

STATE OF RHODE ISLAND
OFFICE OF ATTORNEY GENERAL



2023 ANNUAL REPORT
OPEN MEETINGS ACT
AND
ACCESS TO PUBLIC RECORDS ACT
ATTORNEY GENERAL PETER F. NERONHA

OPEN MEETINGS ACT



ANNUAL REPORT 2023

**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 those complaints. 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. In cases where this Office finds a violation and determines that injunctive relief is necessary, oftentimes this Office is able to obtain voluntary compliance from the public body without needing to initiate litigation.

The Office of Attorney General is pleased to submit the following information concerning the calendar year 2023.

STATISTICS

OPEN MEETINGS ACT COMPLAINTS RECEIVED:	29
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	25 ¹
VIOLATIONS FOUND:	13
WARNINGS ISSUED:	13
LITIGATION INITIATED:	0
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	2
ADVISORY OPINIONS ISSUED:	3

¹ In addition to these findings, this Office also issued supplemental findings in the matters of *Novak v. Coventry Town Council* and *Greene v. Ashaway Fire District*.

VIOLATIONS FOUND/WARNING ISSUED

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

- OM 22-34B Greene v. Ashaway Fire District**
- OM 23-01 Fitzmorris v. Portsmouth Town Council**
- OM 23-03 Solas v. South Kingstown School Committee**
- OM 23-04 Dubois v. Woonsocket City Council**
- OM 23-05 Lapierre v. Woonsocket Housing Authority**
- OM 23-06 Novak v. Coventry Town Council**
- OM 23-06B Novak v. Coventry Town Council**
- OM 23-08 Drix v. Providence City Council Finance Committee**
- OM 23-09 Ivanov v. Tiverton Planning Board**
- OM 23-10 Anonymous v. Coventry Town Council**
- OM 23-12 Soscia v. Pawtuxet River Authority**
- OM 23-15 Ephraim v. North Tiverton Fire District**
- OM 23-19 Rosengard v. Barrington School Committee and Building Subcommittee**
- OM 23-20 Anonymous v. Coventry Town Council**
- OM 23-23 DiLeo v. Bonnet Shores Fire District**

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Summaries of all findings/written advisory opinions issued are included below.

OPEN MEETINGS ACT FINDINGS – 2023

OM 22-34B Greene v. Ashaway Fire District Supplemental Finding:

This Office previously concluded that the Fire District violated the OMA when it failed to timely post meeting minutes on the Secretary of State’s website for various meetings over a three-year period. This Office issued a finding directing the Fire District to address whether its violation should be considered willful or knowing in light of its prior similar violation. *See Bock v. Ashaway Fire District*, OM 15-15. After receiving the parties’ supplemental submissions, this Office determined that remedial action is necessary as the Fire District has located the minutes for several of the subject meetings. Accordingly, we directed the Fire District to post these meeting minutes on the Secretary of State’s website within ten (10) business days. Given the nature and extent of the violations and, based upon the record before us, we further directed the Fire District to take additional remedial measures. So long as the Fire District complies with the directives in this supplemental finding, this Office will not file a lawsuit for a willful or knowing violation of the OMA.

VIOLATION FOUND

OM 23-01 Fitzmorris v. Portsmouth Town Council:

Complainant alleged the Town Council violated the OMA when it did not provide proper notice of the nature of the business to be discussed and/or acted upon during an executive session at its September 14, 2020 meeting. Based on the totality of the evidence before us, we determined that the agenda item in question did not adequately notify the public as to the nature of the business to be conducted. We did not find the violation to be willful or knowing, and we did not find injunctive relief to be necessary given the passage of time between the meeting and the filing of the Complaint, and because the action taken on the agenda item occurred in open session at a following meeting.

VIOLATION FOUND

OM 23-02 Ahlquist v Providence City Council Finance Committee:

The Complainant took issue with the way links in the Committee’s agenda notice presented certain data, contending this violated the “spirit” of the OMA. Although public bodies are encouraged to provide information and documents along with their meeting notices in order to provide additional information to members of the public, nothing within the OMA requires public bodies to provide this additional information or to organize it in a certain way. Accordingly, we found no violation of the OMA.

OM 23-03 Solas v. South Kingstown School Committee:

Complainant alleged the School Committee violated the OMA by failing to timely post meeting minutes for three (3) meetings. The School Committee conceded the violation and attributed the same to a sudden change in staffing. The undisputed evidence revealed the School Committee filed the missing meeting minutes shortly after the Complaint was filed. Accordingly, we found a violation. We determined that injunctive relief was not appropriate and there was insufficient evidence of a willful or knowing violation.

VIOLATION FOUND

OM 23-04 **Dubois v. Woonsocket City Council:**

The Complainant alleged that the Council violated the OMA by convening a meeting without providing proper notice. The Council asserted that it satisfied the OMA's notice requirements because the meeting in question was a continuation of a meeting from the night before, which had been properly noticed. We found that the OMA's notice requirements generally apply to all meetings and under the circumstances of this case, the Council did not provide any basis why it could not comply with the notice requirements when conducting its "continuation meeting." Accordingly, we found the Council violated the OMA. We did not find that the violation was willful or knowing or that there was a need for injunctive relief.

VIOLATION FOUND

OM 23-05 **Lapierre v. Woonsocket Housing Authority:**
PR 23-33

The Complainant alleged the WHA violated the OMA when it did not provide proper notice of the nature of the business to be discussed and/or acted upon in connection with an agenda item related to a subpoena by HUD during its September 22, 2022 meeting. The Complainant also alleged that the WHA violated the APRA when it failed to provide her with the "supporting documents" for that agenda item. Based on the totality of the evidence before us, we determined that the agenda item in question did not adequately notify the public as to the nature of the business to be conducted. We did not find the violation to be willful or knowing, and we did not find injunctive relief to be necessary given the discussion occurred in open session and the WHA took no action on that item. We did not find an APRA violation as the WHA provided undisputed evidence that no documents related to this agenda item were submitted, presented, or voted upon at the meeting.

VIOLATION FOUND

OM 23-06 **Novak v. Coventry Town Council:**

The Complainant alleged the Council violated the OMA by failing to file annual notice of its regularly scheduled meetings for the 2022 calendar year on the Secretary of State's website, failing to timely file meeting minutes for 15 meetings, and for failing to file minutes for 5 other meetings. Based on the record before us, including the lack of substantive response from the Council regarding the allegations, we determined the Council violated the OMA. Injunctive relief is not appropriate for the meeting minutes as all minutes have now been filed with the Secretary of State. Given the numerous violations found, we are seeking supplemental submissions from the parties as to whether the violations were willful or knowing.

VIOLATION FOUND

OM 23-06B **Novak v. Coventry Town Council:**

This Office previously concluded that the Council violated the OMA when it failed to timely post meeting minutes on the Secretary of State's website for various meetings over an eight-month period and for failing to file annual notice of its regularly scheduled meetings for calendar year 2022. This Office issued a finding directing the Council to address whether its violation should be considered willful

or knowing. After receiving the Council's supplemental submission, this Office determined that injunctive relief is unnecessary as the Council has posted all outstanding meeting minutes. Nor did we find sufficient evidence of a willful or knowing violation as the Council has attested that its errors were due to staffing issues and has provided substantive information regarding the remedial measures for training and education on the OMA that the Council (and its staff) has taken and intends to take to prevent future similar violations.

