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TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER (OPD) REGARDING:

House Bill No. 5130

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – WEAPONS.

Chairman Craven and Members of the House Judiciary Committee:

The Office of the Public Defender opposes HB5130 at the present time. Recent events at the Toolmark Analysis/Firearms Identification division of the RI State Crime Laboratory (RICL), as disclosed in public statements by both the RICL and the RI Attorney General on September 3, 2024, have led the firearms division of the RICL to suspend firearms and toolmarks examinations and to utilize external laboratories or consultants to test current and future exhibits.

Specifically, a report released by a forensics expert at an outside accredited agency tasked with reviewing the “nonconformity” identified by the RICL revealed that three firearms examiners at the RICL misidentified thirteen fired cartridge cases and connected them to the wrong gun, which was later determined to be a mismatch when the cartridges were correctly connected to a gun that had been recovered by a different agency. Oct. 9, 2024 Report of Nichols Forensic Consulting, Inc. The Providence Journal has reported that two of the three RICL employees who were involved in the mismatch have left the RICL, and at a January meeting of the RI State Crime Lab Commission, the lab’s director discussed difficulties in hiring qualified replacements.

A recent article in the Rhode Island Bar Journal discussing the RICL events reported that “Rhode Island is not the only state to grapple with toolmarks evidence.” DiLauro, Michael A., Esq., “Lessons Learned from a Not So Public ‘Mismatch’: Firearms, Toolmark Analysis, and Rhode Island’s Publicly Funded Crime Laboratories.” *Rhode Island Bar Journal*, vol. 73, no. 4, 2025, p. 15. The article further noted that courts across the country have taken various steps related to the introduction of toolmarks evidence “in response to reports highlighting the limits of toolmark analysis.” *Id.*

The Office of the Public Defender acknowledges the proposed bill’s worthy goals but suggests that as the state is currently relying on outside agencies and consultants for toolmark analysis, which could prove both costly and onerous, and given the growing concerns nationwide about the reliability of these analyses, it would be prudent to hold the bill for further study before statutorily requiring them.

Sincerely,

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