

**STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS
OFFICE OF ATTORNEY GENERAL**



**2019 ANNUAL REPORT
OPEN MEETINGS ACT
AND
ACCESS TO PUBLIC RECORDS ACT
ATTORNEY GENERAL PETER F. NERONHA**

OPEN MEETINGS ACT



ANNUAL REPORT 2019

**ATTORNEY GENERAL'S ANNUAL REPORT
OF COMPLAINTS RECEIVED PURSUANT TO
RHODE ISLAND GENERAL LAWS SECTION 42-46-1, ET SEQ.,
THE OPEN MEETINGS ACT**

Rhode Island General Laws Section 42-46-11 requires the Office of Attorney General to submit an annual report to the Legislature summarizing the complaints received pursuant to the Open Meetings Act, including the number of complaints found to be meritorious and the action taken by the Office of Attorney General in response to each complaint. On occasion, complaints will be resolved by the parties without the issuance of a finding or the Office of Attorney General will issue one finding in response to multiple similar complaints, resulting in a discrepancy between the number of complaints received and findings issued. Additionally, sometimes findings are issued in a different calendar year than when a complaint was received. The Office of Attorney General is pleased to submit the following information concerning the calendar year 2019.

STATISTICS

OPEN MEETINGS ACT COMPLAINTS RECEIVED:	85
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	44
VIOLATIONS FOUND:	24
WARNINGS ISSUED:	23
LITIGATION INITIATED:	01
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	1
ADVISORY OPINIONS ISSUED:	0

VIOLATIONS FOUND/WARNINGS ISSUED

The Office of Attorney General issued warnings in the following cases where the Office found violations of the Open Meetings Act:

OM 19-03	<u>City of Central Falls v. Central Falls Detention Facility Corporation</u>
OM 19-04	<u>Bower and Angell v. Scituate Town Council</u>
OM 19-05	<u>Ward v. Woonsocket Planning Board</u>
OM 19-10	<u>Andrews-Mellouise v. East Providence School Committee</u>
OM 19-12	<u>Murray v. Woonsocket City Council</u>
OM 19-14	<u>In re: Saylesville Fire District</u>
OM 19-15	<u>In re: Woonsocket Renewable Energy Committee</u>
OM 19-16	<u>Lussier v. Pascoag Fire District</u>
OM 19-17	<u>Angelo v. Westerly Town Council</u>
OM 19-18	<u>Dickinson and Murphy v. Jamestown Board of Canvassers</u>

- OM 19-19 Hopkins v. Scituate Plan Commission
- OM 19-25 Doe v. Cranston Planning Commission
- OM 19-26 Ahlquist v. Central Falls Detention Facility Corporation
- OM 19-27 Langseth v. Buttonwoods Fire District
- OM 19-28 Spodnik v. Town of West Warwick and West Warwick Town Council
- OM 19-29 Novak v. Western Coventry Fire District
- OM 19-30 Burke v. Exeter West Greenwich School Committee
- OM 19-34 Wilson v. Coventry Sewer Subcommittee
- OM 19-37 Celico v. Westerly Town Council
- OM 19-38 Jenkins, et al. v. Narragansett Town Council
- OM 19-40 Durfee v. Tiverton Town Council
- OM 19-42 Perron v. Central Falls School District
- OM 19-43 Corrigan v. State Labor Relations Board

VIOLATIONS FOUND/LAWSUIT FILED

The Office of Attorney General filed a lawsuit in the following case where the Office found violations of the Open Meetings Act:

- OM 19-44 Fagnant v. Woonsocket City Council

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Summaries of all findings/written advisory opinions issued are attached.

OPEN MEETINGS ACT FINDINGS - 2019

OM 19-01 Neill v. Nasonvill Fire District

The Complainant alleged that the Nasonville Fire District Operating Committee violated the OMA when three of its seven members met with members of another fire district operating committee without providing notice of the meeting or posting the meeting agenda or meeting minutes. The Complainant also alleged that the NFD did not allow public comment at a meeting. Because the OMA only applies when a quorum of a public body convenes for a meeting, the NFD did not violate the OMA when three of its seven members met because there was not a quorum. Nor did the NFD violate the OMA by refusing public comment because the OMA expressly provides that it does not require a public body to permit public comment. *See* R.I. Gen. Laws § 42-46-6(d). Accordingly, we found no violations.

OM 19-02 Angelo v. Town of Westerly

The Complainant alleged that the Town of Westerly violated the OMA when the Town improperly convened into executive session to discuss the sale of Town property. Based on the undisputed evidence, including an *in camera* review of the executive session minutes, we found no evidence that the Town discussed the sale of Town property in executive session at the meeting identified in the Complaint. Our *in camera* review of the minutes revealed that the one item discussed in executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(5) pertained to the acquisition of a certain parcel of real property for public purposes, which a public body may (but need not) discuss in executive session. *See* R.I. Gen. Laws § 42-46-5(a)(5). Accordingly, we found no violation.

OM 19-03 City of Central Falls v. Central Falls Detention Facility Corporation

Through its Solicitor, the City of Central Falls filed a Complaint alleging that the Central Falls Detention Facility Corporation violated the OMA in relation to an emergency meeting of the Corporation Board of Directors that occurred on January 22, 2019. The Complainant alleged that: the emergency meeting was unnecessary; the Board failed to take an affirmative vote on the necessity of the emergency meeting; the Board's actions exceeded the scope of the alleged emergency; the Board erred by taking a vote at the emergency meeting; and the agenda for the January 22 meeting provided insufficient notice.

This Office found that the Corporation violated the OMA because the agenda for the January 22 meeting did not provide sufficient notice of the business to be discussed and because the Board failed to take an affirmative vote on the need for an emergency meeting. This Office requested supplemental submissions addressing: whether the January 22 meeting was necessitated by an unexpected occurrence; whether the meeting was limited to the issue that created the need for an emergency meeting; and why it was not practicable to have provided sooner notice of the January 22 meeting. This Office also sought a supplemental submission regarding whether the violations found (and ones that may be found) were willful or knowing, and the appropriate relief.

VIOLATION FOUND.

OM 19-03B Central Falls v. Central Falls Detention Facility Corporation Supplement

This supplemental finding addresses whether the OMA violations found in *City of Central Falls v. Central Falls Detention Facility Corporation*, OM 19-03 were willful or knowing; whether the January 22, 2019 emergency meeting was necessitated by an unexpected occurrence; whether the meeting was limited to the issue that created the need for an emergency meeting; and whether notice of the January 22 meeting was provided as soon as practicable. After reviewing all the evidence presented, this Office concluded that the Corporation violated the OMA by not posting notice of the emergency meeting as soon as practicable. We found insufficient evidence to support the contention that the Corporation violated the OMA by failing to comply with the requirement that the emergency meeting was necessary to address an unexpected occurrence and was limited to addressing the issue that gave rise to the purported emergency. We also found insufficient evidence to support a knowing or willful violation. This Office determined that injunctive relief was not appropriate because the agreement approved by the Corporation at the January 22 meeting has since been terminated and the loan obtained as a result of the agreement has been repaid.

