

STATE OF RHODE ISLAND
OFFICE OF ATTORNEY GENERAL



2021 ANNUAL REPORT
OPEN MEETINGS ACT
AND
ACCESS TO PUBLIC RECORDS ACT
ATTORNEY GENERAL PETER F. NERONHA

OPEN MEETINGS ACT



ANNUAL REPORT 2021

**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 2021.

STATISTICS

OPEN MEETINGS ACT COMPLAINTS RECEIVED:	93
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	34
VIOLATIONS FOUND:	17
WARNINGS ISSUED:	17
LITIGATION INITIATED:	0
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	2
ADVISORY OPINIONS ISSUED:	0

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 21-03	<u>Drew v. Coventry Charter Review Commission Summary</u>
OM 21-04	<u>Langer. v. Bonnet Shores Fire District Council [7-20-2020, 7-22-2020]</u>
OM 21-05	<u>Sullivan vs. Coventry School Committee</u>
OM 21-06	<u>Stewart v. West Greenwich Planning Board</u>
OM 21-07	<u>Durand v. Pawtuxet River Authority</u>
OM 21-08	<u>DeCubellis v. William M. Davies Career and Technical High School Board of Trustees</u>
OM 21-09	<u>Finnegan v. Scituate School Committee [10.06.20], [10.13.20]</u>
OM 21-12	<u>Western Oil v. CFZB</u>
OM 21-13	<u>Finnegan v. Scituate School Committee [11.27.20] [12.5.20]</u>
OM 21-14	<u>Lamendola v. East Greenwich School Committee [2-3-2021]</u>
OM 21-15	<u>Keep Metacomet Green! v. East Providence City Council</u>
OM 21-21	<u>Ford v. Barrington School Committee</u>
OM 21-23	<u>Phongsavahn v. Woonsocket Board of Canvassers</u>
OM 21-25	<u>Solas v. South Kingstown School Committee</u>
OM 21-26	<u>Lema vs. Narragansett Town Council</u>
OM 21-28	<u>Nassaney et al. v. Richmond Town Council</u>
OM 21-34	<u>Gaddis Barrett v. South Kingstown School Committee</u>

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

OPEN MEETINGS ACT FINDINGS – 2021

OM 21-01 Kelley v. Scituate Human Resource Policy Committee Summary:

The Complainant alleged that the Committee violated the OMA by failing to timely post the agenda for its August 13, 2019 meeting and by failing to post minutes on the Secretary of State’s website for its August 13, 2019 and March 2, 2020 meetings. Based on the undisputed evidence, the statute of limitations set forth in R.I. Gen. Laws § 42-46-8(b) with regard to the August 13, 2019 meeting 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 August 13, 2019 Committee meeting. We also determined that the Committee 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 Committee did not violate the OMA.

OM 21-02 Langseth v. Rhode Island Commerce Corporation Audit Committee:

The Complainant alleged that the Committee violated the OMA by failing to post annual notice of its regularly scheduled meetings at the beginning of the calendar year and by failing to post minutes on the Secretary of State’s website for its September 2018 and September 2019 meetings. Based on the record before us, we were presented with no evidence that the Committee has regularly scheduled meetings. Rather, the evidence indicated that its meetings are contingent upon the completion of an audit process conducted by a third-party. We also determined that the Committee was “solely advisory in nature” and therefore exempt from being required to post its meeting minutes on the Secretary of State’s website. Accordingly, we found no violations.

OM 21-03 Drew v. Coventry Charter Review Commission Summary:

The Complainant alleged that the Commission violated the OMA when the agenda for its Saturday, July 11, 2020 9:00 am meeting was not posted until Thursday, July 9, 2020 9:08 am, in violation of R.I. Gen. Laws § 42-46-6(b). The Commission conceded this point and, accordingly, we found a violation. The Complainant also alleged that the Commission violated the OMA at its July 11, 2020 meeting when it discussed a topic not properly listed on the agenda. Based upon the record before us, we determined that the Commission violated the OMA by engaging in an extended discussion on topics beyond what was noticed in the pertinent agenda item. We did not find injunctive relief appropriate as no action was taken on the agenda item in question, nor did we find evidence of a willful or knowing violation. VIOLATION FOUND.

OM 21-04 Langer. v. Bonnet Shores Fire District Council [7-20-2020, 7-22-2020]:

In a July 20, 2020 complaint and a July 22, 2020 complaint, the Complainant alleged that the Fire District violated the OMA by conducting business outside of

the public purview. In the July 20, 2020 complaint, the Complainant alleged that the Fire District retained legal counsel and vacated a member's seat in a meeting outside the public purview. In the July 22, 2020 Complaint, the Complainant alleged that the Fire District achieved a "rolling quorum" through an email thread and discussed a matter over which the Fire District had supervision, control, jurisdiction, or advisory power. Based on the totality of the evidence before us, we found no violation as to the July 20, 2020 Complaint. However, we did determine that the Fire District violated the OMA as to the July 22, 2020 Complaint because the email conversation constituted a non-public "meeting" of a quorum of the public body as contemplated by the OMA. We did not find this violation to be willful or knowing, however, nor did we find injunctive relief to be appropriate in this instance.

VIOLATION FOUND.

OM 21-05 **Sullivan v. Coventry School Committee:**

The Complainant alleged the Committee violated the OMA during its August 13, 2020 meeting by providing insufficient notice of business conducted pursuant to one item on its open session agenda and one item on its closed session agenda. The Complainant also alleged the closed session agenda item was an impermissible topic for executive session. This Office determined that the agenda items failed to adequately specify the nature of business to be discussed and that parts of the discussion during the executive session agenda item did not pertain to an individual's job performance and were not appropriate for executive session pursuant to R.I. Gen. Laws 42-46-5(a)(1). This Office did not find sufficient evidence of a willful or knowing violation but did require the Committee to take remedial measures regarding the open session item for which proper notice had not been provided and to publicize a copy of the executive session minutes with redactions to the portions that were permissible for executive session.

VIOLATION FOUND.

OM 21-06 **Stewart v. West Greenwich Planning Board:**

The Complainant alleged that the Board failed to post official/approved minutes on the Secretary of State's website for its August 24, 2020 meeting within 35 days of that meeting. The Board conceded that it did not timely file its minutes due to a clerical error. Accordingly, the Board violated the OMA. We did not find injunctive relief appropriate because the Board posted the minutes on the Secretary of State's website once it became aware of the issue. Nor did we find sufficient evidence to support a willful or knowing violation.

VIOLATION FOUND.

