcement retirees to serve on the panel.

Throughout the commission and legislative processes, all commission members and their respective organizations demonstrated their support for the passage of this legislation. Senate bill 95 - S 0320 was passed by the Senate on February 28, 1995 by a vote of 47 to 0 and passed by the House of Representatives on April 11, 1995 by a vote of 94 to 0. This piece of legislation was signed into law by Governor Lincoln Almond on April 14, 1995.

APPENDIX

Witnesses Testifying at Commission Hearings

Chief Carl Winqvist,

E. Prov. Police Department

Al Tudino, National Representative,

In'tl Brotherhood of Police
Officers/NAGE

Miguel Luna

Conte Davis

Gloria Nerney, Town Administrator

Town of Smithfield

Vejay Preashard

APPENDIX

1

2

3

3190

A.

LC1218/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1994

JOINT RESOLUTION

CREATING A SPECIAL LEGISLATIVE COMMISSION TO REVIEW AND REVISE THE POLICE OFFICER'S BILL OF RIGHTS

94 - S 2497

Introduced By: Senators Tavares, Day, Bates, Mathieu, Sasso, et. al.

Date Introduced: February 15, 1994

Referred To: Senate Labor

1 RESOLVED, That a special legislative commission be and the same
 2 is created consisting of ~~ten (10) members~~; two (2) of whom shall
 3 ~~be from the Senate, and eight (8) shall be from the House of Representatives;~~ ^{one (1) from the Senate, and one (1) from the House of Representatives; two (2)}
 4 of whom shall be from the house of representatives, appointed by the
 5 speaker of the house; one (1) of whom shall be the presiding justice
 6 of the superior court, or his designee; one (1) of whom shall be the
 7 superintendent of the R.I. State Police, or his designee; two (2) of
 8 whom shall be appointed by the R.I. League of Cities and Towns; one
 9 (1) of whom shall be appointed by the R.I. Police Chiefs Association
 10 and must be an active police chief; four (4) of whom shall be
 11 appointed by the President of the R.I. State Lodge, Fraternal Order
 12 of Police; one (1) of whom shall be appointed by the President of the
 13 R.I. Troopers Association; and one (1) of whom shall be appointed by
 14 the Director of the International Brotherhood of Police Officers.

15 The purpose of said commission shall be to review the Rhode
16 Island Police Officer's Bill of Rights.

17 The members of said commission shall receive ~~no~~ compensation for

Handwritten notes and signature:
 One (1) from Senate, one (1) from House of Representatives; two (2) of whom shall be from the house of representatives, appointed by the speaker of the house. ^{ONE FROM SENATE PARTY}
 Amended in Senate Labor Committee on March 25, 1994
 Paul H. [Signature]

1 their service on said commission.

2 All police departments must provide statistical data of their
3 respective departments, detailing, but not limited to, the following
4 information:

5 (a) total number of discipline cases, including written
6 reprimands for the last three (3) years;

7 (b) total number of discipline cases that did not result in hear-
8 ing under the provisions of the Bill of Rights for the last three (3)
9 years;

10 (c) total number of discipline cases that resulted in hearings
11 under the provisions of the Bill of Rights for the last three (3)
12 years;

13 (d) total number of cases resulting in findings of guilt by hear-
14 ing panel for the last three (3) years;

15 (e) total number of cases resulting in findings of not guilty for
16 the last three (3) years;

17 (f) total number of cases dismissed by the hearing panel for
18 failure to comply with the provisions of the Bill of Rights or viola-
19 tions of due process for the last three (3) years;

20 (g) total number of cases where hearing panel increased the
21 recommended punishment for the last three (3) years;

22 (h) total number of cases where the hearing panel reduced the
23 recommended punishment for the last three (3) years;

24 (i) total cost by municipalities for expenses incurred for each
25 hearing conducted under the provisions of the Bill of Rights, includ-
26 ing but not limited to, legal expenses, witness fees, and overtime
27 cost, for the last three (3) years;

28 (j) any and all other information deemed relevant and necessary
29 by the commission.

30 Said information shall be made available to each member of said
31 commission.

32 "The appointing authority may appoint a member of the general
33 ~~board of police officers~~ said commission, provided
that the majority leader or the minority leader of the political party
which is entitled to the appointment consents to the appointment.

Forthwith upon passage of this resolution, the members of the
commission shall meet as the call of the ~~majority~~ majority leader and
organize and shall elect from among the legislators a chairperson.
Any vacancy in said commission shall be filled in like manner as the

1 RESOLVED, That the commission shall report its findings and
2 recommendations to the general assembly on or before February 14, 1995
3 and said commission shall expire on April 14, 1995 two months after
4 said findings are reported, but not to go beyond April 14, 1995. ;

LC1218/SUB A

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
JOINT RESOLUTION

CREATING A SPECIAL LEGISLATIVE
COMMISSION TO REVIEW THE
POLICE OFFICER'S BILL OF RIGHTS

1 This resolution creates a 15 member special legislative com-
2 mission whose purpose it shall be to review the Police Officer's
3 Bill of Rights and who shall report back to the legislature no
4 later than February 14, 1995 and whose, life shall expire on
5 April 14, 1995.

LC1218/SUB A

ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Joseph Brady, Deputy Chief of Staff

DATE: December 1, 1994

PARTICIPANTS: Senator Paul J. Tavares, Senator David Bates, Representative Stephen Anderson, Representative Charles Millard, Judge Joseph Rodgers, Bruce Bowie, Michael Embury, Colonel Brady, John Lynch, Paul Verrecchia, Peter St. Jean, Joseph Broadmeadow, and Paul Saccoccia

The Commission to Review and Revise the Police Officer's Bill of Rights was called to order by Joseph R. Brady, Deputy Chief of Staff to the Majority Leader, at 3 p.m. on Thursday, December 1, 1994. The first order of business was the election of the Commission's Chairperson, Vice Chairperson, and Secretary.

