



## Providence External Review Authority

June 17, 2020

Honorable Mayor Jorge Elorza  
Providence City Hall  
25 Dorrance Street  
Providence, Rhode Island 02903

Honorable Council President Sabina Matos  
Providence City Hall  
25 Dorrance Street  
Providence, Rhode Island 02903

### **Re: Providence External Review Authority (“PERA”) Bi-Annual Report, Summer 2020**

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

We at PERA join you and the global community in condemning not only the recent and traffic acts of Minneapolis, but also the systemic injustice that allowed it to happen.

Moreover, at PERA, we are strengthening our commitment civilian oversight and social justice by seizing this historic moment to call for sweeping and unparalleled reform.

As required by section (j) of Chapter 18 ½ - 2 of the Providence Code of Ordinances, this report will include a “report of [PERA’s] activities” including a summary of complaints received.

Additionally, this report will include two notable components:

- an academic analysis of traffic stops in Providence in 2016 conducted by the *Institute for Municipal and Regional Policy* based out of Central Connecticut State University, and
- a list of 9 recommendations for the City of Providence designed to address the systemic injustice that is at the root of concern for civilians in light of recent events.

We at PERA embrace our role and responsibility as the civilian police-oversight board for the City of Providence and welcome the opportunity to engage in the meaningful dialogue and process of answering the difficult questions facing our city regarding policing in the year 2020.

We look forward on continuing to work with you in building a more just Providence.

/s/ Nick Figueroa  
Nick Figueroa  
PERA, Board Chair

/s/ Jose F. Batista  
Jose F. Batista  
PERA, Executive Director

## **TABLE OF CONTENTS**

|  |                                   |
|--|-----------------------------------|
| Summary of Work Since Previous Report      | Page 3                            |
| Status of Complaints                       | Page 6                            |
| Operation Bussed Out                       | Page 8                            |
| PERA Recommendations re Systemic Injustice | Page 9                            |
| Appendix: CCSU Report                      | <i>Attached as separate files</i> |

## **I. Summary of Work Since Previous Report**

### ***A. Central Connecticut State University Research***

PERA published its most recent bi-annual report on October 30, 2019.

At our very next board meeting, November 20, 2019, we invited Mr. Kenneth Barone from the Central Connecticut State University to address the PERA board and present his academic research on traffic stop data in Providence for the year 2016.

Pursuant to the *Comprehensive Police Community Relations Act of 2015 (CCPRA)*<sup>1</sup>, the Rhode Island Department of Transportation (“RIDOT”) collected data on an approximate 237,000 traffic stops conducted in Rhode Island between the dates of January 1, 2016 and December 31, 2016. RIDOT subsequently retained the *Institute for Municipal and Regional Policy* (“IMRP”) based out of *Central Connecticut State University* (“CCSU”) to analyze the traffic stop data.

Mr. Kenneth Barone was the project manager for this analysis and provided PERA with the final 134-page report outlining the analysis published in March 2018, as well as a 99-page supplemental report published in December 2018. These reports have been attached hereto as Appendix (A) and (B), respectively. Last, the PowerPoint Presentation given to PERA by Mr. Barone on our November 20, 2019 meeting has been attached as Appendix (C).

Mr. Barone’s research utilized seven academic methods and over 40 different reviews to answer:

1. ***Do Racial & Ethnic disparities exist in traffic stop data?***
2. ***What are the factors contributing to racial and ethnic disparities in traffic stop data for each department?***

The study was based on approximately 9,787 traffic stops conducted by Providence Police Department between January 1, 2016 to December 31, 2016<sup>2</sup>. Some of the findings include:

- Black drivers in Providence were stopped in greater proportion to the localized residential population of black residents within each of the city’s 9 police patrol district<sup>3</sup>.
- 52% of all equipment or inspection related traffic stops took place in the three patrol districts with the highest concentration of people of color,<sup>4</sup> while white residents are more likely to be stopped for a more substantive basis, like hazardous driving.<sup>5</sup>
- In 2016, 587 out of the 9,787 traffic stops conducted in 2016 (6%) resulted in an arrest of either the driver or passenger. This is **twice** the state average on the same question<sup>6</sup>.

