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# OPEN OR SHUT?

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ACCESS TO PUBLIC INFORMATION  
IN RHODE ISLAND'S CITIES AND TOWNS

### Statement about Authorship

This study was designed and written by fifteen students from Brown University, working under the supervision of Professor Ross Cheit. The fieldwork was conducted by the Brown students and by volunteers who were recruited from almost every city and town in Rhode Island. Most of the volunteers are members of Common Cause/Rhode Island.

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## INTRODUCTION

### *THE RIGHT OF OPENNESS IN A DEMOCRACY*

The accessibility of public records is of paramount importance in a democratic society. Citizens are entitled to view records that affect their taxes, safety, municipal government, children's education, or any other aspect of their public or private life. Citizens have a fundamental right to be apprised of the process and content of decisions made on their behalf. Any interference with this right prevents citizens from being involved in and aware of their government, and can lead to a weakening of their trust in the government. As Rhode Island law states, "It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy" (R.I.G.L. 42-46-1).

The Rhode Island Access to Public Records Act, commonly known as the Open Records Law, was originally enacted in 1979. Rhode Island was the 49th state to enact such a law. By ensuring public access to documents such as initial arrest reports, financial settlements of municipal lawsuits, and important information dealing with public education, the Open Records Law and Open Meetings Law empower citizens, ultimately making government more accountable. The Open Records Law and Open Meetings Law are integrally important to our political process and should be regarded as beneficial monitoring devices.

Regarding issues of secrecy and closed government, Supreme Court Justice Louis Brandeis put it best, remarking, "Sunlight is the most powerful of all disinfectants" (Freund, *The Supreme Court of the United States* (1949), p. 61).

### *LAST YEAR'S STUDY: ACCESS TO PUBLIC RECORDS*

The original study was conducted last year by student researchers from Brown University and the University of Rhode Island. Prior to the study, *Access to Public Records: An Audit of Rhode Island's Cities and Towns*, complaints filed with the Attorney General and direct actions in Superior Court were the primary ways in which municipalities' compliance with the Open Records Law and Open Meetings Law was made known. Access to Public Records examined city and town clerks, school departments, and police departments for compliance with

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**"Supreme Court Justice Louis Brandeis put it best, remarking, 'Sunlight is the most powerful of all disinfectants.'"**

## INTRODUCTION

the Open Records Law and Open Meetings Law. The results were varied, and in some instances, troublesome. City and town clerks fulfilled 100% of the requests for the agendas and minutes of city or town council meetings and the city or town budget. School departments were asked to provide agendas and minutes of recent school committee meetings, district budgets, teacher contracts, and policy manuals. They fulfilled 94% of the requests. However, when school committee minutes were evaluated for compliance with the Open Meetings Law, the results were less heartening. About one-quarter of the school committees were not in compliance. The results of the police segment of the study were the most disappointing. Sixty five percent of the requests were rejected.

After the study was released, many municipal officials pledged to improve their practices. Cumberland Police Chief Anthony declared, "I can tell you right now, as far as access and policy goes, this police department is going to comply 100%" (John Castellucci, "Records Survey Scorned by Some," *Providence Journal*, March 18, 1998, C3). In Coventry, Town Administrator Marc Frobel declared that he would review "practices with the police and solicitor so if we are audited again, we will come up much better" (C. Eugene Emery, Jr., "Study Finds Most Records Available, but Blocks Remain," *Providence Journal*, March 18, 1998). We wanted to find out whether or not the cities and towns of Rhode Island increased their adherence to the Open Records Law.

### *WHAT WE REQUESTED AND WHY*

In the fall of 1998, fifteen Brown University students, under the guidance of Professor Ross Cheit, and with the support of the A. Alfred Taubman Center, designed Rhode Island's second statewide Open Records and Open Meetings study. We felt that another evaluation was merited, as many city and town officials studied last year promised that more attention would be paid to the Open Records Law. Furthermore, in July 1998, the Open Records Law and the Open Meeting Law was amended and strengthened. This provided the opportunity to examine new provisions in both laws. The study is divided into three components: police, municipal legal claims, and school districts.

Each section included requests for documents that are clearly public under the Open Records Law and Open Meetings Law. Three initial arrest reports were requested from Rhode Island's police departments. The financial terms of the settlements of two lawsuits brought against

each municipal government were requested from Rhode Island's cities and towns. Blank teacher evaluation forms and professional development information were requested from Rhode Island school departments. Also, school committee minutes were analyzed and school committee chairpersons were interviewed to determine compliance with provisions in the Open Meetings Law.

*Police Departments*

Police departments are entrusted with tremendous authority over individuals' lives. To ensure that the police operate properly and do not abuse their various roles, citizens have a right to check their power. The inspection of initial arrest reports and police logs is one method of monitoring the police.

Rhode Island police departments were evaluated by three requests for specific initial arrest reports. The first initial arrest report was requested via letters from volunteers, who were recruited from across the state to assist with data collection for this study. The second and third initial arrest reports were requested via walk-in visits by volunteers and students, respectively.

In July of 1998, the Rhode Island General Assembly clarified the Open Records Law by adding the word "reports" to the portion that related to police records. The statute now reads, "Records relating to management and direction of a law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public" (R.I.G.L. 38-2-2 (4)(D)). This change codified the requirement that initial arrest reports be made available to the public under the Open Records Law.

*Municipal Legal Claims*

Citizens have a right to know the amount of money paid by their local government in the settlement of lawsuits. Financial settlements of lawsuits in which municipalities are defendants are ultimately paid by residents of the city or town, often through a taxpayer-financed insurance organization, the Rhode Island Interlocal Risk Management Trust.

The municipal legal claims component evaluated compliance by requesting the financial settlements of cases in which the municipality was listed as a defendant. Two letters, each requesting the financial terms of the settlement of a certain case, were sent to each city or town by the volunteers assisting with our study.

The municipal legal claims section of the report is

**Volunteers & Common Cause**

For the dual purpose of simulating the conditions that citizens might face when requesting information, and preserving the integrity of the study, volunteers, many of whom were affiliated with Common Cause, were recruited to assist with the data collection portion of the study. We screened the volunteers to ensure that they had no personal or professional conflicts with the study.

The volunteers worked closely with the students by writing letters and telephoning municipal officials. The volunteers also participated with the walk-in visits, allowing us to compare variables such as age with compliance.

Common Cause is a nonprofit organization with a stated mission to promote open, ethical, accountable, and effective government. Formed in 1970 as a "nationwide, independent, nonpartisan organization for Americans who want to help in the rebuilding of the nation," today Common Cause members number over 250,000.

Common Cause of Rhode Island is presently working on four major issues of local, state, and national significance; freedom of information, separation of powers, campaign finance reform, and reapportionment. Members and staff of Common Cause research, draft, and advocate legislation and policies to address these concerns.

## INTRODUCTION

### Open Records Law

The stated purpose of the Rhode Island Open Records Law is to "facilitate public access to public records" (R.I.G.L. 38-2-1). All state and local agencies and public bodies are required to comply with the Open Records Law. The law was amended in 1998 to clarify and strengthen the original 1979 Access to Public Records Act. After debate, the bill was passed and signed into law by the governor in July of 1998.

The Open Records Law applies to any state or local government body "which exercises governmental functions," as well as any person or entity acting on behalf of the public agency" (R.I.G.L. 38-2-2 (1)). The law defines "public records" as those "maintained by any public body, whether required by law or not," and those "made or received pursuant to law or ordinance in connection with the transaction of official business by an agency" (R.I.G.L. 38-2-3, 38-2-2 (4)).

Records from public bodies shall not be withheld "based on the purpose for which the records are sought" (R.I.G.L. 38-2-3 (h)). In other words, even if a public official does not like the reason why a person seeks a public record, he or she may not withhold it.

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firmly based upon the Open Records Law. Given that most cases were settled before 1998 and may not be covered under the newly amended law, it was decided that compliance would be measured using the pre-1998 version of the law which stated, "records reflecting the financial settlement by public bodies of any legal claims against a governmental entity shall be deemed public records" (R.I.G.L. 38-2-14). (The amended law strikes the word financial, making the entire settlement agreement a public record.)

### *School Districts*

Several compelling reasons exist to examine school districts. Policies which affect children in the public school system should be subject to public scrutiny. Given the importance of the quality of teachers, concerned citizens and parents are interested in professional development and teacher evaluation policies. Also, since school districts consume a large portion of a municipality's tax revenues, it is important that they be accountable to taxpayers.

To check school districts' compliance with the Open Records Law, blank teacher evaluation forms and information on professional development were requested. Volunteers telephoned the schools to request the information.

The Open Records Law states that records "maintained by any public body, whether required by law or not" shall be open to the public unless they are specifically exempted in the law (R.I.G.L. 38-2-3). While an evaluation of a specific teacher clearly is not a public record, as the law states that "... information in personnel files maintained to hire, evaluate, promote, or discipline any employee of a public body," professional development policies and blank teacher evaluation forms are not exempt, and therefore are considered public information (R.I.G.L. 38-2-2 (4)(A)).

School districts were also evaluated for compliance with the Open Meetings Law. Some issues discussed by school committees are done so in closed (executive) sessions, away from public scrutiny. Executive sessions serve an important purpose for school committees, allowing them to discuss juvenile records and other sensitive information behind closed doors. The law requires that "A meeting closed to the public shall be limited to matters allowed to be exempted from discussion at open meetings by 42-46-5" (R.I.G.L. 42-46-4). The committee must specify the nature of business to be discussed in executive session (R.I.G.L. 42-46-4). The law also stipulates



as of July, 1998, that "all votes taken in executive session shall be disclosed" (R.I.G.L. 42-46-4).

According to the law, "The minutes of a closed session shall be made available at the next regularly scheduled meeting unless the body votes to keep the minutes closed" (R.I.G.L. 42-46-7 (c)). The law does not stipulate whether the vote to seal the minutes is to be taken in open or closed session, and it never requires that the closed session minutes be either sealed or open, leaving a great deal of room for interpretation.

School committees were evaluated on compliance with the Open Meetings Law in three ways: whether the minutes cite the law and the reason for recessing into executive session; whether executive session votes are disclosed; and if, how, and where executive minutes are sealed. Compliance was measured by analyzing four to six months of school committee minutes and by conducting interviews about committees' use of executive session with the school committee chairperson for each district.

## LIMITATIONS

Several unavoidable limitations of this study raise issues about the generalizability of the results. First, in many instances, we dealt with only one or two officials in each municipal agency; the results of those observations may not characterize the entire department or office.

The study was also limited by the number of observations we could make in a limited period of time. We felt that if researchers requested more than three initial arrest reports, police departments may have become aware of being studied. In fact, even with only two requests per student researcher, several departments questioned whether the researchers were conducting another open records study. Student researchers made multiple visits to various departments, while the volunteers generally made only a single in-person request, which allowed the students to become more acquainted with the document requisition process. The average citizen might not know who to ask for records and what terminology to use.

The municipal legal claims component was limited to two mailed requests. We initially planned to use three observations, but preliminary research made it apparent that not all towns contained three cases that were suitable for this study. Also, since this component of the study was conducted entirely by mail, time was an issue. Because we were limited in the amount of weeks we had to complete our fieldwork, we could not send out many requests. Finally, since several cities and towns employ the same

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The statute defines denial as "failure to comply with a request to inspect or copy the public records within the ten (10) business day period" (R.I.G.L. 38-2-7 (b)). However, the law allows for a thirty (30) business day extension if the public body can demonstrate "good cause" (R.I.G.L. 38-2-7(b)).

The cost of records duplication and retrieval is also addressed by the law. The law states that the charges levied by custodians of records "shall not exceed fifteen cents (\$0.15) per page," and that "hourly costs for retrieval shall not exceed fifteen dollars (\$15.00) per hour" with no charge for the first hour (R.I.G.L.38-2-4 (a), (b)).

While the law has broad application, it also has twenty-three exemptions. Some of the exemptions in the statute pertain to trade secrets, juvenile proceedings in family court, charitable contributions, negotiations strategy, memoranda and working papers, test questions, medical records, tax returns, and library records (R.I.G.L. 38-2-4).

The Access to Public Records Act was amended by the Rhode Island General Assembly in July of 1998, for the first time since its inception. The amendment specifies, among other things, that initial arrest reports are public, and requires that the entire settlement in lawsuits against public bodies be public.

## INTRODUCTION

### Open Meetings Law

The Open Meetings Law requires that in order for a public body to enter into a closed meeting or executive session they are required to state and record in the minutes both the section of the law that allows them to bring an issue out of the public meeting, as well as the nature of the business to be discussed (R.I.G.L. 42-46-4).

The law allows public bodies to enter into executive session for eight reasons that include collective bargaining, the acquisition of property, and job performance, character, physical or mental health of an employee (R.I.G.L. 42-46-5 (1), (2), and (5)). School committees may also enter into executive session for the purposes of "(a) conducting student disciplinary hearings or (b) of reviewing other matters which relate to the privacy of students and their records. . ." (R.I.G.L. 42-46-5 (8)).

The law stipulates that the "minutes of a closed session shall be made available at the next regularly scheduled meeting unless a majority of the body votes to keep them sealed" (R.I.G.L. 42-46-7 (4)(c)). A public body cannot assume that the minutes are sealed without an explicit vote, either during open or closed session. Even if the minutes summarizing the executive session are sealed, votes must still be announced during public session. "All votes taken in closed session shall be disclosed once the session is reopened; provided, however, a vote taken in a closed session need not be disclosed for the period of time during which its disclosure would jeopardize any strategy, negotiation, or investigation" (R.I.G.L. 42-46-4).

solicitor, similar requests from different jurisdictions were often referred to a single solicitor, potentially revealing that a study was being conducted.

The education component was limited in its study of the Open Meetings Law. Researchers analyzed four to six months of school committee minutes for compliance. These months may not necessarily be representative of the way committees use executive session.

Finally, there are reasons to believe that the compliance rates reflected in this study are higher than those that would be experienced by the general public. The group of researchers was not a diverse and representative group in terms of age (except for the general difference between Common Cause members and Brown students) or race. Therefore, the potential effects of discrimination were not measured. Furthermore, while excessive fees levied by some agencies may be troublesome for some people to pay, researchers were willing to pay them for the purposes of obtaining documents to analyze.

## OVERALL RESULTS

Compliance rates were disturbing for police and municipal legal claims, while school departments were found to be generally more open.

Statewide, the police most often responded inadequately to requests for initial arrest reports. Some departments completely complied with the Open Records Law, but almost half of the departments never completely complied. The low results are disappointing given that the police were evaluated for compliance with the Open Records Law just last year, and vowed to improve. Due to the difference in methods and measures of compliance employed this year, it is not possible to quantitatively compare last year's results with the findings of this study.

Requests for the settlement terms of municipal legal claims were successful in only 23 out of 73 requests. This compliance rate (32%) is disheartening. A large number of requests received no response, while many other responses revealed poor records management practices. An analysis of the data indicates a need for better defined chain of custody for these records, and better knowledge of the law by municipal officials.

School departments had high compliance with records requests. In our initial research, we asked for contracts, minutes, and policy manuals, and, as long as we called ahead, we always received the necessary information.

There is room for improvement in school committee compliance with the Open Meetings Law. Generally, school committees lack a comprehensive understanding of the Open Meetings Law. For general compliance issues, such as citing the law when going into executive session, committees had high compliance rates. There is a high level of uncertainty regarding the specifics of the law, such as when to disclose votes from executive session, the legality of reaching consensus in executive session, and the types of reasons that are acceptable when entering into executive session. Overall, good intentions among school committee members ran high. Clarification and general understanding of the Open Meetings Law, however, needs to be improved upon.

### Aggregate Results:

*Cities and towns with 100% compliance in providing records through all three parts of the study:*

Charlestown  
East Providence  
Westerly

*Cities and towns that violated the Open Records Law for all record requests in the police and municipal legal claims section:*

Coventry  
Johnston  
Newport  
North Providence  
Richmond  
Smithfield  
Warren  
West Greenwich  
West Warwick

*Rates of response to written requests across governmental bodies were low:*

City and Town Clerks: 20 out of 43 (46%) requests received no response  
Police: 15 out of 35 (43%) requests received no response  
Tax Assessors: 8 out of 29 (28%) requests received no response

## INTRODUCTION

### ***What We Found***

#### ***Police***

Overall (Note: This year's study cannot be quantitatively compared to last year's.)

***Eight (22%) of the 37 police departments were fully compliant with each of our requests:***

- Burrillville
- Charlestown
- East Providence
- Little Compton
- Middletown
- North Kingstown
- South Kingstown
- Westerly

***Seventeen departments (46%) were never fully compliant, meaning that they never provided complete initial arrest reports, or in a few cases, they overcharged.***

Several of these gave us some sort of document, but it did not fit the criteria of an initial arrest report.

***Four departments provided no documents to any of the requests:***

- Bristol
- Lincoln
- West Greenwich
- Woonsocket

#### ***Municipal Legal Claims***

Twenty-one cases (29%) were either explicitly denied or referred to another department, then denied.

Twenty-nine requests (39%) were met with no response.

Tax assessors complied 48% of the time, and did not respond at all 28% of the time.

Clerks complied 21% of the time, and did not respond at all to 46% of the requests.

## Results by Section

### ***Police***

Last year's *Access to Public Records* study found that police departments had poor compliance rates with the law. Many police chiefs criticized the report and promised to improve. In 1998, the General Assembly passed an amendment to the Open Records Law which clarified the public's right to obtain initial arrest reports. With the addition of this amendment, we felt that it was necessary to re-evaluate the police in this study.

Police were evaluated on whether or not they provided three specific initial arrest reports upon request. These reports are public under the Rhode Island Open Records Law. To be considered legally compliant, a department had to both provide the requested initial arrest report with the proper information and charge within the fifteen cents per page legal limit.

The police only met full legal compliance 37% of the time (40 out of 108 requests).

Most departments do not charge, but for ten requests (13%) we were charged more than the legal \$0.15 per page limit.

### ***Municipal Legal Claims***

The purpose of this section was to determine whether it is possible to obtain the financial terms of a settlement against a city or town. While the legal profession tends to promote confidentiality, the law clearly states that the financial terms of a settlement against a municipality are public.

Letters, rather than in person visits, were used to request these documents so that the requests were systematic and clear. These letters were sent by volunteers, not students, in order to better replicate an average citizen's request. The first round of letters was generally mailed to the tax assessor. The second letter was generally mailed to the city or town clerk.

Out of 73 lawsuits, settlement terms were provided in only 23 (32%) of these cases.

### ***School Districts***

Policies affecting children in the public school system should be, and legally are, available to the public. Additionally, a financial consideration exists for evaluating school districts since they consume a large portion of municipalities' tax revenues. School districts were evaluated on their compliance with both the Open

Records and Open Meetings Law through records requests and analysis of school committee minutes.

## Open Records

**W**e requested teacher evaluation and professional development policies because they are clearly open records, and because they are policies that parents and concerned citizens would consider important. Volunteers made phone calls to a local school, typically the city or town high school, and asked for a blank teacher evaluation forms and written policies on professional development.

Overall, out of the 61 documents requested in the study, 52 (85%) were received.

## Open Meetings

**I**n our preliminary research we collected and evaluated four to six months of school committee meetings minutes. We conducted interviews with the chairperson of each school committee. These two data sources were combined to evaluate the legal compliance of each committee with the Open Meetings Law, as well as the general openness and accessibility of each committee.

Twenty-three districts always cite the law correctly. Seven districts, always cite an adequate reason for recessing into executive session.

**Only five cities and towns provided all of the financial information requested.**

- Barrington
- Charlestown
- East Providence
- Narragansett
- Westerly

## School Districts

**The districts most compliant with the Open Records and Open Meetings Laws were:**

- Barrington
- Burrillville
- Jamestown
- Tiverton

**The least compliant districts were:**

- Cranston
- Cumberland
- Scituate

## Open Records

Twenty-five of the schools surveyed provided teacher evaluation forms, and two districts provided information on their evaluation procedures vocally.

Six districts did not provide any information in response to the requests for teacher evaluation forms.

Fifteen of the schools surveyed provided written policy information on professional development. There was significant variation in the quality of the documents, due to the fact there are no legal criteria for the policy.

Ten districts provided vocal information on professional development.

Three districts did not provide any information although each promised it, yet never sent it.

## Open Meetings

Fifteen of the committees do not vote in executive session. Of the 17 that do vote, ten follow their obligation to disclose all votes in open session.

## POLICE

In September, 1997, two gay and lesbian activist groups filed a lawsuit against the Providence Police Department, accusing them of withholding information clearly public under the Rhode Island Open Records Law, namely the initial arrest reports of people arrested for alleged illegal sexual activity. This crackdown on sexual activity in certain parks in the Providence area was in response to complaints of residents that gay people were engaging in prostitution in the woods along River Drive on the East Side. Several gay-rights activists criticized the tactics of police in this crackdown, saying that the police had harassed and arrested people solely for being gay, and that the police had gone undercover as gay prostitutes, hoping to entrap people in some act of wrongdoing.

Gay & Lesbian Advocates and Defenders, a Boston-based legal advocacy group, and the Rhode Island Alliance for Lesbian and Gay Civil Rights repeatedly requested to inspect initial arrest reports to judge the situation for themselves, asking for all reports dating back to 1990 for people arrested for loitering, soliciting, and participating in sexual acts in the River Drive vicinity. They received a letter from the lieutenant in charge of the Records Bureau saying the request was too broad and needed clarification. In response to their narrowed, repeated request, they received neither the initial arrest reports nor the reason for a denial of information.

"The alliance wants this information because it's a matter of public record, and it's important for everyone to get a clear understanding of the actions of the Providence Police Department," said a spokeswoman for the Rhode Island Alliance for Lesbian and Gay Civil Rights (Jonathan Saltzman, "Police Sued by Two Gay Advocacy Groups," *Providence Journal*, September 7, 1997). The fact that these groups could not obtain copies of arrest reports made it impossible to evaluate the actions of the local police.

The findings of last year's study indicated that such problems were not isolated. The overall compliance rate for requests for information from the police was 35 percent. Police response to these findings ranged from fairly positive to indignant at the results of the study. Some, such as Smithfield Chief of Police William McGarry, saw the study as "a blessing in disguise that resulted in a new policy" (Laurence J. Sasso, Jr., "Blistering Report is 'Blessing in Disguise,'" *The Observer*, March 19, 1998). Chief Anthony Silva of Cumberland attributed his station's poor performance to "misfortune and bad timing," calling noncompliance "an isolated incident" (John Castellucci,

"Records Survey Scored by Some," *Providence Journal*, March 18, 1998).

The president of the Rhode Island Police Chiefs' Association, Lawrence Campion, criticized the report as "shoddy" and "unscientific," claiming that the results were "rigged" to "ambush and set up" the police (Bruce Landis, "Police Attack Access Study, but Admit Flaws," *Providence Journal*, April 9, 1998). Chief Vincent McAteer of Cranston objected that the requests for initial arrest reports were too general, saying, "If they had been more forthcoming and asked for specific reports, they would have been treated better" (Joe Kernan, "Chief Says Access Study Flawed but Useful," *The Cranston Herald*, March 26, 1998). Another point of contention was that the students had not always asked the correct person for access to the records. Middletown Chief of Police, William Burns, stated that "They should have been instructed to go to the officer in charge. We would have directed them to the records room" (Jerry O'Brien, "Middletown Gets Highest Rating for Records Access," *Providence Journal*, March 20, 1998). Had the students had a clearer understanding of police procedures, contended most chiefs, they would have experienced fuller compliance. Westerly's Chief Bruno Guilini promised that his department was "going to do some training in the [Open Records Law] so it doesn't happen again" (Ken Cola, "Access Survey Spurs Chief to Action," *The Sun*, March 17, 1998). We attempted to take every objection into account in designing this year's study.

### *Legal Background*

The Open Records Law has long stated that "records reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public" (R.I.G.L. 38-2-2 (4)(D)). But practices around the state varied, with some departments disclosing the full initial arrest report and others releasing much more limited information, such as only the cover sheet to an initial arrest report. The word "record" proved to be a vague term and was often interpreted to mean only such cover sheet information as the name, address, and age of the adult arrested; the charge; the place of the arrest; and the name of the arresting officer. To reiterate the intention of the Open Records Law as it pertains to police records and to clarify the varied interpretations of what information the Law makes public, an amendment was passed in the summer of 1998 which added the word "reports" to the above quoted section. Strongly advocated by Common Cause of Rhode Island and other public interest groups, this amendment intended "to make public the police incident

## Arrest Logs

**A**s preliminary research for this component, the Brown students made requests for a hard copy of the arrest log in each department. The reason we requested the log was to obtain specific names and dates of arrests so that we could request particular initial arrest reports. The request to obtain a copy of the police log was made by the students in person at local police departments in November and early December.

The request involved asking for the arrest log (the name of the document varies by department) for the last X number of weeks (the time-span requested reflected the size of the town and hence the number of domestic violence arrests made), preferably sorted to include only domestic violence cases (depending on a given department's computer capacity). If a certain department had difficulty producing this information in the log format, we accepted any documents that contained the name, date, and indication of domestic assault or disturbance arrest.

During our preliminary research, we introduced ourselves to the officer or clerk as students gathering information on domestic violence and then asked for a copy of the log, thus, anticipating potential inquiries into the nature of our request. Since our goal was to obtain a hard copy of the log, and not to accept what may be

*(continued on next page)*

reports that often accompany arrests and describe the circumstances" (Bruce Landis, "Police Maintain Veil of Secrecy, Despite Open Records," Providence Journal, March 30, 1997: A-12).

The intention of the Open Records Law is not simply to give the public access to information they could find in the cover sheet of an initial arrest report, but to give the public access to the entire initial arrest report. One of the primary objectives of the amendment last summer was to codify that all of the information taken at the time of the arrest is public, including the officer narrative of the circumstances and events surrounding and pertaining to the arrest. Thus some narrative is a vital part of the initial arrest report, and was required of the documents received for compliance with the Open Records Law. Such information explains why the person was arrested, clearly an issue of public concern. Police should be accountable for why they arrest people. In addition, the initial arrest report is public from the time of the arrest, even if an investigation is ongoing. The initial arrest report, which deals only with the circumstances surrounding the arrest, does not change as the result of any findings of investigations.

### *WHAT WE REQUESTED*

**W**e designed this year's study to test compliance in a variety of different situations. We made one request by letter for a specific initial arrest report, and two in-person visits to request different initial arrest reports. These requests differed from those of the 1998 study in that last year the researchers simply asked to see the log of the previous day and to see the last three initial arrest reports filed in each town.