OM 21-07 **Durand v. Pawtuxet River Authority:**

The Complainant alleged the PRA failed to timely post notice of its January 4, 2021 meeting. The PRA did not dispute that it did not post notice of its January 4, 2021

meeting within the required time period. Accordingly, the PRA 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, but we encouraged the PRA to obtain additional training in the requirements of the OMA.

VIOLATION FOUND.

OM 21-08 DeCubellis v. William M. Davies Career and Technical High School Board of Trustees:

The Complainant alleged the Board convened a meeting where it discussed and voted to eliminate certain teaching positions during open session and that the agenda notice for the meeting was inadequate because the notice did not state that any vote would be taken to eliminate the positions. Based on the record before us, we determined that the pertinent agenda item failed to fairly provide notice of the Board's action during its meeting. Although we found that the Board violated the OMA, we did not find evidence of a willful or knowing violation, nor did we determine that injunctive relief was appropriate.

VIOLATION FOUND.

OM 21-09 Finnegan v. Scituate School Committee [10.06.20], [10.13.20]:

In an October 6, 2020 Complaint (relating to an August 25, 2020 meeting) and an October 13, 2020 Complaint (relating to an August 25, 2020 meeting), the Complainant alleged that the Committee violated the OMA in both instances by not adequately providing notice of the business that was to be discussed and/or acted upon at each meeting. Based on the totality of the evidence before us, we found violations as to both complaints. We did not find these violations to be willful or knowing, nor did we find injunctive relief to be appropriate in these circumstances.

VIOLATION FOUND.

OM 21-10 Straus v. Westerly Town Council:

The Complainant alleged that the Council violated the OMA by improperly convening into executive session to discuss the disposition of the Tower Street property and because the agenda for the meeting did not explicitly give notice that the Council would be convening into executive session to discuss and/or vote on said disposition. Based upon the undisputed evidence before us, we determined that the Council's executive session discussion pertaining to the Tower Street property did not violate the OMA and that the agenda notice fairly informed the public that the Council intended to convene an executive session to discuss and/or act on the disposition of the property. Accordingly, we found no violations.

OM 21-11 Langseth v. Rhode Island Commerce Corporation:

The Complainant alleged the Corporation violated the OMA by improperly discussing an agenda item in executive session and because the pertinent agenda

item failed to specify the business to be discussed. Based on the undisputed evidence presented, we determined that the Corporation's executive session discussion was permissible under the OMA and, under the totality of the circumstances, the related agenda item provided sufficient notice to the public of the nature of the business to be discussed. Accordingly, we found no violations.

OM 21-12 Western Oil v. Central Falls Zoning Board of Review:

The Complainant alleged that the Board violated the OMA by failing to file official minutes on the Secretary of State's website within thirty-five (35) days for several meetings and by failing to make unofficial minutes of these meetings available as required by the OMA within thirty-five (35) days of the meeting. Based on the undisputed evidence, we determined that the Board violated the OMA by failing to post the official minutes and by failing to make the unofficial minutes available in accordance with the OMA's provisions. We did not find injunctive relief appropriate since the minutes have now been posted, nor did we find evidence of a willful or knowing violation.

VIOLATION FOUND.

OM 21-13 Finnegan v. Scituate School Committee [11.27.20] [12.5.20]:

In two complaints respectively relating to meetings held on November 10, 2020 and December 5, 2020, the Complainant alleged that the Scituate School Committee violated the OMA at each meeting because the agenda item titled "Consent Agenda, 1. Meeting Minutes, 2. Bills, 3. Correspondence" failed to properly indicate the nature of the business to be discussed at the meetings. In response, the Committee argued that it had posted supporting documents related to this agenda item on ClerkBase. The supporting documents, however, were not posted on the Secretary of State's website. We found that the Committee violated the OMA. We did not find these violations to be willful or knowing, however, nor did we find injunctive relief to be appropriate in these circumstances.

VIOLATION FOUND.

OM 21-14 Lamendola v. East Greenwich School Committee:

The Complainant alleged that the School Committee violated OMA when it did not properly report out executive session votes and vote to seal the minutes of an executive session in connection with an April 9, 2019 meeting. The Complainant argued that the statute of limitations regarding this meeting had not yet expired as of the filing of his complaint because he did not have notice of the alleged violation until August 17, 2020. The School Committee provided undisputed evidence that the April 9, 2019 minutes were approved on April 23, 2019 and thus argued that the Complainant's allegations were time-barred. Even if viewing the facts most favorably to the Complainant, the statute of limitations regarding the April 9, 2019 meeting expired two-days after the Complaint was filed with this Office. Regarding the merits of the allegations, the School Committee provided affidavits that the executive session minutes were sealed by a majority vote of the School Committee,

but that this vote was inadvertently recorded in the executive session, rather than open session, minutes. Based on the record before us, the School Committee failed to record the vote to seal the executive session minutes in their open session minutes in violation of the OMA. Because the statute of limitations has expired, this Office is not able to pursue any relief related to this violation, but we encourage the School Committee to revise the April 9, 2019 open session minutes to reflect the vote to seal the executive session minutes.

VIOLATION FOUND.

OM 21-15 **Keep Metacomet Green! v. East Providence City Council:**

The Complainant alleged that the Council failed to file its approved minutes on the Secretary of State's website for 14 meetings within 35 days of each of those meetings. Based upon the record before us, including the Council's concessions, this Office determined that the Council did not file its minutes with the Secretary of State within the timeframe required by the OMA for all 14 of the subject meetings. Because the Council did file all outstanding minutes with the Secretary of State prior to the issuance of this finding, we did not find injunctive relief appropriate. Nor were we presented with evidence of a willful or knowing violation. The Council represented that the violations were due to staffing issues related to COVID-19 and that it had taken remedial measures to address the issue going forward.

VIOLATION FOUND.

OM 21-16 **Brown University v. Providence City Council Committee on Ordinances:**

The Complainant alleged that the Committee's January 27, 2021 agenda item concerning the scheduling of a hearing regarding a proposed amendment to the Historic Overlay District Ordinance failed to fairly inform the public of the business to be discussed. Based on the record before us, including this Office's independent review of the audio recording of the January 27 meeting, we determined that the subject agenda item was sufficiently specific and did not violate the OMA.

OM 21-17 **Courtney v. Jamestown Housing Authority:**

The Complainant alleged the Housing Authority violated the OMA when it failed to post a physical copy of the notice for its December 30, 2020 meeting anywhere on the Housing Authority premises. The Housing Authority provided evidence that notice of the December 30, 2020 meeting was physically posted at two (2) locations within the Housing Authority residential buildings more than 48 hours before the meeting, in addition to being posted at the Jamestown Town Hall and electronically on the Secretary of State's website. Accordingly, based on the record before us, we found no violation.