ELECTION OF OFFICERS

Senator Paul Tavares was nominated for the office of Chairperson. There being no counter nominations, Senator Tavares was declared Chairman.

Representative Stephen Anderson was nominated for the office of Vice Chairperson. There being no counter nominations, Representative Anderson was declared Vice Chairperson.

For the office of Secretary, Senator David Bates was nominated. There being no counter nominations Senator Bates was declared the Commission's Secretary.

OPENING REMARKS

Chairman Tavares began the meeting by thanking everyone for taking the time to attend and for their participation in this Commission, which is represented by all parties involved. He also stated what his expectations and goals were for this Commission.

Following the Chairman's remarks, the members of the Commission introduced themselves and commented what he expected to derive from this Commission.

Judge Rodgers commended Senator Tavares and the sponsors of the legislation which created this Commission. He stated that this Commission is very important, and there is room for improvement in the Bill of Rights.

SOLICITATION OF INFORMATION (See Page 2 of Legislation)

Mr. Broadmeadow stated that he has requested from approximately ten sources information pertaining to the police officer's Bill of Rights in other states. He will make that information available when it is received.

On page 2 of the legislation which created this Commission, it is stated that all police departments in the State of Rhode Island must submit statistical data relating to the Bill of Rights and disciplinary matters. The Commission will be sending correspondence to all police departments making a formal request.

Judge Rodgers will make available five to six cases pertaining to the Bill of Rights for the Commission to review.

SUGGESTED AGENDA FOR THE COMMISSION

The Commission hopes to conclude its work within four to six sessions. Invitations will be extended to members of the public, bargaining units, and others to testify and offer their concerns and suggestions.

FUTURE MEETINGS SCHEDULE

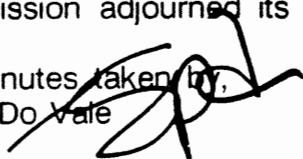
The following is a schedule of the Commission's future meetings. Should any of the information change, you will be either notified by mail or phone.

Thursday, December 8, 1994
3 p.m.
Room 212, State House, Providence

Thursday, December 15, 1994
3 p.m.
Room 212, State House, Providence

The Commission adjourned its organizational meeting at 3:30 p.m.

Meeting minutes taken by,
Sandra P. Do Vale



ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Senator Paul J. Tavares, Chairman

DATE: Thursday, December 8, 1994

PARTICIPANTS: Representative Stephen Anderson, Colonel Michael Brady, Judge Joseph Rodgers, Representative Millard, Paul Verrecchia, Michael Embury, Colonel Edmond Colhane, Joseph Broadmeadow, John Lynch, Paul Saccocchia, Peter St. Jean, Representative from the RI Troopers Association

The Commission to Review and Revise the Police Officer's Bill of Rights was called to order at 3 p.m. on Thursday, December 8, 1994 by Chairman Tavares.

Chairman Tavares began by informing the Commission that letters were sent to city and town police chiefs, city/town administrators, unions, etc. extending an invitation to present their suggestions, comments, and/or concerns with regard to the police officer's Bill of Rights on either December 8, 1994 or December 15, 1994.

A formal request for statistical data, relating to the Bill of Rights and disciplinary matters, as stated on page 2 of the legislation creating this Commission (Resolution 190), was sent to all police chiefs on December 2, 1994.

Chairman Tavares then stated that there are some aspects of the Bill of Rights which are of some concern:

TIME LINES FOR SELECTION OF HEARING COMMITTEE MEMBER

Judge Rodgers submitted a proposed change in language to subsection (B) (1) of section 42-28.6-1 of the RI general laws entitled "Hearing committee" (see attached).

There was debate on the length of time in which a law enforcement officer and law enforcement agency should have in selecting their respective member to the hearing committee. After considerable debate, it was suggested and agreed upon that the time lines would be provided as follows:

A. The police officer would have an initial five days to decide whether he or she wanted a Bill of Right's hearing. During that time frame, if the officer chose to have a hearing, the officer would also designate his or her member to the hearing board.

B. The agency would then have five additional days to choose their designee to the hearing committee.

C. The next 5 days, bringing the total to a 15-day time frame, would be utilized for both the officer and agency to agree upon the third member of the hearing panel, known as the neutral member of the committee.

This third, 5-day phase can be extended for a period not to exceed 30 days by mutual agreement of both parties. Should the parties be unable to agree upon the selection of the neutral member, the presiding justice of the Superior court shall be so petitioned by either party and thus allowed to choose the neutral member of the committee. This notification to the presiding justice of the Superior court shall be at the end of the first, 15-day period or at the end of the mutually agreed upon extension.

D. The neutral member shall always be designated as the hearing committee's chairperson.

SELECTION PROCESS FOR HEARING COMMITTEE

--"Retired" vs. "Active" Police Officers

The issue of having a retired police officer appointed and serve on the hearing committee was raised. The point was made and agreed upon that the law enforcement officer and agency would be able to select a retired officer to the hearing committee as their designee. Upon mutual agreement of both parties, the neutral member of the committee could also be a retired officer. It was decided that should the neutral member be selected by the court, said selection would be an active, full-time police officer and not a retiree.

--List of Persons Willing to Serve on the Hearing Committee

It was decided that a list of active law enforcement officers who are willing to serve on the hearing committee should be made available from each agency and union to the presiding justice of superior court.

HEARINGS AND "DROP-DEAD" DATE

The Commission agreed that a "drop-dead" date for a hearing should be implemented in the legislation. These hearings should be done fairly, expediently,

and be brought to a close. The proposed time frame in which a hearing should begin was 30 days after the selection of the hearing committee members and an ending date of no more than 90 days.

PROPOSED AMENDMENT

Section 42-28.6-1. Definitions--Payment of legal fees.

(A) line 4. strike out the words "squad member" and insert in lieu of "Rhode Island State Marshals".