Two factors were taken into account when deciding which documents to request and how to request them. First, and most important, was to choose items that are unquestionably public under the law. Initial arrest reports are among the most explicitly public police records, as indicated by the 1998 amendment to the Open Records Law. Second, we wanted to request documents that would simulate the needs and interests of citizens interested in their local government and documents that affect them; we wanted to measure the accessibility of documents that were actually relevant to the people of Rhode Island. Knowing who is being arrested and why is perhaps the most fundamental information any watchdog organization or concerned citizen might need.

To keep requests as uniform as possible, we attempted to identify initial arrest reports made for the same crime in every town. Domestic disturbance or assault



is one crime that is unfortunately common enough to be found in every town we studied. It also is a crime for which the police procedures for making arrests are dictated and spelled out by law (R.I.G.L. 12-29-3). Because there are strict mandatory arrest clauses for police handling domestic violence calls, releasing records pertaining to these arrests would not "disclose techniques and procedures for law enforcement investigations or prosecutions," and hence would not fall under this exemption in the law (R.I.G.L. 38-2-2(4)(D)(e)).

The request for copies of initial arrest reports differed from those in last year's study in that we identified the initial arrest report we wanted by name and date. We changed the object of our request in response to police objections that arrests are generally filed by the name of arrestee, and that finding the "last three" of any type of case is often a complicated, atypical task. It is important to note that the only reports requested were initial arrest reports. Full investigative reports are not always public information, but initial arrest reports have traditionally been considered open under the original Open Records Law. This interpretation was codified in the 1998 amendment, which specifically states that "records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public" (R.I.G.L. 38-2-2(4)(D)).

### *HOW REQUESTS WERE MADE*

In order to test police response to various modes of requesting information, we requested these documents in a number of ways, most of which were not used in fieldwork for the 1998 study. The fundamental difference was our collaboration in data collection with several Rhode Island citizens interested in local government, most of whom were members of Common Cause. This cooperation with Rhode Island citizens allowed us to gather more relevant data on the spontaneous reactions of the police than Brown students could have obtained on their own.

Volunteers made two requests to their local police stations, one by mail and one in person. The main purpose of the mail request was to engage in an impersonal and documented transaction that would not be subject to the possible vagaries and misunderstandings of verbal inquiries. Similarly, the walk-in requests made by the volunteers, who were older than most college students, probably simulated more accurately the experiences of citizens when requesting documents from the police, because the police were less likely to assume that these requests were part of an open records study.

The first request for initial arrest reports was made in

*(continued from previous page)*

ordinarily considered a denial of access, we made it our policy to remind the official that the documents we requested were public, and even cite to the law when necessary. But because our goal was to obtain the information regardless of implicit denials, the results of this preliminary research only show the behavior of police when pressed by those fairly knowledgeable in the specifics of these laws.

The high rate of retrieval of logs does not necessarily represent the ability of the average citizen to obtain these materials. Even with such pressure on our part to obtain these records (requiring, in some instances, multiple visits and phone calls), we were still unable to obtain 100% compliance. In Lincoln, we were only allowed to view the log at the station, while in Jamestown we were only allowed to hear the log information over the phone. In Woonsocket and Narragansett we were denied the log entirely, despite our efforts.

mid-December of 1998 by letters from community volunteers, whom we supplied with names and dates of specific arrests. The volunteers also made the second request, for a second initial arrest report, in person at a nearby police station in January. Students made the final request, for a third initial arrest report, in person in early February. We decided on a total of three separate interactions because it allowed for variety in the method of request, and it was feasible in terms of time and resources.

Given the controversy over last year's study, we confronted certain ethical issues in thinking through the protocols for interacting with the police, who are often inquisitive and would likely be alert to the possibility of students conducting a study. We tried to choose indicators of compliance that would not suggest the existence of a study. As a result, we relied heavily on written solicitations and volunteer requests for gathering data. The main question we grappled with was how to avoid identifying ourselves as students studying access to public records, as many clerks and officers undoubtedly suspected, while maintaining the integrity of the study. We anticipated police familiarity with last year's study, as well as the flaw that they may have expected a follow-up study involving requests for certain, common documents. We also realized that we would be compromising the results of this study by allowing the departments to know they were being studied. Such knowledge would clearly skew the data and misrepresent the experience of an average citizen attempting to access public information.

Our protocol regarding these requests addressed the dual goal of protecting the accuracy of the results and maintaining honest, fair interaction with the police to allow them to react as spontaneously as possible. In our walk-in visits to various police stations, we made a point of immediately asking to speak to the person in charge of records. If the department had a separate records office, we visited during the hours of business for this particular office. These changes in protocol lessened the possibility of reporting the police as being unlawfully secretive when they in fact have specific (although sometimes idiosyncratic) policies regarding the release of records to the public.

During the walk-in visits for initial arrest reports, researchers were to be clear but not aggressive in their requests; once the name and date of arrest were given, the response to the request was left up to the clerk or officer. We instructed the researchers not to press officials by citing the law, but only to repeat the request if they were told that they could not obtain a copy of the information. Immediately after all visits, researchers were to fill out an intake sheet to record the details of their visits, such as

whether the police asked for identification or a reason for the request, or in some circumstances, the exact reason for denial. (See the Appendix for a sample of an intake sheet.) The letter portion of the research required much less strategy in addressing such ethical concerns. Volunteers sent standardized letters requesting a copy of a certain initial arrest report with no explanation of their reason for the request, as none is legally required.

### MEASURING COMPLIANCE

In last year's study, compliance was gauged by whether or not a police department provided any documents resembling the materials requested. This year's study also took into account the completeness of the information received. Our intention was to find out how often complete initial arrest reports (i.e. those including the narrative elements of the report) were provided. As described further in the Results section, all information we received from the police was analyzed and subjected to this criterion.

A second measure of compliance concerned charges for photocopying. The statute provides for a maximum charge of \$0.15 per page. Those departments charging more than the statutory limit were noted for lack of compliance with this provision. Thus, compliance was determined by meeting these criteria for the completeness of information and appropriate cost under the Open Records Law.

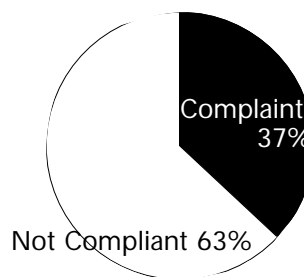
Because these factors of legal compliance were not considered when determining police performance last year, it is not appropriate to make a simple comparison between the results of the two studies. Using last year's criteria again this year, there is clear and significant improvement in police performance. Yet there is enormous room for improvement in complying with the specific requirements codified in the 1998 amendments.

### OVERALL RESULTS

Overall, the police met with openness requirements—that is, provided an initial arrest report without overcharging—37% of the time. In other words, out of 108 requests, the police gave out complete information (without overcharging) in only 40 cases. There were eight cities and towns that complied fully with openness requirements for every request: Burrillville, Charlestown, East Providence, Little Compton, Middletown, North Kingstown, South Kingstown, and Westerly.

An initial arrest report must include more than the information one could simply find in the police blotter of his

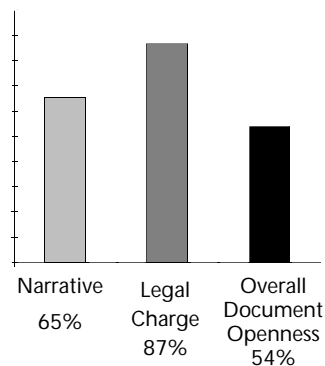
Chart 1.1  
Overall Compliance with Requests



**There were eight cities and towns that complied fully with openness requirements for every request:**

- Burrillville
- Charlestown
- East Providence
- Little Compton
- Middletown
- North Kingstown
- South Kingstown
- Westerly

Chart 1.2  
Compliance for Documents Received



**“Seventeen departments were never compliant, meaning that they never gave us complete arrest reports (or, in a few cases, they overcharged).”**

or her local newspaper; it includes all information taken and filed at the time of the arrest. Since it is common practice for a police officer to provide some written account of the event after making an arrest, initial arrest reports should include some police narrative describing the particular situation and reasons for arrest. Only 49 (65%) of the 75 documents that we received included this narrative, and thus complied with our request for initial arrest reports. Taking into consideration the other criterion for legal compliance, charging practices, we found that 65 (87%) of the 75 documents we received were priced within the legal price limit. Overall, only 40 (54%) of the 75 documents we received complied with both of these requirements of the law.

Considering the three requests separately, the lowest rate of compliance came in response to the letter requests from the volunteers. Statewide, those 35 requests resulted in receiving the initial arrest report only eight (23%) times. (The letter requests for Jamestown and Little Compton are not included in the data; see the city and town summaries for an explanation.) Most of these denials came about by default: no response was received. We did receive some sort of document indicating an arrest 51% of the time, but these records did not always meet the criteria of an initial arrest report because they lacked vital information, specifically any narrative information. That almost half of police departments simply ignored citizens' requests is disturbing, especially because last year the grounds for denial of initial arrest reports in many towns was that to access such information, the citizen must put her request in writing.

The results from the two walk-in visits were better, but still remarkably low. Of the 36 requests made by the Brown students, the police released an initial arrest report in 16 (44%) cases. (The Brown walk-in request for Bristol is not included in the data; see city and town summaries for an explanation.) Of the 37 requests made by the volunteers, the police released an initial arrest report in 16 (43%) cases. Brown students were able to retrieve some sort of document in 31 (86%) of their 36 requests, while the volunteers were only able to retrieve a document in 26 (70%) of their 37 requests. While the police were more willing to give out some kind of information to students doing research than to older citizens, the information they gave the students was less likely to be complete (i.e. to contain the complete initial arrest report).

Seventeen departments were never compliant, meaning that they never gave us complete arrest reports (or, in a few cases, they overcharged). Most departments gave us some sort of document at least once, but what we

received did not meet the criteria of an initial arrest report. Five jurisdictions released some information in response to every request, but were never in full compliance because either the information they released was inadequate or they overcharged for the materials: Coventry, East Greenwich, Richmond, Smithfield, and Tiverton. Four departments not only denied all of our requests for initial arrest reports, but never gave us any documents at all: Bristol, Lincoln, West Greenwich, and Woonsocket.

The extent of the information we received varied enormously, sometimes even within the same department. Central Falls redacted all information in the report obtained except the name, date, and charge of the arrest. Certain departments, such as Tiverton, gave us little more information than we gave the police to identify the arrest, including merely the name, date, and offense of the arrest, and some physical features of the arrestee. Many other departments only provided the first page of the initial arrest report, which indicates that an arrest has been made, but gives no details as to the circumstances of the arrest.

The reasons for denial during our walk-in visits were relatively standard among the noncompliant departments. The most common reason for denial was simply that initial arrest reports are "not public," that they are "confidential." The departments that used this response at least once were Barrington, Hopkinton, Lincoln, Narragansett, West Greenwich, and West Warwick. Another common excuse was that only the person arrested or that person's lawyer (or a relative) could have access to this information. Bristol, Warren, and Woonsocket all used this as an excuse to deny the information. The police in Warren and Providence also used more bureaucratic reasons for denying initial arrest reports. The Warren Police Department told us that a person making requests must have a notarized document. The Providence Police Department requires the arrest number of the case requested. Cumberland denied a request (for the initial arrest report) on the grounds that the case requested was still pending. The law does not support any of these reasons for denial.

As we had hoped and expected after the widespread publicity following last year's study, most police departments showed some indications of improvement. Scituate is one example of improvement. They had a copy of the Open Records Law posted by their records window, a symbolic welcome to citizens interested in public records. In addition, they seem to have a clear protocol for dealing with records requests that involves a citizen's filling out a standard form with the option of remaining anonymous.

Some departments that showed marked improvement in the provision of documents were

## Privacy Concerns

While some information generated by police departments is clearly public under the law, there are also legitimate privacy concerns that protect police investigative techniques, confidential sources, and records involving the arrests of juveniles. We designed this study to avoid asking for information that is protected under the law. In the course of obtaining initial arrest reports, however, we encountered something we had not anticipated: departments that released information that is protected. Two categories of information we came across repeatedly were Social Security numbers and information about juvenile witnesses and victims.

Many departments did not appear to have a uniform policy on what information is confidential. North Smithfield, for example, revealed Social Security numbers in only half of the documents it released. North Kingstown, in addition to Social Security numbers, included in its "offense reports" previous addresses of involved parties, driver's license numbers, employers and information about kin.

### Social Security Numbers

The Privacy Act of 1974 arguably protects Social Security numbers from public disclosure. The application of this law to state matter is unclear, but since Social Security numbers are themselves federal, there is a strong argument that the law

Burrillville, Coventry, Charlestown, Cranston, Little Compton, North Smithfield, Portsmouth, Richmond, Smithfield, Tiverton, Warwick, and Westerly. This year they always provided some sort of document indicating an arrest.

Other departments' compliance rates remained the same. Middletown provided all the documents asked for last year and this year. Bristol and Woonsocket denied access to all records requested two years consecutively. Finally, a few towns clearly did worse than last year. Lincoln and West Greenwich released arrest information last year that they denied consistently this year.

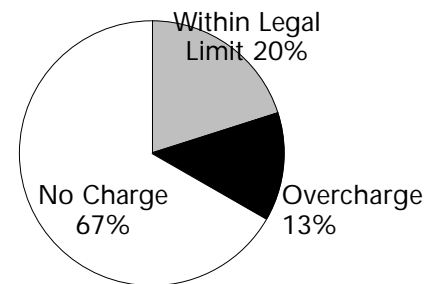
## CHARGING

The statutory limit in Rhode Island for photocopying public documents is \$0.15 per page. We found, however, that most departments do not charge at all for making copies. We were only charged for 25 of the 75

documents received (33%). Several towns charged the exact legal amount, many posting the legal price per page in the records window. Scituate, Pawtucket, and Newport all charge \$0.15 per page as a matter of policy. For ten of the documents (13%), we were charged above the statutory limit; thus, when we were charged, we were often overcharged. Some departments seemed to charge a flat rate for documents, regardless of their length, which generally meant that they were charging more than \$0.15 per page. Warren, which only released a report via mail, charged \$5.00 for a seven-page report in response to the letter request. Johnston, Portsmouth, North Providence, and Narragansett all consistently overcharged for initial arrest reports. Although North Providence received negative publicity last year in response to findings of gross overcharges (\$5.00 for slim initial arrest reports), it still has not changed its charging policy to meet state law. Warwick, while charging a legal price for the initial arrest reports that were requested in person, asked for \$5.00 in response to the letter request. Cranston, too, overcharged in response to the letter request, charging what appeared to be a flat rate of \$1.00. This is the opposite of most departments, which did not send bills for documents that should cost less than one dollar.

Chart 1.3

Charging Practices



*HOW WE WERE TREATED*

**A**lthough a person's assessment of how she is being treated is often based on several subjective impressions, we decided that these impressions, especially in the aggregate, can have an actual impact on a citizen's access to records, and were therefore important enough to keep track of during our experiences. For example, if a citizen is told in a hostile manner that the only way to receive a record is through an appointment with the chief, there is little likelihood that she will pursue this request. We received a wide range of courteousness, with most departments falling in the category of pleasant but inquisitive.

On our intake sheets we recorded whether we were asked for our name, reason for request, or our licenses. We found that we were asked our name 40 times out of 74 walk-in requests (54% of the time), the reason for the request 48 times (65% of the time), and for a driver's license nine times (12% of the time). (Last year, researchers were asked for their names in all but three towns.) It is not illegal for the police to ask these questions, but the police cannot deny a request based on a citizen's response: "No public records shall be withheld based on the purpose for which the records are sought" (R.I.G.L.38-2-3(h)). It is an impediment to the accessibility of records, then, if officials continue to press for details after an answer is given, behavior which can certainly dissuade a citizen from pursuing records requests.

protects this information from public disclosure. In 1994, the Ohio Supreme Court interpreted the Privacy Act to cover Social Security numbers: "We must next determine whether SSNs, while being 'records,' are also 'public records'...For the following reasons, we conclude that they are not public records." (Beacon Journal v. City of Akron, 640 N.E.2d 164 (1994)) The court reasoned that "the harm that can be inflicted from the disclosure of SSN to an unscrupulous individual is alarming and potentially financially ruinous." Out of the records we received, 44 (59%) contained the Social Security number of the arrested party, while another 14 (19%) also included the victim's Social Security number.

**Information about Juveniles**

**P**roceedings in Family Court are confidential under the Open Records Law (R.I.G.L. 38-2-2 (4)(c)). Rhode Island General Law explicitly protects arrest reports when juvenile are apprehended (R.I.G.L. 14-1-64). But the status of information about juvenile witnesses and victims is not clear. We could find nothing specific in Rhode Island law about the status of police reports that contain information about juveniles in an adult's arrest report. Moreover, an informal survey of lawyers whose practice involved juvenile matters revealed an almost even split in opinion as to whether this information is protected. As we discovered, police departments are also divided on whether information about juvenile witnesses should be available to the public. Eleven of the documents we received included specific information about juveniles.

There is an obvious need to address this gray area in the law, so that police departments will know whether or not information about juvenile witnesses or victims should be kept confidential. The spirit of the laws that protect other information about juveniles certainly argues for this protection.

Overall, there appears to be a general need to clarify the Open Records Law and to specifically stipulate in the law what information is public and what is private. Leaving judgements regarding privacy concerns to the individual police departments is poor and ambiguous public policy.

# P O L I C E

<b>OVERALL OPENNESS COMPLIANCE</b>	
CITY / TOWN	Percent Compliance
Charlestown	100%
South Kingstown	100%
Little Compton*	100%
Burrillville	100%
East Providence	100%
Middletown	100%
North Kingstown	100%
Westerly	100%
Cranston	67%
Scituate	67%
Warwick	67%
Foster	67%
Pawtucket	67%
Jamestown*	50%
Central Falls	33%
Glocester	33%
Providence	33%
North Smithfield	33%
Portsmouth	33%
Hopkinton	33%
Coventry	0%
East Greenwich	0%
Johnston	0%
W. Warwick	0%
Smithfield	0%
Tiverton	0%
Richmond	0%
N. Providence	0%
Newport	0%
Barrington	0%
Cumberland	0%
Narragansett	0%
Warren	0%
Bristol*	0%
Lincoln	0%
West Greenwich	0%
Woonsocket	0%

In response to last year's negative reporting on such tactics, the police insisted that they could and should ask for a reason for request in order to help people find the information they are looking for. We found that our answers did not always satisfy particularly suspicious or curious officials. We were frequently asked whether we were the person arrested, that person's lawyer, or a relative of that person. When we responded that we were simply interested for personal reasons or because we were doing research, we were sometimes pressed for the details of our research, followed by referral to a superior officer.

We found certain police departments to be consistently inquisitive, requiring information of the requesters that may make some uncomfortable about asking for records to which they have a legal right. Foster, Little Compton, North Smithfield, and Pawtucket always request to see the driver's licenses of people making requests, and Little Compton generally asks for one's address. North Smithfield makes citizens sign their names in a log of records requests. Another example of a particularly inquisitive department was Glocester, where researchers were not only asked repeatedly why they wanted the information, but a student was asked for her date of birth, social security number, and the details of her request. When she picked up the records, she was also handed an incident report which listed her own request as the incident, and included in it the information she had given the officer. Central Falls was also intensely inquisitive, especially to a student during his log request, repeatedly asking why he wanted the information and pressing him for details of his research.

Aside from the inquisitiveness of a station, we also noted examples of departments in which researchers had particularly pleasant or unpleasant experiences overall, regardless of the legal compliance of the station. Two departments in which our interactions with officers was particularly pleasant were in Johnston and North Kingstown. In these towns, officers spent a good deal of time with the researchers fulfilling the log requests, going through the information with them to make sure they understood the various codes used by the police. The officers in these departments seemed genuinely interested in the students' research and offered them pamphlets on domestic violence. Examples of departments that were particularly suspicious of us were Tiverton and Cranston. In Tiverton, a volunteer was asked sharply whether she was tape recording her conversation with the police. In Cranston, the researcher encountered officers who haggled with her about the nature of her request, gave her contradictory excuses as to why she could not obtain the



information, and made snide comments in the background that she could overhear.

We also encountered bureaucratic run-around: situations in which we were referred to a string of unhelpful personnel or were forced to visit repeatedly or to call the stations for the information we needed. Providence, during the request for the log, referred the student to a circular string of officers, none of whom thought the responsibility to grant access was his. The Narragansett Police Department told the student that the information would be mailed to him. After waiting several days without receiving the information, the student left several phone messages and even sent a written request to the officer in charge of records, but was completely ignored. Such responses as these were unusual, but clearly unacceptable from agencies that exist to serve the public.

We also encountered systems of information management that were particularly efficient and easy to use. Cumberland, Richmond, and Scituate have forms that cite the law, list possible reasons for denial, and state the departmental protocol for dealing with records requests. Scituate also asks for identification, but makes it clear that a person can file a request anonymously. These forms do not require a reason for making a request. This system allows for an efficient, business-like, potentially anonymous transaction between clerks and citizens and minimizes discomfort that may arise from asking for possibly sensitive documents.

Other departments that had commendable procedures were Pawtucket and North Kingstown. Pawtucket's records window is located not in the police station, but in the city hall. There they have posted the previous day's log as well as the statutory limit on the cost per page of public documents, as do several other stations. North Kingstown also has a laudable system, which includes a "Public Access Interface Computer" terminal in the lobby to print out various records.

### *DEPARTMENT SUMMARIES*

**A**lthough the aggregate data are significant in illustrating statewide trends in openness, it is equally important to recognize the wide variety of experiences and procedures across departments. What follows is a summary of the results of our interactions with the police on a departmental basis. (See Appendix for a comprehensive spreadsheet of city and town results.) A check in the box under the type of the request made means that the request was met with a complete initial arrest report at a price not exceeding the legal limit of \$0.15 per page.

# P O L I C E

## Barrington

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

### Overall Results

We did not receive any valid initial arrest reports. No reply was made to the letter request. One document was given to the student researcher free of charge, but it did not contain a police narrative and was therefore not a full initial arrest report. For the second request, our volunteer was told by an officer that she could not see the report because of privacy reasons and because a person requesting such documents must have a motion to compel. The log information requested was provided without charge. Last year's researchers were granted access to the log but received no other documents.

### Process

Barrington has a records office that is open from 8:30AM to 4:20PM on weekdays. Even though there is a records clerk, on all three walk-in visits, the student researcher or volunteer was told that only the chief could release the information requested. During the log request, the chief explained to the researcher that they were struggling with a new computer system that only a few people knew how to use, but that was able to sort the log by type of charge. The chief was very helpful in explaining the codes and abbreviations used in the log. During the walk-in visits, both

researcher and volunteer were asked for their names and reasons for requesting the information.

## Bristol

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
		na

### Overall Results

Bristol did not provide documents for any of the three requests, though the log was received for no charge. No reply was made to the letter request. Our volunteer was denied the arrest report because she was unrelated to the person arrested. When the student researcher went to request the third initial arrest report, he was told by an officer that although that person had been arrested before, there was no arrest near that date. Upon further investigation of the log, we found that the initial arrest report we had asked for was that of a juvenile. Bristol failed to withhold that information from public inspection, which it is required to do under R.I.G.L. 14-1-64. Initial arrest reports of juveniles are strictly private, and thus this request is not included in our compliance data. However, this does not explain the officer's response. Last year, Bristol released none of the documents requested, not even the log.

### Quote

Our volunteer commented, "the desk officer told me that

it was the policy of the department not to give out arrest reports unless you were the person arrested. He said they could not give them out to just 'anyone walking in off the street.'"

### Process

Bristol does not have a records office, and records requests go to different officers depending on the request. For the log request, we were told that only one officer could authorize such records, which he did. The officer even separated domestic assault arrests/incidents from domestic disturbances for us. Officers also gave the student researcher pamphlets and safety information about domestic violence. During an initial arrest report request, the student was referred to the lieutenant in charge of the prosecution. Student researchers were asked for names and reasons for the requests; our volunteer was not asked anything.

## Burrillville

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

### Overall Results

Burrillville released all three initial arrest reports as well as the log information. We were not charged for any of the documents. This is a great improvement over last year, when the Burrillville Police Department did not release arrest reports or arrest logs.

*Process*

Burrillville does not have a records office. The student researcher and volunteer were both referred to the records officer, who printed out all documents once permission was granted by a lieutenant.

**Central Falls**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	

*Overall Results*

Central Falls released only one full initial arrest report--to our volunteer. There was no response to the letter request. The student researcher received a document as well, but it did not include the arrest narrative and was therefore not a complete initial arrest report. No charges were levied for the documents. Last year, Central Falls released initial arrest reports and arrest logs.

*Process*

Central Falls does not have a records office. The researcher and volunteer were both referred to the records officer in charge of maintaining the computer records system. The records officer is authorized to release initial arrest reports.

**Charlestown**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

*Overall Results*

All three initial arrest reports

and the log were provided. The arrest reports received complied with Rhode Island's Open Records Law. Last year, researchers were granted access to the log, but denied the arrest reports.

*Process*

Charlestown does not have a records office, but there is a records clerk, who was very helpful and stayed late to help the student researcher. Charlestown has a computer system capable of separating incidents by incident type and by date, but an officer said that many of the officers are not as proficient with the computer as they should be. Neither the clerk nor two officers present could accurately and completely explain the meaning of the various symbols in the disposition column. The arrestee name was also not recorded in the system, so we called to request that additional information. We were later mailed a handwritten log with the arrestee names in response to the log request.

**Coventry**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

Coventry did not release any valid initial arrest reports. We were also not able to obtain a copy of the log, but we were granted permission to copy by hand the information we

needed. Coventry provided documents in response to all three requests, but none of the documents contained the narratives and were therefore not complete initial arrest reports. Last year, Coventry let researchers inspect the log but refused requests to view arrest reports.

*Process*

Obtaining the arrest information from the Coventry Records Department was simple, but we had difficulty gaining access to the log information because Coventry does not keep a log; they have "day sheets" that are not public. We were, however, allowed to copy information from the cover sheets of arrest reports.

**Cranston**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	✓

*Overall Results*

The Cranston Police Department provided all three initial arrest reports. We were very slightly overcharged for the arrest report requested by mail. However, we were substantially overcharged for the log, which was supplied for a charge of \$15.00, or \$0.41 cents per page. We also had great difficulty in obtaining the log. Last year, Cranston denied the arrest reports and the police log.

# P O L I C E

## Quote

During the log request: "After haggling with an officer for fifteen minutes, he refused to give me what I had requested, claiming the log both non-existent and not public. He asked me if I was studying public records. Later, I was sitting reading through the department's 'general reading' when I overheard the officer making snide comments about our interaction."

