ACLU OF RI POSITION: AMEND

TESTIMONY ON 22-H 7796, AN ACT RELATING TO
RELIEF OF INJURED AND DECEASED FIREFIGHTERS AND POLICE OFFICERS
April 27, 2022

This bill would extend injured-on-duty benefits and accidental disability retirement allowance to police officers diagnosed with post-traumatic stress injuries resulting from their employment. While the ACLU of Rhode Island does not have a position on this legislation conceptually, we oppose its scope in at least one very particular, but extremely important, respect.

In a time of "Black Lives Matter," police accountability has never been more important. However, passage of this bill would allow police officers who may have engaged in serious misconduct against a civilian, but who are not disciplined for it, the ability to financially benefit from that person's suffering by reporting that the incident has led the officer to suffer PTSD. Unfortunately, this concern is not hypothetical, but is confirmed by news reports of actual incidents along these lines. We note two in particular:

1. In examining the police handling of protests in Minneapolis over the death of George Floyd, the *Minneapolis Star Tribune* reported the filing of over 400 complaints of police misconduct and excessive force, including the indiscriminate spraying with chemical irritants of non-violent protesters and journalists.[1] The story goes on to note that over 150 Minneapolis police officers had initiated the application process for disability claims, alleging post-traumatic stress disorder from their involvement in the protests where this excessive force occurred.[2] Those protesters who were victimized by this misconduct will, for a variety of reasons, likely have a hard time obtaining any compensation for the violation of their rights. But with a bill like this, officers who engaged in the misconduct would likely be entitled to financial benefits of their own.

2. Even more disturbing is a 2019 story about an Arizona police officer who was acquitted in the fatal shooting of an unarmed man seen on video pleading "please do not shoot me." The officer was temporarily rehired by his department so he could apply for an accidental disability pension based on his alleged suffering from PTSD as a result of shooting the man.[3]

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[1] "Complaints skyrocket over police response to George Floyd protests," July 2, 2020.
https://www.startribune.com/complaints-skyrocketing-in-wake-of-mpls-police-response-to-floyd-protests/571608232/
[2] "Minneapolis police officers say they are suffering from PTSD after George Floyd Protests," July 10, 2020.
https://www.washingtonpost.com/national/minneapolis-police-ptsd-floyd-protests/2020/07/10/e2bbf5dc-c2fd-11ea-b4f6-cb39cd8940fb_story.html
[3] "Police officer who fatally shot sobbing man temporarily rehired to apply for pension," July 12, 2019.
https://www.nbcnews.com/news/us-news/police-officer-who-fatally-shot-sobbing-man-temporarily-rehired-apply-n1028981

It is also worth noting that, under this bill, the PTSD diagnosis authorizing benefits to a police officer does not even need to be made by a doctor, but could be made by a clinician with a master's degree.

A police officer's job is extremely stressful, and most perform their jobs in an exemplary manner, but holding accountable those who don't is a daunting task. To the extent this legislation would allow officers who engage in misconduct against civilians to obtain recompense that the civilians themselves often can't obtain, it should be rejected.

Between the very generous protections provided police through the Law Enforcement Officer Bill of Rights, and the legal protections given to officers by the court-made standard of "qualified immunity," the bill's current language, barring benefits only if there has been an "adverse job action," is woefully insufficient. We therefore believe that, if this bill is to be favorably considered, an amendment carving out an exception to address scenarios such as those described above is essential to avoid the compounding of injustice in certain instances.

Thank you for considering our views.