



Providence External Review Authority

November 9, 2020

Commissioner Steven M. Pare
Providence Public Safety Complex
325 Washington Street
Providence, RI 02903

Re: Response to Oct. 28 Letter in re Gonsalves Investigation

Dear Commissioner Pare:

I am in receipt of your letter dated October 28, 2020 and am grateful for your time on this matter. Similarly, I am grateful to you for meeting with me at the Public Safety Complex to discuss this investigation for over an hour on Tuesday afternoon, October 27, 2020.

I will begin my response by clearly stating, *yes*, PERA will accept and engage with any and all efforts made by your office to provide PERA with information on the Gonsalves investigation. I believe the PERA investigator, Mr. Eugene Monteiro, has and will continue to be in communication with Major Oscar Perez to this end.

On a separate note, I deeply lament that your office believes "it is not practical nor feasible" to make PERA an equal partner in this investigation.

I will continue to advocate to city leaders to make PERA an equal partner in this investigation and to, moreover, amend any and all relevant statutes as to clarify and protect the unique and investigative authority entrusted to PERA by the people of Providence via their representatives on the City Council.

I want to rebut two specific assertions made in your letter.

First, you are attempting to define "internal investigation," as it relates to subsection (h) of the PERA ordinance¹ as meaning investigations in which *only* the Providence Police Department is involved. Stated another way, according to your interpretation, anytime the Providence Police asks another agency to assist in an investigation, the legal authority of PERA would dissolve.

It is difficult to describe this interpretation with any other word except *disingenuous*.

¹ Chapter 18 ½ -2 of the City of Providence Code of Ordinances.

As I have stated in many of our conversations, PERA exists for a reason.

When judges engage in the act of statutory interpretation, as your office is seeking to do here, a judge will reflect on the history, context and legislative goal of a statute in order to interpret it accurately. Based on that practice, let us consider the origin and context of the PERA ordinance.

The work of PERA is deeply rooted in the history of our city. The original PERA board was empaneled after the tragic killing of Sgt. Cornel Young Jr. in the year 2000. Furthermore, the work of civilian oversight in the City of Providence traces back to the 1970's when the late Mr. Michael Van Leestan lead a group of African-American activist to successfully sue the City of Providence on the basis of civil rights violations by the Providence Police Department.

Indeed, this lawsuit gave rise to a *consent decree*, which formed the foundation of what would later become the work of civilian oversight.

How, then, can your office justify an interpretation of the PERA ordinance that *excludes* civilian oversight in a case that is as critical, relevant and high-profile as that of the investigation into the matter involving Mr. Jahmal Gonsalves?

I can appreciate that your office is willing to provide PERA with *some* information regarding this case. My specific contention, so as not to be misinterpreted, is that while you believe you are providing information that is above and beyond your legal responsibility, I am asserting that the information you are "voluntarily" providing us has not yet satisfied your legal responsibility.

This is not a simple "disagreement" between us as to what the statute means. This is a deliberate choice by your office to exercise your authority in a way that is inconsistent with what city law attempts to accomplish via the PERA statute as well as via the Providence Community Police Relations Act ("PCPRA").

The second point that I will rebut can be found on page 2 of your letter, alleging that I suspect and believe your office does "not want PERA to know certain facts or circumstances that may not be favorable to the Providence Police Department."

I do not allege your office or your judgment of intentionally and maliciously hiding facts from PERA or the public. However, your "intent" is not what is at issue here. The reality is that my "[s]uspicion and belief" that your office may not provide PERA or the public with the full story of this investigation is not without precedent.

Indeed, my 20-month tenure as executive director of PERA has provided me with at least two important examples in which your office conveyed information to PERA and/or the public that was *materially incomplete*.

On July 31, 2018, you testified during a PERA board meeting and told the PERA board there was **no** gang database maintained by the police department. The public learned, via public record request in May 2019, that indeed there **was** still a gang database and that it had been active since at least December 2018. Moreover, this database **still**, over 18 months after the implementation of the PCPRA, did not conform with city law, resulting in a federal lawsuit and unnecessary expense to the taxpayers of our city.

More relevant to the investigation at hand, earlier this year, your office informed the public and the media of an incident that took place on April 19, 2020 whereby officer Sergeant Joseph Hanley "punched" or "assaulted" a man in handcuffs.

PERA learned of this incident at the same time the public learned of it via an article published on WPRI and, for the first time, exercised its authority to review this investigation via our own independent investigator. Our investigators report² revealed details and facts about the incident that were deeply troubling and completely undisclosed by your office.


You may allege a legal justification for not providing more details about this incident but the very fact that we disagree so strongly on this issue is evidence that the public should be involved and have a say in what happens in its own city and its own police department.

More specifically, the people of Providence deserve to have a say in how the public is policed.

It is for all of the reasons and more that yes, I have and will continue to demand that PERA be an **equal partner** in this investigation, such that there shall be no daylight between any information that is known and available to your office and mine.

In conclusion, I appreciate the cooperation you are willing to offer and I fully intend to continue to advocate for the City of Providence to comply with the relevant laws and live up to its repeated promise of transparency and accountability.

Respectfully submitted,



José F. Batista, Esq.
Executive Director, PERA

Sent via electronic mail only
cc: Chief of Police, Hugh Clements
Major Oscar Perez
Mayor Jorge Elorza
City Council President Sabina Matos
Providence City Council
PERA Board

² <https://www.providenceri.gov/wp-content/uploads/2020/10/PERA-Review-re-April-19-Investigation.pdf>