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<sup>1</sup> See R.I.G.L. § 31-21.2-1

<sup>2</sup> See Traffic Stop Data Analysis and Findings, 2016, *March 2018* (Page 5 of 134).

<sup>3</sup> See Traffic Stop Data Analysis and Findings, 2016, *Supplemental Report, Dec. 2018* (Page 60 of 99).

<sup>4</sup> See Traffic Stop Data Analysis and Findings, 2016, *Supplemental Report, Dec. 2018* (Page 66 of 99).

<sup>5</sup> See *Id.*

<sup>6</sup> See Traffic Stop Data Analysis and Findings, 2016, *Supplemental Report, Dec. 2018* (Page 68 of 99).

- Non-white drivers were almost twice as likely to be arrested (7%) as the result of a traffic stop when compared to white drivers (3.9%)<sup>7</sup>.

While the research was extensive, thorough and helpful, it was limited to data for 2016.

“It is difficult to draw meaningful conclusions about the disparity impacting black drivers at this time given the fact that we have only had the benefit of reviewing one year of traffic stop data. Additional conversations with the department have revealed other factors that need to be both quantified and considered in order to fully assess the size and consistency of the disparities<sup>8</sup>.”

PERA cannot emphasize the value and significance of having sound and impartial academic research available to help analyze the impact of policing in Providence. It is the hope of PERA that the City not only take advantage of any and all opportunities to engage in further academic research of its policing practices, but also proactively seek them out.

***B. Internal Development at PERA***

In January 2020, PERA submitted the following requested budget for FY2020-2021:

|  |               |
|--|---------------|
|  |               |
|  |               |
|  | \$ 95,723.00  |
|  | \$ 55,376.00  |
|  | \$ 109,645.00 |
|  | \$ 77,910.00  |
|  | \$ 50,000.00  |
|  | \$ 50,000.00  |
|  |               |
|  |               |
|  | \$ 103,289.47 |
|  | \$ 27,092.00  |
|  | \$ 3,386.54   |
|  | \$ 26,076.39  |
|  |               |
|  |               |
|  | \$ 1,500.00   |
|  | \$ 7,000.00   |
|  | \$ 15,000.00  |
|  | \$ 25,000.00  |
|  | \$ 15,000.00  |
|  | \$ 50,000.00  |
|  | \$ 5,000.00   |
|  |               |
|  |               |
|  |               |

As of the publishing of the report, the recommended allocation to PERA for FY2020-2021 is \$583,177.

<sup>7</sup> See *Id.*

<sup>8</sup> See Traffic Stop Data Analysis and Findings, 2016, *Supplemental Report, Dec. 2018* (Page 74 of 99).

While our initial budget request of approximately \$717,000.00 was ambitious, it was indicative of the demands placed on PERA in a world that had not yet seen the tragedies of this summer.

It is our anticipation that the need and work of PERA will grow faster than we originally anticipated. It is for that reason, PERA is again recommending the City to codify a minimum funding level for PERA that is ***not less than 2% of the Providence Police budget.***

For context, the most recent proposed PPD budget was approximately \$85,000,000, of which 2% would constitute a minimum funding level for PERA of \$1,700,000.00 for that fiscal year.

The majority of our budget, as most budgets across government, would go to hiring personnel to carry out our daily work. Additionally, as PERA continues to grow we will need more office space. Furthermore, PERA also anticipates needing to invest more funds in outreach, marketing, and technology need to accomplish the recommendations of the strategic plan we are pursuing.

At the moment, PERA has one full time employee and has retained two independent contractors who are professionals in the fields of mediation and investigation; two tasks at the very heart of the work of PERA.

With an increased budget, PERA can hire additional staff especially in the field of ***investigation*** and ***criminal justice police review.*** With new information, reports and research being published on criminal justice and police reform every day, the City would be served well by investing more in PERA with the specific purpose of bringing the best new ideas to Providence and helping implement those ideas.