OM 21-18 **Lamendola v. East Greenwich School Committee:**

The Complainant alleged that the School Committee violated the OMA at its March 2, 2021 meeting when it voted to continue the engagement of a law firm in executive session without providing advanced notice that such a vote would occur

and when the executive session agenda item cited to “RIGL § 42-46-2(a)(2),” as the purpose of the executive session, which is not a proper citation to the OMA. Based on the totality of the circumstances, we found that the March 2, 2021 executive session agenda item fairly informed the public of the nature of the business to be discussed and acted upon. Similarly, we found that in the context of these particular circumstances, the executive session notice fairly noted the nature of the business discussed and the basis for entering executive session, notwithstanding the typographical error in the citation. Accordingly, we found no violations.

OM 21-19 Farrell v. Johnston School Committee:

The Complainant alleged that an item on the Committee’s March 16, 2021 meeting agenda failed to fairly inform the public that a discussion would take place regarding the change of date for a certain professional development day. Based on the undisputed evidence, the pertinent agenda item fairly encompassed the discussion and presentation made under that topic and the brief conversation related to the professional development date change occurred after the presentation and was initiated by a member of the public. It was further undisputed that the Committee took no action related to the professional development date change, which had already been made by the superintendent prior to the meeting, and did not carry on any discussion of this topic beyond the scope of the question presented by the member of the public. Accordingly, we found no violation.

OM 21-20 Zonfrillo v. Narragansett Town Council:

The Complainant alleged that the Town Council violated the OMA by impermissibly entering a closed session to discuss pending litigation, and by not disclosing votes taken in closed session. Based on the undisputed evidence, the Town Council announced the purpose of the closed session was to discuss litigation, properly cited R.I. Gen. Laws § 42-46-5(a)(2), which allows closed meetings “pertaining to collective bargaining or litigation,” and only discussed matters related to litigation in the closed session. Furthermore, this Office’s *in camera* review of the closed session minutes confirms that no votes were taken by the Town Council in closed session besides a vote to seal the minutes, which the Complainant acknowledges (and the record indicates) was disclosed. Accordingly, we find no violation.

OM 21-21 Ford v. Barrington School Committee:

The Complainant alleged that the Barrington School Committee violated the OMA because an item on the Committee’s February 25, 2021 meeting agenda reading “School Committee Workshop on School Goals: Mid Year Report” failed to fairly inform the public that the presentation by Barrington High School would feature discussion of the “de-leveling” process at the school, and failed to inform the public that guest speakers would be present. While this Office determined that the

Committee did not violate the OMA when it did not provide notice of guest speakers, we determined that that the agenda item failed to apprise the public of the substance of what was discussed at the meeting, and therefore violated the OMA. We did not find this violation to be willful or knowing, however, nor did we find injunctive relief to be appropriate in these circumstances because no vote or action was taken.

VIOLATION FOUND.

OM 21-22 Howard v. Portsmouth Senior Center Focus Group:

The Complainant alleges that the Portsmouth Senior Center Focus Group is a “public body” under the OMA, and violated the OMA by meeting outside of the public purview. Based on the record and guided by Rhode Island Supreme Court precedent and the totality of the evidence, we do not find that the Focus Group is a “public body” under the OMA. Therefore, the OMA does not apply to the Focus Group, and we find no violation.

OM 21-23 Phongsavahn v. Woonsocket Board of Canvassers:

The Complainant alleged that the Woonsocket Board of Canvassers violated the OMA by failing to post minutes for its September 23, 2020 meeting to the Secretary of State’s website within thirty-five days of the meeting. In response, the Board conceded that it had failed to post meeting minutes to the Secretary of State’s website by the statutory deadline but provided evidence that it had posted the minutes on the same day the Complaint was filed, thirty-seven days after the meeting. We found that the Board violated the OMA. We did not find this violation to be willful or knowing, however, nor did we find injunctive relief to be appropriate in these circumstances.

VIOLATION FOUND.

OM 21-24 Lema v. Narragansett Town Council:

The Complainant alleged that the Council violated the OMA at its March 1, 2021 meeting by discussing the newly created Coastal Access Improvement Committee under an agenda item that did not mention the Committee. As part of our investigation, this Office reviewed the footage of the relevant portion of the meeting, and observed that while the Coastal Access Improvement Committee was discussed, all mentions of the Committee were directly tied to the noticed agenda item. Accordingly, we found that the agenda item provided fair notice to members of the public of the nature of the business discussed and acted upon, and found no violation.

OM 21-25 Solas v. South Kingstown School Committee:

The Complainant alleged that the School Committee violated the OMA by failing to post official meeting minutes for its April 27, 2021 meeting on the Secretary of State’s website within 35 days of the meeting. In its response, the School

Committee did not dispute that it had failed to post the meeting minutes within the designated timeframe. Accordingly, we found a violation. However, injunctive relief is not appropriate because the meeting minutes have since been posted, and we did not find sufficient evidence for a willful or knowing violation.
VIOLATION FOUND.

OM 21-26 **Lema v. Narragansett Town Council:**

In four separate OMA complaints filed by the Complainant against the Council, the Complainant alleged that the Council violated the OMA by taking action outside of the public purview (December 8, 2020 and December 31, 2020 Complaints), by engaging in improper executive session procedures (January 14, 2021 Complaint), and by failing to provide proper notice to the public as to an agenda item (January 28, 2021 Complaint). We found no violations as to the Complainant’s allegations regarding actions taken outside of the public purview (relating to the “Festival of Lights,” the selection of a Council President, and library matters), because the record indicated that any actions taken outside of the public purview did not involve a meeting of a quorum of the public body. We also found no violation stemming from the January 28, 2021 Complaint concerning improper notice, because the agenda item adequately informed to public as to the nature of the business to be discussed. We did, however, find that the Council violated the OMA by failing to properly follow procedural requirements during its December 7, 2020 and December 10, 2020 executive sessions (January 14, 2021 Complaint). We did not find these violations to be willful or knowing but required a supplemental submission from the Council regarding disclosure of votes during the December 7, 2020 and December 10, 2020 executive sessions.
VIOLATION FOUND.

OM 21-27 **Fournier v. Oakland Mapleville Fire Company:**

The Complainant alleges that the Oakland Mapleville Fire Company is a “public body” under the OMA and violated the OMA by failing to file unofficial meeting minutes on the Secretary of State’s website. The Fire Company denied that it is a public body and based on the record and the totality of the facts presented to this Office, we did not find sufficient evidence that the Fire Company is a “public body” under the OMA. Therefore, on this record we concluded that the OMA does not apply to the Fire Company, and we found no violation.