VIOLATION FOUND

OM 23-07 **Solas v. South Kingstown School Committee:**

Complainant alleged the School Committee failed to file meeting minutes for its October 1, 2022 meeting. Based on the undisputed evidence, the October 1, 2022 meeting was a meeting of the South Kingstown School Building Committee, not the School Committee. Additionally, although a quorum of School Committee was present at the October 1 Building Committee meeting, the attestations of the Committee members maintained that no collective discussion of School Committee business occurred between the School Committee members at this meeting. Accordingly, we found the School Committee did not violate the OMA.

OM 23-08 **Drix v. Providence City Council Finance Committee:**

The Complainant alleged that the Committee violated the OMA by meeting outside of the public purview and by failing to properly notice a vote on "ProvPort" matters in its supplemental notice. Based on the totality of the evidence before us, we determined that the Committee did not convene a meeting outside of the public purview as contemplated by the OMA because a quorum of the Committee never formed and there was no evidence of a rolling quorum. We also determined that the agenda item in question did not adequately notify the public as to the nature of the business to be conducted because it did not indicate that the Committee would take any action on ProvPort matters. We did not find the violation to be willful or knowing, however, and we did not find injunctive relief to be necessary given the fact that the full Council tabled the ProvPort matters at its next meeting.

VIOLATION FOUND

OM 23-09 **Ivanov v. Tiverton Planning Board:**

The Complainant alleged the Board failed to timely file minutes for several meetings in 2022. The Board conceded the violations and outlined the steps it has taken to ensure these violations do not occur again. Based upon the record before us, injunctive relief was not appropriate as all minutes have now been filed with the Secretary of State. Nor were we presented with sufficient evidence that the violations found were willful or knowing.

VIOLATION FOUND

OM 23-10 **Anonymous v. Coventry Town Council:**

The Complainant alleged the Council engaged in substantive discussions outside of a properly noticed public meeting about the appointment of a Town Solicitor and Interim Town Manager. The Council conceded that two Councilmembers and one Councilmember-elect had private conversations about these matters of Council business, but argued that, at the time, the Councilmember-elect had not been

officially sworn into office (although he had been elected) and thus the OMA did not apply. Based upon the record before us, including this Office's prior findings and caselaw, we determined that members-elect of a public body are subject to the provisions and the OMA. Accordingly, the conversations between the three Councilmembers (including the Councilmember-elect) violated the OMA. We did not find sufficient evidence of a willful or knowing violation, but we directed the Council to take certain remedial steps related to the Council's actions taken based upon the private conversations.

VIOLATION FOUND

OM 23-11 **Zonfrillo v. Narragansett Economic Development Committee:**

The Complainant alleged that the Economic Development Committee (EDC) violated the OMA by engaging in a rolling quorum and discussing an item at a meeting without proper notice. We concluded that it was unnecessary to determine whether the EDC is a public body and whether it violated the OMA because even assuming the OMA applies and a violation occurred, no action took place as a result of the allegations. Accordingly, injunctive relief was not appropriate and we did not find any potential violation to be willful or knowing.

OM 23-12 **Soscia v. Pawtuxet River Authority:**

The Complainant alleged the PRA violated the OMA by failing to timely file minutes with the Secretary of State's website for numerous meetings occurring between July 13, 2020 and December 12, 2022. The PRA conceded the violations as an inadvertent oversight of the PRA clerk and outlined the steps it has taken since it became aware of the unfiled minutes to file the same with the Secretary of State's website and prevent future similar violations. Accordingly, the PRA violated the OMA. Based upon the record before us, injunctive relief is moot as all outstanding minutes have been filed. Nor did we find sufficient evidence of a willful or knowing violation.

VIOLATION FOUND

OM 23-13 **Chiaradio v. Westerly School Committee and Westerly Town Council:**

The Complainant alleged that the Committee and the Council violated the OMA when a quorum of the Committee and a quorum of the Council virtually met privately with the Westerly Anti-Racist Coalition ("ARC") on two occasions in 2020 and 2021. The Committee attested that a quorum of the Committee attended a Zoom meeting with the ARC in December 2020 but no collective discussion amongst the Committee members took place. The Committee also attested that no quorum of Committee members attended another meeting with the ARC during the relevant time period. The Council provided evidence that at no time during the relevant period did a quorum of Councilmembers attend a meeting with the ARC. Accordingly, based upon the evidence presented, we found no violations, but encouraged the Committee and the Council to be mindful of the stated purpose of the OMA and the optics of members meeting outside of the public purview.

OM 23-14 **Bejma v. Providence School Board:**

The Complainant alleged the Board violated the OMA by failing to report in open session a vote that it took during its November 22, 2022 executive session to send

correspondence to the Providence Schools Superintendent, signed by three members of the Board's Leadership. The Board provided an affidavit and evidence that no vote to send the correspondence to the Superintendent took place during the executive session meeting, that the decision to send the correspondence was made solely by the Board's leadership outside of the November 22 meeting, and was signed by less than a quorum of the Board's members. Accordingly, we found no violation.

OM 23-15 **Ephraim v. North Tiverton Fire District:**

The Complainant alleged that the District violated the OMA by 1) including an inadequate agenda item to be discussed at its October 5, 2021 meeting, and 2) failing to timely file the minutes for that meeting. We found that the District violated the OMA on both counts. We did not find the District's OMA violations to be willful or knowing and did not find injunctive relief to be appropriate.
VIOLATION FOUND

OM 23-16 **Reynolds v. Richmond Town Council:**

The Complainant alleged that the Council violated the OMA when a quorum (three members) of the Council 1) had discussions prior to the January 19, 2023 meeting regarding appointing a replacement member to the Chariho Regional School Committee, and 2) had discussions prior to the January 25, 2023 meeting regarding hiring Attorney Joseph S. Larisa to represent the Council in connection with Rhode Island Supreme Court proceedings concerning the School Committee appointment. The Complainant also alleged that the Council violated the OMA by discussing an item at the February 9, 2023 meeting that was not posted on the agenda. For the reasons discussed in the finding, we determined that the Council did not violate the OMA on all three counts.

OM 23-17 **Lisi v. Warwick School Committee:**

The Complainant alleged that the Committee violated the OMA by improperly discussing two policies in closed session and failing to timely post its meeting minutes. The Complainant also alleged that the Committee's subcommittees (particularly the Warwick School Committee Policy Review Subcommittee) failed to provide notice of and timely post minutes of its meetings. We found no violations.

OM 23-18 **Chrostowski v. South Kingstown Town Council:**

The Complaint alleged that the Town Council discussed who to elect as president of the Council outside a public meeting. In response to this Complaint, we found that the Town Council did not violate the OMA. The Council acknowledges that a Councilor communicated with other Councilors about the upcoming election for Council President prior to the public meeting. However, we found that these communications did not create a rolling quorum as at no time was a quorum of the Council participating in a collective discussion.

