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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill No. 7550

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES—DISORDERLY CONDUCT

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **opposes** House Bill No. 7550, which would severely raise the penalty for disorderly conduct when it is committed *via* blocking traffic on a state or federal highway. While we understand the dangers that can be caused by such actions, the bill's sharp increase in penalties and inclusion of mandatory incarceration terms raises several concerns.

This bill would largely criminalize protesters. While protesting on state highways can be dangerous, protesters are often acting—or at the very least, *believe* they are acting—for the general good. The passion that underlies such acts of protest can sometimes cause otherwise-law-abiding citizens to slip across the disorderly conduct line. It is understandable that protesters who do so must face criminal sanctions, but to label them felons—and sentence them to increasing amounts of mandatory jail times—seems to be a much too draconian punishment for exercising one's right to protest a bit too zealously. Indeed, many of the most famous protests, such as the March from Selman to Montgomery, involved the blocking of traffic on state-maintained roads.

Which brings us to our second concern: the definition of “state highway.” It seems like the biggest problems would occur when people block major vehicular arteries such as Route 95.¹ But while “state highway” is not defined in Chapter 45 of Title 11 (Disorderly Conduct), it is defined in R.I.G.L. § 31-1-23 to be any road constructed or maintained by Department of Transportation (DOT). A perusal of the DOT website reveals that this definition includes many roads that a lot of people would not think of as “a highway,” *i.e.*, places where the speed limit is much lower and blocking traffic would be much less dangerous.

¹ The OPD is aware that there have been a couple of high-profile instances where protesters blocked Route 95, the state's biggest highway. While these actions are infuriating at best and dangerous at worst, these incidents are mercifully rare. The current criminal punishments—and our self-protective instincts—are apparently sufficient to deter almost everyone from taking this extreme step.

The website is available here: https://www.dot.ri.gov/about/maproom/State_Maintained_Roads.php. It shows that roads such as Route 44, Route 6A, Route 1A, and Route 138 are maintained by the DOT, and are therefore “state highways.” Imagine a group of URI students blocking traffic on Route 138—the road leading to the university—as part of a campus-wide protest. It is unlikely that any of these protesters would consider Route 138 to be a “state highway,” but it is, and, under this bill, all these students would be spending a mandatory two months in jail as a result of their youthful bout of civil disobedience.

Finally, while this law may first call to mind the organized blocking of traffic *via* a protest, it would confer both a felony conviction and a mandatory prison sentence for someone who may have blocked the road as a result of intoxication; while such behavior is certainly dangerous, this bill would remove a judge’s ability to divert a defendant into treatment in this type of case.

In short, while the OPD recognizes the concerns that this bill is intended to address, we encourage the Committee to reconsider the bill in light of these concerns.

Sincerely,
/s/ Angela M. Yingling

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