



Providence External Review Authority

January 31, 2023

Honorable Mayor Brett P. Smiley
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Honorable Council President Rachel Miller
Providence City Hall
25 Dorrance Street
Providence, RI 02903

Re: Providence External Review Authority (PERA) Bi-Annual Report – Winter 2023.

Dear Honorable Mayor, City Council President, and members of the City Council,

Tyre Nichols’s tragic death at the hands of the five Memphis police officers, who brutally assaulted him during his arrest, is the most recent high profile event surrounding police misconduct around the country. Unfortunately, Mr. Nichols now joins the ranks of Daunte Wright, Andre Hill, Manuel Ellis, George Floyd and the countless other victims of police brutality who died needlessly and whose deaths have yet to galvanize the public into demanding that policing make the necessary changes to its recruiting, practices, and training to ensure that all people are policed fairly and treated with respect and dignity to minimize and hopefully one day eliminate these tragedies. Providence has made strides in improving its policing practices but is not immune from this unfortunate trend in policing and has had its share of recent issues of misconduct by police officers engaging in enforcement actions that led to the abuse and improper treatment of individuals being placed under arrest. There are currently two officers who have been recommended for termination for their actions that are currently still pending.

All these issues highlight the importance of effective, fair, and objective police oversight. For too long police departments around the country have been entrusted to police themselves and to serve as their own overseers regardless of outcome. The public in many instances has lost faith in the ability of these organizations to honestly self-evaluate and hold themselves accountable for

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READ
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

Timothy Mastaianni CLERK



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misconduct or to even conduct thorough and robust internal investigations into allegations of their own misconduct. Providence is unique in Rhode Island in that it has taken the positive step of creating a civilian oversight body for the police department by enacting the enabling ordinance in 2002¹ that created the Providence External Review Authority. PERA is the only civilian police oversight board in the state. PERA has had its fair share of difficulties and obstacles since its inception and is now coming online in a third attempt to get the formula right for effective police oversight that can lead to organizational improvements in the police department for the benefit of all who live, work, visit, and travel through the great capitol city.

PERA was without an Executive Director for over a year after the last director was removed from service. During that time, PERA actively sought a new Executive Director but languished, due to not being able to identify someone who could be impartial, possessed the knowledge and skills to review complaints from many perspectives and had relevant managerial skills.

After over a year of searching, PERA hired a new Executive Director to review PERA's operations and help move it forward to accomplish its operational objectives of conducting effective police oversight and policy review for the Providence police department.

Upon joining the team, the director conducted an initial SWOT analysis of the organization and requested feedback from the board and engaged with community leaders and police officials about what they felt needed to change for PERA to be effective. The results of that analysis follow:

Strengths: PERA has a diverse authority membership made up of members of the community from different cultural, racial, and viewpoint backgrounds, who are dedicated, engaged, and motivated to do whatever work is necessary to advance PERA's mission and who actively participate.

¹ Chapter 18 ½, Section 2 Providence External Review Authority

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PERA has the support of the community and community leaders as well as members of the city council who have expressed their desire to see PERA enacted in a way that meets the vision they had when originally creating PERA.

Weaknesses: PERA lacked structure, an identity, and mission as an organization. PERA's relationship with the police department and department of Attorney General had been negatively impacted by the nature of the departure of the prior director, relative to his release of video footage that was evidence in an open investigation. PERA lacked a staff and had no suitable workspace for staff or the public to conduct business. The ordinance that governs PERA was lacking language that would actually empower PERA to effectively carry out its mandate, including but not limited to the unfiltered access to police department records for review, the inability to publish the names of officers found to be guilty of misconduct, actual guidelines on evidentiary hearings, and stable funding. There was a backlog of unreviewed complaints, with no system in place to handle new complaints and a lack of records regarding the status of the complaints, any communications with the complainants, or records of investigations that were completed. Covid had wreaked havoc on all systems and meetings. Existing requirements under PERA's ordinance and the Providence Community Police Relationship Act were not actively being monitored or adhered to.

Opportunities: The increased coverage and evidence of police misconduct around the country has shifted the public's willingness to support external oversight of police departments. Police executives have also started to see the need and opportunity for positive change that cooperation with external oversight can bring their departments. The upcoming change in police administration creates an opportunity for a new beginning and continuation of building relationships with the department for the purpose of positive change. Newly appointed council members have the ability to greatly impact the future of PERA through ordinance amendments and support through funding PERA's initiatives. Involvement in the police training academy to



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address issues that frequently come up in complaints is an opportunity to proactively address these concerns in recruit training.

Threats: Loss of funding. New police administration's potential view on external oversight.

The following action plan was put into place.

