"Social justice should be the underlying goal of all humanity."
-Alan V. Lowenstein, Institute Founder

June 27, 2022

TESTIMONY OF YANNICK WOOD
NEW JERSEY INSTITUTE FOR SOCIAL JUSTICE
IN SUPPORT OF S2742
NEW JERSEY SENATE BUDGET AND APPROPRIATIONS COMMITTEE
MONDAY, JUNE 27, 2022

Chair Sarlo, Vice-Chair Cunningham and members of the Senate Budget and Appropriations Committee:

Thank you for the opportunity to present this testimony in support of S2742, a bill that will create a statewide police licensing program, and amendments to further strengthen the bill.

My name is Yannick Wood, and I am the Director of the Criminal Justice Reform Program at the New Jersey Institute for Social Justice (the "Institute"). The Institute uses cutting-edge racial and social justice advocacy to empower people of color by building reparative systems that create wealth, transform justice and harness democratic power – from the ground up – in New Jersey.

S2742 is an opportunity for advocates and law enforcement to come together and support a policy that can help further police accountability across the state. The Institute and other advocates have long supported police accountability measures, including establishing civilian review boards,[1] banning and criminalizing the police use of chokeholds[2] and granting public records access to police misconduct.[3] This bill has enormous potential as a police accountability tool. However, for it to achieve maximum effectiveness, we urge the committee to fully fund the bill's $6 million appropriations request to ensure that maximum funding is dedicated to providing access to the public, increasing police accountability and rooting out misconduct.

First, S2742 should have explicit guidelines for which types of police misconduct will result in a license denial, suspension or revocation. Second, the bill should address the consequences of having a license revoked and require that an officer may not perform duties when they have a pending appeal. Third, the bill needs to require a higher level of public involvement in the Police Training Commission (the "Commission") and licensing committee activity. Fourth, all licensing committee activity should be posted on a publicly accessible website and final decisions should be posted to national misconduct databases. Lastly, there should be a

system of randomized audits that will ensure that municipalities properly report misconduct to the Commission. Through these steps, we believe this bill can more meaningfully create accountability in New Jersey's law enforcement.

We urge the committee to fully fund the $6 million appropriations request in S2742.

We support the $6 million appropriation if it is used by the Police Training Commission to establish a licensing committee that adequately reviews applications, investigates police misconduct and renders timely decisions regarding licensing. Additionally, we urge the committee to adopt the following amendments which will ensure that licensing decisions are made easily accessible to the public. If adopted, the $6 million can be used to support these efforts and will provide critically needed transparency.

Our Proposed Amendments

I.   *S2742 should have explicit guidelines for types of police misconduct that will result in a license denial, suspension or revocation.*

S2742 should explicitly state that specific types of police misconduct will result in automatic license denial, suspension or revocation. There are instances where police officers engage in misconduct that does not rise to the level of a criminal offense or the misconduct was not prosecuted as an offense but misconduct was nevertheless sustained by findings. For example, instances of misconduct enumerated in the bill include "filing a false report,"[4] being "untruthful,"[5] "destroying evidence"[6] and exhibiting discriminatory conduct.[7] All of these examples of misconduct once submitted to the Commission should be automatic grounds for revocation or the denial of a license application. S2742, as written, however, mandates that only when an officer is convicted of an offense can there be an automatic revocation or denial.[8] For licensing purposes, there should not be a distinction between when a police officer is convicted of a criminal offense as opposed to having a sustained finding of "falsifying a report" or "destroying evidence" after an administrative. When either of these instances occur, they are a profound breach in the public trust. To ensure excellence in our police we need to treat serious misconduct like crime and use it to revoke or deny license applications.

II.   *S2742 should address the consequences of having a license revoked as well as explain that an officer may not perform duties when they have a pending appeal.*

S2742 should explicitly state that having a license revoked precludes an officer from reapplying for a license and from being employed by any other law enforcement entity in New Jersey. This language is necessary to curtail the practice of an officer leaving a department due to misconduct and going on to work at another, which has already occurred in New Jersey.[9] This language is also necessary to ensure that officers who have been found to have committed serious misconduct and/or criminal offenses are permanently barred from the profession.

Additionally, the bill should directly state that during an appeal of the Commission's decision to revoke, suspend or deny an application, an officer may not perform the official duties of an officer. This would remove any ambiguity in the officer's status during an appeal.

III.   S2742 needs to require a higher level of public involvement on the Commission and in licensing committee activity.