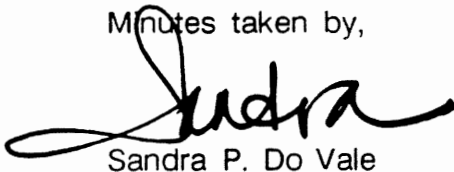
Also, within this section, strike out the words "highest ranking officer" and insert in lieu of "chief of police and/or highest ranking sworn officer"

AGENDA FOR DECEMBER 15, 1994 MEETING

The Commission's next meeting will be held on Thursday, December 15, 1994 at 2:30 p.m. in Room 212 of the State House, Providence. Guest speakers will include Chief DeLyon of Pawtucket and Thomas Lanzi from the International Brotherhood of Police Officers offering testify at this meeting.

Commission adjourned at 4:50 p.m.

Minutes taken by,



Sandra P. Do Vale

ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Senator Paul J. Tavares, Chairman

DATE: Thursday, December 15, 1994

PARTICIPANTS: Representative Stephen Anderson, Representative Charles Millard, Colonel Michael Brady, Judge Joseph Rodgers, Paul Verrecchia, Michael Embury, Bruce Bowie, Joseph Broadmeadow, John Lynch, Peter St. Jean, Frank Clifford

The Commission to Review and Revise the Police Officers' Bill of Rights was called to order at 3:10 p.m. on Thursday, December 15, 1994. The purpose of this meeting was to hear testimony from members of the public on their concerns to the Bill of Rights.

TESTIMONY

Chief Carl Winqvist, East Providence Police Department

Chief Winqvist stated that he is not against the Bill of Rights, but he would like the following aspects addressed:

- a. the length of time it takes for a hearing to take place
- b. the cost of transcription of hearings
- c. in-house summary punishment (i.e. giving two-day punishment)

Senator Tavares informed Chief Winqvist of the Commission's proposed time frames.

Al Tudino, representing Mr. Lanzi

Mr. Tudino agreed to the proposed time frame requirements and suggested the removal of the "Summary Judgment" section.

Senator Tavares reiterated that the time frames the Commission is proposing may help to better the system.

Representative Anderson questions Mr. Tudino and Chief Brady on the two-day suspension. Chief Brady responds that there is a law within the legislation which states that when the facts are not valid or disputed, there is only a two-day suspension.

Miguel Luna

Mr. Luna asks when an officer is suspended with pay and is found guilty at a hearing, is the officer required to pay the city back?

Conte Davis

Mr. Davis is concerned with the following aspects of the Bill of Rights and would like them addressed:

a. time of hearings; should be held at a reasonable time. He questioned whether peers reviewing peers is a fair procedure.

b. access to information; feels that when an officer is charged or has complaint against him the officer should not have access to information regarding who put in the complaint; feels release of such information could result in harassment or harm to the complaintee by the officer.

Paul Verracchia, a member of the Commission, explains the procedure for complaints against officers and stated that the process in Providence differs due to a court order.

Gloria Nerney, Town Administrator for the Town of Smithfield

Offered testimony on proposed changes to Bill of Rights. A summary will be forwarded to the Commission members at the request of the Chairman.

Vejay Preashard

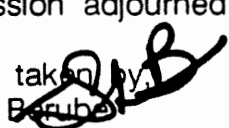
Testified to his concerns on the hearing process. Chief Brady explains the process of the Bill of Rights in a case of a criminal matter.

AGENDA FOR NEXT MEETING

Senator Tavares passed out letters submitted by police chiefs and asked that this material be reviewed. It will be discussed at the Commission's next meeting, which will be held on Thursday, January 5, 1995 at 2:30 p.m. in Room 212 of the State House, Providence.

The Commission has also tentatively scheduled a meeting on Thursday, January 12, 1995, at 2:30 p.m. in Room 212 of the State House, Providence.

Commission adjourned at 4:35 p.m.

Minutes taken by
Sandra Barubel 

ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Senator Paul J. Tavares, Chairperson

DATE: January 5, 1995

PARTICIPANTS: Senator David Bates, Representative Stephen Anderson, Judge Joseph Rodgers, Bruce Bowie, Michael Embury, Colonel Brady, John Lynch, Paul Verrecchia, Joseph Broadmeadow, Paul Saccoccia, Frank Clifford, and Thomas Bercher

The Commission to Review and Revise the Police Officer's Bill of Rights was called to order at 2:30 p.m. on Thursday, January 5, 1995 by Chairman Tavares.

CORRECTIONS

The Commission's first order of business was to make corrections to the December 8, 1995 meeting minutes. The record should read as follows:

A. The police officer would have an initial five days to decide whether he or she wanted a Bill of Right's hearing.

B. The agency and officer would then have five days to choose their respective designee to the hearing committee.

C. The next 5 days, bringing the total to a 15-day time frame, would be utilized for both the officer and agency to agree upon the third member of the hearing panel, known as the neutral member of the committee.

COMMUNICATIONS

A letter from Charles Wilson, college police officer at Rhode Island College, who wishes to have college campus police officers be included in the police officers' Bill of Rights legislation was submitted into the Commission's record. It was resolved not the address this issue at this time.

CRIMINALITY ISSUES

Joseph Broadmeadow submitted the attached proposal to the Commission, which they agreed to adapt.

There was discussion on the issue of felony versus misdemeanor crimes. Judge Rodgers will provide the Commission with legal language comparable to judicial misconduct.

It was also agreed upon that where criminal charges against an officer have been made, that the criminal matter should be adjudicated prior to the implementation of the Bill of Rights process.

SUMMARY PUNISHMENT

It was agreed upon that the two-day summary punishment is sufficient and should remain. It was also agreed upon that the language "when the facts are not in dispute..." be removed and substituted with "disputed punishment subject to any and all labor contractual provisions." Thus, the summary punishment issue would not come under the Bill of Rights.