- Build professional relationships with other civilian oversight agencies and the police department to create an opportunity for collaboration and shared vision.
- Secure office space to create a proper work environment that could house support staff and support the public's needs for filing complaints and conducting hearings.
- Draft ordinance amendments to address areas of weakness in current ordinance and empower PERA to effectively conduct operations.
- Establish practices required by the Providence Community-Police Relations Act.
- Hire support staff, to include investigative staff, multilingual intake personnel, confidential administrative assistant, and policy/community outreach professional.
- Review outstanding complaints.
- Review and improve internal processes and data collection.
- Implement mediation program utilizing volunteers from the community that PERA will provide mediation training for and will then in turn serve as mediators to help resolve lower-level complaints regarding lack of civility/unprofessional verbal communications between officers and the public with an aim towards repairing and improving the relationship between the public and the department through mutual understanding and respect.
- Develop informational literature and programs for the community, to advance awareness and improve police services.

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- Review police policies and procedures and recommend changes that take community needs into consideration as opposed to the police “best practices” approach utilized by police accreditation committees.

The implementation of this action plan is ongoing and has been met by some logistical challenges, but many positive steps have been accomplished.

The director has attended two National Association of Civilian Oversight of Law Enforcement annual conferences and maintained PERA’s membership in this national certifying body as well as continue to make professional contacts and grow PERA’s network of professionals engaged in police oversight around the country. The director has collaborated with his counterpart in Cambridge to conduct training for RI police departments on civilian oversight and to champion its value to police departments as well as the community.

The director has interfaced with senior police leadership and worked to rebuild trust and cooperation between the department and PERA as well as attend the Police Advisory Council to meet with community leaders and establish an open line of communication between PERA and their respective community members. Has engaged with and committed to assisting the department of diversity, equity, inclusion, and belonging to review and revise police training to further the mission of fair and impartial policing. Has resumed the cooperation of the police department and invited members of the department to present and engage with the PERA and public at PERA’s meetings.

Even though all members of city government that the director has interacted with have been exceptionally helpful, thoughtful, and professional, the process of securing adequate office space was an extremely lengthy process that is still not completed. Upon joining PERA the director immediately started the process to find appropriate office space and was initially delayed by two months awaiting the department of public property to determine if any city owned property was available for use by PERA before he could explore the option of leasing office space.

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Upon receiving confirmation that no city property was available and the approval from the department public property to secure external office space, the director began the search through the required city open bid process. This required that PERA's office space requirements were put into a request for proposal solicitation that was advertised and opened three times, (as is required by city rules). The solicitation received no bids and was closed. The director then had to do a search for suitable available office property that met the published bid requirements and go to the Board of Contract and Supply to get approval to fund the leasing of the property. Upon passage by the Board of Contract and Supply, the director then went through the process of negotiating a lease, getting it approved through the solicitor's office, and then signed by Mayor Elorza. All of this took an additional 6 months with the lease getting signed in August of 2022. The office required construction work to be done that was not completed until the first week of November. During the construction, the director worked with the Information Technology and Communications departments to secure internet access and phone service as well as computer equipment for the office. The director also engaged WB Mason to design and furnish an effective workspace and sent a request to piggyback off the State MPA-573 contract to the Board of Contract and Supply to approve the purchase. This was set to go before the board on February 13, 2023 (awaiting approval from finance) and upon approval will be submitted to purchasing. The estimate from WB Mason to complete the order and install the furniture is 4-6 weeks from receipt of payment which puts the estimated time of moving into our office at approximately mid-late April. This has had a cascading effect on delaying the hiring of staff, since there is no place to house and or train them. It has also prevented PERA from fully engaging the public for in-person complaint intake or implementing a mediation program and conducting hearings. PERA has had to operate in a limited capacity while building the foundation of an organization committed to excellent public service.

In the interim other work has moved forward towards the aim of properly establishing PERA. Specifically, PERA collaborated with the director, council policy staff, and the police department to submit a proposed amendment to the PERA ordinance to address the areas of weakness

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previously outlined. After months of collaboration and compromise the amendment was submitted to the ordinance committee, had two public hearings with no one coming forward in opposition but was held in the committee based on an objection by the police department to language in the amendment that would have given PERA unfettered access to police department records for the purpose of auditing completed police internal investigations and to conduct independent investigations into allegations of police misconduct. The police department objected to giving PERA unfettered access to their records and wished to maintain the current process that requires PERA to request information from the police, which they then process and determine what is relevant and release the information to PERA. This prevents PERA from being able to certify that they have reviewed all the relevant information for a complaint but instead can only certify that they have reviewed all the information provided to them. PERA plans to resubmit their revised ordinance to the current council for review and approval.

Complaints: Upon joining the PERA the director was faced with reviewing 80 previous complaints dating back to July of 2019. There were 27 complaints from 2019, 34 complaints from 2020, and 19 complaints from 2021.

