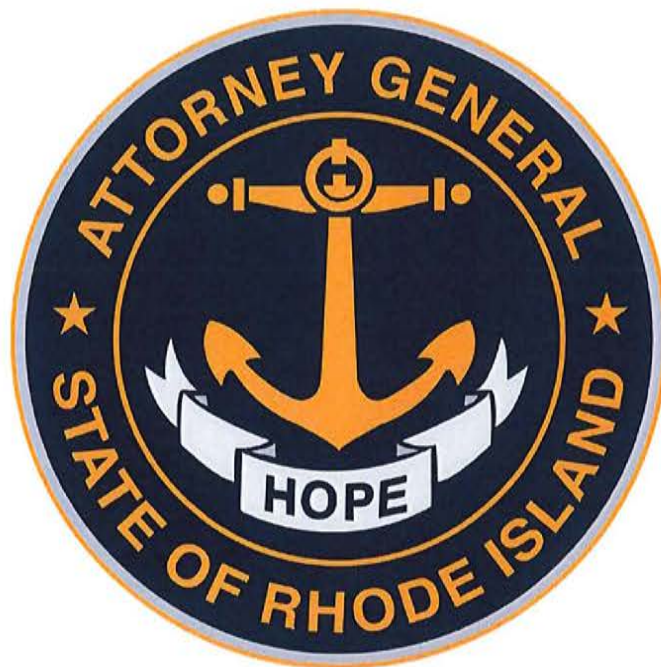
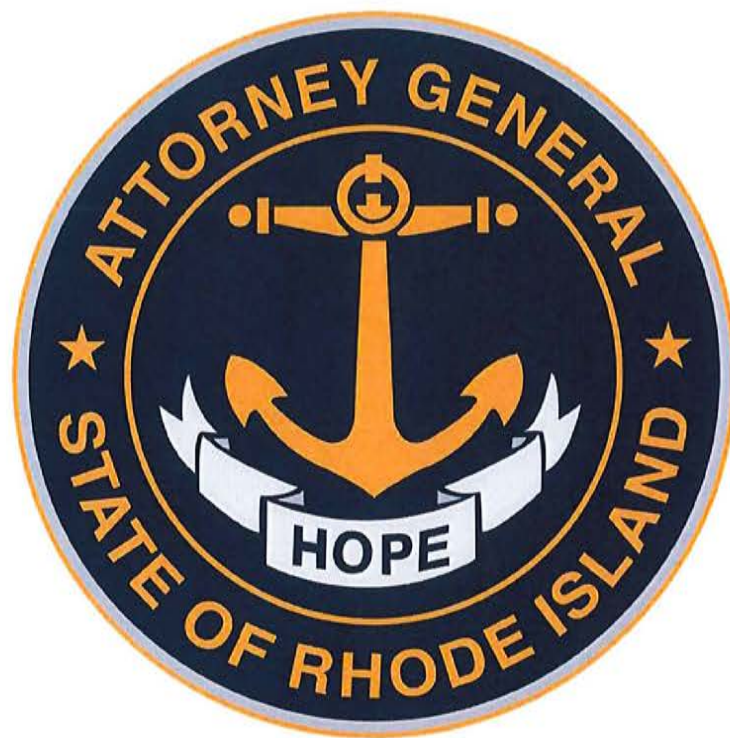


**STATE OF RHODE ISLAND**  
**OFFICE OF ATTORNEY GENERAL**



**2020 ANNUAL REPORT**  
**OPEN MEETINGS ACT**  
**AND**  
**ACCESS TO PUBLIC RECORDS ACT**  
**ATTORNEY GENERAL PETER F. NERONHA**

# OPEN MEETINGS ACT



ANNUAL REPORT 2020

**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 2020.

**STATISTICS**

<b>OPEN MEETINGS ACT COMPLAINTS RECEIVED:</b>	60
<b>FINDINGS ISSUED BY THE ATTORNEY GENERAL:</b>	54
<b>VIOLATIONS FOUND:</b>	25
<b>WARNINGS ISSUED:</b>	25
<b>LITIGATION INITIATED:</b>	0
<b>WRITTEN ADVISORY OPINIONS:</b>	
<b>REQUESTS RECEIVED:</b>	0
<b>ADVISORY OPINIONS ISSUED:</b>	1

## 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 20-1	<u>Wahl, et al v. Indian Lake Shores Fire District</u>
OM 20-3	<u>Mahoney v. Scituate Town Council</u>
OM 20-5	<u>Payette v. Scituate Town Council</u>
OM 20-7	<u>Lopez v. Westerly Housing Authority</u>
OM 20-8	<u>Novak v. Western Coventry Fire District</u>
OM 20-9	<u>Courtney v. Jamestown Housing Authority</u>
OM 20-10	<u>Langseth v. Buttonwoods Fire District</u>
OM 20-11	<u>Lamendola v. East Greenwich School Committee [APRA-OMA]</u>
OM 20-12	<u>Stewart v. West Greenwich Town Council</u>
OM 20-13	<u>Stewart v. West Greenwich Planning Board</u>
OM 20-14	<u>Pierson v. Coventry Town Council</u>
OM 20-20	<u>O'Connell v. West Warwick Pension Board</u>
OM 20-25	<u>Perron v. Central Falls School District Board of Trustees</u>
OM 20-29	<u>Childs, et al. v. Bonnet Shores Fire District</u>
OM 20-31	<u>Towne v. Narragansett Town Council</u>
OM 20-32	<u>Castelli v. Coventry Town Council</u>
OM 20-34	<u>Finnegan v. Scituate Housing Authority</u>
OM 20-37	<u>Langseth v. Warwick Sewer Authority</u>
OM 20-38	<u>Noordzy v. South Kingstown Town Council</u>
OM 20-40	<u>Loureiro v. Cumberland Subcommittees</u>
OM 20-42	<u>Langseth v. Buttonwoods Fire District</u>
OM 20-44	<u>Governor's Commission on Disabilities v. Board of Elections</u>
OM 20-45	<u>Finnegan v. Scituate School Committee</u>
OM 20-46	<u>Pierson v. Coventry Boards</u>
OM 20-52	<u>Childs v. Bonnet Shores Fire District</u>

\* \* \*

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

**OPEN MEETINGS ACT FINDINGS – 2020**

**OM 20-1      Wahl, et al v. Indian Lake Shores Fire District:**

Complainants alleged that the Fire District violated the OMA when it failed to timely post minutes of its August 18, 2019 meeting on the Secretary of State’s website. The Fire District conceded that its August 18, 2019 meeting minutes were not timely posted on the Secretary of State’s website, and accordingly we found a violation. This Office did not find evidence of a willful or knowing violation, nor did we find injunctive relief appropriate since the minutes have now been posted. VIOLATION FOUND.

**OM 20-2      Bergner v. Town of South Kingstown:**

The Complainant alleged that the Town’s Economic Development Committee Data Subcommittee (“Subcommittee”) violated the OMA when it failed to post notice or an agenda for a meeting. The Town maintained that the Subcommittee is not a “public body” subject to the provisions of the OMA and advised that the Subcommittee was subsequently disbanded. Due to the fact that the Subcommittee is now disbanded, we concluded that we need not determine whether the now-disbanded subcommittee constituted a public body because we find that, even if the Subcommittee violated the OMA, there is no need for injunctive relief and no evidence of a willful or knowing violation.

**OM 20-3      Mahoney v. Scituate Town Council:**

The Complainant alleged the Town Council violated the OMA when the agendas for its April 11, 2019 and May 16, 2019 meetings failed to inform the public that the Town Council would vote to remove members of the Scituate Housing Authority Board of Commissioners. Based on the parties’ submissions and the minutes for the subject meetings, we determined that the pertinent agenda item for the April meeting adequately informed the public that a public hearing regarding the Housing Authority and its commissioners would occur. However, this Office found that the agenda for the May meeting did not adequately inform the public that a vote removing the Housing Authority commissioners would occur. Accordingly, the Town Council violated the OMA in connection with its May meeting. However, based on the totality of the evidence, we did not find sufficient evidence to support a willful or knowing violation, nor did we find injunctive relief appropriate. VIOLATION FOUND.

**OM 20-4      McCarthy v. Narragansett Town Council:**

The Complainant alleged that the Town violated the OMA when it convened into executive session on multiple occasions to discuss the disposition of town-owned property. During the pendency of this Complaint, this Office issued *Fortin v. Narragansett Town Council*, OMA 19-41, which found that the same executive sessions did not violate the OMA. We accordingly found no violations.

OM 20-5

**Payette v. Scituate Town Council:**

The Complainant alleged that the Town Council violated the OMA when an agenda item did not sufficiently specify the nature of the business to be discussed. The evidence indicated that the Town Council discussed and voted on the purchase of a new police vehicle – as described in the agenda item – but then also discussed and voted on the allocation of a smaller sum to effectuate the reassignment of police vehicles. Because the reassignment of police vehicles was not noticed on the agenda, we found that the Town Council violated the OMA. *See* R.I. Gen. Laws § 42-46-6(b). However, we did not find evidence of a willful or knowing violation, nor did we find injunctive relief appropriate.  
VIOLATION FOUND.

OM 20-6

**Benjamin v. South Kingstown School Committee:**

The Complainant alleged that the School Committee violated the OMA when it (1) convened into executive session to discuss candidates for the open superintendent position; (2) did not disclose votes taken in executive session; and (3) convened a rolling quorum about the superintendent position during a retreat. Based on the undisputed evidence, we found that the executive session permissibly fell within the ambit of R.I. Gen. Laws § 42-46-5(a)(1). We also concluded that the nondisclosure of the executive session votes was permissible under R.I. Gen. Laws § 42-46-4(b) because the School Committee presented evidence that disclosure of the votes would jeopardize future strategy and negotiation. Finally, because the uncontroverted affidavits indicated that no discussion occurred about the superintendent position during the School Committee retreat, we found that no “meeting” on this issue occurred during the retreat. *See* R.I. Gen. Laws § 42-46-2(1). We accordingly found no violations.

OM 20-7

**Lopez v. Westerly Housing Authority:**

The Complainant alleged that the Board violated the OMA when it discussed his job performance during executive session at its April 9, 2019 meeting without prior notification to him pursuant to R.I. Gen. Laws § 42-46-5(a)(1). It was undisputed that the Board did not provide the requisite notice to the Complainant of his rights pursuant to R.I. Gen. Laws § 42-46-5(a)(1). Accordingly, the Board violated the OMA. We did not find injunctive relief appropriate because the Complainant was present during the April 9 executive session discussion, the vote of “No Confidence” took place during open session, and the Board re-noticed and re-discussed the Complainant’s job performance at a subsequent meeting. Based on the evidence presented, we did not conclude that the Board’s conduct rose to the level of a willful or knowing violation.  
VIOLATION FOUND.

OM 20-8

**Novak v. Western Coventry Fire District:**

The Complainant alleged that the Fire District failed to post meeting notices that included the date the notice was posted for three meetings, and untimely filed meeting minutes for one meeting. The Fire District did not contest these allegations and we found that these actions violated the OMA. The Complainant also alleged

that the Fire District violated the OMA when it voted to amend its agenda and then voted on the added item. Our review of the evidence indicated that the Fire District permissibly added an item to the agenda for discussion purposes only under R.I. Gen. Laws § 42-46-6(b). Although the Fire District subsequently voted on a different agenda item, we found no evidence that the Fire District voted on the item it had added to the agenda. On that allegation, we found no violation. Based on the totality of the circumstances, we did not find sufficient evidence of a willful or knowing violation, or that injunctive relief was appropriate.  
VIOLATION FOUND.

