

January 22, 2015

Commissioner Steven Paré
Department of Public Safety
Public Safety Complex
325 Washington Street
Providence, RI 02903

BY FAX AND MAIL

Dear Commissioner Paré:

We are writing to express our organization's deep concern with video recordings taken by the Providence Police Department, particularly of peaceful public demonstrations and protests. On no fewer than five occasions over the last two years, Providence police officers have engaged in video recording of these activities on both cell phones and video cameras. These incidents are particularly concerning because the Providence Police Department maintains no policies or procedures whatsoever regarding the collection or use of these recordings, even though community members have reached out to you personally on at least one occasion to request such policies. We are therefore asking for an immediate halt to the recording of public demonstrations, and the creation of policies regarding the Providence Police Department's use of video recording devices, including cell phones.

Over the past two years, the ACLU of Rhode Island has been made aware of at least five recordings made by Providence police officers during the following events:

- A video recording taken by police officers on at least one cell phone during a public protest march between the Khmer Buddhist Center and the Public Safety Complex on January 17, 2013;
- A video recording taken via video camera by two non-uniformed officers, identified by members of the public as Providence police officers, during a press conference at the State House announcing the introduction of the Comprehensive Racial Profiling Prevention Act on February 4, 2013;
- Video recordings taken by police officers on at least one cell phone during a solidarity rally by the Unitarian Universalist church at the Renaissance Hotel on June 26th, 2014;
- Video recordings taken by police officers by both cell phones and a video camera during a march from Central High School to the Providence Public Safety Complex on November 25th, 2014; and
- Video recordings taken by police officers by both cell phones and a video camera during a demonstration that took place at or near the intersection of Westminster Street and Empire Street on December 5, 2014.

In 2013, Martha Yager from the American Friends Service Committee attempted to obtain copies of the first two videos listed, as well as the policies and procedures surrounding such recordings, but was told that no such documents existed. In addition, your office was contacted by members of the community for an explanation as to why the State House press conference was filmed, but no satisfactory answer was ever provided. In December 2014, our office requested policies and procedures from the Providence Police Department regarding video recording by police officers, but we learned, in no change from what Ms. Yager had been told two years earlier, that no applicable policies existed.

The recording of any peaceful demonstration by police officers raises serious First Amendment concerns, particularly when that recording takes place absent any articulable reasonable suspicion that criminal activity is taking place. That the Department has been quoted as saying that the November 25th and December 5th recordings were taken “in the event we need it for evidence” only heightens these concerns. For hours at a time, Rhode Islanders peacefully exercised their First Amendment rights. Yet the Providence Police Department viewed each of these individuals as potential criminals, and placed them under surveillance. Demonstrators have since reported to the ACLU that they felt intimidated by these recordings and apprehensive about their potential use.

Further, examination of the videos taken during the November 25th and December 5th demonstrations undermines the Department’s rationale for engaging in this troubling activity. Last month, in response to an Access to Public Records Act request, the ACLU obtained two DVDs with 143 video clips taken by the Department over these two demonstrations. (Although demonstrators report videos taken by officers on at least three separate cell phones, we believe we received only those videos taken by a dedicated video camera.) Although each demonstration lasted for several hours, the majority of clips are only a few seconds long; the lengthiest clips are under four and a half minutes long. In fact, although six people were arrested at the November 25th demonstration, only two of those arrests are caught on camera and, then, seemingly by accident. Little footage exists of protestors shutting down the freeway or engaging in anything else that could have warranted police attention.

Even more troubling, we were alarmed to find that many of the video clips arbitrarily focus in on faces of individuals in the crowd, particularly people taking their own pictures or video recordings of the protests, including journalists. Instead of gathering evidence of any wrongdoing, police repeatedly focused on the faces of individuals documenting the demonstrations. It is no wonder, then, that protesters feel the true purpose of these recordings was to intimidate them and those who recorded the demonstrations.

That this kind of surveillance is conducted is troubling; that it has been conducted repeatedly, without oversight or public accountability even after the need for such guidance had been raised with the Department, is unacceptable.

We therefore ask for an immediate halt to such recordings, and the creation and adoption of clear policies and procedures regarding the taking and use of video recordings by Providence police officers, including via cell phone and video camera, whether those devices are personal or department-issued. We also request a response to the basis for engaging in these sporadic and questionable recordings in the past, and particularly these last two months.

While our emphasis in this letter has been on police recording of First Amendment activities, we know of at least one recent occasion where police used a cell phone to record a house raid, and attempts to obtain a copy of that recording were futile. Any policies on police cell phone and video recording use should address those situations as well.

Thank you in advance for your prompt attention to this issue.

Sincerely,

Steven Brown
Executive Director

Hillary Davis
Policy Associate

cc: Chief Hugh Clements, Jr.
The Hon. Jorge Elorza
Providence City Council