APPEALS

The topic of appeals was discussed. At the present time, the officer can appeal to the Supreme Court for a "de nouveau" hearing. It was discussed and agreed upon that this should be changed to indicate that both the officer and the agency would have the right to appeal to Superior Court for only a review of the record. This would come under the Administrative Procedures Act.

The Commission adjourned at 4:30 p.m.

Minutes taken by,



Sandra P. Do Vale

ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Senator Paul J. Tavares, Chairperson

DATE: January 12, 1995

PARTICIPANTS: Senator David Bates, Representative Stephen Anderson, Representative Charles Millard, Judge Joseph Rodgers, Colonel Culhane, Michael Embury, Colonel Brady, John Lynch, Paul Verrecchia, Joseph Broadmeadow, Thomas Bercher, and Peter St. Jean

The Commission to Review and Revise the Police Officer's Bill of Rights was called to order at 2:45p.m. on Thursday, January 12, 1995 by Chairman Tavares.

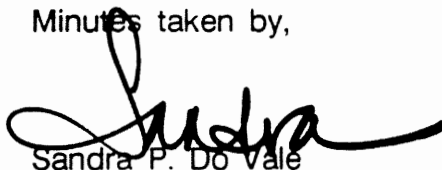
Proposals were submitted by Paul Verracchia and Thomas Bercher for changes in language for the current law.

A first draft of the Commission's proposed legislation was reviewed at this meeting. The changes that were made to the draft are attached to the meeting minutes.

The Commission will be meet again on Thursday, January 19, 1995 at 2:30 p.m. in the Senate Lounge.

The Commission adjourned at 4:45 p.m.

Minutes taken by,



Sandra P. Do Vale

ACTION MINUTES

MEETING: Commission to Review and Revise the Police Officer's Bill of Rights

PERSON PRESIDING: Senator Paul J. Tavares, Chairperson

DATE: January 19, 1995

PARTICIPANTS: Senator David Bates, Representative Stephen Anderson, Representative Charles Millard, Judge Joseph Rodgers, Colonel Culhane, Michael Embury, Colonel Brady, John Lynch, Paul Verrecchia, Joseph Broadmeadow, Thomas Bercher, and Peter St. Jean

The Commission to Review and Revise the Police Officer's Bill of Rights was called to order at 2:45p.m. on January 19, 1995 by Chairman Tavares.

A final draft of the Commission's proposed legislation was reviewed and unanimously approved by the Commission members present.

The Commission adjourned at 3:30 p.m.

Minutes taken by,



Sandra P. Do Vale

Witnesses Testifying at Commission Hearings

Chief Carl Winqvist,

E. Prov. Police Department

Al Tudino, National Representative,

In'tl Brotherhood of Police
Officers/NAGE

Miguel Luna

Conte Davis

Gloria Nerney, Town Administrator

Town of Smithfield

Vejay Preashard

COMMISSION TO REVIEW AND REVISE THE POLICE OFFICERS' BILL OF RIGHTS

INDEX

A. Total number of discipline cases, including written reprimands for the last three years.

B. Total number of discipline cases that did not result in hearing under the provisions of the Bill of Rights for the last three years.

C. Total number of discipline cases that resulted in hearings under the provisions of the Bill of Rights for the last three years.

D. Total number of cases resulting in findings of guilt by hearing panel for the last three years.

E. Total number of cases resulting in findings of not guilty for the last three years.

F. Total number of cases dismissed by the hearing panel for failure to comply with the provisions of the Bill of Rights or violations of due process for the last three years.

G. Total number of cases where hearing panel increased the recommended punishment for the last three years.

H. Total number of cases where the hearing panel reduced the recommended punishment for the last three years.

I. Total cost by municipalities for expenses incurred for each hearing conducted under the provisions of the Bill of Rights, including but not limited to, legal expenses, witness fees, and overtime cost, for the last three years.

J. Any and all other information deemed relevant and necessary by the commission.

COMMISSION TO REVIEW AND REVISE THE POLICE OFFICER'S BILL OF RIGHTS

Statistical Data Submitted From City/Town Police Chiefs

As of January 12, 1995

City/Town	A	B	C	D	E	F	G	H	I
State Police	58	55	3	1	1	0	1	0	NA
					2 pend				
Central Falls	22	20	2	2	0	0	0	2	\$10,000
Charlestown	14	12	2	2	0	0	0	2	\$87,681.35
Coventry	44	42	2	2	0	0	0	2	\$40,000 estimate
East Greenwich	8	5	3	1	0	0	1	3	\$ 2,000
				2 pend					stenographer
East Providence	23	19	4	1	0	0	0	1	\$ 2,099.45
									1992 steno fee
									\$ 3,906
									1992 pend cases
Foster	15	13	2	1	0	1	0	0	\$ 7,681 Sgt. Antonelli
									\$ 4,500 hearing
									PtIm. Sabetta
									\$12,637.50 salary
									Sgt. Antonelli
Glocester	0	0	0	0	0	0	0	0	N/A
Lincoln	3	3	0	0	0	0	0	0	N/A
Newport	27	24	3	3	0	0	0	0	N/A
New Shoreham	0	0	0	0	0	0	0	0	
North Kingstown	12	12	1	0	0	1	0	0	\$16,784.36
Pawtucket	251	249	2	0	0	2	0	0	
Portsmouth	8	0	0	0	0	0	0	0	N/A
Providence	49	47	2	0	2	0	0	0	see letter for breakdown

City/Town	A	B	C	D	E	F	G	H	I
Richmond	0	0	0	0	0	0	0	0	N/A
South Kingstown	16	16	0	0	0	0	0	0	N/A
Tiverton	14	13	1	1	0	0	0	1	\$ 2,000
Warren	7	4	0	0	0	0	0	0	N/A
Westerly	5	5	0	0	0	0	0	0	N/A
Woonsocket	37	28	9	5	5	2	0	4	\$15,990.17
TOTALS	613	567	36	19 <i>2 pend</i>	8 <i>2 pend</i>	6	2	15	\$205,279.⁸³ <i>estimate</i> <i>(doesn't include Providence)</i>