## Process

Even though Cranston has a records window, obtaining documents often required going through many people. The helpfulness and friendliness of different officers varied greatly. And even though the law is posted on a sign, Cranston overcharged twice.

## Cumberland

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

Cumberland did not provide any valid initial arrest reports. One document was given to the student researcher, but it did not include a narrative, so it failed to meet the requirements of an initial arrest report. Both our volunteer's requests were denied. There was no response to the letter request, and the walk-in request was denied because the case was still pending. This is not a legal denial. A copy of the arrest

log was easily obtained. We were not charged for either arrest record or arrest log. Last year, Cumberland released all documents requested.

## Quote

Our volunteer commented, "I was told, 'We don't give those out unless you are the person arrested or his attorney.'"

## Process

Requests were made through a records request form. The form requires a name, address, date of incident, and location of incident. Records can then be picked up at the police station the following week.

## East Greenwich

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

East Greenwich did not provide any valid initial arrest reports. Documents were received in response to all three requests, but they all failed to meet the criteria for an initial arrest report because they contained no narratives. There was no charge for any of the documents. We were also able to obtain the log information requested. Last year, all of the items requested were provided.

## Process

There were numerous difficulties encountered in the various requests. The letter request was not responded to

until more than a month after the letter had been sent, a clear violation of the law. Our volunteer received a call regarding the letter request, even though our volunteer had not included her phone number in the request. During her walk-in request, our volunteer was told that the record could not be released if the police were still investigating and was initially denied the report by an officer in the communications department. During the student walk-in request, the student researcher was initially told that he could not have the report without a court subpoena and that the narrative also could not be released. A reason was repeatedly asked for each request in addition to such questions as how we were related to the case and whether we were seeking our own information.

## East Providence

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

## Overall Results

East Providence provided initial arrest reports for all of the three requests and did not charge for any of the documents. The log information requested was provided. Last year, East Providence released all documents requested, but overcharged for the information.

*Process*

The mail request was fulfilled immediately; our volunteer received the initial arrest report an admirable three days after the request was sent. Both student researcher and volunteer were told on their walk-in requests that they might not be entitled to the reports if the cases had not been prosecuted or if the cases had not been disposed of. Our volunteer also had to prod the officer to allow him to speak to the chief about the matter. (The chief later released a document.) During the walk-in requests, both researcher and volunteer were asked for their names and the reasons for their requests.

**Exeter**

Exeter does not have its own police department and is under the jurisdiction of the state police.

**Foster**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	✓

*Overall Results*

Foster released two initial arrest reports. The police department never responded to our volunteer's letter request. We were able to obtain the log information, and there was no charge for any of the documents received. Both initial arrest reports were very detailed and included hand-written witness

statements. Last year, the Foster Police Department did not provide arrest reports or arrest logs.

*Process*

Foster does not have a records office, and the requests were handled by the officer at the front desk. The chief's approval was needed for every request. During the request for the log, we were told by the dispatcher that the log was not public because "[it] contains confidential names." (The chief later granted permission to access the log.) Our volunteer received a phone call from the chief and was questioned for 45 minutes about the reason for his request. During walk-in requests, both the researcher and the volunteer were required to give identification.

**Glocester**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
		✓

*Overall Results*

Glocester provided only one initial arrest report, which was released to the student researcher by the dispatcher. Our volunteer was denied the document during his walk-in visit; the dispatcher told him that "Glocester does not give out this information." The dispatcher asked him if he was involved and why he wanted the information three times. Our volunteer never received a response to the request sent by mail. We were able to

receive the log information, and were not charged for any documents received. Last year, researchers were denied access to the log but were allowed to inspect arrest reports.

*Process*

Glocester does not have a records office. The dispatcher at the front desk handles records requests. He told the student researcher that their policy involves taking down the name of the requester, the phone number, reason for request, and the request itself. The request is then either approved or denied by the chief. However, our volunteer was denied access to the report by the dispatcher without his request even being forwarded to the chief. During the walk-in request, the student researcher was asked for a name and phone number. She was later called and asked for her date of birth and social security number. When the researcher went to pick up the requested report, she was asked to sign an incident report, which documented her request. On the report she signed, she was listed as a suspect, and her name, social security number, date of birth, and physical description were included. A second page detailed the reason and nature of her request.

## Hopkinton

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
		✓

### Overall Results

Hopkinton provided one initial arrest report. The report was given to the student researcher during her walk-in request. The volunteer, though, was denied the initial arrest report by a secretary. No response was received to our volunteer's mailed request. Log information was provided, and there was no charge for either the log or the initial arrest report. Last year, no documents were provided.

### Quote

During the log request: "They seemed genuinely interested in helping me with my research and asked me many questions about the nature of my research and my opinion of the domestic violence mandatory arrest law. They offered me extra documents pertaining to domestic violence and directed me to the domestic violence unit as a helpful place."

### Process

Hopkinton does not have a records office. All requests went to the secretaries, who went to the chief before issuing information. During the walk-in request, our volunteer was told by a secretary that the report could not be given out because it was confidential. Upon further inquiry, our volunteer was told that he could look at court

proceedings, but the secretary could not access and print the computerized report.

## Jamestown

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
na	✓	

### Overall Results

Jamestown released one complete initial arrest report. The report requested via letter was not received because the courts had ordered it expunged. We were unaware of this when we selected the case for request, and this is a valid reason for denial. Thus, only two of the three requests are being considered for compliance. The document provided for the student researcher did not contain a narrative and was therefore not a complete initial arrest report. The initial arrest report provided for our volunteer complied with openness requirements. The researcher was denied a hard copy of the log information requested but was finally given the information over the telephone after much persistence. There was no charge for any of the documents provided. Last year, the police granted access to the arrest reports but not the daily police log.

### Process

Jamestown officers initially told both the student researcher and our volunteer that they normally only release initial arrest reports to attorneys. Our volunteer later

received the report from another officer. The student researcher was asked to put his request in writing for the chief, who later provided a document. During the log request, the researcher was initially told by the chief's secretary that a copy of the compiled incident list (the log information) could not be given out because it contained too much information and a redacted list was not available.

## Johnston

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

### Overall Results

Johnston released two initial arrest reports, but overcharged for both of them: \$1.00 for the two-page report received by our volunteer, and \$2.00 for the two-page report received by the student researcher. The letter request from our volunteer was denied because the case requested was still pending investigation by the Attorney General's office, and the Johnston Police Department claimed they could not disclose details until the Attorney General's office was finished with it. This is not a legal denial. We received the log information requested, free of charge. Last year, Johnston denied arrest reports and arrest logs.

### Process

Johnston has a records department that deals with records requests. However,

both researcher and volunteer had some difficulty obtaining the reports. Our volunteer was initially told that she could not have the report because it would be an invasion of privacy. When our volunteer asked for the clerk's name, the clerk called the lieutenant, who approved the request. Similarly, the student researcher was also initially denied. She was told by the clerk at the records desk that it could not be given to her. When the researcher replied, "Really, are you sure?" the clerk suggested the researcher go to the state Bureau of Criminal Investigations to obtain it. The clerk then asked the researcher if she was personally involved in the case. When she answered no, she was then asked why she was requesting it. The clerk took down information about the researcher and asked permission from a supervisor before finally releasing the report.

## Lincoln

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

### Overall Results

Lincoln did not release any of the requested documents. In response to our volunteer's mailed request, a police officer called him and said that the police could not release the arrest report but offered to tell him about the case instead. They allowed the inspection of initial arrest reports during the

walk-in visit of both the student researcher and our volunteer, but would not provide hard copies of the reports. This is a violation of the Open Records Law. Last year Lincoln released initial arrest reports but did not allow inspection of the arrest log.

### Process

Lincoln has a records window where all records requests are directed. However, access to all requested documents was denied. After consulting a superior, the clerk on duty told our volunteer, "There is a Rhode Island law that makes the police subject to certain civil rights protections. A violation of privacy occurs if the arrest reports are released." The student researcher was told by the clerk that Lincoln does not give out initial arrest reports.

## Little Compton

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
na	✓	✓

### Overall Results

Little Compton provided documents for all requests. Due to some confusion over the mailed request, we are not including it in our compliance rating for Little Compton. The two documents received during the walk-in visit by the student researcher and by our volunteer were both full initial arrest reports. The log information was also provided, and there was no

charge for any of the documents. Last year, Little Compton released neither arrest reports nor arrest logs.

### Process

Little Compton does not have a records office. Requests were made to the clerk at the front desk and referred to other officers. When both student researcher and volunteer performed their respective walk-in requests, they were asked if they wanted the information for "open records" reasons, if they were attorneys, and if they knew what was contained in the report. Both times, the police also took the requesters' names, telephone numbers, addresses, and driver's license numbers.

## Middletown

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

### Overall Results

Middletown released all three initial arrest reports. The log information requested was provided. Our volunteer was charged within the legal limit for the report retrieved during the walk-in request, but the other documents were released free of charge. Last year, the Middletown Police Department released arrest reports and arrest logs.

### Quote

In her letter to the Brown student in response to the log information request, the records clerk wrote: "I had to

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black out victims' names for privacy reasons." Yet all three initial arrest reports that were received included victims' names and social security numbers.

## Process

Middletown has a records office which is open from 10AM to 3PM. No questions were asked during any requests.

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## Narragansett

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

Narragansett provided only one document, but it did not contain a narrative and was therefore not a complete initial arrest report. The document was given to our volunteer during his walk-in request, but he was overcharged \$2.00 for the one-page document. Our volunteer never received a response to his mailed request. The student researcher left his request with the chief's secretary but received no response. The log information was requested multiple times by telephone and then once by letter, which was not responded to. Last year, Narragansett failed to produce a day-log.

## Quote

During the student researcher's walk-in request, the dispatcher informed him, "This isn't a public record, you know."

## Process

Narragansett does not have a records office. Our volunteer was given the report by one of the officers on duty, and the student researcher was referred to the chief. The attempt to obtain log information was one of the more frustrating experiences of the study. The researcher was told by the records officer that the information could be compiled and would be sent out. A week later, having not received the report, the researcher contacted the officer and was told that the information had been sent. Several days later, still having not received the report, the researcher left six messages over the next week, none of which were responded to. During the last call, the researcher asked the clerk if the officer was out of town and was told that the officer was not away. On December 18, the researcher sent his request in writing to the officer and was never responded to.

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## Newport

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

Newport did not provide any complete initial arrest reports. Documents were given to our volunteer and to the student researcher, but neither contained a narrative. Both were charged \$0.15 per page. The mailed request sent

by our volunteer was never responded to. The log information was provided. Last year, Newport supplied arrest logs but not arrest reports.

## Process

Although the station does not have a designated records office, there is a sign in the lobby stating that the price of copies of reports is \$0.15 per page. Both our volunteer and student researcher requested the reports from the officer at the front desk. Our volunteer was not asked for a reason for the request. The clerk asked the student researcher his reason for wanting the initial arrest report but was satisfied with his response that he would rather not say. The researcher was also told that the narrative could not be released, though he was not given a reason why.

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## North Kingstown

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

## Overall Results

North Kingstown provided all three initial arrest reports. We also obtained the log information, and there was no charge for any of the documents. All the reports received contained a great deal of information. Last year, arrest reports and arrest logs were released.



*Quote*

As he was leaving after having obtained the log information needed, the student was told by the police chief: "Thank you for your interest."

*Process*

North Kingstown has a designated records window. Most notably, though, there is a Public Access Interface Computer in the lobby that is able to print out many different kinds of public police records. This is a useful resource, especially for citizens who may not be very familiar with the Open Records Law and may browse through the records on the computer. Neither our volunteer nor the student researcher were referred to this computer, though. No questions were asked of either the student researcher or our volunteer, and all officers and clerks encountered were very courteous.

**North Providence**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

North Providence released two initial arrest reports, but the student researcher and volunteer were both overcharged for the documents, as North Providence charges a flat rate of \$5.00 for arrest reports, which amounted to approximately \$1.00 per page for our volunteer, and \$1.66

per page for the student researcher. Our volunteer's mailed request was denied; the North Providence police wrote: "Under the Public Records Laws of the State of Rhode Island, all records maintained by law enforcement agencies that would deprive a person of a right to a fair trial or an impartial adjudication and could reasonably be expected to constitute an unwarranted invasion of personal privacy is prohibited. Therefore, I am prohibited to mail any information to you." We obtained the log information free of charge. Last year, North Providence denied researchers access to arrest reports and arrest logs.

*Process*

North Providence has a records office to handle records requests. Our volunteer was asked by the records clerk his reason for request, but the process of obtaining the initial arrest report turned out to be very efficient. The student researcher was heavily questioned for her reasons for requesting the report, but finally received the report after the permission was granted by one of the records clerk's superior officers.

**North Smithfield**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	

*Overall Results*

North Smithfield provided one complete initial arrest report to the volunteer during the walk-in request. Documents were provided for the other two requests, but they did not contain narratives and were therefore not complete initial arrest reports. North Smithfield does not maintain arrest logs. They have dispatch logs, which are not public, and arrest reports, which are public. They even provided one complete initial arrest report during the arrest log request. There was no charge for any of the documents. Last year, North Smithfield did not release arrest reports or arrest logs.

*Process*

North Smithfield has a records department that is open from 8AM to 2PM. Requests can be made there and are usually processed in one day. North Smithfield asks to see an ID and requires the requester to sign for any arrest reports received. The student researcher was asked why she wanted the report, but the officer was not being hostile. The volunteer was not asked why he wanted the report.

## Pawtucket

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	✓

### Overall Results

Pawtucket released two initial arrest reports. Our volunteer's mailed request was never responded to. The reports were provided to our volunteer and the student researcher during their respective walk-in requests. There was a charge of \$0.15 per page, which is the maximum legal rate. The log information was provided at no charge. Last year, Pawtucket did not release arrest reports or arrest logs.

### Quote

During the student researcher's walk-in visit: "I was asked whether I was involved in the case. I said no. The officer said that he had to redact the names of the juveniles. The report was thoroughly blacked out when I received it."

### Process

Pawtucket has a records window that handles arrest requests. The previous day's arrest log is posted on the wall. The records window also has signs that specify the legal charges for copies and cost per hour of research. The student researcher was asked how she was involved in the case, but this did not interfere with obtaining the report.

## Portsmouth

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓		

### Overall Results

Portsmouth released three initial arrest reports. However, they overcharged for two of the reports, charging a flat rate of \$1.00. The log information was provided at no cost. Last year, Portsmouth did not release arrest reports or arrest logs.

### Quote

During the log request: "The officer asked me, 'Wouldn't you rather just get the arrest reports?' He then said to the records clerk, 'Give her the arrest reports!' The clerk looked at him, eyebrows raised, and mumbled something about how this would take forever. I told them that it would be fine to simply receive the records that showed an arrest had been made. Both seemed pleased at that, and the officer left, telling the clerk to include all public information, which she did."

### Process

Portsmouth has a separate records window and a full-time records clerk. Release of arrest reports seems quite standard, as both the student researcher and our volunteer had little difficulty obtaining them. There appeared to be some confusion with the law, though, as the researcher was warned that if the cases requested were still open, they

were not public. Portsmouth did not ask for identity or a reason for the request during the records requests.

## Providence

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
		✓

### Overall Results

Providence provided one initial arrest report to the student researcher. Our volunteer never received a response to his mailed request. Our volunteer was denied the initial arrest report during the walk-in request because he did not have the arrest number of the case. A hard copy of the log was unavailable. Last year, the log was easily obtained, though arrest reports were not provided.

### Quote

During the log request: "The clerk at the records office told me I needed to talk to her boss, the head of the records department. He, in turn, told me that the person I needed to speak to was the person in charge of their computer department, who told me that the person I really needed to speak to was the person in charge of domestic violence. I told him that I did not want to speak to an advocate about a records request, but called this person anyway, who never returned my call. I began again with the records department head, who continued to refer my request to the same person he had

before, saying he couldn't help me."

*Process*

Providence has a separate records department staffed with several full-time clerks. Due to the department's unusual methods of storing information, obtaining the log with the names of the arrestees and the charges proved extremely difficult. The student researcher was referred to many different people, eventually being pointed back to the officer from whom she originally requested the documents. During the walk-in requests, both researcher and volunteer were questioned if they knew the numbers of the cases and the volunteer was also asked whether he was the lawyer for the case.

**Richmond**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

Richmond did not provide any initial arrest reports when requested. Records were released for each request, but none contained a narrative. However, in response to the log request, Richmond provided full arrest reports. Richmond charged appropriately for the log and did not charge for the arrest records. Last year, neither arrest reports nor arrest logs were provided.

*Process*

Richmond requires people to fill out a records request form that cites the law, explains the Richmond Police Department's protocol, and lists reasons for legal denials. The form does not ask for a reason for the request. This form greatly simplified the process of requesting initial arrest reports for the researcher and our volunteer. The officers were also polite, helpful and efficient

**Scituate**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	✓

*Overall Results*

Scituate released two initial arrest reports. There was no response to our volunteer's mailed request. The log information was provided, and the charge for all documents was \$0.15, the maximum legal charge. Last year, Scituate did not release arrest reports or arrest logs.

*Process*

Scituate has a records office that is open from 7AM to 3PM. The Open Records Law as well as the Scituate protocol for handling records requests are clearly posted next to the counter. Requesters must fill out a Public Records Request form, which asks for name, address, phone number, and a space to describe the

information desired. The form states that the charge for all documents is \$0.15 per page. Also on the form is the option for remaining anonymous. The form does not ask for a reason for the request. Scituate's clearly stated procedure for records requests is exemplary. The officers at the front desk were well informed about the law. They were also very courteous and helpful to both our volunteer and the student researcher.

**Smithfield**

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

Smithfield did not provide any complete initial arrest reports. Documents were received in response to all the requests, but none of the provided documents contained narratives. The log information requested was received. There was no charge for any of the documents. Last year, Smithfield did not release arrest reports or arrest logs.

*Quote*

During the student researcher's walk-in request for the arrest report: "I was told that the only information that is public is the name, date, location, and charge."

# P O L I C E

## Process

Smithfield has a records window that handles records requests. However, the records officer is not authorized to release initial arrest reports. The researcher and our volunteer were told to come back later to speak with a lieutenant, detective, or chief, as these three officers are authorized to release initial arrest reports. Both our volunteer and student researcher were asked why they wanted the reports, but this did not affect the release of the documents.

## South Kingstown

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

## Overall Results

South Kingstown provided all three initial arrest reports. Police provided the log free of charge and charged within the legal limit for the reports. Last year, both the arrest reports and arrest logs were received.

## Quote

During the log request: "The first person I spoke with thought the log was probably not public but referred me to a higher officer. By phone this officer first explained that I could come in and see the log but not get a copy. Then he told me he would compile a written list with the specific information that I needed. He called back later and agreed to photocopy the entire log."

## Process

South Kingstown does not have a records office, but clerks on duty processed the requests for initial arrest reports swiftly for both our volunteer and the student researcher. While the clerk and officer present could not authorize the log request, they knew to direct the request to the captain. The officers were attentive to the researcher's requests, and phone calls were all returned promptly.

## Tiverton

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

Tiverton did not release any complete initial arrest reports. Documents were provided for all three requests, but none of them contained narratives and therefore were not complete initial arrest reports. The information was provided at no cost. Last year, Tiverton refused access to arrest reports and arrest logs.

## Quote

During our volunteer's walk-in request: The officer asked to speak to our volunteer in his office, where he asked her reason for the request. He also asked her name and wrote it down. Shaking his head, he said, 'Our policy...' and then changed his mind and said, 'Well, let me check with the

chief and see if anything has changed.' As he said this, the volunteer reached into her purse to get a pen. The officer said sharply, 'Are you taping me?' to which she responded in the negative.

## Process

Tiverton has a records window which does not seem to always be staffed. Our volunteer was referred to two people before an officer finally contacted the chief about her records request. The chief then released the document without further difficulty. The researcher easily obtained the document from the records clerk. Requesters were often asked for a reason for the request, and our volunteer was treated with great suspicion over why she wanted the information.

## Warren

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

## Overall Results

Warren released one initial arrest report in response to our volunteer's mailed request, but charged our volunteer \$5.00 for seven pages, thus violating the statutory per page limit. Our volunteer was denied the request on his walk-in visit, as was the student researcher. Our volunteer was told that departmental policy is to release reports only with a written request that must include the name of the

person arrested, dates of arrest, and reason for request. Furthermore, the request must be notarized. When the letter is received, it is sent to the captain, who will release the report for \$0.15 per page. The student researcher was told that such information could only be released to attorneys or the person arrested. Last year, Warren provided arrest logs but not arrest reports.

*Process*

Warren has a separate records office, but both student researcher and volunteer were told not to speak with records clerks, but to ask other officers, usually superiors. We had some difficulty in obtaining the log and were initially told it would cost \$15 an hour for a clerk to compile the information for us.

---

## Warwick

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
	✓	✓

*Overall Results*

Warwick provided all three initial arrest reports. However, the document sent to our volunteer in response to the mailed request was overcharged (\$5.00 for a 7 page report), thus failing to be compliant with openness requirements. The log information was provided free of charge, and the charge was \$0.15 per page for all other documents received. Last year, Warwick released arrest logs but not arrest reports.

*Quotes*

In a note from the sergeant included in the log information received, "the victims and witnesses are blacked out because some were juveniles" was written. Two initial arrest reports later obtained contained juvenile information.

*Process*

Warwick has a records office which is open Monday through Friday, 10AM to 2PM. The office handled all requests, and reports were easily obtained. After sending out the log information, the sergeant who handled the request called the student researcher to make sure it contained the information he was looking for. The reports received were extremely detailed, even including signed complaining witness statements.

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## West Greenwich

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

West Greenwich did not release any initial arrest reports. There was no response to our volunteer's mailed request. During our volunteer's walk-in request, she was permitted to view the report but was refused a copy of the report and was not given a reason for the refusal. The student researcher was denied access to the report.

The researcher was simply told that the report was confidential as a reason for denial. The log information was provided, but all the cases on the log except the requested domestic violence cases were redacted in black ink that we could still see through. Last year, both arrest logs and arrest reports were obtained.

*Quote*

During the researcher's walk-in request: "They don't give out arrest reports, only accident reports. When I asked why I could not get the arrest report, the woman at the desk said, 'because it's confidential.'"

*Process*

West Greenwich does not have a records office, and all requests were directed to the officer at the front desk.

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## West Warwick

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

West Warwick did not release any initial arrest reports. Our volunteer never received a response to the mailed request. During his walk-in request, our volunteer was denied the report because of "confidentiality of the victim involved." The student researcher obtained a document from the records clerk that did not contain a narrative. The log information was provided, and there was

no charge for any documents received. Last year, West Warwick did not release arrest logs or arrest reports.

*Process*

West Warwick has a records department that is open from 9AM to 12:30PM and from 1:30PM to 3:30PM. All requests were directed here, and student researchers received documents from the department, but our volunteer was flatly denied the initial arrest report by the records clerk.

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## Westerly

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in
✓	✓	✓

*Overall Results*

Westerly provided all three initial arrest reports. The log information was provided, and all documents were free of charge. Last year, the police did not release the arrest reports or the log.

*Quote*

During the researcher's walk-in request: "The woman at the records desk was inquisitive. She wanted to know my relation to the arrestee in the case. She almost declined to release the record because it contained juvenile information but agreed to release it in the end so long as juvenile information was redacted."

*Process*

Westerly has an exemplary records retrieval system. There

is a clearly marked records window with several documents and signs, including a description of the public records law issued by former Attorney General Jeffrey Pine. In addition, there are signs indicating the hours the office is open, the cost of photocopies, and the time it takes to receive requested information, such as an incident or accident report. Though the sign says there is a fifteen-cent per page charge, all documents were released without a fee. Westerly was able to sort their log by incident type. The officers were also helpful during the requests.

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## Woonsocket

Common Cause Letter	Common Cause Walk-in	Brown Student Walk-in

*Overall Results*

Woonsocket did not release any initial arrest reports. The log information was also not received. There was no response to our volunteer's letter request, and during the walk-in requests, officers told requesters that initial arrest reports are not released to anyone except the person arrested. Last year, Woonsocket also did not release arrest reports or arrest logs.

*Quote*

During the student researcher's walk-in request: "An officer said to me, 'You can't get the report unless you are the person arrested, and in

that case you need to have an I.D. to show who you are."

*Process*

Woonsocket does not have a records office. Requests were made to the dispatcher who often referred the requests to another officer. The officers consistently informed requesters that they could not have the reports unless they were the people arrested.

## MUNICIPAL LEGAL CLAIMS

In November of 1995, local Democratic leaders in Cranston demanded that Mayor Michael Traficante disclose the amount the city would pay a former Cranston policewoman, Suzanne Jardin, in a sexual harassment settlement. Soon thereafter, city officials declared that there had been an out-of-court agreement with the officer in question, but that the amount of the settlement and all other details of the case would remain undisclosed because both sides had agreed to keep the information confidential. The Providence Journal then requested the settled amount, invoking Rhode Island's Open Records Law (Richard Salit, "Democrats to Mayor: Disclose Harassment Settlement," *Providence Journal*, November 21, 1995, p. C-1). The amount was eventually disclosed, but the story suggests that there are sometimes strong forces in favor of confidentiality. A similar incident occurred the 1980s, when Central Falls officials refused to release an out-of-court settlement of a personal injury suit against the police. Only after the Providence Journal filed a Superior Court suit to force disclosure did the city finally release the terms of the settlement (Suzanne Espinosa, "Law Let City Pay Settlement Quietly," *Providence Journal*, July 24, 1990, p. A-1).

Though requests for the financial terms of lawsuits rarely make headlines, the Open Records Law in Rhode Island has clearly provided since 1991 that the financial terms of claims against municipalities are public records (see "Legal Background," below). Each year there are hundreds of lawsuits filed against Rhode Island municipalities. The Rhode Island Interlocal Risk Management Trust, a nonprofit insurance company which handles insurance for 28 cities and towns and 23 school districts in Rhode Island, has handled 14,000 legal claims in its twelve year history (Rhode Island Interlocal Risk Management, 1998 Annual Report). There are undoubtedly many additional claims against municipalities that self-insure or that buy insurance from other carriers.

