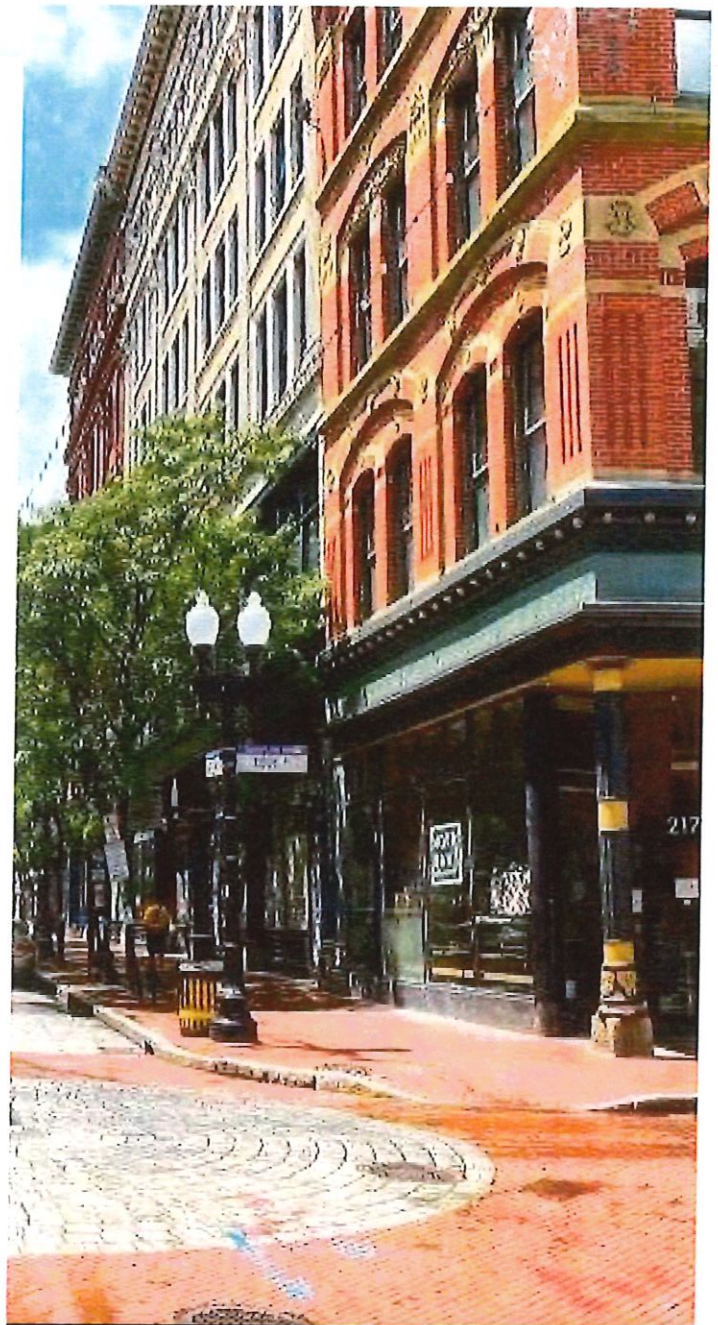


# ANNUAL REPORT 2023

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FEBRUARY 9

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THE PROVIDENCE EXTERNAL REVIEW  
AUTHORITY [PERA]

Susan DeRita      Ferenc Karoly, Esq.  
Chairwoman      Executive Director

IN CITY COUNCIL  
MAR 07 2024

READ  
WHEREUPON IT IS ORDERED THAT  
THE SAME BE RECEIVED.

*Jina L. Mastromarino* CLERK







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## Annual Overview

Last year was the deadliest year in policing in over a decade in the United States. Police across the country killed at least 1243 people in 2023. There were only 20 days in 2023 where the police did not kill someone.<sup>1</sup> Providence, while fortunately not high on the list of fatalities caused by police, did have fatal police shooting in September. On September 16, 2023, a police chase began in Burrillville resulting in an officer(s) from that municipality shooting into the vehicle during the chase. The chase continued into Providence where the driver proceeded to RI Hospital where he was shot and killed in his vehicle by the Providence Police Department. A teenage passenger of the vehicle was shot in the leg at some point during this encounter. The case remains under investigation by the Department of the Attorney General

The City of Providence is unique in the State of Rhode Island in that it created a civilian oversight body, the Providence External Review Authority (PERA), for the police department by ordinance in 2002.<sup>2</sup> PERA is the first and only civilian police oversight body in the State. While it is true that PERA is the designated civilian oversight body for the police department, it continues to face obstacles from within the city that hinder its ability to fulfill its oversight mandate. Chief among those obstacles is the inability to directly access police records.