AS AMENDED

DT170/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 1995

A N A C T

RELATING TO THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS

95-S 320

Introduced By: Senators Tavares
 Bates, Irons, Badeau
 and Mathieu, et. al.
 Date Introduced: February 1, 1995
 Referred To: Senate Committee on
 Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-28.6-1, 42-28.6-2, 42-28.6-4, 42-28.6-5,
 2 42-28.6-6, 42-28.6-11, 42-28.6-12 and 42-28.6-13 of the General Laws
 3 in Chapter 42-28.6 entitled "Law Enforcement Officers' Bill of Rights"
 4 are hereby amended to read as follows:

5 42-28.6-1. Definitions -- Payment of legal fees. -- As used in
 6 this chapter, the following words have the meanings indicated:

7 (A) "Law enforcement officer" shall mean any permanently employed
 8 city or town police officer, state police officer, or permanent law
 9 enforcement officer of the department of natural resources, committing
 10 squad-members, or Rhode Island state marshall, however this shall not
 11 include the chief of police and/or the highest ranking sworn officer
 12 of any of the departments.

13 (B)(1) "Hearing committee" means a committee which is authorized
 14 to hold a hearing on a complaint against a law enforcement officer and
 15 which consists of three (3) active ^{or retired} law enforcement officers from
 16 within the state of Rhode Island, other than chiefs of police, who
 17 have had no part in the investigation or interrogation of the law

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[Signature]

1 enforcement officer. The committee shall be composed of three (3) mem-
2 bers; one member selected by the chief or the highest ranking officer
3 of the law enforcement agency, one member selected by the aggrieved
4 law enforcement officer and the third member shall be selected by the
5 other two (2) members. In the event that the other two (2) members are
6 unable to agree within ~~ten-(10)~~ five (5) days, the ~~two-(2)~~ members
7 then either member will make application to the presiding justice of
8 the superior court and the presiding justice shall appoint the third
9 member who shall be a an active law enforcement officer. Upon written
10 application; by a majority of the hearing committee, the presiding
11 justice, in his or her discretion, may also appoint legal counsel to
12 assist the hearing committee.

13 (2) The law enforcement agency and the law enforcement officer
14 under investigation shall each be responsible to pay fifty (50%) per-
15 cent of the legal fee of the appointed legal counsel for the hearing
16 committee; provided, however, that on motion made by either party, the
17 presiding justice shall have the authority to make a different dispo-
18 sition as to what each party is required to pay toward the appointed
19 legal counsel's legal fee.

20 (C) "Hearing" means any meeting in the course of an investigatory
21 proceeding, other than an interrogation at which no testimony is taken
22 under oath, conducted by a hearing committee for the purpose of taking
23 or adducing testimony or receiving evidence.

24 42-28.6-2. Conduct of investigation. -- Whenever a law enforce-
25 ment officer is under investigation or subjected to interrogation by a
26 law enforcement agency, ~~for any reason~~ for a non-criminal matter which
27 could lead to disciplinary action, demotion, or dismissal, the inves-
28 tigation or interrogation shall be conducted under the following con-
29 ditions:

30 (a) The interrogation shall be conducted at a reasonable hour,
31 preferably at a time when the law enforcement officer is on duty.

32 (b) The interrogation shall take place at an office within the
33 department previously designated for that purpose by the chief of

1 policet.

2 (c) The law enforcement officer under interrogation shall be
3 informed of the name, rank, and command of the officer in charge of
4 the investigation, the interrogating officer, and all persons present
5 during the interrogation. All questions directed to the officer under
6 interrogation shall be asked by and through one interrogator.

7 (d) No complaint against a law enforcement officer shall be
8 brought before a hearing committee unless the complaint be duly sworn
9 to before an official authorized to administer oaths.

10 (e) The law enforcement officer under investigation shall, prior
11 to any interrogation, be informed in writing of the nature of the com-
12 ~~plaint prior to any interrogation~~, and of the names of all complain-
13 ants, and witnesses

14 (f) Interrogating sessions shall be for reasonable periods and
15 shall be timed to allow for such personal necessities and rest periods
16 as are reasonably necessary.

17 (g) Any law enforcement officer under interrogation shall not be
18 threatened with transfer, dismissal, or disciplinary action.

19 ~~(h) A complete record transcribed by a court stenographer shall~~
20 ~~be kept of the complete proceedings before the hearing committee~~
21 ~~including all recess periods. A copy of the record shall be available~~
22 ~~to the officer or his or her counsel upon request.~~

23 (i) If any law enforcement officer under interrogation is under
24 arrest, or is likely to be placed under arrest as a result of the
25 interrogation, he or she shall be completely informed of all his or
26 her rights prior to the commencement of the interrogation.

27 (j) At the request of any law enforcement officer under inter-
28 rogation, he or she shall have the right to be represented by counsel
29 of his or her choice who shall be present at all times during the
30 interrogation. The interrogation shall be suspended for a reasonable
31 time until representation can be obtained.

32 (k) No statute shall abridge nor shall any law enforcement agency
33 adopt any regulation which prohibits the right of a law enforcement

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R.B. [unclear]
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1 officer to bring suit arising out of his or her duties as a law
2 enforcement officer.

3 (l) No law enforcement agency shall insert any adverse material
4 into any file of the officer unless the officer has an opportunity to
5 review and receive a copy of the material in writing, unless the offi-
6 cer waives these rights in writing;

7 (m) No public statement shall be made prior to a decision being
8 rendered by the hearing committee and no public statement shall be
9 made if the officer is found innocent unless the officer requests a
10 public statement; provided, however, that this subdivision shall not
11 apply if the officer makes a public statement. The foregoing shall
12 not preclude a law enforcement agency, in a criminal matter, from
13 releasing information pertaining to criminal charges which have been
14 filed against a law enforcement officer, the officer's status of
15 employment and the identity of any administrative charges brought
16 against said officer as a result of said criminal charges.