## MUNICIPAL LEGAL CLAIMS

### *Why Study the Openness of Legal Claims?*

**“If a lawsuit against a municipality was settled or otherwise resolved with any kind of financial terms, the terms are public records.”**

The study of the accessibility of financial settlements of legal claims against municipalities was prompted by several factors. First, lawyers and their clients are known to favor secrecy in the settlement of lawsuits. Cases are easier to settle when the parties agree to keep the terms private, and often at least one party has a strong interest in doing so. However, when one of the parties involved is a public body, this secrecy is inappropriate and illegal. Cases like the 1995 Cranston sexual harassment lawsuit demonstrate that such secrecy is an issue with municipal lawsuits. In addition, the preliminary research for this study uncovered two cases in which the settlement terms of cases against municipalities were apparently kept confidential: one by order of the court (Warwick), the other by agreement of the lawyers (Exeter).

Second, the accessibility of financial settlement records is directly pertinent to citizens, as monetary payments are reflected in the city or town budget, either directly or through insurance rates and deductibles. In some municipalities, the city or town council must approve settlements. In others, they are handled through various risk-management arrangements. Whatever the arrangements for handling such claims, their potential impact on public resources makes them obvious matters of public interest. As the mayor of Cranston remarked in the Jardin case, "I personally believe the public has a right to know. We're dealing with public funds" (Salit, C-1).

Finally, we decided to study the accessibility of this particular information because the law explicitly states that it is public. If a lawsuit against a municipality is settled or otherwise resolved with any kind of financial terms, the terms are public records.



### *Legal Background*

The Open Records Law has provided since 1991 that "records reflecting the financial settlement" of legal claims against public bodies "shall be deemed public records" (R.I.G.L. 38-2-14, 1991 version). A 1998 amendment makes public any non-financial portions of settlements as well, reading, "Settlement agreements of any legal claims against a governmental entity shall be deemed public records" (R.I.G.L. 38-2-14, 1998 version). Although we conducted the study after the passage of the 1998 amendments to the Open Records Law, to avoid confusion, we requested only information that was clearly public under both the 1991 and 1998 versions of the law.

The law places no limitation on who may request public records. Furthermore, if a citizen is denied access to a public document, it is the agency's responsibility to justify the denial. The Open Records Law states, "Any denial of the right to inspect or copy records... shall be made to the person or entity requesting the right by the public body

### **The Rhode Island Trust**

Rhode Island Interlocal Risk Management, commonly referred to as simply "The Trust," was formed in 1986, after the General Assembly passed a bill in response to increasing insurance premiums and shrinking coverage for municipal entities. Authorizing "city and town councils to jointly establish an insurance corporation, to obtain insurance, and to enter into a cooperative risk management program", the new law permitted the creation of a nonprofit insurance company (R.I.G.L. 45-5-20.1).

Rhode Island municipalities, school districts, and local public bodies can attain membership in the Trust. Currently, 80 local entities including 28 municipalities, 23 school districts, and 29 other bodies such as tourist bureaus and libraries hold Trust memberships.

The Trust is managed by a member-elected board comprised of municipal finance directors, school district superintendents, city and town managers, and other municipal leaders.

## MUNICIPAL LEGAL CLAIMS

### Excessive Tax Claims

**E**xcessive tax cases are civil lawsuits against the city or town in which the plaintiffs contest the monetary amount being taxed on their property by the municipality. These lawsuits are often directed against the city or town tax assessor, treasurer, financial director, or controller. After a municipality sends tax bills to property owners, they have between thirty and ninety days, depending on the municipality, to appeal the assessment. Three levels of appeal exist. First, the property owner sends the grievance to the tax assessor. If the tax assessor does not change the assessment, the property owner can send the contested assessment to the Tax Board of Assessment. If the Board rules in favor of the property owner the adjustment is changed and is reflected in the tax assessor's records. If not, the individual may appeal to superior court. If a judge rules that there has been a misassessment of the property, the tax assessor's records are changed to reflect the new assessment. There is no question that tax assessors have custody of records containing any assessments changed through this process.

official who has custody or control of the public record in writing giving the reasons for the denial within ten (10) business days of the request and indicating the procedures for appealing the denial. . . Failure to comply with a request to inspect or copy the public record within the ten (10) business day period shall be deemed a denial" (R.I.G.L 38-2-7 (a) (b)).

The Open Records Law also specifies the amount of money a public body may charge a citizen for copies of public records. The statutory limit for photocopying is fifteen cents for each page. If a search is required to locate information, a maximum amount of \$15.00 an hour may be charged by the municipality, with the first hour of research being free (R.I.G.L 38-2-4).

### *What We Requested*

**I**n order to observe whether or not municipalities were following the above provisions of the Open Records Law, we requested the financial terms of settlements reached against each municipality. To identify cases in which financial settlements were likely to have been reached, we first collected and analyzed the basic information about as many cases as possible in which municipalities were named as defendants since 1991. Using the public computer terminals at the Providence Superior Court, we ascertained the disposition, case type, and relevant dates for cases in which some part of the municipal government was sued for anything that might involve a financial payment. Some types of suits, such as declaratory judgments or temporary restraining orders, are unlikely to have financial terms. Other types of lawsuits, such as personal injury, excessive tax, contract, employment discrimination, and other torts (e.g. libel, malpractice), are likely to involve a financial settlement. We looked for recent lawsuits of these types in which the case status read "stipulation filed, case settled," but for which the electronic record did not indicate the terms of the settlement<sup>1</sup>.

After much research, it became clear that it would be impossible to find three cases against each city and town that met our criteria of occurring after 1991 and involving a financial settlement. We could not find even two such cases in Exeter or Jamestown. However, we found

<sup>1</sup> disposition of almost every case selected for this study was classified as "stipulation filed, case settled" at the court. This supposedly means there was a settlement of some sort, although the financial terms are rarely included in the case file. When we requested the settlement terms from the towns, we were told in a few instances that the case was still pending. We had not anticipated discrepancies between the information in the court data systems and what we were told by the city or town. When it was possible to do so, we selected a new case to study.

that most cities and towns had at least one excessive tax suit and one personal injury suit filed against them. Therefore, we decided to send two rounds of requests. Wherever possible, the first round of requests focused on excessive tax cases and was sent to the tax assessor. The second round generally focused on personal injury cases and was sent to the city or town clerk. Since the excessive tax request was sent to the tax assessor and the personal injury request was sent to the city or town clerk, the chances that the person receiving the second request would know about the first inquiry were minimized. In some cities and towns, these two types of cases could not be located, so contract damages, libel and slander cases (defamation by writing or the spoken word, respectively), real property lawsuits, and job discrimination cases were used instead.

### *How We Requested the Information*

All of the requests in this component of the study were made by mail. The letters gave the tax assessors and clerks the case title and the year that the lawsuit was filed, and requested the financial terms of the settlement. We retained copies of all correspondence to ensure that there was no question about the precise details of the request.

We sent case information for the first round of requests to our volunteers in the first week of December, 1998. For 29 of the cities and towns, we located an excessive tax case for this round, and the volunteers thus mailed the request to the local tax assessor. For cities and towns without an appropriate excessive tax suit, we located substitute cases, with a strong preference for cases unlikely to overlap with the focus of the second wave of requests, which was personal injury settlements. The substitute cases represented a range of case types: three personal injury cases, two contract cases, two real property cases, and one legal malpractice case. The volunteers mailed requests for these assorted cases to the city or town clerk. (A request for Jamestown was not mailed in the first round as only one lawsuit was located during our preliminary research.)

The second round of letters was mailed in the middle of January, 1999. We identified cases for 36 of the 38 jurisdictions. Twenty-seven of the 36 requests were for the financial terms of a personal injury case. Four other cases also involved tort claims: one for assault and battery and three for libel. The remaining cases were an assortment of civil actions: a credit union case, one real property case,

## MUNICIPAL LEGAL CLAIMS

two cases for contract damages, and one job discrimination case. With one exception, the volunteers sent this round of requests to the city and town clerks. We had difficulty in locating a second case for Portsmouth, so the letter was not sent out with the others. In order to expedite a response, we sent the request directly to the town treasurer who was named as a defendant in the case.

We sent the second round of requests to the city and town clerks rather than to the city and town solicitors or the Rhode Island Interlocal Risk Management Trust for several reasons. Clerks are the guardians of the city and town records. (We conducted interviews with various city and town clerks. Most described their duties as coordinating, maintaining, and administering all official records of the municipalities.) Requests were sent to the clerks because, as guardians of the municipalities' records, clerks should either be able to locate the requested information in their own files, or obtain the information from a solicitor or the Trust when appropriate.

We did not direct our requests to the Rhode Island Interlocal Risk Management Trust because, although several municipalities hold membership in the Trust, and their case settlements over \$2,500.00 would be covered by the Trust, we did not know the settlement amount for each case before our request, so we had no way of knowing ourselves whether it was appropriate to direct the request to the Trust.

We did not direct our requests to city and town solicitors because solicitors are often private contractors. There is more turnover among solicitors than among clerks, and different firms have represented a municipality at different times. It is sometimes difficult to determine who is the solicitor. It seems reasonable for the city or town clerk to keep track of the municipality's current solicitor, and to be able to forward requests to former solicitors when appropriate, but it seems unreasonable to expect citizens to figure out who represented a city or town several years ago in order to request a public document. Furthermore, solicitors who are no longer under contract are still legal custodians of records, and may bill the city or town for time spent on those cases. We asked city and town clerks for information because the clerk might be able to answer the request himself or herself, without the need to incur a retrieval fee from the former solicitor.

**"...it seems unreasonable to expect citizens to figure out who represented a city or town several years ago in order to request a public document."**

*Measuring Compliance*

**W**e anticipated that measuring compliance would be quite straightforward. If the financial terms of the lawsuit settlement were disclosed, the city or town would be counted in compliance. If the municipal body did not provide the financial terms, it would be considered a denial. As the study progressed, however, it became apparent that measuring compliance would not be quite so simple.

The first complication involved instances in which we were informed by municipalities that the requested case had been dismissed without any payment or settlement of any sort. In Westerly, when we telephoned the tax assessor to clarify his written response that the plaintiff had not pursued the litigation, he informed us that there had, in fact, been a settlement. In East Providence and Tiverton, the tax assessors responded to our requests by mail, stating that the cases requested had been dismissed. These responses were puzzling, since the court records had indicated that the cases had been settled. But then we received an extremely useful response from the Barrington Town Solicitor regarding a request for the settlement of an excessive tax case. The solicitor enclosed a copy of the dismissal (which said nothing about a stipulation or settlement) and reported the change in the tax assessment, mentioning also that "the change in assessment is reflected in the records maintained by the tax assessor." This caused us to re-evaluate the other responses. Since the tax cases might have been dismissed after an agreement of some sort about the property assessment, we wrote back to those assessors to confirm that there was no financial settlement. None of them responded to the follow-up inquiry. In the instances mentioned in this paragraph, however, we credited the initial response as being in compliance.

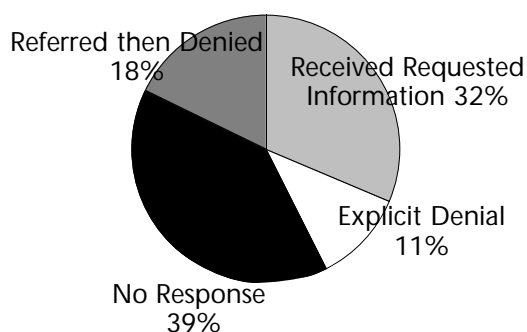
A more widespread complication in measuring compliance came not from puzzling answers to our requests for terms of financial settlements, but rather from the lack of answers to our requests. The response (or lack thereof) to our requests led us to distinguish between three types of "denial": explicit denials, denials by way of no response, and those requests that were referred to another department and then denied, either by no response or an explicit denial. The third category ("referred, then denied") was added largely because of the number of cases in which schools were the primary defendants. For six of the liability cases in which the municipality was named, the city or town clerk responded to our letter by directing us to

**"A more widespread complication in measuring compliance came not from puzzling answers to our requests for terms of financial settlements, but rather from the lack of answers to our requests."**

## MUNICIPAL LEGAL CLAIMS

**“The overall compliance rate with requests for the financial terms of legal claims was barely over thirty percent despite the fact that the information requested is unquestionably covered under the Open Records Law.”**

Chart 2.1  
Overall Compliance for all Cases



**“As a group, tax assessors provided the financial terms of excessive tax suits about 48% of the time. Almost one-third (28%) of the assessors did not respond to the inquiry. ”**

request the information from the school district. School districts are governed separately from cities and towns. Furthermore, since school districts are represented by their own solicitor, it was reasonable to redirect the request.

We did not routinely conduct follow-up inquiries in those cities and towns that did not respond to the initial request. Additionally, except for instances in which the clerk suggested that we redirect our request to the school department (see above), we also did not follow up on suggestions to make our request elsewhere. The entities from which we requested information are public bodies who are obligated to respond to public inquiries. Multiple requests for the same item should not be necessary in order to comply with the law. If a clerk did not have the requested information, it was acceptable for him or her to pass on the request to the appropriate person (as some did), but not simply to tell the citizen requesting information to look elsewhere.

### RESULTS

The overall compliance rate with requests for the financial terms of legal claims was barely over thirty percent despite the fact that the information requested is unquestionably covered under the Open Records Law. We requested the financial terms of 73 lawsuits, and we received the information requested in only 23 cases (32%). The denials were largely by way of omission: 29 (39%) did not respond to the request. Twenty-one cases (29%) were denied either by an explicit statement that the volunteers could not have the information or by a referral to another department that ultimately did not provide the information.

Only five towns provided all the financial information requested: Barrington<sup>2</sup>, Charlestown, East Providence, Narragansett, and Westerly. Seventeen municipalities, on the other hand, provided neither one: Central Falls, Coventry, Cranston, Glocester, Hopkinton, Johnston, Little Compton, Middletown, Newport, North Kingstown, North Providence, Providence, Richmond, Smithfield, Warren, West Greenwich, and West Warwick. The remaining jurisdictions provided the outcome for one lawsuit and did not fulfill the request for the other. (There was only case for Exeter and one for Jamestown, and in both cases, there was no reply to the request.)

<sup>2</sup>The second case chosen for Barrington was not appropriate for the study and thus, was not included.

## MUNICIPAL LEGAL CLAIMS

### Tax Assessors

In the first round, 29 of the 37 requests went to tax assessors, requesting the financial terms of an excessive tax case settled since 1991. As a group, the tax assessors provided the financial terms of "excessive tax" suits about 48% of the time. Almost one-third of the assessors did not respond to the inquiry. Several responded in a fashion that suggested they were unfamiliar with their files or were unable to retrieve the information that is required to be reflected in the tax assessment records. For example, in response to a request for an excessive tax case, the tax assessor in Newport wrote, "I was unable to find this information in my office. I am sure it is here somewhere but that was about the time when the previous Assessor left and I started. I would really have no idea where to start to look for this." This lack of knowledge about the case is even more surprising when one considers that the assessor himself was named as the defendant in the case.

In Little Compton, the tax assessor responded to our request by saying that his office had no record of a lawsuit being filed under that name. In North Providence, the tax assessor responded that she could not find any information regarding the case and that it must not exist. The North Smithfield tax assessor replied to the request by suggesting that the volunteer contact the solicitor or town council, even though the request was for an excessive tax settlement-- one that would have to be reflected in the tax assessor's records. All four of these situations suggest a need for better information management systems.

### City and Town Clerks

We sent 35 of the requests in the second round to city and town clerks; also, eight cases in the first round were sent to city or town clerks (in municipalities where an excessive tax case could not be located). Most of the requests (28) were for personal injury settlements. The fifteen other requests were for an assortment of cases from contract damages to job discrimination. For only nine of the forty-three requests (21%) did the clerk respond by providing the information.

One of the most striking results was the lack of response to requests sent to clerks. Forty-six percent of all case requests sent to municipal clerks did not receive a response.

Some of the clerks who did respond to our requests, but did not provide the information requested, informed us

Chart 2.2  
Tax Assessor Case Outcomes

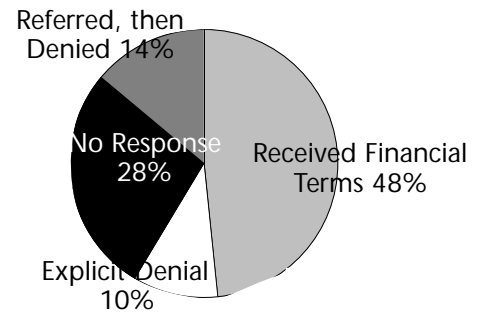
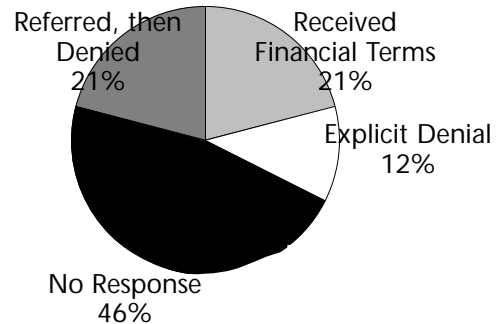


Chart 2.3  
City and Town Clerk Case Outcomes



**"For only 9 of the forty-three requests (21%) did the clerk respond by providing the information."**

**"Forty-six percent of all case requests sent to municipal clerks did not receive a response."**

## MUNICIPAL LEGAL CLAIMS

**“Eleven of our inquiries sent to clerks and tax assessors ultimately received a response from a city or town solicitor. In three cases, the solicitor provided us with the relevant financial information. ”**

that they had referred the request to another department. (As was previously mentioned, a separate category within “denial” was made to credit clerks for their assistance in situations in which requests were referred by the clerk to another department- either the solicitor or the school department- and then denied by that department.) Other clerks responded that they could not locate the requested information. Several clerks replied with letters saying that the financial records in question did not exist or that they could not find evidence of any such cases in their records. Clerks in Hopkinton and West Warwick denied our requests in this manner. Since we confirmed all cases at the Providence Superior Court and some at the Judicial Records Center in Pawtucket, these instances suggest a problem with municipal information management systems (see also similar instances with tax assessors, above).

Other clerks did not provide the information, and told us to look for it elsewhere. In Foster, the town clerk telephoned our volunteer and said that if the request were for a court case, it would be filed at the court, not the town hall. This advice was inappropriate as the court documents did not contain the settlement information, though the financial settlement would undoubtedly be reflected in the records of the municipality.

### *City and Town Solicitors*

**E**leven of the inquiries sent to clerks and tax assessors ultimately received a response from a city or town solicitor. In three cases (the Barrington request, the excessive tax case request sent to Portsmouth, and the first request sent to Scituate), the solicitor provided us with the relevant financial information. In five cases (Cumberland, Hopkinton, Little Compton, Warren, and Woonsocket), the solicitors essentially stated that they did not have the information in question or suggested that we look elsewhere. In Little Compton, for example, the solicitor responded to our request by stating that the information was not “readily at hand.” The Woonsocket city solicitor responded to our request by stating that the city “did not have the documentation,” and referred us to the court. In one instance, the second Scituate request, the town solicitor offered to look for the information only if the citizen paid a \$21.50 storage retrieval charge for



## MUNICIPAL LEGAL CLAIMS

information covered by the Open Records Law.<sup>3</sup> As noted in the Law, a retrieval fee can be charged, but the first hour of research is free. Furthermore, if an additional hour of effort were needed to retrieve the information, a maximum of \$15.00 can be charged. Thus, the \$21.50 charge is not warranted.

In two instances, solicitors told our volunteers directly that they could not have the requested information. The Providence city solicitor responded to the volunteer's request by saying that his office's policy was to give information only to those who were directly involved in the case. This "policy" is not supported by the Open Records Law. The most troubling response came from the Richmond town solicitor. The solicitor called the volunteer and asked why he was requesting the information. As the conversation continued, the solicitor became irritated, as he apparently did not believe the volunteer did not have a financial stake in the case. Ultimately, he hung up, and we heard nothing further from the solicitor or the town.

### *School Districts*

In seven of our requests, we redirected our inquiry to the school district's office. Two of these requests were met with a helpful reply from the school district (in Foster-Glocester and Narragansett). The Foster-Glocester School District solicitor responded to the request, stating that although the case had been settled, the settlement was between the plaintiff and the individual teacher involved. He added that neither the school district nor its insurance carrier made any financial payments as part of the settlement. The other five requests (Bristol-Warren, Burrillville, Central Falls, Middletown, and Warwick) went unanswered. School departments are apparently as unresponsive as tax assessors and city and town clerks when asked to provide public information on the settlement of legal claims.

**"In seven of our requests, we redirected our inquiry to the school district's office. Two of these requests were met with a helpful reply from the school district."**

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Chart 2.4

Overall Compliance Breakdown

#### **Provided Settlement**

ta 48%

ctc 21%

#### **Explicit denial**

ta 10 %

ctc 12%

#### **No response**

ta 28%

ctc 46%

#### **Referred, then denied**

ta 14%

ctc 21%

Tax Assessor = ta

City and Town Clerk = ctc

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**"The predominant problem seems to be haphazard records management and flawed information systems."**

<sup>3</sup>The law addresses custody of public information directly. "The elected or appointed state, county, or municipal officer or officers charged by law with the responsibility of maintaining the office having public records shall be the custodian thereof" (R.I.G.L. 38-1-9). This section assigns custody of public records to anybody who holds the records themselves-- public or private. Because the information requested is public, it is the city or town's responsibility as the owner of the public records to know where these public records are. Municipalities can delegate the task of retrieving them, but are still subject to the law. As for the solicitors or their firms, if a public records request is made, they are obligated to honor that request since the municipality is their client and it is up to the solicitor to make certain his/her town is in compliance with the law. Other municipal officers in addition to the solicitor, like the tax assessor, treasurer, clerk, and auditor are also obligated to meet a public records request for lawsuit settlement information. Inquiries about personal injury lawsuits handled by solicitors are under their jurisdiction, regardless of where the records are physically kept. It happened that some of the cases we chose had been handled by a former solicitor who was no longer employed for those services by the municipality. Although the current solicitors were expected to be able to retrieve the case file upon request, it was not expected that he or she have intimate knowledge of the case, as it was settled before they began working for the town. However, the first solicitor is still under an ethical obligation to assist the town in retrieving these records since the town was his or her client. Just as an attorney who leaves in the midst of a lawsuit must provide all files and information to the incoming attorney, so must the former solicitor.

## MUNICIPAL LEGAL CLAIMS

### *Flawed Information Systems*

The compliance rate for this component of the study is inexcusably low. In a few cases, non-compliance with the law was the result of an outright refusal to provide the requested information, indicating that some city and town employees need a better grounding in the terms of the Open Records Law. The law does not support the position taken by the solicitor in Providence that only certain people may view the financial settlement of a case; nor does it support the apparent decision to seal an entire case in Warwick or to settle one with a confidentiality agreement in Exeter. Some city and town solicitors have apparently carried the secretive practices of the legal culture into a realm where they are inappropriate: the public sector.

By far the largest obstacle to accessing records, however, came not from outright refusals to provide information, but rather from the non-responsiveness of many tax assessors and clerks. Most officials either did not respond at all to our requests or responded without providing the information we wanted. Although only a few officials encountered in this study seemed intent on concealing information, many were unsure of where to find the information and were not inclined to find out the answer. The predominant problem seems to be haphazard records management and flawed information systems.

The presence of poor records management was evident in several responses from tax assessors, clerks, and solicitors. As discussed above, tax assessors from Little Compton, Newport, and North Smithfield, clerks from Foster, Hopkinton, and West Warwick, and solicitors from Cumberland, Hopkinton, Little Compton, Warren, and Woonsocket all either failed to provide the requested information because they could not locate it, or inappropriately told us to look for the information in the courts. The problem of poor information management was exemplified in the response to our request for the settlement of an excessive tax case in Warren. The tax assessor forwarded our request to the solicitor, who redirected it to the town manager. The manager did not provide the settlement information, stating that "These records are. . . available through the Rhode Island court system. . . The Town of Warren feels that you would receive the proper information from the source legally responsible to provide this information to you." The financial terms of excessive tax cases are not included in court records; that is one of the reasons we decided to study these cases. The town's records should reflect the financial settlement, but neither the tax assessor, the town solicitor, nor the town manager was able to provide this public information.

Overall, the results of this study suggest the need for greater effort and organization in responding to public inquiries. Public records are only meaningfully public if they can be accessed with relative ease.

# MUNICIPAL LEGAL CLAIMS

CITY AND TOWN SUMMARIES	CASE ONE	CASE TWO
BARRINGTON	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The town solicitor responded by mail and provided the settlement figure.	<input type="checkbox"/> Note: The second case had to be removed because it did not fit our criteria.
BRISTOL	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor responded by mail and provided the settlement figure.	<input type="checkbox"/> A letter requesting the settlement of an assault and battery case that had been filed against the school department was sent to the town clerk. The town clerk instructed us to forward the request to the school district. We did so, and did not receive a response.
BURRILLVILLE	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor sent us a copy of the consent decree that settled the case.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. She responded, stating that her office "receives the notice, but does not respond to it." She recommended that we contact the school department since that was where the claim originated. We forwarded the request, but did not receive a response.
CENTRAL FALLS	<input type="checkbox"/> A letter requesting the settlement of an assault and battery case that had been filed against the town and the police department was sent to the city clerk. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case that had been filed against the school department was sent to the city clerk. She responded by mail and instructed us to contact the school department. We forwarded the request to the school department, but did not receive a response.
CHARLESTOWN	<input checked="" type="checkbox"/> A letter requesting the settlement of a contract damages case was sent to the town clerk. The town treasurer sent us a copy of the arbitrator's award.	<input checked="" type="checkbox"/> A letter requesting the settlement of a contract damages case was sent to the town clerk. We received a copy of the settlement check from the town treasurer.
COVENTRY	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
CRANSTON	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the chairperson of the Tax Assessment Review Board. The chairperson responded by mail, recommending that we forward the letter to the city tax assessor. We did so, but did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a libel/slander case was sent to the city clerk. We did not receive any response.
CUMBERLAND	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a copy of the town council's resolution that settled the case.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The town clerk responded by mail, stating that she had forwarded the letter to the town solicitor's office, and that they had informed her that they "could find nothing under this name." We confirmed the existence of the case at the Superior Courthouse.
EAST GREENWICH	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor sent us a copy of the dismissal stipulation and the financial terms of the settlement.	<input type="checkbox"/> A letter requesting the settlement of a libel/slander case was sent to the town clerk. We did not receive any response.
EAST PROVIDENCE	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor responded that the case had been dismissed. We sent a follow-up letter to clarify whether or not there was a financial settlement even though the lawsuit had been dismissed. We did not receive a response to the follow-up letter.	<input checked="" type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the city clerk. The city's risk management coordinator sent us a letter that listed the settlement amount.

