

Police Department

For the items examined in this study, the school departments and city and town clerks came quite close to full compliance with statutory requirements. There is room for improvement, but compliance is the prevailing practice. This is not the case with the police. Compliance is the exception, not the rule. The police complied with only 35 percent of the requests included in the compliance rating. This percentage would be under 25 percent if the request for police brutality reports were included.

This widespread failure to implement the law is not surprising given the political history of the statute. The police opposed the original Open Records Act in 1979. Many departments have resisted implementation ever since. (See generally, Mike Stanton, "Access to Arrest Records Limited," *Providence Journal-Bulletin*, August 5, 1994). After repeated complaints from the American Civil Liberties Union, Attorney General Pine sent a letter to all Rhode Island police departments three years ago reminding them that the minimum they must allow the public to inspect upon request is "records reflecting the initial arrest of an adult, including the name, address and age of the adult arrested, the place of arrest, the name of the arresting officer and the charge brought against the arrestee" (Bruce Landis, "Police Maintain Veil of Secrecy, Despite Open Records," *Providence Journal-Bulletin*, March 30, 1997: A-12).

These findings are also consistent with a survey of access to police records conducted in 1996-97 by Professor Karen Bordeleau, a former managing editor of the *Woonsocket Call* who currently teaches journalism at the University of Rhode Island. Professor Bordeleau assigned students to write stories using police records across the state. Only a few departments complied with the law, "everybody else ran into some difficulty," she said. "I would say that 75 percent of the students had difficulty, and half some serious difficulties." (Landis, 1997).

While the police were unlikely to provide access to the documents requested, they were more than twice as likely than the city clerks or school department clerks to ask for identification or for a reason for the request. Police officers asked the researchers for identification in all but three towns, Warwick, New Shoreham and Jamestown. In contrast, 27 city and town clerks never asked for identification. Only in Newport and Burrillville did the city/town clerk ask for identification all of the time. Twenty-two police departments asked for identification all of the time.

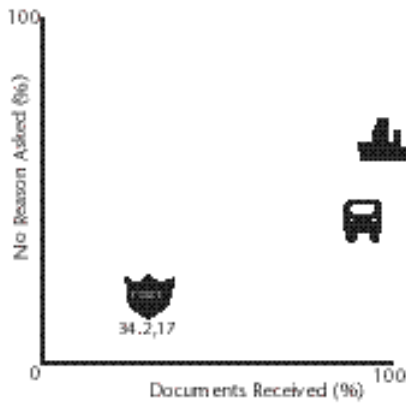
The police were also far less courteous than either the city/town clerks or the school departments. Six police departments received a rating of very discourteous; not a single city/town clerk and only one school department (Pawtucket) was rated so poorly. In some police departments "inquisitiveness" bordered on intimidation and harassment (see, e.g., the narratives for Burrillville, Hopkinton, and Smithfield). Only the Central Falls,

Police Brutality Reports

The third item requested from police departments was the most controversial -- recent police brutality reports — but the request was crafted in order to fit the established case law in Rhode Island. The research protocol specifically indicated that redacted copies of those with names blacked out would be acceptable. The first Rhode Island Supreme Court case to interpret the Access to Public Records Act of 1979 specifically held that these documents are not exempt from disclosure under the act *The Rake v. Gorodetsky*, 425 A. 2d 1144 (1982). A recent Superior Court decision in Providence is even more expansive, holding that "the plaintiff is entitled to all the [police brutality complaints] it sought, without redaction of any names" (*Direct Action for Rights and Equality v. Gannon* [C.A. No. 95-2474], slip opinion at 16). That decision is on appeal, however, and its enforcement has been stayed pending appeal.

It was expected that the request for police brutality reports would be met with resistance. Given *The Rake* decision, however, this seemed an ideal test of whether the law serves its purpose: to insure the right to access to documents that officials might otherwise be inclined to conceal. *(continued)*

Comparison of Departments



New Shoreham and Tiverton police departments received an overall rating of very courteous. In contrast, the city and town clerks received this rating in 27 municipalities.

Despite these trends of a high degree of inquisitiveness and a low degree of legal compliance a handful of departments stand out to the contrary. Seven departments fulfilled both of the requests used to calculate overall compliance: Cumberland, East Providence, Middletown, North Kingstown, New Shoreham, South Kingstown and West Greenwich. At the same time, 27 departments provided us no documents whatsoever. Only Central Falls, New Shoreham and Tiverton’s police departments received an overall rating of very courteous.

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Not a single police department in Rhode Island complied with this request. Five departments responded that there were no complaints on file. It is difficult to know what to make of that response. Until recently, the Westerly Police Department apparently told potential complainants that it “did not accept” such complaints. The Department was eventually instructed to develop such a procedure. In response to the request in this study, the officer in Westerly told the researcher that she “wasn’t supposed to release them.” Making the claim more plausible, however, the five police departments that made this claim are all quite small: Foster, East Greenwich, Little Compton, Jamestown, and Glocester. This item was excluded from the overall compliance rating because cases like these would have to be excluded, destroying

the uniformity of the audit and hence the comparability of the overall ratings.

In the remaining jurisdictions, some researchers encountered considerable runaround that could be interpreted as a denial, others were treated so badly after asking for arrest reports that they never had the opportunity to ask for brutality reports. But at least a dozen department flatly denied the request — in direct contradiction to the holding in *The Rake*. Some departments indicated that the request was denied on policy grounds, that such reports “are not public records” (see e.g. the narratives for Barrington, Burrillville, Cranston, and Narragansett). Since the request was carefully tailored to meet the holding in *The Rake* case, the policy of these departments clearly contradicts Rhode Island law. (See Appendix B.)