17 (n) No law enforcement officer shall be compelled to speak or
18 testify before, or be questioned by, any non-governmental agency.

19 42-28.6-4. Right-to-hearing--- Right to hearing. -- Notice
20 request for hearing. -- Selection of hearing committee. -- (a) If the
21 investigation or interrogation of a law enforcement officer results in
22 the recommendation of some action, such as demotion, transfer, dis-
23 missal, loss of pay, reassignment, or similar action which would be
24 considered a punitive measure, then, before taking such action, the
25 law enforcement agency shall give notice to the law enforcement offi-
26 cer that he or she is entitled to a hearing on the issues by a hearing
27 committee. The law enforcement officer may be relieved of duty subject
28 to section 42-28.6-13 of this chapter, and shall receive all ordinary
29 pay and benefits as he or she would have if he or she were not
30 charged. The notice shall state the time and place of the hearing and
31 the issues involved. An official record, including testimony and exhib-
32 its, shall be kept of the hearing.

33 Disciplinary action for violation(s) of departmental rules and/or

1 regulations shall not be instituted against a law enforcement officer
2 under this chapter more than three (3) years after such incident,
3 except where such incident involves a potential criminal offense, in
4 which case disciplinary action under this chapter may be instituted at
5 any time within the statutory period of limitations for such offense.

6 (b) Notice under this section shall be in writing and shall
7 inform the law enforcement officer of the following:

8 (i) The nature of the charge(s) against him or her and, if known,
9 the date(s) of the alleged offense(s);

10 (ii) the recommended penalty;

11 (iii) the fact that he or she has five (5) days from receipt of
12 the notice within which to submit a written request for a hearing; and

13 (iv) the name and address of the officer to whom a written
14 request for a hearing (and other related written communications)
15 should be addressed.

16 (c) The law enforcement officer shall, within five (5) days of
17 his or her receipt of notice given pursuant to subsection (b) herein,
18 file a written request for hearing with the officer designated in ac-
19 cordance with subsection (b) (iv). Failure to file a written request
20 for a hearing shall constitute a waiver of his or her right to a hear-
21 ing under this chapter; provided, however, that the presiding justice
22 of the superior court, upon petition and for good cause shown, may
23 permit the filing of an untimely request for hearing.

24 (d) The law enforcement officer shall provide the charging law
25 enforcement agency with the name of one (1) active or retired law
26 enforcement officer to serve on the hearing committee, within five (5)
27 days of the filing of his or her request for a hearing. Failure by
28 the law enforcement officer to file his or her hearing committee se-
29 lection within that time period shall constitute a waiver of his or
30 her right to a hearing under this chapter; provided, however, that the
31 presiding justice of the superior court, upon petition and for good
32 cause shown, may permit the filing of an untimely hearing committee
33 selection by the officer. The charging law enforcement agency may

1 impose the recommended penalty during the pendency of any such peti-
2 tion.

3 (e) The charging law enforcement agency shall provide the law
4 enforcement officer with the name of one (1) active or retired law
5 enforcement officer to serve on the hearing committee, within five (5)
6 days of its receipt of the officer's request for a hearing. Failure
7 by the charging law enforcement agency to file its hearing committee
8 selection within that time period shall constitute a dismissal of all
9 charges against the law enforcement officer, with prejudice; provided,
10 however that the presiding justice of the superior court, upon peti-
11 tion and for good cause shown, any permit the filing of an untimely
12 hearing committee selection by the agency. Except as expressly pro-
13 vided in section 42-28.6-13 of this chapter, no disciplinary action
14 shall be taken against the officer by virtue of the stated charges
15 during the pendency of any such petition.

16 (f) Within five (5) days of the charging law enforcement agency's
17 selection of a hearing committee member, the hearing committee members
18 selected by the officer and by the agency shall (i) jointly select a
19 third hearing committee member, who shall serve as chairman of the
20 hearing committee; (ii) petition the presiding justice of the superior
21 court to select a third hearing committee member, who shall be an ac-
22 tive law enforcement officer, and who shall serve as chairman of the
23 hearing committee; or (iii) agree to an extension of time, not to
24 exceed thirty (30) days, for the selection of a third hearing commit-
25 tee member.

26 (g) Law enforcement officers selected to serve on a hearing com-
27 mittee under this chapter shall be relieved of duty for each day of
28 actual hearing and shall be compensated by their respective agencies
29 at their ordinary daily rate of pay for each day actually spent in the
30 conduct of the hearing hereunder.

31 (h) Two (2) lists of active police officers available to serve as
32 chairmen of hearing committees under this chapter shall be provided
33 annually to the presiding justice of the superior court. One (1)

1 list shall be provided by the Rhode Island Police Chiefs' Association;
2 the other shall be provided, jointly, by the Fraternal Order of Police
3 and the International Brotherhood of Police Officers. In selecting
4 officers to serve as chairmen of hearing committees under this chap-
5 ter, the presiding justice shall alternate between the two (2) lists
6 so provided.

7 (i) Whenever a law enforcement officer faces disciplinary action
8 as a result of criminal charges, the provisions of subsection (c),
9 (d), (e) and (f) shall be suspended pending the adjudication of said
10 criminal charges.

11 42-28.6-5. Conduct of hearing. -- (a) The hearing shall be con-
12 ducted by the hearing committee of the law enforcement agency by which
13 the law enforcement officer is employed selected in accordance with
14 section 42-28.6-4 of this chapter. Both the law enforcement agency and
15 the law enforcement officer shall be given ample opportunity to
16 present evidence and argument with respect to the issues involved.
17 Both may be represented by counsel.