OM 19-04 Bower and Angell v. Scituate Town Council

Complainants alleged that the Scituate Town Council violated the OMA at its September 20, 2018 meeting by voting to freeze the funds of the Land Trust and Conservation Commission without providing proper notice. This Office determined that the Town Council violated the OMA because the agenda item did not sufficiently specify the nature of the

business to be discussed. *See* R.I. Gen. Laws § 42-46-6(b). There was no evidence that the Town Council willfully or knowingly violated the OMA. Additionally, injunctive relief was not appropriate because the Town Council subsequently voted to remove the freeze.

VIOLATION FOUND.

OM 19-05 **Ward v. Woonsocket Planning Board**

The Complainant alleged that the Woonsocket Planning Board violated the OMA by voting to hire an attorney to provide a legal opinion because the meeting agenda only stated that the Board would discuss hiring an attorney. This Office determined that the Board violated the OMA by failing to provide proper notice that it would vote on hiring an attorney. We concluded that there was no evidence that the violation was willful or knowing and that injunctive relief was not appropriate because the attorney had already completed the task for which the Board hired him.

VIOLATION FOUND.

OM 19-06 **Gutierrez v. New Shoreham School Committee**

The Complainant alleged that the School Committee violated the OMA by discussing her employment contract in executive session at its July 16, 2018 meeting without providing her notice and an opportunity to have the discussion occur in open session. The School Committee provided an affidavit from the former Superintendent attesting that the School Committee did not discuss Complainant's job performance or individual contract during the executive session, and also provided a copy of the executive session minutes for our *in camera* review. This Office found no evidence to rebut the evidence submitted by the School Committee or to support Complainant's contention that the School Committee discussed her job performance at the July 16, 2018 executive session. Accordingly, the School Committee was not required to provide notice pursuant to R.I. Gen. Laws § 42-46-5(a)(1), and we found no violation.

OM 19-07 **Mancini v. Providence City Plan Commission**

Complainant alleged that the City of Providence Plan Commission violated the OMA when it failed to properly notice and maintain minutes of a site visit. The undisputed evidence revealed that only three of the seven Commission members attended the site visit, which was less than a quorum. Additionally, there was no evidence that the Commission members engaged in discussions during the site visit regarding any matter

over which the Commission has supervision, control, jurisdiction, or advisory power, or that a third party served as a conduit between Commission members so as to create a rolling quorum. Accordingly, this Office determined that the OMA was not implicated during the site visit and that no violation occurred.

OM 19-08 **Giramma v. Narragansett Town Council**

Complainant alleged that the Town Council met outside the public purview in violation of the OMA on January 3, 2019 for the purpose of meeting with bond counsel. The undisputed evidence revealed that two separate gatherings were held on January 3, 2019, each between two council members and Town staff, for the purpose of obtaining information about requirements and procedures associated with town bond referenda. It was also undisputed that the Town Council consists of five members, three of which would constitute a quorum. There was no evidence that a quorum of the Town Council met and had a collective discussion outside a public meeting and no allegation that any individual served as a conduit between the members so as to create a rolling quorum. Accordingly, this Office determined that the OMA was not violated.

OM 19-09 **Murphy v. Jamestown Board of Canvassers**

Complainant alleged that Jamestown Board of Canvassers unilaterally ended discussion on an agenda item without taking a vote of the Board members who were present and that the chairperson decided to take no further action or vote on the matter at issue. This Office determined that the OMA was not violated because the OMA does not require that a vote be taken on an agenda item and does not require a public body to discuss an issue. Additionally, allegations about the Chairperson's individual actions do not implicate the OMA.

OM 19-10 **Andrews-Mellouise v. East Providence School Committee**

Complaint alleged that the School Committee violated the OMA by discussing her job performance during executive session at both its September 25, 2018 and October 9, 2018 meetings without providing proper notice. This Office concluded that the School Committee violated the OMA by not providing Complainant with proper notice that her job performance would be discussed at the September 25, 2018 meeting as required by R.I. Gen. Laws § 42-46-5(a)(1). This Office also determined that the School Committee violated the OMA by failing to note in its minutes for both

meetings that the Complainant had received the required notice. Regarding the October 9, 2018 meeting, this Office concluded that Complainant was provided with proper notice. We also found that the relevant agenda item for the two meetings did not violate the OMA. We determined that injunctive relief was not appropriate because no action was taken at the September 25, 2018 meeting and because Complaint received proper notice of the October 9, 2018 meeting. Additionally, we determined there was no evidence of a willful or knowing violation.

VIOLATION FOUND.

OM 19-11 Hilton, et al. v. Tiverton Town Council

Complainants alleged that four members of the Tiverton Town Council met outside the public purview in violation of the OMA for the purpose of discussing and selecting the solicitor for the Town Council. It was undisputed that the Town Council consists of seven members and that four members constitute a quorum. This Office found that there was inadequate evidence that the fourth council member named in the Complaint participated in any collective discussion regarding this topic outside of a public meeting. Accordingly, this Office determined that there was insufficient evidence that the Town Council violated the OMA in this regard. Complainants additionally alleged that the relevant agenda item for the December 27, 2018 meeting did not adequately specify the nature of the business to be discussed because it only identified the attorney as the candidate for Town Solicitor and did not identify the law firm for which he worked. This Office determined that the agenda item provided sufficient notice and did not violate the OMA.

OM 19-12 Murray v. Woonsocket City Council

Complainant alleged that the City Council violated the OMA by listing an agenda item – “Legislative Report,” – that did not provide adequate notice of the specific persons, bills, or subject matters that would be discussed. This Office determined that the City Council violated the OMA because the agenda item did not provide sufficient notice of the nature of the business to be discussed. *See* R.I. Gen. Laws § 42-46-6(b). We determined that injunctive relief was not appropriate because the City Council did not take any action related to the relevant agenda item. Additionally, this Office determined that there was insufficient evidence to conclude that the specific violation in this case was willful or knowing, but admonished the City

Council that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.
VIOLATION FOUND.

OM 19-13 **McFadden v. Exeter West Greenwich Regional School Committee**

Complainant, who is a member of the School Committee, alleged that the School Committee violated the OMA by not permitting him to attend an executive session of a Subcommittee of which he is not a member. This Office determined that nothing within the OMA requires the School Committee (or for that matter the Subcommittee) to permit Complainant to attend the executive session of a Subcommittee of which Complainant is not a member. This Office also observed that Complainant's attendance at a Subcommittee meeting would have resulted in a quorum of the School Committee being present and could have subjected the School Committee to potential liability under the OMA for failing to properly notice a School Committee meeting. Accordingly, this Office found no violation.

OM 19-14 **In re: Saylesville Fire District**

This Office opened an investigation into whether the Saylesville Fire District failed to post meeting minutes for several meetings. The Fire District acknowledged its failure to post meeting minutes for its December 13, 2018, January 10, 2019, February 4, 2019, March 4, 2019, and March 14, 2019 meetings. This conduct violated the OMA. *See* R.I. Gen. Laws § 42-46-7(b)(2). We determined that injunctive relief was not appropriate because the Fire District had since posted the meeting minutes. Additionally, this Office determined that there was insufficient evidence to conclude that the violations were willful or knowing, but admonished the Fire District that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.
VIOLATION FOUND.

