



128 DORRANCE STREET, SUITE 220  
PROVIDENCE, RI 02903  
401.831.7171 (t)  
401.831.7175 (f)  
[www.riaclu.org](http://www.riaclu.org)

January 2, 2014

The Hon. Allan Fung  
Cranston City Hall  
869 Park Avenue  
Cranston, RI 02910

BY FAX AND MAIL

Dear Mayor Fung:

A number of Cranston residents have been in touch with us to complain about the apparent retaliation taken against two City Council members for their vote in November on a police union contract. Because this controversy raises significant First Amendment issues, and concomitant questions about potential abuse of police authority, we have been following the story with great interest. I am writing you to raise some concerns, and seek more information, about the City's investigation of this incident.

While we differ on your decision to have these allegations directly investigated internally, rather than independently, we assume you have no plans to reconsider that decision. In light of that fact, however, we do have questions about the thoroughness with which the outside investigator you have hired will be able to review what happened, and the level of transparency that will be maintained in reporting to the public on the results of these investigations.

The evidence gathered by Councilor Steve Stycos – that his and Councilor Archetto's districts were singled out for a parking ticket enforcement blitz shortly after voting against the police union contract – seems rather compelling. According to news reports, he was also provided information suggesting that this apparent retaliatory enforcement was not just the action of rogue street officers, but may have been ordered by a higher-ranking officer. It is therefore not surprising that there would be questions as to whether allegations of this level of seriousness should be left to an internal police department investigation. The appointment of an outside professional investigator merely to review the report that is ultimately prepared by the Department's Internal Affairs division is a far cry from an independent investigation.

While we do not wish to prejudge the depth of the investigation that will be conducted by the police department, an "independent" review of the department's investigation simply cannot provide the public anywhere near the same level of confidence that an actual independent investigation could. This concern is heightened by the ambiguous scope of, and apparent limits on, the outside investigator's assignment.

In your news release announcing Mr. Stephens's appointment, you make clear that the investigator's role will not be to conduct any sort of independent or additional investigation, but instead merely to "confirm that all facts and circumstances are examined thoroughly and professionally." Put another way, you state that his role will be to "review the IA report to ensure that it is complete, thorough and that its findings are supported by facts and that the facts in turn support its conclusions." But, to give just one example of the

severe limitations this imposes, it will be impossible for him to know whether all leads given to the Department were followed up if those leads are mentioned nowhere in the report that he is given to review.

In other words, while the findings of a report can indeed be supported by facts which lead to inevitable conclusions, that begs the question of whether all the relevant facts were relied upon and reported in the first place. If not, the findings are rather meaningless, as is their "review." Your news release fails to explain how this conundrum is expected to be addressed by the investigator. We therefore urge you to provide clarification as to how this "independent" review is designed to operate, and what information, if any, the investigator will be privy to beyond that provided in the police department's own report.

That leads to another concern. Under all these circumstances, the greatest possible transparency in this investigation and its review and conclusions is crucial. However, in the Providence Journal article announcing your hiring of Mr. Stephens, your chief of staff mentioned that the Law Enforcement Officers' Bill of Rights (LEOBR) could limit the information that is released as a result of the investigation. This caveat, combined with the concern expressed above, is quite troubling.

If the goal of the internal investigation and the oversight review is to get to the truth of what happened, the public must feel confident that, whatever the results, a "thorough and professional" investigation has indeed been conducted. It can do so only if the greatest level of transparency is offered. Thus, in addition to ensuring that the independent investigator has direct access to all relevant information, not just what is included in the department's own report, it is imperative that the public is also given access to the information leading to the department and investigator's conclusions.

Of course, we understand that if disciplinary proceedings ensue against any officers, the LEOBR limits the public statements that the City may be able to issue about them. But, except perhaps for the redaction of certain names, nothing should prevent full disclosure of your investigator's review and findings. It would be unfortunate indeed if this investigation ended up being shrouded in secrecy, for that inevitably will undermine any confidence in the process that it was designed to promote. We would therefore appreciate your clarifying Mr. Lopez's remarks and advising what your plans are in providing to the public the results of Mr. Stephens's investigation and the information underlying those results.

Any clarification you could provide on these two important matters would be greatly appreciated. Thank you in advance for your attention to this, and I look forward to hearing back from you about it.

Sincerely,

Steven Brown  
Executive Director

cc: Cranston City Council