18 (b) The hearing shall be convened at the call of the chair; shall
19 commence within thirty (30) days after the selection of a chairman of
20 the hearing committee; and shall be completed within sixty (60) days
21 of the commencement of the hearing. The hearing committee shall
22 render a written decision within thirty (30) days after the conclusion
23 of the hearing. The time limits established in this subsection may be
24 extended by the presiding justice of the superior court for good cause
25 shown.

26 (c) Not less than ten (10) days prior to the hearing date, the
27 charging law enforcement agency shall provide to the law enforcement
28 officer:

29 (i) A list of all witnesses, known to the agency at that time, to
30 be called by the agency to testify at the hearing;

31 (ii) Copies of all written and/or recorded statements by such
32 witnesses in the possession of the agency; and

33 (iii) A list of all documents and other items to be offered as

1 evidence at the hearing.

2 (d) Not less than five (5) days prior to the hearing date, the
3 law enforcement officer shall provide to the charging law enforcement
4 agency a list of all witnesses, known to the officer at that time, to
5 be called by the officer to testify at the hearing.

6 (e) Failure by either party to comply with the provisions of sub-
7 sections (c) and (d) of this section shall result in the exclusion
8 from the record of the hearing of testimony and/or evidence not timely
9 disclosed in accordance with those subsections.

10 42-28.6-6. Evidence--at--hearing---- Evidence at hearing. --

11 Hearing record. -- (a) Evidence which possesses probative value
12 commonly accepted by reasonable and prudent men in the conduct of
13 their affairs shall be admissible and shall be given probative effect.
14 The hearing committee conducting the hearing shall give effect to the
15 rules of privilege recognized by law, and may exclude incompetent,
16 irrelevant, immaterial, and unduly repetitious evidence. All records
17 and documents which any party desires to use shall be offered and made
18 part of the record.

19 (b) No statements, documents and/or other evidence and no copies
20 of any statements, documents and/or other evidence shall be presented
21 to the hearing committee prior to the hearing.

22 (c) All proceedings before the hearing committee shall be
23 recorded by stenographic record, the expense of which shall be borne
24 by the charging law enforcement agency. A copy of the record shall be
25 provided to the law enforcement officer or his or her attorney or
26 representative of record upon request.

27 42-28.6-11. Decisions of hearing committee. -- (a) The hearing
28 committee shall be empowered to sustain, modify in whole or in part,
29 or reverse the complaint or charges of the investigating authority, as
30 provided in section 42-28.6-4.

31 (b) Any decision, order, or action taken as a result of the hear-
32 ing shall be in writing and shall be accompanied by findings of fact.
33 The findings shall consist of a concise statement upon each issue in

1 the case. A copy Copies of the decision or order and accompanying
2 findings and conclusions, along with written recommendations for ac-
3 tion, shall be delivered or mailed promptly to the law enforcement
4 officer or to his or her attorney or representative of record and to
5 the law enforcement agency or to its attorney or representative of
6 record.

7 (c) In any proceeding under this chapter, it shall be the burden
8 of the charging law enforcement agency to prove, by a fair preponder-
9 ance of the evidence, that the law enforcement officer is guilty of
10 the offense(s) or violation(s) of which he or she is accused.

11 42-28.6-12. Appeals. -- Appeals from all decisions rendered by
12 the hearing committee shall be to the superior court in accordance
13 with section 45-28-1.1 within thirty (30) days from the date the deci-
14 sion is rendered; provided, however, that the city or town may seek
15 review of the final decision of the hearing committee by writ of cer-
16 tiorari to the supreme court on the grounds that the decision was
17 arbitrary or capricious or characterized by abuse of discretion or
18 affected by error of law. Upon the filing of a petition within twenty
19 (20) days of the decision with the clerk of the supreme court, the
20 supreme court may, if it sees fit, issue its writ of certiorari to the
21 hearing committee to certify to the supreme court the record of the
22 proceedings in the case together with any transcript of the proceed-
23 ings. sections 42-35-15 and 42-35-15.1 of the general laws. For pur-
24 poses of this section, the hearing committee shall be deemed an admin-
25 istrative agency and its final decision shall be deemed a final order
26 in a contested case within the meaning of sections 42-35-15 and
27 42-35-15.1 of the general laws.

28 (b) Within thirty (30) days after the service of the complaint in
29 accordance with section 42-35-15, or within further time allowed by
30 the court, the hearing committee shall transmit to the reviewing court
31 the original or a certified copy of the entire record of the proceed-
32 ing under review. By stipulation of all parties to the review pro-
33 ceedings, the record may be shortened. Any party unreasonably refus-

1 ing to stipulate to limit the record may be taxed by the court for the
2 additional costs. The court may require or permit subsequent correc-
3 tions or additions to the record.

4 42-28.6-13. Summary--punishment;---- Suspensions. -- (A) The
5 provisions of this chapter are not intended to prohibit summary
6 punishment suspensions by the chief or the highest ranking officer of
7 the law enforcement agency.

8 (B) Summary punishment of two (2) days' suspension without pay
9 may be imposed for minor violations of departmental rules and regula-
10 tions, ~~when the facts which constitute the minor violation are not in~~
11 ~~dispute; if the aggrieved officer believes the punishment of the chief~~
12 ~~or the highest ranking officer of the law enforcement agency is unrea-~~
13 ~~sonable; he or she may appeal such punishment directly through the~~
14 ~~provisions of this subtitle~~ Appeals of suspensions under this subsec-
15 tion shall be subject to the grievance provisions of any applicable
16 collective bargaining agreement.