**OM 20-9**      **Courtney v. Jamestown Housing Authority:**

The Complainant alleged that the Housing Authority failed to provide unofficial meeting minutes and failed to properly post notice of the meeting. The undisputed evidence indicated that the Housing Authority failed to make unofficial meeting minutes available within thirty-five days of a meeting, in violation of the OMA. The Housing Authority also failed to post the supplemental meeting notice in three locations, which violated the OMA. Based on the totality of the circumstances, we did not find sufficient evidence of a willful or knowing violation or that injunctive relief was appropriate.  
VIOLATION FOUND.

**OM 20-10**      **Langseth v. Buttonwoods Fire District:**

The Complainant alleged that the Fire District violated the OMA at its June 1, 2015 meeting when it voted to extend a Lease that was not listed on the agenda and when the minutes failed to indicate each Fire District member's individual vote. The undisputed evidence revealed that the Fire District did not take a vote concerning the Lease. However, the evidence showed that the Fire District discussed the Lease despite not listing this discussion on the agenda, in violation of the OMA. Accordingly, this Office found that the Fire District violated the OMA when the agenda for its June 1, 2015 meeting failed to adequately inform the public of the business to be discussed. 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 20-11**      **Lamendola v. East Greenwich School Committee [APRA-OMA]:**

The Complainant alleged the School Committee violated the APRA when it improperly redacted certain information on an invoice for legal services. The undisputed evidence demonstrated that the School Committee later provided Complainant with the unredacted invoice as he requested. As such, any request for injunctive relief is moot. Additionally, we were provided with no evidence that the School Committee's initial redaction, even assuming it was improper, would have constituted a willful and knowing, or reckless, violation. Accordingly, we declined to further address the merits of the Complainant's APRA allegation.

The Complainant also alleged that the School Committee violated the OMA at several meetings when an agenda item did not sufficiently specify the nature of the

business to be discussed and when the School Committee failed to report certain executive session votes in open session. We declined to address the merits of the allegations concerning one meeting because the School Committee provided undisputed evidence that the 180-day statute of limitations expired before Complainant filed his complaint with this Office. *See* R.I. Gen. Laws § 42-46-8(b). For the other meetings, we found that the challenged agenda items did not violate the OMA. However, we concluded that the School Committee did not properly report out in open session a vote that occurred in the August 13, 2019 executive session. We did not find injunctive relief appropriate, nor did we find evidence of a willful or knowing violation.  
VIOLATION FOUND.

**OM 20-12**     **Stewart v. West Greenwich Town Council:**

Complainant alleged that the Town Council violated the OMA when the agenda for its January 15, 2020 meeting was posted on the Secretary of State’s website less than 48 hours before the meeting. The Town Council conceded that it failed to timely post the meeting agenda. Accordingly, the Town Council violated the OMA. Based on the totality of the circumstances, we did not find injunctive relief appropriate, nor did we find evidence to support a willful or knowing violation.  
VIOLATION FOUND.

**OM 20-13**     **Stewart v. West Greenwich Planning Board:**

Complainant alleged that the Board failed to post official or approved minutes on the Secretary of State’s website for two meetings within 35 days of those meetings. The Board conceded that it did not timely file its minutes. Accordingly, the Board violated the OMA. We did not find injunctive relief appropriate because the minutes were already posted on the Secretary of State’s website, nor did we find evidence to support a willful or knowing violation.  
VIOLATION FOUND.

**OM 20-14**     **Pierson v. Coventry Town Council:**

Complainant alleged that the Council violated the OMA at its October 15, 2019 meeting when it improperly convened into executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(1) to discuss the Town Manager search without discussing the job performance, character, or physical or mental health of any specific person(s). The Complainant also alleged the Council voted to increase the Town Manager salary offer outside of open session and failed to report the vote in open session. The Council acknowledged that no specific Town Manager candidate was discussed during the October 15 executive session. Our *in camera* review of the executive session minutes revealed that the Council reached a “consensus” regarding raising the advertised salary offer, which was not disclosed upon the Council’s reconvening into open session. For these reasons, we found the Council violated the OMA. We did not find a willful or knowing violation at this time. We instructed the Council to unseal the relevant executive session minutes and disclose any votes taken.  
VIOLATION FOUND.



**OM 20-15**     **GoLocalProv v. Providence City Council:**

The Complainant alleged that the City Council violated the OMA when a working group convened outside the public purview. Based on the undisputed evidence, we found that no quorum of the City Council was present at the working group meeting and thus the OMA was not implicated with respect to the City Council. With respect to the working group, we found that it was not a “public body” under the OMA based on the totality of the undisputed facts, including that it is an informal ad hoc group that does not have any delegated authority. We accordingly found no violations.

**OM 20-16**     **Scott v. Scituate School Committee:**

The Complainant alleged the School Committee violated the OMA on February 4, 2020 when it provided school tours to potential custodial vendors that constituted a rolling quorum pertaining to a new custodial contract. The undisputed evidence revealed that the February 4 “meeting” was a mandatory pre-bid meeting for potential vendors and no School Committee members were present. Without evidence that a quorum of the School Committee convened a meeting, the OMA is not implicated. Accordingly, we found no violation.

**OM 20-17**     **Howard v. RITBA Foundation:**

The Complainant alleged that the Foundation violated the OMA by failing to post notice and agendas on the Secretary of State’s website for several meetings. Guided by Rhode Island Supreme Court precedent, we concluded based on the totality of the evidence that the Foundation is not a public body under the OMA. Accordingly, we found no violations.

**OM 20-18**     **Angelo v. Westerly Town Council:**

The Complainant alleged that the Town Council violated the OMA when it convened into executive session to discuss the disposition of property. The evidence indicated that the subject property was “publicly held property” within the meaning of R.I. Gen. Laws § 42-46-5(a)(5) and that the Town Council’s discussions related to its disposition. We also found that the evidence supported the Town Council’s assertion that advanced public information about the Town Council’s discussion would be detrimental to the interest of the public. We accordingly found that the discussion permissibly fit within the OMA’s executive session exemption and thus found no violation.

**OM 20-19**     **Mosher v. South Kingstown School Committee:**

The Complainant alleged that the School Committee violated the OMA when a quorum of its members engaged in a collective discussion over social media, specifically Facebook, outside of a properly noticed public meeting. Based on the totality of the evidence, we concluded that the evidence did not establish that a quorum of the School Committee discussed a topic over which School Committee has supervision, control, jurisdiction, or advisory power, and thus the OMA was not implicated. Accordingly, we found no violation.

- OM 20-20**     **O’Connell v. West Warwick Pension Board:**  
The Complainant alleged the Board violated the OMA when several items on the agenda for its January 13, 2020 meeting failed to specify the nature of the business to be discussed. This Office determined that the pertinent agenda items did not adequately inform the public of the business to be discussed by the Board. Accordingly, the Board violated the OMA in connection with its January meeting. However, based on the totality of the evidence, we did not find sufficient evidence to support a willful or knowing violation, nor did we find injunctive relief appropriate.  
VIOLATION FOUND.
- OM 20-21**     **Albanese v. North Kingstown Town Council:**  
The Complainant alleged that the Town Council violated the OMA when it convened into executive session without listing the executive session on the agenda. The undisputed evidence indicated that the Town Council listed the executive session items on its agenda. We found no violation.
- OM 20-22**     **Finnegan v. Scituate Town Council:**  
Complainant alleged that the Council convened a meeting outside the public purview related to placing an employee on administrative leave and that an email from the Town Solicitor to the Council constituted a “rolling quorum.” Based on the undisputed evidence, there was no evidence a quorum of the Council engaged in a collective discussion about the topic. Additionally, there was no evidence any councilmembers responded to the Solicitor’s email or otherwise engaged in a collective discussion about it. We accordingly found no violations.
- OM 20-23**     **Cook v. Tiverton Town Council:**  
The Complainant alleged that the Town Council violated the OMA when it engaged in a discussion related to Town business after a Town Council meeting. Based on the evidence before us, we found insufficient evidence of a collective discussion between a quorum of the Town Council. Although there was evidence that two councilmembers voiced comments after the meeting had concluded, we did not find that these isolated remarks constituted a collective discussion among a quorum of the Town Council. We found no violations.
- OM 20-24**     **Finnegan v. Scituate Prevention Partnership [APRA-OMA]:**  
The Complainant alleged the Partnership violated the APRA when the Town indicated that it did not have records responsive to Complainant’s request for documents related to a cell phone for the Partnership Coordinator. Based on the undisputed evidence, neither the Partnership nor the Town maintained documents responsive to Complainant’s request. As such, we found no violation. Complainant next alleged the Partnership violated the OMA by failing to post agendas and minutes on the Secretary of State’s website for several meetings. We concluded based on the totality of the evidence that the Partnership is not a public body under the OMA. Accordingly, we found no violations.

**OM 20-25**     **Perron v. Central Falls School District Board of Trustees:**

The Complainant alleged that Board violated the OMA when it (1) discussed her job performance, character, or physical or mental health during an executive session without providing her advanced written notice; (2) convened into executive session on November 21, 2019 under R.I. Gen. Laws 42-46-5(a)(1) without stating in open call and recording in its meeting minutes that the affected person (the Complainant) had been notified. With respect to the first allegation, the Complainant specified six possible executive sessions when she believed she may have been discussed. Based on the undisputed evidence, including the executive session minutes (reviewed *in camera*), we found the evidence did not support Complainant’s allegation that her job performance, character, or physical or mental health were discussed during one of the six executive sessions. We thus found no violation. However, with respect to the second allegation, we found that the Board failed to state in open call and record in its November 21, 2019 meeting minutes that the person to be discussed during the executive session had been notified. We thus found a violation, though we did not find a need for injunctive relief or sufficient evidence of a willful or knowing violation.

VIOLATION FOUND.

**OM 20-26**     **Jones v. Kingston Hill Academy Board of Trustees:**

The Complainant alleged that the Board violated the OMA in connection with its June 26, 2019 emergency meeting when (1) the meeting minutes did not sufficiently state why the meeting was necessary; (2) its vote to appoint a new Interim President was outside the scope of the emergency purpose for the meeting; (3) it improperly convened into executive session during the emergency meeting to discuss the job performance of an individual when that individual requested the discussion be held in open session; and (4) some Board members convened a rolling quorum via email to facilitate the emergency meeting. Based on the undisputed evidence, we found that the Board’s statement recorded in the minutes regarding the reasons for the emergency meeting was permissible. We further determined that the Board’s discussion and vote to appoint a new Interim President at the emergency meeting came within the ambit of the issue that necessitated the emergency meeting. We declined to address the merits of Complainant’s allegation regarding not holding the executive session discussion in open session because it was undisputed that Complainant was not the person being discussed and we therefore concluded Complainant was not “aggrieved” with regard to this allegation. Finally, we did not find evidence that a “meeting” of a quorum of the Board occurred outside the public purview. We accordingly found no violations.