OM 19-15 **In re: Woonsocket Renewable Energy Committee**

This Office opened an investigation into whether the Woonsocket Renewable Energy Committee failed to post meeting minutes for several meetings. The Committee acknowledged its failure to post meeting minutes for its January 11, 2018, June 26, 2018, October 9, 2018, and February 8, 2019 meetings. This conduct violated the OMA. *See* R.I. Gen. Laws § 42-46-7(d). We determined that injunctive relief was not appropriate because the Committee had since posted the meeting minutes. Additionally, this Office

determined that there was insufficient evidence to conclude that the violations were willful or knowing, but admonished the Committee that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

VIOLATION FOUND.

OM 19-16 **Lussier v. Pascoag Fire District**

The Complainant alleged that the Pascoag Fire District failed to timely post meeting minutes for two meetings. The Fire District acknowledged its failure to post meeting minutes for its December 10, 2018 and January 14, 2019 meetings. This conduct violated the OMA. *See* R.I. Gen. Laws § 42-46-7(b)(2). We determined that injunctive relief was not appropriate because the Fire District had since posted the meeting minutes. Additionally, although a close question, this Office determined that there was insufficient evidence to conclude that the violations were willful or knowing. Nonetheless, this Office admonished the Fire District that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

VIOLATION FOUND.

OM 19-17 **Angelo v. Westerly Town Council**

The Complainant alleged that the Westerly Town Council violated the OMA when it met outside the public purview on or before November 26, 2018 for the purpose of selecting the president of the Town Council. The submitted evidence established that three of the seven Town Council members discussed the selection of the Town Council president outside of a public meeting. This conversation was then relayed to a fourth Town Council member. We found that the nature of this conduct constituted a collective discussion about a topic over which the Town Council had authority and was sufficient to create a rolling quorum, violating the OMA. We did not find injunctive relief appropriate, as the selection of the Town Council president was done at a properly noticed open meeting. Nor did we find evidence of a willful or knowing violation, as the evidence indicated that the Town Council's actions resulted from a mistaken belief that they were discussing a political matter that was not subject to the OMA.

VIOLATION FOUND.

OM 19-18 **Dickinson and Murphy v. Jamestown Board of Canvassers**

Complainants alleged that the Jamestown Board of Canvassers violated the OMA when it met outside the public purview to discuss suggesting that a certain entity attempt to “cure” signatures submitted in a petition drive. The Board conceded that a string of conversations between certain Board members constituted a rolling quorum, but asserted that the Board did not discuss a matter over which it had authority. This Office found that the communications between the Board members collectively formed a rolling quorum of the Board, wherein the Board discussed a subject over which it had “supervision, control, jurisdiction or advisory power.” R.I. Gen. Laws § 42-46-2(1). There was insufficient evidence that the Board willfully or knowingly violated the OMA. Additionally, injunctive relief was not appropriate, in part because the Board ultimately voted to not accept the cured signatures.

VIOLATION FOUND.

OM 19-19 **Hopkins v. Scituate Plan Commission**

The Complainant alleged the Scituate Plan Commission failed to post meeting minutes for several meetings on the Secretary of State’s website. The Commission acknowledged its failure to post meeting minutes for its December 18, 2018, January 15, 2019, February 19, 2019, March 19, 2019, and April 3, 2019 meetings. This conduct violated the OMA. *See* R.I. Gen. Laws § 42-46-7(d). We determined that injunctive relief was not appropriate because the Commission had since posted the meeting minutes. Additionally, this Office determined that there was insufficient evidence to conclude that the violations were willful or knowing, but informed the Commission that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation.

VIOLATION FOUND.

OM 19-20 **Principe v. Wangari Mathaai Community School**

The Complainant alleged that the School violated the OMA when it failed to post notice of a March 29, 2019 meeting on the Secretary of State’s website. The School submitted undisputed evidence that the March 29, 2019 event was a public hearing for public comment pursuant to R.I. Gen. Laws § 23-19.14-4, and that less than a quorum of the School’s Board of Directors were present. This Office determined that the undisputed evidence failed to establish that a quorum of the Board engaged in a collective discussion

about a matter over which the Board had control. Accordingly, the OMA was not implicated, and we found no violation.

OM 19-21 Benjamin v. South Kingstown School Committee

The Complainant alleged that members of the South Kingstown School Committee engaged in electronic and non-verbal communications outside the public purview during its April 9, 2019 meeting. Based on the undisputed evidence, we concluded that the evidence did not show that a quorum of the School Committee held a collective discussion outside the public purview about a topic over which the School Committee had control. Accordingly, we found no violation.

OM 19-22 Hevey v. Coventry Town Council

The Complainant alleged that the Town Council violated the OMA when the Town Council President made statements during a public meeting that appeared to indicate the existence of conversations outside the public purview concerning the reappointment of municipal and probate judges. After requesting and receiving affidavits from all five Town Council members, we found no evidence of a collective discussion by a quorum of the Town Council outside the public purview. Instead, the evidence indicated that the Town Council President had a general understanding of other Town Council members' views on the job performance of the judges. We accordingly found no violation.

OM 19-23 Lapp v. Fishermen's Advisory Board

The Complainant alleged that the Fishermen's Advisory Board violated the OMA by meeting outside the public purview and by failing to post timely notice for a meeting. Guided by Rhode Island Supreme Court precedent, we concluded based on the totality of the evidence that the FAB is not a public body under the OMA. Accordingly, we found no violations.

OM 19-24 Mulanaphy v. South Kingstown School Committee

The Complainant alleged that School Committee members discussed School Committee matters outside the public purview at some time prior to a public meeting. The School Committee submitted uncontroverted evidence in affidavit form that after being elected, the School Committee members did not discuss School Committee matters with a quorum of the School Committee outside of the public purview. Accordingly, we found no violation.

OM 19-25 **Doe v. Cranston Planning Commission**

The Complainant alleged that the Commission violated the OMA when it held a site visit where members of the public were separated from the Commission members. The undisputed evidence revealed that during the site visit, a quorum of the Commission engaged in a collective discussion outside the public purview about a matter over which the Commission has “supervision, control, jurisdiction or advisory power.” R.I. Gen. Laws § 42-46-2(1). Accordingly, we found the Commission violated the OMA. We did not find that the evidence indicated a willful or knowing violation.
VIOLATION FOUND.

OM 19-26 **Ahlquist v. Central Falls Detention Facility Corporation**

The Complainant alleged that the Central Falls Detention Facility Corporation violated the OMA in relation to an emergency meeting of the Corporation Board of Directors that occurred on April 14, 2019. The Complainant alleged that the meeting could have taken place at a later date or time, and that the agenda provided insufficient notice of the business to be discussed and did not specify that the Board would be taking a vote. This Office did not find sufficient evidence that holding the emergency meeting was improper or that the notice was not posted as soon as practicable. This Office determined that the Corporation violated the OMA because the agenda for the April 14, 2019 meeting did not provide sufficient notice of the business to be discussed and did not adequately inform the public that a vote would be taken. This Office did not find injunctive relief appropriate because the undisputed evidence revealed that the April 14, 2019 vote was subsequently declared null and void. Based on the totality of the circumstances, this Office did not find sufficient evidence to support a willful or knowing violation.
VIOLATION FOUND.