PERA and the Office of Professional Responsibility (OPR) received several concurrent complaints in 2023. When this occurs, it is our practice to defer the matter to OPR and allow them to conclude their investigation. PERA then asks for the information and the outcome to review. Upon completion of the investigations by OPR in three of these cases, PERA reviewed the cases and did not concur with the outcome meted out by OPR. These cases are currently pending full investigation by PERA.

These discrepancies continue to highlight the importance of effective, fair, and objective police oversight. Many complaints are made directly to the police for review only to be dismissed without any objective oversight. This lack of transparency degrades the public's faith in the police department's ability to objectively hold themselves accountable. The result is a public that does not trust that complaints are being properly reviewed and that discipline and training is being properly administered. This concern



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has a basis in fact. There have been several complaints that PERA has been able to review where the Authority has referred the matters for full investigation specifically because they did not concur with the department's assessment of culpability or disagreed that the appropriate discipline or training was administered.

Currently for PERA to gain access to police records to investigate any complaint or review an OPR case, it must request the records it needs from the police department and rely on their sharing of information to review pending complaints. This poses several problems and challenges.

Primarily, PERA cannot be certain that they have received all the information relevant to a complaint. In fact, there has been instances where it was apparent from the information received in several cases that there was more relevant information in the possession of the police department that required additional requests to produce the evidence. For example, in one case, one police narrative and two videos were offered to PERA after requesting all relevant information. Upon review of the body worn camera (BWC) video, it was apparent that there had to be additional video available due to the number of officers on scene wearing BWCs. Upon further requests, additional video was provided. This was one of the cases where PERA did not concur with the department's outcome on their internal complaint. Due to this lack of direct access, PERA can never be certain they have all the information needed to review a complaint.

Another issue created by the lack of direct access is that individuals who come to PERA for assistance with their complaint, due to their fear of going to the Police Department directly, cannot remain anonymous to the police department because PERA must share their information to get any access to records for review. This creates a potential chilling effect on individuals who wish to complain about mistreatment but fear reprisal if identified as the complainants by the police department.

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<sup>1</sup> <https://mappingpoliceviolence.us/>

<sup>2</sup> Chapter 18 ½, Section 2 Providence External Review Authority





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Direct access of police records is one of the thirteen principles of police oversight recommended by the National Association of Civilian Oversight of Law Enforcement.<sup>3</sup>

There is a clear and simple solution to this significant problem. PERA has proposed to the City Council an amendment to the enabling ordinance that would grant PERA direct access to the department's records management systems and BWC system so that PERA can efficiently and thoroughly review complaints and audit completed complaints as is the norm for any auditing or oversight body. This is one of several key changes requested in the proposed ordinance amendment that will significantly improve PERA's ability to carry out its mandate of engaging in objective oversight of the police department. We hope that the City Council gets the opportunity to review and hopefully pass the proposed amendments soon.

PERA has also been working with the police department for over a year to finalize a disciplinary matrix as required by ordinance, to serve as a mutually agreeable template that indicates the level of offense and a range of appropriate discipline for said offenses. This document has been shared with the police department for review going back to the prior Chief of Police to the current Chief of Police and we still have not received feedback or approval of the document. This is a requirement under the ordinance for PERA to make recommendations of discipline upon completion of our investigations. A solution to this obstacle would be to remove the requirement of the matrix from the ordinance or for the administration to force the police department to comply with this requirement.

Despite the numerous obstacles and delays, PERA has made some significant progress. We have successfully established an office and hired staff. Upon the recent lifting of the hiring freeze set in place by the administration, PERA was able to conduct a search for a Lead Investigator and has selected a candidate that should be joining the office within

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<sup>3</sup> Unfettered access to the subject law enforcement agency's records is vitally important for effective civilian oversight. The ability to review all records relevant to an investigation or other matters within the scope of a civilian oversight agency's authority in a timely manner is essential to providing effective, informed, and fact-driven oversight. Similarly, agencies performing correctional oversight must have unfettered access to facilities and staff. Without timely and reliable access to department records, information, and facilities, oversight practitioners and volunteers cannot make decisions that meaningfully address areas of concern. <https://www.nacole.org/principles>





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the month. We are in the process of searching for a Policy Associate and a Community Liaison.