**OM 20-27**     **Katz v. Board of Elections:**

The Complainant alleged that the Board violated the OMA when an agenda item failed to sufficiently specify the nature of the business to be discussed and when meeting minutes failed to accurately describe what occurred at the meeting. Based on our review of the evidence, including the meeting audio, we found that the agenda item provided fair and adequate notice to the public. We also found that the

meeting minutes contained all the elements required by the OMA and that they fairly described the Board's discussion. We found no violations.

**OM 20-28**     **Katz v. Tiverton Board of Canvassers:**

The Complainant alleged that the Board violated the OMA when two of its three members met outside the public purview to discuss and/or decide issues related to retaining special counsel, and that these discussions resulted in an agenda item related to the Board being placed on the Town Council agenda. Based on our review of the evidence, including the affidavits of the two Board members and the Board clerk, we did not find evidence of a collective discussion between Board members about these topics outside of a public meeting. We accordingly found no violations.

**OM 20-29**     **Childs, et al. v. Bonnet Shores Fire District:**

The Complainants alleged that the Fire District failed to abide by several provisions of the OMA. The Fire District maintained as a threshold matter that it is not a "public body" under the OMA. We found that the Fire District, which has the power to tax and fulfills traditional governmental roles, is a "public body" subject to the OMA's requirements. We found that the Fire District discussed topics that were not appropriate for executive session under R.I. Gen. Laws § 42-46-5(a)(1) during its May 12, 2018 executive session. We also found that the Fire District failed to file certain meeting minutes and failed to file its annual notice. Although we did not find sufficient evidence of a willful or knowing violation, we instructed the Fire District to disclose the May 12, 2018 executive session minutes. We also noted that the Fire District is expected to comply with the OMA's requirements going forward.

VIOLATION FOUND.

**OM 20-30**     **Dubois v. Woonsocket Town Council:**

The Complainant alleged that the City Council violated the OMA by discussing "CVS and legislation relating to it" without those items being properly noticed on the meeting agenda. We reviewed the record, including video of the meeting, and determined that the Council did not discuss business related to "CVS and legislation related to it," and that CVS was only briefly mentioned in passing as part of a larger discussion relating to an item that was noticed on the agenda. Accordingly, we found no violation.

**OM 20-31**     **Towne v. Narragansett Town Council:**

The Complainant alleged the Town Council violated the OMA when an agenda item for its November 18, 2019 meeting failed to specify the nature of the business to be discussed with regard to the renewal of a certain business's liquor license. This Office determined that the subject agenda item did not adequately inform the public of the business to be discussed and voted on by the Town Council. We accordingly found that the Town Council violated the OMA. While we did not find evidence of a willful or knowing violation, we instructed the Town Council to re-notice and re-vote on the agenda item within thirty days.

VIOLATION FOUND.

**OM 20-32**     **Castelli v. Coventry Town Council:**

The Complainant alleged that the Town Council violated the OMA by having an insufficiently specific agenda for its February 10, 2020 meeting. Specifically, the Complainant argued that the agenda items “President’s Comments” and “District One Update by Councilwoman Dickson” did not sufficiently describe the nature of the business to be discussed. Based on the undisputed evidence, we concluded that matters related to Town business were discussed pursuant to each of these agenda items and that the agenda items did not provide notice of the substance of what would be discussed. Accordingly, we found that the Town Council violated the OMA. We did not find sufficient evidence of a willful or knowing violation and did not find a need for injunctive relief, as no action was taken pursuant to either agenda item.

VIOLATION FOUND.

**OM 20-33**     **Katz v. Tiverton Library Board of Trustees:**

The Complainant alleged the Board violated the OMA by convening a rolling quorum outside the public purview through two separate email threads. Based on our review of the subject emails and undisputed facts, we found no evidence of a rolling quorum, and accordingly found no violation.

**OM 20-34**     **Finnegan v. Scituate Housing Authority:**

The Complainant alleged that the Scituate Housing Authority (“SHA”) failed to timely post official and/or approved minutes for its October 1, 2019 meeting on the Secretary of State website. The SHA did not dispute that it failed to post official and/or approved minutes within 35 days of the meeting as required by the OMA. Based on the undisputed facts, we found the SHA violated the OMA. We did not find injunctive relief appropriate because the evidence indicated that the SHA has now posted minutes for the October 1, 2019 meeting that have been approved. In the circumstances of this case, we also did not find sufficient evidence of a willful or knowing violation.

VIOLATION FOUND.

**OM 20-35**     **Englehart v. Rhode Island Industrial Facilities Corporation:**

The Complainant alleged that the RIIFC cited inapplicable reasons to enter executive session regarding two items on its October 24, 2019 agenda. The Complainant did not contest that two of the four purposes listed for entering each executive session applied. As such, we did not find that the RIIFC improperly entered executive session. Additionally, we found that the undisputed evidence indicated that it was permissible for RIIFC to enter executive session pursuant to the third cited reason. RIIFC acknowledged that it inadvertently cited a fourth purpose but we did not find a violation in these circumstances where the undisputed record indicated that the executive session was permissible pursuant to three other purposes and where RIIFC indicated it would take measures going forward to avoid inadvertently citing additional inapplicable purposes for entering executive session.

- OM 20-36**     **Rowland v. North Kingstown Town Council:**  
The Complainant alleged that the Town Council engaged in a discussion outside the public purview related to how the five Town Council members would vote regarding the 2021 town budget. Based on the undisputed evidence, including the affidavits of the five Town Council members, we did not find evidence that a quorum of the Town Council engaged in a collective discussion about the topic outside the public purview. We accordingly found no violation.
- OM 20-37**     **Langseth v. Warwick Sewer Authority:**  
Complainant alleged that the Authority violated the OMA when it failed to timely post minutes of its meetings on the Secretary of State’s website since March 28, 2019. The Authority conceded that its minutes for meetings occurring after March 28, 2019 were not timely posted on the Secretary of State’s website, and accordingly we found a violation. This Office did not find evidence of a willful or knowing violation, nor did we find injunctive relief appropriate. The minutes have now been posted and the Authority represented that the violation was inadvertent and indicated the steps it is taking to ensure that this issue does not repeat. VIOLATION FOUND.
- OM 20-38**     **Noordzy v. South Kingstown Town Council:**  
The Complainant alleged the Town Council violated the OMA when the agenda for its January 27, 2020 meeting did not fairly inform the public that the Town Council would vote to authorize the submission of a proposal to the Department of Environmental Management. Based on the totality of the evidence and pertinent caselaw, this Office found that the agenda item did not provide adequate notice of the Town Council’s action and thus that the Town Council violated the OMA. We did not find injunctive relief to be appropriate, nor did we find evidence of a willful or knowing violation. VIOLATION FOUND.
- OM 20-39**     **Cervasio v. Foster Town Council:**  
The Complainant alleged that the Town Council violated the OMA during its March 12, 2020 executive session meeting by discussing a matter that pertained to the Complainant without providing prior notice to him and without listing it on the agenda. Based on our review, the totality of the evidence provided did not support the Complainant’s allegations. Accordingly, we found no violation.
- OM 20-40**     **Loureiro v. Cumberland Subcommittees:**  
The Complainant alleged that the Subcommittees violated the OMA when they failed to post meeting minutes on the Secretary of State’s website for at least two years. Based on the undisputed evidence presented, we determined that the Ordinance Subcommittee is “solely advisory in nature” and therefore exempt from posting meeting minutes on the Secretary of State’s website. As such, we found that the Ordinance Subcommittee did not violate the OMA. The Finance Subcommittee acknowledged that it failed to post meeting minutes on the Secretary of State’s website since February of 2018. Accordingly, we found that the Finance

Subcommittee violated the OMA. We did not find evidence of a willful or knowing violation, nor did we find injunctive relief appropriate.  
VIOLATION FOUND.

**OM 20-41**     **Ahlquist v. Central Falls Detention Facility Corporation:**

The Complainant alleged that the CFDFC violated the OMA by failing to provide access to a remote meeting on May 21, 2020. This Office found that the undisputed evidence established that the May 21, 2020 meeting was held remotely pursuant to the Governor’s Executive Order and was accessible to the public via Zoom. Accordingly, we found no violation.

**OM 20-42**     **Langseth v. Buttonwoods Fire District:**

The Complainant alleged that the Fire District violated the OMA when it failed to post an annual schedule of its meetings as required by R.I. Gen. Laws § 42-46-6(a). The Fire District conceded that it did not timely post its annual meeting schedule on the Secretary of State’s website, and accordingly we found a violation. Because the Fire District was found to have committed this same violation twice before, this Office directed the parties to provide supplemental submissions regarding whether the violation was willful or knowing. This Office also directed the Fire District to provide evidence regarding whether it has now posted its annual notice in compliance with the OMA.  
VIOLATION FOUND.

**OM 20-42B**     **Langseth v. Buttonwoods Fire District Supplemental Finding:**

This Office previously concluded that the Fire District violated the OMA when it failed to post annual notice of its regularly scheduled meetings on the Secretary of State’s website. 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* OM 20-42; *see also* *Langseth v. Buttonwoods Fire District*, OM 19-27. After receiving the parties’ supplemental submissions, this Office determined that injunctive relief was not appropriate and we did not find a willful or knowing violation, but we admonished the Fire District about the importance of ensuring that this issue does not repeat. We also noted the evidence that the Fire District’s failure was not intentional and the measures the Fire District asserted it implemented to address this issue after the prior violation, and the additional measures the Fire District has now implemented in response to this latest Complaint.

**OM 20-43**     **DiOrio v. Hopkinton Town Council:**

The Complainant alleged that the Town Council violated the OMA when it convened a meeting using telephonic means on April 6, 2020 and the agenda items did not constitute an “essential purpose” within the meaning of the Governor’s Executive Order 20-05. It is undisputed that the Executive Order provision at issue in this matter is no longer in effect and has been replaced by a broader, still-existing provision that would now permit the challenged conduct. We did not find it necessary to consider the merits in this matter because the “essential purpose”

provision at issue is no longer in effect. Additionally, even assuming the Town Council meeting was improper, we did not find that injunctive relief would be appropriate, nor did we find evidence that the meeting would have constituted a willful or knowing violation that would warrant civil penalties.

**OM 20-44**     **Governor’s Commission on Disabilities v. Board of Elections:**

The Complainant alleged the Board violated the OMA when it held a March 3, 2020 meeting at a facility that did not comply with the OMA’s accessibility requirements for persons with disabilities. The Board did not dispute that its Plainfield Pike property had accessibility barriers and did not comply with R.I. Gen. Laws § 42-46-13 at the time of its March 3, 2020 meeting. Accordingly, we found the Board violated the OMA. Based on the record before us, we did not find injunctive relief appropriate and declined to find a willful or knowing violation. VIOLATION FOUND.

**OM 20-45**     **Finnegan v. Scituate School Committee:**

Complainant alleged that the School Committee violated the OMA when it failed to timely post minutes of its July 7, 2020 meeting on the Secretary of State’s website. The School Committee conceded that its July 7, 2020 meeting minutes were not timely posted on the Secretary of State’s website, and accordingly we found a violation. This Office did not find evidence of a willful or knowing violation, nor did we find injunctive relief appropriate since the minutes have now been posted. VIOLATION FOUND.