The Police Training Commission needs to include more representation from the public on the Commission as well as the licensing committee. The $6 million appropriation should be used to recruit diverse representation.

On the Police Training Commission, there needs to be a higher number of governor appointees who are non-law enforcement members of civil society, including social justice and advocacy groups that serve communities of color. Currently, the governor will only appoint four citizens of the state with no prohibition on them being members of law enforcement nor any requirement that they represent communities of color. Four is too few because it represents under 25% of the total group of appointees.[10] The remaining appointees are largely affiliated with law enforcement agencies or unions, resulting in the Commission being heavily skewed to law enforcement. This bill also increases the amount of law enforcement representation on the Commission by adding the State Troopers Fraternal Association of New Jersey.[11] For too long, police have been policing themselves with little accountability. This Commission, the licensing committee that it will oversee and the public will all benefit from having a diversity of representation on the Commission.

Furthermore, the bill should specifically require the representation of members of civil society, including social justice or advocacy groups that serve communities of color on the licensing committee.[12] In its current form, the bill only requires that one member of the committee be from the public.[13] Illinois passed a law mandating a minimum number of appointees for their licensing authority from communities "with disproportionately high instances of interaction with law enforcement … underserved … [high rates] of commitments to Illinois Department of Corrections … but who are not themselves law enforcement officers."[14] New Jersey has incredibly stark racial disparities in criminal justice and there needs to be representation from communities of color on the licensing committee. For example, Black people in the Garden State are three times more likely to have the police use force against them compared to white people.[15] Black people are also disproportionately detained in county jails, accounting for 42% of all jailed individuals.[16] Even though Black people are only 15% of the population,[17] Black people account for 61% of individuals in Department of Corrections custody.[18]

IV.   All licensing committee activity should be posted on a publicly accessible website and final decisions should be posted to national misconduct databases.

To create true police accountability, all licensing activity should be made publicly available on the Commission's website. The goal should be to make this information accessible to the public with the least amount of burden possible. The $6 million appropriation should be used, in part, for this purpose. We strongly urge the bill sponsors to require publishing of the misconduct reported from police departments, particularly the types of misconduct enumerated in the bill such as filing a false report or exhibiting bias.[19] Starting with the initial submissions from local police chiefs required by the bill,[20] submissions should be made publicly available on the Commission's website.

Next, the status of an application should be published on the website. If the Commission renders a decision – whether it be to suspend, revoke, place conditions upon or deny a license – this decision should also be published online. Even if the Commission fails to render a decision in a timely manner,[21]

this should also be published. In fact, publishing the current status of an application may encourage the Commission to move expeditiously through applications.

The Institute supports the bill language stating that is unlawful for a government entity to "enter into any non-disclosure agreement which seeks to conceal or prevent public review of the circumstances under which the officer separated from or was terminated or fired from employment."[22] The bill should go one step further and require the publishing of the underlying circumstances for serious misconduct where an officer was terminated or fired to ensure compliance with this provision.

Lastly, there should also be mandated reporting of licensing decisions to a national database on misconduct to prevent an officer with adverse license decisions from leaving New Jersey to work in another state. Nationwide databases can include the National Decertification Index (NDI), managed by a private organization that collects and publishes officer decertification data from across the states[23] or the National Law Enforcement Accountability Database that the Biden administration has established through a recent executive order.[24]

### V.	There should be a system of randomized audits that will ensure that municipalities properly report misconduct to the Commission.

This bill should mandate that the Commission conduct audits of law enforcement entities to ensure that they are sharing all of their records of qualifying police misconduct. These audits should be randomized and should review the complete employment files of officers ostensibly in good standing to verify that any qualifying misconduct is reported. The $6 million appropriation should support these audits.

In section 18(c), the language should be changed to mandate that the Commission *shall* request the law enforcement officer's entire file.[25] This will reduce the possibility of police chiefs not reporting misconduct information. The problem with local police departments not turning over information to licensing authorities is not hypothetical. Colorado, for example, already has an established state licensing authority. However, some officers found to have engaged in misconduct have been able to move on to other law enforcement positions because their misconduct was not being reported to the licensing authority.[26] S2742 can be strengthened to avoid these issues in New Jersey.

Conclusion

We are generally supportive of police licensure while still recognizing that it will not be a panacea for all the challenges that exist in law enforcement in New Jersey. S2742 is a positive step towards fostering a culture of police accountability. As such, we urge your committee to vote yes on this bill and provide full funding for it to establish a licensing committee that adequately reviews applications, investigates police misconduct, renders timely decisions and ensures that licensing decisions are made easily accessible to the public.

