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December 15, 2016

The Hon. Luis Aponte, President  
Providence City Council  
City Hall  
25 Dorrance Street  
Providence, RI 02903

Dear Council President Aponte:

Earlier this week, the Providence Board of Contract and Supply recommended the expenditure of hundreds of thousands of dollars for the purchase of body cameras for Providence police officers. When this purchase request is brought before the City Council for consideration, we urge you and the rest of the Council to reject it unless and until the police department or the Council adopts strong standards in place for their use.

The ACLU has had correspondence with the police department and various city officials on this issue for well over a year. It has been our position that police body cameras have the ability to provide a helpful layer of transparency and accountability in police-community relations – if proper policies are in place. Unfortunately, they are not. The PPD's current policy would allow the public to be kept in the dark if a troubling incident of police misuse of force were to be captured on these cameras. The policy also, in our opinion, is not sufficiently precise in making sure that encounters will be captured on tape from beginning to end. We question the expenditure of so much taxpayer money if, ultimately, the purchase is unlikely to promote trust in the community.

I have enclosed for your review a copy of my most recent correspondence with Chief Clements about this matter. Whether adopted through language in the proposed Community Safety Act or as a separate ordinance or policy, we strongly encourage members of the Council to withhold support for the purchase of police body cameras until these critical issues of transparency and accountability are clearly, fully and properly addressed.

Thank you in advance for considering our views.

Sincerely,  
  
Steven Brown  
Executive Director

Enclosure

cc: Providence City Council  
The Hon. Jorge Elorza  
Commissioner Steven Pare  
Col. Hugh Clements, Jr.  
Jeffrey Dana



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November 7, 2016

Col. Hugh Clements, Jr.  
Providence Police Department  
325 Washington Street  
Providence, RI 02903

Dear Chief Clements:

Over the course of more than a year, our office has written you a number of letters addressing issues surrounding the use of police body cameras. Now that you have indicated that your police department plans on equipping all its officers with such cameras, the concerns we have raised about the department's policies governing their use take on great urgency.

I will not take up your time to repeat all of the issues we have raised in our past letters, the focus of which have been to encourage a police department policy that will promote both transparency and accountability with the use of this new technology. But with the increasingly imminent purchase of body cameras, there is one concern in particular that we feel a need to reemphasize – and that is the lack of any clear assurance that body camera footage will be released in appropriate circumstances. (A second prominent concern we have also routinely raised, but will not repeat here, concerns the circumstances in which an officer must ensure that his or her camera is activated.)

The greatest benefit of body cameras to the public is that of transparency in policing – a benefit that is denied to the public if the Providence Police Department can choose to deny access to these videos in circumstances warranting public scrutiny. We fully recognize that in most routine encounters, privacy interests are likely to outweigh any public interest in releasing body camera footage. However, it is imperative, particularly in light of the controversy surrounding release of footage in other municipalities using body cameras, that any policy clearly allow for the release to the public, without delay, of footage that captures use of force incidents or similar controversial encounters with members of the public.

By essentially being silent on the matter, implementation of the department's current policy will default to the Access to Public Records Act's guidance. However, we fear that the Act's exemption for law enforcement records that "could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings" will be used by the department as a default mechanism to routinely deny the public access to body camera records relating to controversial or highly-publicized police encounters. R.I.G.L. 38-

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2-2(4)(D)(a). This would be a terrible mistake, and would undermine the goal of accountability that we presume underlies the decision to purchase the cameras. While APRA allows the release of records even when otherwise capable of exemption, leaving that discretion about when to release tapes of contested police encounters completely up to the department will not provide solace to the community legitimately seeking transparency in civilian-police encounters.

To put it into more concrete terms: When one examines some of the major police shootings across the country that were recorded in recent years – Oscar Grant, Eric Garner, Laquan McDonald, Tamir Rice, Eric Harris, Walter Scott, and Alton Sterling, to name just a handful – all of those recordings, if captured by Providence police body cameras, could potentially be withheld from scrutiny under APRA. The fact that police would be able to make a colorable argument that the footage could remain secret in some of the most widely-publicized national incidents demonstrates a serious flaw in the policy that must be corrected.

We therefore urge you to revise the policy, before the cameras are provided to the force, to address this critical issue of transparency. Thank you once again for your time and attention to this important issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Steven Brown", with a stylized flourish at the end.

Steven Brown  
Executive Director

cc: The Hon. Jorge Elorza  
Commissioner Steven Paré