**OM 20-46**     **Pierson v. Coventry Boards:**

Complainant alleged that the Board of Canvassers violated the OMA and the Governor’s Executive Order when it held an in-person meeting on July 13, 2020 without providing adequate alternative means of public access. Likewise, the Complainant alleged the Municipal and Police Pension Boards held joint, in-person meetings on June 1, 2020 and July 27, 2020 without providing adequate alternative means of public access in accordance with the Governor’s Executive Order. The Complainant also alleged that the Municipal and Police Pension Boards violated the OMA when the minutes for the June 1, 2020 and July 27, 2020 joint meetings failed to list the members of the Boards who were present or absent. The Board of Canvassers, as well as the Municipal and Police Pension Boards, conceded that they did not provide adequate, alternative means of public access to their respective June 1, 2020, July 13, 2020, and July 27, 2020 meetings as required by the pertinent Executive Order. Therefore, we found that the Boards did not comply with the Governor’s Executive Orders modifying the OMA. Additionally, the Municipal and Police Pension Boards further conceded that the minutes for their June 1, 2020 and July 27, 2020 joint meetings failed to include a record of the Board members present or absent. Accordingly, we found that the Municipal and Police Pension violated the OMA in this regard. Based on the record before us, we did not find injunctive relief to be appropriate in connection with the July 13, 2020 Board of Canvassers meeting. We directed the Municipal and Police Pension Boards to take



measures to identify and disclose the members of the Municipal and Police Pension Boards who were present or absent at the June 1, 2020 and July 27, 2020 meetings. We did not find evidence of a willful or knowing violation.  
VIOLATION FOUND.

**OM 20-47**     **Driggs v. Tiverton Town Council:**

The Complainant alleged the Council violated the OMA by discussing certain applicants for a Town solicitor position during an executive session. Specifically, the Complainant alleged that the notice to the applicants being discussed that was sent pursuant to R.I. Gen. Laws § 42-46-5(a)(1) did not adequately describe the business that would occur during the executive session, and that for that reason, the related executive session public agenda item for the executive session was also insufficient. Complainant also alleged that it was improper to discuss the qualifications of the applicants, who were not Town personnel, in executive session. This Office determined that Complainant lacked standing to challenge the sufficiency of the notice that was sent to the applicants because we were presented with no evidence that Complainant was an “aggrieved person” related to the allegation and none of the applicants submitted complaints. Next, we found there was no evidence to support Complainant’s contention that the public agenda item did not adequately specify the nature of the business that was discussed as required by R.I. Gen. Laws § 42-46-6(b). Finally, we noted that this Office’s precedent has repeatedly held that discussions regarding applicant qualifications that encompass job performance and character may permissibly be held in executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(1). Accordingly, we found no violations.

**OM 20-48**     **Benjamin v. South Kingstown School Building Committee:**

The Complainant alleged that the Building Committee violated the OMA at its January 22, 2020 meeting when an agenda item failed to fairly inform the public of the nature of the business that occurred. Based on the undisputed evidence, the statute of limitations set forth in R.I. Gen. Laws § 42-46-8(b) expired prior to the complaint being submitted to this Office. Accordingly, and consistent with this Office’s precedent, we declined to consider the merits of the Complainant’s allegations in connection with the January 22, 2020 Building Committee meeting.

**OM 20-49**     **Fiero v. Rhode Island Department of Education Council on K12:**

The Complainant alleged that RIDE violated the OMA and the Governor’s Executive Order when participants at its July 21, 2020 virtual meeting were not permitted to activate their videos or use a chat box feature. The OMA expressly provides that it does not require “any public body to hold an open forum session, to entertain or respond to any topic nor does it prohibit any public body from limiting comment on any topic at such an open forum session.” R.I. Gen. Laws § 42-46-6(d). As Complainant did not identify any provision within the OMA or the Governor’s Executive Order that requires a public body to permit members of the public to be visible and to non-verbally express themselves at a meeting, and we are aware of no such provision, we found that RIDE did not violate the OMA or the Governor’s Executive Order. We noted, however, that citizen engagement is

an important part of governance and public bodies are certainly encouraged to provide opportunities for public comment and expression when possible.

**OM 20-50**     **Sirois v. Gloucester Town Council:**

The Complainant alleged that the Council violated the OMA by discussing the Complainant's employment outside of a properly noticed meeting. Based on the totality of the evidence presented, we did not find sufficient evidence that a quorum of the Council engaged in a collective discussion regarding the Complainant's job performance, or the substance of the related agenda item, outside of a public meeting. Accordingly, we found no violation.

**OM 20-51**     **Moore v. Town of Westerly Department of Development Services:**

The Complainant alleged that the Department violated the OMA by convening meetings outside the public purview related to revising the Town of Westerly Zoning Ordinance without providing public notice or maintaining minutes of those meetings. Guided by Rhode Island Supreme Court precedent, we concluded based on the totality of the evidence that the Department is not a public body under the OMA. Accordingly, we found no violations.

**OM 20-52**     **Childs et al. v. Bonnet Shores Fire District:**

Both Complainants alleged that the Fire District violated the OMA when it convened a meeting outside of the public purview. Ms. Childs additionally alleged that the Fire District failed to include a date of posting on the physical posting of its meeting notice and provided an inadequately specific agenda item by not listing candidates for vacancies that were to be filled during the meeting. Based on the totality of the evidence before us, we determined that the Fire District did not convene a meeting outside of the public purview, as contemplated by the OMA and relevant case law, and that in the circumstances of this case, it was not required by law to provide a list of candidates for the vacancies within the meeting agenda. However, the Fire District did violate the OMA when it did not include a date of posting on its meeting notice. We did not find this violation to be willful or knowing, and we did not find injunctive relief to be necessary.  
VIOLATION FOUND.

**OM 20-53**     **Clem v. North Smithfield Planning Board & Conservation Commission:**

The Complainant alleged that both the North Smithfield Planning Board and the North Smithfield Conservation Commission violated the OMA when they convened a "site tour" of a solar farm outside of the public purview. Based on the totality of the evidence before us, we determined that the Conservation Commission did not convene a meeting outside of the public purview as contemplated by the OMA because a quorum of the Commission was never present. We further determined that although the Planning Board had a quorum present and retained supervision, control, jurisdiction, or advisory power over the solar project that was the subject of the tour, the Planning Board never engaged in a "collective discussion" as to the solar project and thus did not violate the OMA. We did, however, strongly urge the Planning Board to exercise caution as to future

assemblances outside of an open meeting that could implicate the OMA. No violation found.

**OM 20-54**     **Finnegan v. Scituate School Committee [8.28.20]:**

The Complainant alleged that the Scituate School Committee violated the OMA when it did not provide proper notice of the nature of the business to be discussed and/or acted upon at its July 7, 2020 meeting. Specifically, the Complainant argued that an agenda item titled “Discussion/Action/Vote regarding awarding the bid to replace the North Scituate Elementary School Boilers to Coyne Mechanical Inc. in the amount of \$288,000” did not fairly inform the public that the meeting would also include a discussion and vote on two additional line items from the School Department’s Five-Year Improvement Plan: “Replace/modify unit ventilators (noise)” and “Install 2 VFD’s.” Based on the totality of the evidence before us, we determined that the agenda item in question was inclusive of these two identified line items, adequately notified the public as to the nature of the business to be conducted, and reflected what actually transpired at the meeting. No violation found.

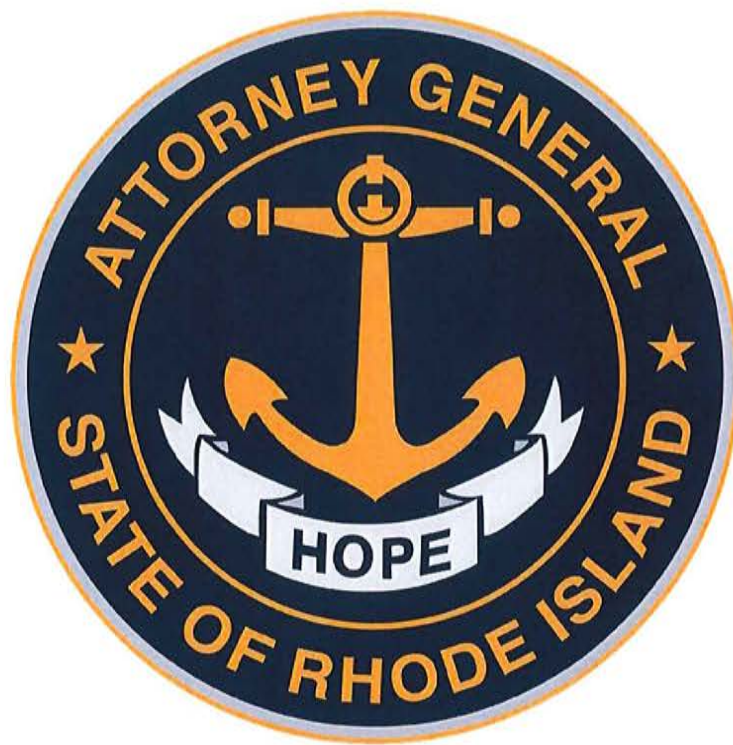
**OPEN MEETINGS ACT**  
**ADVISORY OPINIONS - 2020**

**ADV PR 20-01**  
**ADV OM 20-01**

**In Re: North Scituate Volunteer Fire:**

The North Scituate Volunteer Fire Department #1 requested an advisory opinion regarding whether they are a “public body” under the APRA and the OMA. We concluded that the Department was a “public body” under the APRA but was not a “public body” under the OMA.

ACCESS TO PUBLIC RECORDS  
ACT



ANNUAL REPORT 2020

**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 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 2020.

**STATISTICS**

<b>ACCESS TO PUBLIC RECORDS ACT COMPLAINTS RECEIVED:</b>	47
<b>FINDINGS ISSUED BY THE ATTORNEY GENERAL:</b>	65
<b>VIOLATIONS FOUND:</b>	27
<b>WARNINGS ISSUED:</b>	26
<b>LITIGATION INITIATED:</b>	1
<b>WRITTEN ADVISORY OPINIONS:</b>	
<b>REQUESTS RECEIVED:</b>	0
<b>ADVISORY OPINIONS ISSUED:</b>	1
<b>APRA REQUESTS TO THE ATTORNEY GENERAL:</b>	126

### 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 20-01	<u>Providence Journal v. Executive Office of Health and Human Services</u>
PR 20-02	<u>Kennedy v. Cranston Public School Department</u>
PR 20-07	<u>Farinelli v. City of Pawtucket</u>
PR 20-08	<u>Providence Journal v. Governor's Office</u>
PR 20-10	<u>Farinelli v. City of Pawtucket</u>
PR 20-12	<u>Boria Osler v. Department of Corrections</u>
PR 20-15	<u>Thompson v. Town of North Kingstown</u>
PR 20-16	<u>Zambrano v. City of Warwick</u>
PR 20-23	<u>Brien v. City of Woonsocket</u>
PR 20-24	<u>John Doe v. City of Warwick</u>
PR 20-27	<u>Dionne v. City of Woonsocket</u>
PR 20-28	<u>Miech v. South Kingstown School Department</u>
PR 20-38	<u>Sherman v. Joint Committee on Legislative Services</u>
PR 20-39	<u>Owens v. Rhode Island Department of Health</u>
PR 20-40	<u>Moore v. Office of the Postsecondary Commissioner</u>
PR 20-41	<u>Finnegan v. Town of Scituate</u>
PR 20-42	<u>August v. Rhode Island Public Transit Authority</u>
PR 20-44	<u>Amaral v. City of Providence</u>
PR 20-45	<u>Rhode Island Center for Justice v. Rhode Island Department of Corrections</u>
PR 20-47	<u>Fitzmorris v. Office of the Auditor General</u>
PR 20-48	<u>Farinelli v. City of Pawtucket</u>
PR 20-50	<u>Moretti v. Town of Narragansett</u>
PR 20-51	<u>Wilson v. The Hope Academy Charter School</u>
PR 20-57	<u>Farinelli v. City of Central Falls</u>
PR 20-59	<u>Armstrong v. Town of Westerly</u>
PR 20-63	<u>KP v. City of Pawtucket</u>
PR 20-65	<u>Episcopal Diocese of Rhode Island v. RI Division of Public Utilities and Carriers</u>