OM 19-27 **Langseth v. Buttonwoods Fire District**

Complainant alleged that the Fire District committed various violations of the OMA in connection with multiple meetings. This Office declined to review allegations that were submitted to this Office after the statute of limitations expired as to those meetings. This Office determined that the Fire District violated the OMA in connection with several meetings for failing to record the members who were present or absent and failing to indicate the votes taken by each member. The Fire District also violated the OMA by failing to post an annual schedule of its regular meetings at the

start of the year. We concluded there was insufficient evidence to find that the Fire District violated the OMA by not making a record of votes available within two weeks of several meetings and using a spreadsheet format for its meeting minutes. This Office did not find injunctive relief to be appropriate and did not find sufficient evidence of a willful or knowing violation.

VIOLATION FOUND.

OM 19-28 Spodnik v. Town of West Warwick and West Warwick Town Council

The Complainant alleged that the Town violated the OMA by having insufficiently specific agendas for its December 11, 2018, January 8, 2019, and February 26, 2019 meetings. This Office concluded that several of the agenda items identified by the Complainant did not provide fair notice to the public of the nature of the business to be discussed and violated the OMA. This Office determined that injunctive relief was not appropriate at this time but required the Town to provide a supplemental submission addressing whether the violations found were willful or knowing.

VIOLATION FOUND.

OM 19-28B Spodnik v. Town of West Warwick and West Warwick Town Council Supplement

This supplemental finding provides that the Office will not file suit based on the violations found in Spodnik v. Town of West Warwick, OM 19-28. Nonetheless, we admonished the Town that its conduct violated the OMA and may serve as evidence of a willful or knowing violation in any similar future situation. This Office also provided the Town with training on the APRA and the OMA.

OM 19-29 Novak v. Western Coventry Fire District

The Complainant alleged that the Western Coventry Fire District violated the OMA when an executive session agenda item for its April 18, 2019 meeting failed to sufficiently specify the nature of the business to be discussed. Additionally, the Complainant alleged a violation because the April 18, 2019 meeting minutes related to that item failed to include a citation to the relevant statutory subdivision for entering the executive session and failed to include a statement specifying the nature of the business to be discussed. The Fire District conceded these violations. Accordingly, we found that the Fire District violated the OMA. Based on the totality of the circumstances, we did not find injunctive relief

appropriate, nor did we find sufficient evidence of a willful or knowing violation.

VIOLATION FOUND.

OM 19-30 **Burke v. Exeter West Greenwich School Committee**

The Complainant alleged that the Exeter West Greenwich Regional School Committee violated the OMA when it asked him to leave prior to the start of the June 26, 2018 School Committee meeting. The School Committee noted that an executive session was scheduled to take place at the start of the meeting, but we found there was no evidence disputing Complainant's contention that he was asked to leave the room prior to the open call that a public body must hold before convening into executive session. Accordingly, we found the School Committee violated the OMA. We did not find injunctive relief appropriate, nor did we find sufficient evidence of a willful or knowing violation.

VIOLATION FOUND.

OM 19-31 **Burke v. Exeter West Greenwich School Committee**

The Complainant alleged that the Exeter West Greenwich Regional School Committee violated the OMA by improperly convening into executive session during its June 28, 2018 meeting. The undisputed evidence established that the School Committee convened into executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(9) for the purpose of holding a hearing on a grievance filed pursuant to a collective bargaining agreement. We found such an executive session appropriate based on this Office's *in camera* review of the executive session meeting minutes as well as the undisputed affidavits. We noted that the implicated OMA provision did not require advanced notice to the Complainant and that the public body had the discretion to convene into executive session pursuant to any applicable exemptions. We found no violation.

OM 19-32 **Rowland v. North Kingstown Interview Committee**

The Complainant alleged that the North Kingstown Interview Committee was a public body under the OMA and was failing to comply with open meetings requirements. The undisputed evidence indicated that the Interview Committee was established by the Superintendent to assist with the selection of a new high school principal. We observed that the appointing entity - the Superintendent - was not a public body under the OMA and there was no evidence that the Interview Committee supplanted

the role of the School Committee, which was to consent to the appointment made by the Superintendent. We found that the Interview Committee was not a public body under the OMA. We accordingly found no violations.

OM 19-33 **Langseth v. Rhode Island Airport Corporation**

The Complainant alleged that RIAC violated the OMA because its agendas for two meetings contained an executive session item that did not cite to a subdivision of R.I. Gen. Laws § 42-46-5(a) as a basis for convening into executive session. Our *in camera* review of the executive session minutes confirmed RIAC's contention that the agenda item in question was not a separate executive session sub-topic as Complainant believed, but rather part of a single larger executive session item that cited to R.I. Gen. Laws §§ 42-46-5(a)(5) and 42-46-5(a)(6) as the statutory bases for entering into executive session. Accordingly, we found no violation.

OM 19-34 **Wilson v. Coventry Sewer Subcommittee**

The Complainant alleged that the Subcommittee violated the OMA when it discussed and took action on items not listed on its agendas for two separate meetings. The undisputed meeting minutes revealed that during the public comment section, certain discussions were initiated by Subcommittee members rather than by members of the public. By initiating discussion topics that were not noticed on the agenda during the public comment portion of the meetings, the Subcommittee violated the OMA. Based on the undisputed meeting minutes, we did not find sufficient evidence that the Subcommittee voted or took formal action on any of the unnoticed items discussed at either meeting. We concluded that there was no evidence that the violation was willful or knowing and that injunctive relief was not appropriate because no formal action was taken on the unnoticed discussion topics.

VIOLATION FOUND

OM 19-35 **Callanan v. East Greenwich Town Councilors-Elect**

The Complainant alleged that the Town Councilors-elect violated the OMA when three members-elect engaged in a public interview with local media without posting notice to the public. Our review of the video interview confirmed that the members-elect responded to questions initiated by the press rather than engaged in a collective discussion amongst themselves. It was also undisputed that the members-elect took no formal action during the interview on a matter over which they have supervision, control,

jurisdiction or advisory power. Based on the facts presented, we did not find a violation.

OM 19-36 **Carlson v. Coventry Town Council**

The Complainant alleged that the Town Council violated the OMA when three Councilmembers met privately with the Superintendent of Schools to discuss the School Department budget, creating a rolling quorum. Based on the undisputed evidence, the Superintendent had separate conversations with each of the three councilmembers. We were not presented with any evidence to suggest the councilmembers discussed these conversations with each other or that the Superintendent served as a conduit for discussions among the councilmembers. Accordingly, we found no violation.

OM 19-37 **Celico v. Westerly Town Council**

Complainant alleged that the Westerly Town Council violated the OMA at its September 17, 2018 meeting by discussing and taking action during executive session on two (2) topics not sufficiently specified in the pertinent agenda items and by failing to disclose a vote taken in executive session upon reconvening into open session. Based on this Office's *in camera* review of the executive session minutes, we determined that the Town Council violated the OMA because one agenda item did not sufficiently specify the nature of the business discussed during executive session under that item. We also found that the Town Council violated the OMA by not disclosing a vote it took regarding that topic during executive session. As to the second agenda item, no violation was found. This Office did not find that the Town Council willfully or knowingly violated the OMA or that injunctive relief was necessary.

VIOLATION FOUND.