PERA has developed and began to implement a Community Outreach Plan<sup>4</sup> that includes community education programs centered around topics that include, constitutional rights, individual rights during a traffic stop, the complaint and compliment process, background on civilian oversight, information on the gang database appeals process, the Community Police Relations Act and other relevant topics intended to inform and educate the public to increase their understanding of their legal rights and improve police and community relations. PERA will be hosting trainings at our office and provide training remotely to groups as requested.

PERA held an open house community engagement event on October 26, 2023, from 2 pm to 7 pm to engage with the community, present the new office space and have them meet the Authority members and staff. Invitations were sent to the City Council, City Council staff, Mayor, Mayor's staff, community groups, constituent's, and local politicians. There was an excellent turnout, and we plan on having multiple open houses during the new year to augment our monthly meetings. We have also requested to attend City Council Ward meetings to further engage with the community.

We have partnered with the Center for Mediation & Collaboration Rhode Island to provide mediation training to community volunteers who will 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.

We have developed and continue to distribute informational literature to advance awareness of PERA and the services we provide.

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<sup>4</sup> Attached to this report as Exhibit A.



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We have reviewed numerous police policies and procedures and recommended changes that take community needs into consideration as opposed to the police “best practices” approach utilized by police accreditation committees. These recommendations were submitted to the Police Department for review back in July and October of 2023,<sup>5</sup> but we have not yet received any response from the Police Department as of the writing of this report.

We are currently procuring a Case Management System to provide the public with a transparency portal that will allow them to easily file complaints and compliments, track the status of their complaints, and search the database for information about all complaints received by PERA. This required submitting an RFP, reviewing and vetting of the bids received. The process is currently in the award stage and will be going to the Board of Contract and Supply in February 2024 for approval to award the contract to the winning bidder. After approval, implementation of the system will commence and is estimated to take two months for implementation.

We are currently updating our website to be more user friendly and provide access to the training material we have developed for the community. It will also serve as an access point to the new case management public portal.

We continue to remain engaged with other oversight agencies to stay abreast of the best practices. The Director and one of our new Authority members had the opportunity to attend the annual NACOLE conference in November 2023 and engage with oversight professionals from around the country. The conference provided training sessions, as well as seminars and studies on oversight practices around the country.

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. It was stalled by the departure of the

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<sup>5</sup> Attached to this report as Exhibit B.





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former Commissioner of Public Safety but has been reinitiated after meeting with the City Solicitor on September 11, 2023.

## COMPLAINTS

PERA received and reviewed 22 complaints in 2023.

COMPLAINT TYPE	#	DISMISSED	PENDING INVESTIGATION	PENDING
Disagrees with Police Action	3	2	0	1
Discourtesy	3	3	0	0
Dispatcher	1	1	0	0
Frivolous/no information	3	3	0	0
Harassment	4	2	0	2
Illegal arrest/excessive force	4	1	3	0
Improper release of records	1	1	0	0
Parking complaint	3	3	0	0

16 of the complaints were dismissed for the following reasons:

No Probable Cause	12
Lacks Sufficient information	3
Outside Jurisdiction	1
Untimely	0

The complaints that lacked sufficient information were dismissed because the complainants did not cooperate with requests for additional information and there was not enough initial information to follow up on. The complaint that was dismissed due to it being outside of PERA's jurisdiction was a complaint against the communications department. We referred the case to the Director of Communications and assisted in ensuring the case was properly addressed.

Three (3) cases were referred for full investigation and are pending, and three (3) cases were received in December 2023, which are pending completion of initial review.

The cases referred to full investigation all alleged illegal arrests. One of them includes use of excessive force.





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Finally, PERA is also tasked with making recommendations for reinvestment of funds from the police budget and or the office of the Public Safety Commissioner<sup>6</sup> 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 currently 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 being involved in reviewing proposed police contracts as set by the PCPRA ordinance<sup>7</sup>.

