

Access to Public Records



An Audit of Rhode Island's Cities & Towns

A Comprehensive Analysis of the Implementation of the Open Records Law

Statement about Authorship

This study originated in April 1997 with eight students from the Introduction to Public Policy course at Brown University. Those students, working under the supervision of Professor Ross Cheit, created an Independent Study project to focus on Freedom of Information in Rhode Island's cities and towns. They researched the topic and designed this study in the first six weeks of the Fall Semester.

Seventeen students from the Public Affairs Reporting course at the University of Rhode Island collaborated in the research from mid-October through the end of the semester in December. Those students, working under the supervision of Professor Linda Levin, conducted the fieldwork in 23 cities and towns, and they wrote narrative accounts for each jurisdiction. They also edited the narratives for all of the cities and towns.

The Brown students conducted fieldwork in 16 cities and towns, and they wrote narrative accounts for each jurisdiction. They did follow-up fieldwork in about a dozen jurisdictions in December and January to resolve various questions from the original research. These students also constructed the database, analyzed the data, and wrote the report.

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Introduction

How well does the Open Records Law work in the cities and towns of Rhode Island? What happens when citizens walk into town halls, school departments, and police stations to request information, especially documents to which they are clearly entitled under the law? Are the minutes of public bodies routinely available in the form and manner required by the Open Meetings Law?

Nobody really knows. There are many anecdotes, but little or no overall data. The Open Records Law is not enforced through an inspectorate, and no state agency conducts audits or surveys of compliance. Instead, both the Open Records Law and the Open Meetings Law rely on complaints filed with the Attorney General or direct actions in Superior Court for enforcement. The Attorney General has the authority to bring enforcement actions for violations of either law.

Many of the complaints carried forward stem from labor unions and employment grievances. An example is the Attorney General's complaint against the Tiogue Fire District for charging 50 cents per page for photocopies (Audrey Cohen, "Tiogue Fire District Opens Annual Meeting" Providence Journal-Bulletin, September 9, 1997, p. C1). Similarly, a union grievance on behalf of a teacher resulted in a Superior Court decision concerning the requirements for recording votes on school committee minutes (*Miner v. Warwick School Committee*; C.A. No.: KC 94-1054).

But these cases say little, if anything, about the experience of everyday citizens seeking information of various sorts. This is not to suggest that union-related disputes are unimportant, just that what happens in those cases might be quite different from what happens to citizens with a general interest in monitoring local government. Few citizens have the time, money or inclination to file complaints or pursue litigation over restricted access to public information. Therefore, the absence of complaints with the Attorney General or in Superior Court does not necessarily demonstrate anything about the experience of common Rhode Islander's seeking information from municipal government.

This study was designed to provide the first systematic data on implementation of the Open Records Law in Rhode Island's cities and towns. The study provides useful comparisons across departments and jurisdictions. All of the documents included in this study are regulated by the Open Records Law and several are also covered by the Open Meetings Law. Accordingly, this study examines compliance under both laws.

The limitations of this study are discussed after an explanation of how the study was designed and conducted. The results are presented in four separate sections: statewide, by department (city/town clerk, school department, police), analysis of minutes (a detailed examination of city/town council and school committee minutes), and city and town results (an overall summary of all 39 municipalities). The report ends with recommendations and conclusions.

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A. Legal Background on Freedom of Information in Rhode Island

1. The Open Records Law

What is commonly known as the Open Records Law in Rhode Island was originally enacted as the Access to Public Records Act of 1979. Rhode Island was the 49th state to enact such a law. The stated purpose of the law is to:

‘facilitate public access to governmental records which pertain to the policy making functions of public bodies and/or are relevant to the public health, safety, and welfare’ (R.I.G.L. § 38-2-1).

The restriction to matters “which pertain to policy making functions” renders this law narrower in scope than similar laws in other states. Moreover, the next sentence in the statute tempers this goal with the secondary purpose of “protect[ing] from disclosure information about particular individuals maintained in files of public bodies when disclosure would constitute an unwarranted invasion of privacy.” Notwithstanding these possibly contradictory purposes, the Open Records Law provides unequivocal access to a wide range of information.

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

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While the law has broad application, it also has twenty-one exemptions. The first exemption pertains to “records identifiable to an individual” R.I.G.L. § 38-2-2(4)(A)(I). In *Providence Journal Co. v. Kane*, 577 A.2d 661 (R.I. 1990), the Rhode Island Supreme Court held that all personnel records identifiable to an individual employee are exempt from disclosure. (The law was amended in 1991 to address this loophole in part.) Some of the other exemptions in the statute pertain to trade secrets, juveniles, charitable contributions, negotiation strategy, memoranda and working papers, test questions, medical records, tax returns, and library records. (See generally R.I.G.L. § 38-2-2)

There are exemptions for police records, but they do not include the items requested in this study. The statute requires that “records relating to management and direction of a law enforcement agency and records reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public.”¹ Only some police records are exempt from disclosure and then only under certain specified conditions (i.e., law

enforcement records relating to the investigation of a crime that could reasonably be expected to interfere with the investigation if disclosed). However, the statute makes it clear that records relating to management and direction of a law enforcement agency and records reflecting the initial arrest of an adult and the charge or charges brought against an adult should be made public. R.I.G.L. §38-2-2 (4) (i) (D)

The law places no limitation on who may request public records. Public documents must be available for inspection or copying regardless of form or characteristics pursuant to R.I.G.L. § 38-2-3(a). The law contains some specific provisions about fees, however. If a search is required to locate the documents, a maximum charge of \$15.00 per hour may be assessed, but each person requesting documents is entitled to the first thirty minutes of research at no cost. For photocopies made on common business or legal size paper, the maximum fee is set at 15 cents per page. R.I.G.L. § 38-2-4. There are no specific provisions pertaining to the charges for information in electronic form or in other media such as microfiche.

The Open Records Law has no general provisions outlining the process for requesting public records. Each public body is left to establish its own access procedures. R.I.G.L. § 38-2-3. Records must be made available 'at such reasonable time as may be determined by the custodian thereof.' R.I.G.L. § 38-2-3(a). The custodian is required to inform the requester whether the records are in active use or in storage and to set up an appointment with the requester 'to examine such records as expeditiously as may be made available.' R.I.G.L. § 38-2-3(d). The agency must deny requests in writing, citing the specific reasons for denial and indicating the procedures for appeal, within ten business days of the request. This limit may be extended to thirty business days if good cause is shown. Failure to respond in writing is deemed a denial. R.I.G.L. § 38-2-7.

2. The Open Meetings Law

The minutes of public bodies are one of the most important documents available for monitoring various aspects of local government. This study includes an examination of the minutes from school committees and city and town councils. Requests to examine such documents are governed in part by the Open Records Law. The generic provisions, such as the statutory limit on photocopying charges, apply to these records. The Open Meetings Law, however, contains specific provisions concerning the content and availability of the minutes of public bodies. Accordingly, some aspects of this study involve compliance with the records-related provisions of the Open Meetings Law.

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Originally enacted in 1976, the Open Meetings Law begins with a more unequivocal statement of purpose than the Open Records Law (enacted three years later). The opening section of the Open Meetings Law states that:

It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. R.I.G.L. § 42-46-1.

The basic provisions of the law require that meetings be posted in advance and, with certain exceptions, be open to the public. The exceptions involve specific provisions for closed meetings, commonly known as executive sessions. Those provisions require that the reason for holding a closed meeting and the votes of each member on that decision “shall be recorded and entered into the minutes of the meeting.” R.I.G.L. § 42-46-. There is also a separate section on “Minutes” in the Open Meetings Law (subsection 7). The first subsection of that paragraph requires:

All public bodies shall keep written minutes of their meetings. These minutes shall include, but need not be limited to:

- (1) The date, time, and place of the meeting;
- (2) The members of the public body recorded as either present or absent;
- (3) A record of individual members of any vote taken; and
- (4) Any other information relevant to the business of the public body that any member of the public body requests be included or reflected in the minutes.

The next subsection provides specifically for public inspection of the record of votes “listing how each member voted on each issue.” R.I.G.L. §42-46-7. This section provides that ‘unofficial minutes’ must be made available to the public by the date of the next regularly scheduled meeting or within 35 days, whichever comes first. The minutes of both the city/town councils and the school committees are analyzed for legal compliance and overall quality in the Analysis section, pp. 24-30.

B. Study Design

We could not find any models for this study, as there appears never to have been a systematic statewide analysis of the implementation of open records laws at the local level. We contacted Freedom of Information centers at universities across the country and none had conducted any similar studies. The only similar study we found was conducted in Arizona in 1995. The five-month investigation, assisted by twelve newspapers around the state, produced a lively and interesting four-page newspaper report. (See, “Focus on Public Records: Project tests officials’ compliance with law,” Arizona Associated Press Managing Editors, 1995.) The study found that “reaction to requests varied from suspicion and stalling to friendliness and coop-

eration.” (Id.) This is an example of the kind of anecdote reported in the study:

“Casa Grande, request for city manager’s expense-account information: Finance director demanded a written request; twice told the reporter the effort was wasting taxpayers’ money; offered to provide a list of types of records from which reporter was to choose which he wanted to see.” (Id. at 3)

The Arizona study presented 14 of these anecdotes, along with other reporting; but there was no systematic data, and therefore no ability to estimate the size or nature of any problems. Nor does this study allow for comparisons across jurisdictions or departments of government. We sought to remedy those shortcomings in this study. As far as we know, this is the first comprehensive statewide analysis of the municipal implementation of open records legislation anywhere in the country. The study was designed around the simple idea of measuring (and comparing) how requests for public documents are handled across the state. That idea is much more manageable in a state the size of Rhode Island, although even here the combination of 39 cities and towns, three separate departments, and 30-plus pages of forms resulted in a massive amount of field work and analysis. The study design evolved into something much more elaborate as we sought to capture more dimensions of the concept of accessibility, and compliance with certain requirements for minutes that are specified by the Open Meetings Law.

“ Obviously, the most important concept for open records is availability — are the documents made available when requested? ”

1. What are Open Records?

The primary challenge in designing this study was to conceptualize the notion of open records. In other words, what makes one town’s records more open than another? How do you measure openness? We identified two primary criteria for evaluating the openness of public records, and an additional criterion having to do with the usefulness of the documents received. Obviously, the most important concept for open records is availability --are the documents made available when requested?

Availability can also be thought to include the basic elements required to be included in various documents. The minutes of public bodies, for example, are required by the Open Meetings Law to contain several specific items. If the document is made available to the public, but the required information is missing, then the availability of information as anticipated by the law is not being achieved. Similarly, arrest reports must contain certain basic information: the name of the person arrested, the charge, the nature of the complaint, the place of the arrest, the name of the arresting officer. (Attorney General’s Advisory Regarding Access to Initial

Arrest Reports, PR Opinion No. 94-14 [August 17, 1994]). Departments that “provide” these documents in redacted form are not in full compliance with the law. (Redacted complaints were accepted in connection with police brutality complaints, since the Rhode Island Supreme Court has made it clear in *The Rake* case that these documents are subject to disclosure in that form.) (*The Rake vs. Gordodetsky*, 425 A. 2d 1144 (1982))

Even when documents are available, there are significant related issues involving their accessibility. The American Library Association codified this idea in its Library Bill of Rights, adopted by the ALA Council over 50 years ago. The right to use the library “should not be denied or abridged because of origin, age, background, or views” (Article V, ALA Library Bill of Rights). A related operating principle of professional librarians is that libraries “should be readily, equally and equitably accessible to all” (*Economic Barriers to Information Access, An Interpretation of the Library Bill of Rights*; ALA Council). Applying these principles to public records in general, there are two clear implications. First, it is vital that agencies not charge in excess of the statutory fees for research and photocopying. The law allows for a half-hour of free research and fairly reasonable photocopying charges of \$0.15 per page. Departments or jurisdictions charging in excess of those limits are potentially and unacceptably limiting access to information. Second, it matters how readily documents are available not only in terms of cost, but in terms of time. If it takes several trips to obtain a document or if the office charges more than the statutory limit, then even though the document is available, it is not very accessible.

“ Citizens have any number of reasons for wanting public documents; some are political, some are personal, and all should be private. ”

There are two additional dimensions to accessibility, both involving how one is treated upon requesting documents. Independent of whether one must make multiple visits or pay more than a statutory limit for photocopying is the question of how courteous and helpful the clerks are in responding to requests. A particularly discourteous clerk might produce the document but, in the process, make it less likely that the citizen will ever inquire again. A related issue concerns the respect for the citizen making the inquiry. Again, the professional ethics of librarians are instructive. This profession specifically protects “each library user’s right to privacy and confidentiality with respect to information sought or received” (Article III, ALA Code of Ethics). A similar ethic should prevail when citizens request information from government. Citizens have any number of reasons for wanting public documents; some are political, some are personal, and all should be private. The law does not condition the availability of documents on who is asking for them or why they are asking. It stands to reason that asking for identification or for a reason for the request could hinder access to public information by intimidation.

Several Rhode Islanders complained at ACCESS/RI forums in 1997 that access to public documents depended on who was asking. At the forum in South Kingstown, for example, several citizens complained that

inquiries for public documents resulted in questions such as “why do you want them?” (Jon Graney, “Resident’s Decry Secrecy in State’s Governing Bodies,” *Providence Journal-Bulletin*, January 30, 1997, p. C-1). The response to requests “should not depend on whether you are a town councilor,” someone else said (*Id.*). Accordingly, we recorded for each item requested whether the researcher was asked either for identification or for a reason for the request.

A final consideration, only tangentially related to requirements of the Open Records Law, is whether the documents are usable. Of course, at the extreme, an unreadable document is not accessible in any meaningful way. What difference does it make if cities and towns are freely providing access to information if the information is difficult or impossible to understand? At the ACCESS/RI forum in Cranston, for example, a citizen complained that city council agendas are “vague and difficult to understand” (Richard Salit, “R.I.’s Public-Information Highway has Potholes,” *Providence Journal-Bulletin*, February 5, 1997, p. C-1). Multiple sets of minutes of two different local bodies were analyzed across the state for compliance with the Open Meetings Law and for overall quality (as measured by three factors elaborated in the analysis of Minutes section).

2. Research Protocols

Turning the conceptual arguments above into a research protocol posed several challenges. At first blush, the easiest concept to operationalize is availability. Availability can be measured simply by recording whether the document requested was actually made available. In order for this simple approach to work, however, we had to make sure that the items we requested were covered by the Open Records Law. We consulted several attorneys and journalists for advice at this stage of the research design, and we are confident that every record we requested is subject to disclosure under the law. Another complicating factor concerns the lengths to which we would go before considering a request denied. It would be unfair to the cities and towns to give up too quickly, counting as a denial responses such as “the copy machine is broken” or “the person you have to see isn’t here now.” On the other hand, our goal was not to get the document at all costs. Rather, we wanted to be persistent and polite, within reason. Accordingly, we agreed to follow-up on any initial referrals or requirements for a written request. As a general rule, we decided that three unsuccessful attempts would be considered a denial; in some cases, explained in the body of the report, this judgment was made after one or two requests were not fulfilled.

In selecting the items to request, we felt it was important that the

ACCESS/RI, a non-profit organization, was formed in 1996 “to strive to end government secrecy that may advance special interests, promote personal advantage, conceal official mistakes, [or] avoid embarrassment in high places.” The organization includes librarians, journalists, professors, civil libertarians, and public advocacy groups such as Common Cause, Operation Clean Government, and the League of Women Voters. Public education is a primary role of the organization.

ACCESS/RI held a series of five forums at public libraries across the state in early 1997. The purpose was to hear from citizens about their experiences with trying to obtain government information and to receive suggestions about areas in need of study and/or reform. A citizen at the forum at the Rochambeau Public Library suggested that the cities and towns “be rated for their openness, and that the ratings be posted on the Web.” That suggestion was actually the spark that led to this study.

ACCESS/RI drafted model legislation for improving the Open Meetings Law and the Open Records Laws in Rhode Island. A bill encompassing many of the proposed reform passed the Senate last year. The bill did not get out of the Judiciary Committee in the House.

“ In selecting the items to request, we felt it was important that the research be as relevant as possible to the experience of common citizens. ”

research be as relevant as possible to the experience of common citizens. Therefore, we tried to identify records that seemed to be of particular public interest or those that potentially contained a wealth of information. It was not our intention to seek obscure records or those that would prove difficult to produce, such as the expense accounts of the city manager (an item requested in the Arizona study, mentioned above). Rather, it was our intention, consistent with the stated purpose of the law, to request documents that might give the citizens insight into the operation and current affairs of their city or town.

We also wanted to ask for items across a range of departments in the cities and towns. The most obvious department to be included was the city/town clerk. It also seemed fitting to examine those whose charge it is to educate our children and whose duty it is “to protect and to serve.” All three of these departments were mentioned in various ways at the ACCESS/RI forums in 1997.

Once the departments were selected, we identified the specific items to request. From the city/town clerks, our survey was initially designed to include requests for city council agendas and minutes, the city budget, a list of tax delinquent properties, and the list of registered voters in electronic form. We specifically requested copies of the minutes and agendas of the three most recent city council meetings in order to analyze the quality of the minutes and to test for any potential overcharges. It was also our intention to analyze the relationship between posted agendas and subsequent minutes of the same meetings. Three different sets of minutes and agendas were requested so we could evaluate several issues, including compliance with the Open Meetings Law. Since citizens are often concerned about public expenditures, the municipal budget also seemed a relevant and appropriate choice.

Further, the list of tax-delinquent properties was requested to evaluate the availability of potentially sensitive public information. In order to test the accessibility of public records in electronic format, we requested the list of registered voters to be supplied on disk (provided by the researcher). Due to some difficulties with the data collection, the list of tax delinquent properties and voter records were not included as items used to evaluate compliance. (For a discussion of these two items, see pp. 18-20). Only the requests for the city council meeting agenda, meeting minutes, and the municipal budget were used to evaluate compliance.

As many similarities exist between public records held by city governments and school departments, it seemed appropriate, for the sake of parallelism, to request some of the same type of documents from school departments. Therefore, copies of the agendas and minutes were requested for the three most recently available school committee meetings. We also asked to view the budget for the school district. Beyond those items, we asked to view the most recent contract settlement between the district

and the teachers union. While documents leading up to a contract settlement are specifically exempt from disclosure, the contract itself is precisely the kind of document the Open Records Law is designed to make public. Similarly, we asked to view the school committee's policy manual. This document should provide useful information about the administration of local schools. (R.I.G.L. § 16-2-32) For school departments, the requests for meeting agendas, meeting minutes, district budgets, contract settlements, and policy manuals were all used to evaluate compliance.

In choosing items to request from the police, we took special care to insure that our requests were covered by the Open Records Law. Accordingly, we asked for items that are regularly provided to journalists (access to the local log), clearly available under the statute and under a letter from the Attorney General (arrest records of cases not under investigation), and clearly available under Rhode Island case law (redacted police brutality reports). (Although the initial arrest reports are public under the statute, regardless of whether or not they are under investigation, we requested arrest reports not under investigation so there would not fall under one of the exemptions.) The final item seemed particularly relevant since it could give the public insight into any potential abuses of police power. There is a Rhode Island Supreme Court decision that rules specifically that these documents are subject to disclosure (in redacted form) under the Open Records Law. (*The Rake v. Gorodetsky*, 425 A. 2d 1144 (1982)). Ultimately, this item was not included in the overall measure of compliance for reasons outlined at pp. 21-22.

In addition to recording whether the document was made available, we also tried to capture the dimensions of accessibility mentioned above. Accordingly, the research protocol called for researchers to evaluate their interactions with the clerks or officers. This ranking was to be given independently of whether the request was fulfilled and was aimed at rating the overall experience in a more qualitative but, at least, ordinal manner. We also recorded whether clerks or officers asked researchers for identification and/or for a reason for their request. These simple dichotomous variables were used to measure the professional respect shown by the clerks and officers toward the researchers. By not requesting researchers to justify their requests, clerks and officers would exhibit the same type of unconditional servicing of a patron's needs that is expected of good librarians. Along with these variables, the research protocol also asked how many visits were made to various departments in connection with the request. This variable captures the "runaround" problem. This measure, along with the tests for overcharging mentioned above, was specifically aimed at identifying any adverse "transaction costs" associated with obtaining public records.

The method for analyzing the usability of documents was employed only in connection with budgets and minutes from the school department and city or town hall. The results of that analysis, and a general descrip-

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tion of how it was conducted, is contained in the section on departmental results.

C. Data Collection

Students went into the field in pairs, and the fieldwork was conducted between October and December of 1997. The use of pairs was to insure that the impressions of each city or town were based on the interactions of more than one researcher. The study was also designed so that each city or town would be visited more than once. This insured that the results would never turn entirely on the interactions with a single clerk on a single day.

Planning for two visits also made it easier to return for documents not provided on the first trip. A set of forms was developed to insure that the requests were uniform and that the impressionistic results were recorded immediately after the visit and in the same manner. A sample of one form is included in Appendix A.

After the first trips into the field, it became apparent that we needed to develop a simple and uniform protocol in response to persistent requests for identification and/or a reason for the documents requested. We decided that the simple answer to “who are you?” would always be “a concerned citizen.” If pressed, the researcher was then to say they were “doing research” but not to reveal anything about the nature of the research. A few clerks asked point blank whether the request was part of a study of the Open Records Law. This is probably because the researchers were generally of such obvious student age. The protocol called for a vague answer such as “I can’t discuss the nature of the research” (with an offer to supply the results of the report later).

