

RHODE ISLAND SENATE JUDICIARY COMMITTEE

HEARING:

Public Hearing on S. 0811

DATE OF TESTIMONY:

May 23, 2023

TESTIMONY OF THE POLICING PROJECT IN SUPPORT OF S. 0811 (SUB A)

This testimony is on behalf of the Policing Project, a national organization that believes that one of the best ways to ensure transparent, effective, and equitable policing is for the public to be democratically involved in setting expectations for police practices *before* police act, instead of *after* something has gone wrong. The Policing Project has vetted our thinking on issues like officer discipline & decertification with an advisory committee consisting of law enforcement officials, academics, and policing experts.

We write in support of S. 0811 (sub a), which would authorize the Rhode Island Police Officers Commission of Standards and Training (“POST” or “Commission”)—a state agency—to certify and suspend or revoke the certification of officers (statewide) who engage in egregious misconduct.

On this issue, our goal is to bring Rhode Island in line with Massachusetts, the rest of New England, and every other state in the country by setting forth clear rules for when officers may be held accountable following serious misconduct, while also protecting officers’ due process rights.

Rhode Island Needs A Decertification Statute, and S. 0811 Is That Statute

In every state in the country *except* Rhode Island, police officers are licensed (e.g., certified) by a state agency (usually called a POST board) that is also empowered to revoke or suspend an officer’s license if the POST board finds that the officer engaged in serious misconduct. Just as lawyers can be disbarred by a state agency if they engage in serious professional misconduct (even if their law firm or other legal employer does not discipline them), every state except Rhode Island recognizes that the same should be true for police officers. Thus, if an officer uses excessive force and kills someone, in many states, the POST board could revoke an officer’s license even if the officer is not criminally prosecuted or fired by their employing agency. Indeed, in 2021, [Massachusetts enacted legislation](#) authorizing its POST board to suspend or decertify officers who engage in specified categories of serious misconduct, including excessive force resulting in death or serious bodily injury.

But Rhode Island's POST board has no such authority: it is the only state in the entire country that does not vest their POST board, or a comparable state agency, with the power to revoke or suspend an officer's license. That must change.

Passing S. 0811 is necessary to modernize Rhode Island's approach to policing. The bill would empower the Commission to certify and also suspend or decertify officers, stripping them of their license statewide if the Commission finds by clear and convincing evidence (after a hearing) that the officer engaged in egregious misconduct. Among other provisions, the bill sets forth clear grounds for when the Commission *must* revoke an officer's license, e.g., when the officer is convicted of a felony, engages in excessive force resulting in death, or plants evidence.

The bill importantly empowers the Commission, a state-level agency, to strip the worst officers of their badge, even when their employing agency or police chief will not or cannot fire them (e.g., because the police chief is hamstrung by an RI LEOBOR protection that goes above and beyond the due process protections that any other RI public employee receives). The Commission, in other words, serves as a backstop to ensure officers who undercut the reputation of Rhode Island law enforcement and pose a danger to the public are held accountable.

The bill also would go a long way to addressing the so-called "wandering officer" problem in which officers who engage in serious misconduct get hired by another agency after separating from their prior employing agency. We understand the RI Chiefs of Police already engage in laudable efforts to address this "wandering officer" issue through regular meetings and information sharing. But part of modernizing RI's policing laws requires codifying these practices just as other states do to ensure *all* potential new hires are thoroughly vetted by their hiring agency.

To that end, the bill requires that agencies conduct thorough background checks before hiring new officers. The bill would reduce the risk that agencies hire these so-called "wandering officers," by requiring that all agencies conduct a criminal history check, communicate with references from all of an officer's prior law enforcement agency employers, and review past performance evaluations and investigatory records before agencies can hire a new officer.

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In conclusion, it is long past time that Rhode Island align itself with every other state in New England, and across the country, by enacting S. 0811 and providing a path for officer discipline and decertification by its state POST board.

Thank you for considering our testimony.