OM 23-19 **Rosengard v. Barrington School Committee and Building Subcommittee:**

The Complainant alleged that: 1) the Barrington School Committee violated the OMA by discussing and voting upon an item that was inadequately noticed on the

agenda for its January 12, 2023 meeting, and 2) the Barrington School Committee Building Subcommittee violated the OMA when a member of the Subcommittee who was not physically present at the meeting nevertheless participated virtually. As to the first allegation, we found that the subject agenda item (pertaining to a Request for Quotes to hire an Owner's Project Manager for a building project) was inadequate and thus violative of the OMA. As to the second allegation, we found that the Building Subcommittee member's virtual participation was violative of the OMA because the member did not meet either of the OMA's exceptions for when a member can participate remotely. We did not find either of these OMA violations to be willful or knowing and did not find injunctive relief to be appropriate.
VIOLATION FOUND

OM 23-20 **Anonymous v. Coventry Town Council:**

The Complainant alleged that the Council provided inadequate supplemental notice as to its March 14, 2023 meeting relative to a "Solicitor's Update" and the Council conceded the same. Injunctive relief is not appropriate because no action was taken in association with this agenda item. We were also not presented with evidence of a willful or knowing violation.
VIOLATION FOUND

OM 23-21 **Anonymous v. Pascoag Fire District:**

The Complainant alleged that the District violated the OMA by meeting outside of the public purview to discuss the sale of District assets and a potential fire district merger. Based on the totality of the evidence before us, we determined that the District did not convene a meeting outside of the public purview as contemplated by the OMA because a quorum of the District never formed and there was no evidence of a rolling quorum.

OM 23-22 **Langseth v. Rhode Island Airport Corporation:**

The Complainant alleged that the "RIAC Committee" is a public body subject to the OMA and that it has violated the OMA by failing to post its annual notice, meeting agendas, and meeting minutes. Based upon the lack of any sort of establishing text or stated authority relative to the RIAC Committee, the inconsistent nature of its membership, and its inability to take independent action, we did not find sufficient evidence that the "RIAC Committee" is a "public body" under the OMA. Therefore, on this record we conclude that the OMA does not apply to the RIAC Committee, and we find no violations.

OM 23-23 **DiLeo v. Bonnet Shores Fire District:**

In response to this Complaint, we found that the Bonnet Shores Fire District Council violated the OMA when it failed to provide proper notice of public business to be discussed and voted with insufficient meeting agenda items. We found that the Fire District should re-notice and re-vote the motions at issue.
VIOLATION FOUND

OM 23-24 **Wilcox v. Richmond Town Council:**

The Complainant alleged that the Town Council violated the OMA several times during its December 6, 2022, December 20, 2022, January 3, 2023, and January 17,

2023 meetings. Based on the totality of the evidence before us, we determined that the Town Council did not engage in a rolling quorum, did not discuss matters not properly noticed on the agenda in either open or closed session, and did not violate the OMA by asking members of the public to leave due to fire code capacity.

OM 23-25 **Akers v. Woonsocket Housing Authority:**

The Complainant alleged that the WHA violated the OMA when three items on their meeting agenda failed to inform the public of the discussion that occurred and persons that spoke at their meeting. We found that all of the discussion and persons who spoke were within in the context of the agenda items and therefore the agenda items did sufficiently inform the public as to what was to be discussed.

ADV OM 23-01 **In re: Misquamicut Fire Department:**

The Clerk of the Misquamicut Fire District sought guidance as to whether the Misquamicut Fire Department was required to adhere to the 2021 amendment to R.I. Gen. Laws § 42-46-7(b)(2) imposing additional minutes requirements on volunteer fire companies. Based upon the representation of the District that the Department is “under the supervision, control and jurisdiction” of the District, we concluded that the Department is exempt from the additional requirements outlined in subsection (b)(2) (except for discussions related to finances), noting that this opinion is limited to the very narrow issue presented and does not relieve the Department from other OMA provisions regarding minutes.

ADV OM 23-02 **In re: Foster Center Volunteer Fire Company:**

Legal Counsel for the FCVFC sought guidance as to whether the FCVFC was a “public body” under the OMA and thus subject to its provisions. Based upon the representations of the FCVFC that it is, *inter alia*, a membership-controlled, 501(c)(3) non-profit corporation, as well as our precedent, we concluded that the FCVFC is not a “public body” within the meaning of the OMA.

ADV OM 23-03 **In re: East Greenwich School Committee:**

Legal Counsel for the East Greenwich School Committee sought guidance as to whether a “Local Special Education Advisory Committee” (“SEAC”) constitutes a public body under the OMA and is thus subject to its provisions. Based upon the representations of the Committee that a SEAC is advisory in nature and is not required to conduct regular meetings, and based upon the composition of a SEAC’s membership as well as our own precedent, we concluded that a SEAC is not a “public body” within the meaning of the OMA.

ACCESS TO PUBLIC RECORDS
ACT



ANNUAL REPORT 2023

**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 those complaints. 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. In cases where this Office finds a violation and determines that injunctive relief is necessary, oftentimes this Office is able to obtain voluntary compliance from the public body without needing to initiate litigation.

The Office of Attorney General is pleased to submit the following information concerning the calendar year 2023.

STATISTICS

ACCESS TO PUBLIC RECORDS ACT COMPLAINTS RECEIVED:	103
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	59 ²
VIOLATIONS FOUND:	24
WARNINGS ISSUED:	24
LITIGATION/CIVIL PENALTIES SOUGHT:	0
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	2
ADVISORY OPINIONS ISSUED:	1
APRA REQUESTS TO THE ATTORNEY GENERAL:	171

² In addition to these findings, this Office also issued supplemental findings in the matters of *Lapierre v. Woonsocket Housing Authority* and *Schupp v. Rhode Island Department of Revenue*.

VIOLATIONS FOUND/WARNING 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 23-01 Neily v. Nuestro Mundo Charter School
- PR 23-05 Lapierre v. Woonsocket Housing Authority
- PR 23-05B Lapierre v. Woonsocket Housing Authority
- PR 23-07 Sherman v. Office of the Governor
- PR 23-08 Sinapi v. Behavioral Healthcare, Developmental Disabilities
and Hospitals

- PR 23-09 Gonzalez v. Rhode Island Department of Corrections
- PR 23-10 Davis v. Town of Exeter
- PR 23-14 Patrie v. North Scituate Fire Department
- PR 23-16 Mulholland v. Town of South Kingstown
- PR 23-19 Davis v. Town of Exeter
- PR 23-23 Richer v. North Smithfield Zoning Board
- PR 23-28 Solas v. South Kingstown School Committee
- PR 23-29 Izzo v. Department of Administration
- PR 23-36 Caldwell v. Department of Administration
- PR 23-37 GoLocalProv v. City of Central Falls
- PR 23-39 Farinelli v. City of Pawtucket
- PR 23-42 Solas v. Woonsocket Public School District
- PR 23-48 Schupp v. Department of Revenue
- PR 23-45 Farinelli v. City of Pawtucket
- PR 23-47 The Public's Radio v. City of Woonsocket
- PR 23-48 Cicione v. Town of Warren
- PR 23-49 Santoro v. Town of West Warwick
- PR 23-50 Gregg and Sherman v. Rhode Island Office of the Governor
- PR 23-52 Rourke v. City of Providence
- PR 23-58 R.I. Center for Justice v. Rhode Island Department of Corrections

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Summaries of all findings/written advisory opinions issued are included below.

