Brett P. Smiley
Mayor

Colonel Oscar L. Perez
Chief of Police

Department of Public Safety, Police Department
"Building Pride in Providence"

September 9, 2025

Ferenc Karoly, Esq.
Executive Director
Providence External Review Authority
400 Westminster Street, Suites 201-202
Providence, Rhode Island 02903

Dear Director Karoly:

The Providence Police Department (PPD) is in receipt of your letter dated July 21, 2023, regarding the Providence External Review Authority's (PERA) proposed policy changes. Please find our responses to your recommendations outlined in the same order as is outlined in your letter.

General Order 320.02 Body Worn Camera (BWC) Program

PERA recommends that BWC be kept on while transporting prisoners within the building. This is already required by police department policy. See G.O. 320.02, Body-Worn Camera Program, pg. 5 ("Generally, BWCs shall be turned off when entering the Providence Police Public Safety Complex… Exceptions include but are not limited to: 1. Transporting prisoners within the building.")

PERA also recommends that BWC should be turned on 30 (thirty) seconds *before arriving at a call*. As you may or may not know, the thirty (30) second buffer is intended to capture critical evidence and exchanges *before* an officer even sees the need to activate his or her camera, thus providing a more complete picture of what led to the exchange that caused the activation of the camera in the first place.[1] Thus, the system itself contemplates the very scenario you are suggesting here, namely, capturing footage immediately before an officer sees the need to activate the device. To require officers to turn BWC on thirty (30) seconds before they arrive at a call is impractical. It is uncertain as to whether officers would know when they would be thirty (30) seconds away from arriving at a call. Furthermore, the PPD policy already includes language delineating when officers are to activate cameras that adequately allows for room for reasonable officer discretion in these circumstances, namely "as soon as practicable under the following circumstances: […] 2. All self-initiated stops and dispatched calls for service. See G.O. 320.02, Body-Worn Camera Program, pg. 6. The current policy lists other situations when BWC should be activated. Additionally, the policy in its current form allows a supervisor or the Office of Professional Responsibility (OPR), in utilizing their discretion and based on the policy, whether an officer should have activated the BWC sooner than he or she did. In short, a hard and fast rule of thirty (30) seconds will be likely difficult to comply with. This is the reason the cameras are always recording video and preserving such video for thirty (30) seconds before the "record" button is pressed.

[1] BWCs are always recording video footage and preserving it for thirty (30) seconds before the "record" button is pressed, therefore there will always be thirty seconds of video preserved before the camera is actually activated. This is not the case with audio, wherein it begins recording only when the "record" button is pressed.

PERA further recommends that "audit procedures and audit results shall be provided to PERA monthly." It is unclear what PERA is specifically seeking and whether the authority is requesting new audit procedures to be established or whether they are simply seeking results of any existing audits. Regardless, there is an "audit" or review process in the PPD policy on BWC conducted by supervisors. See G.O. 320.02, Body Worn Camera (BWC) Program, pg. 13. These reviews are randomized and if any violations of law or policy are found, they are to be provided to the next supervisor, OPR, or the Chief of Police depending on the nature of the infraction.

Finally, as it is related to the BWC program, PERA has requested that they be added to the "review of the BWC program." This is presumed to mean the bi-annual re-evaluation of the policy. Currently, however, PERA has the authority to at any time review and make recommendations to police department policy and procedures. See Providence Code of Ordinances §18 ½-2(k). Additionally, the re-evaluation date is included in the policy and PERA accordingly can submit its recommendations in advance of that re-evaluation date for consideration by the PPD.

General Order 310.03 Oleoresin Capsicum Sprays (OC)

PERA recommends that PPD "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." This revision could have the potential to complicate and cause officers to second guess the split-second decisions they often must make in the moment and could lead to dangerous consequences for the officers. The proposed revision is vague because there is no definition for "exceptional circumstances", nor any indication as to what makes a subject "elderly" or a "child." The current use of force policy correctly utilizes the Graham v. Connor objective reasonableness test applicable for all Fourth Amendment seizures. 490 US 386, 396 (1989). This addresses this concern adequately. For example, if someone appears to be a frail older person who could not harm a police officer during a confrontation, the objective reasonableness test would likely dictate to not utilize a degree of force tantamount to OC spray. In contrast, if a child is large, violent, and believed to have a weapon or the like, the objective reasonableness test would likely dictate a higher degree of force despite the fact that the subject may technically be a child. See generally, Use of Force, G.O. 300.01, issued April 18, 2023.

General Order 100.02 Ethics and Limits of Authority

PERA recommends in relation to the above policy that PPD should "develop policy language regarding when to intervene when off duty." The PPD already has such responsibilities for when an officer is off duty and such information is already included in the Rules and Regulations Part II, §202.2.

General Order 310.04 Conducted Electrical Weapons

PERA recommends that PPD add a section that states officers "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." This proposed revision could have the potential to complicate and cause officers to second guess the split-second decisions they often must make. The proposed revision is vague insofar as there is no definition for "exceptional circumstances", no indication as to what makes a subject "elderly" or a "child." Additionally, the current use of force policy puts forth the Graham v. Connor objective reasonableness test for Fourth Amendment seizures. This addresses this concern adequately, i.e., if someone appears to be a frail older person who could not harm a police officer during a confrontation, the objective reasonableness test would likely dictate to not utilize a degree of force tantamount to a CEW. In contrast, if a child is large, violent, and believed to have a weapon or the like, the objective reasonableness test would likely dictate a higher degree of force despite the fact that the subject may technically be a child. Conducted Electrical Weapons, G.O. 310.04, issued 2/1/21, pg. 2; See generally, Use of Force, G.O. 300.01, issued 4/18/23.

Furthermore, the policy already requires separate considerations for these very categories of individuals: "Alternative force techniques shall be considered in lieu of using a CEW when dealing with pregnant women, elderly persons, young children, and visibly frail persons, unless exigent circumstances warrant otherwise." Conducted Electrical Weapons, G.O. 310.04, issued 2/1/21, pg. 5.

Proposed Sixty (60) Day Review

Finally, and it appears this final recommendation applies to all police department issued policies, PERA additionally recommends a sixty (60) day review period of any policy with substantive changes be provided to PERA prior to PPD issuance. As stated above, PERA has the authority any time to make recommendations per ordinance, and therefore there is no need to provide PPD's recommended changes in advance. Furthermore, PERA's role is not to usurp the police department's management authority, but to supplement it and make recommendations. To allow PERA to weigh in before every instance when a policy is to be changed, some of which are minor and/or simply reissuances depending on the policy and circumstances, would create a role for PERA that was not intended or contemplated in the ordinance. All of the policies have re-evaluation dates, furthermore, and the PERA could track and submit changes on its own prior to reissuance. Also, it is conceivable the department would not fully know the changes, if any, sixty (60) days in advance of any reissue. This all could cause significant delays in getting policies reissued in a timely fashion.

Thank you for your attention to these matters.

Sincerely,

Colonel Oscar Perez
Chief of Police