The fieldwork produced over 30 pages of forms for each of the 39 cities and towns. Additionally, sets of agendas, budgets, and minutes were assembled and analyzed both for the cities and towns and for the school departments. The analysis eventually focussed on the minutes for city/town councils and schools committees. First person accounts were also written for every city and town. The researchers were asked to write first-person accounts of one or more noteworthy features of their experiences in each municipality. These accounts, referred to as “narratives” throughout this report, are presented under quotations marks on the City & Town pages (31-69).

An electronic file was constructed to capture all of the data on availability, accessibility, and other aspects of compliance, as well as to fully document the fieldwork itself (by recording, for example, the time, date, name of the researcher, and information about the clerk). This project ultimately encompassed over 11,000 pieces of electronic information. Those data are presented statewide, by department, and by city and town in the sections that follow.

D. Limitations of the Study

How accurate and generalizable are the results from this study? Both questions are relevant in placing this study in context. We have a very high degree of confidence in the accuracy of the reported results. Special care was taken to insure that a single unsuccessful request was not considered a denial, unless the clerk clearly stated it as such. In the instances where lack of success was not explicitly stated as a denial, there was always at least one follow-up visit. Most of those resulted in obtaining the document. The overall results are internally consistent; that is, there are no strange outliers or unexplained results. Rather, the data present clear patterns by department and by item.

How generalizable are the results of this study? Our experiences in the field may not reflect the experiences of an ordinary citizen. Our study was limited by time and resources to two visits to each division of local government. If more visits were made, it is possible that additional observations would change the results, especially the demeanor rating. There are three reasons why the use of students as researchers may have also affected the results. First, students are “outsiders” to the community and known residents may have an easier time obtaining access in their respective towns. Municipal clerks should not be discriminating when deciding who should or should not gain access to documents. The law gives equal access to all people. Second, age, sex, or race may have affected the results due to possible effects of varying forms of discrimination. Some comments from the field notes suggested a certain amount of condescension by some clerks towards “students.” Finally, several researchers were told that they could obtain the document if they were a member of the press. This suggests a canny strategy by some offices to assist the group that has both the strongest reason and the most resources to fight restrictive policies, while denying similar access to the public at large.

There are many other public documents which may be more difficult to obtain than the ones included in this study. The items requested in this study are generally thought to be some of the least controversial public documents. There are many other public records of interest to the public that contain more sensitive information and are therefore likely to be more restricted by cities and towns. Generally, the more controversial the request, the higher incentive to keep the document restricted. For example, the Arizona Press study requested documents such as the expense records of public officials.

There are strong reasons to believe the compliance rates reflected in the study are higher than those experienced by the general public. After examination of the laws, we are certain that our requests were covered under the Open Records Law. We knew exactly what to ask for and where to request the information. The researchers were willing to make multiple

“ There are strong reasons to believe the compliance rates reflected in the study are higher than those experienced by the general public... We knew exactly what to ask for and where to request the information. ”

visits and follow-up on referrals, even though this required up to four visits in some cases. Despite some towns that charged over the statutory limit for photocopies, we were still willing to pay for the requests. Towns may also have responded more favorably to the researchers because they suspected the students were doing research on compliance with open records.

¹The statute further exempts police records if disclosure “(b) would undermine a fair trial, (c) could constitute an unwarranted invasion of privacy, (d) may identify a confidential source, (e) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could endanger the life or physical safety of an individual.” (R.I.G.L. § 38-2-2(d)(4). The statute also exempts from disclosure “all records maintained by law enforcement agencies for criminal law enforcement; and all records relating to the detection and investigation of crimes.” These exemptions do not, however, prevent disclosure of the daily log, arrest reports, or of police brutality reports as specified in *The Rake* case.

Statewide

Statewide, 83.5 percent of the requests for the ten index-items were fulfilled. In other words, 16.5 percent of the requests for these basic documents were denied. The denial rate would be considerably higher if it included the other three items requested in the field research (the list of tax-delinquent properties, the list of registered voters, and police brutality reports). The unadjusted compliance rates are presented in Appendix B. Since the ten index-items do not include any documents even arguably exempt from the Open Records Law, this level of non-compliance (16.5 percent) is worse than inadequate. It is unacceptable.

Access to public documents is part of a citizen's right to know. The U.S. Supreme Court has recognized that the public's right to know and have access to information are an essential part of the First Amendment. When recognized as a matter of right, compliance levels under 100 percent are worse than disappointing. Imagine what conclusions would be appropriate for a jurisdiction in which, say, 16.5 percent of eligible voters who came to the polls were denied the ability to vote, or 16.5 percent of citizens wishing to petition their government with grievances were denied the ability to do so. Of course, rejecting 16.5 percent is better than rejecting 26.5 percent, but freedom of information must be provided universally in order to protect the public's right to know.

The patterns of compliance vary significantly by city and town; they vary even more dramatically across departments, with the police standing in stark contrast to the school departments and the city/town clerks. The overall compliance rates in the cities and towns ranged from 60 to 100 percent. Ten jurisdictions fulfilled only 60 or 70 percent of the requests. On the other hand, eight jurisdictions complied with all of the basic requests: Cumberland, East Providence, East Greenwich, Middletown, North Kingstown, New Shoreham, South Kingstown, and West Greenwich. Unfortunately, the police department in one of these jurisdictions (East Providence) charged in excess of the statutory limit for photocopying. Three other jurisdictions (Cumberland, East Providence and North Kingstown) drop to well below 90 percent when the three other requested items are considered (See Appendix B).

On a statewide basis, there were also significant differences in the accessibility of the documents sought. In the course of this study, the researchers faced several difficulties with the implementation of the Open Records Act and the Open Meetings Law that can be construed as impediments to a citizen's right to obtain information. These difficulties include charging in excess of the statutory limit and refusing to release "unapproved minutes" that were more than 35 days old.

The Open Records Law sets the maximum photocopying cost at 15 cents per page. Unfortunately, four municipalities (East Providence, North

Providence, Tiverton, and Woonsocket) charged in excess of this amount. While recognizing the need for public offices to be reimbursed for copying costs, the law sets the maximum fee to ensure that citizens can obtain copies of public records without incurring an unnecessary financial burden. All four jurisdictions are in violation. Two other municipalities were in violation of the requirements of the Open Meetings Law concerning the timely availability of minutes. Clerks in Tiverton and Warren would not provide copies of “unapproved” minutes even though there had been a subsequent meeting of the body, making release mandatory under the law.

Multiple visits to certain departments were necessary in order to obtain the documents requested in some towns. On numerous occasions, the researcher was given a referral that required a follow-up visit, or they were asked to return at a time that was more convenient for the clerk. Multiple visits were most necessary for requests made to police departments, especially when researchers were referred to other officers, often the chief, who tended to be out of the building at the time. Other times, multiple visits were required due to equipment problems. When requests were made toward the end of the business day, some clerks, such as at the Johnston School Department, asked researchers to return the following day.

Overall, 21 cities and towns required multiple visits in connection with at least one of the ten index-items used to measure compliance. In almost all of these cases, the document was obtained on the second (and occa-

City & Town Summary

	Compliance rate	Overcharge	Excessive Delay		Compliance rate	Overcharge	Excessive Delay
Barrington	90			Newport	90		
Bristol	80			New Shoreham	100		
Burrillville	80			North Kingstown	100		
Central Falls	90			North Providence	70	Y	
Charlestown	70			North Smithfield	80		
Coventry	90			Pawtucket	60		
Cranston	80			Portsmouth	70		
Cumberland	100			Providence	90		
East Greenwich	100			Richmond	60		
East Providence	100	Y		Scituate	80		
Exeter	80			Smithfield	80		
Foster	80			South Kingstown	100		
Glocester	90			Tiverton	80	Y	Y
Hopkinton	60			Warren	90		Y
Jamestown	90			Warwick	90		
Johnston	70			Westerly	80		
Lincoln	90			West Greenwich	100		
Little Compton	70			West Warwick	80		
Middletown	100			Woonsocket	70	Y	
Narragansett	90						

extended to thirty business days if good cause is shown. (R.I.G.L. § 38-2-7(6)). Almost all of the documents that we received by mail came more than ten business days after the initial request; some came more than 30 days later, and none were accompanied by any statement indicating an extension or reason for the delay in responding.

Two of the written requests we left were never answered. Both were left with police departments (Johnston and Warren). While the Open Records Law allows city and town departments to ask for a written request, procedures requiring the public to fill out paperwork may serve as structural impediments to a more seamless implementation of the law.

The demeanor of the clerks and officers encountered in this study varied significantly among the cities and towns. The public employees in the study were generally rated between 'somewhat courteous' and 'very courteous.' This suggests that, in most cases, these employees are making a real effort to serve citizens who request public records. The clearest examples were the two towns ranked as 'very courteous' for each of the items requested: Central Falls and Tiverton. While most of the cities and towns do well in this category, Pawtucket is apparently most in need of improvement; the city was the only one to receive an overall ranking of less than courteous.

Despite the courteous demeanor of most municipal employees, the researchers were asked to give a reason for their request 57 percent of the time, and they were asked to identify themselves 44 percent of the time. The law does not prohibit these practices, but both have the potential to be intimidating and neither is consistent with a philosophy of open government. While one's identity is arguably discoverable, since a municipality is permitted to require the request in writing, there is no authority in the law for asking the reason for the request. It should be noted, however, that sometimes the request for a reason came at the very end of the transaction or otherwise in such an innocuous or even friendly manner that the researcher did not consider the question at all offensive. The law also does not authorize a practice apparently adopted in several police departments one that the researchers definitely considered offensive: requiring one to relinquish their driver's license in order to submit a request.

Six jurisdictions are notable for their relative lack of inquisitiveness, posing questions about the reason for the request 20 percent of the time or less: Exeter, Scituate, North Kingstown, Coventry, West Greenwich, and

Smithfield. At the other end of the scale, seven jurisdictions were highly inquisitive, asking at least 80 percent of the time for a reason for the request: Tiverton, New Shoreham, Cranston, Bristol, Newport, and Cumberland. The statewide results are reproduced on the individual city and town pages with a clear indication of how the individual municipality fits into the state results.

Although the tendency to ask questions of those requesting public documents is widespread, the phenomenon varies by jurisdiction and often bears little relationship to whether the documents were actually provided. In other words, some jurisdictions asked very few questions, but they denied many requests for documents. A striking example of this phenomenon is Charlestown (no reason asked, but 30 percent of requests denied). Other jurisdictions were overwhelmingly inquisitive, but also quite compliant with requests for documents. Cumberland, for example fits this description, providing all ten index-items, but asking for the reason almost every time.

To capture the relationship between these variables, we constructed a scatter plot indicating how each jurisdiction rated on both scales (see p. 15). The “no reason asked” axis might also be thought of as the professional deference scale. The higher up the scale, the more professional deference between the clerk and the person requesting the information. The farther to the right on the scale, the greater the legal compliance with requests for documents. The upper right-hand corner, then, is the ideal: document requests are fulfilled and inquiries about the purpose of the request are avoided. North Kingstown comes closest of any jurisdiction in the state to meeting this ideal. On the other hand, the lower left-hand corner is the worst state of affairs: documents requests are fulfilled about half the time, and requests are almost always met with inquiries about the reason. Based on the ten index-items, Hopkinton, Richmond, and Pawtucket are all in this region.

This scatter plot is reproduced on the individual city and town pages, with the individual city or town highlighted; the same kind of figure is included on the departmental pages to demonstrate the differences between city/town clerks, school departments, and the police on the same two variables.

Tax-Delinquent Properties

One of the inquiries in the field research was for a list of tax-delinquent properties. There is no exemption in the Open Records Act that would exempt these records from public disclosure. Indeed, this information is published in local newspapers on an annual basis. This item was included in the study, however, because it was anticipated that there might still be resistance to revealing such information on request.

As it turned out, only about 25 percent of the municipalities provided access to this information. Ten of the cities and towns allowed researchers to examine a list of tax delinquent lots, although in some number of those cases, the list made available was not the most current list. In one such case, however, the clerk went through the list and told the researcher which properties were still tax delinquent. The research protocol did not anticipate the wide variation when cities and towns prepare their tax lists. Accordingly, compliance rates by town were influenced by the specific dates of the fieldwork. Some of those in compliance simply happened to have had their tax sale list prepared recently and the protocol did not sufficiently emphasize the significance of getting current-day information.

City and Town Clerks

In terms of overall compliance and accessibility, the requests posed to city and town clerks met with the greatest success. For the three relevant items included in the ten-item compliance index, there was perfect compliance in the cities and towns. In other words, the agendas and minutes of city/town council meetings, and the city/town budget were available in every jurisdiction. All three items requested of the city and town clerks were made available in all 39 jurisdictions.

Two other document requests in the field research were directed at a city or town clerk. However, the results from those requests for voter records and for a list of tax-delinquent properties were removed from the calculation of overall compliance. The reasons for removing those items are explained below, along with a discussion of what we learned from the other two requests.

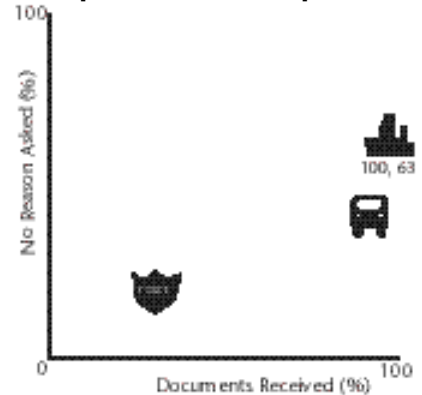
Across the state, the city and town clerks were more courteous and less inquisitive than either the school department employees or the police. The city and town hall clerks in 27 municipalities received a rating of “very courteous” for each of the three primary items requested. In contrast, 17 school departments and three police departments received this rating. The city clerks in only two jurisdictions, Bristol and Pawtucket, had an average rating of less than “somewhat courteous.”

The city and town clerks also tended to maintain an appropriate sense of professionalism. In other words, they maintained their professional distance and were much less likely than those in other departments to make inquiries of the person requesting information. In 27 of the 39 municipalities the researchers were never asked to identify themselves by a city or town clerk. Fourteen school departments and only three police departments acted in the same manner. Finally, the city clerks in 17 municipalities never asked the researchers to provide a reason for their request. The same can be said of only seven school departments and one police department, Warwick.

The municipal budgets were another bright point in our survey. Each of the 39 cities and towns fulfilled this request, and 27 were rated as “very courteous” with respect to this item. (Only one town, Pawtucket, received a mark of “somewhat discourteous”.) No city or town required any sort of paperwork before fulfilling this request. We also analyzed the budgets for general usefulness. The researchers were able to view, and sometimes receive at no charge, many different forms of municipal budgets. For example, East Providence provided a complimentary municipal budget that was thorough, and nicely bound and presented. Others, like North Smithfield and Foster, presented their budgets in a spreadsheet format that delineates the town’s expenditures in moderate detail. While in the field, the researchers were supposed to rate the budgets as being either very spe-

cific (itemized by individual costs), somewhat specific (itemized by specific department), or not specific (itemized by general department). The municipal budgets were generally given the highest rating. In short, it appears that the most cities and towns of Rhode Island do an excellent job of providing access to useful, detailed information about how public monies are spent.

Comparison of Departments



(continuation of Tax-Delinquent Requests)

In West Warwick, the researcher’s initial request was not clear to the clerk, but the clerk was very helpful and asked other employees in the office until a list was discovered. A copy was made of the list of tax delinquent lots in West Warwick and was provided at no charge. The Little Compton tax assessor’s office presented the researchers with a large document, including many tax reports, including a list of tax delinquent properties, for a cost of only \$4.00.

The reasons for not providing access in the other jurisdictions varied. The clerk in Scituate said “it would take too much work to compile.” That is not a sufficient response under the law since the Open Records Act provides one-half hour of research time without charge. The statute also permits a reasonable research fee for additional time. The clerk in Hopkinton said that the researcher would have to appear before the town council to make a

formal request to view the list of tax delinquencies. That position finds no support in the Open Records Act, and should be considered an unwarranted denial.

The tax assessor in New Shoreham, in response to a written request that was required of the researchers, replied that it was “not the policy of that office to release the list of tax delinquent properties” as it is subject to change up until the day of the sale.” This “policy” is not authorized by the Open Records Act. This practice stands as an example of how some municipal employees sometimes develop policies and procedures that are at odds with the law. Local custom is not allowed to contravene the statutory requirements of the Open Records Act.

The response to this request in some jurisdictions suggested that differences in the calendars and operations of local tax assessors meant that such information would not be readily available in every jurisdiction. In several municipalities, including

Cranston, Warwick, Charlestown, Smithfield, and East Providence, we were informed that a list of tax delinquent properties had not been compiled but that such a list would be made available later in the year. In Tiverton, the tax assessor was in the process of compiling a preliminary list of current tax delinquent properties, and the researcher was invited back in two weeks to examine that document when it was ready.

In Narragansett, the clerk explained to the researcher that specific names and account numbers must be provided before any information regarding tax delinquencies could be released. It is not clear whether this reflects a different method of tracking and collating information on tax delinquencies, or whether this was just another way of saying the clerk didn’t want to spend the time looking through the records. Ambiguous cases like this one explains why it was ultimately decided not to include this item in the compliance index.

Electronic Access to Voter Records

One item requested in this study was intended specifically to test the availability of public documents in electronic form. We requested a complete list of voters in the jurisdiction on disk (which we provided). A long but simple list of this nature would be conducive to electronic access; indeed, a list of this nature would probably be more convenient in electronic form for many of the people who request it. This item is also vital to participation in the democratic process. Grassroots organizations or potential political candidates might not be able to exercise their political voice without easy access to this information.

Unfortunately, it appears in retrospect that the fieldwork was not standardized in this case. The request was not posed with sufficient uniformity to support ordinal statewide rankings or comparisons. Some researchers asked only for the item on disk; others asked for the list, whether or not it was available on disk. Nevertheless, the results are instructive in several ways.

Unexpectedly, a few jurisdictions clearly denied access to these records, no matter what the form. In Charlestown and Richmond, for example, the researchers were told that voter records were “not public information.” In Scituate, the clerk would not provide access to a complete list of voter records but she politely explained that if we supplied a particular name we could be informed as to whether or not that person was registered. These local policies are not

authorized by the Open Records Act, which provides no specific exception for voter records. Obviously, the statewide ranking for these jurisdictions would be lower if this item was included in the quantitative analysis.

In other jurisdictions, the list was not available in electronic form for mundane computer-related reasons: one jurisdiction was waiting for a new computer, another was waiting for a device to compress data, and at another the one person in the office with the necessary knowledge was not in at the time. Some towns simply do not have the computer capability. In West Greenwich, the clerk was very cooperative in allowing the researcher to view a printed list of registered voters; the information is not stored on a computer.

Only two municipalities provided easy access to this information in electronic form. The clerk in North Smithfield was very courteous and complied fully with the request. The list was available at no charge if the researcher provided a disk, or for \$5.00 if the clerk’s office supplied it. Electronic access was similarly smooth in Cranston, but the cost was \$30.00. (The same list is \$60.00 in hard copy.) Jurisdictions with clearly excessive fees included Warren (\$100) and East Providence (“about \$100”), North Providence (\$200) and Providence (approximately \$200). The Open Records Act currently has no provision concerning the cost of electronic records. Given the enormous variation documented in this study, the need for statutory guidelines seems clear.

Police Department

For the items examined in this study, the school departments and city and town clerks came quite close to full compliance with statutory requirements. There is room for improvement, but compliance is the prevailing practice. This is not the case with the police. Compliance is the exception, not the rule. The police complied with only 35 percent of the requests included in the compliance rating. This percentage would be under 25 percent if the request for police brutality reports were included.

This widespread failure to implement the law is not surprising given the political history of the statute. The police opposed the original Open Records Act in 1979. Many departments have resisted implementation ever since. (See generally, Mike Stanton, "Access to Arrest Records Limited," *Providence Journal-Bulletin*, August 5, 1994). After repeated complaints from the American Civil Liberties Union, Attorney General Pine sent a letter to all Rhode Island police departments three years ago reminding them that the minimum they must allow the public to inspect upon request is "records reflecting the initial arrest of an adult, including the name, address and age of the adult arrested, the place of arrest, the name of the arresting officer and the charge brought against the arrestee" (Bruce Landis, "Police Maintain Veil of Secrecy, Despite Open Records," *Providence Journal-Bulletin*, March 30, 1997: A-12).

These findings are also consistent with a survey of access to police records conducted in 1996-97 by Professor Karen Bordeleau, a former managing editor of the *Woonsocket Call* who currently teaches journalism at the University of Rhode Island. Professor Bordeleau assigned students to write stories using police records across the state. Only a few departments complied with the law, "everybody else ran into some difficulty," she said. "I would say that 75 percent of the students had difficulty, and half some serious difficulties." (Landis, 1997).

While the police were unlikely to provide access to the documents requested, they were more than twice as likely than the city clerks or school department clerks to ask for identification or for a reason for the request. Police officers asked the researchers for identification in all but three towns, Warwick, New Shoreham and Jamestown. In contrast, 27 city and town clerks never asked for identification. Only in Newport and Burrillville did the city/town clerk ask for identification all of the time. Twenty-two police departments asked for identification all of the time.