OM 21-28 **Nassaney et al. v. Richmond Town Council:**

In three separate OMA complaints filed by two Complainants against the Council, the Complainants collectively alleged that the Council violated the OMA by failing to provide adequate alternative means of virtual access to the June 1 and July 20, 2021 Council meetings, as required by the Governor’s COVID-19 Executive Order. The Complainants stated that the Council held hybrid meetings on these dates, and that due to the poor audio quality of the virtual portions of these meetings, the public

was unable to clearly follow the proceedings. After reviewing the record and the Council's admissions, we find that the Council violated the OMA and the Governor's COVID-19 Executive Order by failing to provide adequate alternative virtual access to the June 1 and July 20, 2021 Council meetings. We did not find the violations to be willful or knowing and also did not find injunctive relief to be necessary.

VIOLATION FOUND.

OM 21-29 Keep Metacomet Green! v. East Providence City Council:

The Complainant alleged that the Council violated the OMA at its May 18, 2021 meeting by discussing the "Waterfront Commission" under an agenda item regarding whether a "substantial change of circumstances" existed with regard to a Petition for Zone Change. Upon reviewing the record, this Office determined that discussion of the "Waterfront Commission" was encompassed within the "substantial change of circumstances" discussion. Accordingly, we found that the agenda item provided fair notice to members of the public of the nature of the business discussed and acted upon, and found no violation.

OM 21-30 Benjamin Roland v. South Kingstown School Committee:

The Complainant alleged that the Council violated the OMA at its April 30, 2021 meeting by discussing two items, each related to a particular school policy, in executive session without citing a specific provision of the OMA that permitted entering executive session regarding those topics. Upon reviewing the record, this Office determined that discussion of the policies pertained to legal advice and related to an ongoing investigation and a topic that was the subject of contentiousness and concern in the community. Accordingly, we found that the executive session discussion reasonably fell within the ambit of R.I. Gen. Laws § 42-46-5(a)(2) and was a permissible topic for executive session, and found no violation.

OM 21-31 Robert Cushman v. Warwick City Council:

The Complainant alleged that the Council violated the OMA at its May 24, 2021 meeting by not providing adequate notice of the discussion of three topics: (1) the revenue portion of the City budget (2) the City of Cranston municipal budget, and (3) the City of Providence budget unfunded liabilities. Upon reviewing the record, this Office determined that discussion of these three topics occurred within the context of discussing the noticed subject matter of the meeting, "Public Hearing on the Proposed Budget for fiscal year 2021-2022." Accordingly, we found that the discussion was encompassed within the business noticed on the agenda, and found no violation.

OM 21-32 Arditi v. Governor’s State Equity Council:

The Complainant alleged that the Governor’s State Equity Council is a “public body” under the OMA, and violated the OMA by denying her access to its April 7, 2021 meeting. Based on the record and guided by Rhode Island Supreme Court precedent and the totality of the evidence, we did not find that the Council is a “public body” under the OMA. Therefore, the OMA does not apply to the Council, and we found no violation.

OM 21-33 Peter Hewett v. Bristol Warren Regional School District:

The Complainant alleges that the School District violated the OMA by failing to provide remote access to a hybrid subcommittee meeting held pursuant to the then-existing Executive Order. Based on the record before us, including the evidence that other members of the public attended the meeting, we found insufficient evidence that the School District failed to provide access. We accordingly found no violation.

OM 21-34 Gaddis Barrett v. South Kingstown School Committee:

The Complainant alleged that the School Committee did not properly convene in and out of executive session or report out executive session votes. Based on our review of the record, this Office found that the School Committee’s minutes identified the basis for entering executive session and complied with the OMA, but that the open call failed to cite to the statutory basis for entering executive session or provide a statement of the business to be discussed. We determined that the open call violated the OMA but that there was no need for injunctive relief and insufficient evidence of a willful or knowing violation, especially given that this information was contained in the meeting agenda and minutes. We found that the School Committee did not violate the OMA with regard to the other allegations raised.

VIOLATION FOUND.

ACCESS TO PUBLIC RECORDS
ACT



ANNUAL REPORT 2021

**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 2021.

STATISTICS

ACCESS TO PUBLIC RECORDS ACT COMPLAINTS RECEIVED:	92
FINDINGS ISSUED BY THE ATTORNEY GENERAL:	33
VIOLATIONS FOUND:	19
WARNINGS ISSUED:	18
LITIGATION/CIVIL PENALTIES SOUGHT:	1
WRITTEN ADVISORY OPINIONS:	
REQUESTS RECEIVED:	0
ADVISORY OPINIONS ISSUED:	0
APRA REQUESTS TO THE ATTORNEY GENERAL:	154

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 21-03	<u>Farinelli vs. City of Pawtucket</u>
PR 21-06	<u>Novak v. Western Coventry Fire District</u>
PR 21-06B	<u>Novak v. Western Coventry Fire District - Supplemental Finding</u>
PR 21-07	<u>Real World Media LLC v. Providence Police Department</u>
PR 21-08	<u>Techentin v. Rhode Island Department of Health</u>
PR 21-09	<u>Yolken, et al. v. City of Providence</u>
PR 21-10	<u>Fague v. CRMC [7.13.20]</u>
PR 21-10B	<u>Fague v. CRMC [7.13.20]</u>
PR 21-12	<u>Lyssikatos v Narragansett Police Department</u>
PR 21-13	<u>Grenier v. Hopkinton</u>
PR 21-20	<u>ARIASE v. Rhode Island Department of Education</u>
PR 21-21	<u>Filippi v. New Shoreham Tourism Council</u>
PR 21-24	<u>Caldwell v. Rhode Island Traffic Tribunal</u>
PR 21-25	<u>Property of the People v. City of Cranston</u>
PR 21-26	<u>Damon v. City of Newport</u>
PR 21-27	<u>Gunnip v. DLT</u>
PR 21-31	<u>Caldwell v. Rhode Island Office of Innovation [2/5/21], [5/25/21]</u>
PR 21-33	<u>Wright vs. Cranston Police Department</u>

The Office of the Attorney General pursued civil penalties where the Office found violations of the Access to Public Records Act in:

PR 21 -05	<u>Angelo vs. Town of Westerly</u>
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Summaries of all findings/written advisory opinions issued are included below.

ACCESS TO PUBLIC RECORDS ACT FINDINGS – 2021

PR 20-52B Lamendola v. East Greenwich School District:

The Complainant alleged that the District improperly withheld a number of records in response to his APRA request. This Office previously issued a finding, PR 20-52, which set forth the relevant legal framework and concluded that the District permissibly withheld a number of documents. Our prior finding required the District to either produce the remaining records or provide supplemental information and analysis regarding why it was permissible to withhold those records. In response to our prior finding, the District disclosed certain additional documents to Complainant and provided supplemental information regarding the records it continued to withhold. After receiving the supplemental submission, this Office determined that the APRA permitted the District to not disclose the records that it continued to claim were exempt and we did not find it necessary to determine whether the District violated the APRA by initially withholding the records it subsequently disclosed because the Complainant is now in possession of the records and there was no evidence that the District's initial decision to withhold the records, assuming it violated the APRA, warranted civil fines.

