

## MEMORANDUM

**TO: INTERESTED PARTIES**  
**FROM: ACCESS/RI AND AFFILIATED ORGANIZATIONS**  
**DATE: MAY 10, 2024**

### **HOW THE LEOBOR BILLS THAT HAVE PASSED THE HOUSE (H7263A and S2096A) TAKE A STEP BACKWARDS IN TRANSPARENCY**

Until it was discussed on the House floor, a provision in the companion LEOBOR bills approved by the House yesterday had received little attention. However, if enacted, this provision will require police departments to keep secret certain body-worn camera footage that otherwise could be sought under the Access to Public Records Act (APRA), with the effect of significantly impacting the public's right to know.

This language was not in the bill that passed the Senate. It was in the original House bill and is contained in both Sub A versions that the House has passed. It appears on Page 4, lines 25-29, and deals with a modified "gag rule" on police chiefs.

Specifically, this section provides that a police chief "*shall be prohibited from releasing any video evidence . . . about or concerning an incident or matter of public interest involving [a police officer]*" if it relates to summary suspensions imposed for undefined "minor" violations of departmental rules. In other words, this section establishes an absolute ban on public access to body camera footage whenever a "minor" violation of department rules is involved, even if the footage would have previously been accessible under APRA.

What is a minor violation? It's unclear. One could argue it is any violation that is not subject to 14 days of summary suspension (a narrow list of serious misconduct found on Page 10, lines 12-19). During the debate in the House, the floor manager explained that it was any conduct that was not a criminal offense. But whichever way it is defined, and whether intentional or not, it creates a gaping hole in police accountability and transparency. Here are three escalating examples:

- An officer is alleged to have been disrespectful to, or used inappropriate language with, a member of the public during an encounter. This would be a "minor" violation of police rules, so the public would never be able to see the footage to confirm (or deny) what the victim has alleged.

- A person complains he was struck by a police officer. The officer did not turn on his body camera footage until the end of the incident, so no abuse is captured on tape. The officer is charged with a "minor" violation of failing to turn on his camera. The public would never be able to see the footage that, by inference, might lend credence to the victim's allegations based on the timing when the officer turned the camera on.

- A person alleges that police officers used excessive force against him in effectuating an arrest. Reviewing the body camera footage, the chief concludes that the force used did not rise to the level of a criminal assault but that the arrest should have been handled more professionally. Again, the footage would be *required* to be kept secret under this provision.

It is deeply troubling and sadly ironic that, as a result of this provision, a bill designed to promote greater police transparency does the opposite. Unlike LEOBOR, police body worn cameras are a fairly new feature of policing in Rhode Island. Prohibiting the release of a wide swath of video sets a troubling precedent and undermines the very purpose of having the cameras.

We therefore urge in the strongest possible terms that the Senate amend the bills sent to it by the House by **deleting on Page 4, line 26 the words “from releasing any video evidence, or”**. Otherwise, an extremely important mechanism for holding the police accountable when they engage in “minor” violations of conduct will be lost, and questionable police conduct will be forever blocked off from any public scrutiny even though it previously might have been accessible through APRA.

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