### VIOLATIONS FOUND/LAWSUIT FILED

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

PR 20-10	<u>Farinelli v. City of Pawtucket</u>
----------	---------------------------------------

\* \* \*

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

## ACCESS TO PUBLIC RECORDS ACT FINDINGS – 2020

- PR 20-01**      **Providence Journal v. Executive Office of Health and Human Services:**  
Complainant alleged EOHHS violated the APRA when it withheld documents responsive to its APRA request pursuant to three APRA exemptions: R.I. Gen. Laws §§ 38-2-(4)(A)(I)(a), 38-2-42(4)(E), and 38-2-2(4)(K). This Office set forth the relevant law and engaged in a lengthy *in camera* review of over 1,000 pages of responsive documents submitted by EOHHS. Based on our *in camera* review, we concluded that EOHHS properly withheld a number of documents and improperly withheld one document. Additionally, there are a number of documents for which we cannot yet determine whether withholding the documents was proper under the APRA. Our evaluation of EOHHS’s asserted basis for withholding those documents would benefit from additional information and analysis in light of the legal standards set forth in our finding, and we accordingly instructed EOHHS to provide supplemental information as described in the finding. VIOLATION FOUND.
- PR 20-01B**      **Providence Journal v. EOHHS Supplemental Finding:**  
The Complainant alleged that EOHHS improperly withheld a number of records in response to its APRA request. This Office previously issued a finding, PR 20-01, which set forth the relevant legal framework and concluded that EOHHS permissibly withheld a number of documents and improperly withheld one document. Additionally, this Office required EOHHS to provide supplemental information and analysis regarding a number of other withheld documents in light of the legal standards set forth in our finding. *See* PR 20-01. In response to our prior finding, EOHHS provided the supplemental information requested and also disclosed certain additional documents to Complainant. After receiving the supplemental submission, this Office determined that the APRA permitted EOHHS to not disclose the records that it continued to claim were exempt and did not find injunctive relief appropriate.
- PR 20-02**      **Kennedy v. Cranston Public School Department:**  
The Complainant alleged that the School Department violated the APRA in connection with his thirteen (13) APRA requests by failing to give specific reasons for denying him access to certain records and by failing to indicate the procedures for appealing the denial. Based on our review of the School Department’s responses to each request, the School Department cited specific APRA exemptions as the basis for withholding responsive records in whole or in part. We also found that the School Department’s response of “None” to certain requests fairly conveyed that it did not maintain documents responsive to those requests. As the School Department concedes that its denials are void of any language concerning the School Department’s APRA appeal procedures, we find that the School Department violated the APRA when it failed to indicate in writing its procedures for appealing the denial. We did not find evidence of a willful and knowing, or alternatively reckless, violation, nor did we find injunctive relief appropriate. VIOLATION FOUND.

**PR 20-03**

**Lopez v. City of Providence:**

The Complainant alleged that the City violated the APRA when it improperly denied two APRA requests seeking approved permits and email communications related to the “Small Cell Siting Act.” The City responded to both requests indicating that it did not maintain responsive documents. The Complainant does not dispute the City’s contention that no approved permits exist that are responsive to the Complainant’s first request. The City submitted an affidavit attesting to the search efforts undertaken to locate email communications potentially responsive to the Complainant’s second request and we were not provided with evidence to refute the City’s attestations that it conducted a reasonable search and no responsive emails exist. Accordingly, we find no violation.

**PR 20-04**

**Albanese v. North Kingstown Harbor Management Commission:**

The Complainant alleged that the Town violated the APRA when it responded to her request by asking her to send her request to the Town solicitor. The undisputed evidence indicated that the Town forwarded the Complainant’s request to the Town solicitor before the instant Complaint was filed and the Complainant received the requested records four business days after her initial request. We found no violations.

**PR 20-05**

**Caldwell v. Providence Police Department:**

The Complainant alleged the Department violated the APRA when it did not produce a specific audio recording in response to Complainant’s APRA request. We determined there is no evidence to suggest that the Department maintains the specific audio recording the Complainant seeks and the Complainant did not contest that the Department conducted a reasonable search. Accordingly, we found no violation.

**PR 20-06**

**Farinelli v. City of Pawtucket:**

The Complainant alleged that the City violated the APRA when it responded to her requests for arrest reports with reports that did not include the report creation date, modification date, and who approved the report. The undisputed evidence indicated that the Complaint received the reports she requested and that as of November 2018, arrest reports generated by the Police Department did not normally include the report creation date, modification date, and who approved the report. We concluded that there was no violation because the Complainant received the requested reports and did not specifically seek the creation date, modification date, and who approved the report, though we noted that the Complainant is free to submit a new request seeking this information. We accordingly found no violations.

**PR 20-07**

**Farinelli v. City of Pawtucket:**

The Complainant alleged the City violated the APRA when it withheld two (2) police reports she requested. The City argued that those reports pertained to criminal investigations that did not result in arrests and that disclosure of those reports would constitute an unwarranted invasion of personal privacy. This Office



previously issued a finding related to the first of the requested reports, determining that the City did not violate the APRA when it withheld this report because the privacy interests outweighed any public interest in disclosure. We reaffirmed that decision and concluded that the City did not violate the APRA by withholding that report. Based on our *in camera* review of the second report and corresponding attachments, we found that the City did violate the APRA by withholding that report in its entirety because it implicated a significant public interest that outweighed the privacy interests that were implicated, and certain information implicating privacy interests could be redacted. There was insufficient evidence to support a finding of a willful and knowing, or reckless violation, but this Office directed the City to provide the second report, subject to permissible redactions, at no cost to the Complainant.

VIOLATION FOUND.

**PR 20-07B** **Farinelli v. City of Pawtucket Supplement:**

In PR 20-07, this Office determined that the City violated the APRA by withholding in its entirety a police report related to an officer-involved shooting death. We directed the City to disclose the report and its attachments to the Complainant, subject to certain permissible redactions discussed in our finding. After the issuance of our finding, the City provided the Complainant with the documents in redacted form. Complainant contended that the City's redactions were improper. We determined that the City's redactions fit within those discussed in PR 20-07, except for one redaction. We directed the City to provide the Complainant with a copy of the relevant page remedying that redaction issue within ten (10) business days.

**PR 20-08** **Providence Journal v. Governor's Office:**

Complainant alleged the Governor's Office violated the APRA when it withheld documents responsive to its APRA request for documents related to the proposed extension of the IGT contract. Based on this Office's *in camera* review, we concluded that the Governor's Office properly withheld a number of documents and improperly withheld a number of other documents. There was insufficient evidence to support a finding of a willful and knowing, or reckless violation, but this Office directed the Governor's Office to produce documents and/or provide a supplemental submission to this Office with additional information regarding why particular documents should be exempt.

VIOLATION FOUND.

**PR 20-09** **Marcello v. Town of Scituate:**

The Complainant proffered several allegations that the Town violated the APRA in connection with his multi-part APRA request. The Complainant alleged that the Town "heavily redacted" a number of documents and failed to reference the particular APRA provision(s) upon which it relied in making the redactions. Additionally, Complainant alleged that the Town's request for an extension violated R.I. Gen. Laws § 38-2-3(e) because the extension was not "particularized" to his specific request, and that the Town's request for prepayment in the amount of \$150.00 violated the APRA. Based on the totality of the evidence, this Office

found that the Town's response letter cited the specific APRA provisions pursuant to which it was redacting documents that were responsive to Complainant's request. Consistent with our finding in *Finnegan v. Town of Scituate*, PR 19-22 addressing a similar request, we found that the redactions made to the documents provided in response to Complainant's request were permissible under R.I. Gen. Laws §§ 38-2-2(4)(a)(I)(a), (b). We also found that the Town did not violate the APRA by extending the time to respond to the Complainant's request or by assessing prepayment. Accordingly, we found that the Town did not violate the APRA in connection with Complainant's request.

**PR 20-10**

**Farinelli v. City of Pawtucket:**

The City requested that we reconsider our October 28, 2019 finding in *Farinelli v. City of Pawtucket*, PR 19-17, in which we determined that the City violated the APRA by withholding the "city or town of residence" of City police officers. *See* R.I. Gen. Laws § 38-2-2(4)(A)(b). We reaffirm our prior determination that the plain language of the APRA requires disclosure of the city or town of residence of all public employees, including police officers. Accordingly, the City is required to disclose this information.

VIOLATION FOUND. LAWSUIT FILED.

**PR 20-11**

**Lamendola v. East Greenwich School Committee [APRA-OMA]:**

The Complainant alleged the School Committee violated the APRA when it improperly redacted certain information on an invoice for legal services. The undisputed evidence demonstrated that the School Committee later provided Complainant with the unredacted invoice as he requested. As such, any request for injunctive relief is moot. Additionally, we were provided with no evidence that the School Committee's initial redaction, even assuming it was improper, would have constituted a willful and knowing, or reckless, violation. Accordingly, we declined to further address the merits of the Complainant's APRA allegation.

The Complainant also alleged that the School Committee violated the OMA at several meetings when an agenda item did not sufficiently specify the nature of the business to be discussed and when the School Committee failed to report certain executive session votes in open session. We declined to address the merits of the allegations concerning one meeting because the School Committee provided undisputed evidence that the 180-day statute of limitations expired before Complainant filed his complaint with this Office. *See* R.I. Gen. Laws § 42-46-8(b). For the other meetings, we found that the challenged agenda items did not violate the OMA. However, we concluded that the School Committee did not properly report out in open session a vote that occurred in the August 13, 2019 executive session. We did not find injunctive relief appropriate, nor did we find evidence of a willful or knowing violation.

VIOLATION FOUND.