PR 21-01 Mattero v. South Kingstown School Department:

The Complainant alleged the Department's prepayment estimate did not comply with the APRA and that the Department failed to provide a specific legal contract that Complainant alleged was responsive to the request. During the pendency of this Office's investigation, the Department provided the Complainant with the requested records at no cost. Consistent with this Office's precedent, we determined that consideration of the Complainant's allegations regarding the Department's prepayment estimate was unnecessary since those documents were provided at no cost and, even assuming a violation occurred, civil fines would not be appropriate. Additionally, the undisputed evidence indicated the Department did not maintain the specific legal contract sought by the Complainant. Therefore, the Department did not violate the APRA by not providing that document.

PR 21-02 White v. Providence Police Department:

The Complainant alleged the Providence Police Department provided an unreasonable prepayment estimate for completing an APRA request seeking numerous video files or recordings related to police body worn camera footage. The evidence provided to this Office supported the City's contention that it would take significant time to review (and potentially redact) the requested files and that the Department needed to review the files prior to producing them to determine whether certain information in the videos was permitted or required to be redacted under the APRA and/or applicable confidentiality laws. Accordingly, this Office found that the Department's estimate in these circumstances was supported by the record and did not violate the APRA. This Office also found that the Department did not violate R.I. Gen. Laws § 38-2-4(d) by not providing a detailed itemization of costs because no such detailed itemization was requested. This Office did note that the records sought in this case shed light on the performance of law enforcement and that Complainant is also free to ask "[a] court

[to] reduce or waive the fees for costs charged for search or retrieval if it determines that the information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” R.I. Gen. Laws § 38-2-4(e).

PR 21-03 **Farinelli v. City of Pawtucket:**

The Complainant alleged that the Pawtucket Police Department violated the APRA by redacting the face of an officer in video footage taken from a surveillance camera inside the common area of a police station. The City asserted the redaction was appropriate under the privacy balancing test, but the Complainant alleged there was a public interest in the officer’s facial expression during an encounter with civilians. In the particular circumstances of the record presented in this case, this Office found that the public interest outweighed the asserted privacy interest and that the video should have been produced without the officer’s face redacted.

VIOLATION FOUND.

PR 21-04 **Lyssikatos v. City of Pawtucket:**

Complainant alleged the City violated the APRA when it redacted firearm serial numbers in the documents it produced without citing a valid APRA exemption for those redactions. Based on the record before us, we determined that the City’s initial response to the Complainant generally tracked the language of Exemptions (A)(i)(b) and/or (D)(c) as a basis for the redactions and thus did not violate the APRA by failing to cite a basis. We also found it unnecessary for us to consider whether the City violated the APRA when it redacted the records because it was undisputed that the Complainant is now in possession of the un-redacted serial numbers.

PR 21-05 **Angelo v. Town of Westerly:**

The Complainant alleged that the Town violated the APRA when it failed to timely and completely respond to his July 16, 2020 and July 17, 2020 APRA requests and failed to respond to his administrative appeal. The Town did not dispute that it failed to timely respond to the Complainant’s APRA requests; therefore, we found the Town violated the APRA. We also found that the Town failed to state that it did not maintain certain requested records, which violated the APRA. The undisputed evidence also demonstrated that the Town did not respond to the Complainant’s administrative appeal, which also violated the APRA. The evidence submitted to this Office indicates that the Town has now completely responded to both of Complainant’s APRA requests. However, this Office concluded that the Town committed willful and knowing or, alternatively, reckless violations of the APRA.

VIOLATION FOUND.

PR 21-06 **Novak v. Western Coventry Fire District:**

The Complainant alleged that the Fire District violated the APRA when it (1) withheld responsive documents; (2) failed to adequately cite a reason for the denial; (3) failed to provide the procedures for appealing the denial; and (4) failed to state

that no portion of the withheld documents were reasonably segregable. This Office concluded that the Fire District cited HIPAA as the reason for the denial, which sufficiently invoked Exemption (S), but violated the APRA by failing to provide procedures for appealing the denial. Additionally, although the Fire District had responded to the request by indicating that the records were exempt under HIPAA, in response to the Complaint the Fire District indicated that it did not maintain responsive records. This Office reserved reaching a determination regarding whether the Fire District improperly withheld records or failed to state that no portion of the records were reasonably segregable, and required the Fire District to provide a supplemental submission addressing certain matters related to those issues.

VIOLATION FOUND.

PR 21-06B **Novak v. Western Coventry Fire District:**

The Complainant alleged that the Fire District improperly denied a portion of his APRA request. The Fire District initially denied the Complainant's request for certain quarterly assessments given to the Fire District staff, arguing that disclosure would violate HIPAA. However, the Fire District failed to state that no reasonably segregable portion of the documents existed, and it responded to the Complaint by asserting that it did not maintain any responsive records. This Office previously issued a finding, PR 21-06, which found that the Fire District violated the APRA by failing to include its administrative appeal procedures in its initial response to the Complainant, and directed the Fire District to provide a supplemental submission addressing whether the Fire District maintained or had a duty to obtain responsive records from the entity it hired to provide the assessments, as well as if reasonably segregable portions of the records existed. Based on supplemental submissions, including one from the entity that gave the quarterly assessment presentations, this Office determined that the Fire District functionally maintained responsive documents. We further concluded that reasonably segregable portions of the records could be produced with redactions to the content that implicated HIPAA and/or the Peer Review statute. Accordingly, we found that the Fire District violated the APRA by denying the Complainant's APRA request, and by failing to provide the reasonably segregable portions of the requested documents. We did not find a willful and knowing or reckless violation, but directed the Fire District to provide redacted copies of the requested documents to the Complainant within ten business days.

PR 21-07 **Real World Media LLC v. Providence Police Department:**

Complainant alleged that the Department made improper redactions; improperly assessed prepayment; failed to adequately indicate the procedures for filing an administrative appeal; and did not deliver the records using the requested method despite being capable of doing so. This Office reviewed the record and determined that the Department was capable of transmitting the records over the internet as requested and thus, based on the circumstances in this case, violated the APRA by not doing so. This Office determined that the Department did not violate the APRA in connection with Complainant's other allegations.

