

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

STEVEN BROWN, Executive Director of the
RHODE ISLAND AFFILIATE, AMERICAN
CIVIL LIBERTIES UNION; and the RHODE ISLAND
AFFILIATE, AMERICAN CIVIL LIBERTIES
UNION

Plaintiffs

vs.

COL. DEAN ESSERMAN In His Capacity as Chief
of Police of the City of Providence and STEPHEN
NAPOLITANO In His Capacity as Treasurer of the
City of Providence

Defendants

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COMPLAINT

1. Plaintiff Steven Brown (“Brown”) is a Rhode Island resident and the Executive Director of the Rhode Island Affiliate, American Civil Liberties Union.

2. Plaintiff the Rhode Island Affiliate, American Civil Liberties Union (“RIACLU”) is a Rhode Island non-profit corporation dedicated to preserving the civil liberties of all citizens and organized under the laws of the State of Rhode Island.

3. Defendant Col. Dean Esserman (“Esserman”) is the Chief of the Providence Police Department, and is sued in that official capacity. Defendant Esserman is the custodian or chief administrative officer who has the custody or control of the public records of the Providence Police Department.

4. Defendant Stephen Napolitano is the Treasurer of the City of Providence, and is sued in that official capacity.

5. On or about August 9, 2007, Plaintiffs submitted a written request to Defendant Esserman and the Providence Police Department requesting certain public

records. The requested public records are as follows:

any and all policies, procedures, protocols, guidelines or similar documents that your Department has relating to the use of video surveillance cameras in public locations in the City of Providence. This request includes, but is not limited to, policies that address such issues as posting requirements that surveillance is occurring, and tape access and retention standards.

A copy of the Plaintiffs' letter is attached hereto as Exhibit A.

6. Records requested in Plaintiffs' letter of August 9, 2007 are public records and are owned, maintained and controlled by the Providence Police Department and Defendant Esserman.

7. Not having heard any response from Defendant Esserman within the time prescribed by Rhode Island General Laws §38-2-7(a), Plaintiffs again contacted defendant Esserman on August 24, 2007, and inquired about the status of their request.

A copy of that letter is attached hereto as Exhibit B.

8. To date, there has been no response to either of Plaintiffs' requests.

9. Pursuant to Rhode Island General Laws §38-2-7(b), failure to respond to a request for public records within ten (10) business days is deemed a denial of the request.

10. On or about August 28, 2007, while Plaintiffs' current request for public records was pending, Defendant Esserman issued a press release indicating that video surveillance cameras are being used within the City of Providence, specifically, the Chad Brown Housing Community. A copy of that release is attached hereto as Exhibit C.

Count I

11. Plaintiffs reallege paragraphs 1 through 10 as though fully alleged herein.

12. Defendants' refusal to respond to Plaintiffs' requests is the equivalent of a denial of access to the public records.

13. The refusal by Defendants to make the requested records available for inspection:

- a. Violates the rights of Plaintiffs and the public under Access to Public Records Act in General Laws § 38-2-1 *et seq.*;
- b. Violates the rights of Plaintiffs under the Constitution of the United States and the Constitution of Rhode Island; and
- c. Violates the rights of Plaintiffs at common law.

WHEREFORE, Plaintiffs request that this Court:

- a. Declare that Plaintiffs are entitled to access to the requested records pursuant to the Access to Public Records Act, the United States Constitution and the Rhode Island Constitution and common law;
- b. Issue such orders incident to the foregoing as may be necessary to command the Defendants to make available Plaintiffs' requested records;
- c. Impose fines and penalties as provided for in Rhode Island Gen. Laws § 38-2-1 *et seq.*; and
- d. Award Plaintiffs their costs including attorney fees, and issue such other further relief as this court may deem necessary.

Plaintiffs,
Steven Brown, et al.,

By their Attorneys,

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Dated: _____