### ***C. Future Developments at PERA***

Three projects that PERA has undertaken since November 2019 but not yet completed are:

- Allocating \$25,000 toward a strategic planning session
  - We have undergone one round of the RFP process and will begin another this summer in pursuit of the services of a local, social justice oriented strategic planner.
- Contracting with investigative software companies to bolster our ability to store our sensitive data securely, effectively and efficiently.
- Continue to build on our community outreach programming and public relations efforts
  - We have continued to build new relationships in the Providence community, developing a helpful pamphlet to share PERA's contact information as well as continuing to visit our schools and speak to young people about civil rights.
  - Additionally, as of June 2020, PERA has an official twitter account that will help facilitate dialogue with the community regarding civilian oversight.

## **II. Status of Complaints**

PERA received its first complaint in April of 2019.

As of October 30, 2019, PERA had received a total of 19, referring 10 to investigation, 4 for mediation, 4 for dismissal and 1 being held pursuant to pending federal litigation.

We received another 5 complaints in 2019 and thus far in 2020 have received another 6 complaints in 2020.

Our total tally for all 30 complaints received in all is now:

- Investigation - 12
- Mediation - 5
- Dismissed - 9
- Held in Abeyance/ – 3

Between July 2019 and March 2020, members of the PERA community (staff and personnel) met with the Commissioner of Public Safety as well as the Chief of Police on multiple occasions to discuss the legal and sensitive details surrounding how PERA would *mediations and investigations* in a way consistent with city ordinances i.e. a process of, for and by civilians.

Given, at times, the complex web of local, state and federal law that apply to the meaningful civilian oversight of law enforcement, it was important for all parties to be invested in setting up PERA to succeed and create a process that would be **not only effective but sustainable** over time and compliant with all applicable legal requirements.

From several meetings with the leadership of the police department were born related conversations (and meetings) with community advocates, city lawyers and police union (“FOP”).

While the road to creating an effective and sustainable civilian lead mediation and investigative process often felt long, difficult and complicated, it reached what appeared to be a conclusion on March 9, 2020. On that date, members from the PERA board met with the FOP over lunch to finalize the final details of the PERA investigations and mediations would soon begin.

The final meeting was productive leading to a point where PERA was prepared to submit its 12 investigations and 5 mediations to begin being formally conducted.

And then the Coronavirus struck.

While the PERA board has, like much of the world, adjusted to a new reality rooted in virtual meetings, the COVID-19 quarantine caused a brief interruption in what would have otherwise been the formal beginning of conducting mediations and investigations.

The PERA board has, during this time, engaged in continued dialogue with the Police Department about fulfilling our mutual duties via virtual methods. However, as of the filing of this bi-annual report, PERA has **not yet begun** to conduct the mediations and investigations relative to any of the complaints it has received.

PERA has, however, for the first time since being empaneled in April 2018, exercised its discretion under subsection (h)(1) and (h)(2) of Chapter 18 ½ - 2 of the Providence Code of Ordinances, designated an ***independent monitor*** to review two internal investigations being conducted by the Providence Police Department.

The first investigation PERA is monitoring involves allegations of a Providence police officer assaulting a man who was already handcuffed<sup>9</sup>.

The second investigation PERA is monitoring involves allegations of a Providence police officer discharging a “non-lethal projectile” resulting in the potentially permanent injury of a civilian<sup>10</sup>.

As of the submission of this bi-annual report, the PERA investigator Mr. Eugene Monteiro, has begun the process of conducting these reviews and has enjoyed the prompt and professional cooperation of the Internal Affairs Bureau.

Once the independent reviews of each case is complete, Mr. Monteiro will submit a final report to the PERA board, in compliance with all applicable laws.

Now that we are all becoming more experienced and efficient with virtual technology, PERA will begin to conduct independent investigations and mediations for the complaints it has received through this summer.

Of the 12 complaints referred to investigation: at least 6 involve allegations of ***warrantless searches***, 3 involve allegations of ***excessive force*** and 2 involve allegations of ***harassment*** of a civilian.

Of the 5 complaints referred to mediation, all 5 are based on incidents that involve allegations of a rude or discourteous police officer.

Of the 9 complaints that were ***dismissed***, at least 3 were complaints about matters ***not*** pertaining to police officers, and at least 2 complainants did not wish to proceed with the complaint.

The PERA board has and will continue to highlight the opportunity that we have through our **mediation process** to get to the root of misunderstandings (both factual and legal) that take place between the community and the police.