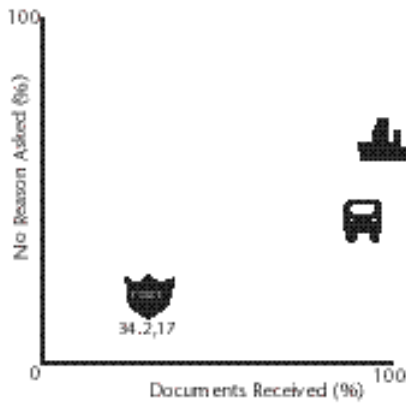
The police were also far less courteous than either the city/town clerks or the school departments. Six police departments received a rating of very discourteous; not a single city/town clerk and only one school department (Pawtucket) was rated so poorly. In some police departments "inquisitiveness" bordered on intimidation and harassment (see, e.g., the narratives for Burrillville, Hopkinton, and Smithfield). Only the Central Falls,

Police Brutality Reports

The third item requested from police departments was the most controversial -- recent police brutality reports — but the request was crafted in order to fit the established case law in Rhode Island. The research protocol specifically indicated that redacted copies of those with names blacked out would be acceptable. The first Rhode Island Supreme Court case to interpret the Access to Public Records Act of 1979 specifically held that these documents are not exempt from disclosure under the act *The Rake v. Gorodetsky*, 425 A. 2d 1144 (1982). A recent Superior Court decision in Providence is even more expansive, holding that "the plaintiff is entitled to all the [police brutality complaints] it sought, without redaction of any names" (*Direct Action for Rights and Equality v. Gannon* [C.A. No. 95-2474], slip opinion at 16). That decision is on appeal, however, and its enforcement has been stayed pending appeal.

It was expected that the request for police brutality reports would be met with resistance. Given *The Rake* decision, however, this seemed an ideal test of whether the law serves its purpose: to insure the right to access to documents that officials might otherwise be inclined to conceal. *(continued)*

Comparison of Departments



New Shoreham and Tiverton police departments received an overall rating of very courteous. In contrast, the city and town clerks received this rating in 27 municipalities.

Despite these trends of a high degree of inquisitiveness and a low degree of legal compliance a handful of departments stand out to the contrary. Seven departments fulfilled both of the requests used to calculate overall compliance: Cumberland, East Providence, Middletown, North Kingstown, New Shoreham, South Kingstown and West Greenwich. At the same time, 27 departments provided us no documents whatsoever. Only Central Falls, New Shoreham and Tiverton’s police departments received an overall rating of very courteous.

(Continued from previous page)

Not a single police department in Rhode Island complied with this request. Five departments responded that there were no complaints on file. It is difficult to know what to make of that response. Until recently, the Westerly Police Department apparently told potential complainants that it “did not accept” such complaints. The Department was eventually instructed to develop such a procedure. In response to the request in this study, the officer in Westerly told the researcher that she “wasn’t supposed to release them.” Making the claim more plausible, however, the five police departments that made this claim are all quite small: Foster, East Greenwich, Little Compton, Jamestown, and Glocester. This item was excluded from the overall compliance rating because cases like these would have to be excluded, destroying

the uniformity of the audit and hence the comparability of the overall ratings.

In the remaining jurisdictions, some researchers encountered considerable runaround that could be interpreted as a denial, others were treated so badly after asking for arrest reports that they never had the opportunity to ask for brutality reports. But at least a dozen department flatly denied the request — in direct contradiction to the holding in *The Rake*. Some departments indicated that the request was denied on policy grounds, that such reports “are not public records” (see e.g. the narratives for Barrington, Burrillville, Cranston, and Narragansett). Since the request was carefully tailored to meet the holding in *The Rake* case, the policy of these departments clearly contradicts Rhode Island law. (See Appendix B.)

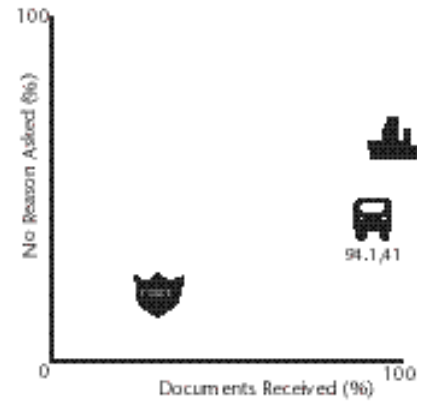
School Department

The school departments performed almost as well as the city and town clerks did in overall compliance with open records requests. The school departments fulfilled 94.1 percent of the requests, whereas the city and town halls fulfilled 100 percent. The best school departments were Bristol/Warren and Coventry. Both of those departments provided all of the documents requested, both received the highest ratings for courteousness, and both had high-quality minutes and budgets. At the other end of the spectrum, Pawtucket and Charliho each refused more than one request and both were the lowest ratings of any school department for courteousness.

Four of the five documents requested from the school departments were widely available, with only a few isolated exceptions. The results from the request for the school contract settlement were worse. Six departments (out of 34) refused the request. Other departments, however, had copies of the contract settlement nicely bound and readily available for the public.

Although the schools departments fulfilled nearly the same percentage of requests for public documents as the city and town clerks did, there were distinct differences in the ease of obtaining documents from the two departments. In short, it was more difficult to obtain information from the school departments. Almost twice as many follow-up visits were necessary for school department requests than were required for the city and town clerks. School departments were also more likely to require written requests for documents. Five schools districts required written requests for items as mundane as the school committee minutes. Cumberland, East Providence, North Providence, and Pawtucket required this additional step. For the three items requested of city and town clerks, not a single jurisdiction required a written request. The clerks at the school departments were not as courteous as the city clerks, but as with the other comparisons above, the school departments did much better than the police departments.

Comparison of Departments



“...it was more difficult to obtain information from the school departments. Almost twice as many follow-up visits were necessary for school department requests than were required visits to the city and town clerks.”

School Committee

Minutes with full legal compliance and highest ratings for quality:

- Barrington
- Coventry
- East Greenwich
- East Providence
- Scituate
- Tiverton
- Warren-Bristol
- Woonsocket

City and Town Councils

Minutes with full legal compliance and highest ratings for quality:

- Gloucester
- Jamestown
- Lincoln
- New Shoreham

Minutes with poor legal compliance and lowest ratings for quality:

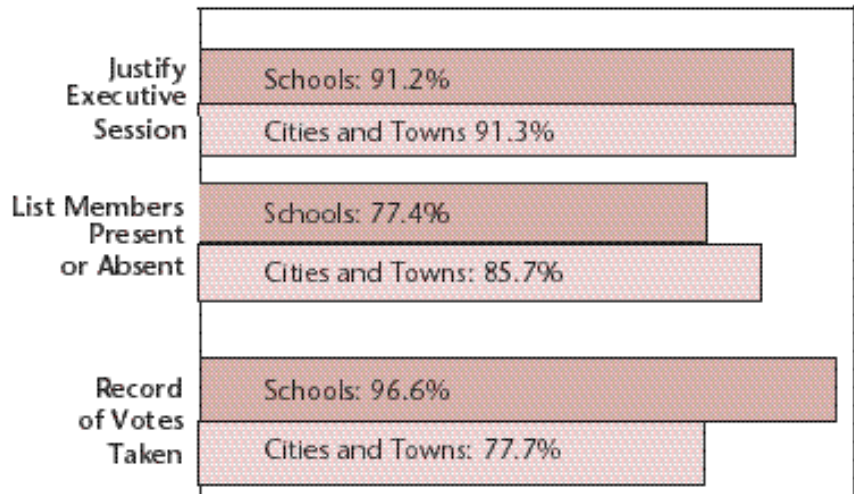
- Warwick

Minutes

The primary statute governing the minutes of public bodies is the Open Meetings Law. The Open Meetings Law dictates that public bodies keep minutes, and that minutes are required to contain certain basic information. The Open Meetings Law also specifies how long after a meeting minutes must be available to the public (whether or not they have been approved). We evaluated multiple sets of minutes from city/town councils and school committees for compliance with the Open Meetings Law.¹ During the analysis it became clear that the quality of minutes varied significantly. Some minutes were easy to read and analyze, others were nearly indecipherable. In addition to evaluating legal compliance, we devised a three-factor method for rating the quality of minutes.

Considering both criteria together, only eight school committees (25.8 percent of the observations) were in full legal compliance and received the highest ratings for quality. These school districts were: Barrington, Coventry, East Greenwich, East Providence, Scituate, Tiverton, Warren-Bristol, and Woonsocket. None of the sets of school committee minutes that we analyzed were at the opposite end of the spectrum with widespread legal non-compliance and consistently poor quality. Overall, the city and town council minutes were not as impressive. Only four received perfect ratings for legal compliance and quality: Gloucester, Jamestown, Lincoln, and New Shoreham. More jurisdictions were clustered in the middle (with occasional legal violations and average quality). Warwick was in the dubious position of being in non-compliance in all sets of city council minutes and having consistently poor quality.

Legal Compliance: Minutes



A. Legal Compliance

The Open Meetings Law includes specific requirements concerning the content of the minutes. We analyzed the minutes for compliance with various provisions in the Open Meetings Law. Ultimately, we settled on the three measures of legal compliance that seemed most significant to citizens interested in monitoring local government. We did not include lesser provisions in this calculation such as compliance with the requirement that minutes contain the “date, time, and place” of the meeting.² In short, both sets of minutes were analyzed for compliance with the following three requirements:

- A list of members present and absent;
- A list of votes taken;
- The reason for executive session.

Overall, the results were good, but far from perfect. Most jurisdictions were in compliance most of the time. Minutes that did not comply with all three provisions were rather evenly divided between city/town council minutes and in the minutes of schools committees. The overall results for the city/town councils and the school departments are presented in the following tables. The results are discussed below in the context of the relevant subsections of the statute:

Key for Minutes Table:

N/A Minutes were inspected, but copies were not obtained for analysis.

n/a Did not go into executive session.

N Did not receive minutes.

Y Received minutes

N (in columns 2 to 4) Did not comply with the law

Y (in columns 2 to 4) Compliance with the law

City/Town Council Minutes

	<i>Did we get them?</i>	<i>Citation of sub section of OML</i>	<i>List of members present and absent</i>	<i>Record of all votes taken by members</i>		<i>Did we get them?</i>	<i>Citation of sub section of OML</i>	<i>List of members present and absent</i>	<i>Record of all votes taken by members</i>
Barrington	Y	Y	Y	Y	Newport	Y	n/a	Y	Y
Bristol	Y	Y	Y	Y	New Shoreham	Y	n/a	Y	Y
Burrillville	Y	Y	Y	Y	North Kingstown	Y	Y	Y	Y
Central Falls	Y	n/a	Y	Y	North Providence	Y	Y	Y	N
Charlestown	Y	n/a	Y	Y	North Smithfield	Y	Y	Y	N
Coventry	NA				Pawtucket	Y	n/a	Y	Y
Cranston	Y	n/a	Y	Y	Portsmouth	Y	Y	Y	Y
Cumberland	Y	Y	Y	Y	Providence	Y	n/a	Y	Y
East Greenwich	Y	N	N	N	Richmond	Y	N	Y	Y
East Providence	Y	Y	Y	Y	Scituate	Y	Y	Y	Y
Exeter	NA				Smithfield	Y	Y	N	N
Foster	Y	Y	Y	N	South Kingstown	Y	Y	Y	N
Glocester	Y	Y	Y	Y	Tiverton	Y	Y	N	Y
Hopkinton	Y	Y	Y	Y	Warren	Y	Y	Y	Y
Jamestown	Y	n/a	Y	Y	Warwick	Y	n/a	N	N
Johnston	Y	n/a	Y	Y	Westerly	NA			
Lincoln	Y	n/a	Y	Y	West Greenwich	Y	Y	Y	Y
Little Compton	Y	Y	Y	Y	West Warwick	Y	Y	Y	Y
Middletown	Y	Y	Y	N	Woonsocket	Y	n/a	N	Y
Narragansett	Y	Y	Y	Y					

1. List of Members Present and Absent

R.I.G.L §42-46-7(a)(2) requires that members of the public body be recorded as either present or absent was included because this is vital information for monitoring the most basic of all representative functions: attendance. As it turned out, measuring compliance was not as straightforward as had been anticipated. In many of the minutes, there was an actual heading for “members present” and “members absent.” These cases were obviously in compliance. Some minutes, however, listed only “members present.” If we could verify that the members present constituted the entire body, then these minutes were counted as in compliance.

Five jurisdictions (14.3 percent of the observations) failed to include this information in at least one set of the city/town council minutes that we examined. Seven jurisdictions (23.6 percent of the observations) omitted this information from at least one of the school committee minutes. Warwick is the only jurisdiction to make the same mistake for both city and school minutes.

Key for Minutes Table:

N/A Minutes were inspected, but copies were not obtained for analysis.

n/a Did not go into executive session.

N Did not receive minutes.

Y Received minutes

N (in columns 2 to 4) Did not comply with the law

Y (in columns 2 to 4) Compliance with the law

? Do not know, minutes not received.

School Committee Minutes

	<i>Did we get them?</i>	<i>Citation of sub section of OML</i>	<i>List of members present and absent</i>	<i>Record of all votes taken by members</i>		<i>Did we get them?</i>	<i>Citation of sub section of OML</i>	<i>List of members present and absent</i>	<i>Record of all votes taken by members</i>
Barrington	Y	Y	Y	Y	Newport	Y	Y	Y	Y
Bristol/Warren	Y	Y	Y	Y	New Shoreham	Y	Y	Y	Y
Burrillville	N/A				North Kingstown	Y	Y	Y	Y
Central Falls	Y	n/a	N	Y	North Providence	Y	Y	Y	Y
Chariho	N	?	?	?	North Smithfield	Y	Y	Y	Y
Coventry	Y	Y	Y	Y	Pawtucket	Y	n/a	N	Y
Cranston	Y	N	Y	Y	Portsmouth	Y	Y	Y	Y
Cumberland	Y	N	Y	Y	Providence	Y	n/a	Y	Y
East Greenwich	Y	n/a	Y	Y	Scituate	Y	Y	Y	Y
East Providence	Y	Y	Y	Y	Smithfield	Y	Y	N	Y
Exeter/					South Kingstown	Y	Y	Y	Y
West Greenwich	Y	Y	Y	Y	Tiverton	Y	n/a	Y	Y
Foster/Glocester	Y	Y	N	Y	Warwick	Y	Y	N	N
Jamestown	Y	Y	N	Y	Westerly	Y	Y	Y	Y
Johnston	Y	Y	Y	Y	West Warwick	Y	n/a	Y	Y
Lincoln	Y	Y	Y	Y	Woonsocket	Y	Y	Y	Y
Little Compton	Y	Y	Y	Y					
Middletown	Y	Y	Y	Y					
Narragansett	Y	n/a	N	Y					

2. List of Votes Taken

R.I.G.L. §42-46-7(a)(3) requires that the minutes reflect “a record by individual members of any vote taken.” Ideally, minutes should specify which members voted aye, nay or abstained on each vote. But unanimous motions are common in many of the public bodies, and depending on how these are recorded it may or may not be clear exactly who favored the motion. Motions indicated as passing unanimously were considered in compliance with this provision only if there was a list of members present and absent.

All of the school committees except Warwick (96.6 percent of the observations) complied with this statute. Eight city/town council minutes (22.2 percent of the observations) were in violation of this provision in at least one of the sets of minutes examined. Three of the cities/towns that were in violation of the provision for votes taken by members, were also in violation of the requirements concerning members present and absent (East Greenwich, Smithfield, and Warwick). Again, Warwick was the only jurisdiction in which both departments were in violation. The problem with the Warwick City Council minutes is that they are in numeric code (see p. 29). Apparently, each member of the city council has been assigned a number. Unfortunately, the minutes provide no indication of who corresponds to what number. Neglecting to actually list each vote taken by member is against the Open Meetings Law. While the Warwick minutes are undoubtedly useful to those who understand the key, they lack the most basic information for anyone without special knowledge. As stated in the introduction, Warwick has had troubles in the past with similar violations.

3. Reasons for Executive Session

One of the most contentious issues surrounding the meetings of public bodies is the use of executive session. Under the Open Meetings Law, public bodies have the authority to enter executive session for seven specific reasons (listed in R.I.G.L. § 42-46-5(a)). While the law requires a statement or reason and a citation to the specific subsection of the statute, we counted minutes in compliance with this section if they contained one or the other. Under this liberal approach, just over 90 percent of the minutes of school committees and an almost identical percentage of the city and town council minutes complied. East Greenwich and Richmond were the only town that did not comply, and Cranston and Cumberland were the only school committees that did not comply. (Not all public bodies went into executive session in the meetings covered by these minutes; if they did not, they were simply left out of this analysis.)

B. Quality

When analyzing the minutes for legal compliance, it became apparent that there was a wide range in quality. Some of these minutes were so poorly organized or sparse they were almost incomprehensible. The absence of legal requirements concerning clarity and layout leaves these decisions up to school committees and city/town councils, so many adopt their own conventions regarding the publication of minutes. We identified three factors that captured the major differences in quality. We rated each set of minutes as good, average, or poor on the following three criteria:

- **Layout**

The ease with which a reader can find information because of clear and organized formatting. The presence or absence of headings, and the use of capitalization are particularly important.

- **Thoroughness**

The level of detail in recording the content of discussions, votes and descriptions of ordinances. Bare bones minutes comply with the law, but those conveying a sense of the arguments and positions taken are far more useful to anyone using the minutes to monitor local government.

- **Readability**

The ability of the minutes to be fully comprehensible to a member of the public. Some minutes are practically written in code. While these codes may be clear to “insiders,” such conventions seem to be almost incomprehensible to anyone else.

Overall, there was greater variation in the quality of the minutes than compared to the trends in legal compliance. While most jurisdictions were in compliance with the statutory requirements, a much smaller group had consistently “high quality” minutes. One-third of the school departments that provided us with minutes received a rating of “good” on all three of the factors that comprise quality. These school departments are: Barrington, Coventry, Cumberland, East Greenwich, East Providence, Foster-Glocester, Scituate,

Tiverton, Warren-Bristol and Woonsocket. Most of the remaining districts had “average” quality minutes, meaning there is room for improvement in these minutes, but they are of reasonable quality. Only two school departments received a “poor” on all three criteria - Middletown and Warwick.

Fewer of the city and town council minutes were consistently “good” in overall quality. Only six of the thirty-six jurisdictions analyzed received a “good” for all three factors in the quality rating. These towns were: Glocester, Jamestown, Lincoln, New Shoreham, North Kingstown and North Providence. Warwick was the only city to receive a rating of “poor” on all three criteria. City and town council minutes tended to be more thorough than school committee minutes. However, the school committee minutes were generally more readable. The specific findings for each of the three factors were as follows:

1. Layout

There were common problems with layout in both school committee minutes and city/town council minutes. This criteria is intended to capture the difference between minutes in which it is easy to find particular votes or agenda items versus those minutes in which it is difficult to find anything easily. Well laid out minutes included extensive formatting so that information was clearly separated by subject headings. Minutes with “good” layout, employed the use of boldface, italics, underlining, indentation, bullets, and numbering to improve the clarity and organization of the minutes. When used well these characteristics make it easy to locate important information such as motions and votes. However, these formatting techniques can also be quite confusing. For example, sometimes the capitalized information was trivial, making it difficult to distinguish headings from content information. (The Johnston Town Council minutes were all capitalized, making them extremely difficult to use.) The Warwick City Council minutes and the Hopkinton Town Council minutes also had layouts that were problematic. There is no clear use of formatting, such as subject headings, which renders the text difficult to read. The

Warwick City Council minutes were the only minutes to have the results of votes hand-written into the text of the official minutes.

Another common problem with formatting was lengthy segments of text without any subject headings such as "new business" or "executive sessions". Some minutes had pages of identical formatting with no subject headings or records of motions; votes were buried and hard to extrapolate without reading the entire text. The lack of subject headings and pages of identical formatting in the Hopkinton minutes made the text difficult to skim. The town/city council minutes in North Smithfield and Woonsocket were also difficult to skim for particular information because section headings were not clear. The North Smithfield Town Council minutes were, however, quite thorough; they received credit for including useful information even though it was not presented in the best format.

A final problem with organization was how attachments were incorporated into the minutes. These appeared to be important documents, but there was no explanation of what the attachments were or how they

fit into the meeting. One set of Cranston City Council minutes totaled 50 pages, but most of these pages were attachments stuck into the body of the minutes in a way that made it hard to differentiate between the minutes and the attachments. The Narragansett Town Council minutes had the same problem.