# MUNICIPAL LEGAL CLAIMS

	CASE ONE	CASE TWO
EXETER	<input type="checkbox"/> A letter requesting the settlement of a malpractice case was sent to the town clerk. We did not receive a response.	<input type="checkbox"/> Note: We could only locate one case for Exeter.
FOSTER	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The clerk responded with a phone call, stating that court cases were filed at the court and not at the town hall. We were instructed to direct our inquiry to the courts.	<input checked="" type="checkbox"/> A letter requesting the settlement of a libel case that had been filed against the school district was sent to the town clerk. We received a letter from the solicitor for the school district that stated, "neither the Foster- Gloucester Regional School District nor its insurance carrier made any financial payment as part of the settlement."
GLOCESTER	<input type="checkbox"/> A letter requesting the settlement of a real property case was sent to the town clerk. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
HOPKINTON	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a credit union case was sent to the town clerk. Both the town clerk and the town solicitor contacted us, saying that they could not find the file. The solicitor stated he would make inquiries to the former solicitor about the case, but we received no further correspondence.
JAMESTOWN	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.	<input type="checkbox"/> Note: We could only locate one case for Jamestown.
JOHNSTON	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a libel case was sent to the town clerk. We did not receive any response.
LINCOLN	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor notifying us that the case in question had been dismissed by the property owner and that there was no financial settlement.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We received a letter from the town clerk that suggest that we contact the Rhode Island Interlocal Risk Management Trust for information about this case.
LITTLE COMPTON	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor stating that his office had no record of such a case. We verified the existence of the case at the Judicial Records Center.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We received a letter from the town solicitor that stated, " I do not have that information readily at hand in regards to that case."
MIDDLETOWN	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We received a letter from the town clerk that stated that there were no records relating to the case. She suggested that we forward the request to school department. We did so, and did not receive any response.
NARRAGANSETT	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor forwarded the request to the town solicitor who responded with a letter that stated, "as of this date, there has been no settlement of this tax appeal case."	<input checked="" type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We received a letter from the town solicitor who recommended that we forward our request to the school department. The school department telephoned to inform us that the case had been settled and that there was no financial settlement.
NEWPORT	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor contacted us, stating that he had forwarded the request to the city solicitor because the records were not in the his office. Neither official provided us with the settlement of the case.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the city clerk. We did not receive any response.

# MUNICIPAL LEGAL CLAIMS

	CASE ONE	CASE TWO
NORTH KINGSTOWN	<input type="checkbox"/> A letter requesting the settlement of a contract damages case was sent to the town clerk. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
NORTH PROVIDENCE	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. She telephoned in pursuit of more information. After we provided the docket number and the date, she stated that she could not find any information regarding the case and that it must not exist. We confirmed the existence of the case through court records.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
NORTH SMITHFIELD	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor stating that she did not have any information regarding the case in her office. She recommended that we contact the town solicitor or a member of the town council. We were sent this letter after more than three weeks had passed.	<input checked="" type="checkbox"/> A letter requesting the settlement of a real property case was sent to the town clerk. The town clerk replied by mail that she had contacted the town solicitor and learned that there was no settlement with the plaintiff.
PAWTUCKET	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor describing the settlement of the case.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the city clerk. The city clerk telephoned us and said that there was no record of the case in question. We verified the existence of the case at the Superior Court.
PORTSMOUTH	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor forwarded our request to the town solicitor who responded with a letter that described the financial settlement of the case. We received this letter after more than a month had passed.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town treasurer. We did not receive any response.
PROVIDENCE	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor forwarded the letter to the city solicitor's office who telephoned us and said that the case had been settled. He inquired as to our interest in the case and said that his office only disclosed the financial terms of settlements to parties named in the lawsuit. When we did not divulge our interest in the case, he refused to disclose the information.	<input type="checkbox"/> A letter requesting the settlement of a sexual harassment case was sent to the city clerk. We did not receive any response.
RICHMOND	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The letter was forwarded to the town solicitor who telephoned us to inquire about the reasons for our request. The solicitor refused to believe that we had no financial stake in the case, and repeatedly pressured us to give him more information about our interest. He hung up on us after we stated that we were simply interested in obtaining the financial terms of the settlement.
SCITUATE	<input checked="" type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The letter was forwarded to the town solicitor who responded with a letter that stated, "there were no financial terms nor was there any settlement on the part of the Town of Scituate."	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The town solicitor responded with a letter that stated, "If you send me a check in the amount of \$21.50 I will order the file from the warehouse and will then be in a position to answer the inquiry in your letter."

# MUNICIPAL LEGAL CLAIMS

	CASE ONE	CASE TWO
SMITHFIELD	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a job discrimination case was sent to the town clerk. We did not receive any response.
SOUTH KINGSTOWN	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor promptly provided the information requested.	<input checked="" type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The town clerk sent us a copy of the case file, which included the settlement figure.
TIVERTON	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor stating that the case had been dismissed. We sent a follow up letter to clarify whether or not there was a financial settlement even though the lawsuit had been dismissed. We did not receive a response to the follow up letter.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
WARREN	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the town tax assessor. The tax assessor responded by mail, and suggested that we redirect our request to the town solicitor. The solicitor forwarded the request to the town manager who responded with a letter stating, "These records are public records and are available through the Rhode Island court system. May I respectfully suggest that you visit the proper court in order to obtain the details of the matter. The Town of Warren feels that you would receive the proper information from the source legally responsible to provide this information to you."	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The town clerk sent us a letter that listed the amount of taxes owed by the plaintiff to the Town of Warren. We sent another letter to the town clerk to restate our request, and did not receive a response.
WARWICK	<input type="checkbox"/> A letter requesting the settlement of a personal injury case that had been filed against the school department was sent to the town clerk. After realizing that the school department was the primary defendant, we forwarded the request to the school department. We did not receive a response.	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter from the tax assessor that listed the financial terms of the settlement.
WEST GREENWICH	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. We did not receive any response.
WEST WARWICK	<input type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We did not receive any response.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the town clerk. The town clerk responded by mail, stating that, "review of the records in this office does not reveal the existence of any information regarding this matter."
WESTERLY	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. The tax assessor responded that there were no financial terms of the settlement because the plaintiff did not pursue the litigation. We called the tax assessor to clarify the response and were told that there had in fact been a settlement.	<input checked="" type="checkbox"/> A letter requesting the settlement of a contract damages case was sent to the town clerk. The town clerk sent us a copy of the judgment, which listed the financial terms of the settlement.
WOONSOCKET	<input checked="" type="checkbox"/> A letter requesting the settlement of an excessive tax case was sent to the tax assessor. We received a letter that described the financial terms of the settlement.	<input type="checkbox"/> A letter requesting the settlement of a personal injury case was sent to the city clerk. The city clerk forwarded the request to the city solicitor who responded that their file "does not have documentation regarding a settlement of this matter." He suggested that we contact the clerk of the Kent County Superior Court for the information.

## SCHOOL DISTRICTS

In 1998, a former member of the North Kingstown School Committee filed an Open Meetings Law complaint against the committee, claiming that the committee had given no public notice that a discussion possibly leading to the superintendent's dismissal would be held in two closed meetings. Although the Attorney General's office declined to file suit against the committee, Special Assistant Attorney General Lisa Dinerman issued a warning, concluding that the committee had indeed violated the Open Meetings Law on several counts, by "failing to properly and fully identify the subject matters to be discussed in closed session, by failing to properly convene in executive session by making an open call, and by failing to record such an open call and the nature of the business to be discussed in the minutes of its meetings" (Chris Poon, "School Board Violated Open Meetings Law, State Finds," *Providence Journal*, April 14, 1998, p. C-1; Attorney General Unofficial Finding OM98-17).

The North Kingstown School Committee is not alone. Each year the Attorney General's office receives multiple complaints about school committee's violating the Open Meetings Law. These violations may be the result of deliberate attempts to keep information from the public, ignorance of the law, or simple carelessness. Often violations result from inappropriate interpretations of ambiguous passages in the law.

Inappropriate interpretations are possible because neither the Open Meetings Law nor the Open Records Law gives specific instructions concerning the openness of every procedure and document related to school committees or districts. It would be impossible for any law to address every issue, particularly with organizations as complex as schools. However, the language of the law clearly describes its spirit and intent along with some distinct guidelines specifying procedures that would foster openness in the public school system.

The Open Records Law exempts from disclosure "all records which are identifiable to a...student, or employee; including, but not limited to, personnel...pupil records...student performance" (R.I.G.L. 38-2-2(4)(A)). Once we move beyond personnel and student records, however, countless documents and pieces of information related to school policies and procedures, such as school committee minutes or teacher contracts, are open to the public. How open are school districts with such records, especially those that are less commonly requested than meeting minutes and teacher contracts? In terms of open

## SCHOOL DISTRICTS

### Calling Ahead

Last year's study generated a response from several districts that individuals seeking public information, particularly meeting minutes, should first telephone the administration office with the request. An initial phone call was not a barrier to access; it was an added convenience for the secretaries because they could gather the information in advance, and for ourselves because, having established a pick-up date on the phone, we seldom had to return for a follow-up visit.

**“Specifically, we measured compliance with the Open Records Law by requesting teacher evaluation forms and written information on professional development from high schools in Rhode Island.”**

meetings, do school committees in Rhode Island keep the public aware of what issues are discussed behind closed doors, as North Kingstown failed to do in 1998?

These questions are the basis upon which this year's study rests. This study is a two-part analysis of the openness of thirty-three school districts in Rhode Island. (Block Island was not included in the study.) Specifically, we measured compliance with the Open Records Law by requesting teacher evaluation forms and written information on professional development from high schools in Rhode Island. We determined school committees' compliance with and interpretation of the Open Meetings Law through examining school committee meeting minutes and interviewing school committee chairpersons about procedures related to closed meetings.

## Open Records Law

### *What We Requested*

We decided to request teacher evaluation forms and professional development information from schools for three main reasons. First, we wanted to request documents in which parents or concerned citizens would be likely to take an interest. Because of the recent attention given to teaching standards around the nation and in the state, these documents fit this criterion. Second, we wanted to request documents that every school system should have. In order to determine if teacher evaluation forms and professional development policies fit this criterion, we looked at teacher contracts and policy manuals to see if either document addressed the topics<sup>1</sup>. Since this information appeared in contracts and manuals in virtually every district, we decided that it would be appropriate to request this information in our study.

Our final and most important criterion was that the documents we requested should be considered public under the Open Records Law. An evaluation of a specific teacher would clearly not be a public record, as documents including "information in personnel files maintained to hire, evaluate, promote, or discipline any employee of a public body" are exempt from the law (R.I.G.L. 38-2-2(4)(A)). Blank teacher evaluation forms and policies on professional

<sup>1</sup> Researchers in last year's study were able to obtain 94.1% of their requests for teacher contracts, policy manuals, and regular committee meeting minutes. During our preliminary research this year, we were granted access to these three public documents in 100% of the districts in which we requested them. In addition, all of the districts that charged us for copies were within the \$0.15 per page copying fee limit this year.



development, however, do not have the characteristics of documents exempt under this or any other section of the law. These documents simply state the policies and procedures of schools and do not contain information that can be traced to a particular teacher or that would be maintained in a personnel file.

### *How We Requested Information*

**W**e decided to study secondary schools whenever possible because many districts in Rhode Island have only one high school. In the cases of combined districts, the shared high school was studied: Mount Hope (Bristol-Warren), Chariho (Charleston, Richmond, and Hopkinton), Exeter-West Greenwich, and Ponagansett (Foster and Glocester). When a district did not have its own high school, as was the case in Jamestown and Little Compton, we studied the elementary school that was within its jurisdiction. When a district had more than one high school, the one with the greatest student population was chosen, as was the case with Central High School in Providence.

In order to simulate the experience of an average citizen attempting to obtain information from these schools, volunteers from the Rhode Island chapter of Common Cause requested the documents. Since they were residents of the town in which they made the request, or of a relatively adjacent town, they represented local citizens interested in school policy. The volunteers were given a detailed protocol for a telephone call to their respective high schools. (See Appendix for complete protocol.) They requested a teacher evaluation form, any additional information on teacher evaluations, and a written policy on professional development. We were careful to specify that we were not looking for information on a particular teacher so that there would be no question that these items were public records under the law. The volunteers were made aware that the authorization of the principal or superintendent might be required to fulfill their request.

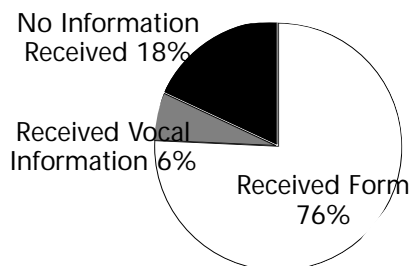
# SCHOOL DISTRICTS

## Measuring Compliance

**“Statewide, we received 52 of the 61 requests (85%) ultimately counted in this study.”**

A school district was considered in full compliance with the Open Records Law if we received the information requested. We counted the district as compliant regardless of the quality or depth of the details provided. Since the law does not specify requirements for the form or content of teacher evaluation forms or professional development documents, we could not consider districts in violation of the law if they did not have these records and could only give us vocal information. In these cases, we were unable to evaluate a district's compliance with the law. However, we considered districts which provided us with vocal information on their policies to be adhering to a spirit of openness. We accepted vocal explanations while recognizing that written records are a preferable form of communicating information. While a written statement of policy ensures that the same information is communicated to all, the amount of detail and accuracy in a vocal response could vary depending on the personality and knowledge of the secretary, principal, or superintendent who honored the request.

Chart 3.1  
Teacher Evaluation Responses



## Results

Statewide, we received information in response to 52 of the 61 requests (85%) ultimately counted in this study. Although this percentage represents a significant majority of the districts, a number of the requested documents were not provided and several districts were therefore in violation of the Open Records Law.

Just over three-fourths of the schools surveyed (76%) provided a teacher evaluation form, and many of those gave us additional information to accompany it. The quality and usefulness of the written documentation on teacher evaluations ranged from multi-paged plans for evaluation in Bristol-Warren, East Greenwich, Johnston, Newport, and North Kingstown, to a one-page evaluation form with five check boxes in Lincoln.

Two districts, Foster-Glocester and West Warwick, provided information on teacher evaluations verbally. They indicated that they do not use a standard document for observing teachers, but instead visit a classroom and prepare a narrative about the teacher's performance. Six districts did not provide a written teacher evaluation form or any verbal information addressing our request: Cranston, Cumberland, Little Compton, Middletown, Pawtucket, and Scituate. Middletown explicitly denied the request while the others did not provide the information in

## SCHOOL DISTRICTS

response to repeated requests.

The request for information on professional development was more complicated, and five districts were ultimately removed from the analysis.<sup>2</sup> Fifteen (53%) of the remaining districts provided written information on professional development. Because this request was for information rather than for a particular document, we expected, and found, variation in the quality of information received on this issue. Some districts provided packets of information outlining detailed professional development requirements or ways to improve teaching skills while others provided only a few explanatory statements of policy.

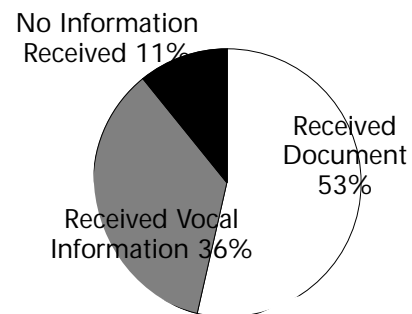
Vocal information on professional development was received from ten (36%) of the districts. The vocal explanation included information on opportunities and/or requirements for teaching development and any policy the school had for encouraging teachers to participate in these activities. Three school districts did not provide this information in either a written or vocal format: Cranston, Pawtucket, and Scituate. In all three cases, the information was promised to us at the time we requested it, but never sent to us, or we received no response after multiple phone calls.

The discrepancy in the availability of written information for the two components can be partially explained by the fact that while a teacher evaluation form is a specific document, information on professional development policy is not necessarily contained in a single, standard document. This information may therefore have been more difficult to locate. In addition, unlike evaluations, professional development is often not formally required of a teacher, so some districts indicated that they had little or no written information on this topic.

From our preliminary research we knew that policy manuals often contain information such as the procedures for requesting professional days off or a few statements about the number of days a teacher is limited to, required to, or encouraged to use for outside conferences or workshops. We expected that at least as much information on professional development as we found during our preliminary survey of teacher contracts and policy manuals would be made available to us after our formal request. Although this study was not designed to compare contracts

**“Fifteen districts provided written information on professional development.”**

Chart 3.2  
Professional Development Responses



**“Three school districts did not provide this information in either a written or vocal format: Cranston, Pawtucket, and Scituate. In all three cases, the information was promised to us at the time we requested it, but never sent to us, or we received no response after multiple phone calls.”**

<sup>2</sup> The volunteer who requested documents in Middletown was met with such rude treatment when he asked for a teacher evaluation form that he declined to make the second request for professional development information. North Providence requires a written request for any public record, and that ultimately deterred the volunteer from pursuing this information. Three districts reported that they had no information on professional development: Burrillville, Central Falls, and Charho.

# SCHOOL DISTRICTS

or manuals with the information received during our request, we were able to make comparisons in a number of districts. In some cases, such as North Smithfield, we were told in response to our request that no written information was available, but from our preliminary research we had found that some details did exist in either the teacher contract or the policy manual or both. Some districts provided photocopied sections of these documents as part of the fulfillment of the request. However, surprisingly few of our volunteers were referred to these public documents, even though the request they made was for information on policies.

## Public Bodies Can Discuss These Issues in Closed Session:

1. Job performance, character, or physical or mental health of personnel
2. Collective bargaining or litigation
3. Security personnel or devices
4. Investigative proceedings regarding allegations of misconduct, civil or criminal
5. Acquisition or lease of real property for public purposes
6. Prospective business or industry locating in the area
7. Investment of public funds
8. Student disciplinary hearings or matters which relate to the privacy of students and their records

## Open Meetings Law

### *What Should We Test?*

In the portion of our study described above, we tested a citizen's ability to gain access to records describing school policies. Equally important, however, is a citizen's right to observe the public body which approves such policies. The Open Meetings Law states that "it is essential...that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy" (R.I.G.L. 42-46-1). Although public bodies such as school committees normally conduct their business in sessions open to the public, some issues are discussed out of the public view, in executive, or closed, session. The eight exemptions under which a committee can recess into executive session are listed in the table to the left.

The law also includes clauses that ensure that the public is informed of the deliberations and decisions that take place in executive session. We studied school committees' procedures related to three such clauses in order to check each district's compliance with the law. First, school committees must give a statement of the nature of the business to be discussed in the closed session and cite the exemption of the Open Meetings Law that applies to those issues. Second, according to the law, the committee must take a vote if they choose to seal the executive session minutes. Third, as of July, 1998, committees must disclose in an open meeting the votes that are taken in closed session. In this portion of the study, we examined school committees' compliance with these three requirements along with differences in their

interpretations of the Open Meetings Law, attempting to answer the question: Do school committees fulfill their obligation to make information available about the topics discussed in closed session and the decisions that are made there?

### *How We Conducted the Study*

In order to determine if school committees were complying with the Open Meetings Law, we examined four to six months of school committee minutes, and we conducted an interview with each school committee chairperson in Rhode Island. From the minutes, we were able to note whether committees complied with the requirements of citing the law and the reasons for recessing into executive session, voting to seal minutes, and revealing votes from executive session. The interviews allowed us to confirm these procedures regarding executive session since we could not directly observe closed meetings. The interviews also gave us insight into the types of issues most commonly discussed in closed session, as well as the chairpersons' views of the purpose of executive session. (Interview questions are listed in the Appendix.)

The four combined school districts were studied as such because each group of towns shares one committee. Central Falls has not had a formal school committee since 1991. The former chairman of that committee was interviewed, as he continues to play an important role in the governance of the school department in the city, but Central Falls could not be included in much of the numerical analysis of the districts. West Warwick never used executive session in the period we examined and therefore also could only be used in part of our analysis. Percentages in the following section were calculated using a number of districts that varies depending on the presence of these special cases, and on the nature of some of the questions we raised and the circumstances we encountered.

**“In order to determine if school committees were complying with the Open Meetings Law, we examined four to six months of school committee minutes, and we conducted an interview with each school committee chairperson in Rhode Island.”**

## SCHOOL DISTRICTS

**“Although the majority of districts were compliant in citing the law, most districts were inadequately specific in stating the nature of the business to be discussed in closed session.”**

### Results

In our attempt to determine what occurs in executive session, we asked committee chairpersons to list specific issues that fall under each exemption of the Open Meetings Law that they have cited. The issues most commonly discussed in closed session are those that deal with personnel matters, job performance, litigation or collective bargaining, and student hearings.

Although student disciplinary hearings were frequently reported to be the topic of a closed meetings, some chairpersons did not seem to be aware that a separate exemption has been recently added for that specific purpose. Most districts cited exemptions one (job performance) and two (collective bargaining) as the reason for going into closed session, though a student disciplinary hearing would not be justified by these exemptions.

### Citing the Law and Reasons for Executive Session

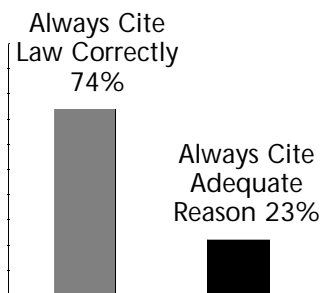
From the four to six months of minutes examined, we were able to determine that most committees were compliant in citing the law correctly. Twenty-three districts (74%) always cited the law correctly. Cranston, Cumberland, East Providence, Narragansett, and Providence did not always cite the law. Foster-Glocester, Pawtucket, and South Kingstown cited the law improperly or incorrectly.

Although the majority of districts were compliant in citing the law, most districts were inadequately specific in stating the nature of the business to be discussed in closed session. The law requires that such a statement accompany the vote to recess into executive session. In 1996, the Attorney General issued a decision that stated "Simply identifying 'collective bargaining' or 'personnel' as the subject of a closed meeting does not sufficiently specify the nature of the business to be discussed and violates R.I.G.L. 42-46-4 (b)" (OM96-28). Using this criterion, only seven districts studied (Barrington, East Greenwich, Jamestown, North Smithfield, Pawtucket, Scituate, and Tiverton) were always sufficiently specific in their reasons.

For example, minutes from one meeting of the Jamestown School Committee recorded that the committee went into executive session for the discussion of a "grievance regarding the length of the school day" and a "grievance regarding a teacher reassignment." Minutes from a meeting of the Pawtucket School Committee recorded that the committee conducted "personnel

Chart 3.3

Cite Laws Correctly



**“Only seven districts studied (Barrington, East Greenwich, Jamestown, North Smithfield, Pawtucket, Scituate, and Tiverton) were always sufficiently specific in their reasons..”**

interviews" in executive session. North Smithfield cited a "parental hearing request," and Scituate cited a "job performance discussion" as part of the subject of a meeting.

Eight districts (Cumberland, East Providence, Middletown, Narragansett, Providence, Smithfield, Warwick, and Westerly) did not always give a reason. The remaining 16 districts cited a reason, but sometimes used simply "personnel" or "collective bargaining" or both. All of these committees insufficiently fulfilled their obligation to justify their use of executive session as set forth by the Open Meetings Law.

### Sealing Executive Minutes

When an issue is sensitive enough to warrant a closed discussion, it is likely that the minutes from the meeting will be kept closed as well. According to our interviews with school committee chairpersons, 23 (72%) of the committees always seal their executive session minutes, while eight (25%) sometimes do, and one district (Burrillville) never does. Most districts that seal their minutes consistently seal them in their entirety. However, the law can be interpreted in such a way that it is legal only to seal those sections that are pending or should otherwise remain outside of the public view. Committees could adopt the practice of leaving sections of executive minutes that do not fall under this category unsealed. Some chairpersons indicated that certain sections of these minutes have been unsealed in the past for legal purposes but rarely for the general public.

Although it is legal to seal executive session minutes either partially or in their entirety, a committee must take a vote to seal them. According to our interviews, only one district, Scituate, assumed that their minutes were sealed without taking a vote. We asked the other chairpersons whose committees seal the minutes whether this vote is taken in open or closed session. The Cumberland, East Greenwich, and Lincoln chairpersons each reported that executive session minutes are sealed in open session, but we did not always find that vote recorded in the minutes. It is possible that the discrepancies we noted were the result of errors by the clerk responsible for the open session minutes. (An example of a clerical error leading to non-compliance occurred in Foster-Glocester, where the committee's error in inappropriately citing sections four and five of the law seems to be the result of an inaccurate template used to produce the minutes; the section is printed in the same manner from month to month, but the

### Most Compliant and Least Compliant

We could not accurately and fairly rank each school district based on its compliance with the Open Records and Open Meetings Laws because not every school district could be evaluated on all measures of compliance examined in this study. (For example, school committees which do not vote in executive session could not be evaluated on whether or not they reveal votes.) There were, however, districts which stood out as exceptionally compliant and districts which had an exceptional number of violations of the law:

#### *Most Compliant:*

- Barrington
- Burrillville
- Jamestown
- Tiverton

#### *Least Compliant:*

- Cranston
- Cumberland
- Scituate

# SCHOOL DISTRICTS

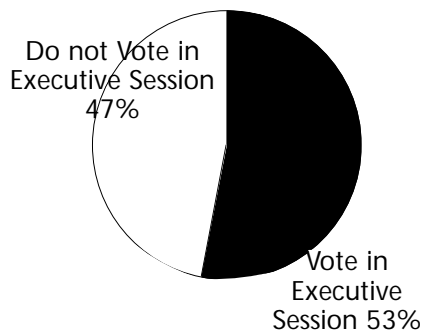
**“According to school committee chairpersons, 15 (47%) of the committees do not vote in executive session. Of the 17 (53%) that do vote, ten (59%) districts indicate that the votes are disclosed or reconfirmed in open session.”**

wrong section numbers are routinely recorded.) Additionally, we could not check the accuracy of the chairpersons who reported that the vote was an executive session procedure because we did not have access to the meetings or the minutes of the meetings.

In several districts, the vote to enter executive session and to seal the minutes took place simultaneously. In effect, minutes are being sealed that do not yet exist and, more importantly, that may prove to be a harmless but informative account of the deliberation. Committees should seal minutes after the session, at which point they can determine which sections, if any, could remain open to the public.

In two districts, Middletown and North Kingstown, we received minutes from executive session when we initially requested minutes from the committees' regular meetings. The Middletown executive session minutes were vague, offering little information beyond that which was available from the meeting's agenda. The North Kingstown minutes, on the other hand, presented a more detailed account of the discussion in executive session and represent a good example of openness.