OM 19-38 **Jenkins, et al. v. Narragansett Town Council**

The Complainants alleged that the Narragansett Town Council violated the OMA when it discussed, conducted interviews, negotiated the contract, and selected the new Town Manager in a series of eight executive session meetings. Based on this Office's *in camera* review of the executive session minutes, the Council discussed the applicants and their qualifications during five executive session meetings within the purview of R.I. Gen. Laws § 42-46-5(a)(1). However, during these five executive sessions, the Council also discussed topics related to the Town Manager position but did

not discuss any individual applicant's job performance or qualifications in violation of R.I. Gen. Laws § 42-46-5(a)(1). We also found that during three executive sessions convened pursuant to R.I. Gen. Laws § 42-46-5(a)(1), the Council provided a brief update regarding the selected applicant's contract negotiations and discussed proposed contract terms, but did not discuss the selected applicant's job performance, character, or qualifications in violation of R.I. Gen. Laws § 42-46-5(a)(1). Additionally, we found the Council violated the OMA in connection with six executive session meetings when it failed to provide evidence that the individual being discussed was provided with the notice required pursuant to R.I. Gen. Laws § 42-46-5(a)(1), and for all eight meetings when it failed to state in open session and record in the minutes that any persons to be discussed were notified in accordance with R.I. Gen. Laws § 42-46-5(a)(1). Lastly, we found the Council violated the OMA by voting in a number of these executive sessions and failing to disclose certain votes taken in executive session when it reconvened into open session pursuant to R.I. Gen. Laws § 42-46-4(b). We did not find a willful or knowing violation at this time. We instructed the Council to unseal portions of the relevant executive session meetings and to disclose any votes taken during these executive session meetings that were not previously disclosed.

VIOLATION FOUND.

OM 19-39 **Mosher v. South Kingstown School Committee**

Complainant alleged that the School Committee violated the OMA by improperly entering executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(2), which permits a public body to hold a meeting closed for "[s]essions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation." The undisputed evidence, including our *in camera* review of the executive session minutes, revealed that the School Committee discussed impending collective bargaining union negotiations, including issues related to strategy and proposals, during the executive session. We determined that these were appropriate topics for executive session discussion under § 42-46-5(a)(2) and that the School Committee did not violate the OMA.

OM 19-40 **Durfee v. Tiverton Town Council**

The Complainant alleged that the Town Council violated the OMA when the posted agenda failed to adequately inform the public of the nature of the business to be discussed. Based on the undisputed evidence, we

concluded that the relevant agenda item failed to adequately inform the public of the discussion and action that took place at the meeting. We determined that there was insufficient evidence of a willful or knowing violation and that injunctive relief was not appropriate.

VIOLATION FOUND.

OM 19-41 **Fortin v. Narragansett Town Council**

The Complainant alleged that the Town Council improperly convened in executive session on multiple occasions to discuss the disposition of publicly held property. *See* R.I. Gen. Laws § 42-46-5(a)(5). Based on our review of the evidence, including our *in camera* review of the relevant meeting minutes, we determined that the Town Council did not violate the OMA.

OM 19-42 **Perron v. Central Falls School District**

PR 19-27

The Complainant alleged the School District violated the APRA by failing to respond to her requests within ten business days and also took issue with the sufficiency of the documents provided by the School District. Because no evidence was presented that the School District responded to the APRA requests within ten business days, we concluded the School District violated the APRA. In her rebuttal, Complainant agreed that the School District had provided the documents she sought pertaining to the requests that were the subject of her complaint and we declined to opine regarding alleged substantive inaccuracies in the content of the documents. The Complainant also alleged that the School District violated the OMA by failing to timely post the meeting minutes of its Board of Trustees. The School District acknowledged this, and we found a violation. We determined that injunctive relief was not appropriate in this case since the School District has now provided Complainant with the relevant documents and posted the relevant meeting minutes. We also did not find evidence of any willful, knowing, or reckless violations.

VIOLATION FOUND

OM 19-43 **Corrigan v. State Labor Relations Board**

The Complainant alleged that the Board violated the OMA when it convened into executive session to discuss legal issues that arose during the public meeting without taking an “open call” vote or notifying the public at least 48-hours in advance of its intention to do so. The Complainant also alleged that the Board failed to disclose any votes taken during the

executive session when it reconvened into open session. Based on our review of the evidence submitted, we found that a collective discussion among four Board members regarding a matter over which the Board had supervision, control, jurisdiction, or advisory power occurred outside the public purview and thus violated the OMA. Because there was no evidence that the Board's recess was convened pursuant to any executive session exception, we did not find that the Board violated the OMA in connection with not disclosing any votes taken during this collective discussion, and determined that any issues in this regard were captured in our finding of a violation. We did not find evidence to support a willful or knowing violation, nor we did find injunctive relief appropriate.

VIOLATION FOUND.

OM 19-44 **Fagnant v. Woonsocket City Council**

The Complainant alleged that the Woonsocket City Council violated the OMA at its July 1, 2019, August 5, 2019, and October 7, 2019 meetings when the agenda item "Good and Welfare" did not sufficiently specify the nature of the business to be discussed. *See* R.I. Gen. Laws § 42-46-6(b). The City Council did not dispute that Council members discussed a number of topics related to City business during these portions of the meetings. Nor did the City Council dispute that the relevant agenda items did not indicate any of the specific topics that would be discussed. Based on the undisputed evidence, we found that the agenda item "Good and Welfare" did not adequately inform the public of the nature of the business to be discussed by the City Council at its July 1, 2019, August 5, 2019, and October 7, 2019 meetings.

In *Fagnant v. Woonsocket City Council*, OM 15-17, this Office previously found that the City Council's use of the "Good and Welfare" agenda item to discuss a number of different issues violated the OMA because it lacked any identifying information concerning the nature of the business to be discussed. At that time, we cautioned the City Council that the finding served as notice that use of that agenda item is unlawful and that the finding may serve as evidence of a willful or a knowing violation in any similar future situation. We were also presented with evidence that the City Council's former solicitor had warned the City Council that use of this agenda item violated the OMA. Additionally, our Office recently found that the City Council violated this exact same provision of the OMA for a different agenda item that lacked adequate specificity. *See Murray v.*

Woonsocket City Council, OM 19-12. Given the history of repeated violations, the patent inadequacy of the agenda item, and the multiple admonishments provided to the City on this exact issue, combined with the City Council's discussion of substantive matters under the "Good and Welfare" agenda item, we concluded that the City Council's violation of the OMA was willful or knowing. This Office accordingly filed a lawsuit against the City Council.
VIOLATION FOUND.

ACCESS TO PUBLIC RECORDS ACT



ANNUAL REPORT 2019

**ATTORNEY GENERAL'S ANNUAL REPORT
OF COMPLAINTS RECEIVED PURSUANT TO
RHODE ISLAND GENERAL LAWS SECTION 38-2-1, ET SEQ.,
THE ACCESS TO PUBLIC RECORDS ACT**

Rhode Island General Laws Section 38-2-15 requires the Office of Attorney General to submit an annual report to the Legislature summarizing the complaints received pursuant to the Access to Public Records Act, including the number of complaints found to be meritorious and the action taken by the Office of Attorney General in response to each complaint. On occasion, complaints will be resolved by the parties without the issuance of a finding or the Office of Attorney General will issue one finding in response to multiple similar complaints, resulting in a discrepancy between the number of complaints received and findings issued. Additionally, sometimes findings are issued in a different calendar year than when a complaint was received. The Office of Attorney General is pleased to submit the following information concerning the calendar year 2019.