2. Thoroughness

Some minutes record only the final votes on motions, others provide information on who spoke, and what was said, for and against the matter. The latter provide a sense of the arguments, and who took what positions. Obviously, the more thorough the minutes, the more useful they are for ascertaining exactly what happened at the meeting. Good minutes generally paraphrased the remarks made by each speaker. While not a verbatim transcript of the proceedings, good minutes were often near transcript quality in the information conveyed. Poor minutes were not at all thorough, often including only the final action taken and the titles or numbers of the motions. Poor minutes also did not identify which members of the committee

Sample Minutes: Poor Quality and Poor Legal Compliance

4. PCO-23-97 - RESOLUTION RELATIVE TO A WARWICK TRUANCY BOARD.
(COUNCILMAN AVEDISIAN)

First Passage

FIRST PASSAGE

DESCRIPTION: NONE


A. COMMITTEE REPORT (I.G.) *f9*

B. ACTION *f*

MOVED BY: *1*

SECONDED BY: *6,3*

VOTE: *7/1*



said what in the discussion before the vote was taken. In the Hopkinton minutes while the topic of discussion is generally clear, there is no record of the content of the discussion. The minutes consisted of minimal descriptions of resolutions, or sometimes just the ordinances listed by number and the outcome of the vote. The Warwick minutes had similar problems. These minutes include no information on the discussion leading up to each vote and give minimal descriptions as to the resolution being discussed. Little Compton Town Council minutes and the School Committee minutes in Middletown suffered from a similar lack of detail.

The city/town council minutes were generally more thorough than school committee minutes with over half of the city minutes receiving a rating of “good” compared to only 38 percent of the school committee minutes.

3. Readability

Some sets of minutes were so difficult to read that we added this factor into rating the usability of minutes. Poor minutes were filled with fragmented sentences, poor wording when describing discussions, improper or absent punctuation, and slang terms or codes that are incomprehensible to the general public. Warwick’s use of number and letter abbreviations are readable and understandable to those people familiar with the council proceeding, but these abbreviations are completely incomprehensible to a member of the general public. Overall, the school committee minutes were easier to read than the city/town council minutes. Over half of the school committee minutes received ratings of “good” compared to only 22.2 percent of the council minutes.

¹ Although we were given access to all requested minutes, we were only able to analyze minutes from 36 of the 39 cities and towns. The minutes that we were unable to analyze were minutes that we were only able to view but not copy or the minutes were received after we had done the analysis.

² Although not included as one of the three criteria used in the evaluation for this report, we found three school committee minutes and eight town/city council minutes did not list at least one part of this basic requirement.

FIRST TWO VISITS: OCT. 20
NOV. 21

Barrington

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

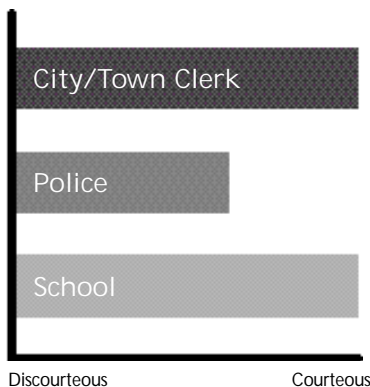
In a recent Superior Court decision, the Barrington School Committee was held in violation of the Open Meetings Law (Pine vs. Barrington School Building Committee, No. 96-5909 April 1997). This decision marked the first time a school committee has been fined for violating this statute, and “the Barrington case” quickly associated this town’s name with the Open Meetings Law. Perhaps as a result, the Barrington School Department complied with all of the requests for documents. It also received the highest possible rating for demeanor. All of the requests made to the Town Clerk were fulfilled, and none required more than one visit.

While the School Department and Town Clerk fulfilled their obligations under the Open Records Law, the Police Department was less compliant. The Police permitted an inspection of the log but refused to provide arrest reports. The officers were defensive in their refusal, and received negative ratings for their demeanor. Town-wide, the researchers were asked the reason for their request and/or identification in over half of the interactions.

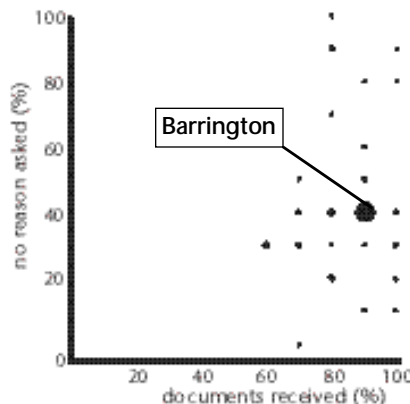
“ When I requested the meeting agendas and minutes from the Town Clerk, the clerk answered all of my questions and was generally courteous. I was directed to a private room where I could view the documents before having them copied. When another clerk disagreed on the charge for copies, the clerk helping me discovered the correct and lower price of \$0.15 per page. The Tax Assessor’s office, while pleasant, was unable to grant my request because they claimed not to have such records, but informed me that if I wrote the City Treasurer with exactly what I wanted, they might be able to produce it. ”

“ On the first visit to the police station, I requested arrest and brutality reports but the clerk at the desk would not give any information until I told her our reason for the request. As I prepared to leave, a sergeant came into the lobby and asked if he could help. The specific request for the brutality reports was denied on the grounds that it was a matter of internal affairs and confidential. ”

How We Were Treated



Comparison: Cities/Towns



Discourteous

Courteous

Bristol

FIRST TWO VISITS:

OCT. 20

NOV. 7

“ The clerk was somewhat uncooperative and remarkably reluctant to copy the materials. She insisted that I only look at them in the office. It was late in the day and she tried to convince me to come back the next day. She seemed annoyed that I wanted copies to take home. In the end, another clerk copied them quickly for me. Separate copies of the agendas were not available. The clerk insisted that the agendas were included within the minutes. In general, the police department was unhelpful and unaccommodating. When I requested to look at the police log, I had to wait and was eventually referred to the chief. The chief stated that there are "statutes and laws" preventing him from allowing me to look at anything. He was rude and condescending. When I returned to request the arrest and brutality reports, the officer at the front desk refused to give me either and was also quite rude to me. He explained, "we can't just give those out to anyone." It was clear that I was not going to be able to get the documents. He too referred me to the chief of police and told me to submit a written request.

As of yet I have not received a response, including a denial. When I went to inquire about the policy manual and budget, the Bristol-Warren Superintendent's office was wonderful! They gave me a copy of the budget and explained the financial breakdown. The secretary showed me how the policy manual is currently used as the school department is in the process of combining the Bristol and Warren manuals which was helpful and cooperative. ”

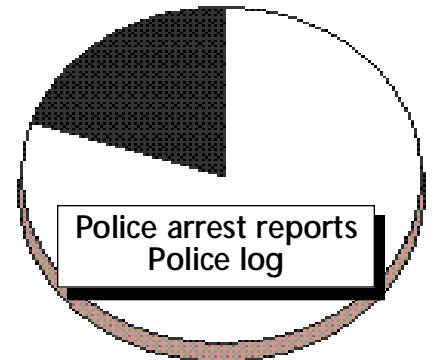
School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

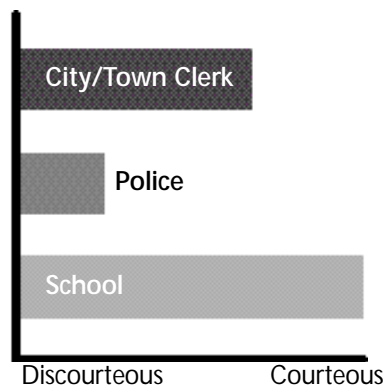
Documents Not Received



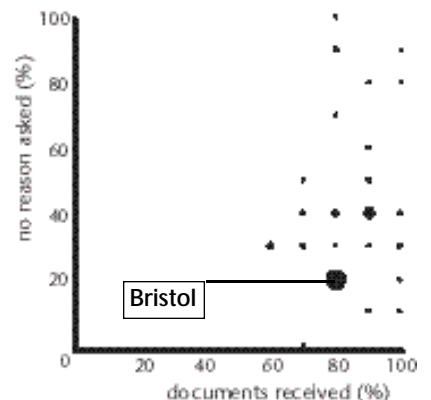
Twenty percent of the requests for public documents were denied in Bristol (including the combined school district with Warren). The problem was the worst in the Police Department. The officers were curt and denied access to all three requests quickly and without hesitation. Eventually the researchers were referred to the chief of police to whom they provided a written request. Eight weeks later, there had been no response.

The employees at the Town Clerk's office and at the police department received one of the lowest ratings in the state for their demeanor. The clerks asked a reason for the request in 80 percent of the interactions, one of the highest rates in the state. A particularly bright spot for Bristol involves the quality of the budget and the minutes.

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
NOV. 7

Burrillville

Documents Not Received



School Committee Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

City/Town Council Minutes:

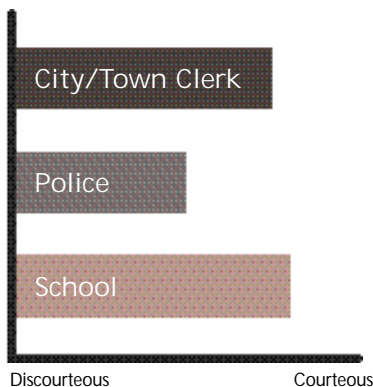
- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

Twenty percent of the requests for public records were denied in Burrillville. The problems were with the Police Department, as was the case in many other towns. The Police denied access to both indexed items. The Police said that they were not “obligated” to release arrest reports. (This is incorrect because the researchers specifically asked for reports that were not under investigation.) They also denied access to the log.

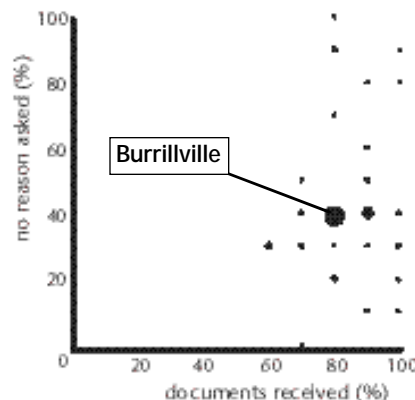
Burrillville is one of the two municipalities in Rhode Island that requested personal identification for all the requests made among all departments. The reason for the request was asked for 60 percent of the inquiries which, unfortunately, was about the state average. On the positive side, only one visit was required for all the documents that were received. Still, there is significant room for improvement in this town.

“ The Burrillville Police Department was extremely discourteous when I asked for the arrest and brutality reports. They made a copy of my license and asked me repeatedly why I wanted the information. Then both the officers and chief told me ‘they were not obligated to give out that information.’ ”

How We Were Treated



Comparison: Cities/Towns



Central Falls

FIRST TWO VISITS:

OCT. 28

Nov. 20

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Partial

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

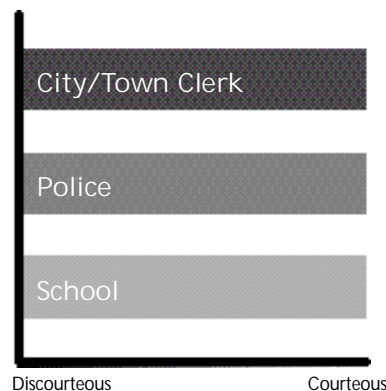
“ After some questioning, an officer with knowledge in the subject spent 45 minutes looking for adjudicated reports. He was a law student and seemed familiar with the Open Records Law. While he compiled the arrest reports he asked me more about what I was doing research for, and what I was studying at college, and my career aspiration. He brought up brutality reports in casual conversation when he said, ‘Now, I can get this stuff for you but if you wanted brutality reports, say, that would be almost impossible to get.’ When I asked him what he meant, he told me that I would have many more hoops to jump through and that they would need me to show real and valid reasons for requesting the material. He finally pulled up three arrest reports he felt were safe to give me. ”

Central Falls complied with 90 percent of the documents requested. The Police Department denied access to the arrest reports. The Police officer was courteous and friendly, but failed to provide useful information or the information that is required by law to be included in the arrest reports. Names, addresses, and other vital information was redacted from the copies of the arrest reports.

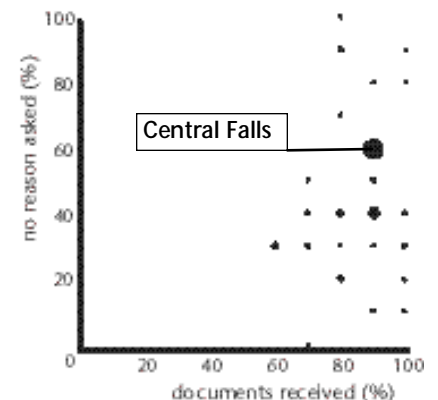
The researchers were asked the reason for their request in 40 percent of the cases. Although the ideal would be that citizens requesting documents are treated like public library patrons - who would never be asked why they want to check out a particular book - the rate was one of the five lowest in the state. A written request was required once, but the request was honored and the paperwork was relatively simple.

(Footnote on p. 70.)

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 21
NOV. 13

Charlestown

Documents Not Received



School Committee Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Full

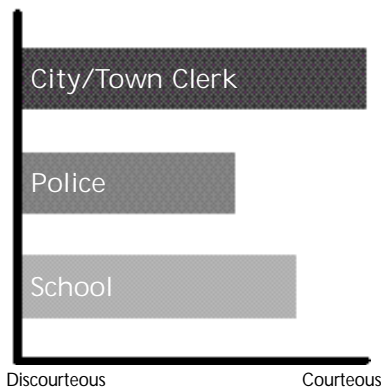
Charlestown complied with 70 percent of the requests for public documents. As in numerous other towns, there was a significant difference between the Town Clerk's office and the Police Department. The Town Clerk provided all of the documents and received the highest possible rating for their demeanor. Only half of the documents requested from the Police and three-fifths of the School Department (Chariho) requests were fulfilled. Furthermore, both the Police and the School Department scored below the departmental averages for their demeanor.

Charlestown is the only jurisdiction in the state in which researchers were asked the reason for requesting the information in every encounter. There is significant room for improvement in how citizens are treated when requesting information from the Police or School Departments. The highlight in the Charlestown research was the quality of the documents obtained.

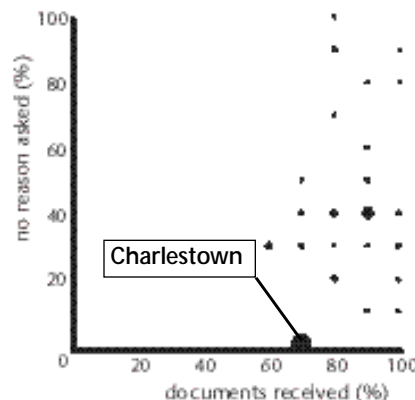
While the Attorney General found problems with the content of the minutes, we had difficulty obtaining them. First, the researchers were denied access to the minutes. Second, a warning was issued, by the Attorney General, to the Chariho School Committee for violations of the Open Minutes Law. The Committee violated the Act by failing to notice the nature of the business to be discussed in closed session and only citing the subsection of the law.

“ The first police officer I dealt with in the Charlestown Police Department was courteous, however, he did ask me why I was there. He then told me I could not see the arrest reports because they were under investigation. When I requested three reports that were closed, he consulted a higher ranking officer. When this officer approached me, he repeatedly asked me who I was and why I wanted this report. After telling him I was just a concerned citizen, he kicked me out of the police station. ”

How We Were Treated



Comparison: Cities/Towns



Coventry

FIRST VISIT:

OCT. 21

School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

Documents Not Received



Ninety percent of the requests were fulfilled in Coventry. All of the requests were fulfilled at the Town Clerk’s office and at the School Department. The Coventry Police accommodated the request to inspect the log, but refused the request to view arrest reports.

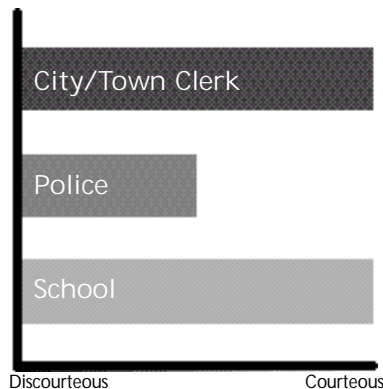
The town employees encountered in Coventry received very high ratings for their demeanor, except for the Police. Moreover, the “inquisitiveness” rate (asking for identification and/or reason for the request) was quite low.

There was recently a complaint about excessive copying charges for public records at the Tiogue Fire District in Coventry. The Fire District Council was sued by the Attorney General in November and March 1997 for violations of the Open Meetings Law and the Open Records Law (Aubrey Cohen, “Tiogue Fire District Opens Annual Meeting,” Providence Journal-Bulletin, September 9, 1997, p. C1) The Tiogue Fire District Council has since stopped the policy, and none of the departments in Coventry that were examined in this study charged more than the statutory limit.

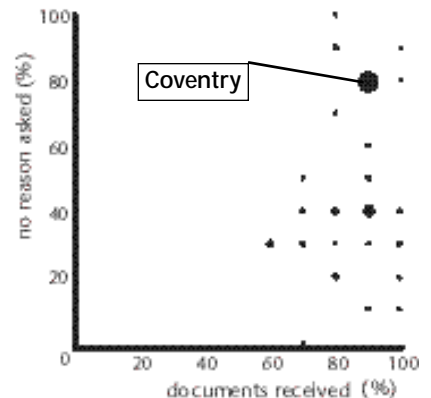
In short, the availability of public documents in Coventry was better than most other towns, but there is still room for improvement in the Police Department.

(Footnote on p. 70.)

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 17
NOV. 21

Cranston

Documents Not Received



School Committee Minutes:

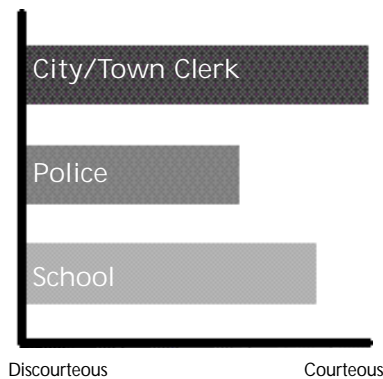
- Readability: Good
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Partial

City/Town Council Minutes:

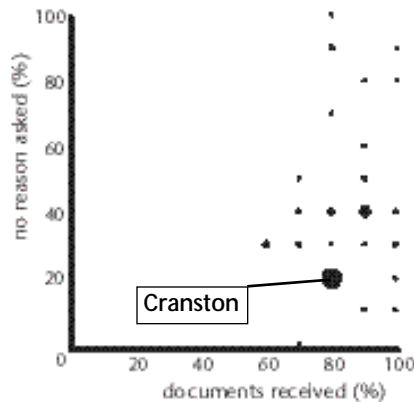
- Readability: Poor
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

The Police Department denied access to both indexed items. All of the documents requested from the School Department and the City Clerk were received. The City Clerks never asked for identification and asked for a reason only once. In contrast, identification and reason for the request were asked in all the encounters with the Cranston School Department. Moreover, the Police were rated below average for their demeanor, and were very inquisitive. Finally, due to staffing and mechanical problems, it required three visits to obtain minutes, agendas, and the contract settlement from the School Department. Only one other town in the state required three visits to receive the documents from the School Department.

How We Were Treated



Comparison: Cities/Towns



Cumberland

FIRST TWO VISITS:

OCT. 30

NOV. 25

“ I had a difficult time with the Cumberland Police. The first time I visited the headquarters, I was told the record keeper was out sick. On the second visit, I was told that the record keeper was on vacation. The third visit, I came after 4 PM and the record keeper had gone for the day. I kept seeing the same front desk officer who eventually suggested I submit a written request and he would pass it along to the record keeper. The record keeper eventually called me, told me that Cumberland did not have any brutality reports that she knew of and that she would send me three arrest reports. A week later I received three arrest reports of motor vehicle incidents. ”

School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Partial

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

Documents Not Received

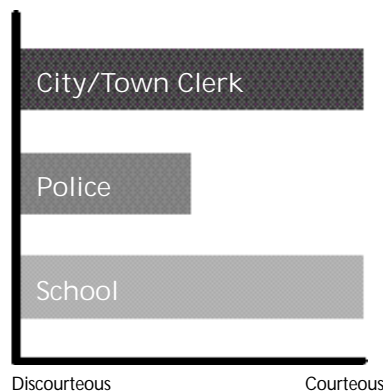


Cumberland complied with all of the requests for the ten indexed items, but there was a mixed reaction to the employees. On the positive side, the Cumberland Police Department is one of only nine in the state that complied with both of the indexed requests, viewing the log and copying three recent arrest reports. (In Cumberland, the log is combined with the arrest reports in one computer program.) All five of the requests at the Town Clerk’s office were fulfilled, and none required more than one trip.

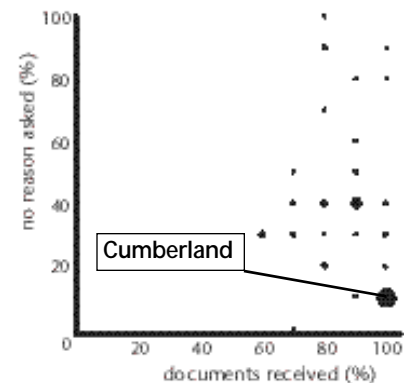
Although the School Department complied with all the requests, the documents were more difficult to obtain than in other jurisdictions. The School Department required a written request for three of the five items; only one other school department required as much. A written request was required by the Police Department in response to the request for arrest and brutality reports. Eight weeks after the letter was submitted - about twice the statutory limit, assuming an extension - three arrest reports were received, but the brutality reports were not included.

Across the town as a whole, the researchers were asked for the reason for request in 90 percent of the interactions. These local practices - requiring a written request and nearly always asking for a reason - may act as impediments to public access. Despite the inquisitiveness of the employees, Cumberland was one of the few towns that complied with all of the indexed requests.