Chart 3.4  
Vote in Executive Session?



## Disclosing Votes

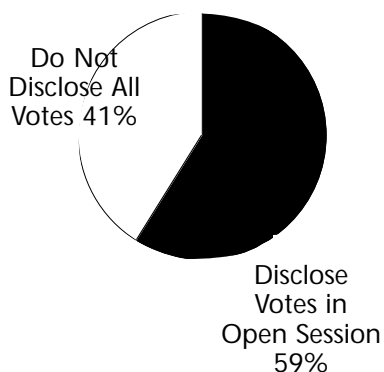
According to school committee chairpersons, 15 (47%) of the committees do not vote in executive session. Of the 17 (53%) that do vote, ten (59%) districts indicate that the votes are disclosed or reconfirmed in open session.

The law requires that committees disclose in open session any votes taken in executive session, but it does not specify the manner in which the votes should be disclosed. A good practice would be to define “to disclose” as “to make a decision from executive session evident during the regular meeting, and in the regular session minutes, clearly labeled as ‘executive session votes’ and with the roll call votes included.” We did not see a procedure that resembled this one in any of the minutes we examined.

In virtually all cases, it was impossible to ascertain from the four to six months of regular minutes we examined that votes from executive session were disclosed. Many chairpersons explained that the committee discloses votes by retaking them as the issues come up on the open meeting agenda. In effect, these votes get subsumed into the regular meeting in such a way that it is impossible to note from the minutes whether committees complied with the Open Meetings Law by disclosing votes or whether any votes were taken at all.

It is conceivable that in some districts no votes were

Chart 3.5  
Disclosure Executive Session Votes?





taken in executive session during the five months of meetings whose minutes we analyzed. This may have been the case because many of the districts that sometimes vote in executive session sometimes use it simply for discussion purposes. However, an indication that some committees neglect to reveal votes is the non-disclosure of votes to seal executive session minutes in the cases where the committee chairperson reported that the vote took place in executive session. That vote should be revealed in the regular minutes after the committee reconvenes in open session, but in the relevant districts the vote was not mentioned.

Of the committees that vote in executive session, seven (41%) do not disclose all of the votes they take. These committees, East Greenwich, Foster-Glocester, Lincoln, Newport, North Kingstown, Scituate, and Warwick, are failing to fully comply with the law. Perhaps the committees are unaware of the 1998 amendment, but when votes are not disclosed and minutes of executive session are either sealed or uninformative, the public is denied its right to know what decisions were made during the closed meeting.

Making decisions in closed session includes taking formal votes, but it also includes coming to a consensus, or an agreement during the session. This issue is not addressed in the law, but according to an unofficial opinion issued by the Attorney General in 1995, "[I]t is the opinion of this department that 'arriving at a consensus' to

### Are School Committees Treated Differently?

**D**uring the course of our interviews, some committee chairpersons commented that the Open Meetings Law is too restrictive, and that discussions flow more freely and are more productive in closed session. The chairman of the Foster-Glocester School Committee believes that members are less likely to give all of the input that they would like to give because certain discussions must take place in open session. The Smithfield chairwoman also explained that the rigidity of law has sometimes caused uncomfortable debates in public such as ones concerning the superintendent; it appears to the public that the committee is struggling during open session.

The chairman of the Scituate school committee commented that although the Open Meetings Law is commendable in that it causes a committee to identify what will be discussed in closed versus open session, problems that arise during the period between the posting of an agenda and the date of the meeting cannot be added to the agenda. The Open Meetings Law states that, "Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by a majority vote of the members" (R.I.G.L. 42-46-6 (b)). Committee chairs, such as those representing Johnston, Newport, North Providence, and South Kingstown raised a concern that the Open Meetings Law is stricter with school committees than it is with other public bodies because there are some clauses of the law, such as this one, that put restrictions specifically on school committees. The North Smithfield chairman made this observation as well, but felt that all municipal bodies should be held to this stricter standard.

The Open Meetings Law also states that "In the case of school committees, the required public notice shall be published in a newspaper of general circulation in the district" (R.I.G.L. 42-46-6 (c)). This clause translates into costly advertising fees for school committees, but not for other public bodies. Not only does this requirement use funds from an already tight education budget, it uses tax dollars to post meetings that are also advertised in town halls, public libraries, and administrative buildings for a much lower cost.

Why is the law stricter with school committees than with other public bodies? Since schools account for a large percentage of a municipality's general funds, one possible explanation is that extra caution is taken to monitor how the committee spends it. Also, because the decisions they make affect the communities' children, school committees are held to a higher standard of accountability.

## SCHOOL DISTRICTS

### Public Comment

From the minutes and the interviews, we found that all of the committees allow members of the public to speak at regular meetings. Many have formal procedures, like a sign-up sheet or designated times to speak, such as an "open forum" or an "audience of citizens," at the beginning and/or end of the meeting.

If an issue that is not on the agenda is raised during public discussion there are some differences in the way the committees handle the question or concern. Some districts take caution that discussion does not stray from that meeting's agenda by restricting comments to issues on the agenda. Others allow the person to speak on any issue, but give little response on non-agenda items. Others may offer some advice or suggestions even on non-agenda items that would lead to a more rapid correction of the situation. In most cases, committees opt to defer non-agenda items to the next meeting.

do a certain action is in most circumstances tantamount to voting. Regardless of what the process is called, the public body implements it to reach a *decision*, or to authorize action. Thus, to call the process 'reaching a consensus' as opposed to 'voting' is mere semantics" (Unofficial Opinion #OM95-20). The idea of consensus is important because without taking a vote, committees can by-pass the requirement to disclose votes and can, in effect, make decisions relating to public policy without making the public immediately aware of the decision and how each member voted. Any decision, whether taken by a roll call vote or through the reconciliation of opinions of those on the committee, should be available to the public so that citizens can be "aware of...the deliberations and the decisions that go into the making of public policy" (R.I.G.L. 42-46-1).

### *District Summaries*

*What follows are summaries highlighting the ways in which school districts comply with, and fail to comply with, the Open Records and Open Meetings Laws. The results of our requests for written information on professional development and teacher evaluations, both public records, are noted along with any unusual experiences surrounding the requests. Also noted is whether each school committee complies with the Open Meetings Law. Points examined include: citing the Open Meeting Law in the minutes when recessing into executive session; recording a statement specifying the nature of the discussion in the minutes when recessing into executive session; and revealing in open session minutes any votes taken in executive session. Failure to do any of these three things is in violation of the law. Finally, each district summary includes information about the committee's practices regarding sealing executive session minutes, comments from school committee chairpersons about the purpose of executive session, as well as any other notable points from our research. Information derived from the five to six months of school committee minutes that we examined (July 1998-January 1999) is marked with a (M). Information derived from the interviews we conducted with school committee chairpersons in February 1999 is marked with an (I).*

**BARRINGTON**

*Open Records Law*

• We obtained both written professional development information and teacher evaluation forms.

*Open Meetings Law*

• The Barrington School Committee both cites the law and gives a reason correctly when going into closed session. (M)

• Executive session is used mainly for discussion, but votes are taken. (I)

• According to the chairperson, the school committee immediately reports out the executive session votes when they go back into open session. (I) However, an example of this was not evident during the five months of minutes analyzed.

• The school committee seals executive session minutes in executive session. (I)

• The school committee chairperson reports, "I think that the main purpose of executive session is to conduct issues that, if held in open session, might be detrimental to either the school district, individual, or group that is entitled to have the matter remain confidential."

*Other Notable Points*

• In 1997, the Barrington School Committee was held in violation of the Open Meetings Law, the first school board to be fined for

obstruction of this law (Pine vs. Barrington School Building Committee, No. 96-5909 April 1997).

• Barrington now rarely goes into executive session and always explicitly states the reason.

• When asked how the committee was kept apprised of the law, the chairperson provided documents and binders of information, including the most recently amended copy of the law.

**BRISTOL-WARREN**

*Open Records Law*

• We were given the "Professional Assessment and Development System," a 56-page document that outlines teacher evaluation and professional development information.

*Open Meetings Law*

• The committee always cites the law and a reason before entering into closed session, but sometimes "personnel" is given as a reason for executive session. (M)

• Votes are not taken in executive session. However, the school committee members reach a consensus during the closed period. (I)

• The committee seals executive session minutes in open session. (M,I)

• The former school committee chair reports on the purpose of executive session: "It is to protect the rights of the individuals,

teachers, and students."

*Other Notable Points*

• The chairman was exceptionally helpful during the interview, offering a good deal of written information from the school district and the Rhode Island Association of School Committees.

**BURRILLVILLE**

*Open Records Law*

• We received a teacher evaluation form. We were told that there was no information available on professional development policy.

*Open Meetings Law*

• The committee cites the law and a reason when entering executive session, but sometimes "personnel" is given as a reason for executive session. (M)

• Votes that are taken in executive session are disclosed upon resuming open session. (I)

• Minutes are never sealed, and anyone should be able to get copies of the executive minutes. These minutes are general explanations of the discussion, not verbatim accounts. (I)

• The chairman reported that the goal of executive session is "to discuss sensitive issues in private that might impact students and staff members, and to discuss negotiations and keep them confidential."

## SCHOOL DISTRICTS

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### *Other Notable Points*

• In 1996, the committee was found to be in violation of the Open Meetings Law by voting on a non-agenda item (OM96-02).

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## CENTRAL FALLS

### *Open Records Law*

• Our volunteer was sent written information about teacher evaluations after meeting with the principal of the high school. He told her that the school did not have a written policy on professional development. Our volunteer found the principal helpful and eager to answer any questions she had.

### *Open Meetings Law*

• As Central Falls has a school district advisory board instead of a school committee, the privilege of executive session is never exercised. The superintendent listens to the opinions of the board members, but ultimately, she has the final say on all policy decisions for the school district. (I)

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## C H A R I H O (CHARLESTOWN, HOPKINTON, RICHMOND)

### *Open Records Law*

• The vice-principal of the high school provided a blank teacher evaluation form.  
• When our volunteer asked for information on

professional development, he was told, "It's in the hands of the [teachers'] union," and that he would have to ask the teachers' union for the information.

### *Open Meetings Law*

• The law is always cited and a reason is always given when the committee enters executive session, although "collective bargaining" is used as a reason to recess to executive session. (M)

• The chairman said the committee does vote in executive session and that votes are revealed by being recorded into the minutes of the open meeting. However, we did not find any votes from executive session recorded in the five months of minutes we examined. (I, M)

• The motion to seal the minutes of the executive session is included in the motion to go into executive session. Thus, the school committee simultaneously votes to go into executive session and keep the minutes sealed. (M)

• The chairman responded that the main purpose of executive session is "to be able to speak freely without influencing parties."

### *Other Notable Points*

• The superintendent's secretary was helpful when we sought minutes from school committee meetings and information from the district policy manual during our preliminary research.

• The chairman has only been on the committee since November 1998 and was immediately elected chairman.

• Chariho charges \$0.10 per page for copies, which is within the legal amount. Chariho was one of six towns to charge for copies.

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## COVENTRY

### *Open Records Law*

• The Coventry School Department has a Teacher Evaluation Handbook that is open to the public and that discusses in detail both the evaluation process as well as professional development.

### *Open Meetings Law*

• The committee always cites the law and a reason for entering executive session, though they often cite "personnel matters" as a reason. (M)

• The committee does not vote in executive session. (I)

• The committee votes to seal executive session minutes in open session prior to the session, and then again at the following regular meeting. (I, M)

• The chairman stated that the main purpose of executive session is to discuss issues relating to personnel, litigation, and contracts.

**CRANSTON**

*Open Records Law*

• Our volunteer was unable to obtain information about teacher evaluations or professional development. She was directed to the superintendent's office, which she called several times, leaving messages each time, before she was called back. She was asked by both the principal's office and superintendent's office why she wanted the information if she was not a parent or teacher. She was then told to send in a written request, which she did, but she never received a response.

*Open Meetings Law*

• The committee never cites the law when recessing into executive session. In the five months of minutes we examined, the only reasons given for entering executive session were "personnel" and "litigation." (M)

• The Cranston School Committee never votes in executive session. (I)

• Minutes from executive session are sealed at the next open session, after they are approved. They are usually never unsealed unless subpoenaed. (I)

*Other Notable Points*

• The chairwoman of the school committee commented, "The more information you give to the public, the better off we all are."

• The chairwoman was helpful and informative during the interview.

• Cranston charges \$0.15 per page for copies, which is the maximum legal amount. Cranston was one of six towns to charge for copies.

**CUMBERLAND**

*Open Records Law*

• The principal was difficult to reach. Eventually, he provided vocal information on professional development. The principal told us that he believed teacher evaluation forms were public, but that he would consult with the Superintendent before sending the information. This information was never received.

*Open Meetings Law*

• The committee does not cite the law and a reason for recessing into executive session in the minutes. (M)

• Votes are sometimes taken in executive session, but they are never disclosed in the open meeting. The chairman believes that the executive votes are recorded in the open minutes, but upon inspection of these minutes, we did not see any record of votes. (I, M)

• According to the chairman, the committee always seals executive minutes in open session, but this is not always noted in the minutes. (I, M)

• The chairman reported that the goal of executive session is

secrecy and to protect against damaging one's character, however, "the law only makes executive session apply when it is necessary."

*Other Notable Points*

• The secretary at the superintendent's office was accommodating when we requested the policy manual and teachers' contract.

**EAST GREENWICH**

*Open Records Law*

• We were provided with a particularly comprehensive teacher evaluation plan in response to our volunteer's request. This plan also included information on professional development.

*Open Meetings Law*

• The committee always cites the law and a reason when recessing into executive session. (M)

• The committee sometimes votes in executive session on matters such as contract proposals and discipline. Such votes are not directly revealed in open session. (I)

• The committee seals the executive session minutes immediately after the session as a matter of course, according to the chairman, although this is not recorded

## SCHOOL DISTRICTS

in the open session minutes we examined. (I, M)

- The chairman commented that executive session serves two important purposes: 1) closed sessions allow for a freer flow of discussion on matters such as contract negotiations, and 2) closed sessions protect the privacy of teachers and students under discussion.

### *Other Notable Points*

- The East Greenwich Superintendent's Office was helpful in providing copies of school committee meeting minutes as well as a teachers' contract during our preliminary research.

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## EAST PROVIDENCE

### *Open Records Law*

- We received a teacher evaluation form and vocal information on professional development.

- The assistant superintendent took an hour out of his schedule in order to explain professional development and the teacher evaluation process to the volunteer, even though the volunteer did not have an appointment.

### *Open Meetings Law*

- The majority of the five months of minutes analyzed begin with the school committee adjourning from executive session. It appears that they do not start the meeting in open session, thus

never stating the Open Meetings Law nor a reason for entering executive session. (M)

- The committee takes votes in executive session. The vote is either directly reported out or, if it relates to a later section on the agenda, disclosed at that point. This information, given to the public during the Chairman's Report to the open session, is noted in the minutes. (I, M)

- The school committee seals executive session minutes at the beginning of the public meeting. (M)

- The chairwoman reported that, "Executive session exists primarily for reasons of privacy and protection of individuals and the protection of individual rights."

### *Other Notable Points*

- The new school committee chairwoman strives for openness. In 1996, she complained to the press about East Providence's violations of the Open Meetings Law. She charged that the superintendent and fellow school committee members come to consensus on the budget behind closed doors.

- The board recently reorganized the form of public participation, allowing comments before each vote. In the past the public was only allowed to speak at the end of a meeting.

## EXETER-WEST GREENWICH

### *Open Records Law*

- Our volunteer was given a large amount of information in response to her request for information about professional development. A blank teacher evaluation form was also provided.

### *Open Meetings Law*

- The law and a reason were always cited when recessing into executive session, although "personnel" and "collective bargaining" were used as reasons to go into the closed session. (M)

- Although votes are not always taken in executive session, the committee sometimes comes to a consensus. (I)

- The motion to recess into executive session includes a motion to keep the executive minutes sealed, so the minutes of executive sessions are always sealed. (M)

- The committee usually only goes into executive session for student disciplinary hearings or collective bargaining. (I)

### *Other Notable Points*

- Exeter-West Greenwich was the only district in which we had some difficulty obtaining minutes from the regular school committee meetings. The secretary called us back twice to ask why we were requesting minutes from school committee meetings. The first time, we told her we

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### JAMESTOWN

were doing research. She called back again to ask what kind of research we were doing, and we explained that we were doing a project on education. This, apparently, was an acceptable answer, as we finally received the minutes. (The secretary kindly mailed them to us.)

• As of February 1999, the committee had not gone into executive session in five months.

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### FOSTER-GLOCESTER

#### *Open Records Law*

• The high school principal's responses to requests for teacher evaluation and professional development policy information were contradictory. On the phone, we were told that the evaluation form was not a public document, but during a meeting with the same principal we were told there was no written form. We received a vocal explanation of the teacher evaluation process. We were also given written information on the teacher mentoring plan along with a document listing topics that could be discussed at professional development events.

#### *Open Meetings Law*

• The committee always cites the law and reasons for going into executive session. However, they routinely cite sections 4 (investigative

proceedings regarding allegations of misconduct either civil or criminal) and 5 (acquisition or lease of real property) of the exemptions in the Open Meetings Law for issues such as "administrative contracts." These sections of the law do not correspond to these reasons for entering executive session; the law is cited incorrectly. They often cite "personnel matters" as a reason for executive session. (M)

• The committee does not usually take votes in executive session. When they do vote, all votes except for those on grievance decisions are reconfirmed in open session. (I)

• The chairman reported that executive minutes are not sealed unless an issue is pending. In the five months of minutes examined, the minutes of all of the executive sessions were sealed. (I, M)

• The chairman stated that the purpose of executive session is to protect the privacy of employees, but that most issues are ultimately discussed in open session since votes are reconfirmed there.

• The chairman feels that the committee's procedure on sealing executive minutes in their entirety can prohibit members of the public from viewing the parts of the minutes that are not pending or sensitive. He believes that the public should be able to access these sections and to be aware of the issues.

#### *Open Records Law*

• The superintendent supplied a teacher evaluation form and information on professional development from the teachers' contract upon request.

#### *Open Meetings Law*

• The committee always cites the law and a reason when going into executive session. In all of the meeting minutes examined, the committee cited exceptionally specific reasons for going into executive session (for example, "grievance: length of school day; grievance: teacher reassignment" (August 6, 1998)).

• The committee never votes in executive session. (I)

• The committee seals the executive session minutes in open session. (I, M)

• The chairwoman commented that executive sessions serve the purpose of allowing the committee to discuss sensitive issues which must be dealt with but contain names or incidents which should not be made public.

#### *Other Notable Points*

• The Jamestown School Office was particularly helpful in providing access to school committee minutes, a policy manual, and teacher contracts during our preliminary research.

• In 1997, the Attorney General's office issued a

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warning to the Jamestown School Committee's Administrative Search Committee for violating the Open Meetings Law by "failing to take an open call to go into executive session and setting forth at such open call the nature of the business to be discussed" (OM97-01).

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### JOHNSTON

#### *Open Records Law*

- Each section of the written evaluation form we received was detailed and comprehensive. The principal told us that professional development is not required of teachers, but it is encouraged and that opportunities for development are provided.

#### *Open Meetings Law*

- The committee always cites the law and a reason for executive session, but they cite "personnel" as a reason. (M)
- The committee rarely takes votes in closed session. In the instances when they do, votes are reconfirmed in open session. The committee may reach a consensus in executive session. (I)
- Minutes from executive session are always sealed and the vote occurs in open session when the regular meeting reconvenes. (I, M)
- The chairwoman reported that the main purpose of executive session is to update the committee members on

ongoing issues before the regular meeting. Since the five members may have very different ideas, a specific strategy is planned in order to have a unified presentation to bring to the public. If they do not know where the other members stand on an issue, the public can perceive the disunity as a weakness.

#### *Other Notable Points*

- During a meeting within the five months of minutes examined (October 14, 1998) the chairwoman prevented the committee from voting on a non-agenda item by explaining that it is an Open Meetings Law violation to do so.
- In 1996, the committee was cautioned for holding an informal meeting between the superintendent and two committee members who had a conversation about school committee business outside of a noticed meeting (OM96-34).

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### LINCOLN

#### *Open Records Law*

- The teacher evaluation instrument was received, but it was simply a single page with check boxes and a few lines for additional comments. Some written information on professional development was also received.

#### *Open Meetings Law*

- The law and reasons for entering executive session are

cited in the minutes, but sometimes "personnel" is given as a reason for executive session. (M)

- Votes that are taken in executive session are not disclosed. The chairwoman commented that, "[Members of the public] never know, unless they are told by a school committee member or they guess." (I)

- The chairwoman reported that minutes from executive session are always sealed at the next regular meeting when the regular minutes of the preceding meeting are approved. However, upon inspection of the open minutes, there was no record of this. (I, M)

- The chairwoman reported that the goal of executive session is "to protect people and to preserve the secrecy of the identification of students, employees, and personnel matters." Furthermore "it is important that municipal bodies are allowed to continue to have executive session because as open as the public may want the committee to be, there are pieces of information that would be dangerous if handled in an open fashion. Executive session should not be curtailed more than it is. You have to trust the elected officials to stick to the agendas and not take advantage of the situation. That is what people are uncomfortable with. We try to be extremely open and extremely accessible to the public."



*Other Notable Points*

• We had no problem acquiring information during our preliminary research, and assistants at both the superintendent's and the principal's offices were friendly and polite.

(When asked about deciding which matters to discuss in closed session, the chairperson replied, "We basically follow the guidelines [of the Open Meetings Law] and stay within them."

**LITTLE COMPTON**

*Open Records Law*

• We did not obtain a teacher evaluation form. The school principal told us, "We can try to dig it up for you," and suggested coming in the following week. When we called back and visited the office, the principal still did not have a copy. The principal promised to send a teacher evaluation form soon, but we never received a copy in the mail. During the initial phone call the principal provided vocal information on professional development.

*Open Meetings Law*

• The committee cites the law when going into executive session, but sometimes gives "collective bargaining" as a reason for the session. (M)  
 • Executive session is used for discussion only. The board may reach a consensus on an issue, but it is then put on the agenda for the next meeting. (I)  
 • The school committee regularly seals closed session minutes in executive session. (I,M)

**MIDDLETOWN**

*Open Records Law*

• The superintendent refused to provide the requested information on teacher evaluation policy because the individual requesting the information was not from Middletown and could not provide a "good reason" for wanting the information. After being refused the teacher evaluation form, we did not continue the conversation to ask for professional development information.

*Open Meetings Law*

• The committee cites the Open Meetings Law when entering executive session, but does not give a reason for the session. (M)  
 • The committee never votes in executive session. (I)  
 • In the open session minutes examined, the committee never voted to seal executive session minutes. The chairwoman commented that the committee does not usually seal executive session minutes since the minutes are not specific enough to name any individuals. (M, I)  
 • When asked for minutes of

school committee meetings from a specified period of time, the Middletown Superintendent's Office provided copies of unsealed executive session minutes as well as regular session minutes. Middletown was one of only two school districts which supplied executive session minutes during our preliminary research.

• The chairwoman commented that executive sessions are an important means of allowing the committee to discuss student discipline, personnel matters, and contract negotiations in private.

**NARRAGANSETT**

*Open Records Law*

• The superintendent's office supplied teacher evaluation forms and supplemental written information on teacher evaluation policy from the teachers' contract upon request. In addition, the superintendent explained to our volunteer the opportunities for teachers to engage in professional development.

*Open Meetings Law*

• Although the meeting agendas indicate when an executive session is to be held and cite both the Open Meetings Law and the reasons for going into executive session, the committee cites

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neither the Open Meetings Law nor a reason for entering executive session in their open session minutes. (M)

- The committee never votes in executive session. (I)
- The committee routinely seals the minutes of executive sessions. (M)
- The chairwoman commented that executive sessions serve the purpose of allowing the school committee to maintain confidentiality.

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## NEWPORT

### *Open Records Law*

- The high school principal provided particularly extensive written information on both teacher evaluation policy and professional development policy.

### *Open Meetings Law*

- The committee always cites the Open Meetings Law and a reason for entering executive session. However, the committee gives "personnel matters" (or "personal matters") and "collective bargaining and litigation" as the reason for each executive session. (M)
- The committee votes in executive session on matters relating to collective bargaining, disciplinary actions, and lawsuits. Since the 1998 addition to the Open Meetings Law, the committee repeats such votes in open session "unless it is detrimental

to the public interest" to do so. (I)

- The committee sometimes votes to seal executive session minutes. Such votes are taken in executive session. (I)
- The chairwoman commented that executive sessions serve the purpose of allowing discussion of sensitive personal or legal issues to take place privately; they help to protect individuals' privacy and to ensure that negotiations will not be placed in jeopardy.

### *Other Notable Points*

- In 1998, the Attorney General issued a warning to the Newport School Committee for "using a series of one-to-one conversations to arrive at a decision to deny a request by the members-elect. Such a series of one-to-one discussions cannot be used to circumvent the requirements of the Law. . ." (OM98-11)

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## NORTH KINGSTOWN

### *Open Records Law*

- The administrative office supplied teacher evaluation forms and supplemental written information on teacher evaluation policy upon our request. In addition, we received vocal information on professional development policy.

### *Open Meetings Law*

- The committee always cites

the Open Meetings Law and a reason for entering executive session, although sometimes "personnel matters" or "personnel issues" is given as the reason for the session. (M)

- The committee uses executive session mainly for discussion, but sometimes votes are taken. Votes are not revealed in open session, but they are recorded in unsealed executive session minutes. (I, M)

- The committee seals executive session minutes only when the session involves a performance evaluation or a child's name. The committee seals these executive session minutes by a vote during the executive session. (I)

- When asked for minutes of school committee meetings from a specified period of time, the superintendent's office provided copies of unsealed executive session minutes in addition to open session minutes. North Kingstown was one of only two school districts to provide executive session minutes during our preliminary research.

- The chairwoman commented that executive sessions serve the purpose of allowing people who feel wronged to present their grievances without sacrificing their privacy.

### *Other Notable Points*

- In 1998, the Attorney General's office found that the committee violated the Open Meetings Law by "failing to

properly and fully identify the subject matters to be discussed in closed session, by failing to properly convene in executive session by making an open call and by failing to record such open call and the nature of business to be discussed in the minutes of its meetings" (OM98-17).

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## NORTH PROVIDENCE

### *Open Records Law*

- Several phone calls were required for the records request, and the school department would not give us any information until we submitted a name and our request in writing. The evaluation form and supplementary information were eventually received.
- The request for information on professional development could not be included in the study.