ACCESS TO PUBLIC RECORDS ACT FINDINGS – 2023

- PR 23-01** **Neily v. Nuestro Mundo Charter School:**
The Complainant alleged that the School failed to respond to her APRA request. The School responded to the Complaint by providing the Complainant with the records she initially requested. The School did not challenge that it is a public body subject to the APRA, and it is undisputed that its response to the Complainant's APRA request was tardy. It is also undisputed that the School has now provided the Complainant with the records she sought. Accordingly, injunctive relief is not appropriate, nor were we presented with evidence of a willful and knowing, or reckless violation.
VIOLATION FOUND
- PR 23-02** **Caldwell v. Rhode Island College:**
Complainant alleged RIC violated the APRA when it stated that no records responsive to the Complainant's request existed. RIC provided undisputed evidence that it did not maintain records responsive to Complainant's request. Accordingly, we found no violation.
- PR 23-03** **Solas v. Town of South Kingstown:**
The Complainant alleged the Town violated the APRA when it failed to respond to a verbal request she made over the telephone to a staff member of the Town Clerk's Office. Based upon the undisputed evidence, the Complainant failed to follow the Town's posted and promulgated APRA procedures when making her request. Accordingly, we found no violation.
- PR 23-04** **Winston v. Warwick Police Department:**
The Complainant alleged that the Department violated the APRA by improperly making redactions to a Department policy and procedures manual and by failing to provide all documents responsive to his request for documents pertaining to himself and his neighbor. The Department argued that it never received a request for the latter, but it provided the relevant documents as part of its response to the Complaint. The Department further argued that the Complainant never submitted prepayment relative to his request for the manual. Although the record demonstrates the same and indicates that the manual was obtained by the Complainant by alternate means, this Office nevertheless conducted an *in camera* review of the unredacted manual and found that any redactions made to it were appropriate. As to the remaining documents, this Office declined to determine whether the Department's failure to provide the same amounted to an APRA violation, as the documents have been provided to the Complainant and the initial non-production, even assuming it violated the APRA, did not amount to a willful and knowing or reckless violation of the APRA. Consequently, we found no APRA violation or need for injunctive relief.
- PR 23-05** **Lapierre v. Woonsocket Housing Authority:**
Complainant filed six (6) complaints pertaining to 6 different APRA requests, alleging, *inter alia*, that the WHA violated the APRA by failing to timely respond

to her request, by failing to completely respond to her request, by assessing payment in connection with another request, or by invoking a twenty (20) business day extension to respond to a request. Based upon the record before us, we determined the WHA violated the APRA in three (3) instances by failing to timely respond to the Complainant's request or by failing to indicate that it did not maintain any additional responsive documents beyond those that were already provided. We also requested the WHA provide supplemental submissions regarding two (2) Complaints and addressing whether the violations found were willful and knowing, or reckless.

VIOLATION FOUND

PR 23-05B **Lapierre v. Woonsocket Housing Authority:**

This Office previously concluded that the WHA violated the APRA in numerous ways when responding to the Complainant's six (6) APRA requests. This Office issued a finding directing the WHA to address whether its violation should be considered willful and knowing, or reckless, and seeking additional information on outstanding issues. After receiving the parties' supplemental submissions, this Office determined that remedial measures are necessary as the WHA has failed to provide adequate responses to two (2) requests and to this Office. Given the nature and extent of the violations and, based upon the record before us, we further directed the WHA to take additional remedial measures. So long as the WHA complies with the directives in this supplemental finding, this Office will not file a lawsuit for a willful and knowing, or reckless violation of the APRA.

VIOLATION FOUND

PR 23-06 **Travis v. City of Central Falls:**

The Complainant alleged that the City violated the APRA when it sought a twenty (20) business day extension to respond to Complainant's APRA request and cited "extensive research" as the justification. The City provided significant documentary evidence as to the difficulty in searching for and retrieving the requested records, and although the City likely could have explained the extension in a more particularized manner, the City's actions were justified based on the clear need for additional time in order to fulfill the request. Based on the undisputed evidence before us, we found that the City did not violate the APRA when it extended the time to respond to Complainant's APRA request.

PR 23-07 **Sherman v. Office of the Governor:**

The Complainant alleged that the Office of the Governor violated the APRA by improperly withholding and redacting records in response to his APRA request for records pertaining to the ILO Group. The Office of the Governor argued that while it produced a large number of documents in response to the request, those it withheld were exempt from public disclosure pursuant to R.I. Gen. Laws §§ 38-2-2(4)(A)(I)(a), 38-2-2(4)(E), 38-2-2(4)(K), and 38-2-2(4)(M). The withheld documents were provided to this Office for an *in camera* review, along with a privilege log. After reviewing the filings and the *in camera* records, this Office determined that the Office of the Governor improperly withheld four total records. This Office directed the Office of the Governor to produce these four documents, and requested a supplemental filing concerning its search for responsive records

(and why that search failed to locate certain responsive records). Finally, we found that two withheld documents may constitute final work product, and therefore do not meet the asserted exemptions. The Office of the Governor was directed to either produce these two records or explain in a supplemental filing why they constitute “drafts.”

VIOLATION FOUND

PR 23-08 **Sinapi v. Department of Behavioral Health, Developmental Disabilities and Hospitals:**

The Complainant submitted an APRA request to BHDDH seeking various documents related to a specific healthcare services entity. Complainant alleged BHDDH violated the APRA by failing to timely respond to the request, failing to state that no reasonably segregable portion of the documents was available and by issuing a “blanket denial” pursuant to R.I. Gen. Laws §§ 38-2-2(4)(S) and 40.1-24, *et seq.* BHDDH conceded the first two allegations, thus we determined BHDDH violated the APRA by failing to timely respond to the request and by failing to state that the documents were not reasonably segregable. Based on the record before us, including our *in camera* review, we found that BHDDH did not violate the APRA when it denied Complainant’s request pursuant to R.I. Gen. Laws §§ 38-2-2(4)(S) and 40.1-24-12. We did not find injunctive relief appropriate, nor were we presented with sufficient evidence that the violations found were willful and knowing, or reckless.