How We Were Treated



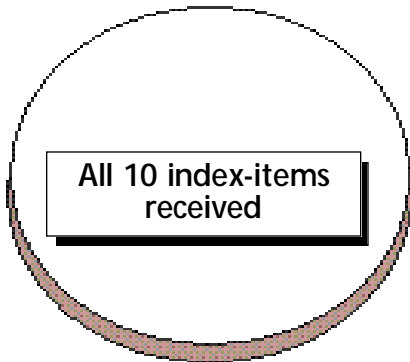
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 21
NOV. 12

East Greenwich

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

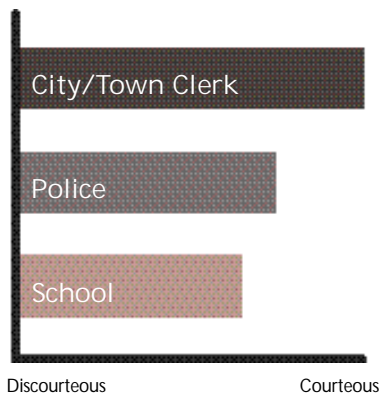
City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: None

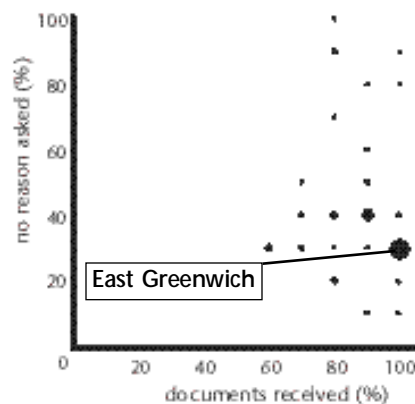
East Greenwich is one of eight towns that provided all ten indexed items. While all the items were received there were difficulties obtaining some of the documents. Both the Town Clerk and the Police asked why the researcher wanted every item requested. The Police asked for identification in each case, while the Town Clerk did for two of the three items requested. In addition, School Department employees encountered were rated discourteous, receiving one of the lowest demeanor ratings for the school clerks in the state.

The City Council minutes examined in East Greenwich were in violation of all three provisions of the Open Meetings Law included in this study. Only two other jurisdictions had violations of more than one provision of the Open Meetings Law (Smithfield and Warwick).

How We Were Treated



Comparison: Cities/Towns



East Providence

FIRST TWO VISITS:

OCT. 24

DEC 5

I found the East Providence police to be very courteous. They contacted their supervisors in an attempt to figure out if the request could be granted. The whole time they remained friendly and helpful. On the first it, when I requested the arrest records, the clerk was unsure. She asked me to wait and resent my request to the officer in charge. The officer in charge believed that my request for arrest reports could not be fulfilled because the reports were too confidential but he asked that I wait while he consulted the deputy chief, who in turn contacted the chief. They agreed that I could view the fact sheets of the arrest record, but not get copies of them, although a big sign on the window read, "Copies, \$.25." The clerk escorted me into the office and provided desk space to examine the reports. All of them said, "see attached statement" which was not attached. When I asked to view the brutality records, I was told to go down to the chief's office and ask him directly. The chief was extremely pleasant, helpful, and open. Another officer, whom I was not introduced, was in the corner reading through what appeared to be a Rhode Island General Laws. The chief took ten minutes to explain to me how they take brutality complaints and that most of the serious ones are not filed through them, but go directly to the FBI. He also told me about a case in which the complaints turned out to be valid and how essential they were to eliminating "bad apples." In the end, he agreed to provide me with redacted versions of several recent complaints as long as I agreed not to publicize any of the details of them such that someone would recognize the events. I agreed to pick them up in a week, but when I called to confirm that they were ready, I was told they were still working on them, and when I called a few days later was told that the Solicitor was looking over them. A few subsequent calls resulted in answers that they were not sure what was going on and that I was going to have to call again. Finally, I got in touch with a person who again explained that they had referred the matter to the City Solicitor who instructed them not to release the information. I was told that if I was to make a written request detailing the reasons for the request to the City Solicitor's office they would reconsider it.

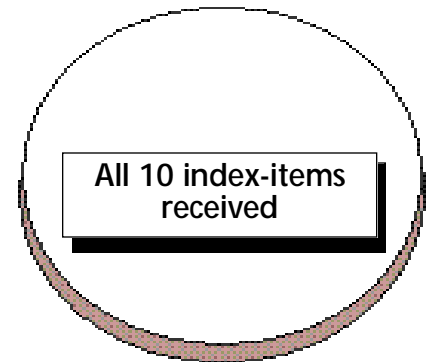
School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

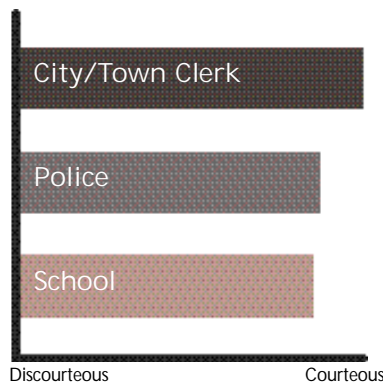
- Readability: Average
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

Documents Not Received

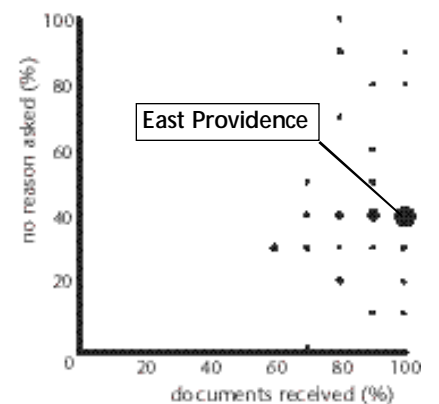


East Providence is one of eight jurisdictions in the state to provide access to all of the indexed documents requested. Indeed, East Providence would be a model of compliance were it not for two factors: overcharging and multiple visits. While earning the distinction of excellent compliance with the requests for documents, East Providence shares the dubious distinction of being one of four jurisdictions in which a division of municipal government charges more than the statutory limit for photocopying. The East Providence Police charge 25 cents per page, 10 cents over the statutory limit. * Also, unlike most jurisdictions, multiple visits were required for several of the items requested. The School Department required two visits to produce three of the five requests. The Police Department required four visits to determine if the police brutality reports were going to be made available. (They were not.) Still, this department is one of only six in the state to be rated "very courteous". They provided access to the log and to arrest reports. (Footnote on p. 70.)

How We Were Treated



Comparison: Cities/Towns



”

FIRST TWO VISITS: OCT. 21
NOV. 12

Exeter

Documents not received



School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Full

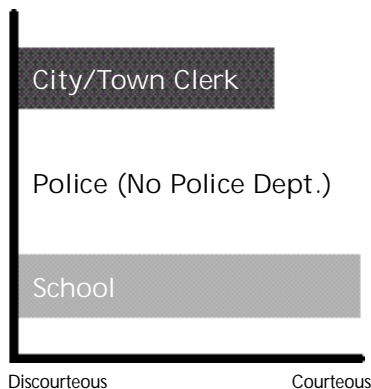
City/Town Council Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

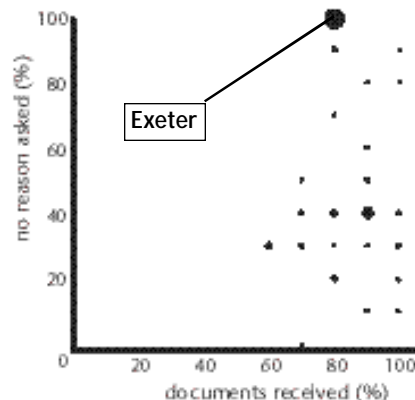
Exeter, one of the least populous towns in Rhode Island, does not have a town police department. The town is patrolled by a state trooper who operates from a mobile unit. The officer was not available to provide the requested information and arguably could be said to reflect the State Police's approach to Open Records, not specifically the Town of Exeter's. The current police system provides barriers for the residents of Exeter to obtain information about their town. The town also does not have its own school district, it is part of a combined school district with West Greenwich.

All of the documents that were requested from the town were granted. Before receiving some requests, those visiting Exeter were required to fill out the Town's own paperwork. Only four other jurisdictions in the state put citizens through this extra step. The documents that were obtained did not require a second visit, and Exeter has a very low occurrence of asking for identification or the reason for the request.

How We Were Treated



Comparison: Cities/Towns



Foster

FIRST TWO VISITS:

Nov. 3

Nov. 12

School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Partial

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Partial

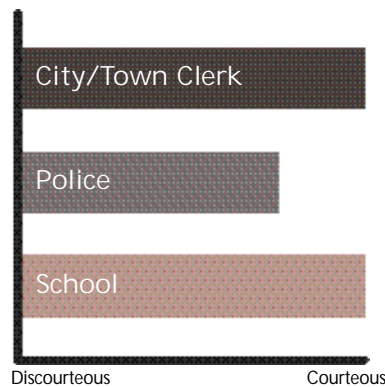
Documents Not Received



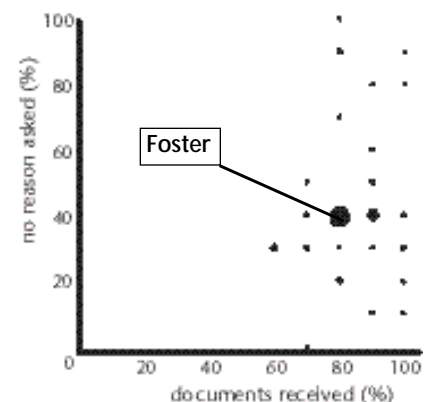
With less than five thousand residents, Foster is one of the least populated towns in Rhode Island. Foster also illustrates the dramatic statewide differences in compliance with the Open Records Law between the police and other local government entities. The Town Clerk provided all of the documents requested, as did the School Department which is combined with Glocester. Those interactions were friendly and courteous. As a result, Foster received one of the three highest rankings in the state for overall courteousness. There was a tendency, however, across the Town Clerk's office, School Department, and Police to ask for identification and the reason for the request. However, this did not affect our ability to obtain documents.

The Foster Police did not provide any of the materials requested. They were also less cooperative than the clerks encountered in the Town Clerk's office or in the combined school district.

How We Were Treated



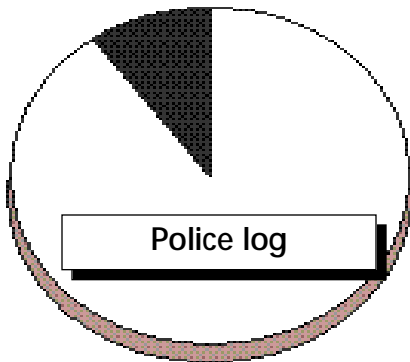
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
NOV. 19

Glocester

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Partial

City/Town Council Minutes:

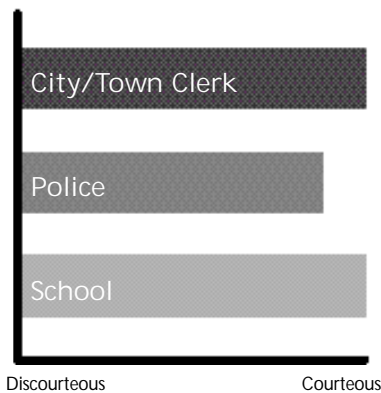
- Readability: Good
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

The Town Clerk's office in Glocester and the employees at the Foster-Glocester School Department were helpful and courteous. All requests made to these units of government were honored, and Glocester received one of the two highest ratings in the state for the demeanor of its municipal public servants, including the Police.

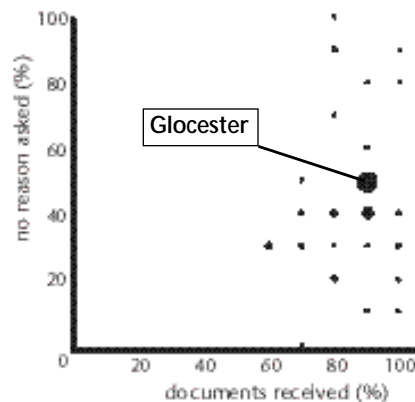
The Glocester Police are better than most police departments in the state, although there is still room for improvement. The Police denied access to the log - a clear violation of the Open Records Law - and three visits were required in order to inspect the arrest reports. Still, the officers were seen as much more courteous when compared to those in most other police departments across the state.

“ When I went to the Glocester Town Clerk, I was very surprised. Both the Town Clerk's office and the Tax Assessor's offices were very courteous. I was given what I asked for pleasantly and without question. ”

How We Were Treated



Comparison: Cities/Towns



Hopkinton

FIRST TWO VISITS:

OCT. 23

NOV. 6

“ The Hopkinton police officers told me that a police log does not exist. I was asked to identify myself twice and was asked what newspaper I was affiliated with when I requested the information. I felt very intimidated when the officer asked me for my name twice. ”

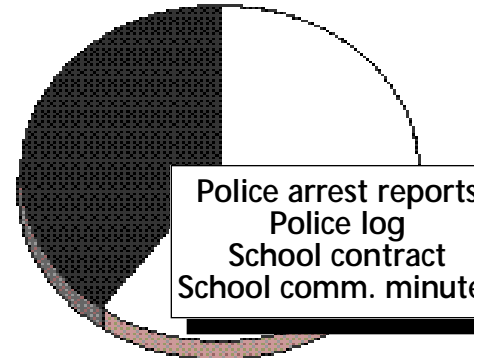
School Committee Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Full

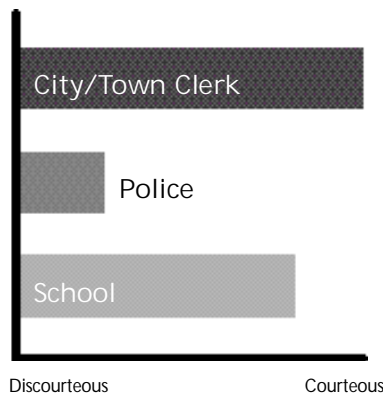
Documents not received



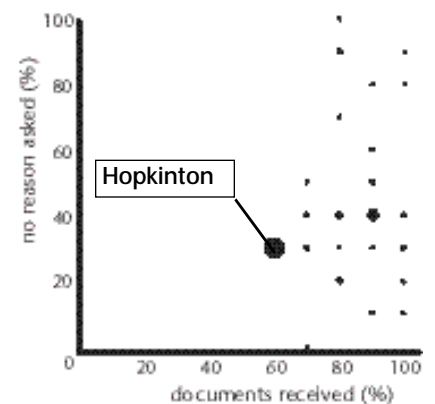
The researchers were met with considerable resistance and a notable lack of courteousness in two of the three divisions of Hopkinton government. While the Town Clerk was very courteous and complied fully with all of the requests, the response was much different at both the Police and the combined school department, Chariho. There is room for improvement in the Police and the School Department.

The Police had a discourteous demeanor and did not comply with either request. The School Department provided three of the five documents requested. Only three other jurisdictions have such a low compliance rating.

How We Were Treated



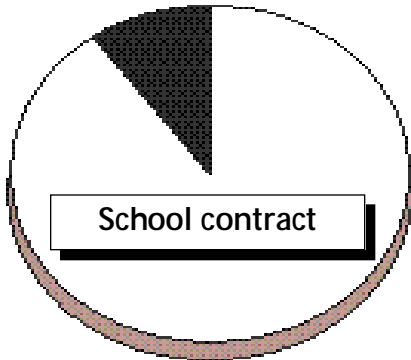
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
NOV. 6

Jamestown

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Partial

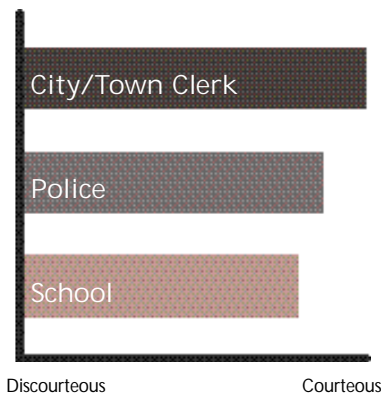
City/Town Council Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

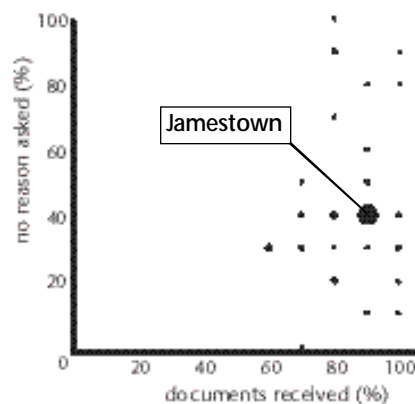
Ten percent of the documents requested in Jamestown were denied, but the clerks were generally courteous in response to requests. The Town Clerk’s office was the most courteous and compliant division of the municipal government. The Jamestown Police provided access to arrest reports, but not to the police log. The School Department provided four of the five documents requested; they denied access to the contract settlement.

Multiple visits were required for many of the items received in Jamestown. Three of the five requests to the School Department required a second visit. (Jamestown was also the only town to require more than two visits to obtain a list of tax delinquencies.) The School Department was the only division of government to ask for identification. The School Department also asked for a reason for every request made; that never happened at the Town Clerk’s office, and it occurred for one of the two requests made to the Police. Jamestown is one of the few jurisdictions in which the school department arguably performed worse than the police. Through their inquisitiveness and because of the need for multiple visits, the School Department has created several barriers to access.

How We Were Treated



Comparison: Cities/Towns



Johnston

FIRST TWO VISITS:

OCT. 17

DEC. 3

“ On the first visit, the Town Clerk was a little apprehensive about giving me copies of the minutes and agendas. The clerk asked two different supervisors before granting the request and was frustrated with having to make copies. I was asked to wait about an hour for the copies. While visiting the Tax Assessor’s office, I found the clerk to be terse, defensive and inquisitorial. I was told that the information on delinquent tax payments was ‘too private - people might be having a hard time and shouldn’t have their names known.’ When asked if I could have a list with just lots and addresses, I was refused. The clerk seemed to be changing back and forth several times between there being no such list and me not being able to see it. The clerk told me that something similar to my request was published in the city paper around tax time. After initially denying the request, the officer suggested a written request could be submitted, but it was nearly certain to be denied. ”

School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

Documents Not Received

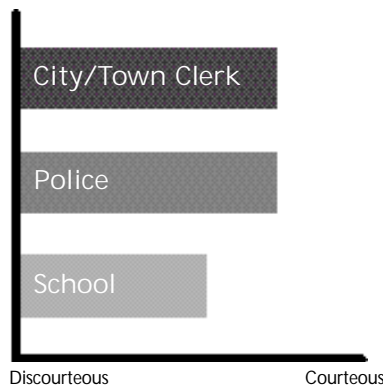


Thirty percent of the requests for public documents were denied in Johnston. As in many towns, the police account for much of the problem. Not only did they deny both requests for items clearly covered by the Open Records Law, but two visits were necessary before being denied each item. The School Department fared better in terms of overall compliance, but they were not in full compliance. Moreover, the clerks in the School Department received one of the lowest ratings of any school department for their demeanor. In fact, with respect to demeanor, the School Department received a lower rating than the police. The Town Clerks were the most helpful, uniformly complying with the Open Records Law.

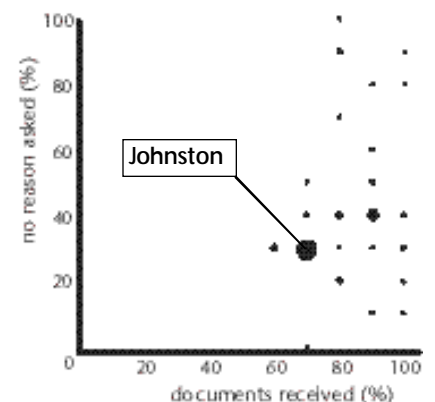
The employees encountered across Johnston were quite inquisitive, asking for identification 60 percent of the time and asking a reason for the request 70 percent of the time.

There is significant room for improvement in Johnston.
(Footnote on p. 70.)

How We Were Treated



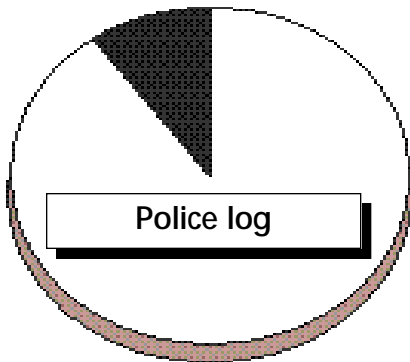
Comparison: Cities/Towns



FIRST TWO VISITS: Nov. 20
Nov. 25

Lincoln

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

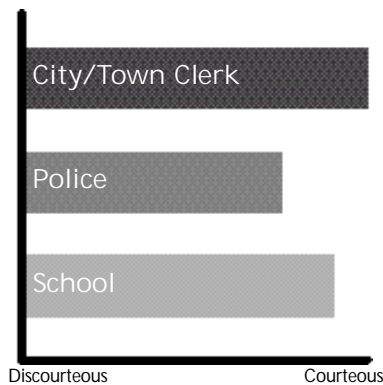
- Readability: Good
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Full

The police log was the only item not provided by Lincoln municipal officials. The School Department and the Town Clerk provided all of the information requested. The Police provided arrest reports upon a follow-up visit, but not the opportunity to inspect the log. All of the materials supplied were provided after the first request, and employees were considered quite courteous. There were, however, two possible deterrents to public access in Lincoln. First, the town is one of only a handful to require their own paperwork to be completed in order to obtain certain documents. Second, Lincoln employees asked for identification and inquired about the purpose of the request in 60 percent of the interactions.