### *Open Meetings Law*

- The committee always cites the law and a reason for executive session, but they cite "personnel" as a reason. (M)
- The committee does not vote in executive session. The superintendent often makes a recommendation as a result of a hearing in executive session and the vote is made in open session. (I)
- Executive minutes are sealed at the following meeting during open session. (I, M)

- The chairman reported that the main purpose of executive session is to protect the rights of the individual and confidentiality.

### *Other Notable Points*

- The chairman remarked that there seems to be a double standard in terms of the Open Meetings Law and public bodies. For example, both school committees and the general assembly are elected bodies, but the latter can vote to go into caucus without posting notice 48 hours in advance in a newspaper.
- The school department does not charge for the first five pages of photocopied materials, but charges \$0.15 per page thereafter, which is within the legal limit.
- A written request is required in order to obtain public information.

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## NORTH SMITHFIELD

### *Open Records Law*

- Both a teacher evaluation form and vocal information on professional development were received.

### *Open Meetings Law*

- This committee always cites the law and provides reasons for recessing into executive session. The reasons are clear and detailed, and all relevant subsections of the law are listed. (M)
- No votes are taken in

executive session; however, a consensus is often reached in executive session via head nods. The consensus, which functions like taking a vote, is not disclosed.

- Minutes are always sealed in open session immediately after the executive session. If someone has a reason to believe a portion of the minutes should not be sealed then this can be discussed and amended. (I, M)
- The chairman reported that the goal of executive session is "to discuss personnel matters. Names are used, and we want to avoid slander, ensure confidentiality, and protect reputations. Certain issues are not the business of the public and only the individual in question can make a case public business by requesting that it be discussed in open session."

### *Other Notable Points*

- North Smithfield was one of six towns to charge for copies of minutes. The cost was \$0.15 per page which is within the limit of the law.
- The chairman has written a letter of inquiry to the Attorney General concerning town councils and the fact they are not bound to the same stringent agenda laws as school committees. He feels that they should be more open.

## SCHOOL DISTRICTS

### PAWTUCKET

#### *Open Records Law*

- When we requested information from the high school principal's office, we were referred to the superintendent. Three phone calls to the superintendent's office were not returned. As a result, information was never received.

#### *Open Meetings Law*

- The law is not always cited when the committee recesses into executive session. A reason is always given, and the detail exceeds that of most towns. (M)

- The chairman reported that votes taken in executive session, including the vote to seal the minutes, are retaken in open session. However, nowhere in the open minutes does it explicitly state "disclosure of executive votes," and it is therefore difficult to determine whether the votes from executive session are actually recast. (I, M)

- The committee always seals the executive session minutes and the chairman is under the impression that the law requires them to do so. (I)

- The chairman reported that purpose of executive session is to "protect people and people's rights. You can't negotiate in public and can't discuss buying and leasing property in public."

#### *Other Notable Points*

- There has been no new policy manual since 1965, and there is none to view at the superintendent's office.

- A written request was necessary to obtain copies of committee minutes, but all requested copies were received.

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### PORTSMOUTH

#### *Open Records Law*

- We received a copy of the school's "Professional Enhancement Plan," which outlines methods for educators to pursue professional growth in between their teacher evaluations. Included in this document is Portsmouth's teacher evaluation form.

#### *Open Meetings Law*

- The committee always cites the law when going into executive session, but they use "personnel" as a reason. (M)

- The committee very seldom take votes in closed session. (I)

- Votes and topics of discussion are disclosed from executive session at the time of the approval of the minutes. (M,I)

- The school committee votes to seal their executive session minutes in executive session. (I)

- The chairman reported that, "Executive session is a method to really protect the confidentiality of the

individuals between staff or students -- information that if came out too early would be detrimental to what you are trying to accomplish, such as in litigation."

#### *Other Notable Points*

- The Superintendent's office requires a written request form for information and charges \$0.15 a page to photocopy. It was one of the only towns to do so.

- The clerk at the superintendent's office was incredibly helpful, remaining after the department's closing time to copy school committee minutes for us during our preliminary research.

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### PROVIDENCE

#### *Open Records Law*

- We had to call three times before receiving the telephone number of a school department employee who could service our requests, but in the end, we received a teacher evaluation form and written information on professional development.

#### *Open Meetings Law*

- Although the school committee chair stated that the board meets in closed session, typically before

## SMITHFIELD

meeting on a regular basis, there is no mention in the minutes of going into executive session. (I, M)

- Executive session is used for purposes of discussion only; no votes are taken. (I)
- The committee seals executive session minutes in executive session. (I)
- The chairwoman commented that the purpose of executive session is to discuss "upcoming personnel matters and contractual issues."

*Other Notable Points*

- Appointed by the mayor, Providence school committee members make up the only non-elected school board in the state.
- During the meeting, only resolutions are voted upon. Resolutions will be considered by the school committee if backed by two members or the superintendent.

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**SCITUATE**
*Open Records Law*

- The principal asked if the volunteer making the request was a Scituate resident and when she replied that she was not, he asked her to put the request in writing. Although the principal told her that he would fulfill the request if she sent it to him in writing, nothing was ever received. The volunteer found the principal unhelpful and condescending.

*Open Meetings Law*

- In the minutes, the committee cites the law and reasons for executive session, and those reasons are often descriptive. (M)
- The committee sometimes takes votes in closed session, which are recorded in the sealed executive minutes. Votes are not disclosed to the public. (I)
- The chairman reported that minutes are not sealed with a vote, but they are closed to the public.
- The chairman reported that the purpose of executive session is to protect the rights and integrity of the individuals involved and to protect the bargaining process and strategies.

*Other Notable Points*

- The chairman was extremely helpful and he freely gave us information about the school, such as a copy of the strategic plan and letters and speeches presented by himself and the superintendent.
- The chairman reported that the Open Meetings Law is good in that it causes the committee to identify what will be discussed in closed versus open session and curtails a "back-room style" of local government.

*Open Records Law*

- We received a teacher evaluation form and vocal information about the professional development policy in the policy manual. In addition, we were told that this plan will soon be on the internet.

*Open Meetings Law*

- A reason is not always given when the committee recesses into executive session. When a reason is cited, the committee sometimes cites "collective bargaining." (M)
- The chairwoman reported that votes are almost never taken in executive session, and when they are, they are disclosed in open session as soon as the issue is closed. In minutes examined, there was no record of disclosed votes; however, this may be due to the infrequent voting in executive session. (I, M)
- Minutes of the executive session are sealed every time out of procedure. This is done when the committee comes back to open session. (I, M)
- The chairwoman reported that the goals of executive session would be better met if the committee were not so limited by the strict law. She noted that it is frustrating to not be allowed to reach a consensus because sometimes the committee appears to be indecisive and unsure on an issue in public.

## SCHOOL DISTRICTS

### *Other Notable Points*

- As long as we called ahead, there was no problem obtaining copies of the minutes.

## SOUTH KINGSTOWN

### *Open Records Law*

- We obtained written information about both teacher evaluation and professional development from the superintendent's office, as well as a blank teacher evaluation form.

### *Open Meetings Law*

- In the minutes we examined, the committee failed to cite the subsection of the law under which they were recessing into executive session. (M)
- The committee frequently listed "personnel" as a reason to recess into executive session. (M)
- The school committee sometimes comes to consensus in executive session, but votes are always taken in open session. (I)
- Executive sessions are usually held after all the items on the agenda for the public meeting are discussed. The committee members come back into open session after the executive session to close the meeting and seal the minutes of the closed session. They started doing so on recommendation from a representative of the Attorney General. (I)

## TIVERTON

### *Open Records Law*

- We obtained a teacher evaluation form and minimal written information on professional development. We were questioned by the three employees we encountered about why we wanted this information.

### *Open Meetings Law*

- The Tiverton School Committee both cites the law and gives a reason correctly when entering into closed session. (M)
- All votes are taken in open session; executive session is used only for discussion. (I)
- The motion to seal executive session minutes occurs during open session. In some cases the minutes are approved and sealed, but in others they are left open to the public. (M,I)
- The chairwoman reported that, "Executive session usually has to do with personal problems with both employees and children."

### *Other Notable Points*

- The chairwoman named collective bargaining as the most frequently cited reason for going into executive session, commenting that "the union will not sit, in most cases, for a discussion held in open session. The school board would rather have the discussion in public."
- The school department charges \$0.15 a page to photocopy. It was one of only six towns to do so.

## WARWICK

### *Open Records Law*

- The high school provided a teacher evaluation form upon request. In addition, the head of the English Department at the high school explained the school's informal professional development policy to us over the telephone.

### *Open Meetings Law*

- The Open Meetings Law is cited when the committee enters executive session, but the reason for holding the executive session is not recorded in the minutes. (M)
- The committee votes on matters such as grievances and disciplinary hearings in closed session. Such votes are not revealed in open session. (I)
- The committee seals executive session minutes by a vote during executive session. (I)
- The vice-chairman commented that executive sessions serve the purpose of allowing the committee to hold discussions in private when these discussions might adversely affect the schools if they were held in public. They also allow the committee to protect the privacy rights of students and teachers. (I)

### *Other Notable Points*

- The school committee minutes we examined were particularly clear in recording individual members' votes on

each motion, a notable improvement from the minutes analyzed in last year's study.

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## WEST WARWICK

### *Open Records Law*

- We received a vocal explanation of the evaluation process and professional development from a high school secretary. We were also referred to the teachers' contract, to get more information.

### *Open Meetings Law*

- The committee did not enter executive session during the five month period examined. Therefore, compliance with citing the law and a reason for executive session could not be checked. According to the chairman, the committee sometimes holds executive session on a night other than that of the regular meeting. (I, M)
- No votes are taken in executive session. Decisions may be made, largely by the superintendent as the result of a hearing, and then the vote is taken in open session. (I)
- Executive session minutes are sealed at the next regular meeting. (I)
- The chairman reported that executive session was only used twice this past year by the committee because there is almost no reason to have them. He said that he thought almost all business done by public officials should be done in public.

### *Other Notable Points*

- Twice in 1996, the committee violated the Open Meetings Law by convening into executive session to discuss agenda items that were not appropriate for closed session. In the second case, the Attorney General also found that the committee did not sufficiently specify the nature of the business to be discussed in closed session, using "personnel" and "collective bargaining" as the subject of the meeting. In 1997, an advisory committee also violated the Law in part by providing an inadequate statement in a meeting notice specifying the nature of the closed discussion (OM96-17, OM96-28, OM97-16).
- The chairman remarked that, as a result of the time and energy spent dealing with Open Meetings Law violations in the past, particularly in 1995-1997, the committee now has a desire to be open. To this end, the committee attended all-day seminars on the Open Meetings Law.
- During our preliminary research, the secretary was helpful and courteous, despite the fact that she appeared very busy, and that we came to request information at the end of the work day.
- The school department charged \$0.15 per page for photocopies of the minutes.

## WESTERLY

### *Open Records Law*

- We received a copy of the 20-page Pilot Evaluation Program when we asked for a blank teacher evaluation form. This extensive packet also included information about professional development.

### *Open Meetings Law*

- In the minutes we examined, a reason is never listed when the committee recesses into executive session, although the law is cited. (M)
- The school committee never votes in executive session. (I)
- Minutes from executive sessions are always sealed right after the committee comes out of the closed session. (M)

### *Other Notable Points*

- The general phone number for the Westerly superintendent's office always leads to an answering machine unless a specific extension is dialed. The outgoing message on the answering machine explicitly promises that the phone call will be returned, but we were never called back after we left a message requesting minutes. The superintendent's office provided copies of minutes without any problem when visited in person, though.
- When we requested information about teacher

## SCHOOL DISTRICTS

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evaluation and professional development, the superintendent asked our volunteer if he was doing a state-wide study on teacher standards.

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### WOONSOCKET

#### *Open Records Law*

- Written information on both teacher evaluation and professional development was received.

#### *Open Meetings Law*

- The law and reason are cited in the minutes, but sometimes "personnel" is given as a reason for executive session. (M)

- Executive session is primarily used for discussion, but votes are sometimes taken there. Legal counsel is often consulted because "there are varied opinions of what types of votes can be taken," the chairman pointed out. (I)

- Minutes from executive session are rarely sealed, but when they are, it is done in executive session and this vote is not disclosed. Therefore, a citizen has no way of determining whether executive minutes are sealed or not. (I)

- The chairman reported that the purpose of executive session is to discuss students and personnel, and he makes an effort to limit the number of executive sessions. They are held about twice per month, while the committee meets about once weekly.



## CONCLUSIONS

**A**re Rhode Island's local governments open or shut in terms of releasing public information? The results of this study reveal that openness is not always a black and white issue. Instances of compliance with the Open Records Law and the Open Meetings Law were found alongside violations of these laws even within a department in a city or town. Overall, we cannot conclude that Rhode Island municipalities demonstrate openness as determined by these two laws.

We found that police departments, tax assessors, and town clerks were often reluctant to provide citizens with information to which they are entitled. Some cities and towns complied with the Open Records Law and Open Meetings Law and, thus, honored the public's right to know, while others seemed to either willfully or inadvertently disregard requests for information. Public officials who were in compliance with these laws are holding themselves accountable for their actions and decisions by allowing citizens to review the records and documents related to the work that they do.

Credit is due to those police and school departments which improved their level of openness since the release of *Access to Public Records* in 1998. In less than a year, some of these departments have changed their policies to be in compliance with the laws of open government. This year, virtually all police departments allowed access to the police log. All of the school districts granted access to teacher contracts and school committee minutes and, thus, improved from last year. Police departments improved their compliance with the legally limited photocopying fee, and school departments never overcharged. In some cities and towns, we not only received the information we requested, but it was provided in a timely and courteous manner. Steps have been taken in the direction of compliance on these points, but the overall results of the study indicate that openness has not been universally achieved.

While some cities and towns have improved in terms of openness, others have not. *Access to Public Records* showed the need for improvement in compliance with the Open Records Law, which has been in existence for about two decades. Given the publicity generated by last year's study, it was disturbing to find compliance rates of 37% and 32% for police records and municipal legal claims, respectively. The 85% compliance rate for education document requests indicates that some of Rhode Island's

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## CONCLUSIONS

**“Many districts did not correctly cite the law or the reason for entering into executive session, and virtually none of the districts that vote or reach a consensus in executive session clearly disclose their decisions afterwards.”**

school districts also have room for improvement.

School departments were the best of the three areas of government studied. With few exceptions, we were provided with the information we requested of the schools. School committees did not achieve this level of compliance with the Open Meetings Law. Many districts did not correctly cite the law or the reason for entering into executive session, and virtually none of the districts that vote or reach a consensus in executive session clearly disclose their decisions afterwards. If citizens cannot find this information from the minutes--because it was not recorded, was too vague according to the attorney general, or was not clearly disclosed--we cannot be completely satisfied with how the committees are interpreting and complying with the law. The procedures of those committees which demonstrated a spirit of openness can be used as the standard for others in the areas in which the requirements of the law are ambiguous.

More disturbing than these misinterpretations of the Open Meetings Law were the clear violations of the Open Records Law, particularly evident in the results of our requests for court settlements and initial arrest reports. These records are explicitly deemed public under the Open Records Law and there should be no reason for a citizen to be denied access to them. Not all the municipal bodies which failed to comply with the law did so by actively refusing to provide the information. A substantial number of the denials were the result of a request being met by silence or inaction. Letter requests, most notably, were often left unanswered.

Public records, by their very nature and legal definition, are open to any person regardless of his or her ability to give a “good” reason for the request. A citizen does not have to be a relative of the victim or suspect to see an arrest report; or a party in a civil lawsuit to see the financial settlements of the case; or a parent of a child in a school district to access policy information. In many cases, we were granted access to the information as citizens simply interested in the issues, but in some instances, we were denied information for improper reasons. It is illegal for public information to be withheld because of the identity of the person making the request or his or her affiliation with the subject of the record.

The extent of the barriers to access that we encountered leads to an important conclusion: the Open Records Law and the Open Meetings Law are not adequately enforced in Rhode Island’s cities and towns. The problem is that one of the enforcement mechanisms,

citizens' complaints about individual violations to the Attorney General, can be inconsistent and erratic. In the instances in which citizens are educated about the laws and take the time-consuming steps to report violations to the Attorney General, these laws can be enforced. Unfortunately, not all citizens are aware of their right to know or take the initiative to report barriers to access that they encounter. In terms of the Open Meetings Law and school committees, violations occur every month, but almost none are reported.

### **Analysis: Why was Compliance Poor?**

#### *Ignorance of the law*

Over the course of this study it became apparent that many municipal officials were not familiar with the law and its 1998 amendments. Despite the publicity generated by last year's study, some police departments still refused to provide initial arrest reports. Others continued to charge over the legal limit for photocopying fees.

City and town clerks performed well in last year's study, but fared poorly this year in terms of disclosing financial settlements. In two instances, solicitors explicitly denied access to legal settlements. It is disturbing that, as practitioners of the law, solicitors did not follow the law.

After evaluating school committee minutes, we found that historical precedent often supercedes the law. School committees which have fallen into a routine with their procedures have not updated them to be in compliance with the law. Many school committee members do not appear to have a comprehensive understanding of the law. There was a relatively large discrepancy in the way in which school committees interpreted the Open Meetings Law and what the Attorney General's office has determined is necessary for compliance. For example, we found problems with the specificity of reasons for executive session and the committees' use of informal consensus in closed session. Therefore, most committees are not adequately making public the nature of the discussions in closed session and the decisions made there.

#### *Job Duties*

Some municipal employees who field public requests do not necessarily see it as part of their job to provide public information. Police officers see themselves as

## CONCLUSIONS

enforcers of the law, not as records personnel. Even officers who specialize in distributing records may view that task as a distraction to their policing functions. In some cases, records officers and clerks did not even have the authority to release documents without the chief's permission.

The bureaucratization of the records requisition process impeded access. In many instances, requests for legal settlements were forwarded or redirected to different locations. It appears that local officials were either uncertain of their obligations under the law and did not want to release information without authorization, or were simply unaware of the location of important documents.

### *Protective Secrecy*

To some degree, the culture of secrecy encountered during last year's study still exists today. Police departments generally value confidentiality over openness. They wish to protect the people involved in the arrest and often see no valid reason to give reports to the public.

The private legal system values confidentiality and secrecy; public officials often transport those values to the public sector. Two requests for legal settlements were denied when it was determined that the requester was not directly involved in the case.

School committees often use vague reasons to enter into executive session, perhaps with the intention of protecting the confidentiality of the employees and students being discussed. Some committees simply do not want the public to be aware of the events that occur in executive session.

### *Complexity of Requests*

The decrease in compliance rates as a whole, when compared to last year's study, can be partially attributed to researchers asking for more comprehensive and complex items. For example, although we received a greater number of actual police documents this year, the documents received were considered to be in full compliance only if they met the criteria of an initial arrest report. In terms of city and town government compliance, municipal clerks certainly receive more requests for the municipal budget than they do for specific settlement information. This is also true with school departments, as requests for professional development and teacher evaluation forms are not as routine as those for a teacher contract.

## Recommendations

The *Access to Public Records* study concluded with the hope that cities and towns would take the initiative to improve their areas of weakness in openness, having been made aware of their procedures that were illegal. Because the overall results this year were not indicative of openness or of complete improvements in compliance, we have included recommendations for public bodies which, if implemented, should remove some of the barriers to information. These steps would lead to a greater degree of openness, clarify some of the problems related to interpretation of the laws, and make Rhode Island government more accessible and accountable to its citizens.

### *Professional Duties*

Municipal officials who handle public documents should know what information is public and where the records are located.

Police departments have the difficult task of balancing open records with sensitive and personal information that is not to be released. Police departments must review policies on what information is public and what information is private and should be blacked out. Police narratives are public information and must be included in the initial arrest report for it to be complete. Additionally, police departments could greatly benefit by posting a copy of the Open Records Law in the station near the records request window. This would serve not only as a friendly indication of openness for citizens, but also as a reminder for officers that they must comply with the law.

Solicitors representing cities and towns should not settle cases confidentially. When a public body is a party, under the law, confidentiality agreements have no place in the final settlement. Tax assessors need to be aware that they are responsible for maintaining any record of reassessment of property. They are undeniably the custodians of tax records. City and town clerks should know where information relating to financial settlements is located, even if it is not in their office. Also, requests for such information made in writing are just as valid as other requests and should not be disregarded.

Lawyers hired by school committees as legal counsel should review the Open Meetings Law. As practitioners of the law, it is their obligation to advise committee members and the minute takers when their

## CONCLUSIONS

**“In order to proactively release municipal settlements, cities and towns should include in their annual report, or as an addendum to the city or town budget, a list of the financial terms of the settlements involving the town in that year.”**

procedures inhibit openness. There are certain practices that school committees could adopt that would increase access to information. Statements of the reason for executive session can, and must, be more specific than "personnel" or "collective bargaining." Committees can follow the example of those districts that are currently open with this information. Minutes from executive session should only be sealed when the information they contain must remain confidential. Committees should not seal minutes in their entirety if certain portions of the minutes could be left unsealed. When committees reconvene after executive session, they should have a section of their meeting, and the minutes, entitled "Executive Session Votes." Under this heading, the votes and decisions from the closed session will be clearly evident to the public.

### *Information Management*

**D**uring many stages of the study, the problem of information management made obtaining the information difficult.

Information management problems hindered accessibility to records. Police officers were not always aware of how to operate their computer records system. Older, outdated systems were unable to sort records by type of incident. Tax assessors and clerks often could not find the requested records because of haphazard information management or filing systems. School department personnel did not examine policy manuals and contracts for requested information.

Police departments should give authority to release public documents to those officers that are charged with that duty. In many instances, records clerks needed the authorization of their chief to fulfill the request. The process of requesting information was greatly simplified when the police department used a standardized request form. The Scituate police form, for example, was easy to use and included the option of requesting information anonymously. Although written requests are not required by law, the specific forms make the process of requesting information more efficient for both the police department and the citizen making the request.

Municipal officials who handle records reflecting court settlements need to establish custody of the documents. When a solicitor's contract with a city or town expires, the solicitor maintains custody of records generated by his or her work, as private lawyers do. The solicitor still obligated to respond to queries regarding these records as if currently employed by the town.

## CONCLUSIONS

Retrieval fees that are incurred should be directed to the town and not to the requester of the records. Also, municipal officials should directly forward requests if they are not the custodian of the requested record. It is helpful to the citizens if they are notified when their requests are redirected and are told to whom they were sent. In order to proactively release municipal settlements, cities and towns should include in their annual report, or as an addendum to the city or town budget, a list of the financial terms of the settlements involving the town in that year.

During the study we found that some school officials need to update their district's policy manual and to know what information can be found within it.

While initially researching court cases, we found that the Superior Court data system often contained misleading information. An updating of this system would aid citizens. Similarly, some police stations are using outdated computer systems that make the retrieval of information difficult.

### *Institutional Changes*

**A** consistent enforcement mechanism is needed in order to monitor compliance with the laws of open government.

It is inconsistent that police officers and other municipal officials can claim ignorance to the Open Records Law to avoid penalties for non-compliance while the average citizen cannot claim ignorance when he or she is in violation of most laws. The Open Records Law states that, "The court shall impose a civil fine not exceeding one thousand dollars (\$1,000) against a public body or official found to have committed a knowing and willful violation of this chapter" (R.I.G.L. 38-2-9 (d)). We suggest that the law be amended so that the court may impose warnings and fines for any violation of this law.

Our study was aimed at measuring compliance with the Open Meetings and Open Records Law across the state, regardless of whether the incidences of non-compliance were intentional or inadvertent. It is essential for a mechanism to be implemented that will continuously monitor openness. Because the current method of enforcement is reactive, rather than proactive, many violations may go undetected; if a complaint is not filed, no action will be taken to rectify the situation. If violations go unnoticed for a long period of time, the procedures that are in violation may become part of the policy of the non-compliant public body. To remedy this problem, studies should be conducted regularly to monitor compliance,

**"Because the current method of enforcement is reactive, rather than proactive, many violations may go undetected; if a complaint is not filed, no action will be taken to rectify the situation."**

## CONCLUSIONS

possibly with the help of non-profit organizations or the Secretary of State.

Currently, Rhode Island law allows aggrieved citizens to file complaints with the Attorney General. The Attorney General may then file suit on behalf of the complainant, issue an advisory opinion, or choose to take no action. The difficulty with this method of redress is that there may be little incentive for the Attorney General to take action consistently. Since the Attorney General depends on other government agencies and officials, especially police departments, the Attorney General may be reluctant to disrupt the relationships with those agencies to enforce the Freedom of Information laws.

Only thirteen other states place the power of enforcing the Open Records Law with the Attorney General. Some states, such as Connecticut, have created a Freedom of Information Commission to investigate public record complaints. The Commission serves the same purpose as the Attorney General's office in Rhode Island in regards to access to public records, but can devote more time to open government issues and is free of political and professional ties with the local public bodies involved with complaints. Because Rhode Island is a smaller state and may not warrant a full commission for open government issues, another possibility would be to transfer the Attorney General's responsibility to either the Secretary of State's office or to the already established Ethics Commission. By transferring the enforcement power, the Attorney General's position will not be compromised and the Freedom of Information laws can be fully enforced without conflicts of interest.

The Connecticut Freedom of Information Commission is also involved in educating members of public agencies in the law. They hold a statewide Freedom of Information conference each year, and are invited by cities and towns to give workshops on the Open Meetings and Open Records Laws. In addition to training members of public agencies, the Freedom of Information Commission also answers questions pertaining to the law and assists citizens with any procedural questions concerning a complaint. After interviewing school committee chairpersons in our study, we found they had many questions on the legality of their procedures but had no place to turn for advice. Rhode Island could create a commission or an "FOI Helpline," as the one in use in New York, that provides advisory opinions which would be of immense help to school committee members and other municipal leaders in Rhode Island.