VIOLATION FOUND

PR 23-09 **Gonzalez v. Rhode Island Department of Corrections:**

The Complainant submitted two (2) APRA complaints against the DOC. First, Complainant alleged DOC violated the APRA by providing a “far from adequate” response to Part (A) of his request and by failing to respond to Part (B). Based upon the record before us, we found the DOC created a document using its electronically stored data to respond to Part (A) of Complainant’s request and did not violate the APRA. We did, however, conclude that DOC violated the APRA by failing to respond to Part (B) of the request. In connection with the Second Complaint, Complainant sought numerical and/or statistical data related to a specific DOC employee. DOC withheld all responsive records pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b) on the grounds that disclosure of the information would constitute a “clearly unwarranted invasion of personal privacy.” Complainant alleged DOC violated the APRA by withholding these records in full. Based upon the record before us, we determined additional information and argument from DOC was necessary to determine whether the numerical data requested by Complainant would fall within the ambit of Exemption (A)(I)(b). In this finding, we did not find injunctive relief to be appropriate, nor were we presented with evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND

PR 23-10 **Davis v. Town of Exeter:**

Complainant alleged the Town violated the APRA when it withheld a letter sent by DEM in connection with a formal enforcement action pursuant to the following exemptions: R.I. Gen. Laws §§ 38-2-2(4)(A)(I)(a), (E), (K), (P) and (S). Based

upon the record before us, including our *in camera* review of the subject letter, we determined that the letter was not protected by the attorney-client privilege and/or the attorney-client relationship as it was prepared for and shared with an unrelated third-party government agency. Nor did the letter constitute a “preliminary draft” or “work product” within the ambit of Exemption (K) as it was undisputed that the letter was a final communication sent between the Town and a third-party (DEM). Finally, the Town did not provide sufficient evidence that the letter constituted an “investigatory record” within Exemption (P). Having determined that none of the asserted exemptions applied, we found that the Town violated the APRA and directed the Town to provide the withheld letter to the Complainant. We were not presented with sufficient evidence of a willful and knowing, or reckless violation.
VIOLATION FOUND

PR 23-11 **Lefoley v. Rhode Island Department of Health:**

The Complainant alleged RIDOH violated the APRA by denying his request for certain records related to a complaint he filed against an assisted living facility pursuant to R.I. Gen. Laws § 38-2-2(4)(P), which exempts certain records pertaining to investigations. The Complainant did not dispute RIDOH’s argument that the requested records pertained to an incident which was still under investigation at the time when the request was denied. Based on the record, including our *in camera* review of the withheld records, we found RIDOH’s decision not to disclose the requested records did not violate the APRA.

PR 23-12 **Pontarelli v. Department of Children, Youth and Families:**

The Complainant alleged DCYF violated the APRA when it withheld all documents responsive to his request for redacted Family Court decisions ordering placement of a child in the care of a DCYF residential care facility. Complainant alleged that DCYF shared these records with state and municipal education agencies and was therefore “estopped” from claiming confidentiality. Based upon the record before us, including numerous state and federal statutes related to these types of records, we found DCYF did not violate the APRA by withholding these records in full, and any disclosure of placement information by DCYF to education agencies was permitted by law and further governed by federal confidentiality protections for education records.

PR 23-13 **Greichen v. Narragansett Police Department:**

The Complainant alleged the Department violated the APRA when it denied his request for Department records relating to an incident report filed with the Department involving Complainant, a third party, and a minor child. The 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 record 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 23-14** **Patrie v. North Scituate Fire Department:**
The Complainant alleged that the Department failed to respond to his APRA request. The Department responded to the Complaint by providing the Complainant with a singular document that was responsive to his request. The Department conceded that it is subject to the APRA, and it is undisputed that it failed to respond to the Complainant's APRA request. It is also undisputed that the Complainant is now in possession of the record he sought. Accordingly, injunctive relief is not appropriate, nor were we presented with evidence of a willful and knowing, or reckless violation.
VIOLATION FOUND
- PR 23-15** **Brailsford v. City of Pawtucket:**
The Complainant questioned whether the City's APRA response was untimely because it was sent after business hours on the tenth business day after the request was submitted. The undisputed evidence revealed that the request was not submitted in accordance with the City's APRA procedures and we found no violation.
- PR 23-16** **Mulholland v. Town of South Kingstown:**
The Complainant alleged that the Town failed to timely respond to her APRA request and the Town conceded the same. The Complainant is now in possession of the records she sought. Accordingly, injunctive relief is not appropriate. We were not presented with evidence of a willful and knowing, or reckless violation. Nonetheless, we requested submission of evidence within thirty (30) days that the Town now has a procedure in place for processing APRA requests.
VIOLATION FOUND
- PR 23-17** **Ahlquist v. Office of the Governor:**
The Complainant alleged that the prepayment estimate for completing his APRA requests violated the APRA. In the circumstances of this case, we concluded that the prepayment estimate did not violate the APRA.
- PR 23-18** **Cobro v City of Providence:**
The Complainant asserts that the City violated the APRA by prematurely closing her APRA request after only responding to part of it. The record evidences that the City promptly re-opened the request once the error was brought to its attention and substantively responded to the entirety of the APRA request within the deadlines provided by the APRA. Accordingly, we found no violation.
- PR 23-19** **Davis v. Town of Exeter:**
Complainant alleged the Town violated the APRA by withholding records responsive to his request for certain emails between Town employees under the deliberative process privilege encompassed within Exemption (E). Based upon the record before us, including our *in camera* review, we determined the Town improperly withheld these emails and directed the Town to produce the same to the Complainant within ten (10) business days of the issuance of the finding. The Complainant also alleged the Town failed to produce a second email forwarding a "curb cut" permit to the Deputy Town Clerk; however, the Town provided

undisputed evidence that no such email existed. Accordingly, we found the Town violated the APRA in connection with the Complainant's first allegation, but not the second. We did not find sufficient evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND

PR 23-20 **Martinez v. Department of Human Services:**

The Complainant alleged that DHS's prepayment estimate violated the APRA. Based on the circumstances of this case, we did not find that the estimate violated the APRA.

PR 23-21 **McBurney v . City of Pawtucket:**

The Complainant alleged that the City failed to properly respond to his APRA request. We determined that the City did not violate the APRA because the request was not submitted in accordance with the City's APRA procedures.

PR 23-22 **Doe v. City of Cranston:**

The Complainant alleged the City violated the APRA by failing to provide a specific type of consultant's report in response to his request. The City provided undisputed evidence in affidavit form that it did not have the specific document Complainant sought, and that Complainant was provided all documents the City maintained that were responsive to his request. Accordingly, we found no violation.

PR 23-23 **Richer v. North Smithfield Zoning Board:**

The Complainant alleged that the Board failed to timely respond to his APRA request. We found that the Board violated the APRA because the evidence established that the Board failed to provide a written response within the time prescribed by the APRA, and we were not presented with clear evidence that the Complainant had indicated that no response was necessary. We did not find the violation to be willful and knowing or reckless, but did require the Board to take steps to respond to the APRA request in accordance with the APRA.

VIOLATION FOUND

PR 23-24 **Arocho v. Community College of Rhode Island:**

The Complainant alleged that CCRI improperly redacted two emails in response to her request for emails between a URI employee and a CCRI employee. Based on our *in camera* review, we determined that the redacted emails were not responsive to the Complainant's request, as framed. Because CCRI strictly construed the request as seeking emails between the URI employee and the CCRI employee (not to include preceding communications between separate individuals which appeared earlier in an email chain), and because the burden is on the requester to properly frame the request, we found no violation. Additionally, there was no evidence that the Complainant attempted to clarify this request with CCRI prior to filing the Complaint.

PR 23-25 **Connell v. Smithfield Public School:**

The Complainant alleged the SPS violated the APRA by "over-redacting" emails responsive to his request for all emails of a Smithfield School Committee member.

SPS argued that the responsive emails fell within R.I. Gen. Laws § 38-2-2(4)(M) as “correspondence of or to elected officials *** in their official capacity” and thus the redactions to the contents of the emails were appropriate. Based upon the undisputed evidence presented, we found no violation.