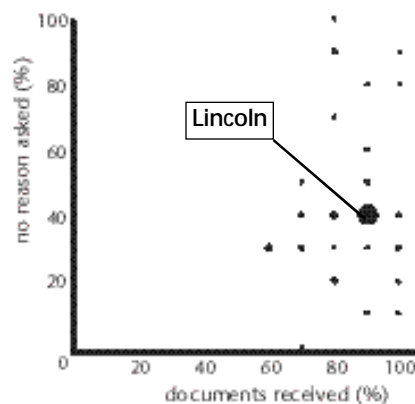
“ I confronted a hostile front desk officer at the police department who quickly refused my request to see the most recent arrest reports. I asked again and the officer suggested that perhaps the chief would be able to provide the material, but informed me that the chief would not be in for the rest of the day. When I asked for contact information for the chief, the officer told me that the chief’s answer would be the same as his, ‘no.’ When I requested the brutality reports, the officer responded, ‘Didn’t you hear me? The answer is no!’ When I did finally talk to the chief on a follow up visit, he was well aware of my right to see the arrest reports, but was unsure whether I could see redacted reports that may still be under investigation.

When I was provided with a copy of the Lincoln Town Budget, it was well laid out and remarkably easy to understand. In fact, there was an award on the wall from an organization of cities and towns commending Lincoln for impeccable financial accounting. ”

How We Were Treated



Comparison: Cities/Towns



Little Compton

FIRST TWO VISITS:

OCT. 31

NOV. 19

“ The Town Clerk’s office was willing to help get me the most recent information. The Clerk made special copies of the minutes that had not been approved yet and indicated they were just a draft. The clerk behind the desk at the Police Department was rude. She asked me, repeatedly, why I was there, and seemed to remember seeing my partner a few weeks prior. She demanded that I give thm more information than the ‘other girl who was here.’ She asked if I was working on the project for Roger Williams College, and did not believe me when I told her I was just a concerned citizen. She called in the officer on duty. He happened to be the officer I had asked directions from the last time I was there, and he remembered me. He became defensive and said that he needed more information from me than the ‘other girl’ if he would consider giving me what I wanted. He basically asked me to leave unless I would tell him with whom I was working. ”

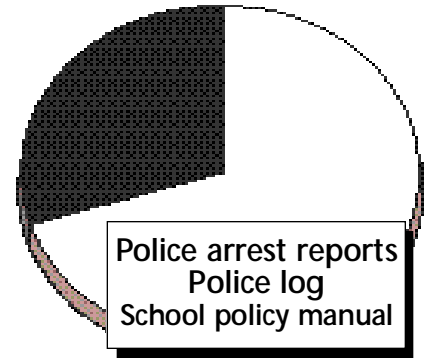
School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Full

Documents Not Received

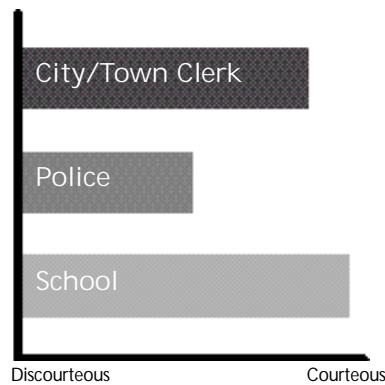


The Open Meetings Law has been the subject of considerable controversy in Little Compton. A complaint was filed against the Agricultural Conservancy Trust in September 1997 for allegedly violating the law. That complaint “comes on the heels of a lawsuit against the Budget Committee for failing to post meeting notices in more than one public location and not posting detailed agendas before meetings.” (Liz Foran, “Council is Urged to Hold Workshop on Meetings Law,” Providence Journal-Bulletin, September 19, 1997, p. C1) A School Committee member has since requested that the Town Council schedule meetings to review and explain the law to all Town Council members.

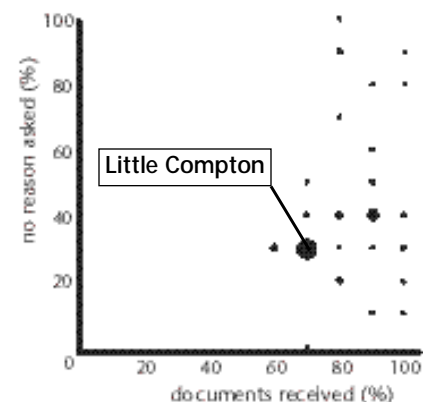
These expressions of concern about open government have not produced any obvious changes. Indeed, based on research visits in early to mid-November, Little Compton was rated as one of the least courteous jurisdictions in the state. The town as a whole did not comply with our requests 30 percent of the time. The Town Clerk’s office was rated “somewhat discourteous” and the police were rated “very discourteous.” The Police Department was not only hostile, but they did not comply with any of the requests for public records. Across the town as a whole, the clerks inquired about the reason for the request and asked for identification in 70 percent of the interactions. More than one researcher described the environment as intimidating.

Even though the town employees were not welcoming to the public, no return trips were necessary to obtain any of the documents made available.

How We Were Treated



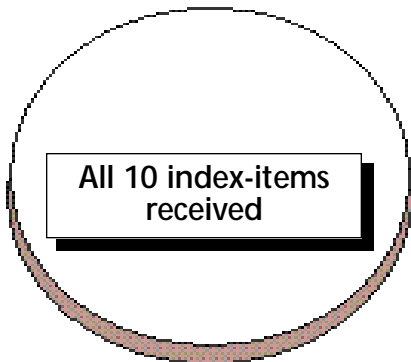
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 27
NOV. 12

Middletown

Documents Not Received



School Committee Minutes:

- Readability: Poor
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Full

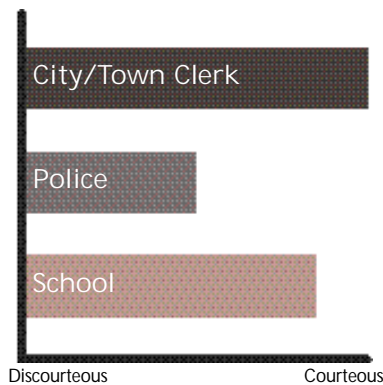
City/Town Council Minutes:

- Readability: Poor
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Partial

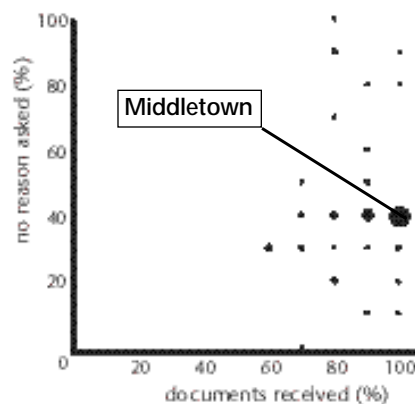
Middletown is one of the best jurisdictions in the state for overall compliance with the Open Records Law. It is one of only eight cities and towns to comply with all of the requests made for the ten indexed items. Not only were all of the documents provided, but they were made available without the necessity of return visits to any of the three divisions of town government. The clerks were reasonably courteous, but they were also quite inquisitive. They asked for a reason for the request in 60 percent of the interactions. One of the employees at the School Department knew the researcher personally and asked repeatedly for the reason and motives for the request. Middletown is one of only four jurisdictions in the state to require its own paperwork. The School Department required the researcher to complete their paperwork before processing a request to inspect School Committee agendas, minutes, and the contract settlement.

“ The Middletown Town Clerk was considerate and helped me with everything I asked for. She did not ask me any questions; she just provided the information for me. At the Middletown Police, I found the clerk very rude when I requested information. At first, he was not sure how to handle the requests. He said, ‘I don’t care, but I don’t know if I can show you this information.’ The log was on the computer which eventually showed me. ”

How We Were Treated



Comparison: Cities/Towns



Narragansett

FIRST TWO VISITS:

OCT. 17

NOV. 4

“ The Narragansett police were quite rude to me. When I asked to see the arrest and brutality reports, the receptionist questioned who I was and why I wanted them. She then got a uniformed officer who informed me she does not let just anyone into her police station. She asked to see some identification. I showed her my license, and she let me into the media room but kept my license. Once in the media room, I was given a book of recent arrest reports but no brutality reports. ‘They are not available,’ she said. She then went on to describe how annoying University of Rhode Island students are when they come into the station looking for information for classes. She told me students do not know that this information is not public, and they cannot see it. On the second visit to the Police Department, the officer on duty asked if I had been sent by my professor. He asked me countless questions about who I was and what I was looking for. He said that unless I gave him a specific request, he would not let me see it. I said I wanted to see today’s log, but this request was denied because, he said, it was not yet complete. I asked to see the log thus far, but again he asked questions about why I wanted to see it. He said, ‘No.’ I then asked to see yesterday’s log since it was complete. In an agitated voice, he snapped at me for changing my request and said, ‘No.’

The Narragansett School Department was the most helpful office I visited. The receptionist was pleasant and helpful. When I asked to look at the policy manual, she obliged willingly, despite the fact she was using it at the time. She even took time to explain how it was set up and how I could find whatever information I needed. She never asked who I was or why I wanted the information. ”

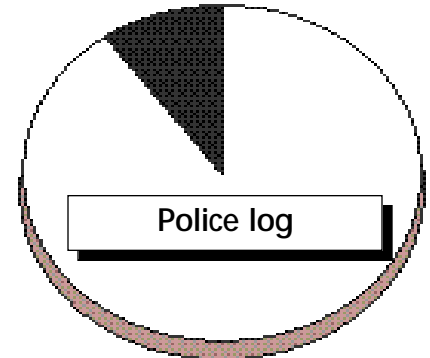
School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Partial

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

Documents Not Received

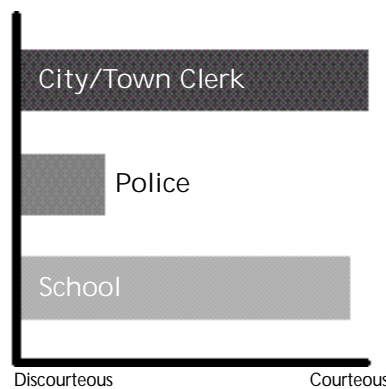


Ten percent of the records requested in Narragansett were not provided. All of the information obtained, with the exception of the school contract, was received on the first visit. All of the municipal employees encountered were quite courteous, except for the Police. The Police were also rather inquisitive, requesting the identity of the researcher in half the interactions and asking for a reason for the request in 70 percent of the cases.

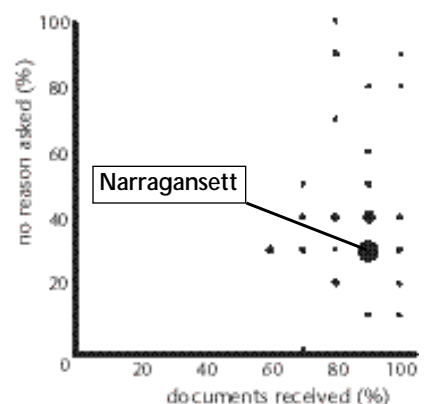
The Narragansett Police Department was discourteous. The researcher was referred to a Lieutenant, who was needlessly ill mannered. The officer told the researcher that he did not want her “messing around with” the log. The officer asked the researcher numerous questions, eventually he dismissed her by walking away and saying, “Have a nice day”. The Police denied the request to view the police log.

The Attorney General found the Narragansett School Committee in violation of the Open Meetings Law twice in 1988 (“O’Neil: Open Meetings Law Violated Again,” Providence Journal-Bulletin, November 21, 1988: B1). None of the same problems were detected in this study. However, the School Committee minutes that we received did not indicate the members present or absent.

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 27
NOV. 12

Newport

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

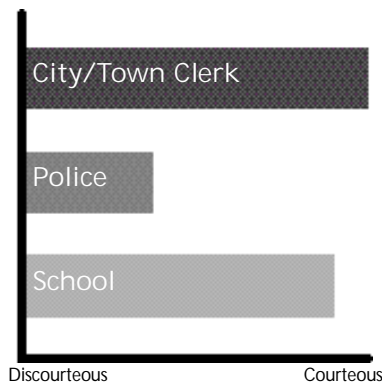
- Readability: Poor
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

Ninety percent of the requests made in Newport were honored, and none of those requests required more than one visit. The Police was the only division of government to deny access to documents. The employees encountered by the researchers were generally quite courteous. Although often helpful, these municipal workers were also unusually inquisitive. Every request in Newport was met with a question about the identity of the researcher, and 90 percent of the time researchers were also asked why they wanted the documents. In only a few cities or towns were the researchers met with such universal curiosity. These inquiries were generally friendly and sometimes came after the documents had been received; nevertheless, there is reason for concern that this kind of inquisitiveness might create an impediment or deterrent to open records.

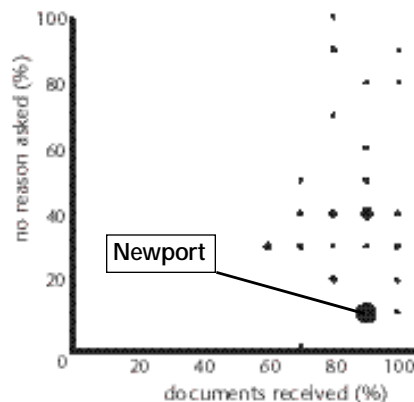
“ There was no problem getting information in City Clerk’s office, but the clerk was curious why I wanted information. I was able to view the city’s budget without a problem.

The clerk at the School Department was very helpful and gave me all the information that I needed and provided books on school policies and the school budget. Overall, they were most helpful. ”

How We Were Treated



Comparison: Cities/Towns



New Shoreham

FIRST VISIT:

Nov. 21

“ When I arrived at the police station, I asked for the documents and was told to wait for the police chief, who came immediately. He then led me back to a trailer, where I again asked for the documents. He actually printed out everything I needed, and what he could not pull from the database he photocopied for me at the front of the building. The entire transaction took no more than half an hour. He said that there are not any brutality reports for the town. ”

School Committee Minutes:

- Readability: Good
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

Documents not received

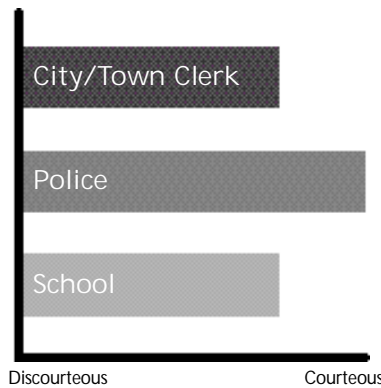


Given the limited ferry schedule after mid-October, New Shoreham was the only jurisdiction in the state where we deviated from the protocol of multiple visits. The value of different-day observations was sacrificed to the logistics of transportation. Fortunately, the cost was insignificant. Although only one visit was made to New Shoreham it was enough to experience the open and welcoming atmosphere in a local government that seems to reflect the surrounding island community

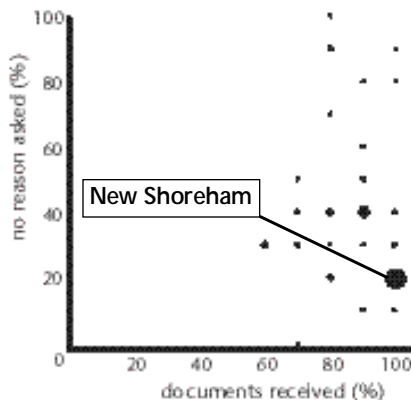
New Shoreham should be commended for being one of the eight towns that complied with all ten of the indexed requests. The Police Department was extremely courteous even more so than the Town Clerk's office or the School Department, a unique situation for the state. The New Shoreham Police are one of only three police departments in the state to be considered "very courteous." The Chief was a model of how to comply with the law and handle the public in a helpful and accommodating manner. The clerks in New Shoreham were also among the least inquisitive in the state, asking for identification in one of the encounters.

One exception to this spirit of compliance and courteousness was the Tax Assessor, who was evasive and uncooperative in response to a request to inspect a list of tax delinquent properties. The researcher was first told that there "weren't any" tax delinquent properties, then she was told that they were published in the newspaper. Eventually, a written request was demanded - and submitted. The response indicated that, "I do not make it a policy to send this list out as it is subject to change up until the day of the sale." This is a example of how city and town employees sometimes create their town policies, subverting the requirements of the Open Records Law without legal justification.

How We Were Treated



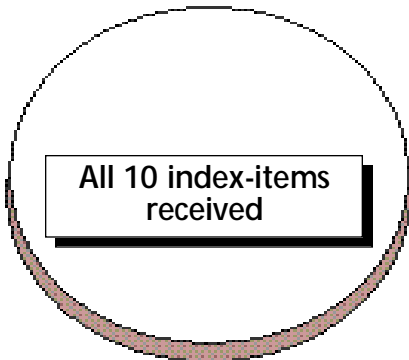
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 22
NOV. 6

North Kingstown

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

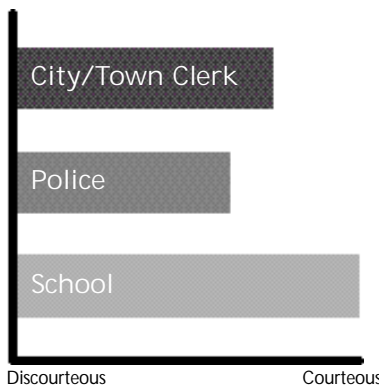
- Readability: Good
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

North Kingstown provided all of the indexed items requested, although not all the documents were provided readily and without impediment. The North Kingstown Police Department was particularly discourteous in providing arrest reports, asking the researcher why “any normal person would just come in off the street to look at the arrest reports.” The reports were only one page long and included little basic information.

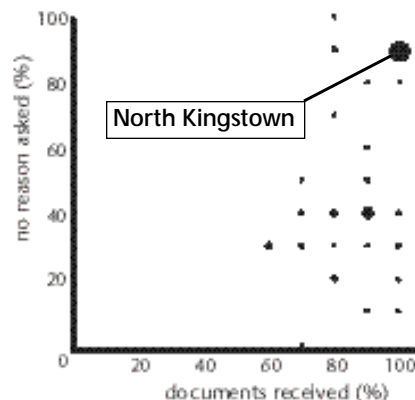
The experience requesting voter records was completely different. Although the researcher was not given an actual copy on disk of all voter records, the clerk was more than happy to let her look through the lists of all registered voters. No repeat visits were necessary in order to receive access to any of the documents requested. None of the requests to the School Department and the City Clerk’s office were met with questions about identification or reason for the requests.

“ The North Kingstown Police Department was not helpful. I asked the dispatcher for the arrest reports, and in turn, he asked why I wanted to see them. I said I was a concerned citizen. He went into a back room and sent out another police officer. She let me look at a computer that gave me a partial listing of arrests. I then asked for the brutality reports. I was told there were none but if they had any, they would be logged in with the regular reports. The officer then sat down at her desk with her back to me until I left. ”

How We Were Treated



Comparison: Cities/Towns



North Providence

FIRST TWO VISITS:

OCT. 27

DEC. 1

“ I eventually received the documents from the school department, but only after some resistance. The Superintendent’s secretary was nice and willing to help, but not until she had some questions answered. I was asked whether I was a North Providence resident, where I lived and went to school, what I wanted the information for, and more specifically, for what I was using it. Likewise, she was hesitant about giving me a budget to take with me, so I offered to look at it along with policy manual. She was otherwise a helpful, courteous person. It was apparent that she was following the orders of the Superintendent while asking me such specific questions. ”

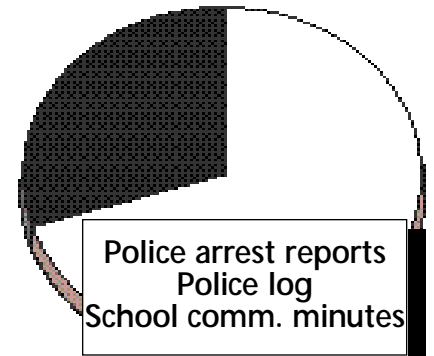
School Committee Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

City/Town Council Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: NA

Documents Not Received

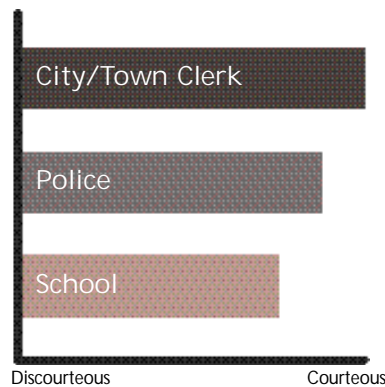


Access to requested documents was denied in 30 percent of the encounters in North Providence. The various employees encountered in North Providence were generally courteous with the Town Clerk receiving the highest possible demeanor rating. Although generally courteous, the town employees were also quite curious, inquiring about the reason for the request in almost two-thirds of the encounters.

