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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER REGARDING:

House Bill Nos. 7650 and 8072

ENTITLED, ACTS RELATING TO CRIMINAL OFFENSES—WEAPONS

Chairwoman Hagan McEntee and Members of the House Judiciary Committee:

The Office of the Public Defender **supports House Bill 8072 and wants to express concerns about House Bill 7650.** H8072 seeks to decriminalize the possession of a stun gun or electronic dart gun, while ensuring that such weapons are not sold to minors, used in the commission of a crime, or against a police officer while on duty. H7650 seeks to regulate the purchase, possession, and use of stun guns, but only for those who possess a license to carry one.

Currently, Rhode Islanders cannot apply for a license for stun guns or electronic dart guns, and possessing these weapons is a misdemeanor.¹ **The OPD appreciates the sponsors' efforts to decriminalize the possession of these weapons for self-defense, but, of the two approaches, we submit that H8072 contains the better solution.** H8072 would allow adults to possess these weapons for self-defense but would ensure that children do not have access to them and that they are not used with ill intent.

H7650, on the other hand, raises several concerns that need careful consideration. The first issue is that provision that would make the possession of a stun gun without a license a **felony** offense. Historically, possession of a stun gun has been treated as a **misdemeanor** in Rhode Island, and this sudden enhancement of the penalty seems disproportionate to the level of threat stun guns pose to public safety. Penalizing the possession of a non-lethal stun gun on par with a lethal firearm raises serious questions about the appropriateness of such measures. While “ignorance of the law

¹ Although “electronic dart guns” do not appear in the current version of the statute listing “other prohibited weapons,” the definitions of the two weapons delineated in H8072 are so similar that it is likely that what would be considered a “electronic dart gun” under the proposed legislation could fall under the currently prohibited category of a “stun gun,” which is thus far undefined in § 11-47-2. *See* H8022, 2026 Gen. Assemb. Reg. Sess. (R.I. 2026) (defining “electronic dart gun” as “any handheld device that transmits an electric current from the device to a person by expelling steel or metal prongs, darts or projectiles to make contact with a person, and is activated by a trigger button[,]” and “stun gun” as a “battery powered handheld device that transmits an electric charge from the device to a person, while touching or applying the device to a person, and is activated by a trigger button”).

is no defense,” it is easy to see how some well-intentioned people might carry a stun gun for self-defense without realizing they were running afoul of the statute. This is unfortunate enough when the penalty is a misdemeanor but would be downright draconian when such a mistake would come with felony consequences.

Further, even if this Committee finds that adding a licensing requirement for stun guns is appropriate, **the bill fails to address the necessary amendments to the licensing statute, leaving a critical gap in the ability of law enforcement agencies to issue such licenses.** This oversight creates an undue burden on individuals seeking the lawful possession of a stun gun and could potentially lead to unintended legal consequences.

It is our belief that stun guns are more akin to pepper spray than firearms, and therefore, they should be subject to a regulatory scheme like that of pepper spray, the use of which is permitted for self-defense purposes for individuals aged 18 and over. *See* § 11-47-57. Both stun guns and pepper spray are non-lethal tools designed for self-defense, providing individuals with the means to protect themselves without resorting to deadly force. Treating them the same way would ensure that individuals can access a reasonable means of personal protection while maintaining public safety and responsibility.² **This is exactly the result that passing H8072 would achieve.**

However, we do have one concern regarding the criminal penalties outlined in H8072 concerning the use of a stun gun during the commission of a crime. Under the proposed legislation, this would become a ten-year felony. This would put possession of a stun gun during the commission of **any crime** on par with the crime of possession of a firearm while committing a crime **of violence**, which carries a maximum penalty of 10 years for a first offense. While we acknowledge the need to address criminal activity, treating the criminal use of a non-lethal stun gun more severely than that of a lethal firearm does not seem to advance the cause of public safety. We would respectfully suggest that the sponsors amend the bill to include a requirement that the crime in question be labeled “a crime of violence,” or lower the penalty for the use of the stun gun in such cases, or both.

In conclusion, the Office of the Public Defender supports the passage of H8072, with that one caveat, and expresses concerns with the content of H7650. Our office is available for any further discussions or clarifications on these concerns.

Sincerely,

/s/ Angela M. Yingling
Angela M. Yingling

² Moreover, it is important to note that a federal court ruling in *O’Neil v. Neronha*, 594 F. Supp. 463 (D.R.I. 2022), affirmed that blanket prohibitions on stun guns violate the Second Amendment. In this case, the court found that the right to possess a stun gun for self-defense is protected under the Second Amendment, reinforcing the notion that individuals should have access to non-lethal means of self-defense. This decision aligns with the view that stun guns, much like pepper spray, are reasonable tools for personal protection and should not be unduly restricted.

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