- PR 20-12**      **Boria & Osler v. Department of Corrections:**  
Complainants alleged that the Department violated the APRA when it denied their requests for specific menus reflecting previously served inmate meals. The Department maintained that the menus were exempt from disclosure under Exemption (F) as “security plans” and Exemption (K) as “preliminary drafts.” Based on the record before us, we determined that the requested menus did not fall within the ambit of either Exemption (F) or (K). Accordingly, the Department violated the APRA by withholding these specific menus. We directed the Department to provide Complainants with the requested menus. We did not find evidence of a willful and knowing, or reckless violation.  
VIOLATION FOUND.
- PR 20-13**      **Almedia v. City of Providence:**  
The Complainant alleged that the City violated the APRA when it withheld a particular police incident report under R.I. Gen. Laws § 38-2-2(4)(D). Based on our *in camera* review of the document, we observed that the incident report contained sensitive personal information about multiple individuals and pertained to a matter where an arrest was not made. We were also not provided with evidence that disclosure would further the public interest. We accordingly found that the City permissibly withheld the incident report.
- PR 20-14**      **DePault v. Rhode Island Highschool Football Coaches Association:**  
The Complainant alleged that the Association violated the APRA when it failed to respond to his records request. We found that the Association is a private volunteer organization made up of football coaches from both public and private schools. Crucially, there was no evidence that the Association was acting on behalf of or in place of a public body. Based on these undisputed facts, we found that the Association was not a “public body” under the APRA. We thus found no violation.
- PR 20-15**      **Thompson v. Town of North Kingstown:**  
The Complainant alleged that the Town violated the APRA when it withheld requested executive session minutes and failed to formally respond to two of his public records requests. We found that the Town permissibly withheld the sealed executive session minutes under the APRA’s exemption for sealed executive session minutes. Although we acknowledged the Town’s attempt to determine whether the requested executive session meeting minutes could be unsealed and provided to the Complainant, we found that the Town did not formally deny two of the Complainant’s requests in writing. This violated the APRA. *See* R.I. Gen. Laws § 38-2-7(a). We did not find evidence of a willful and knowing, or reckless, violation.  
VIOLATION FOUND.
- PR 20-16**      **Zambrano v. City of Warwick:**  
The Complainant alleged that the City violated the APRA when it failed to respond to his public records request. The City acknowledged that it failed to do so but explained that the request email was mistakenly deleted as suspected spam. Once

the City became aware of the mistake, it responded to the request. While the City's failure to timely respond to the request violated the APRA, we found no evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

**PR 20-17**      **Finnegan v. Scituate Board of Canvassers:**

Complainant alleged that the Board violated the APRA when it denied his request for a transcript of a public hearing. The Board asserted it purchased the transcript from a third-party stenographer and, as such, it constituted "trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature." *See* R.I. Gen. Laws § 38-2-2(4)(B)." Based on the totality of the evidence provided and applicable precedent, we concluded that the transcript would customarily not be released to the public by the person from whom it was obtained and did not constitute a public record. Accordingly, we found no violation.

**PR 20-18**      **Marcello v. Scituate School Department:**

The Complainant alleged that the School Department violated the APRA by not responding to his APRA request. The undisputed evidence revealed that the School Department did timely respond to his APRA request but that the email response went to the Complainant's spam email folder. We thus found no violation.

**PR 20-19**      **Albanese v. North Kingstown Harbor Management Commission:**

The Complainant alleged that the Commission violated the APRA when it provided a letter without attachments. We found that the Commission did not violate the APRA because the request did not specify that it sought attachments and the undisputed evidence established that the Commission provided a letter it believed responded to the substance of Complainant's request but the precise letter requested by the Complainant did not exist. We found no violation.

**PR 20-20**      **Lamendola v. East Greenwich School Department:**

The Complainant alleged the Department violated the APRA when it denied his request for unredacted legal bills and invoices from a law firm engaged to represent the Department. Based upon the evidence presented, the Department provided the requested invoices to the Complainant with limited redactions to three (3) attorney narratives, asserting that the narratives reflect legal advice, which is exempt from disclosure pursuant to Rhode Island General Laws §§ 38-2-2(4)(E) and (K). Based on this Office's *in camera* review of the invoices, we concluded the redacted narratives contain information encompassed within the attorney-client and/or work product privileges incorporated within Exemption (E). Accordingly, we found no violation.

**PR 20-21**      **Giramma v. Narragansett Police Department:**

The Complainant alleged that the Police Department violated the APRA when it withheld an incident report. We reviewed the withheld document *in camera* and determined that it related to a domestic incident involving a minor where no arrest

was made. Because the report contains sensitive personal information about multiple private individuals, we found a significant privacy interest implicated in disclosure. We did not discern any apparent public interest in disclosure. We accordingly found that the Police Department did not violate the APRA by withholding the incident report.

**PR 20-22**

**J.H. Lynch & Sons v. Rhode Island Department of Transportation:**

This Office previously concluded that RIDOT violated the APRA when it failed to timely produce or exempt all documents responsive to Complainant's request. This Office issued a finding requiring RIDOT 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 19-06. After receiving the supplemental submissions, this Office determined that injunctive relief was not appropriate and we did not find sufficient evidence of a willful and knowing, or reckless, violation.

**PR 20-23**

**Brien v. City of Woonsocket:**

The Complainant alleged the City violated the APRA when it withheld documents responsive to his APRA request for records related to certain real property. This Office concluded that the City violated the APRA when its initial response to Complainant's request did not provide any specific reasons for the denial and instead only made the general assertion that the withheld documents were not public records. This Office directed the City to provide a supplemental submission providing any and all documents responsive to the Complainant's request for an *in camera* review and addressing why the City's belated assertion of Exemption (B) should not be deemed waived. The City should also address whether any APRA violation committed by the City was knowing and willful, or reckless. VIOLATION FOUND.

**PR 20-23B**

**Brien v. City of Woonsocket Supplemental Finding:**

In PR 20-23, this Office concluded that the City violated the APRA when its initial response to Complainant's request did not provide any specific reasons for the denial and instead only made the general assertion that the withheld documents were not public records. We directed the City to provide a supplemental submission providing any and all documents responsive to the Complainant's request for an *in camera* review and addressing why the City's belated assertion of an exemption should not be deemed waived. The City provided a supplemental submission explaining that it had conducted a search and, despite previously asserting the requested documents were exempt, did not actually maintain any responsive records that had not already been provided to the Complainant. We accordingly determined that the City violated the APRA by failing to indicate that it not did maintain responsive records when responding to the request, but that no injunctive relief was necessary. Although a close question, we declined to find that the violation in this instance was willful and knowing, or reckless.

PR 20-24

**John Doe v. City of Warwick:**

The Complainant alleged that the City violated the APRA when it failed to respond to his request. The City acknowledged the error, noting that a City employee mistakenly deleted the email from a “John Doe” thinking it was spam. However, the City made the undisputed assertion that once it became aware of the mistake, it responded to the request by providing the requested documents. While the City’s failure to timely respond to the request violated the APRA, we found insufficient evidence of a willful and knowing, or reckless, violation and no need for injunctive relief.

VIOLATION FOUND.

PR 20-25

**Oliver v. Executive Office of Health and Human Services:**

The Complainant alleged EOHHS violated the APRA when it sought a twenty (20) business day extension to respond to Complainant’s APRA request. The Complainant did not refute EOHHS’s assertion that his initial APRA request was broader than the documents Complainant specifically sought in his complaint. Based on the undisputed evidence before us, we found that EOHHS did not violate the APRA when it extended the time to respond to Complainant’s initial APRA request.

PR 20-26

**de Ramel v. Rhode Island Airport Corporation:**

The Complainant alleged that the RIAC violated the APRA when it withheld a legal opinion drafted by RIAC’s outside counsel. We found that the document – an attorney-drafted legal memorandum providing legal advice to the client, RIAC – was permissibly exempted under R.I. Gen. Laws § 38-2-2(4)(A)(I)(a). We also found that there was no evidence that the RIAC had waived the attorney-client privilege for this document. We found no violations.

PR 20-27

**Dionne v. City of Woonsocket:**

Complainant alleged the City violated the APRA when it denied his request for Police and Fire candidate ranking lists pursuant to R.I. Gen. Laws § 38-2-2(4)(L). Based on our *in camera* review of the ranking lists, we determined that the lists did not fall within Exemption (L) and that the City violated the APRA by withholding the records pursuant to that exemption. In responding to the Complaint, the City asserted that the records were also exempt pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b). In light of this Office’s precedent and the personal information contained in the records, we found good cause to not consider that exemption waived and to analyze whether disclosure of the lists would constitute an unwarranted invasion of personal privacy pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(b). Based on our review, we determined that disclosure of the lists in their entirety implicated privacy interests that outweighed the public interest asserted by the Complainant. We directed the City provide Complainant with the requested records, but with the names of the individual candidates and other personally identifiable information redacted.

VIOLATION FOUND.

PR 20-28

**Miech v. South Kingstown School Department:**

The Complainant alleged that the School Department violated the APRA by withholding two documents responsive to his request for certain final actions taken with respect to investigative processes. This Office determined that it was permissible for the School Department to withhold one responsive document where the privacy interests implicated by disclosure outweighed any public interest and where redaction could not sufficiently address the privacy interests. This Office found that the School Department violated the APRA by withholding a second document in its entirety, and determined that the School Department should provide Complainant with this document because the public interest in disclosure outweighed the privacy interests, but that the School Department may redact the name of the employee and other personally identifiable information. We did not find evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

PR 20-29

**Lyssikatos v. City of Pawtucket:**

The Complainant alleged that the City violated the APRA by failing to answer his request for the definition of the term “unknown,” as that term was used in documents previously provided by the City. We determined this did not constitute a violation because the APRA does not mandate that a public body respond to questions or interrogatories. The Complainant also alleged that the City improperly withheld information related to National Crime Information Center (“NCIC”) checks. Pursuant to the FBI’s Security Policy, access to the NCIC system database is restricted to authorized personnel and these records may not be publicly disseminated. Accordingly, we concluded that the City did not violate the APRA when it denied Complainant’s request.

PR 20-30

**Kennedy v. Cranston Police Department:**

The Complainant alleged the Department violated the APRA by failing to provide him with the entire police report and associated documents related to an incident where a minor child was arrested. Our *in camera* review of the requested police records confirmed that they fall within the purview of R.I. Gen. Laws § 14-1-64, which exempts certain juvenile records from public disclosure. Accordingly, we determined that the Department did not violate the APRA by withholding the records.

PR 20-31

**Mercurio v. Cranston Police Department:**

The Complainant alleged the Department violated the APRA when it denied his request for an incident report related to a specific alleged hit-and-run incident where no arrest occurred. Based on the evidence, including our *in camera* review, we concluded that the privacy interests implicated by disclosing the incident report outweigh any public interest, and therefore the Department did not violate the APRA by denying the request.

PR 20-32

**Taylor v. City of Providence:**

The Complainant alleged that the City violated the APRA when it withheld from disclosure the names of unsuccessful applicants for a City position. Consistent with precedent, we found significant privacy interests in disclosure of an unsuccessful applicant's name. We also found that disclosure of the names in this context would do little to shed light on the workings of government. We accordingly found that the privacy interest outweighed the public interest. We found no violations.

PR 20-33

**Restivo v. Rhode Island Department of Health:**

Complainant alleged that RIDOH violated the APRA when it when it invoked the twenty (20) business day extension of time to respond under the APRA and characterized his request as "voluminous." Based on our review, we found that RIDOH's extension letter also advised Complainant that completing search and retrieval of his request would take several hours and require prepayment of costs. We determined that RIDOH's extension letter, taken as a whole, was particularized to Complainant's request and the evidence supported RIDOH's characterization of the request as voluminous. Accordingly, we found no violation.

PR 20-34

**Jenkins v. Town of Narragansett:**

The Complainant alleged the Town violated the APRA when it first requested prepayment for search and retrieval of potentially responsive documents and then sought a second prepayment to review the retrieved documents. Based on the totality of the evidence before us, the Town's prepayment estimates did not violate the APRA. Complainant also alleged the Town violated the APRA when it denied her request for application materials related to unsuccessful Town Manager applicants. We concluded that the privacy interests of the unsuccessful applicants outweighed the public interest in disclosure. Therefore the Town did not violate the APRA when it withheld the documents related to unsuccessful applicants.