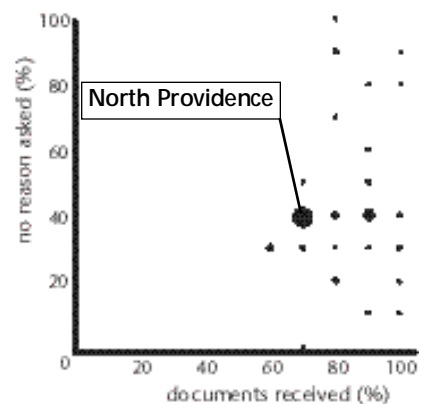
Two years ago, a North Providence resident filed a complaint with the Attorney General claiming that “he tried without success to get four areas of information from the School Department.” (C.J. Chivers, “State Clears School in Open-Records Probe,” Providence Journal-Bulletin, September 28, 1995, p.D1) The Attorney General’s office cleared the department of these charges. Whatever the merits of that complaint, the experience based on several visits suggests that the School Department is not always in full compliance. The North Providence School Department is one of only five in the state that required a written request for particular documents. This requirement was imposed in connection with two of the five documents requested and one of those documents was never provided.

North Providence is also one of four towns that charged more than 15 cents per page. This practice, the imposition of written requirements, and the general inquisitiveness of the clerks render North Providence a town with plenty of room for improvement in providing open access to public records.

How We Were Treated



Comparison: Cities/Towns



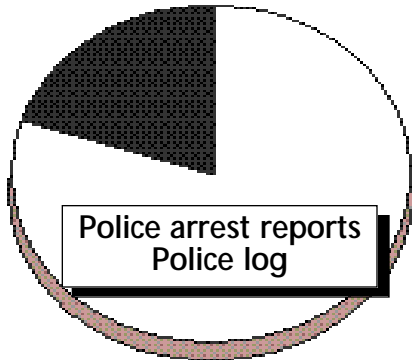
FIRST TWO VISITS:

OCT. 23

NOV. 6

North Smithfield

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

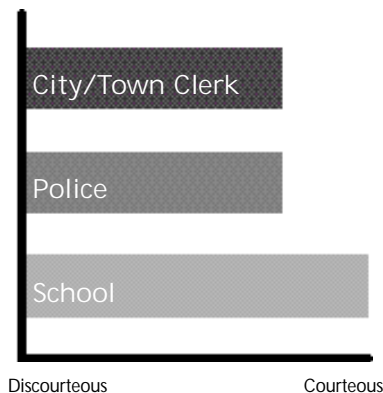
City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Partial

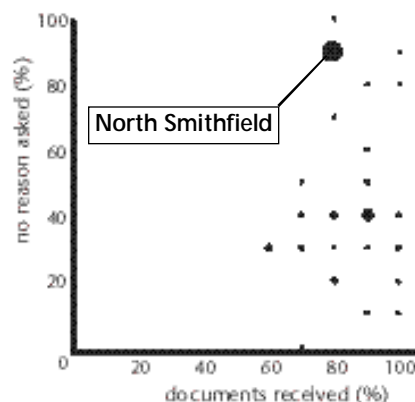
North Smithfield is generally one of the most courteous and welcoming towns to those requesting public documents, except for the tax assessor’s office; unfortunately, access was denied to twenty percent of the requests. The town employees were rated higher than the state average for their demeanor. The School Department was one of the most courteous; they were quite discreet when compared to the rest of the state, inquiring about identification and the reason for the request in only 10 percent of the interactions. All of the documents, except for the school contract settlement, were provided on the first visit.

The only negative experiences in North Smithfield came at the Police Department and the Tax Assessor. The Tax Assessor was evasive and ultimately contradictory in response to a request to inspect a list of tax-delinquent properties. First, the researcher was told that the office did not have that information, but that it was published in the newspaper periodically. After the researcher asked where the newspapers got the information, the researcher was treated even more rudely.

How We Were Treated



Comparison: Cities/Towns



Pawtucket

FIRST TWO VISITS:

Nov. 5

Nov. 17

“Pawtucket was by far the most discourteous school department I encountered. I arrived at the superintendent’s office and spoke with the secretary. I was told that the policy manual was currently in the process of being updated and was not available at the moment. The policy manual, prior to this year, was last updated in 1965. When I asked for the school budget, I was told that I needed to speak to the business administrator but that he had left. I asked if she could get the information for me, but she replied that it needed to be photocopied and she was busy at the moment. She told me to come back the next day and that she would ask the business administrator’s secretary for the documents. The next day, I went back after calling her and agreed on a time of 12:30. She left before I arrived there. The other secretary made me wait for more than 20 minutes while she talked on the phone, and then gave me the information.”

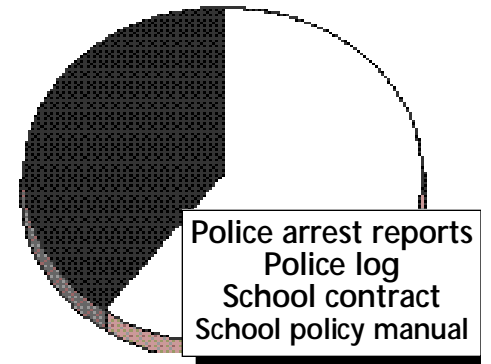
School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Partial

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

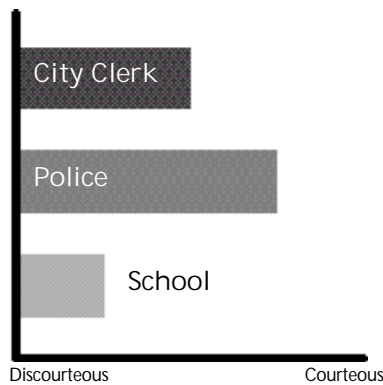
Documents Not Received



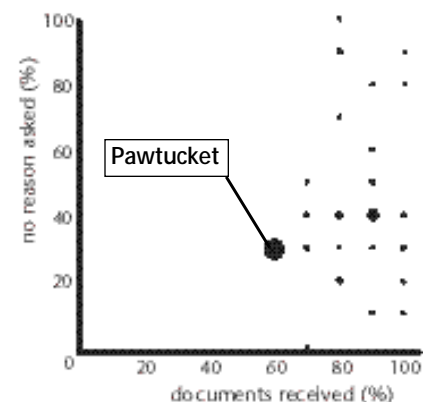
Forty percent of the requests for public documents in Pawtucket were denied, and the overall demeanor rating for employees encountered across the city was the lowest in the state. The Pawtucket Police provided none of the information requested, answering the request to inspect the log with a swift and curt “no.” The person requesting the arrest reports and brutality reports was told that only journalists could receive access to such information. Even the School Department was rated “very discourteous” - by far the lowest rating of any school department in the state. The School Department required a written request for access to the minutes and agendas, and two visits were required in order to see the contract settlement, which was eventually denied. In 70 percent of the encounters in Pawtucket, requests for public documents were met with questions about the identity of the person and about the reason for wanting the information.

One notable exception to these experiences came with the Tax Assessor, who was very courteous and readily provided the materials requested.

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 27
NOV. 12

Portsmouth

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

City/Town Council Minutes:

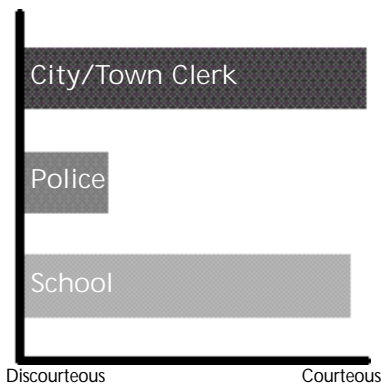
- Readability: Average
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

The Portsmouth Police was one of 19 departments in the state to refuse the requests to view the log and recently completed arrest reports. Combined with the refusal of the School Department to provide the contract settlement, Portsmouth ranks at the bottom of Rhode Island cities and towns for simple compliance with the Open Records Law. Employees asked researchers to identify themselves 40 percent of the time; the reason for requesting the documents was asked 60 percent of the time.

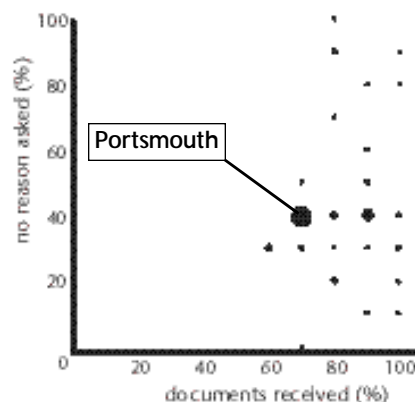
The Portsmouth Police were very discourteous when asked for the arrest reports. Besides denying access, the officer who responded to the inquiry was condescending and later refused to give a name or badge number. In contrast, the School Department was rated as “very courteous.” They provided four of the five items and without hassle. All materials provided in Portsmouth were obtained with one visit to the respective offices.

“ The employees in the Town Clerk’s office were, by far, the best people with which I dealt. No questions were asked, no identification was needed. They just gave me what I was looking for. The worst treatment I received came from the Portsmouth Police. When I asked for the arrest and brutality reports, I was told if I was so interested in this information, I should sign up for a volunteer clinic where I would learn about all of this. The officer was rude and kept talking down to me. When I asked for his name, he gave me the female clerk’s first name instead.”

How We Were Treated



Comparison: Cities/Towns



Providence

FIRST TWO VISITS:

OCT. 22

DEC. 3

“ The Providence Police Department was generally helpful, although the clerk at the front desk was not very knowledgeable. She also questioned my identity and the real reason that I wanted to see the log. Also, she asked what school I was from. On the first visit, the front desk clerk informed me that the log was not a matter of public record, but after another officer came out and inquired as to what I was looking for, I was told to call the chief of the records department and he would let me know if I could see the record. I called the chief later that day and was told to come back in the next morning. I received access to the police log with no problem whatsoever and no questions asked about my name or a reason. The clerk in the records office was courteous and helpful.

The clerk in charge of distributing the records for the School Department was out sick when I first arrived at the superintendent’s office and I was told that no one else could provide me with such information. When I arrived on my second visit, she was courteous and made copies of the minutes and agendas, although she took care to remove some of the names and addresses from the minutes and agendas, stating that they were private. She was efficient and provided all information requested.

The Tax Assessor did not know of any tax delinquency list. She told me that I would need a specific name and address and that she would look up that property for me to see if it was delinquent. I then asked if I could just see the form that prints out for tax delinquent residents. She found one on the desk and was more than happy to let me look at it and take notes. ”

School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Good
- Legal Compliance: Full

Documents Not Received

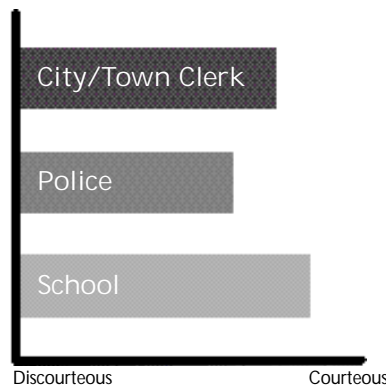


The City Clerk’s office and the School Department in Providence provided 100 percent of the indexed items. None of these requests required more than a single visit, and the employees encountered were generally courteous. The only difference between the two is that the School Department employees were fairly inquisitive - requesting identification in four of the five encounters and a reason for the request every time. In contrast, the City Clerks were completely discreet and unobtrusive. They did not ever ask for identification nor for a reason for the request. They complied promptly and without incident.

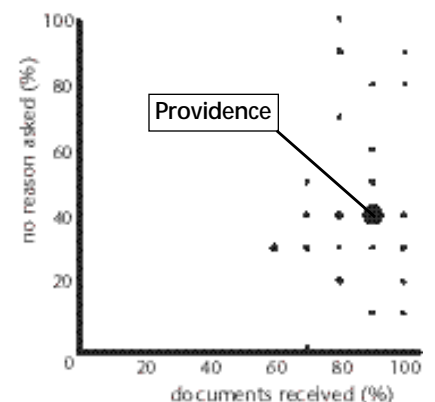
The experience with the Providence Police was more complicated. The log was provided much in the manner above: courteously and without questions. Providence is also the jurisdiction in which DARE v. Gannon was decided. Although the decision was stayed on appeal, it strongly suggests that the Providence Police Department’s policy on police records is overly restrictive. The brutality reports requested in Providence were not provided.

(Footnote on p. 70.)

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
Nov. 7

Richmond

Documents Not Received



School Committee Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

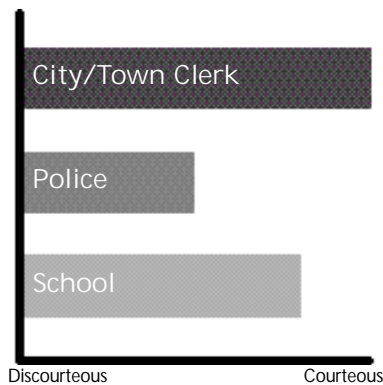
City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Average
- Legal Compliance: Partial

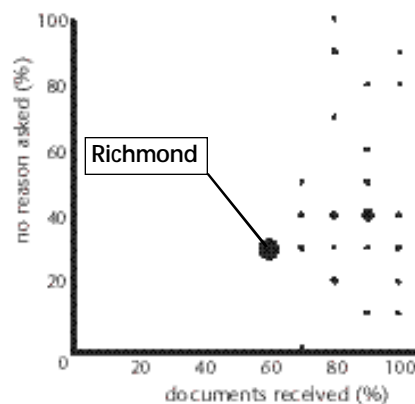
Richmond displays a wide range in compliance across municipal government. The Richmond Police Department complied with none of the requests made and was rated discourteous. The City Clerk's office complied with all of the requests and was given the highest possible demeanor rating. Richmond is also part of the combined Chariho school district. The district denied access to the school contract settlement and school committee agendas resulting in an Open Records violation. Potentially limiting access further, the reason for the request was asked in 70 percent of the interactions. Moreover, a second visit was required for three of the five items requested. Many improvements could be made in the implementation of the Open Records Law in Richmond.

“ The Tax Assessor was very efficient and helpful. The clerk printed a copy of a property that had been assessed, and she explained what all of the information sheets meant. No name or reason for my request was inquired. ”

How We Were Treated



Comparison: Cities/Towns



Scituate

FIRST TWO VISITS:

OCT. 21

NOV. 6

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

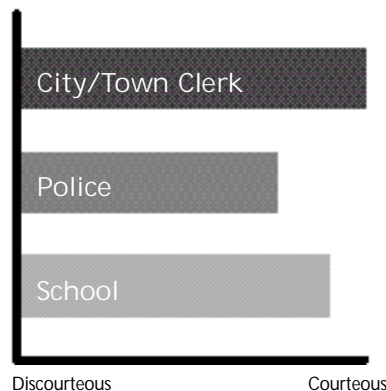
City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

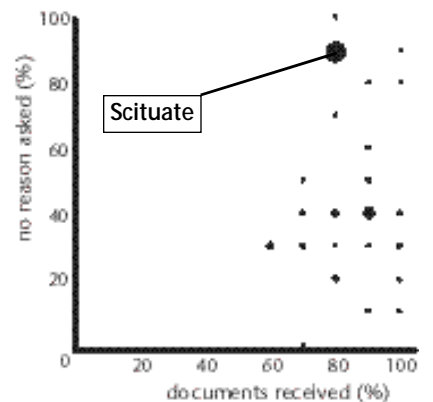
Scituate is another example of a town in which compliance with the Open Records Law is good for the Town Clerk and the School Department, but poor for the Police Department. The Police denied both requests, while the other divisions of government complied with all of the requests made. Nevertheless, all three divisions of the local government received above average demeanor ratings. Overall, Scituate is one of the five most courteous towns in the state. None of the municipal offices required more than one visit. Scituate is also less intrusive than most municipalities in the state, asking for a reason for the request in 20 percent of the cases, which is less than half the statewide average.

“ I asked the Scituate police officer on duty if I could view the police log who then called in another officer to talk with me about what I wanted. He told me I could not see the log and also asked me why I wanted it. I told him I was simply a concerned citizen. He offered to take me to his office to discuss what was going on in Scituate. ”

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS:

OCT. 21

NOV. 6

Smithfield

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: None

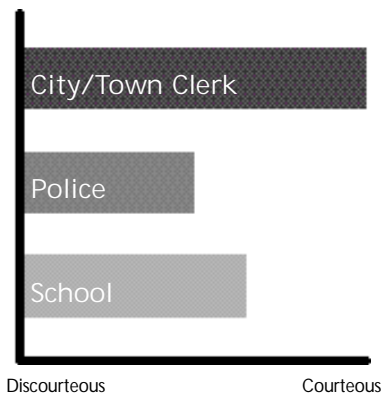
With the exception of the Town Clerk’s office, Smithfield appears to be one of the worst towns in the state in complying with the Open Records Law. The Police did not comply with any of the requests and were rated as very discourteous. In fact, Smithfield is one of the worst experiences at any police department across the state.

Smithfield Town Clerks, however, were very courteous and complied with all of the requests. Also none of the requests that were fulfilled required a second visit to obtain the documents. However, the school contract required a second visit.

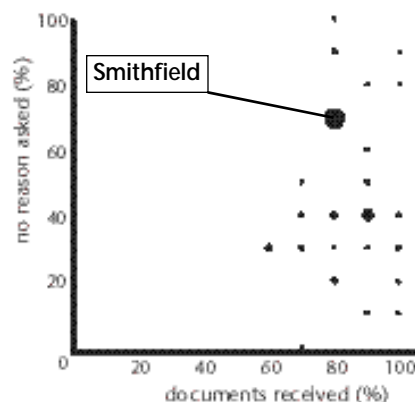
“ I went to the Smithfield Police Department to view the log. The dispatch officer asked what I wanted to do with it and I said that I just wanted to look at it. He made a phone call and soon a woman, came in and asked why I wanted the log. She then got a sergeant who also asked why I wanted the log. I said I was a concerned citizen. He asked if there was anything in the log that concerned me personally and I replied no. He then got the officer in charge who led me down a hall to his office. He also asked why I wanted to see the log and if I lived in Smithfield. He then went into a monologue about what is and is not a public record and what the police did not have to let the public view. He interrogated me, asking questions such as if I had reason to think the Smithfield police were watching me or if I had done anything wrong in the town that day and wanted to see if the police knew about it. When he finally finished, I got up to leave and he asked me what I had in my jacket pocket. I had sunglasses and a pen. He implied I was taping the conversation. He asked me for identification. I gave him my driver’s license, and he went into the lobby and photocopied it and sent me on my way. I was never able to see the log.

The Smithfield School Department were very tough people to get information from. When I asked for minutes and agendas, they asked who I was, if I was a parent or a student and why I wanted them. Eventually the assistant superintendent came out to tell me I could have them. ”

How We Were Treated



Comparison: Cities/Towns



Discourteous

Courteous

no reason asked (%)

documents received (%)

South Kingstown

FIRST TWO VISITS:

OCT. 22

NOV. 7

Documents Not Received



School Committee Minutes:

- Readability: Poor
- Thoroughness: Poor
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

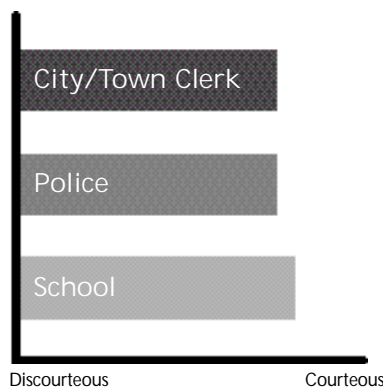
- Readability: Poor
- Thoroughness: Poor
- Layout: Good
- Legal Compliance: Partial

“ At the Police Department, I spoke with two officers about arrest reports. They told me the records were public. They asked if I worked for *The Providence Journal-Bulletin* or if I aspired to be a reporter. I told them I was a concerned citizen and I would like copies of the last three arrest reports. I filled out a Freedom of Information request, and they said they would mail the reports to me, but never did. * As I was leaving the station, I asked the officers their names. One of them said, ‘Why, are you spying on me? Are you gonna get me in trouble?’ ”

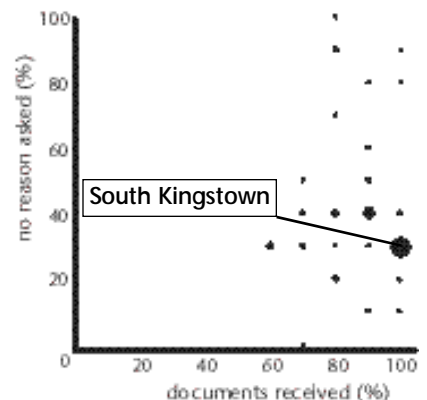
The South Kingstown Police Department is one of only nine in the state that complied with all of the indexed items requested. Moreover, South Kingstown is one of the eight jurisdictions that complied with all of the ten indexed items. The town employees were rated “somewhat courteous,” but when compared to all the other employees in that state, they rank close to the bottom. The demeanor rating is about equal across all of the divisions of local government, unlike most cities, which shows the police as less courteous. The South Kingstown officials were more inquisitive than most, asking for identification and the reason for request in 90 percent of the interactions. The town is also one of the ten municipalities statewide that required a written request for one of the documents. (The Police required a written request for copies of arrest reports which was never fulfilled. However, the researcher was allowed to look at the arrest reports in the Police station.)

(Footnote on p. 70.)

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 31
NOV. 19

Tiverton

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Good
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Partial

“ The Tax Assessor explained to me exactly which of the lots were redeemed and which had been sold. The clerk was helpful and explained all of the different aspects of the tax sale. She cleared me off a space at her own desk and let me look at the entire folder from the past tax season which was open record. She was in the process of making the preliminary list for the next tax sale as I walked in the door and suggested that I come back in two weeks when it would be ready.