STATISTICS

ACCESS TO PUBLIC RECORDS ACT COMPLAINTS RECEIVED:	78
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	29
VIOLATIONS FOUND:	19
WARNINGS ISSUED:	18
LITIGATION INITIATED:	1
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	1
ADVISORY OPINIONS ISSUED:	0
APRA REQUESTS TO THE ATTORNEY GENERAL:	107

VIOLATIONS FOUND/WARNINGS ISSUED

The Office of Attorney General issued warnings in the following cases where the Office found violations of the Access to Public Records Act:

PR 19-04	<u>Farinelli v. City of Pawtucket</u>
PR 19-05	<u>Maldonado v. Woonsocket Police Department</u>
PR 19-06	<u>J.H. Lynch & Sons v. Department of Transportation</u>
PR 19-07	<u>Kalunian v. Office of the Child Advocate</u>
PR 19-09	<u>Martinez v. Providence Police Department</u>
PR 19-10	<u>Urban v. Cranston Police Department</u>
PR 19-11	<u>Ahlquist v. Central Falls Detention Facility Corporation</u>

PR 19-12 Langseth v. Buttonwoods Fire District
PR 19-16 Farinelli v. City of Central Falls
PR 19-17 Farinelli v. City of Pawtucket
PR 19-18 Buchanan v. Town of Tiverton
PR 19-19 Young v. Town of West Warwick
PR 19-20 Langseth v. Air Services Development Corporation
PR 19-21 Farinelli v. City of Pawtucket
PR 19-23 Levitt v. Office of the Lieutenant Governor
PR 19-24 Lyssikatos v. City of Pawtucket
PR 19-26 Law v. Town of Smithfield
PR 19-27 Perron v. Central Falls School District

VIOLATIONS FOUND/LAWSUIT FILED

The Office of Attorney General filed a lawsuit in the following case where the Office found violations of the Access to Public Records Act:

PR 19-03 Wilson v. Town of West Warwick

* * *

Summaries of all findings/written advisory opinions issued are attached.

ACCESS TO PUBLIC RECORDS ACT FINDINGS - 2019

PR 19-01 **Cantoni v. City of Providence**

The Complainant alleged that the City of Providence violated the APRA when the City stated it did not maintain records responsive to his request. The City provided undisputed evidence in affidavit form that it did not maintain the requested records. Accordingly, we found that the City did not violate the APRA by responding to the Complainant that it did not maintain the requested documents. *See* R.I. Gen. Laws § 38-2-3(a).

PR 19-02 **Szerlag v. Town of East Greenwich**

The Complainant alleged that the Town of East Greenwich violated the APRA when the Town requested an additional twenty business days to respond to his APRA request. We concluded based on the undisputed evidence that the Town's extension was timely and was based on reasons particular to the request. *See* R.I. Gen. Laws § 38-2-3(e). Accordingly, we found no violation.

PR 19-03 **Wilson v. Town of West Warwick**

The Complainant alleged that the Town of West Warwick violated the APRA when it failed to respond to his request for records within the ten business days required under the APRA. This Office determined that the Town's assertion that another entity maintained the records was insufficient because even if the Town was not the correct public body to receive the request, it was still required to respond to the request within ten business days. Accordingly, this Office determined there was a violation because the undisputed evidence revealed that the Town did not respond to the request within ten business days. This Office also asked the Town to submit a supplemental response regarding why its violation should not be considered willful and knowing, or reckless.

VIOLATION FOUND.

PR 19-03B **Wilson v. Town of West Warwick Supplement**

This Office previously concluded that the Town violated the APRA by failing to timely respond to Complainant's APRA request. This Office issued a finding requiring the Town to provide any responsive documents it maintains at no cost, describe its search efforts, and address whether its violation should be considered willful and knowing or, alternatively, reckless. *See* PR 19-03. After receiving the supplemental submissions, this

Office determined that the Town still had failed to provide the requested documents and describe its search efforts. This Office concluded that the Town committed a willful and knowing or, alternatively, reckless violation of the APRA. Accordingly, this Office filed suit in Superior Court seeking relief, including injunctive relief and civil fines.

PR 19-04 **Farinelli v. City of Pawtucket**

The Complainant alleged that the City of Providence violated the APRA by providing a prepayment estimate that underestimated the actual time required for search and retrieval and by subsequently providing an amended prepayment estimate that pertained to only a portion of the requested documents. We concluded that the City's initial estimate did not violate the APRA because of the difficulty involved in accurately predicting the time required to search and retrieve documents responsive to the Complainant's request and because providing such estimates is an inexact science. We also noted that the City informed the Complainant that the initial prepayment amount was only an estimate. However, we concluded that the City did violate the APRA by failing to provide responsive documents or an amended estimate of the prepayment cost to complete the entire request. Although we did not find evidence of a willful and knowing, or reckless, violation, we directed the City to provide the Complainant with the requested documents free of charge.

VIOLATION FOUND.

PR 19-05 **Maldonado v. Woonsocket Police Department**

The Complainant alleged the Police Department violated the APRA by failing to respond to two APRA requests for a police report related to his arrest, by denying a third APRA request for that police report, and by failing to timely respond to his administrative appeal. This Office concluded that there was no evidence that the Police Department received the first two APRA requests, and accordingly the Police Department did not violate the APRA by not responding. This Office determined that the Police Department did violate the APRA by denying the APRA request for the police report, which the evidence indicated constituted the report of an initial arrest. Additionally, the Police Department violated the APRA by failing to timely respond to Complainant's administrative appeal. Although we did not find the Police Department's violations to be willful and knowing, or reckless, the Police Department was required to

provide the police report to the Complainant, free of charge, in a manner consistent with the APRA.

VIOLATION FOUND.

PR 19-06 **J.H. Lynch & Sons v. Department of Transportation**

Complainant contended that the Rhode Island Department of Transportation violated the APRA when it failed to produce certain documents the Complainant requested. This Office determined that RIDOT violated the APRA by failing to timely locate and produce a responsive document. This Office also required RIDOT to provide a supplemental submission regarding, among other things, its search for some of the other items requested by Complainant and whether any APRA violation committed by RIDOT was knowing and willful, or reckless.

VIOLATION FOUND.

PR 19-07 **Kalunian v. Office of the Child Advocate**

The Complainant alleged that the Office of the Child Advocate violated the APRA when it failed to respond to her APRA request and when it failed to establish written procedures regarding access to public records. The OCA conceded that it failed to respond to Complainant's APRA request within ten (10) business days, *see* R.I. Gen. Laws § 38-2-7, and did not dispute that its written APRA procedures were not posted on its website in accordance with R.I. Gen. Laws § 38-2-3(d). Accordingly, the OCA violated the APRA. This Office determined that injunctive relief is not appropriate because the OCA responded to this Complaint by providing the Complainant with the requested documents and posting its formal APRA policy on its website. Due to the OCA's undisputed contention that its failure to respond was inadvertent as well as the OCA's candid admission of the errors and swift efforts to remedy them, we did not find the violations to be willful and knowing, or reckless.

VIOLATION FOUND.