PR 20-35

**Jenkins & Langer v. Narragansett Police Department:**

The Complainants alleged that the Department violated the APRA when it denied their requests for certain incident reports involving specifically identified individuals. It was undisputed that none of the reports resulted in an arrest. Based on our review, we concluded that the public interest in disclosure of the reports did not outweigh the privacy interests of the individuals named therein. Accordingly, the Department did not violate the APRA when it denied Complainants' requests.

PR 20-36

**Providence Journal v. Central Falls Detention Facility Corporation:**

The Complainant alleged that the CFDFC violated the APRA when it withheld from disclosure documents regarding the medical treatment of an inmate. The APRA permits nondisclosure of "[a]ll records relating to a \*\*\* doctor/patient relationship, including *all medical information relating to an individual* in any files." R.I. Gen. Laws § 38-2-2(4)(A)(I)(a) (emphasis added). Because it was undisputed that any documents responsive to the Complainant's request would



necessarily include “medical information relating to an individual[.]” we found nondisclosure permissible. We found no violations.

PR 20-37

**Finnegan v. Scituate Prevention Partnership [APRA-OMA]:**

The Complainant alleged the Partnership violated the APRA when the Town indicated that it did not have records responsive to Complainant’s request for documents related to a cell phone for the Partnership Coordinator. Based on the undisputed evidence, neither the Partnership nor the Town maintained documents responsive to Complainant’s request. As such, we found no violation. Complainant next alleged the Partnership violated the OMA by failing to post agendas and minutes on the Secretary of State’s website for several meetings. We concluded based on the totality of the evidence that the Partnership is not a public body under the OMA. Accordingly, we found no violations.

PR 20-38

**Sherman v. Joint Committee on Legislative Services:**

The Complainant alleged the JCLS violated the APRA when it improperly withheld documents responsive to his request pursuant to Exemption (M) and when it misapplied the privacy balancing test. In responding to this complaint, JCLS presented undisputed evidence that it did not maintain documents responsive to Complainant’s request and asserted that it mistakenly failed to articulate that in its initial denial. The JCLS maintained that even if it maintained responsive records, such records would be exempt under the cited exemptions. We found that the JCLS violated the APRA by failing to indicate that it did not possess the requested documents. Injunctive relief was not appropriate given JCLS’s undisputed representation that it does not maintain responsive documents and we did not find sufficient evidence of a willful and knowing, or reckless violation.  
VIOLATION FOUND.

PR 20-39

**Owens v. Rhode Island Department of Health:**

The Complainant alleged that RIDOH violated the APRA when it failed to timely respond to her request, when it withheld responsive documents in their entirety, and when it failed to state that the withheld documents were not reasonably segregable. Based on the undisputed evidence, we determined that RIDOH failed to respond to the APRA request within the timeframes set forth in R.I. Gen. Laws §§ 38-2-3(e) and 38-2-7(b) and did not include in its denial a statement that no reasonably segregable portion of the withheld documents was releasable. Accordingly, RIDOH violated the APRA. We determined that the responsive documents were required to be kept confidential by state statute and thus were appropriately withheld under the APRA. We did not find evidence of a willful and knowing, or reckless violation, although we directed RIDOH to reimburse Complainant the prepayment fee she paid.  
VIOLATION FOUND.

PR 20-40

**Moore v. Office of the Postsecondary Commissioner:**

The Complainant alleged that the OPC violated the APRA when it (1) asserted that it did not maintain certain documents responsive to some of his requests about a

job position; and (2) withheld a public employee's resume under R.I. Gen. Laws § 38-2-2(4)(A)(I)(b). Although the Complainant asserted that the OPC should maintain certain documents regarding the job position, the undisputed evidence indicated that the OPC did not maintain the requested records. We accordingly found no violation with respect to that allegation. However, pursuant to the balancing test and prior findings and caselaw, we found that the OPC violated the APRA by withholding a public employee's resume in its entirety. We accordingly found a violation and ordered the OPC to produce the withheld resume, subject to certain redactions.

VIOLATION FOUND.

**PR 20-41**

**Finnegan v. Town of Scituate:**

The Complainant alleged that the Town violated the APRA when it: (1) failed to cite the statutory exemption in its denial; (2) withheld notes that were allegedly "submitted" at a Town Council meeting; and (3) did not provide for an administrative appeal. Based on the undisputed evidence, we found that the Town's response fairly tracked the language of Exemption (K) such that the Town gave specific reasons for the denial. We also found that there was no evidence that the withheld notes were "submitted" at a Town Council meeting. We thus found no violations with respect to these allegations. However, we found that the Town violated the APRA by not providing for an administrative appeal to the chief administrative officer. We found insufficient evidence of a willful and knowing, or reckless, violation and no need for injunctive relief.

VIOLATION FOUND.

**PR 20-42**

**August v. Rhode Island Public Transit Authority:**

The Complainant alleged that RIPTA violated the APRA when it failed to provide monthly ridership reports in its initial response to his request for "all ridership reports" and when it redacted student and faculty identification numbers on the monthly ridership reports. Based on the undisputed evidence, RIPTA failed to identify, provide, or otherwise exempt the monthly ridership reports within 10 business days of Complainant's request. Accordingly, RIPTA violated the APRA by failing to timely identify all responsive records when initially responding to the request. The undisputed evidence indicates that the identification numbers on the reports are identifiable to specific individually identifiable students and faculty. Therefore, we concluded that there was some privacy interest in these numbers and it was permissible for RIPTA to redact the identification numbers because the privacy interests implicated in these records outweigh any public interest that would be served from disclosure. We directed Complainant to notify RIPTA if he still seeks the reports in a redacted manner and, if so, RIPTA is directed to provide the remaining monthly ridership reports to Complainant in a redacted manner at no cost. We did not find evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND.

PR 20-43

**Davis v. Rhode Island State Police:**

The Complainant alleged that the RISP violated the APRA by redacting certain information from the requested records. The RISP asserted that the implicated privacy interests outweighed the public interest in disclosure of this information, such that disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. We applied the balancing test and concluded that the RISP did not violate the APRA by providing the documents in redacted form. Accordingly, we found no violations.

PR 20-44

**Amaral v. City of Providence:**

The Complainant alleged that the City violated the APRA when it: (1) asserted it did not maintain certain responsive records; and (2) withheld three email threads under Exemption (B). Regarding the first allegation, we found that the undisputed evidence indicated that the City did not maintain the requested responsive records and thus found no violation on that allegation. However, regarding the second allegation, we found that the email threads contained responsive portions and that these portions were not “trade secrets and commercial or financial information” under Exemption (B). Accordingly, the City violated the APRA by withholding the responsive portions of the emails. Although we found insufficient evidence of a willful and knowing, or reckless, violation, we instructed the City to provide the responsive portions of the email threads and permitted the City to redact the nonresponsive portions.

VIOLATION FOUND.

PR 20-45

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

The Complainant alleged the DOC violated the APRA when it denied a request pursuant to R.I. Gen. Laws § 38-2-2(4)(E) and § 38-2-2(4)(F) and failed to state whether any portions of the documents were reasonably segregable. Having reviewed the withheld documents *in camera*, we determined that at least some portions of the documents fell within R.I. Gen. Laws § 38-2-2(4)(F), but that DOC failed to comply with the APRA’s requirement to state in writing that no portion of the requested documents is reasonably segregable. We therefore concluded that the DOC violated the APRA by failing to state whether any reasonably segregable portions of the requested documents could be released. Although we found no evidence of a willful and knowing, or reckless violation, we directed DOC to review the documents at issue and determine whether there are reasonably segregable portions that must be released under the APRA.

VIOLATION FOUND.

PR 20-46

**Katz v. Town of Tiverton:**

The Complainant alleged that the Town violated the APRA when it withheld executive session minutes and audio recordings, which the Complainant argued had been unsealed by the Town Council’s adoption of a certain policy regarding executive session minutes. The Town asserted that the minutes and recordings were properly withheld because they were sealed and under the Town Council’s policy, unsealing the subject minutes was contingent upon an “administrative review

period” and none of the records had yet been unsealed. Upon our review of the evidence, including the relevant policy, this Office determined that it was permissible for the Town to withhold the minutes under Exemption (J) because there was no evidence that any of the requested minutes had been unsealed. We thus found no violation.

**PR 20-47**      **Fitzmorris v. Office of the Auditor General:**

The Complainant alleged that the Office of Auditor General violated the APRA when it failed to respond to his public records request. The undisputed evidence indicated that the request, which was sent by mail, was not received because of the Auditor General’s failure to update its website and APRA procedures with the proper/current mailing address. We found the Office Auditor General violated the APRA by failing to provide updated and accurate APRA procedures on its website. Based on the totality of the circumstances, we did not find sufficient evidence of a willful and knowing, or reckless, violation or that injunctive relief was appropriate.

VIOLATION FOUND.

**PR 20-48**      **Farinelli v. City of Pawtucket:**

The Complainant alleged that the City violated the APRA when it withheld two internal affairs reports. Based on the record, including our *in camera* review of the two withheld reports, we conducted the balancing test for both reports, considering the privacy and public interests implicated by disclosure. We found that the City did not violate the APRA by withholding the first internal affairs report, but that the second report should have been disclosed in redacted form. We accordingly found that the City’s nondisclosure of the second internal affairs report in its entirety violated the APRA and instructed the City to disclose a redacted version of the second internal affairs report at no cost.

VIOLATION FOUND.

**PR 20-49**      **Payne, et al. v. Town of Barrington:**

The Complainants alleged the Town violated the APRA based on the Town’s prepayment estimate for search, retrieval, and review of certain potentially responsive documents; the Town withholding certain records pursuant to the client/attorney exemption; and the Town claiming that no responsive records existed for certain parts of the Complainants’ request. Based on the evidence presented, including the breadth of Complainants’ request, we concluded that the Town’s prepayment estimate did not violate the APRA. Based on our *in camera* review of the withheld documents, we found that they were permissibly withheld pursuant to the client/attorney relationship exemption, although we directed the Town to either produce or provide a supplemental submission regarding one withheld email. Finally, we did not find that the Town violated the APRA by asserting that no responsive records exist as to certain requests. Accordingly, we found no violations.

PR 20-49B

**Payne, et al. v. Town of Barrington Supplemental Finding:**

This Office previously concluded that the Town did not violate the APRA in connection with the Complainants' multi-part APRA request. *See* PR 20-49. We did require the Town to produce or provide a supplemental submission regarding a single withheld email, which the Town subsequently produced to Complainants in accordance with our finding. After the finding was issued, Complainants provided a supplemental submission offering new, or "clarified," evidence or arguments in support of their position that the Town committed a knowing and willful, or reckless, violation of the APRA and requested that this Office reconsider its previous determination. Based on our review of Complainants' submission, the Complainants did not identify any circumstances that would warrant re-opening our investigation or that leads us to question the conclusions we have reached. Accordingly, we decline to reconsider our previously issued finding.