[1] Assemb. B. No. 1515, 220th Leg. (N.J. 2022), https://pub.njleg.state.nj.us/Bills/2022/A2000/1515_I1.PDF.

[2] Sen. B. No. 265, 220th Leg. (N.J. 2022), https://pub.njleg.state.nj.us/Bills/2022/S0500/265_I1.PDF; Assemb. B. No. 2431, 220th Leg. (N.J. 2022), https://pub.njleg.state.nj.us/Bills/2022/A2500/2431_I1.PDF.

[3] Sen. B. No. 371, 220th Leg. (N.J. 2022), https://www.njleg.state.nj.us/bill-search/2022/S371.

[4] Sen. B. No. 2742, 220th Leg. § 19(a)(7)(a) (N.J. 2022), https://pub.njleg.state.nj.us/Bills/2022/S3000/2742_I1.PDF.

[5] *Id.*at § 19(a)(7)(b).

[6] *Id.* at § 19(a)(7)(c).

[7] *Id.* at § 19(a)(7)(d).

[8] *Id.* at §20(a).

[9] Rukmini Callimachi, *9 Departments and Multiple Infractions for One New Jersey Police Officer,* N.Y. TIMES (Jun. 24, 2020), https://www.nytimes.com/2020/06/24/nyregion/new-jersey-police.html.

[10] Sen. B. No. 2742, *supra* note 4 at §7 (The Commission will be comprised of four citizens of the state appointed by the governor and one representative from each of the following 17 entities: The New Jersey State Association of Chiefs of Police; the New Jersey State Policemen's Benevolent Association; the New Jersey State League of Municipalities; the New Jersey State Lodge, Fraternal Order of Police; the State Troopers Fraternal Association of New Jersey; the County Prosecutors' Association of New Jersey; the Sheriffs' Association of New Jersey; the Police Academy Directors Association; the New Jersey County Jail Wardens Association; the New Jersey Juvenile Detention Association; the National Organization of Black Law Enforcement Executives; the Attorney General; the Superintendent of State Police; the Commissioner of Education; the Commissioner of Corrections; the Chairman of the State Parole Board; and the Special Agent in Charge of the State of New Jersey for the Federal Bureau of Investigation).

[11] *Id.*

[12] *Id.* at 19(b).

[13] *Id.*

[14] 50 Ill. Comp. Stat. Ann. 705/3.1 (West 2021).

[15] Disha Raychaudhuri & Stephen Stirling, *Black People in N.J. say they're more likely to be punched, kicked by cops. Now data backs that up*, NJ.COM (Sep. 24, 2019, 2:38 PM), https://www.nj.com/news/erry-2018/12/69f209781a9479/black-people-in-nj-say-theyre.html.

[16] INCARCERATION TRENDS IN NEW JERSEY, VERA INST. OF JUST. 1 (2019), https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-new-jersey.pdf.

[17] *QuickFacts New Jersey,* U.S. CENSUS BUR., https://www.census.gov/quickfacts/NJ (last visited Mar. 11, 2022).

[18] OFFENDERS IN NEW JERSEY CORRECTIONAL INSTITUTIONS ON JANUARY 1, 2021, BY RACE/ETHNIC IDENTIFICATION, N.J. DEPT. OF CORR., 1 (2021), https://www.state.nj.us/corrections/pdf/offender_statistics/2021/By%20Race_Ethnicity%202021.pdf.

[19] Sen. B. No. 2742, *supra* note 4 at §§ 19(a)(7)(b)-(d).

[20] *Id.* at § 17(a).

[21] *Id.* at § 18(d).

[22] *Id.* at § 17(e).

[23] *About NDI,* INT'L ASS'N DIRS LAW ENF'T STANDARDS AND TRAINING, https://www.iadlest.org/our-services/ndi/about-ndi (last visited Jun. 11, 2022).

[24] Exec. Order No. 14,074, 87 Fed. Reg. 32,945, 32949 (May 25, 2022).

[25] Sen. B. No. 2742, *supra* note 4 at § 18(c).

[26] Allison Sherry, *Colorado law requires untruthful officers to lose their jobs and their licenses. But not every agency is complying with the law*, CPR (Jan. 26, 2022, 4:00 AM), https://www.cpr.org/2022/01/26/colorado-police-reform-untruthful-fire-lose-license/.