## 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, 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. The opportunity for PERA to be the example of what effective oversight can look like in Rhode Island remains intact but requires the assistance of the City Council to empower PERA to be able to effectively perform its oversight mission.

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<sup>6</sup> Chapter 18 ½ Section 4 Providence Community-Police Relations Act sub section (i)(5)

<sup>7</sup> Chapter 18 ½ section 4 Providence Community-Police Relations Act sub section (i)(6)



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## YTD 2023 BUDGETARY EXPENDITURES

*From the period covering January 1, 2023, to June 30, 2023 (FY23) PERA's expenditures a total sum of \$43,179.16, broken down into the following categories:*

Private Contractors: WB Mason

\$42,750.60 (WB Mason) Office furnishings for newly acquired office space.

Postage:

\$63.54

Office Supplies: Staples

\$365.02

*From the period of July 1, 2023, to December 1, 2023 (FY24) PERA's expenditures a total sum of \$46,222.11, broken down into the following categories:*

Rental of Land and Buildings:

\$40,920 (Office rental)

Dues & Subscriptions:

\$500 (Annual NACOLE membership)

Office Supplies:

\$2226.31 (WB Mason)

Training: \$731.25 (NACOLE)

Stationary: \$470.30 (Alliance Business Products)

Miscellaneous Expenses: \$1366.06 (ULINE, Pranzi Catering)

Postage: \$8.19





# EXHIBIT A







## Providence External Review Authority

### Community Outreach Plan

#### 1. Community Led Mediation Program

PERA will establish a mediation program to handle low level complaints against the Providence Police Department. Mediators will be selected from volunteer members from the community who will be trained in facilitative mediation by an established mediation training organization (like the Center for Mediation Rhode Island -CMCRI). PERA will sponsor the training and maintain a list of volunteer mediators to be called upon to facilitate mediation between members of the community and police officers accused of engaging in low level offenses, such as use of profanity, discourtesy, or disrespect, whenever the Authority refers a complaint to mediation. Participation in mediation will be voluntary. If a complainant decides they no longer want to participate in mediation, they will be able to withdraw from the process and the complaint will be referred to the Authority for follow-up action. Complaints that are successfully mediated will result in a dismissal of the complaint due to the informal resolution of the matter.

This program has great potential to address many of the complaints that come into PERA in a way that is beneficial to the community at large and can improve the relationship between the community and the police department. By allowing complainants to address the officers directly in a safe and impartial environment with an impartial third-party community member serving as mediator, the complainants can be heard in a meaningful way to express their dissatisfaction with the treatment they received. The officers have an opportunity to repair the damaged relationship and build trust and a better understanding of the impact of their interactions with community members.

#### Implementation strategy.

PERA will recruit volunteers for the mediation program through a campaign of public outreach through social media, engagement at community events, solicitation through our webpage, recruitment at council district meetings and word of mouth. Training will be provided dependent on volunteer numbers and availability. CMCRI can provide dedicated training for

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[www.providenceri.gov/PERA](http://www.providenceri.gov/PERA)





## Providence External Review Authority

PERA volunteers for a class of 9 or more volunteers or integrate them into their existing classes for groups less than 9.

### 2. Community Education programs

PERA plans to conduct public education programs for the benefit of the community covering the following topics:

First Amendment rights.

Fourth Amendment rights.

Individual rights during a police encounter.

Understanding the Police and PERA complaint process.

Rights under the Community – Police Relations Act.

Gang database appeals process.

Updates on new police initiatives/technologies.

Other topics of interest requested by the community.

PERA will produce in-house training materials to present to the community as well as engage with experts in these areas to keep the community informed about topics that can improve their understanding of their rights when dealing with the police, as well as improve the outcomes of police and citizen encounters. PERA hopes to increase public awareness in topics related to individual rights and freedoms so the public may better protect themselves in encounters with the police and be more willing to report incidents of misconduct and or abuse of authority. PERA has already engaged in public presentations at the City's Community Academy last year, and the RI Guardian's conference, but plans to greatly expand our outreach efforts going forward.

