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June 5, 2025

Council President Rachel Miller
Providence City Council
25 Dorrance Street
Providence, RI 02903

VIA EMAIL

Dear Council President Miller:

On tonight's City Council agenda is the introduction of an ordinance being proposed by you to revise the Declaration of Policy in the City's noise ordinance to bar its applicability to "conduct stemming directly from known, organized, or impromptu acts of striking workers." We understand that the ordinance is in direct response to the noise citations that have been issued to some individuals who have been protesting outside of Butler Hospital over working conditions there.

As you know from a letter that the ACLU sent Police Chief Perez last month, and which I am also enclosing for reference with this letter, we share your concerns about the issuance of these tickets. However, we respectfully request that you withdraw this proposed ordinance because we believe it is clearly unconstitutional. Instead, we urge you and the council to consider alternative methods for addressing the police department's questionable enforcement of the noise control ordinance in this ongoing labor dispute.

A United States Supreme Court decision from decades ago is almost directly on point in striking down a very similar ordinance as a violation of the Constitution's Equal Protection Clause. In *Police Department of City of Chicago v. Mosley*, 408 U.S. 92 (1972), the Court ruled unconstitutional a city ordinance which prohibited all picketing within 150 feet of a school, except for picketing of any school involved in a labor dispute.

In declaring the law unconstitutional, the Court concluded that an ordinance that "describes impermissible picketing not in terms of time, place, and manner, but in terms of subject matter...is never permitted." *Id.* at 99. Put another way, "if peaceful labor picketing is permitted, there is no justification for prohibiting all non-labor picketing." *Id.* at 100. So too here. An ordinance allowing striking workers to make noise that others cannot, based solely on the reason the noise is being made and the status of the people making it, would clearly run afoul of the *Mosley* decision.

Having said that, we continue to believe, as per our letter last month to Chief Perez, that the citations that have been issued in this labor dispute are problematic and unlawful. We agree with you about the apparent selective nature of the enforcement of the ordinance,

and we would encourage the Council to demand information from the police department about the manner in which it is being administered.

We also believe it would be useful for the Council to investigate whether police, as they have done in this instance, routinely present those cited for violating this ordinance with false information about the fines that can be imposed against them. This aspect of the dispute remains deeply troubling to us and warrants examination. To the best of our knowledge, the citations have not been dropped despite their misleading nature, as we explained in our letter to Chief Perez.

Thank you for your consideration of our views, and I would be happy to answer any questions you have about them. We appreciate your interest in ensuring the City's noise ordinance is applied in a fair and equitable manner and in a way that does not infringe on the exercise of First Amendment rights.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Brown", with a stylized, flowing script.

Steven Brown
Executive Director

cc: Providence City Council
Mayor Brett Smiley
Police Chief Oscar Perez
Jeff Dana, City Solicitor

Enclosure



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May 23, 2025

Col. Oscar Perez
Chief of Police
Providence Police Department
325 Washington Street
Providence, RI 02903

Dear Col. Perez:

Our office has received a number of inquiries from individuals who have been participants in the highly publicized protests taking place outside of Butler Hospital, raising concerns about the police department's response to those protests. I am writing to you in response to one specific aspect of these concerns: the citations that have been issued to some people for violations of the City's noise ordinance. Because these tickets provide clearly inaccurate and misleading information, I write to ask that you rescind any such tickets that have been issued.

I have attached for your reference a copy of one such ticket. As you will see, the person was cited for violating a noise ordinance provision dealing with the use of sound amplification equipment, Section 16-105. In the space indicating the fine associated with the citation, the officer has indicated that the fine is \$500. The inclusion of this amount is significant because the back of the citation advises recipients that if the fine is listed, they can avoid the necessity of a court hearing by paying that amount.

The problem is that the \$500 figure is simply wrong. Under the penalty provisions of the noise ordinance, Section 16-106, the fine for a first violation, if the person does not seek to contest a ticket, is \$200. A fine for a second violation is \$300. If a person contests the citation, the ordinance gives a court the authority to issue a fine of *up to* \$500. Whether to impose that maximum penalty is, of course, a matter for the court, not a police officer, to decide. In other words, there is no basis for an officer to be indicating that the fine for a noise violation is \$500.

As a result of this clearly misleading information, it is possible that a person, wishing to avoid a court hearing, might either pay this erroneously high figure of \$500 or else decide to contest the ticket in court based on the incorrect size of the fine they have been told they must pay.

Because both these options are misleading, we ask that you rescind any tickets that have been issued to protesters this past week if they contain this incorrect fine information. We would also ask that you take the time at an upcoming roll call to make sure officers are aware of the actual penalties for noise violations and, just as importantly, for any other violations for which they issue

citations. In light of this situation, we fear there may be other civil violations where police are similarly providing inaccurate information about the penalties.

I would appreciate your prompt attention to this matter, and look forward to hearing back from you about it. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Brown". The signature is fluid and cursive, with the first name "Steven" and last name "Brown" clearly distinguishable.

Steven Brown
Executive Director

cc: Jeff Dana, City Solicitor
Rachel Miller, City Council President

Enclosure

SUMMONS # MC 075721

☐ POLICE / ☒ ENVIRONMENTAL

CITY OF PROVIDENCE UNIVERSAL MUNICIPAL COURT SUMMONS

THE UNDERSIGNED OFFICER STATES THAT:

ON:

MONTH DAY YEAR TIME

LOCATION:

AT (roads, street address, waterway):

LAST NAME

SEX JUV

FIRST NAME

DOB

ADDRESS

CITY

STATE ZIP CODE

OPERATORS LICENSE NUMBER

STATE

DID UNLAWFULLY (CAUSE TO BE) OPERATE(D) A VESSEL / MOTOR VEHICLE:

REG. NUMBER YEAR STATE PASS ☐ COMM ☐ MAKE TYPE CLR DOORS
OTHER

SERIAL NUMBER / VIN

OWNED BY (LAST) (FIRST) (INITIAL)

ADDRESS (NUMBER) (STREET) (CITY) (STATE) (ZIP)

ROAD COND. VESSEL DOCUMENTATION ZONED SPEED ACTUAL SPEED TYPE
TYPE:

OFFENSES

ORDINANCE #

1. use of sound
2. Amplifying equipment
- 3.

16-105

COMMENTS

ISSUED same violation
on 5-15-25

CCR

SIGNATURE ISSUING OFFICER

ID NUMBER

CCR 25-37138

TOW COMPANY

FINE

OFFENDER'S SIGNATURE

\$ 500.00

DATE

REFUSED

5-20-25

OFFENDER