PR 23-26 **Casazza v. Smithfield Public Schools:**

The Complainant alleged the SPS violated the APRA by “over-redacting” emails responsive to his request for all emails of a Smithfield School Committee member. SPS argued that the responsive emails fell within R.I. Gen. Laws § 38-2-2(4)(M) as “correspondence of or to elected officials *** in their official capacity” and thus the redactions to the contents of the emails were appropriate. Based upon the undisputed evidence presented, we found no violation.

PR 23-27 **Novak v. Town of Coventry:**

The Complainant initially alleged that the Town failed to timely respond to his APRA request, then subsequently alleged that the Town should have received his request earlier than claimed and improperly asserted an extension. In a supplemental filing, the Complainant additionally alleged that he was not in possession of all requested records. This Office found that, based on the record, there was insufficient evidence that the Town received the request prior to the date attested to in its filings. We also found that the Town’s basis for asserting an extension complied with the statute. As to the allegation that the Complainant did not receive all requested records, we found that injunctive relief and/or civil fines were not appropriate because the Complainant is now in possession of the missing records and because there was no evidence that any violation, assuming it occurred, was willful and knowing or reckless on the part of the Town.

PR 23-28 **Solas v. South Kingstown School Committee:**

The Complainant alleged the Committee failed to timely respond to her APRA request. The Committee conceded its untimely response, stating that it was due to locating additional documents responsive to the request which delayed the response. It is undisputed that the Committee has now provided the Complainant with the records sought. Accordingly, injunctive relief is not appropriate, nor were we presented with evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND

PR 23-29 **Izzo v. Department of Administration:**

The Complainant alleged that DOA violated the APRA by withholding a list of email addresses of municipal board and commission members who participated in a voluntary training program and by failing to respond to her request for an administrative appeal. DOA argued that the email list in question consisted mostly of personal email addresses, and that release of the list would constitute a clearly unwarranted invasion of personal privacy. DOA also conceded that although it drafted a response to the Complainant’s request for an administrative appeal, it sent the response to an incorrect email address and was not alerted to this error because it did not receive “a bounce back email from Outlook.” This Office concluded that release of the personal email addresses would constitute a clearly unwarranted invasion of personal privacy under R.I. Gen. Laws § 38-2-2(4)(A)(b). However,

after conducting an *in camera* review of the withheld record, we determined that the personal email addresses could have easily been redacted from the record because the total number of email addresses on the list was slight. We thus found that DOA violated the APRA by failing to produce a reasonably segregable portion of the record and for failing to respond to the Complainant's request for an administrative appeal. We determined that DOA should provide the Complainant with the withheld record (with appropriate redactions) within ten business days. We found insufficient evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND

PR 23-30 **Zurier v. Office of the General Treasurer:**

The Complainant alleged that the Treasurer violated the APRA by denying his request for specific quarterly reports related to an ERSRI investment fund pursuant to Exemption (B), which exempts “[t]rade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.” R.I. Gen. Laws § 38-2-2(4)(B). The Complainant also alleged the Treasurer violated the APRA by failing to provide a *Vaughn Index* in connection with the denial. Based upon the record before us, including our *in camera* review of the withheld documents and the relevant state and federal law, we determined the Treasurer did not violate the APRA by withholding the records. Additionally, we found no violation in connection with the Treasurer's refusal to provide a *Vaughn Index* as it had satisfied its burden under the APRA by providing the “specific reasons for the denial.” R.I. Gen. Laws § 38-2-7(a).

PR 23-31 **Hanson v. Rhode Island Department of Corrections:**

The Complainant alleged the RIDOC violated the APRA when it denied his request for CCTV footage of a “wedding ceremony” that occurred in the maximum security visiting room of the ACI, citing, *inter alia*, personal privacy reasons. Based on the record before us, including our *in camera* review of the footage, we determined that the privacy interest implicated by disclosure of the records outweighed any public interest in disclosure and the RIDOC's denial of the APRA request was permissible under these circumstances.

PR 23-32 **Richer v. Town of North Smithfield:**

The Complainant alleged that the Town violated the APRA by withholding records in response to his request for certain legal opinions issued by the solicitor. Based on our *in camera* review, we determined that the withheld records fell within the ambit of Exemptions (A)(I)(a), (E), and (K), and were thus permissibly withheld. Accordingly, we found no violation.

PR 23-33 **Lapierre v. Woonsocket Housing Authority:**

OM 23-05

The Complainant alleged the WHA violated the OMA when it did not provide proper notice of the nature of the business to be discussed and/or acted upon in connection with an agenda item related to a subpoena by HUD during its September 22, 2022 meeting. The Complainant also alleged that the WHA violated the APRA when it failed to provide her with the “supporting documents” for that agenda item. Based on the totality of the evidence before us, we determined that the agenda item in question did not adequately notify the public as to the nature of the business to

be conducted. We did not find the violation to be willful or knowing, and we did not find injunctive relief to be necessary given the discussion occurred in open session and the WHA took no action on that item. We did not find an APRA violation as the WHA provided undisputed evidence that no documents related to this agenda item were submitted, presented or voted upon at the meeting.

PR 23-34

Alba v. Rhode Island Department of Environmental Management:

The Complainant submitted two (2) APRA complaints against DEM related to the “Lighthouse Inn” property in Narragansett. The Complainant alleged that the DEM violated the APRA by failing to provide him with a “19 Year Lease” (per his first request) and a “month to month lease” (per his second request). He also alleged that DEM violated the APRA by failing to respond to his request for an administrative appeal in each instance. DEM stated that after conducting a reasonable search, it concluded that it did not possess either a “19 Year Lease” or a “month to month lease.” Because the undisputed evidence in the record presented to us supported the DEM’s assertions that it had conducted reasonable searches, and because the Complainant’s own statements indicated that no responsive records exist, we found no violation. Additionally, we found no violation as to the alleged failure of DEM to respond to the Complainant’s requests for administrative appeals because the Complainant filed his first Complaint before the statutory timeframe to respond to his request had elapsed and because, in the second instance, the record indicated that DEM responded to his request in a timely manner.

PR 23-35

Durand v. Scituate Police Department and Scituate School Committee:

The Complainant filed two separate, but related APRA requests to the Department and the Committee seeking any police reports and other documents involving a specific Scituate School District employee and a specific incident. Both the Department and the Committee denied Complainant’s requests for, *inter alia*, personal privacy reasons. The Complainant filed complaints against the Department and the Committee alleging these public bodies violated the APRA by denying his requests. Based upon the record before us, including our *in camera* review of the withheld police incident reports, we determined that the privacy interests implicated in the records outweighed any public interest in disclosure and the privacy interests could not be effectively resolved by redaction. Accordingly, we found no violations.

PR 23-36

Caldwell v. Department of Administration:

The Complainant alleged that DOA violated the APRA by failing to respond to his APRA request within the deadline set forth by the APRA. DOA conceded that it did not respond to the request within the timeframe provided by the APRA but argued that the request was unclear and that Complainant eventually received what he requested after DOA reached out for clarification. Based upon the record before us, we determined that DOA violated the APRA by failing to respond to Complainant’s request within ten business days. We found insufficient evidence of a willful and knowing or reckless violation and did not find a need for injunctive relief.