### Implementation strategy.

PERA plans to host meetings at its recently opened headquarters at 400 Westminster to provide training. The schedule will be posted on our website and social media channels once finalized and broadcasted through other city channels. PERA also intends to partner with other city departments and initiatives (like the city's community academy where we did a presentation last year) to present these topics. PERA will also seek to partner with Council members to present topics at Ward meetings and interface with the School Department to request

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## Providence External Review Authority

permission to present at the schools in the city. Requests to these partners are forthcoming in the next weeks.

### 3. Computer Case Management System

PERA plans to implement a comprehensive case management system with a public portal that will allow the public to easily file complaints online and access the status of their complaints as well as historic aggregated complaint data on the portal. The system will automatically update complainants about the receipt and status changes of their complaints via method of the complainants choosing (email, text, etc.). The system will also allow PERA to publish all its data in a transparent and easy to decipher manner on its public portal.

The system is designed to make the process of making complaints and tracking their progress easy and efficient. The public at large will be able to review updated PERA data in real time and not need to wait for regular reports to get a snapshot of what is transpiring. The system will also allow PERA to review complaint data over time in a more detailed manner that will allow analysis of trends in complaint reporting that could reveal issues with personnel, shifts, or geographic hotspots based on data analysis. This will provide the community a helpful tool in creating a more transparent look at where issues are most concentrated and allow PERA to guide the police department to improve policing practices and adequately address public concerns through accountability.

#### Implementation strategy.

PERA began the process of acquiring the case management system in June of 2023, after the offices were secured. The city has an extensive procurement process and in conjunction with the Information Technology Department, PERA vetted all preexisting city owned software solutions to implement this plan more quickly. None of the city owned software was suitable for the above requirements and an RFP was drafted and posted. The bid was opened in November of 2023 and several vendors submitted proposals. PERA is in the process of reviewing vendor proposals and has 3 demonstrations scheduled on December 12, 14, and 18 2023. At the conclusion of the demonstrations, if a suitable system meets the requirements the procurement process will continue to the next step and PERA will work with IT to implement the case management system with a target of the first quarter in 2024.



# EXHIBIT B







## Providence External Review Authority

July 21, 2023

Colonel Oscar Perez  
Chief of Police  
Providence Police Department  
325 Washington St.  
Providence, RI 02901

Dear Chief Perez,

At a recent meeting on July 20, 2023, the Providence External Review Authority, in accordance with §18 ½-2(b)(2) of the Code of Ordinances for the City of Providence, did review the following policies and procedures of the Providence Police Department and voted to recommend changes to said policies. The specific recommendations are appended to this notification as Attachment A.

Policy 100.02 Ethics and Limits of Authority

Policy 310.03 Oleoresin Capsicum Sprays (OC)

Policy 310.04 Conducted Electrical Weapons

Policy 320.02 Body-Worn Camera (BWC) Program

In addition to the specific policy recommendations, the Authority also voted to recommend that the police department provide any new or substantively changed police policy and or procedure to the Authority sixty (60) days prior to issuance to allow a reasonable time for the Authority to review said policies and make any recommendations for changes, prior to the issuance of the policy to the department. This allows for greater collaboration and efficiency in the operation of the police department by preventing the confusion of issuance policies and procedures that may

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## Providence External Review Authority

then need to be changed shortly after their issuance. By allowing the Authority the opportunity to review pending policies and procedures, the department will ensure that the community's interests and concerns are being covered from multiple sources. PERA is a valuable partner in policy review specifically because of its ability to review these policies through a different lens than the police department. Please provide an update on the implementation of these recommendations at your earliest convenience.

Please contact me at [fkaroly@providenceri.gov](mailto:fkaroly@providenceri.gov) or (401) 680-5792 if you have any questions. Thank you for your continued support and collaboration.

Kind regards,

*Ferenc Karoly*

Ferenc Karoly, Esq.

Executive Director

*Susan R. DeRita*

Susan DeRita

Chairwoman

Cc: Mayor Brett P. Smiley  
Council President Rachel Miller

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## ATTACHMENT A

### Policy Change Recommendations to PPD 7/20/23

#### Policy 320.02 Body-Worn Camera (BWC) Program

- I. (E) – BWC **should be kept on** while transporting prisoners within the building (Language should clearly indicate that body cams should be on while transporting individuals in custody in the building. Current language does not clearly mandate this).
- II. (A) – BWC should be turned on 30 sec. BEFORE arriving at call (BWC have a 30 second sound delay once activated. The delay often fails to capture critical communications related to complaints. Officers should activate the BWC prior to engaging with anyone at calls so the entire interaction is audio recorded as well).
- II. (C) – State consequences for not recording, interrupting, or terminating recording. (Policy should explicitly state the consequences of failing to record as required by policy).
- III. (A) – Audit procedures and audit results shall be provided to PERA monthly.
- V. (H) – PERA is to be added to the review of the BWC Program.