2019 complaints: Of the 27 complaints received that year, the authority had dismissed 6, recommended mediation for 4, held 3, recommended investigation for 8, and had taken no action on the remaining 6 cases. Upon contact by letter to seek updated information and to inquire if the complainants wished to pursue their complaints, only 5 complainants wished to pursue. Upon review of those 5 files, 3 had previously been recommended to investigation, 1 for mediation and no action taken on. A review of the files and police internal investigations for those cases led to an updated recommendation to dismiss 3 of those cases and to hold the remaining 2 for further review. Of the 2 remaining complaints, 1 was a mediation and the other an investigation. Those complaints are unresolved.

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Final breakdown 2019:

Mediation – 1

Investigation – 1

Dismissed - 25

2020 Complaints:

Of the 34 complaints received that year, the authority initially dismissed 8, voted to investigate 5, tabled/held 5, recommended mediation for 1, and took no action on the remaining 11. Upon contact by letter to seek updated information and to inquire if the complainants wished to pursue their complaints, only 3 complainants wished to pursue. 1 of those complaints had been referred to mediation and the complainant did not want to participate in mediation. The other 2 had not been seen by the board. They remain unresolved.

Final breakdown 2020:

Mediation – 0

Investigation – 0

Dismissed – 32

Held – 2

2021 Complaints:

Of the 19 complaints received that year, the board did not hear or see any of those complaints. Only 1 person wished to pursue but their complaint was from 2003 and therefore out of the jurisdiction.

Final breakdown 2021:

Dismissed – 19

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2022 Complaints:

PERA received 15 complaints from the online system. The complaints were initially reviewed by the director and relevant information requested from the police department to make a recommendation to the authority for follow up action. Of the 15 complaints 11 were recommended for dismissal, and the remaining 4 are held awaiting further information.

Final breakdown 2022:

Dismissed – 11

Held/Pending – 4

It is important to emphasize that complaints are limited to online submission at this time and there is currently no staff to conduct full investigations or hearings at this time in PERA's development.

PERA aims to go forward with hiring staff as the next prong on the action ladder as we near completion of the office space. Upon the hiring and training of staff, PERA aims to transition from its current limited investigative function to full service.

PERA has also coordinated with the legal department to contract outside counsel to do an independent audit of the police department's gang list process and appeal process in accordance with the Providence Community-Police Relations Act. This provision has not been adhered to in recent years and has been addressed by the current PERA administration. That process is currently ongoing. PERA has also reviewed the Gang Database policy, Body Worn Camera policy, new License Plate Reader policy, and made recommendations to the police department for changes. PERA will be requesting that the police department submit all future new and or amended policies to PERA for review 45 days prior to publishing. PERA is also currently operating without the aid of a city clerk to broadcast its monthly meeting via zoom or to record the minutes of said meetings.

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Budgetary expenditures

PERA has an approved FY2023 budget of \$709,349. The majority of which will be unspent this year due to the reestablishment of the organization. PERA has expended \$32,626 this year for office rent. \$5,000 for construction on the office. Has a request for \$42,750.60 for office furnishings. \$3,243 for training. PERA will have a large budget surplus this year due to a delay in hiring, training and limited operational expenses due to the issues previously documented in this report.

PERA has a forecasted budget request of \$729,313 for fiscal year 2024. PERA anticipates hiring 5 full time employees, the implementation of community training and education programs, associated costs for contracted legal assistance to conduct hearings, the implementation and maintenance of a community-based mediation program, normal operational costs associated with running an office, educational print materials, and advertising and marketing.

Finally, PERA is also tasked with making recommendations for reinvestment of funds from the police budget and or the office of the public safety commissioner² that would, if implemented, reallocate city funding from the Police Department Budget as a whole, and from the funds specifically allocated to the office of public safety commissioner, to municipal recreation, youth programming and employment opportunities. PERA is electing not to make any such recommendations at this time since it has not had the opportunity to thoroughly explore suitable programs for such reinvestment. PERA does intend to explore these options going forward as well as be involved in reviewing proposed police contracts as proscribed by ordinance³.

² Chapter 18 ½ Section 4 Providence Community-Police Relations Act sub section (i)(5)

³ Chapter 18 ½ section 4 Providence Community-Police Relations Act sub section (i)(6)



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Conclusion

External civilian police oversight is long overdue and can serve as a collaborative partner with police agencies to work towards the shared goal of fair and impartial policing for all people the police interact with regardless of race, gender, religion, socioeconomic status, sexuality, or any other identifying characteristic. The process of building and maintaining trust and credibility within the community requires transparency, accountability, constant communication and responsiveness to the needs of the community that is being served. PERA strives to serve as a nexus between the community and the police department to advance the creation and maintenance of that trust and credibility through these mechanisms. This is an exciting opportunity for PERA to be the example of what effective oversight can look like in Rhode Island. PERA commits through hard work and partnership to make the most of this opportunity so that Providence can serve as the example to all the other communities on how to effectively integrate external civilian oversight into their own communities to advance fair and impartial policing across the state.

S/Deborah Wray

Deborah Wray
PERA, Board Chair

S/Ferenc Karoly

Ferenc Karoly, Esq.
PERA, Executive Director