VIOLATION FOUND

PR 23-37 **GoLocalProv v. City of Central Falls:**

The Complainant alleged that the City violated the APRA by failing to provide all responsive records within the deadline required by the APRA. We determined that the City violated the APRA by failing to timely provide all responsive records, but concluded that injunctive relief was not appropriate because the City produced additional responsive records (albeit belatedly) and there was no specific evidence that the City maintained additional responsive records that had still not been provided. This Office also declined to pursue civil penalties.

VIOLATION FOUND

PR 23-38 **Donelan v. City of Providence:**

Complainant alleged the City violated the APRA by failing to provide him with a police report. The City provided undisputed evidence that the Complainant's request did not seek a police report, but rather the "basic information" of the driver of the motor vehicle that struck his client. Based upon the undisputed record, the City provided the "basic information" requested to the Complainant via email outside of the APRA process as the police report associated with the incident was unquestionably a draft at the time Complainant's request was submitted. Accordingly, we found no violation.

PR 23-39 **Farinelli v. City of Pawtucket:**

The Complainant sought emails between a Pawtucket City Councilmember and the Chief of Police and a copy of the Chief of Police's calendar for the previous six-months. The Complainant alleged the City violated the APRA by withholding all records responsive to her request for emails and by "overly redacting" the Chief's calendar. Based upon the undisputed evidence presented, as well as our *in camera* review, all responsive emails fell within the ambit of Exemption (M), which broadly exempts all correspondence of/to elected officials in their official capacities. As such, we did not find a violation in connection with the City's withholding of emails. In regard to the Complainant's request for the Chief of Police's calendar, this Office conducted an *in camera* review of the calendar and determined that the City did not provide sufficient argument regarding three (3) categories of redactions for this Office to determine that the redactions were appropriate. Accordingly, we determined the City violated the APRA by redacting some of the information contained in the Chief's calendar. We directed the City to either provide the Complainant with a copy of the Chief's calendar in partially-unredacted form, or to submit a supplemental filing to this Office articulating with specificity why these redactions are necessary and appropriate under the APRA.

VIOLATION FOUND

PR 23-40 **Caldwell v. Department of Administration:**

The Complainant alleged that DOA violated the APRA by failing to provide the names of the financial institution(s) that received funds from DOA pursuant to two purchase orders. DOA produced copies of the purchase orders but asserted that the banking information Complainant sought was exempt from disclosure as the confidential financial information of a third party, Rhode Island College (RIC). Our Office contacted RIC, which provided evidence indicating that Complainant had made a similar APRA request to RIC and that RIC had responded

by identifying its bank of record. We found it unnecessary to determine whether DOA had violated the APRA because our Office found no need for injunctive relief because Complainant had obtained the information he sought, and found insufficient evidence that any violation would be willful and knowing or reckless.

PR 23-41 **Solas v. Providence Public School District:**

The Complainant alleged the District violated the APRA when it failed to respond to a request for records she made via email to a District employee. Based upon the undisputed evidence, the Complainant failed to follow the District's posted and promulgated APRA procedures when making her request. Accordingly, we found no violation.

PR 23-42 **Solas v. Woonsocket Public School District:**

The Complainant alleged the District failed to respond to her APRA request. The District conceded its untimely response and provided a response, with documents, to the Complainant at no charge. Accordingly, we found the District violated the APRA but determined that injunctive relief was not appropriate as the Complainant has now received a response to her request. Nor were we presented with sufficient evidence of a willful and knowing, or reckless violation by the District.

VIOLATION FOUND

PR 23-43 **Schupp v. Department of Revenue:**

The Complainant requested certain forms submitted from 2018 to the present and alleged that DOR violated the APRA by withholding the requested forms in their entirety pursuant to Exemptions O and S. This Office determined that DOR violated the APRA by failing to state that no reasonably segregable portion of the requested forms was available. We directed DOR to provide a supplemental response as described in the finding and will determine whether any injunctive or other relief is necessary after reviewing the supplemental submission.

VIOLATION FOUND

PR 23-43B **Schupp v. Department of Revenue:**

The Complainant requested certain forms submitted from 2018 to the present and alleged that DOR violated the APRA by withholding the requested forms in their entirety pursuant to Exemptions O and S. This Office previously determined that DOR violated the APRA by failing to state that no reasonably segregable portion of the requested forms was available and directed DOR to provide a supplemental response as described in the finding. After reviewing the parties' supplemental submissions, this Office determined that it was permissible under the APRA for DOR to withhold the requested records in their entirety.

PR 23-44 **Hanson v. Rhode Island Department of Corrections:**

The Complainant alleged the DOC failed to respond to an APRA request he submitted in November seeking the names of certain DOC dental staff. The DOC provided undisputed evidence that it did not receive any such request from the Complainant in November or any time thereafter, until it received notice of the Complaint. The DOC responded to the Complainant's request and provided responsive documents for part of the request but indicated it did not have documents

responsive to the remainder of the request. Complainant did not dispute the DOC's assertion that it did not have documents responsive to the entirety of his request. Therefore, based upon the record before us, we found no violation.

PR 23-45 **Farinelli v. City of Pawtucket:**

The Complainant alleged the City violated the APRA by failing to timely respond to her request. The City conceded the violation, attributing the same to the staff member responsible for responding being out of the office. Accordingly, we found the City violated the APRA. Injunctive relief was not appropriate as the City provided undisputed evidence that it promptly responded to the Complainant's request after further inquiry from the Complainant and advised Complainant that no responsive records existed. Nor were we presented with evidence that the violation was willful and knowing, or reckless.

VIOLATION FOUND

PR 23-46 **Langseth v. Buttonwood Beach Association:**

The Complainant, arguing that the BBA is subject to the APRA, alleged the BBA violated the APRA by failing to respond or failing to properly respond to three (3) APRA requests. Based upon the record before us, we concluded the BBA is not a "public body" for purposes of the APRA and therefore did not violate the APRA when responding (or failing to respond) to Complainant's requests for documents.

PR 23-47 **The Public's Radio v. City of Woonsocket:**

The Complainant alleged the City violated the APRA when it failed to timely respond to four (4) APRA requests. Despite repeated requests from this Office to provide a substantive response to the Complaint, the City failed to do so and, consistent with our precedent, we drew an adverse inference against the City when reviewing the Complaint. Based upon the undisputed record before us, we found the City violated the APRA by failing to timely respond to the Complainant's requests. We determined that relief was appropriate and directed the City to respond to all four (4) requests at no charge to the Complainant. We also requested supplemental submissions addressing whether the violations found were willful and knowing, or reckless.