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<sup>9</sup> See <https://www.wpri.com/news/local-news/providence/providence-police-officer-charged-with-assaulting-man-in-handcuffs/>

<sup>10</sup> See <https://www.wpri.com/news/local-news/providence/driver-claims-he-was-injured-by-police-during-providence-riot/>

### **III. Operation Bussed Out**

In early March 2020, PERA became aware of an article published in The Appeal<sup>11</sup> discussing a recent operation conducted by the Providence Police Department.

Multiple members of the public as well as members of the PERA board expressed concerns regarding the operation, officially titled “Operation Bussed Out.”

While the originally scheduled PERA meetings for March and April were canceled due to COVID-19, PERA continued to look into this matter via conversations with members of the Providence Police Department. Ultimately, PERA was able to host its monthly meeting in May and included Operation Bussed Out on its agenda for that meeting.

At that board meeting, the PERA board discussed various concerns regarding Operation Bussed Out, chief among those concerns being (1) impact of the Operation on public health, (2) the tactics used during the Operation and (3) whether there existed any alternate means to achieve the same stated goal of the Operation – to rid Kennedy Plaza of drug dealing.

In the original plan for the March PERA board meeting (which was cancelled due to COVID-19), the police department was willing to send a representative to the board meeting to discuss the police department’s position on this Operation and to take questions from the board.

Instead, due to the quarantine, we hosted this dialogue in May 2020 *without* a representative from the Providence Police Department present.

PERA has made a note of this Operation however and does have concerns about the policies that govern this type of Operation.

PERA anticipates the hiring of additional personnel, particularly a professional policy analyst, who will help PERA identify potential problems with an Operation like the one in question here as well as propose solution towards to the same ends.

The dialogue between PERA and the Providence Police Department regarding this Operation is ongoing as of the filing of this bi-annual report.

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<sup>11</sup> <https://theappeal.org/undercover-providence-police-faked-withdrawal-symptoms-and-solicited-suboxone-from-people-with-prescriptions/>



#### **IV. PERA's Recommendations Re: Social Injustice**

PERA hereby respectfully submits to the Honorable Mayor and Honorable Members of the City Council the following nine (9) recommendations as a means to immediately and substantively address the demand for justice and reform facing Providence:

1. Endorse an official, independent and *civilian* review of the Providence Police Department "Use of Force" procedures that will ultimately issue a report identifying any and all opportunities to shift toward policies and procedures rooted in de-escalation;
2. Endorse an official, independent and *civilian* review of the Providence Police Department "Violent Crimes Task Force" that will ultimately issue a report identifying any and all opportunities to shift toward policies and procedures rooted in de-escalation;
3. Endorse an official, independent and *civilian* review of any and all "military equipment" obtained by the Providence Police Department over the last 20 years;
4. Endorse an official, independent and *civilian* review of, but not limited to, the materials rubric and lectures included in the "training academy" for Providence Police Department.
5. Endorse an official, independent and *civilian* review of any and all "disciplinary matrix" and/or any and all policies used by the Providence Police Department to determine the appropriate discipline for misconduct by Providence Police officers.
6. Codify a policy whereby the Internal Affairs Bureau *shall* inform PERA of *every* complaint of misconduct filed with the Bureau *as a part of a broader transition* to a *civilian led* oversight model and the appropriate reallocation of PPD funds to support it.
7. Send a joint letter to the Governor, Speaker and Senate President announcing your support for reforming the Law Enforcement Officer's Bill of Rights;
8. Codify a "*Duty to Intervene*" ordinance whereby Providence police officers who witness excessive force and/or serious misconduct by another Providence police officer will be statutorily required to intervene or shall face disciplinary action.
9. Amend the Providence Community Police Relations Act ("PCPRA") to reflect the following changes:
  - a. Reinstate the original name "Community Safety Act" ("CSA");
  - b. Equip PERA with the investigative tools (or, more colloquially, the "teeth") it needs to properly conduct independent civilian oversight of the Providence Police Department; such as autonomous subpoena ability,
  - c. Codify a minimum annual budget for PERA of *not less than 2%* of the Providence Police Department budget