PR 21-08 **Techentin v. Rhode Island Department of Health:**
The Complainant alleged RIDOH violated the APRA by providing an incomplete, narrative response rather than documents responsive to the Complainant's APRA request. Based on the record before us, we determined that RIDOH violated the APRA by providing a narrative response to the Complainant's request, and by failing to either produce responsive records, state that it was withholding responsive records pursuant to an exemption under the APRA, or state that no such records are maintained. We directed RIDOH to provide documents responsive to Complainant's request within ten (10) business days and to submit a supplemental response to this Office addressing whether the violations found should be considered willful and knowing, or reckless.
VIOLATION FOUND.

PR 21-08B **Techentin v. Rhode Island Department of Health:**
This Office previously determined that DOH violated the APRA by failing to either produce responsive records, state that it was withholding responsive records pursuant to an exemption under the APRA, or state that no such records are maintained. This Office required DOH to provide the Complainant with documents responsive to his request, at no charge, and to provide a supplemental submission to this Office addressing whether the violation found was willful and knowing, or reckless. After reviewing the supplemental submissions, this Office determined that injunctive relief was not appropriate and that there was insufficient evidence of a willful and knowing or reckless violation.

PR 21-09 **Yolken, et al. v. City of Providence:**
The Complainants requested certain police incident reports related to suspected overdoses in the City of Providence for a roughly one-year time period. Complainants alleged the City violated the APRA when it withheld a number of responsive incident reports in their entirety for personal privacy reasons instead of providing redacted versions of the reports. We determined there was a public interest in the disclosure of these reports and that the privacy interests could be addressed through redaction. Accordingly, we found the City violated the APRA by withholding these records in their entirety instead of redacting any exempt information and providing the reports to the Complainants. We directed the City to provide the Complainants with the requested incident reports in redacted form within ten (10) business days. We did not find sufficient evidence to support a knowing and willful, or reckless violation.
VIOLATION FOUND.

PR 21-10 **Fague v. CRMC:**
The Complainant alleged that the CRMC violated the APRA by failing to respond to his four-part document request in a timely manner. In response, the CRMC conceded that it had failed to respond, provided documents as to two parts of the request, and stated that it did not find documents responsive to the remaining parts of the request despite a diligent search. Based on the evidence, including its own admission, we found that the CRMC violated the APRA by not responding to the

Complainant's request in a timely manner. Because of issues raised by the parties regarding whether Complainant has been provided with all responsive records maintained by the CRMC, we ordered a supplemental submission from the CRMC in order to ensure compliance with the APRA and to determine whether the CRMC's violation was willful and knowing, or reckless. We did not find injunctive relief to be appropriate at this juncture, pending further submissions.
VIOLATION FOUND.

PR 21-10B Fague v. CRMC:

Following this Office's finding in PR 21-10, in which we determined that the CRMC violated the APRA by failing to respond to the Complainant's APRA request in a timely manner, this office requested a supplemental filing from the Complainant providing "any documents responsive to parts (3) and (4) of (the) request." This Office also requested "an affidavit from someone with knowledge describing in detail how, after issuance of this finding, the CRMC conducted its search for any documents responsive to parts (3) and (4) of (the) request and why it believes no additional responsive records are maintained." Upon review of the CRMC's supplemental filing, we determined that the CRMC's APRA violation was not willful and knowing, or reckless. We also did not find injunctive relief to be necessary in this case.

PR 21-11 The Providence Journal v. Rhode Island Convention Center Authority:

The Complainant alleged the Authority violated the APRA by withholding certain payroll records related to employees of SMG, which is an entity hired by the Authority to perform work on its behalf. Based on the evidence in the record before us, we found the Authority did not maintain the requested records and on these particular facts, did not violate the APRA by not producing them. However, because SMG performs work on behalf of or in place of the Authority as contemplated in the APRA's definition of "public body," SMG is a public body under the APRA. We also noted that public bodies are required to disclose payroll records they maintain in response to a public records request to the extent such records contain information set forth in the APRA as public. Accordingly, although SMG was not named as a party to the Complaint, we encouraged SMG to produce the requested employee records to Complainant within five (5) business days of the issuance of this finding to the extent such information is public pursuant to the APRA and the guidance provided in this finding. If SMG does not do so, we noted Complainant may wish to make a clearly framed APRA request for such records directly to SMG. If Complainant is dissatisfied with SMG's response, Complainant should notify this Office at which time this Office would open a complaint. We expect that such a complaint process would be greatly expedited based on the information that this Office has already reviewed in connection with the instant Complaint.

PR 21-12 Lyssikatos v. Narragansett Police Department:

The Complainant alleged that the Department violated the APRA by withholding Internal Affairs ("IA") reports in their entirety. The Department initially withheld

24 IA reports in their entirety. In response to this Office's finding in *Lyssikatos v. Narragansett Police Department*, PR 20-58, the Department voluntarily disclosed seven of those reports, which were redacted consistent with the Complainant's representation that he accepted that identifying information could be redacted. This Office has now found that of the remaining 17 reports, 14 are required to be disclosed with redactions, one report was permissibly withheld, and two reports do not need to be produced as the parties agree that they are nonresponsive to the request. Although seeking injunctive relief may be appropriate, this Office is first permitting the Department the opportunity to provide the records in accordance with this finding and relevant caselaw.
VIOLATION FOUND.

PR 21-13 **Grenier v. Town of Hopkinton:**

The Complainant alleged that the Town violated the APRA when it redacted the names and individually identifiable information of the reporting witnesses in the incident report Complainant requested. The Town argued that the redactions were proper insofar as the incident report did not result in an arrest and disclosing the information of the reporting witnesses would constitute an unwarranted invasion of personal privacy. The Town also acknowledged that it failed to provide the Complainant a written response to his APRA request citing the specific APRA exemptions it was invoking to support the redactions. Based on the record before us, we found that the Town violated the APRA by failing to provide a written response to the Complainant's APRA request, but that the redactions made to the incident report were permissible given that the privacy interests implicated in these records outweigh any public interest that would be served from disclosure. We did not find injunctive relief appropriate, nor did we find evidence of a willful and knowing, or reckless violation.
VIOLATION FOUND.

PR 21-14 **Gagliano v. Narragansett Police Department:**

The Complainant alleged the Police Department violated the APRA by denying her request for documents related to an incident which occurred on her property. In response to the Complaint, the Police Department provided the requested records in redacted form and maintained that disclosure in unredacted form would constitute an unwarranted invasion of personal privacy. Based on the record before us, we determined that unredacted disclosure would implicate the privacy interests of the individuals named in the documents, which did not pertain to an incident involving an arrest, and that there was no apparent public interest in this information. Accordingly, we found no violation.