VIOLATION FOUND

PR 23-48 **Cicione v. Town of Warren:**

The Complainant alleged the Town violated the APRA when it denied a five-part APRA request concerning the "Warren Gateway" project. The Town issued a blanket denial, stating that the request was overbroad and vague. The Town did not assess a prepayment cost or otherwise communicate to the requester, nor did it state that there were no documents responsive to the request. We found that the Town violated the APRA by failing to provide responsive records without specifically citing to the applicable APRA exemptions justifying the denial (with the exception of correspondence of members of the Town Council, exempt under R.I. Gen. Laws § 38-2-2(4)(M)). The Town also failed to respond to the Complainant's request for an administrative appeal. We determined that relief was appropriate and directed the Town to respond to the request at no charge to the Complainant. We also

requested a supplemental submission addressing whether the violations found were willful and knowing, or reckless.

VIOLATION FOUND

PR 23-49 **Santoro v. Town of West Warwick:**

The Complainant submitted an APRA request to the Town seeking the “background investigation packet” the Town’s Police Department compiled on Complainant. The Complainant contends the Town violated the APRA in responding to his request by (1) failing to timely respond, as he did not receive the Town’s mailed response within the 10-business day period, (2) having the Town’s Solicitor deny his request rather than the Town’s APRA representative and (3) by denying his request in its entirety. Based upon the record before us, we determined the Town’s response was postmarked within the 10-business day period. We also determined that, based on the evidence, including our *in camera* review, we concluded that the privacy interests implicated by disclosing the investigation report outweigh any public interest, and therefore the Town did not violate the APRA by denying the request. We did find, however, that the Town’s Solicitor is not listed in this Office’s records as an APRA-certified employee of the Town pursuant to R.I. Gen. Laws § 38-2-3.16. We did not find evidence of a willful and knowing, or alternatively reckless, violation, nor did we find injunctive relief appropriate.

VIOLATION FOUND

PR 23-50 **Gregg and Sherman v. Rhode Island Office of the Governor:**

The Complainants alleged that the Governor’s Office violated the APRA by withholding an email that asserted allegations of misconduct against two senior state employees related to an official work trip. The Governor’s Office asserted that the withheld email is exempt from disclosure based on the exemptions related to investigatory records and the privacy balancing test. For the reasons set forth in the finding, this Office concluded that the cited exemptions do not apply and that the Governor’s Office is required to disclose the requested email (potentially with redactions to third-party information). We did not find the violation to be willful and knowing or reckless.

VIOLATION FOUND

PR 23-51 **The Providence Journal v. Rhode Island Office of the Governor:**

The Complainant alleged that the Governor’s Office violated the APRA by withholding a record showing individuals who have been assigned a “preferred” license plate since January 1, 2021. The Governor’s Office asserted that the requested record is exempt from disclosure pursuant to the Driver’s Privacy Protection Act (“DPPA”) and its Rhode Island equivalent and the balancing test. This Office determined that the DPPA and its state equivalent apply and as such the Governor’s Office did not violate the APRA by withholding the requested record.

PR 23-52 **Rourke v. City of Providence:**

The Complainant alleged the City violated the APRA when it failed to timely respond to her request within the ten (10) business day period. We find that the City violated the APRA. We do not find the City’s APRA violation to be willful and

knowing, or reckless. Nevertheless, this finding serves as notice to the City that its conduct violated the APRA and may serve as evidence in a future similar situation of a willful and knowing, or alternatively reckless, violation.

VIOLATION FOUND

PR 23-53

Pontarelli v. RIDE:

The Complainant alleged that RIDE violated the APRA by assessing prepayment. RIDE provided a detailed explanation for why its estimated cost was reasonable. We found no violation.

PR 23-54

Anderson and White v. Town of Jamestown:

The Complainants alleged that the Town violated the APRA by redacting certain information on an election nomination paper. We found that the Town violated the APRA by redacting the street address numbers and signatures of signatories on a nomination paper. We did not find the violation to be willful and knowing or reckless, but required the Town to provide the Complainants with an unredacted copy of the document. Complainant White also alleged that the Town violated the APRA by redacting certain information in a letter, but we did not find a violation on that issue.

PR 23-55

Pahigian v. Rhode Island Department of Transportation:

The Complainant alleged that RIDOT violated the APRA by failing to respond to his request in a timely manner and by denying his underlying request for accident data. As to the timeliness of RIDOT's response, we found no violation because the undisputed evidence indicated that the Complainant initially submitted his request after business hours and that RIDOT responded to the request "near the end of business hours" on the tenth business day, making RIDOT's response timely. As to the denial in full of the requested records, we found that RIDOT lawfully withheld the records pursuant to Exemption (E) of the APRA, which states that a public body does not have to make something available under the APRA that it would not have to produce in litigation. Per 23 U.S.C § 407, the relevant federal statute here, accident data like the data sought by the Complainant is not subject to discovery and may not be utilized "in a Federal or State court proceeding" (the Complainant did not dispute that 23 U.S.C § 407 is applicable to the data he requested). We thus found no violation.

PR 23-56

Brailsford v. Rhode Island Department of Transportation:

The Complainant alleged that RIDOT assessed him an excessive prepayment in response to his APRA request. He alleged this prepayment is excessive because RIDOT manually searched the relevant documents rather than using Adobe Acrobat and redacted information. We found based on the circumstances in this particular case that the APRA does not require a public body to use a specific type of software and the record here does not show this search time was unreasonable. Also, the APRA allows the charging of time for legal review and redaction.

PR 23-57

Anonymous v. City of Warwick:

Complainant alleged that the City of Warwick violated the APRA by withholding a draft report and emails. Complainant argued that Exemption (K) did not apply to the draft because the City is not an institution of higher education, that Exemption (M) did not apply to the emails unless they were to or from an elected official's constituents, and that even under Exemption (M) the City needed to identify the parties to the email. The City responded that Exemption (K) is not limited to institutions of higher education, that Exemption(M) also covers correspondence in elected officials' official capacities, and that Exemption (M) does not require disclosure of the individuals involved. Based upon the record before us, we determined that the City did not violate the APRA, as Exemptions (K) and (M) applied and the City could properly withhold the entirety of the emails under Exemption (M).

PR 23-58

Rhode Island Center for Justice v. Rhode Island Department of Corrections:

The Complainant alleged that RIDOC improperly redacted information about Prison Rape Elimination Act rounds and waived its reasons for redaction by failing to specify them. We found that although RIDOC violated the APR by initially failed to cite the relevant exemptions, good cause existed for RIDOC's reasons for redaction to not be waived due to the safety and security concerns related to the potential disclosure of law enforcement and security information. We further found the information was permissibly redacted.

VIOLATION FOUND

PR 23-59

Rhode Island Housing Justice Organizing Committee v. RIPTA:

The Complainant alleged that RIPTA violated the APRA by assessing an excessive prepayment estimate. RIPTA provided a detailed and uncontested explanation for why its estimated cost was reasonable. We found no violation. This Office also found that RIPTA did not violate R.I. Gen. Laws § 38-2-4(d) as to providing a detailed itemization of costs (based on the same analysis set forth in the finding).

ADV PR 23-01

Methods For Accepting APRA Requests

This advisory opinion is intended to provide additional clarity regarding the APRA's requirements for accepting public records requests and to put public bodies on notice of their duty to make the APRA process accessible to members of the public. The use of email and/or an electronic portal to accept records requests eliminates unnecessary delay and increases the accessibility of the APRA process, and public bodies in Rhode Island should take measures to ensure that their APRA procedures include either or both as an option for submitting APRA requests.