#### Policy 310.03 Oleoresin Capsicum Sprays (OC)

- III. (C) (4) – Shall not use OC spray against the elderly or children unless exceptional circumstances are present that pose an immediate threat of harm to any party and no reasonable alternative is available.

#### Policy 100.02 Ethics and Limits of Authority

- II. (A) (9) – Develop policy language regarding when to intervene when off duty. (Recent events have made it clear that this policy language needs to be more specific. i.e. officers off duty should not be able to create an exigency that they then use their status as officers to intervene in. Officer Lugo case outcome was significantly affected by current policy language).

#### Policy 310.04 Conducted Electrical Weapons

- IV. – Add section that states “Shall not use CEW against the elderly or children unless exceptional circumstances are present that pose an immediate threat of harm to any party and no reasonable alternative is available.”

A 60-day review period of any policy with substantive changes be provided to PERA prior to PPD issuance.







## Providence External Review Authority

November 1, 2023

Colonel Oscar Perez  
Chief of the Providence Police  
325 Washington Street  
Providence, Rhode Island 02903

*RE: PERA Board recommendations of Policy changes to Juvenile Operations Policy 370.01; Detainee processing and Detention Policy 390.01 and the Mentally Ill Person's Policy 330.17.*

Dear Colonel Perez:

During the PERA Board meeting on October 19, 2023, the Providence External Review Authority (PERA), in accordance with §18 ½-2(b)(2) of the Code of Ordinances for the City of Providence, did a review of the following policies and procedures of the Providence Police Department and voted to recommend changes to said policies. The specific recommendations are appended to this notification as *Attachment A*.

- *Policy 370.01: Juvenile Operations*
- *Policy 390.01: Detainee Processing and Detention*
- *Policy 330.17: Mentally Ill Persons*

Please provide an update on the implementation of these recommendations at your earliest convenience.

Please contact me at [fkaroly@providenceri.gov](mailto:fkaroly@providenceri.gov) or (401) 680-5792 if you have any questions. Thank you for your continued support and collaboration.

Kind Regards,

  
Ferenc Karoly, Esq.  
Executive Director

  
Susan DeRita  
Chairwoman

Cc: Mayor Brett P. Smiley  
Council President Rachel Miller

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## ATTACHMENT A

### Policy Change Recommendations to PPD 10/19/23

#### Policy 370.01 Juvenile Operations

In the definitions section beginning on page two, under the definition of Non-Offender: remove the word "unmarried" from this section (bullets 1-5).

Under section I. (12) add PERA to the recipient list for the annual report.

In the Operations and Procedures section:

II. (E) Add bullet point **c. Parent/Guardian must be notified at the time a minor is taken into custody.**

In Section III. Custody Methods and Considerations.

Amend section III (F)(3) to: Any child that apparently has been abused ~~can~~ **must** be checked by a licensed physician, in accordance with state statute, who may invoke a 72-hour emergency hold to protect the child ~~under~~ **until** a hearing can be held. (RIGL §40-11-5(a)).

Amend Section III (H) to: Parent(s) or guardian **must** ~~will~~ be notified **at the time** ~~as soon as possible when~~ a juvenile is taken into custody.

In Section IV. Interview/Interrogation/Formal Statements

Add sub section **F. No juvenile will be utilized as a witness without the permission of a parent or guardian.**

#### Policy 390.01 Detainee Processing and Detention

Amend Section XII (A) to: Only juveniles who have committed a felony or misdemeanor will be secured in a cell. Secured detention is not allowed in cases of suspicious persons (so called SPs) and mere violations. **Parents or guardians must be notified at the time a juvenile is taken into custody.**

#### Policy 330.17 Mentally Ill Persons

Add language about trauma-informed care to avoid re-traumatization. More information and training can be found at [www.samhsa.gov/gains-center](http://www.samhsa.gov/gains-center)