# APPENDIX

## Appendix 1.2: Police City and Town Data

BW = Brown student walk-in , CL = Common Cause letter request, CW = Common Cause Walk-in

CITY/TOWN	Code	Received	ASK	ASK	ASK	\$ per PAGE	TOTAL	SSN	VIC	NARRATIVE	JUVENIL
		Record	NAME	REASON	LICENSE		CHARGED		SSN		INFO
Barrington	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	YES	NO	NO
Barrington	CL	NO									
Barrington	CW	NO	YES	YES	NO						
Bristol*	BW	*	YES	YES	NO						
Bristol	CL	NO									
Bristol	CW	NO	NO	NO	NO						
Burrillville	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	YES	YES	NO
Burrillville	CL	YES				\$0.00	\$0.00	YES	YES	YES	YES
Burrillville	CW	YES	YES	NO	NO	\$0.00	\$0.00	YES	YES	YES	NO
Central Falls	BW	YES	YES	YES	NO	\$0.00	\$0.00	NO	NO	NO	NO
Central Falls	CL	NO									
Central Falls	CW	YES	NO	YES	NO	\$0.00	\$0.00	NO	NO	YES	NO
Charlestown	BW	YES	NO	NO	NO	\$0.00	\$0.00	NO	NO	YES	NO
Charlestown	CL	YES				\$0.00	\$0.00	NO	NO	YES	NO
Charlestown	CW	YES	NO	YES	NO	\$0.00	\$0.00	NO	NO	YES	NO
Coventry	BW	YES	NO	NO	NO	\$0.00	\$0.00	NO	NO	NO	NO
Coventry	CL	YES				\$0.00	\$0.00	NO	NO	NO	NO
Coventry	CW	YES	YES	NO	NO	\$0.00	\$0.00	NO	NO	NO	NO
Cranston	BW	YES	YES	YES	NO	\$0.15	\$0.60	NO	NO	YES	NO
Cranston	CL	YES				\$0.17	\$1.00	NO	NO	YES	NO
Cranston	CW	YES	YES	YES	NO	\$0.15	\$0.60	NO	NO	YES	NO
Cumberland	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	NO	NO
Cumberland	CL	NO									
Cumberland	CW	NO	NO	YES	NO						
East Greenwich	BW	YES	NO	YES	NO	\$0.00	\$0.00	NO	NO	NO	NO
East Greenwich	CL	YES				\$0.00	\$0.00	NO	NO	NO	NO
East Greenwich	CW	YES	NO	YES	NO	\$0.00	\$0.00	NO	NO	NO	NO
East Providence	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	YES	YES	NO
East Providence	CL	YES				\$0.00	\$0.00	YES	YES	YES	NO
East Providence	CW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	YES	NO
Foster	BW	YES	YES	NO	YES	\$0.00	\$0.00	YES	YES	YES	NO
Foster	CL	NO									
Foster	CW	YES	YES	YES	YES	\$0.00	\$0.00	YES	YES	YES	YES
Glocester	BW	YES	YES	YES	NO	\$0.00	\$0.00	NO	NO	YES	NO
Glocester	CL	NO									
Glocester	CW	NO	YES	YES	NO						
Hopkinton	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	YES	NO
Hopkinton	CL	NO									
Hopkinton	CW	NO	YES	YES	NO						
Jamestown	BW	YES	NO	NO	NO	\$0.00	\$0.00	YES	NO	NO	NO
Jamestown*	CL	*									
Jamestown	CW	YES	YES	YES	NO	\$0.00	\$0.00	NO	NO	YES	NO
Johnston	BW	YES	YES	YES	NO	\$1.00	\$2.00	NO	NO	YES	NO
Johnston	CL	NO									
Johnston	CW	YES	YES	YES	NO	\$0.50	\$1.00	NO	NO	YES	NO
Lincoln	BW	NO	NO	NO	NO						
Lincoln	CL	NO									
Lincoln	CW	NO	NO	YES	NO						
Little Compton	BW	YES	YES	YES	YES	\$0.00	\$0.00	NO	NO	YES	NO
Little Compton*	CL	YES				\$0.00	\$0.00	YES	NO	*	NO
Little Compton	CW	YES	YES	YES	YES	\$0.00	\$0.00	NO	NO	YES	NO
Middletown	BW	YES	NO	NO	NO	\$0.00	\$0.00	YES	YES	YES	NO
Middletown	CL	YES				\$0.00	\$0.00	YES	YES	YES	NO
Middletown	CW	YES	NO	NO	NO	\$0.08	\$0.15	YES	YES	YES	NO

# APPENDIX

CITY/TOWN	Code	Received Record	ASK NAME?	ASK REASON?	ASK LICENSE?	\$ per PAGE	TOTAL CHARGED	SSN	VIC SSN	NARRATIVE	JUVENILE INFO
N. Providence	BW	YES	YES	YES	NO	\$1.66	\$5.00	YES	NO	YES	NO
N. Providence	CL	NO									
N. Providence	CW	YES	YES	YES	NO	\$1.00	\$5.00	YES	NO	YES	YES
Narragansett	BW	NO	NO	YES	NO						
Narragansett	CL	NO									
Narragansett	CW	YES	YES	YES	NO	\$2.00	\$2.00	YES	NO	NO	NO
Newport	BW	YES	NO	YES	NO	\$0.15	\$0.15	YES	NO	NO	NO
Newport	CL	NO									
Newport	CW	YES	NO	NO	NO	\$0.15	\$0.15	YES	NO	NO	NO
North Kingstown	BW	YES	NO	NO	NO	\$0.00	\$0.00	YES	NO	YES	YES
North Kingstown	CL	YES				\$0.00	\$0.00	YES	YES	YES	YES
North Kingstown	CW	YES	NO	NO	NO	\$0.00	\$0.00	YES	NO	YES	YES
North Smithfield	BW	YES	YES	YES	YES	\$0.00	\$0.00	NO	NO	NO	NO
North Smithfield	CL	YES				\$0.00	\$0.00	NO	NO	NO	NO
North Smithfield	CW	YES	YES	NO	YES	\$0.00	\$0.00	YES	NO	YES	NO
Pawtucket	BW	YES	NO	NO	YES	\$0.15	\$0.75	YES	NO	YES	NO
Pawtucket	CL	NO									
Pawtucket	CW	YES	NO	NO	YES	\$0.15	\$0.60	YES	NO	YES	NO
Portsmouth	BW	YES	NO	NO	NO	\$0.25	\$1.00	YES	YES	YES	YES
Portsmouth	CL	YES				\$0.00	\$0.00	YES	NO	YES	NO
Portsmouth	CW	YES	NO	NO	NO	\$0.33	\$1.00	YES	NO	YES	YES
Providence	BW	YES	NO	NO	NO	\$0.15	\$0.30	NO	NO	YES	NO
Providence	CL	NO									
Providence	CW	NO	NO	YES	NO						
Richmond	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	NO	NO
Richmond	CL	YES				\$0.00	\$0.00	YES	NO	NO	NO
Richmond	CW	YES	NO	NO	NO	\$0.00	\$0.00	YES	NO	NO	NO
Scituate	BW	YES	NO	NO	NO	\$0.15	\$0.75	NO	NO	YES	NO
Scituate	CL	NO									
Scituate	CW	YES	NO	YES	NO	\$0.15	\$0.45	NO	NO	YES	NO
Smithfield	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	NO	NO
Smithfield	CL	YES				\$0.00	\$0.00	YES	NO	NO	NO
Smithfield	CW	YES	YES	YES	YES	\$0.00	\$0.00	NO	NO	NO	NO
South Kingstown	BW	YES	NO	NO	NO	\$0.15	\$0.60	NO	NO	YES	NO
South Kingstown	CL	YES				\$0.13	\$1.00	NO	NO	YES	NO
South Kingstown	CW	YES	NO	NO	NO	\$0.15	\$0.60	NO	NO	YES	NO
Tiverton	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	NO	NO
Tiverton	CL	YES				\$0.00	\$0.00	NO	NO	NO	NO
Tiverton	CW	YES	YES	YES	NO	\$0.00	\$0.00	YES	YES	NO	NO
W. Warwick	BW	YES	YES	YES	NO	\$0.00	\$0.00	NO	NO	NO	NO
W. Warwick	CW	NO	YES	YES	NO						
W. Warwick	CL	NO									
Warren	BW	NO	NO	YES	NO						
Warren	CL	YES				\$0.71	\$5.00	YES	NO	YES	NO
Warren	CW	NO	NO	NO	NO						
Warwick	BW	YES	NO	YES	NO	\$0.15	\$1.20	YES	NO	YES	YES
Warwick	CL	YES				\$0.71	\$5.00	YES	NO	YES	NO
Warwick	CW	YES	NO	NO	NO	\$0.15	\$1.85	YES	NO	YES	YES
West Greenwich	BW	NO	NO	YES	NO						
West Greenwich	CL	NO									
West Greenwich	CW	NO	YES	YES	NO						
Westerly	BW	YES	YES	YES	NO	\$0.00	\$0.00	YES	NO	YES	YES
Westerly	CL	YES				\$0.00	\$0.00	YES	NO	YES	NO
Westerly	CW	YES	YES	NO	NO	\$0.00	\$0.00	YES	NO	YES	NO
Woonsocket	BW	NO	YES	YES	NO						
Woonsocket	CL	NO									
Woonsocket	CW	NO	YES	YES	NO						

# APPENDIX

## Appendix 2.1: Municipal Legal Claims City and Town Cases

City/Town (Request #)	Docket Number	Case Name	Case Type	Date
Barrington (1)	PC19970153	J. Robert Pesce vs. Town of Barrington	EXCESSIVE TAX	1/28/98
Bristol (1)	PC19946299	RI Depco vs. John A. Pagliarini, Tax Assessor	EXCESSIVE TAX	2/6/97
Bristol (2)	PC19951863	Pauline Silva vs. Town of Bristol	ASSAULT AND BATTERY	10/10/96
Burrillville (1)	PC19896622	Ben Franklin Realty, Inc v. Town of Burrillville, et al	EXCESSIVE TAX	4/10/92
Burrillville (2)	PC19947060	Debra Brissette, et al v. Town of Burrillville	PERSONAL INJURY	8/6/96
Central Falls (1)	PC19942511	Ronald Harnois v. Central Falls	ASSAULT	3/31/98
Central Falls (2)	PC19906932	Claire Simpson et al v. Central Falls School Department	PERSONAL INJURY	9/18/92
Charlestown (1)	N/A	Daniel J. Shanley vs. Town of Charlestown	CONTRACT DAMAGES	N/A
Charlestown (2)	N/A	Clement Stapleton vs. Town of Charlestown, Town Council, Treasurer	CONTRACT DAMAGES	N/A
Coventry (1)	KC19891467	Lawrence Devine vs. Town of Coventry	PERSONAL INJURY	8/3/95
Coventry (2)	KC19920339	Mill Realty vs. Patricia Picard, Tax Assessor	EXCESSIVE TAX	9/16/94
Cranston (1)	N/A	David J. Canerpari vs. Carlo Del Bonis	EXCESSIVE TAX	N/A
Cranston (2)	N/A	William Lynch vs. City of Cranston	PERSONAL INJURY	N/A
Cumberland (1)	PC19917292	Vladir Clemente, et al v. The Town of Cumberland	PERSONAL INJURY	2/22/93
Cumberland (2)	PC19930717	G & S Realty and Renting v. Wendell Wilkie, Assessor	EXCESSIVE TAX	8/5/97
East Greenwich (1)	19931121	Minnesota Associates vs. East Greenwich Tax Assessor	EXCESSIVE TAX	12/30/96
East Greenwich (2)	KC19960189	Robin Castaldi vs. Town of East Greenwich	LIBEL/SLANDER	7/3/97
East Providence(1)	PC19980871	Organic Dyestuffs Corporation, Inc. vs. Alberto Ereio, Tax Assessor	EXCESSIVE TAX	4/28/98
East Providence(2)	PC19960109	Donna Beauregard vs. City of East Providence	PERSONAL INJURY	5/17/96
Exeter (1)	N/A	Caroline Karp vs. John Larner	MALPRACTICE/LEGAL	N/A
Foster (1)	PC19862915	Susan Lions vs. Town of Foster	PERSONAL INJURY	1/17/92
Foster (2)	N/A	Brenda Rambone vs. Janice Goins...Foster-Glocester Regional School District	PERSONAL INJURY	N/A
Glocester (1)	PC19893933	Deborah Dickson vs. Town of Glocester	REAL PROPERTY	9/19/96
Glocester (2)	PC19943755	Normand Ross vs. Town of Glocester	PERSONAL INJURY	4/6/95
Hopkinton (1)	N/A	Joseph Demarco vs. Town of Hopkinton	EXCESSIVE TAX	N/A
Hopkinton (2)	N/A	RI Depositors Economic Protection Corporation vs. Town of Hopkinton	CREDIT UNION	N/A
Jamestown (1)	NC19950526	Dennis Jaseau vs. Donna A. Barker	PERSONAL INJURY	8/8/96
Johnston (1)	PC19921380	IBM Credit Corp. vs. Elaine Ricciardelli	EXCESSIVE TAX	7/2/93
Johnston (2)	PC19923556	Richard Dorsey vs. Town of Glocester	LIBEL	3/15/95
Lincoln (1)	PC19904623	Robert E. O'Rourke v. Donald Danjou	PERSONAL INJURY-VEHICLE	4/7/92
Lincoln (2)	PC19951985	Bernard F. Beaugregard v. Town of Lincoln	EXCESSIVE TAX	12/18/95
Little Compton(1)	NC19910682	Joseph E. Cotta, Jr. vs. Tax Assessor of Town of Little Compton	EXCESSIVE TAX	7/24/92
Little Compton (2)	PC19923200	Mark Alves vs. Martha Souther, Treasurer	PERSONAL INJURY	6/18/96
Middletown (1)	NC19940173	William and Carol Gormly vs. Town of Middletown	EXCESSIVE TAX	5/9/96
Middletown (2)	NC19850193	Donna Lee Walters vs. Middletown School Committee	PERSONAL INJURY	1/8/93
Narragansett (1)	WC19970542	Namcook Community Association vs. Town of Narragansett	EXCESSIVE TAX	10/15/97
Narragansett (2)	WC19930023	Matthew Eddy vs. Christopher Coppia (School Committee Chairperson)	PERSONAL INJURY	6/2/94
Newport (1)	NC19870517	NOS Limited Partnership vs. City of Newport	EXCESSIVE TAX	3/4/96
Newport (2)	NC19910360	Phyllis M. Martin vs. City of Newport	PERSONAL INJURY	12/9/94
North Kingstown (1)	WC19960490	Susan Hartnett vs. Leo Maynard	CONTRACT DAMAGES	7/27/97
North Kingstown (2)	PC19940822	Linda Simmons vs. Town of North Kingstown	PERSONAL INJURY	12/16/94
North Providence (1)	PC19944983	Steven Perlow vs. Richard Leone	EXCESSIVE TAX	10/28/94
North Providence (2)	PC19932908	Ronald Ashley vs. Madeline Ferranti	PERSONAL INJURY	1/5/98
North Smithfield (1)	PC19963671	Edgecomb Metals Co. vs. North Smithfield et al	EXCESSIVE TAX	10/1/98
North Smithfield (2)	PC19955730	Alfred Hebert v. North Smithfield Town Council	REAL PROPERTY	6/24/96
Pawtucket (1)	PC19953664	Queen City Paper Co. & David L. Quinn II	EXCESSIVE TAX	1/17/96
Pawtucket (2)	PC19905190	Marie Burlingham v. Christine Tague, et al	PERSONAL INJURY	1/27/95
Portsmouth (1)	NC19970155	Grumman Allied Industries, Inc. vs. Portsmouth Tax Assessor	EXCESSIVE TAX	7/23/98
Portsmouth (2)	NC19940357	Ian Louis Dijkstra vs. Donna Barker, Treasurer	PERSONAL INJURY	12/12/95
Providence (1)	PC19955337	Sand Hill Realty Trust vs. Thomas P. Rossi, Tax Assessor	EXCESSIVE TAX	6/5/96
Providence (2)	PC19960044	Louis Demelo, Jr. vs. RI Surveillance, City of Providence	SEXUAL HARASSMENT	6/6/96
Richmond (1)	N/A	Richard J. Manfredi vs. John Bergantini	EXCESSIVE TAX	N/A
Richmond (2)	N/A	Equi-Financial LP vs. JC Appraisal Plus Inc.	PERSONAL INJURY	N/A
Scituate (1)	PC19891023	Geraldine Portrais vs. Brian Blanch	PERSONAL INJURY	10/15/92
Scituate (2)	PC19901303	Wayne Resmini vs. Town of Scituate	PERSONAL INJURY	6/14/95
Smithfield (1)	PC19931814	New England Container Case v. Fred Rogan	EXCESSIVE TAX	5/19/94
Smithfield (2)	PC19955452	Jennifer St. Andre v. Smithfield Police Department	CIVIL RIGHTS/JOB DISCRIMINATION	12/22/95
South Kingstown (1)	N/A	N/A	EXCESSIVE TAX	N/A
South Kingstown (2)	N/A	John Feroce vs. South Kingston	PERSONAL INJURY	N/A
Tiverton (1)	NC19940053	Americo Zinno vs Stephen Flanagan, Tiverton Tax Assessor	EXCESSIVE TAX	8/5/96
Tiverton (2)	NC19960229	Christine Arrugo vs. Eric Gifford, Town of Tiverton	PERSONAL INJURY	12/22/97
Warren (1)	PC19917319	James A. Ruggieri vs. Wayne Brown	EXCESSIVE TAX	3/24/92
Warren (2)	PC19940381	Leslie Formisano vs. Norma MacDonald	PERSONAL INJURY	3/3/98
Warwick (1)	KC19920298	Mary Wood vs. Joseph W. Salvatore	PERSONAL INJURY	8/23/95
Warwick (2)	KC19940480	Richard A. Sinapi vs. City of Warwick, et al	EXCESSIVE TAX	10/10/95
West Greenwich (1)	N/A	Dina Rhodes vs. Town of West Greenwich	PERSONAL INJURY	N/A
West Greenwich (2)	N/A	Joyce Jones vs. Marc Disalvo	PERSONAL INJURY	N/A
West Warwick (1)	KC19920269	Midland Imports vs. John Pagliarini	EXCESSIVE TAX	7/29/93
West Warwick (2)	KC19890305	Cheryl Grenon vs. Town of West Warwick	PERSONAL INJURY	4/4/94
Westerly (1)	N/A	Almacs vs. Town of Westerly	EXCESSIVE TAX	N/A
Westerly (2)	N/A	Mario J. Turco vs. Town of Westerly	N/A	N/A
Woonsocket (1)	PC19896551	Rhode Island Industrial Facilities, et al v. City of Woonsocket	EXCESSIVE TAX	8/23/96
Woonsocket (2)	KC19940835	Stephen F. Pezzulo et al v. City of Woonsocket	PERSONAL INJURY	12/23/96

## Appendix 3.1: School Districts Interview Questions

These were the questions posed to school committee members during interviews.

- 1) How long have you been on the committee?
- 2) How long have you been the chairman/woman of the committee?
- 3) When and how often does your committee meet? What is the difference between regular sessions, work sessions, emergency meetings, etc.? [tailored to terminology of individual town] Are they all open to the public or do they have special exceptions?
- 4) How frequently does your committee meet in closed session? Is a portion of every meeting closed or is it less often? Do the closed portions of your meetings occur before, after or during your regular sessions? Are they ever held on a separate night?
- 5) If you have questions about how to comply with the Open Meetings Law, do you have somebody (such as a legal counsel) who you go to? How do you keep apprised of changes in the law?
- 6) While the open meetings law specifies several circumstances in which public bodies \*may\* go into executive session, there is considerable room for committees to use their own discretion in deciding when to go into executive session and when to remain in open session. How do you decide which matters to discuss in open session and which to discuss in executive session? More specifically. . .

The Open Meetings Law specifies seven purposes for which a meeting may be closed. We are interested in how frequently you find yourself using each category, and in getting a better sense of which kind of issues fall under each one.

(1) "Any discussion of the job performance, character, or physical or mental health of a person or persons provided that such person or persons affected shall have been notified in advance in writing and advised that they may require that the discussion be held at an open meeting."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never  
\*numbers in parenthesis assume about 12 meetings per year\*
- b) What types of issues or decisions are considered in this category?

(2) "Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(3) "Discussion regarding the matter of security including but not limited to the deployment of security personnel or devices."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(4) "Any investigative proceedings regarding allegations of misconduct, either civil or criminal."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(5) "Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(6) "Any discussions related to or concerning a prospective business or industry locating in the state of Rhode Island when an open meeting would have a detrimental effect on the interest of the public."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(7) "A matter related to the question of the investment of public funds where the premature disclosure would adversely affect the public interest. Public funds shall include any investment plan or matter related thereto, including but not limited to state lottery plans for new promotions."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

(8) "Any executive sessions of a local school committee exclusively for the purposes (a) of conducting student disciplinary hearings or (b) reviewing other matters which relate to the privacy of students and their records, provided, however, that any affected student shall have been notified in advance in writing and advised that he or she may require that the discussion be held in an open meeting."

- a) Over the course of a year, about how often is this section cited?  
Almost Always (10+) Frequently (5-9) Occasionally (2-4) Rarely (1) Never
- b) What types of issues or decisions are considered in this category?

\*c) How do you notify an individual such as a student or teacher when you will be discussing their case? Who would be in charge of the notification? Is the individual under discussion encouraged or prohibited from attending the meeting if it is held in executive session?

7) Do you ever take votes in executive session, or is it used mainly for purposes of discussion? If votes are taken in executive session, how is the decision made public?

8) Do you have a procedure for sealing and unsealing executive minutes? Should I be able to obtain copies of unsealed executive minutes? (If in your town minutes do not appear to be sealed, then ask whether they seal them in executive session).

9) What do you view as the main purpose of executive sessions? Do your sessions fulfill that goal?

10) In general, how do you handle public comment? What do you think is the best way for a citizen to raise an issue to the school committee? How much participation is there from the public? Would you prefer more, less? Are you doing anything to bring about that change?

## APPENDIX

### Appendix 3.2: School Districts Teacher Evaluation & Professional Development Protocol

Teacher Evaluations and Professional Development:  
Protocol for Phone Call and Visit

PLEASE READ CAREFULLY BEFORE MAKING YOUR CALL  
If you have any questions, feel free to call us.

This component should be done by December 18th. Your goal is to get a blank teacher evaluation form, and copies of the policies for both teacher evaluation procedures and professional development. Your tone should be polite, but not overly formal (as if you were a parent curious about your child's school rather than somebody conducting a study). Please record what happens during your phone conversation and visit on the attached sheet.

Note, for the integrity of the study:

If the person you speak to over the phone or during your visit wants to know who you are or why you want this information, you should:

- give your name if you are comfortable doing so.
- say you are a local citizen interested in the schools.
- say, "I am interested in knowing what standards are expected of teachers."
- not reveal that we are doing a study, but do not give false information.

Step 1: Make the Call

Call your town high school's main office (see attached phone number).

"Hello. (you can introduce yourself by name if you choose). I have some questions about how teachers are evaluated at \_\_\_\_\_ High School and the opportunities they have to improve their skills. Could you direct me to somebody who can tell me about this?"

Step 2: Ask Questions

RECORD ANSWER AFTER EVERY QUESTION

If you are directed to somebody else (for example, an administrator such as the principal/headmaster or somebody in the superintendent's office), repeat that you have some questions about the school's policy on teacher evaluations. Ask:

1)"I am looking for information about how teachers are evaluated. Do you have a written form that you use to evaluate teachers?"

If so, "Can I get a copy of a blank form? I would be happy to come pick it up." (Find out when and where the copies will be available if they don't have one on hand.)

If they say that its personal information about teachers that you cannot have, respond, "I'm not looking for information about a specific teacher, I'm interested in a blank form that would be used with all teachers."

If they say that there are different forms for tenured and non-tenured teachers, respond, "Can I have a copy of both forms?"

2)"Do you have any other written policy information on teacher evaluations?" (like how often teachers are evaluated, who does the evaluation etc.)

If so, "Can I get a copy of that? I would be happy to come pick it up."

3)"I am also interested in how teachers are encouraged to improve their teaching skills. More specifically, does the school require teachers to participate in any professional development activities?"

If not, "How does the school encourage teachers to participate in professional development activities?" (Are there opportunities available for conferences, workshops, or in-service days for teachers?)

4) "Is the school's policy on professional development available in writing?" (note: it may be called "Educational Leave," or "Professional Growth" etc.)

If so, "Can I get a copy?" (again, offer to come into the office to pick it up)

Step 3: Ending Conversation

1)Make sure before ending your phone conversation that you ask where and when to pick up any available written information (i.e. the blank teacher evaluation form, and the written policy on professional development).

2)If the person has not yet told you their name, say "In case I have more questions, could I have your name and number?"

Step 4: The Visit

The visit only involves picking up the materials you asked for on the phone. Please, when you go in, keep in mind the integrity of the study (see instructions at the top of the page).

Step 5: Returning the Information

Mail everything you received to Maria Fusaro (address noted on cover letter) as soon as possible. Thank you!

**Appendix 3.2: School Districts Observed School Committee Minutes**

Barrington	August 27th, 1998-December 3rd, 1998
Bristol-Warren	August 8th, 1998-November 30th, 1998
Burrillville	August 25th, 1998-December 8th, 1998
Central Falls	October 5th, 1998-December 21st, 1998
CHARIHO	August 18th, 1998-January 11th, 1999
Coventry	August 18th, 1998-December 16th, 1998
Cranston	August 17th, 1998-December 16th, 1998
Cumberland	July 9th, 1998-December 10th, 1998
East Greenwich	July 13th, 1998-November 19th, 1998
East Providence	August 3rd, 1998-December 16th, 1998
Exeter-West Greenwich	August 18th, 1998-January 12th, 1999
Foster-Glocester	August 4th, 1998-December 1st, 1998
Jamestown	August 6th, 1998-December 17th, 1998
Johnston	August 11th, 1998-December 8th, 1998
Lincoln	August 12th, 1998-December 14th, 1998
Little Compton	July 14th, 1998-January 4th, 1999
Middletown	August 20th, 1998-November, 12th, 1998
Narragansett	July 16th, 1998-December 16th, 1998
Newport	August 6th, 1998-December 16th, 1998
North Kingstown	August 4th, 1998-January 19th, 1999
North Providence	August 26th, 1998-December 16th, 1998
North Smithfield	September 15th, 1998-December 15th, 1998
Pawtucket	August 11th, 1998-December 15th, 1998
Portsmouth	August 4th, 1998-January 12th, 1999
Providence	August 24th, 1998-January 25th, 1999
Scituate	August 4th, 1998-November 10th, 1998
Smithfield	August 3rd, 1998-January 19th, 1999
South Kingstown	August 25th, 1998-January 12th, 1999
Tiverton	August 11th, 1998-December 8th, 1998
Warwick	July, 1st, 1998-January 12th, 1999
Westerly	August 19th, 1998-December 16th, 1998
West Warwick	August 17th, 1998-December 9th, 1998
Woonsocket	August 12th, 1998-January 13th, 1999