

February 10, 2022

House Judiciary Committee
82 Smith St.
Providence, RI 02903

Dear Chair and Members of the Committee:

Rhode Island Rights writes in support of H6637, a bill against sexual assault by police officers.

Five years ago, in the Anna Chambers case, a New York woman was arrested and handcuffed by police officers who then had sex with her while she was handcuffed. When you're under police control like that, you can't just walk away from an arresting officer who desires to have sex with you. Defiantly saying "No" to the person who arrested you isn't generally felt to be safe. A woman who is handcuffed by police has virtually none of the usual options for effectively refusing sex. For this reason, no decent person would even want to ask a person they've handcuffed for sex. Just as a heavily intoxicated person finds it hard to effectively say no to sex and is more likely to yield to pressure, the same is true of a handcuffed person. The law already says that a heavily intoxicated person cannot legally consent to sex, because the risk is too great that the person would be pressured into sex that they would not have wanted as a competent and free decision-maker. For the same reason, the law should recognize that it shouldn't count as "consent" when a peace officer has sex with someone in their custody, because being in the officer's custody makes it too hard

This is the general principle that the law follows in defining consent: a heavily intoxicated person, or a young teenager approached for sex by an adult, or anyone who is in a position where they are not likely to be able to exercise an ability to make a competent and free decision, is considered non-consenting, to make sure that when sex happens it is freely agreed to. States like New York have responded to the Anna Chambers case by passing laws against sex by officers with people in their custody, just like the bill before you. If this wasn't done, people in police handcuffs would be far too vulnerable to demands for sex which they very likely didn't want.

I don't know if there even are people who desire, sincerely and not as a result of pressure, to have sex with police officers while in handcuffs. But if there are people like that, they can arrange to have sex with some officer at a time when they're not in custody. For the law to allow sex between officers and those under their custody is a recipe for people to be pressured or coerced into sex that they don't really want.

The bill also protects officers by allowing them to defend themselves in court: if they can show by a preponderance of evidence that the officer themselves was forced or coerced into sex, they will be let off.

Randall Rose
for Rhode Island Rights