PR 21-15 **Reale v. Rhode Island Office of the Governor:**

The Complainant alleged that the Governor's Office failed to respond to his APRA request. The undisputed evidence demonstrated that Complainant did not submit the request in accordance with the Governor's Office's promulgated and posted APRA procedures. Accordingly, we found no violation.

PR 21-16 **Gordon v. Office of the State Fire Marshal:**

The Complainant alleged the Fire Marshal did not properly respond to his APRA request seeking certain records related to a particular arson investigation. The undisputed record evidenced that the Fire Marshal had previously provided Complainant with all records in its possession related to the arson investigation. This Office found that the instant APRA request was not clear regarding what records were being sought. Accordingly, we found that the Fire Marshal did not violate the APRA by interpreting the request as seeking records of the Foster Police Department and responding that such records were not independently maintained by the Fire Marshall.

PR 21-17 **Patacsil v. Rhode Island Department of Labor and Training:**

The Complainant alleged that the DLT violated the APRA by denying her request for the names and addresses of people receiving unemployment benefits, as well as names and addresses of those who recently ceased receiving unemployment benefits. The DLT provided this Office with evidence that disclosure of the requested information would have violated State and Federal laws which require the information to be kept confidential. Having reviewed the statutes in question, we found based on the record before us that the information requested was confidential under State and Federal Law, and was therefore exempt from disclosure. Accordingly, we found no violation.

PR 21-18 **Patacsil v. Narragansett Bay Commission et, al.:**

The Complainant filed three complaints, each alleging that public bodies violated the APRA by denying her APRA requests.

The Complaint against the Narragansett Bay Commission (“NBC”) alleged that the NBC improperly denied the Complainant’s request for the names and addresses of individuals delinquent 90 days or more on their sewer bills. The NBC stated that disclosure of this information would be an unwarranted invasion of the relevant individuals’ personal privacy. We concluded that NBC’s determination that the privacy interests of the individuals outweighed any public interest in disclosure did not violate the APRA.

The Complaint against the Town of North Providence alleged that the Town improperly withheld responsive documents in response to the Complainant’s request for a list of addresses with taxes overdue by 6 months or more. The Town stated that the only responsive document it maintained was the Tax Sale list on the Town’s website, which it provided to the Complainant. Because the undisputed evidence in the record presented to us demonstrated that all responsive documents maintained by the Town were provided to the Complainant, we found no violation.

The Complaint against the City of Woonsocket alleged that the City violated the APRA by denying the Complainant’s request for a list of addresses with taxes overdue by 6 months or more. In response, the City provided evidence that it had provided the Complainant with responsive records. Because the undisputed

evidence demonstrated that the Complainant was provided with responsive records, we found no violation.

PR 21-19 **Rustic Free Press v. Rhode Island Secretary of State:**

The Complainant alleged that the Secretary violated the APRA by responding to its APRA request for “written proof of compliance with federal standards of the DS 200 Ballot Scanner” with a copy of the title page and conclusion page of a testing report. Having reviewed the materials provided to the Complainant, this Office determined that the title page and conclusion page, which indicated that the ballot scanner had been tested for compliance and had passed, were responsive to the request. Based on the wording of the request and our *in camera* review of the entire report, we did not find that the Secretary violated the APRA by not providing the omitted pages to the Complainant in response to its APRA request, as worded. Accordingly, we found that the Secretary did not violate the APRA in its response to the Complainant’s APRA request.

PR 21-20 **ARIASE v. Rhode Island Department of Education:**

The Complainant alleged that RIDE violated the APRA by failing to timely respond to its October 9, 2020 APRA request; failing to timely respond to its December 15, 2020 administrative appeal; and failing to provide all documents responsive to part of its October 9, 2020 request. RIDE did not dispute that it had failed to timely respond to both the request and the administrative appeal, and did not argue that it did not have the requested records or that the requested documents were exempt under one of the APRA’s statutory exemptions. Accordingly, we found that RIDE violated the APRA, and directed RIDE to provide ARIASE with documents responsive to its request within 10 business days, and to provide this Office with a supplemental submission on whether its violation of the APRA was willful and knowing, or reckless.

VIOLATION FOUND.

PR 21-20B **ARIASE v. Rhode Island Department of Education:**

This Office previously determined that RIDE violated the APRA by failing to timely respond to Complainant’s APRA request; failing to timely respond to Complainant’s administrative appeal; and failing to provide all records responsive to Part (4) of the APRA request without citing any reasons for the denial cognizable under the APRA. This Office required RIDE to provide a supplemental submission with respect to these violations. After reviewing RIDE’s supplemental submission, which included providing Complainant with documents responsive to Part (4) of the request, we determined that injunctive relief was not necessary and that there was insufficient evidence of a willful and knowing, or reckless, violation.

PR 21-21 **Filippi v. New Shoreham Tourism Council:**

The Complainant alleged that the Council violated the APRA by failing to adequately respond to five parts of his six-part APRA request. In response, the Council argued that it did not have the records that the Complainant was seeking. After reviewing the parties’ submissions, this Office sought additional information

in the form of councilmember affidavits relating to their involvement in the drafting and transmission of a letter to the Complainant, which was the subject of much of the Complainant's request. The Council did not provide the requested information in response. Based on the record before us, the Council failed to meet its burden of demonstrating that it does not maintain the requested records and that its denial of access to the requested records was permissible under the APRA. Further, the Council wholly failed to respond to Part (6) of the Complainant's request. Consequently, we found that the Council violated the APRA. We required the Council to provide supplemental submissions as described in the finding. VIOLATION FOUND.

PR 21-22 **Brigham v. Department of Human Services:**

The Complainant alleged that the Department violated the APRA by failing to provide him certain information regarding deceased individuals who received a public assistance funded burial. The Complainant acknowledged that he received "extensive data" from the Department but argued the Department violated the APRA by withholding the names and addresses of where the decedents last lived. The Department argued that the disclosure of the names and addresses of the decedents who received public assistance burials would constitute an unwarranted invasion of the personal privacy interests of the friends and family of the deceased and also violate state confidentiality laws related to public assistance benefits. This Office found that disclosure of the requested information would implicate privacy interests and the Complainant did not identify a specific public interest in the information as defined under the APRA, nor was any apparent. Accordingly, we found no violation.

PR 21-23 **DiPalma v. Executive Office of Health and Human Services:**

The Complainant alleged that the EOHHS violated the APRA by denying his APRA request for "a copy of all work product" resulting from the EOHHS's engagement of a law firm for a certain project. In response, the EOHHS argued that the documents were properly withheld under three different exemptions of the APRA, including as "records related to a client/attorney relationship." Based on our review, including our *in camera* review of the withheld documents, we determined that the documents were permissibly withheld under APRA Exemption (A)(I)(a). Accordingly, we found no violation.