PR 20-50

**Moretti v. Town of Narragansett:**

The Complainant proffered several allegations that that the Town violated the APRA in connection with two (2) APRA requests he submitted. We also did not find that the Town violated the APRA with regard to the Complainant's allegations pertaining to his First Request. Based on the totality of the evidence before us, we found that the Town violated the APRA when it improperly required the Complainant to submit his Second Request on a specific Town form and failed to substantively respond to the Second Request within ten (10) business days. We did not find injunctive relief to be appropriate, nor did we find sufficient evidence of a willful and knowing, or reckless violation.

VIOLATION FOUND.

PR 20-51

**Wilson v. The Hope Academy Charter School:**

The Complainant alleged the School violated the APRA when it failed to establish and post written APRA procedures on its website. The School conceded that written APRA procedures were not posted on its website pursuant to R.I. Gen. Laws § 38-2-3(d) as of the time when Complainant submitted the Complaint. Accordingly, we found the School violated the APRA. We did not find injunctive relief appropriate given the uncontested evidence that the School has now posted its APRA procedures on its website. Nor did we find sufficient evidence of a willful and knowing, or reckless, violation.

VIOLATION FOUND.

PR 20-52

**Lamendola v. East Greenwich School Department:**

The Complainant alleges the District violated the APRA when it withheld documents related to a "staff investigation." Based on our *in camera* review, we concluded that the District did not violate the APRA by withholding a number of documents pursuant to R.I. Gen. Laws §§ 38-2-2(4)(A)(I)(a), (M). Additionally, there are a number of documents for which we question whether withholding the documents was proper under the APRA. Accordingly, we instructed the District to either produce those documents or provide a supplemental submission regarding

those withheld documents. At this time, we do not find evidence of a willful and knowing, or reckless, violation.

**PR 20-53**

**Caldwell v. City of Providence:**

The Complainant alleged that the City violated the APRA by (1) withholding certain dispatch records pursuant to R.I. Gen. Laws §§ 38-2-2(4)(D), “to prevent the disclosure of information which (a) could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings and (b) would deprive a person of a right to a fair trial or an impartial adjudication,” and (2) failing to respond to Complainant’s administrative appeal in a timely fashion. Although the Complainant alleged that the reasons for withholding had become moot, the Complainant did not dispute the City’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 the City’s decision not to disclose the requested records did not violate the APRA. We also found insufficient evidence to support an allegation that the City had not responded to Complainant’s administrative appeal. Accordingly, we found no violations.

**PR 20-54**

**Chapman v. South Kingstown School Department:**

The Complainant alleged the Department violated the APRA when it stated that it did not have a document responsive to Complainant’s request for certain information related to a proposed budget. The Department provided a link to the Department’s Fiscal Year 2020-2021 Proposed Budget for the Complainant’s review and presented evidence that the Department did not maintain any other records responsive to Complainant’s request. Accordingly, we found no violation.

**PR 20-55**

**FreedomOfInformation45 v. CCRI:**

The Complainant alleged that CCRI violated the APRA when it withheld a report prepared by outside vendor Financial Aid Services pursuant to R.I. Gen. Laws §§ 38-2-2(4)(B) and (K). CCRI maintained that its denial was proper because Financial Aid Services was a private vendor hired as a consultant and the single responsive document reflected the drafter’s impressions, work product, and recommendations regarding CCRI’s Financial Aid Office’s procedures and processes. Based on this Office’s review, as well as relevant case law, we determined that the withheld document was permissibly exempt under Exemption (K). Accordingly, we found no violation.

**PR 20-56**

**Caldwell v. Rhode Island College:**

The Complainant alleged that Rhode Island College (“RIC”) violated the APRA when it did not provide all documents responsive to his APRA request. In particular Complainant alleged that RIC had not provided a certain responsive email. The record revealed that after the Complaint was filed, RIC provided Complainant the email that he alleged had been withheld, and there was no evidence of any other responsive records that had not already been provided to Complainant. This Office has previously determined it unnecessary for us to consider whether a public body

violated the APRA when a complainant receives the subject document after filing an APRA complaint and where there is no evidence of a willful and knowing or reckless violation. The reason for this conclusion is because, even assuming a violation occurred, the APRA only provides for two types of remedies: injunctive relief and civil fines for a willful and knowing or reckless violation. *See* R.I. Gen. Laws § 38-2-9(d). Since the Complainant was provided the email he alleged had been withheld, we found no need for injunctive relief. We also found no evidence that RIC's actions were willful and knowing or reckless in the circumstances of this case.

**PR 20-57**      **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 (10) business days. The City did not dispute that it failed to timely respond to the request and indicated that the failure was due to the request going to a "spam" folder. Accordingly, we found that the City violated the APRA by failing to timely respond to the request. We also noted that the City recently committed substantially the same violation and directed the City to submit a supplemental response regarding why this latest violation should not be considered willful and knowing, or reckless.  
VIOLATION FOUND.

**PR 20-57B**      **Farinelli v. City of Pawtucket Supplemental Finding:**

This Office previously concluded that the City violated the APRA when it failed to timely respond to the Complainant's APRA request because the request went to a spam folder. This Office issued a finding directing the City to address whether its violation should be considered willful and knowing or, alternatively, reckless in light of its prior similar violation. *See* PR 20-57; *see also Farinelli v. City of Central Falls*, PR 19-16. After receiving the City's supplemental submission, this Office determined that injunctive relief was not appropriate and we did not find a willful and knowing, or reckless, violation, but we admonished the City about the importance of ensuring that this issue does not repeat. We also noted the measures the City asserted it implemented to address this issue after the prior violation, and the additional measures the City has now implemented in response to this latest Complaint.

**PR 20-58**      **Lyssikatos v. Narragansett Police Department:**

The Complaint alleged that the Department violated the APRA by withholding all of the reports that were responsive to his request for several years of internal affairs reports. This Office did not find a violation at this time, but required the Department to re-apply the balancing test to the withheld reports in accordance with this finding and our finding in *Farinelli v. City of Pawtucket*, PR 20-48.

**PR 20-59**      **Armstrong v. Town of Westerly:**

The Complainant alleged the Town violated the APRA by: (1) failing to timely respond to the request; (2) failing to respond to the request for text messages; and (3) withholding responsive documents pursuant to the attorney-client relationship

exemption. The Town did not dispute that it failed to completely respond to the Complainant's request within the time period set by the APRA. It is also undisputed that the Town did not respond to the request for text messages either by providing responsive records or indicating that no responsive records exist. Therefore, we concluded that the Town violated the APRA in connection with allegations (1) and (2). Next, the Town did not specifically identify any "good cause" why the client/attorney relationship exemption should not be deemed waived in light of its failure to timely cite an exemption in a written response to the request. Additionally, the Town indicated that certain withheld records are actually not subject to the cited exemption. Accordingly, we found the Town also violated the APRA in connection with allegation (3) by improperly withholding the responsive emails that it now indicates are not exempt and by withholding emails without timely asserting an exemption in writing in accordance with the APRA. Although injunctive relief may be appropriate, we instructed the Town to produce the non-exempt documents and provide a supplemental submission as described in the finding for further review by this Office.

VIOLATION FOUND.

**PR 20-59B**

**Armstrong v. Town of Westerly Supplemental Finding:**

In PR 20-59, this Office concluded that the Town violated the APRA when it failed to timely produce or exempt documents responsive to the Complainant's APRA request. We directed the Town to provide a supplemental submission regarding the withheld documents and addressing whether the Town's violation was willful and knowing, or reckless. The Town provided a supplemental submission providing Complainant with most of the previously withheld documents. Based on the Town's supplemental submission, we determined that no injunctive relief was necessary and did not find that the violation was willful and knowing, or reckless.

**PR 20-60**

**Lamendola v. East Greenwich School District:**

The Complainant alleged the School Department violated the APRA when it denied his request for the April 9, 2019 School Committee executive session meeting minutes. The School Department provided undisputed evidence that the School Committee voted to seal the April 9, 2019 executive session minutes during the April 9 meeting. Accordingly, we found that the minutes were permissibly exempted from disclosure pursuant to Exemption (J) and there was no violation.

**PR 20-61**

**East Bay Media Group v. Barrington School Department:**

The Complainant alleged that the Department violated the APRA when it failed to produce records regarding legal fees it incurred related to a specific matter and when, pursuant to R.I. Gen. Laws § 38-2-2(4)(A)(I)(a) and § 38-2-2(4)(B), it withheld a document related to a request for "the contract, agreement or binder" describing the relationship between the Department and its legal counsel. We found the evidence supported the Department's assertion that it did not maintain records specifying the legal fees incurred in connection with a particular matter. We also noted that the Department provided legal billing records to Complainant in connection with a subsequent APRA request that was not the subject of this



Complaint and that sought all legal bills for a certain timeframe, not just those related to a particular matter. Additionally, based on this Office's *in camera* review of the single withheld document, we determined that the record related to the "client/attorney relationship" and was permissibly exempt under R.I. Gen. Laws § 38-2-2(4)(A)(I)(a). We found no violations.

**PR 20-62**      **Save the Bay v. Department of Environmental Management:**

The Complainant submitted a ten-part APRA request to DEM and alleged that DEM violated the APRA when it: (1) untimely responded to certain requests; (2) withheld documents responsive to certain requests; (3) provided links to websites in response to certain requests rather than providing copies of documents; (4) failed to include warning letters in response to a certain part of the request; and (5) failed to comply with the Complainant's request to review the documents prior to copying. Based on the record before us, and the plain language of the APRA, this Office found no violations for the reasons explained in the finding.

**PR 20-63**      **KP v. City of Pawtucket:**

The Complainant alleged the City violated the APRA when it failed to timely respond to the Complainant's APRA request. Based on the record before us, we found that the City violated the APRA by responding to the request one day after the deadline. We did not find injunctive relief appropriate because it was undisputed that the City substantively responded to the request by providing the Complainant with documents responsive to the request. Nor did we find evidence of a willful and knowing, or reckless violation.  
VIOLATION FOUND.

**PR 20-64**      **Teper v. City of Providence:**

The Complainant alleged the Department violated the APRA when it denied his request for certain "reports or investigations" related to a specific private citizen and filed by specific private citizens. The Department declined to confirm or deny whether such records existed and maintained that if the records did exist, they would be exempt from disclosure under the privacy balancing test. Based on the evidence presented, we concluded that the APRA permits a public body to decline to confirm or deny the existence of responsive records in certain situations and that if responsive records did exist in this matter, the privacy interests implicated by disclosing the records would outweigh any public interest in favor of disclosure. Accordingly, we found no violation.

**PR 20-65**      **Episcopal Diocese of Rhode Island v. RI Division of Public Utilities and Carriers:**

The Complainant alleged that the Division violated the APRA when it withheld responsive emails pursuant to the work product privilege and R.I. Gen. Laws. § 38-2-2(4)(E). Based on the totality of the evidence before us, we determined that the withheld communications were not protected under the work product privilege within Exemption (E). Accordingly, we found that the Division violated the APRA

by withholding these documents and directed the Division to produce the records to the Complainant.  
VIOLATION FOUND.

**ACCESS TO PUBLIC RECORDS ACT**  
**ADVISORY OPINIONS - 2020**

**ADV PR 20-01**  
**ADV OM 20-01**

**In Re: North Scituate Volunteer Fire:**

The North Scituate Volunteer Fire Department #1 requested an advisory opinion regarding whether they are a "public body" under the APRA and the OMA. We concluded that the Department was a "public body" under the APRA but was not a "public body" under the OMA.