PR 19-08 **Gardiner v. Department of Public Safety**
Gardiner v. Division of Motor Vehicles

The Complainant alleged that the Department of Public Safety and the Division of Motor Vehicles violated the APRA in responding to his APRA requests. The undisputed evidence indicated that the DPS withheld certain documents because disclosure could potentially compromise law enforcement interests. We found that nondisclosure under these

circumstances did not violate the APRA. The undisputed evidence also indicated that DPS did not maintain documents responsive to the second portion of the Complainant's request. This contention was supported in affidavit form and not contested by the Complainant. We accordingly found no violations.

With respect to the complaint against the Division of Motor Vehicles, we likewise found no violations. We found that where the requested records implicated an individual's privacy interests, under these specific circumstances, the Division of Motor Vehicles did not violate the APRA by affording the Complainant the opportunity to provide information about any public interest in disclosure of the documents to help inform the application of the balancing test. We also found that the Complainant's contention that the Division of Motor Vehicles failed to respond to his request within ten days did not constitute a violation because the Division of Motor Vehicles responded within the ten business days required by R.I. Gen. Laws § 38-2-7(b).

PR 19-09

Martinez v. Providence Police Department

The Complainant alleged that the Police Department violated the APRA when it denied his multi-part request, which sought certain internal Police Department communications, as well as certain communications between the Police Department and various private entities and individuals. The Police Department denied the multi-part request in its entirety based on the law enforcement exemptions found at R.I. Gen. Laws § 38-2-2(4)(D) but did not specify for which requests it maintained responsive documents nor the nature of the documents it was withholding. After conducting an *in camera* review of the withheld documents, we observed that the only responsive documents the Police Department maintained were internal Police Department communications. We found their nondisclosure permissible pursuant to R.I. Gen. Laws § 38-2-2(4)(D)(c) and (e). Notwithstanding, because the request also sought communications between the Police Department and various private entities and individuals, and because the Police Department did not maintain such documents, we found that the Police Department violated R.I. Gen. Laws § 38-2-7(c) by failing to state that it did not maintain such responsive records. We did not find injunctive relief appropriate; nor did we find evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

PR 19-10 **Urban v. Cranston Police Department**

The Complainant alleged that the Police Department violated the APRA when it failed to respond to her September 18, 2018 APRA request. The Police Department represented that it inadvertently failed to request an extension pursuant to R.I. Gen. Laws § 38-2-3(e) and conceded that it failed to respond to the APRA request within ten business days. Based on the undisputed evidence, we found that the Department violated the APRA when it failed to respond to the Complainant's APRA request within ten business days. R.I. Gen. Laws § 38-2-7. We did not find injunctive relief appropriate because shortly after the Complaint was filed, the Police Department responded to the Complainant's request without assessing any fees. Additionally, we did not find sufficient evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND

PR 19-11 **Ahlquist v. Central Falls Detention Facility Corporation**

The Complainant alleged that the Corporation violated the APRA when it denied his request for detainee records. This Office found that the Corporation violated the APRA when its denial failed to state that no portion of the responsive documents or records was reasonably segregable. *See* R.I. Gen. Laws § 38-2-3(b). We determined that it was unclear what documents were encompassed by the Complainant's initial, broad APRA request, but that statements made by the Complainant to this Office seemingly clarified the information he was seeking. Accordingly, we directed the Corporation to respond to the clarified request in accordance with the APRA and noted that the Complainant is also free to submit a new request to the Corporation for additional records. We will hold this file open pending a supplemental submission from the parties.

VIOLATION FOUND.

PR 19-12 **Langseth v. Buttonwoods Fire District**

The Complainant alleged that the Fire District violated the APRA when it failed to timely respond to his APRA request. The Complainant also alleged that the Fire District Senior Supervisor was not certified under the APRA pursuant to R.I. Gen. Laws § 38-2-3.16 and that the Fire District failed to establish and post written APRA procedures in violation of R.I. Gen. Laws § 38-2-3(d). The Fire District provided undisputed evidence that it responded to the Complainant's APRA request within the ten business days allotted under the APRA. The Fire District conceded that it did not

have written APRA procedures at the time Complainant submitted his APRA request and that it did not have the APRA certification required pursuant to R.I. Gen. Laws § 38-2-3.16. Accordingly, this Office determined that the Fire District violated the APRA. This Office instructed the Fire District to submit a supplemental response regarding why these violations should not be considered willful and knowing, or reckless, and to provide evidence of its compliance with R.I. Gen. Laws §§ 38-2-3(d) and 38-2-3.16. VIOLATION FOUND.

PR 19-12B **Langseth v. Buttonwoods Fire District Supplement**

In PR 19-12, this Office determined that the Fire District violated the APRA by not having written APRA procedures established at the time the Complainant submitted his APRA request, *see* R.I. Gen. Laws § 38-2-3(d), and by failing to file its annual Certificate of Compliance with the Office of Attorney General. *See* R.I. Gen. Laws § 38-2-3.16. We directed the Fire District to provide a supplemental submission providing evidence that it is now in compliance with these APRA requirements and addressing whether the violations were willful and knowing, or reckless. Based on the Fire District's supplemental submission, we determined that the Fire District had presented evidence that it is now in compliance with these provisions of the APRA and we did not find sufficient evidence of a willful and knowing, or reckless, violation.

PR 19-13 **Murray v. Providence Police Department**

The Complainant alleged the Department violated the APRA when it denied his request for any Department reports formulated as a result of criminal complaints made by a specific private citizen. The Complainant indicated that no arrest resulted from the alleged criminal complaint(s) he sought. The Police Department neither confirmed nor denied that it possessed records responsive to the Complainant's request and maintained that, if responsive records did exist, such documents would be exempt from disclosure pursuant to R.I. Gen. Laws § 38-2-2(4)(D)(c). This Office requested to view any responsive records *in camera*. This Office then found that disclosure of the requested records, assuming they exist, implicated a privacy interest and that we were not presented with evidence of a public interest that would outweigh the privacy interest implicated. Accordingly, we found no violation.

PR 19-14 **Dunlap v. City of Providence**

The Complainant alleged the City violated the APRA by withholding two videotapes that she requested. This Office reviewed the evidence and viewed the videotapes *in camera*. We concluded that the videotapes depicted multiple minors and implicated privacy interests. We also concluded that no public interest had been identified that would outweigh the privacy interests implicated by disclosure of the videotapes, and that the undisputed evidence indicated that it was not possible to protect the privacy interests by redaction. Accordingly, we determined that the City did not violate the APRA.

PR 19-15 **Harper v. Portsmouth Police Department**

The Complainant alleged the Police Department violated the APRA when it denied his request for Police Department records relating to a call made to the Police Department regarding a specific private citizen's residence. The Police Department denied the Complainant's request on the grounds that disclosure of the requested records would constitute an unwarranted invasion of personal privacy. After conducting an *in camera* review, this Office found that disclosure of the requested records would implicate a privacy interest and that we were not presented with evidence of a public interest that would outweigh the privacy interest implicated. Accordingly, we found no violation.