PR 21-24 **Caldwell v. Rhode Island Traffic Tribunal:**

The Complainant alleged that the Tribunal violated the APRA by failing to respond to his APRA request within ten business days. The Tribunal acknowledged that it received and did not respond to the Complainant's APRA request, but argued that the responsive records sought by the Complainant were exempt from disclosure under the APRA, and were already in the Complainant's possession. We found that the Tribunal violated the APRA by failing to respond to the Complainant's request, but we did not find that injunctive relief was appropriate, nor did we find sufficient

evidence to conclude that the Tribunal's violation was willful and knowing, or reckless.

VIOLATION FOUND.

PR 21-25 **Property of the People v. City of Cranston:**

The Complainant alleged that the City violated the APRA by denying its six-part APRA request and by stating that the City did not maintain any responsive records. In response to this Complaint, the City asserted that it had conducted a diligent search after receiving the APRA request. The City also subsequently provided the Complainant with emails it had later located that were responsive to Part (5) the Complainant's request (but not the email attachments). This Office required the City to provide additional information regarding its search process.

Based on the record before us, we concluded that as to Parts (1) through (4) and (6) of the Complainant's request, there was not sufficient evidence that the City failed to conduct a reasonable search based on the nature of the requests. With regard to Part (5) of the request, we found that the City violated the APRA by originally asserting that no responsive records were maintained when the City did in fact possess and later produce responsive records. Accordingly, we directed the City to provide this Office with a submission concerning whether its violation of the APRA was willful and knowing, or reckless, and to provide Complainant with any additional documents responsive to Part (5) of the request, including but not limited to attachments to the emails that it identified as responsive to Part (5), or a specific argument and explanation of why it contends such attachments are not responsive in light of the arguments presented by Complainant.

VIOLATION FOUND.

PR 21-25B **Property of the People v. City of Cranston:**

This Office previously found that the City violated the APRA by initially failing to provide responsive records as to one part of Complainant's multi-part request and instead indicating that no responsive records existed. In this supplemental finding, we found that injunctive relief is not appropriate because the record indicates the Complainant has now been provided with the responsive records. We also determined that there was insufficient evidence of a willful and knowing or reckless violation.

PR 21-26 **Damon v. City of Newport:**

The Complainant alleged that the City violated the APRA by denying her six APRA requests, four of which were for "arrest narratives" and two of which were for "accident related reports." The City subsequently provided the Complainant with documents related to the accidents and to one of the arrests. The City argued that the remaining arrest narratives were exempt from public disclosure. As to the "accident-related reports," the City produced records responsive to one request and determined that it did not have the specific records responsive to the second request (but seemingly provided other records related to that accident). We found that the City violated the APRA by initially denying the requests for the four arrest

narratives in their entirety. We also found the City violated the APRA by not initially stating that it did not maintain records responsive to one of the accident-related requests. We declined to determine whether the City violated the APRA as to the other accident-related request, as the Complainant has now received the subject documents. We also did not find the City's conduct to be willful and knowing, or reckless. We required the City to produce the withheld arrest narratives to the Complainant in a manner consistent with this finding and the APRA. VIOLATION FOUND.

PR 21-27 **Gunnip v. Department of Labor and Training:**

The Complainant alleged that DLT violated the APRA by not providing him with two particular numbers he requested related to unemployment fraud. As DLT subsequently provided Complainant with the first requested number and we did not find sufficient evidence that any violation would have been willful and knowing or reckless, we declined to further review whether the initial denial violated the APRA. We found that DLT violated the APRA by not providing a record reflecting the second requested number and instructed DLT to provide a record with the requested number to Complainant.

PR 21-28 **Kenny v. City of Pawtucket:**

The Complainant alleged that the City violated the APRA by withholding certain video footage related to a motor vehicle incident. Based on our review of the record, this Office concluded that the privacy interests in the withheld footage outweighed any public interest and that the City did not violate the APRA by withholding the requested footage.

PR 21-29 **Patten v. City of Cranston:**

The Complainant alleged the City violated the APRA by failing to timely respond to and by failing to provide all documents responsive to her APRA request. Based on our review of the record, this Office concluded that the City did not violate the APRA by extending the time to respond based on the voluminous nature of the request. Additionally, based on the particular circumstances of this case, we determined that the City did not fail to provide responsive records because it timely gave the Complainant access to inspect the potentially responsive records.

PR 21-30 **Caldwell v. Office of the PostSecondary Commissioner [8/21/20], [9/16/20], [9/28/20], [10/5/20], [7/5/21]:**

The Complainant filed five APRA complaints against the OPC respectively related to five separate APRA requests. The Complainant raised various contentions, including an alleged failure to respond to a request and alleged failures to provide responsive records. For the reasons set forth in the finding, this Office did not find that the OPC failed to respond or impermissibly denied any requests. Accordingly, we found no violations.

PR 21-31

Caldwell v. Rhode Island Office of Innovation [2/5/21], [5/25/21]:

The Complainant filed two complaints against the Rhode Island Office of Innovation (“RIOI”), one alleging that the RIOI failed to timely respond to a February 5, 2021 request, and one alleging that the RIOI failed to provide a document that was responsive to a May 25, 2021 request. Based on the record, we concluded that the RIOI did fail to timely respond to the February 5, 2021 request, but found no need for injunctive relief and insufficient evidence of a willful and knowing or reckless violation, including because the RIOI promptly substantively responded to the request upon receiving notice of the issue. We found no violation with regard to the May 25, 2021 request because the evidence demonstrated the RIOI provided a responsive document and there was insufficient evidence that the document was not responsive or that any other responsive document was maintained.

VIOLATION FOUND.

PR 21-32

Levitt v. Department of Labor and Training:

The Complainant alleged that DLT violated the APRA by not providing him with a transcript of a hearing that the DLT stated it did not maintain. Based on the record before us, we found insufficient evidence that DLT maintained the requested record. We accordingly found that the DLT’s denial in this instance did not violate the APRA.

PR 21-33

Wright v. Cranston Police Department:

The Complainant alleged that the Department violated the APRA when it did not provide an incident report related to an incident that led to an adult being arrested. The Department argued that disclosure of the incident report would constitute an unwarranted invasion of personal privacy, including disclosing information about juveniles who were also discussed in the report. We determined that most of the incident report was permissibly exempted because it contained information about juveniles that was not reasonably segregable from the information related to the adult, but that one page of the report pertaining to the adult was segregable and should have been provided. Accordingly, we found the Department violated the APRA and directed the Department to provide the Complainant with the requested single page within ten (10) business days. We did not find sufficient evidence to support a knowing and willful, or reckless violation.

VIOLATION FOUND.