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March 26, 2025

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

House Bill No.: HB5933, ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – WEAPONS;

House Bill No.: HB5934, ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – WEAPONS

Chairman Craven and Member of the House Judiciary Committee:

The Office of the Public Defender opposes House Bills 5933 and 5934, which seek to regulate the purchase, use, and possession of stun guns. While we understand the importance of public safety, we believe that this proposed legislation raises several significant concerns that need careful consideration.

The first issue with the proposed legislation is the 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 penalties for the possession of a stun gun to a 10-year maximum sentence 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.

Further, even if it could be said that adding a licensing requirement and elevating the offense of possession without a license to a felony were 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 lawful possession of stun guns 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* R.I.G.L. § 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. As such, it makes sense to regulate stun guns in a manner consistent with other less-lethal self-defense

devices, like pepper spray. This would ensure that individuals can access a reasonable means of personal protection while maintaining public safety and responsibility.

Moreover, it is important to note that a federal court ruling in *O'Neil v. Neronha* affirmed that 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.

Finally, the provision making possession of a stun gun during the commission of any crime a felony offense with a maximum sentence of 10 years is unprecedented. The only other similar provision is the crime of possession of a firearm while committing a crime of violence which is a felony with a maximum of 10 years for a first offense. While we acknowledge the need to address criminal activity, treating possession of a non-lethal stun gun more severely than possession of a lethal firearm during the commission of a crime is illogical and ill-advised.

In conclusion, the Office of the Public Defender respectfully urges the Committee to consider the provisions outlined in HB5933 and HB5934. We believe that a more measured and balanced approach is necessary to ensure public safety without infringing on constitutional rights or imposing overly harsh penalties. Our office is available for any further discussions or clarifications on these concerns.

Sincerely,

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