

August 4, 2003

The Hon. Donald Carcieri
Governor
State House
Providence, RI 02903

BY FAX AND MAIL

Dear Governor Carcieri:

On behalf of the R.I. Civil Rights Roundtable, R.I. Affirmative Action Professionals, the Providence Human Relations Commission, and the R.I. Affiliate, American Civil Liberties Union, we write to express our extreme dismay over your reaction to the State Police internal review of the Narragansett Indian smoke shop raid. Your news release on Friday “thanked Superintendent Pare for his prompt and thorough response,” and called the review “a starting point” for the work of the independent panel you have appointed to investigate the matter in more detail. Frankly, we are puzzled as to how you could find the report “thorough” since it completely fails to answer one of the questions you specifically asked that it address. We are also stymied as to how you can remain silent when the report leaves no doubt that, contrary to your instructions that the police withdraw should they encounter resistance, police entered the tribal land fully expecting, and prepared for, resistance, and continued with the raid upon meeting resistance. We call upon you to issue a public statement addressing these troubling issues.

When you first announced initiation of this review on July 15th, you indicated that the Superintendent would be asked to respond to two issues: “to ascertain why my instructions [for the police to withdraw if any resistance were encountered] were not followed and, who if anyone, is responsible” and, secondly, “to determine whether the conduct of the state police officers was proper under the circumstances.”

Unfortunately, nothing in the report directly addresses your first question at all. The report does not explain why your instructions were not followed. Nor does anybody take responsibility for failing to follow those instructions. To the contrary, the report seeks to create the clearly erroneous impression that state officials were abiding by your directions even as it makes abundantly apparent that they were ignoring your directive. Even more disturbing, the report also leaves no doubt that state officials were well aware that going onto tribal land to execute a search warrant would likely result in some type of confrontation, and that the state police were prepared for one. After all, when police make a conscious decision to utilize a “Quick Response Team,” a “group of troopers specifically trained in crowd and riot control,” it is somewhat disingenuous to feign surprise at the melee that erupted at the smoke shop.

Your insistence that you wanted nobody to get hurt – as sincere as that insistence may have been – simply cannot be reconciled with the information documented in the report about the Tribe’s likely resistance should the police seek to forcibly enter tribal land. Perhaps the contradiction is best exemplified by one sentence in the report: “The Colonel emphasized to Major Leyden that Governor Carcieri did not want anyone

injured, and that should the situation become violent and out of control, the state police withdraw and reassess.” Talking about withdrawal from a “violent and out of control” situation is hardly consistent with a plan to prevent any injuries from occurring in the first place.

But in numerous places, the report *again and again* emphasizes the state’s awareness that some type of resistance was likely should a raid be conducted. We can do no better than quote directly from the report itself:

On July 13, “Sgt. Hayden contacted his confidential source and *was advised that the Tribe would resist* and not cooperate with any action by the State Police at the smoke shop, but would not use deadly force.”

On the day of the raid, July 14, state officials met and discussed the “past history between the State police and Narragansett Tribe. . . *It was suggested by Captain Messier that the state police utilize the Division’s Quick Response team . . . a group of troopers specifically trained in crowd and riot control.*”

“*Should there be any resistance and subsequent arrests*, the subject(s) would have to be transported from the scene. It was determined that the State Police bus would be utilized for this purpose.”

“Major Leyden . . . stressed that the Governor and Colonel did not want anyone to be injured over the sale of illegal cigarettes. He went on to state that *the potential existed for the scene to become unruly* . . . The Major based [this] comment on information . . . that *Chief Matthew Thomas*, while being interviewed on a local radio talk show, *stated that the state police would be met with violence* should they step on tribal land.”

The notion that the state police were prepared to immediately withdraw upon meeting resistance is also explicitly belied by the rest of the report. In providing a blow-by-blow account of the raid itself, the report makes clear that as resistance was encountered, state police, rather than withdraw, continued to proceed with the raid, even as the resistance got stronger. Again, we quote directly from the report:

“As soon as state police members entered the parking lot, they were confronted with varying levels of resistance, including pushing, shoving and grabbing. . . .

“Verbal and physical resistance escalated as the State Police moved toward the smoke shop.

“As troopers approached the entrance to the smoke shop, the tribal members’ resistance escalated to a level of physical assault. . . .”

In sum, the report you requested from the state police fails to take any responsibility for its failure to withdraw, while purporting to acknowledge and abide by your order to that effect. And the bulk of the report, rather than demonstrating an attempt to prevent a confrontation, shows that police were well aware from the beginning that a confrontation would likely occur. Once it did, police, in their own words, continued to proceed with the raid. Surely these blatant inconsistencies deserve a response, not just from an independent panel a few months hence, but from you, now.

Revelation of these facts makes all the more disturbing and regrettable your decision to proceed with the raid rather than wait to seek relief through the judicial system – something you ended up doing a day later anyway. But that is past. We do not, however, believe you can sit quietly by and accept a report which flies in the face of what you explicitly requested from the state police – both before the raid and for purposes of the report itself.

We urge you to publicly address these concerns at your earliest opportunity.

Sincerely,

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