17 (C) ~~Emergency--suspension~~ Suspension may be imposed by the chief
18 or the highest ranking sworn officer of the law enforcement agency;
19 ~~when it appears that such action is in the best interest of the public~~
20 when the law enforcement officer is under investigation for a criminal
21 felony matter. Any emergency suspension of any law enforcement officer
22 shall consist of the law enforcement officer being relieved of duty,
23 and he or she shall receive all ordinary pay and benefits as he or she
24 would have receive if he or she were not suspended. Suspension under
25 this subsection shall not exceed one hundred eighty (180) days. Any
26 ~~law enforcement officer so suspended shall be entitled to a prompt~~
27 ~~hearing before a hearing committee upon his or her request; The time~~
28 ~~period for hearing is not to exceed fourteen (14) days; if, after~~
29 ~~hearing, the hearing committee does suspend or dismiss the law~~
30 ~~enforcement officer, he or she shall not be entitled to his or her pay~~
31 ~~and benefits; however, if the enforcement officer is reinstated by a~~
32 ~~subsequent hearing, he or she shall be entitled to be reimbursed for~~
33 ~~all salary and benefits that have not been paid;~~

1 (D) Suspension may be imposed by the chief or highest ranking
2 sworn officer of the law enforcement agency when the law enforcement
3 officer is under investigation for a misdemeanor criminal matter. Any
4 such suspension shall consist of the law enforcement officer being
5 relieved of duty, and he or she shall receive all ordinary pay and
6 benefits as he or she would receive if he or she were not suspended.
7 Suspension under this subsection shall not exceed thirty (30) days;
8 provided, however, that if an officer is charged with a misdemeanor
9 offense the chief or highest ranking sworn officer of the law enforce-
10 ment agency may continue said suspension with pay up to a total of one
11 hundred and eighty (180) days. If the disposition of the criminal
12 matter does not take place within one hundred eighty (180) days of the
13 commencement of such suspension, the law enforcement officer may be
14 suspended without pay and benefits; provided, however, that the
15 officer's entitlement to such medical insurance, dental insurance,
16 disability insurance and life insurance as is available to all other
17 officers within the agency shall not be suspended. The law enforce-
18 ment officer may petition the presiding justice of the superior court
19 for a stay of the suspension without pay, and such stay shall be
20 granted upon a showing that said delay in the criminal disposition was
21 outside the law enforcement officer's control. In the event the law
22 enforcement officer is acquitted of any misdemeanor related thereto,
23 the officer shall be forthwith reinstated and reimbursed all salary
24 and benefits that have not been paid during the suspension period.

25 (E) Suspension may be imposed by the chief or highest ranking
26 sworn officer of the law enforcement agency when the law enforcement
27 officer is under investigation for a noncriminal matter. Any such
28 suspension shall consist of the law enforcement officer being relieved
29 of duty, and he or she shall receive all ordinary pay and benefits as
30 he or she would receive if he or she were not suspended. Suspension
31 under this subsection shall not exceed fifteen (15) days or any other
32 time frame established under the provisions of any applicable collec-
33 tive bargaining agreement.

1 (F) Suspension may be imposed by the chief or highest ranking
2 sworn officer of the law enforcement agency upon receipt of notice or
3 disciplinary action in accordance with section 42-28.6-4(b) of this
4 chapter in which termination or demotion is the recommended punish-
5 ment. Any such suspension shall consist of the law enforcement offi-
6 cer being relieved of duty, and he or she shall receive all ordinary
7 pay and benefits as he or she would receive if he or she were not so
8 suspended.

9 (G) Any law enforcement officer who is charged, indicted or
10 informed against for a felony or who is convicted of and incarcerated
11 for a misdemeanor or felony may be suspended without pay and benefits
12 at the discretion of the agency or chief or highest ranking sworn
13 officers; provided, however, that the officer's entitlement to medical
14 benefits and insurance, dental insurance, disability insurance and
15 life insurance as is available to all other officers within the agency
16 shall not be suspended. In the event that the law enforcement officer
17 is acquitted of any felony related thereto, the officer shall be rein-
18 stated and reimbursed forthwith for all salary and benefits that have
19 not been paid during the suspension period.

20 (H) Any law enforcement officer who is convicted of a felony
21 shall, pending the prosecution of an appeal, be suspended without pay
22 and benefits; provided, however, that the officer's entitlement to
23 such medical insurance, dental insurance, disability insurance and
24 life insurance as is available to all other officers within the agency
25 shall not be suspended. Whenever, upon appeal, such conviction is
26 reversed, the suspension under this subsection shall terminate and the
27 law enforcement officer shall forthwith be paid the salary and bene-
28 fits that would have been paid to him or her during that period of
29 suspension.

30 (I) Any law enforcement officer who pleads guilty or no contest
31 to a felony charge or whose conviction of a felony has, after or in
32 the absence of a timely appeal, become final may be dismissed by the
33 law enforcement agency and, in the event of such dismissal, other

1 provisions of this chapter shall not apply.

2 SECTION 2. Chapter 42-28.6 of the General Laws entitled "Law
3 Enforcement Officers' Bill of Rights" is hereby amended by adding
4 thereto the following section:

5 42-28.6-16. Immunity of hearing committee members. -- No member
6 of a hearing committee constituted in accordance with the provisions
7 of this chapter shall be held civilly liable for any breach of his or
8 her duties as such member, provided that nothing herein shall elimi-
9 nate or limit the liability of a qualified member: (1) for acts or
10 omissions not in good faith or which involve intentional misconduct or
11 a knowing violation of law; or (2) for any transaction from which such
12 member derived an improper personal benefit; or (3) for any malicious,
13 willful or wanton act.

14 42-28.6-17. Severability. -- If any provision of this chapter or
15 other application thereof shall for any reason be judged invalid such
16 a judgment shall not affect, impair or invalidate the remainder of the
17 law, but shall be confined in its effect to the provisions or applica-
18 tion directly involved in the controversy giving rise to the judgment.

19 SECTION 3. This act shall take effect upon passage.

DT170/2

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO THE LAW ENFORCEMENT OFFICERS'
BILL OF RIGHTS

- 1 This act provides extensive changes to the Law Enforcement
- 2 Officers' Bill of Rights.
- 3 The act would take effect upon passage.

DT170/2