PR 19-16 **Farinelli v. City of Central Falls**

The Complainant alleged the City violated the APRA when it failed to respond to her APRA request within ten business days. The City stated that the Complainant's APRA request went to its legal counsel's SPAM (junk mail) folder but did not dispute the Complainant's contention that the City failed to timely respond to her request. Accordingly, we found that the City violated the APRA by failing to timely respond to the request. As the submissions received by this Office indicated that the City subsequently provided the Complainant with responsive documents, we did not find injunctive relief to be appropriate. This Office also did not find evidence that the instant violation rose to the level of willful and knowing, or reckless.

VIOLATION FOUND.

PR 19-17 **Farinelli v. City of Pawtucket**

Complainant alleged that the City violated the APRA by not producing a letter that was responsive to her APRA request and instead informing her that the City did not maintain any responsive documents. Based on this Office's review of the relevant document and the evidence submitted by the City, we determined that the letter was responsive to the request and that the City violated the APRA by informing Complainant that it did not possess any responsive documents. This Office determined that injunctive relief was not appropriate and that there was insufficient evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

PR 19-18 **Buchanan v. Town of Tiverton**

The Complainant alleged that the Town violated the APRA when it failed to respond to an APRA request in a timely manner. The Town acknowledged that it failed to timely respond and attributed this omission to staffing issues and a similar but different APRA request. The Town also indicated that after becoming aware of the APRA complaint, it provided the Complainant with responsive documents. We found that the Town violated the APRA, but based on this record, we found no evidence that the Town's violation of the APRA was willful and knowing, or reckless. R.I. Gen. Laws § 38-2-9(d)

VIOLATION FOUND.

PR 19-19 **Young v. Town of West Warwick**

The Complainant alleged that the Town violated the APRA when it failed to respond to her request for records within the ten business days required under the APRA. This Office determined that the Town's assertion that responsive records did not exist or that it did not maintain responsive records was insufficient because even if the Town did not maintain responsive documents, it was still required to respond to the request within ten business days. Accordingly, this Office determined there was a violation because the undisputed evidence revealed that the Town did not respond to the request within ten business days. This Office also instructed the Town to submit a supplemental response.

VIOLATION FOUND.

PR 19-20 **Langseth v. Air Services Development Corporation**

The Complainant alleged that the Air Services Development Corporation violated the APRA by failing to respond to parts of his APRA request. The ASDC acknowledged that it could not produce evidence confirming that it had timely responded to Complainant's request, but made the undisputed assertion that no responsive documents existed or were withheld. We concluded that the ASDC violated the APRA by failing to timely respond to Complainant's request within ten business days as required by the APRA, but that there was insufficient evidence of a willful and knowing, or reckless, violation and that injunctive relief was not appropriate.

VIOLATION FOUND.

PR 19-21 **Farinelli v. City of Pawtucket**

Complainant alleged that the City violated the APRA by not producing a letter that was responsive to her APRA request and instead informing her that the City did not maintain any responsive documents. Based on this Office's review of the relevant document and the evidence submitted by the City, we determined that the letter was responsive to the request and that the City violated the APRA by informing Complainant that it did not possess any responsive documents. This Office determined that injunctive relief was not appropriate but requested a supplemental submission from the City regarding whether the violation was willful and knowing, or reckless.

VIOLATION FOUND.

PR 19-22 **Finnegan v. Town of Scituate**

Complainant alleged the Town violated the APRA by not producing certain responsive documents and by heavily redacting others. Upon review of the undisputed evidence, including our *in camera* review of the documents, this Office concluded that the Town did not violate the APRA. The documents that were provided with redactions constituted records "relating to a client/attorney relationship," R.I. Gen. Laws § 38-2-2(4)(A)(I)(a), and thus were exempt from disclosure. Additionally, there was no evidence that the Complainant provided the requested prepayment required for the Town to complete its search and retrieval as to any other potentially responsive documents.

PR 19-23 **Levitt v. Office of the Lieutenant Governor**

Complainant alleged an APRA violation arising from the withholding of an individual's time sheet, based on the assertion that disclosure would constitute an unwarranted invasion of personal privacy. Based on our review of the evidence, including our *in camera* review of the relevant document, we concluded that there was at least some public interest in the accounting of a public employee's time. We also concluded that in the circumstances of this case, disclosure would not constitute an unwarranted invasion of personal privacy. Accordingly, this Office determined that the APRA had been violated and required disclosure of the responsive document. We did not find evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

PR 19-24 **Lyssikatos v. City of Pawtucket**

Complainant alleged the City failed to timely respond to his APRA request. The City acknowledged that its response was untimely due to a mistake, and accordingly we determined that the City violated the APRA. The parties' submissions suggested that the documents sought by the Complainant had since been provided. The Complainant is free to submit a new complaint if issues regarding the substantive response remain. We did not find evidence of a willful and knowing, or reckless, violation, and did not find that injunctive relief was appropriate.

VIOLATION FOUND.

PR 19-25 **Farinelli v. City of Pawtucket**

The Complainant alleged that the City violated the APRA by not producing three "packets" of documents that she believes were sent to this Office. The City submitted evidence that it does not maintain the requested "packets." Because the uncontested record indicated that the City does not maintain the documents the Complainant specifically sought, and because the APRA only applies to documents "maintained or kept on file," we found no violation.

PR 19-26 **Law v. Town of Smithfield**

The Complainant alleged the Town violated the APRA when it denied her request for emails between the Town Council President and Town Manager and when its denial failed to articulate its APRA appeal procedures. Based on our *in camera* review, we found the Town did not violate the APRA when

it withheld responsive emails sent or received during the Town Council President's term related to his official duties as Town Council President. We found the Town's denial lacked any language concerning its APRA appeal procedures and thus violated the APRA. We did not find evidence to support a willful and knowing, or alternatively reckless, violation nor did we find injunctive relief appropriate.

VIOLATION FOUND.

PR 19-27 **Perron v. Central Falls School District**

OM 19-42 The Complainant alleged the School District violated the APRA by failing to respond to her requests within ten business days, and also took issue with the sufficiency of the documents provided by the School District. Because no evidence was presented that the School District responded to the APRA requests within ten business days, we concluded the School District violated the APRA. In her rebuttal, Complainant agreed that the School District had provided the documents she sought pertaining to the requests that were the subject of her complaint and we declined to opine regarding alleged substantive inaccuracies in the content of the documents. The Complainant also alleged that the School District violated the OMA by failing to timely post the meeting minutes of its Board of Trustees. The School District acknowledged this, and we found a violation. We determined that injunctive relief was not appropriate in this case since the School District has now provided Complainant with the relevant documents and posted the relevant meeting minutes. We also did not find evidence of any willful, knowing, or reckless violations.

VIOLATION FOUND.

PR 19-28 **Howard v. Town of Portsmouth**

The Complainant alleged the Town violated the APRA when it failed to provide documents responsive to her request related to an ordinance. Based on the undisputed evidence, the full text of the amended ordinance was not available at the time Complainant submitted her APRA request. Additionally, in response to her request, the Town did provide Complainant with the ordinance amendment language that was approved by the Town Council. Accordingly, we found the Town did not violate the APRA.

PR 19-29 **Transparency v. City of Providence**

The Complainant alleged that the City assessed an unreasonable prepayment estimate to produce records. The undisputed evidence indicated that the request encompassed over two hundred potentially responsive emails, some of which contained private addresses and personal email addresses. We accordingly found that the City's estimate was reasonable under the APRA and found no violation.