

**COMMENTS ON PROPOSED AMENDMENTS TO RHODE ISLAND STATE POLICE  
RULES AND REGULATIONS FOR SWORN MEMBERS  
270-RICR-10-00-1  
January 27, 2023**

The ACLU of Rhode Island appreciates the opportunity to provide testimony on these draft regulations which address the rules and regulations for sworn members of the Rhode Island State Police. Though we take no comprehensive position on these proposed regulations, we wish to briefly comment on one discrete section dealing with the filming of Division personnel.

Section 1.5(O)(3) proposes that “except as permitted by the Superintendent as part of a criminal or internal investigation, Division members shall not audio or visually record any other Division personnel without their knowledge”. This prohibition includes the use of “personal or Division issued recording devices and cellular telephones.” While this section is likely intended to preserve the privacy of Division members, we are concerned that it conflicts with other important laws and regulations, and particularly the regulations governing body-worn camera (BWC) use and the state’s whistleblower protection law.

State regulations covering the BWC program require the activation of a BWC under a number of circumstances, including, but not limited to, calls for service or assisting another officer in the performance of law enforcement activities. The regulations further allow an officer to activate their BWC in circumstances where “the BWC Officer believes an encounter with a member of the public has escalated and become confrontational” or “during any other contact with a member of the public or performance of official duties, if the BWC Officer reasonably believes that recording would enhance police transparency, increase public trust, or preserve factual representations of the interaction.” (270-RICR-60-00-2.5.8)

We believe that the proposed Section 1.5(O)(3) could, in many circumstances, clash with the provisions for the activation of BWCs under current law. If, for example, one officer is assisting another with a call that they believe is escalating and should be recorded, but they don’t inform the other officer, this could violate the proposed provision. To give another example, an officer concerned about misconduct by a fellow officer in the performance of their duties and who wished to record their actions with the goal of “enhancing police transparency” could be punished for doing so. To ensure that appropriate BWC use is exempted from its prohibition, we therefore urge that this section be amended to read: “Except **when recorded in accordance with laws or regulations governing body worn cameras or** as permitted by the Superintendent as part of a criminal or internal investigation ...”

Failure to make such an amendment could also run afoul of the Rhode Island Whistleblowers’ Protection Act, R.I.G.L. §28-50-1 et seq. If an officer reports a fellow officer’s illegal actions through a lawful BWC recording, any discipline of the reporting officer for violating Section 1.5(O)(3) would, we submit, be suspect under that Act.

Thank you in advance for your consideration of these comments. If the suggestion we have made is not adopted, we request, pursuant to R.I.G.L. §42-35-2.6, a statement of the reasons for not accepting these arguments.

Submitted by: Hannah Stern, Policy Associate