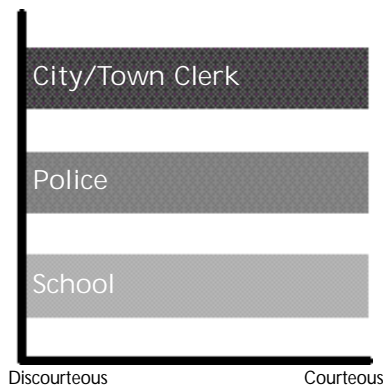
At the City Clerk’s office, the copying fees were outrageous, \$.50 per page, but they gave me all the information I needed. The staff was a bit frazzled, but tried to make the process as easy as possible. The clerk copied everything and collated all the minutes and agendas for me. ”

Tiverton is one of two towns that ranked as “very courteous” across all three departments. The Police Department, despite its courteousness, was the only division of the local government in Tiverton to deny access to any of the requests made. The Tiverton Police Department required a written request to be filed. Tiverton is also one of the two towns in the state that never asked for identification, but unexpectedly, they asked for the reason for the request in 80 percent of the interactions.

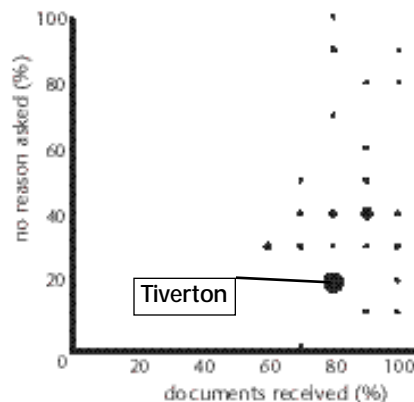
Tiverton is one of the three divisions of government across the state that charges over the legal limit of 15 cents per page for photocopies. The Tiverton Town Clerk’s office charged 50 cents per page for copies of the minutes and agendas.

In addition to overcharging, Tiverton is one of two towns that did not provide the most recent minutes available. According to the Open Meetings Law, minutes from a meeting of a public body are available either 35 days after the meeting or at the next regularly scheduled meeting, whichever ever comes first. On October 31, the date of the request, Tiverton provided minutes from July 7, 22 and August 5 when in fact there were regularly scheduled meetings held on September 9, 23 and October 14 which should have been made available. (There was a meeting on October 28 that would make the October 14th minutes public record.)

How We Were Treated



Comparison: Cities/Towns



Warren

FIRST TWO VISITS:

OCT. 20

NOV. 17

Documents Not Received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Full

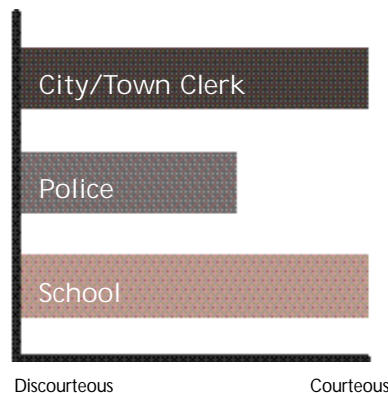
“ Upon requesting minutes and agendas from the City Clerk, I was greeted by an extremely courteous clerk who did not ask me any questions. The overall experience was wonderful. She even pointed out informational brochures about the area for me to read while I waited. The building had copies of the Open Meetings Act posted at the entryway for the public to read. ”

(See Bristol for narrative from the Bristol/Warren School Department)

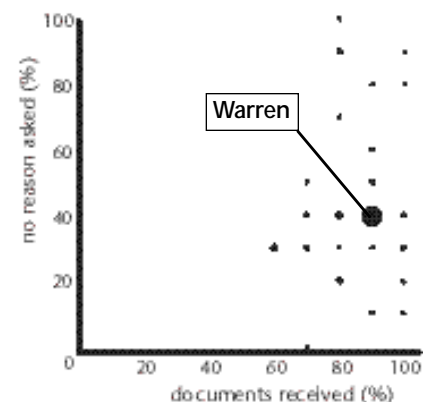
In Warren, the researchers were successful in obtaining nine of the ten indexed items. As in many jurisdictions, the Town Clerk’s office was the most courteous and compliant of the three divisions of local government studied. The Town Clerk’s office complied with all of the requests made and received the highest possible demeanor rating. The Warren Police Department was the weakest in this otherwise positive report. The Police were rated as discourteous and asked for identification and a reason for both the requests for indexed items. Across all divisions of government, Warren is one of eight towns that asked for identification 20 percent of the time or less. However, Warren required both their paperwork and a written request be submitted in order to receive some of the requests. The written request for School Committee minutes and agendas from the School Department was complied with within the 30 days allowed under the law.

While the Town Clerk provided all of the requests, it was one of two divisions of government across the state that failed to provide the most recent minutes – a violation of the Open Meetings Law. The Town Clerk provided minutes from July 8 and August 12, under the statute. The minutes from the meeting held on September 9th should have been made public record at the October 13th meeting and available at the time of our request, October 20th.

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
NOV. 13

Warwick

Documents Not Received



School Committee Minutes:

- Readability: Poor
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: None

City/Town Council Minutes:

- Readability: Poor
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: None

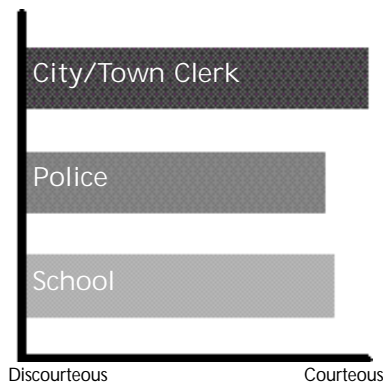
Warwick fulfilled 90 percent of the requests in this study. Warwick was also one of the most courteous cities in the state. The Warwick School Department employees and City Clerk’s office were rated “very courteous,” but the City Clerk’s office stands out as being exceptionally helpful and responsive. The Police Department was rated somewhat courteous. Warwick is one of the two towns statewide that never asked for identification, although they did inquire about the reason for the request in half of the interactions.

The areas for improvement in Warwick involve the School Committee minutes and the refusal of the Police Department to provide access to arrest reports that are not under investigation. Warwick was one of the worst jurisdictions in the state for legal compliance with the three requirements of the Open Meetings Law examined in this study. The City Council minutes were in violation of two provisions, as were the School Committee minutes.

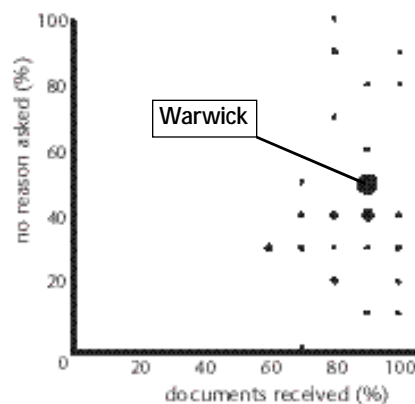
(Footnote on p. 70.)

“ When I requested the contract settlement from the secretary at the School Department, I was sent back and forth between two people until I finally was able to see the booklet that contained the information. I took a seat to examine the contents, and the secretary stood over me as I did so. When I requested a list of tax delinquencies, the clerk told me that such a list does not exist. I tried to further explain what I was looking for, and she continued to say that a list does not exist. ”

How We Were Treated



Comparison: Cities/Towns



Westerly

FIRST TWO VISITS:

OCT. 27

NOV. 18

“ The majority of people I dealt with in Westerly were helpful and nice. The only problem was with the police department. We were told the log, and arrest and brutality reports were not available to the public. ”

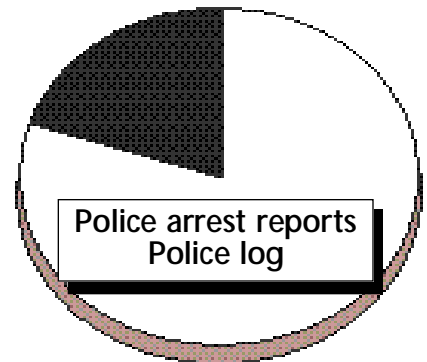
School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Poor
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: NA
- Thoroughness: NA
- Layout: NA
- Legal Compliance: NA

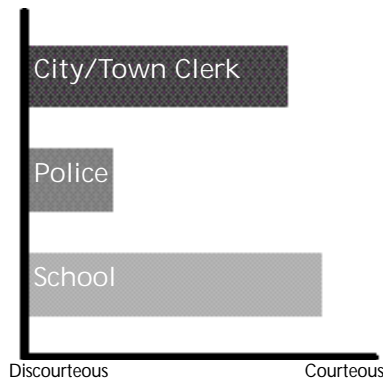
Documents Not Received



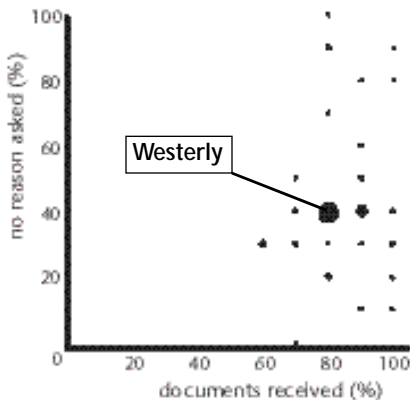
Westerly denied access to 20 percent of the documents requested. The demeanor of the town employees varied among the three divisions of government studied. As in many towns, the Police were the least compliant and courteous. The Westerly Police Department's demeanor rating is one of the four lowest in the state. They did not comply with either of the requests made - two clear violations of the Open Records Law. The School Department and the Town Clerk, on the other hand, complied with all of the requests.

There has been recent controversy surrounding police brutality in Westerly. In October 1996, some residents filed reports with the American Civil Liberties Union claiming the Westerly Police Department did not accept complaints against the Police. The ACLU suit came after several residents accused the Police of harassment, and in some cases, assault, and were turned away by the Police when they tried to file complaints. Police Chief Eugene Trombino has since implemented a new policy regarding police complaints, but it is unclear if it is working. The Westerly Police were advised by the Town Solicitor that they were not obligated to release the number of complaints filed so there is no measure to determine if the public has been able to file complaints without problems. By denying access to the police log and arrest reports, they suggest that conditions have not improved greatly since the new policy began. Apparently, the Attorney General's letter of three years ago, reminding all police departments of their obligations under the Open Records Law, has made little or no difference in Westerly or other police departments which denied access to these records.

How We Were Treated



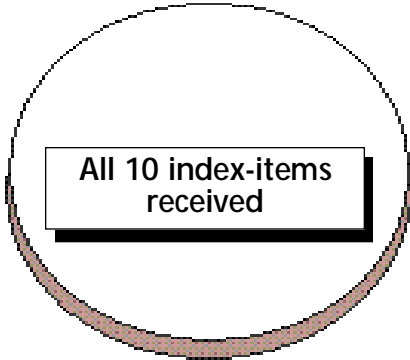
Comparison: Cities/Towns



FIRST TWO VISITS: OCT. 23
NOV. 6

West Greenwich

Documents Not Received



School Committee Minutes:

- Readability: Average
- Thoroughness: Average
- Layout: Average
- Legal Compliance: Full

City/Town Council Minutes:

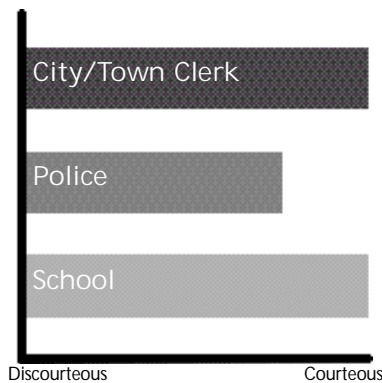
- Readability: Average
- Thoroughness: Good
- Layout: Poor
- Legal Compliance: Full

“ The Town Clerk in West Greenwich was extremely polite and helpful. When I asked her if I could see the minutes for the last three Town Council meetings, she complied without asking any questions. She volunteered to make copies. When I asked to see the delinquent tax records, she showed me the book, again with no questions. It was a very pleasant experience.

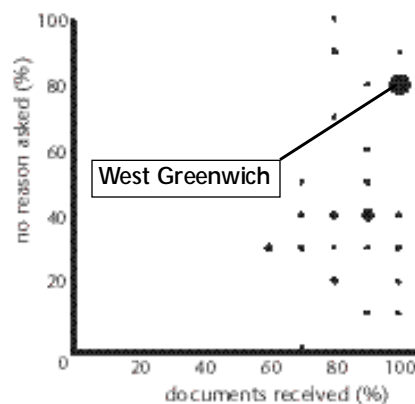
At the Police Department, I asked for the log, and I was directed to the basement to see a police officer. He was friendly but curious. He asked me many questions about why I wanted to see the log. He let me see a recent one, but not from that day. As I read it, he kept asking me what I was up to and he had a smirk on his face. ”

West Greenwich provided all of the indexed items requested. The West Greenwich Police Department, unlike most departments in the state, complied with both requests. The School Department fulfilled all of the requests and it received the highest demeanor rating. All of the materials provided were made available on the first visit. West Greenwich appears to be one of the only municipalities that does not store voter records in electronic form, making it impossible to obtain voter records on a computer disk.

How We Were Treated



Comparison: Cities/Towns



West Warwick

FIRST TWO VISITS:

OCT. 24

NOV. 6

Documents Not Received

School Committee Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Full

City/Town Council Minutes:

- Readability: Good
- Thoroughness: Average
- Layout: Good
- Legal Compliance: Full

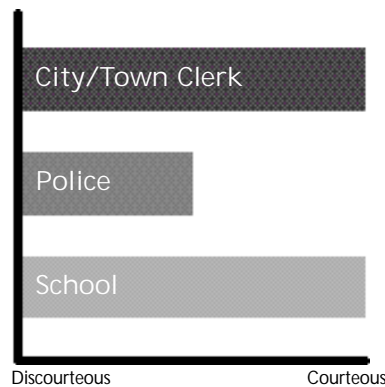


West Warwick is another town characterized by discourteous and non-compliant Police Department. The Police did not comply with any of the requests made. The School Department and City Clerk’s office both complied with all of the requests, and received a perfect demeanor rating. West Warwick is one of the four towns/cities that asked for identification in only 10 percent of the requests. On the other hand, the reason for the request was asked in 70 percent of the interactions. That, and the recalcitrant police, is the only strike against a town that otherwise does a reasonable job of complying with the Open Records Law.

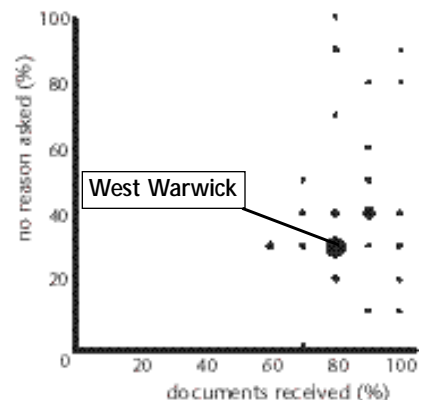
“ I asked the clerk in the Police Department records office if I could see the arrest reports. She said they are not public. I then asked for the brutality reports, and she said they are not public either and turned back to her paperwork. ”

West Warwick seems to have improved their School Committee minutes since the August 1997 violations of the Open Meeting Law. (*Jutras v. West Warwick School Committee’s Special Education Parents Advisory Committee*) In August 1997, the West Warwick School Committee was cited for not recording members present and absent in their minutes. We did not find the same problems in the minutes examined in this study.

How We Were Treated



Comparison: Cities/Towns



FIRST TWO VISITS: Nov. 14
Nov. 25

Woonsocket

Documents not received



School Committee Minutes:

- Readability: Good
- Thoroughness: Good
- Layout: Good
- Legal Compliance: Full

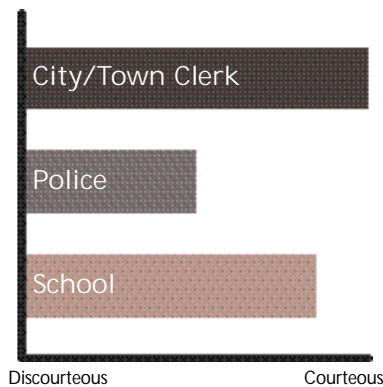
City/Town Council Minutes:

- Readability: Average
- Thoroughness: Poor
- Layout: Poor
- Legal Compliance: Partial

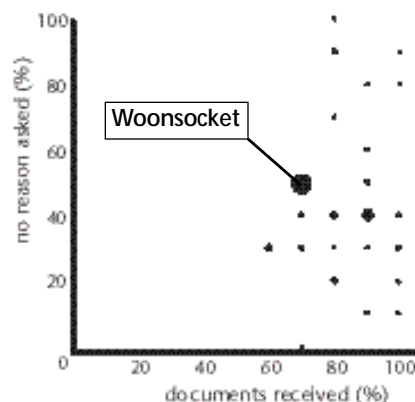
Woonsocket denied access to 30 percent of the materials requested. Compounding this problem were several other factors which also impeded the public access to the city documents. Three visits to the Police Department were made to determine if the arrest reports would be made available, which they were not. The School Department also required multiple visits; three of the five requests required at least two visits to either obtain the documents or be denied. Similarly, it required three visits to determine that the school contract settlement was not going to be made available to the public. Finally, Woonsocket is one of four towns that charges an excessive fee for photocopies. The law clearly stipulates 15 cents per page but both the School Department and the City Clerk's office charged \$1.50 per page as indicated by a prominent sign on the wall that also states the section of the law. The sign cites R.I.G.L. § 34-1309 that pertains to land records which cost \$1.50 per page. This statute pertains only to land records and not to general copies made on legal sized paper. On the positive side, the Woonsocket City Clerk's office complied with all of the requests made. The City Clerk was also given the highest possible ratings for their demeanor, exemplifying a trend among city clerks, who generally comply with the Open Records Law in a consistent and courteous fashion.

“ On the first visit, the office assistants at the city clerk's office were friendly and helpful in fulfilling my request. They asked me no questions and made copies of exactly what I asked for. Receiving the list of tax delinquent lots was just as simple. I walked up to the window, asked for the list and was handed one instantly with no questions asked. ”

How We Were Treated



Comparison: Cities/Towns



* Footnotes for Cities and Towns

Central Falls: The researchers received arrest reports from the Central Falls Police Department, but all of the personal information was redacted and therefore did not comply with the Open Records Law.

Coventry: The officer in charge insisted upon seeing a piece of identification from the researcher before any arrest records would be shown. As the researcher refused to present verification of her identity, the arrest reports were not obtained.

East Providence: The charge was not actually levied, but was clearly marked on a sign outside of the front window.

Johnston: The school department clerk said that a printed copy of the school contract was not available and even if it were, she would not provide copy because it would be too difficult to understand.

Providence: After being denied on four separate visits, arrest reports were ultimately granted to the researcher on the fifth visit. However, it is appropriate to deem this a refusal, especially in light of the considerable runaround, since the general protocol of the study dictated that three separate unsuccessful attempts should indicate a denial.

South Kingstown: The arrest reports were received by mail after the narrative was written.

Warwick: The officer on duty explained that arrest reports were not filed chronologically, so it would be difficult to retrieve the three most recent arrest reports. The officer did suggest that he would be willing to look up arrest reports if the researcher gave specific names.

Conclusions & Recommendations

Summary of Findings

This audit of the implementation of open records legislation in Rhode Island's cities and towns has produced some telling, and at times disappointing, results. Overall, 83.5 percent of the ten indexes were provided. That result would be impressive if it was difficult or impossible to comply 100 percent of the time. But the law demands 100 percent compliance, the citizens are entitled to 100 percent compliance, and the results in eight jurisdictions indicate that this standard is achievable. The most disappointing results, then, are from the seven jurisdictions in which only 60 or 70 percent of the requests were fulfilled. In short, this report indicates that the public's right to know is often respected, but it is also violated in a disturbing number of cases.

This study also identified distinct trends among the three departments under investigation at the local level: city/town clerks, the school department, and the police department. The city/town clerks performed best, fulfilling all of document requests used to measure overall compliance. City/town clerks were also more courteous and less inquisitive than either the school department or the police. The school departments followed closely behind the city/town clerks by fulfilling 94.1 percent of the documents requested. The best school departments were Bristol/Warren and Coventry as they each provided all of the requested records, received high marks for courtesy, and high-quality minutes and budgets.

The police were by far the worst division of local government. They fulfilled only 35 percent of all the requests used to measure compliance. Additionally, no police department released information regarding the most recent police brutality complaints even though these records, in redacted form, are clearly subject to disclosure under *The Rake* case. Police departments were also by far the most inquisitive subdivision of government. In all but three jurisdictions, researchers were

asked either for their identification or to provide a reason for their request to the police. The police also received the lowest marks for courtesy, and at times their behavior bordered on intimidation and harassment.

This study also examined several issues concerning the minutes of school committees and city/town councils. The statutory requirements upon which this evaluation is based may not be as well known as other obligations of the Open Records or Open Meetings Laws. Thus, noncompliance does not necessarily indicate reluctance on the part of a city or school officer to include important information, but rather a lack of knowledge of the Open Meetings Law. The issue of quality, which is not strictly included in the Open Meetings or Open Records Law, should also be a point of concern for those who keep minutes since poor quality ultimately translates into poor access.

Unfortunately, only eight (25.8 percent) of the school committees were in full legal compliance and had the highest rating for the quality of minutes. Only four city/town council minutes received this distinction. Problems in legal compliance were mostly (a) city/town minutes not listing a record of votes by member and (b) school committee minutes not recording who was present and absent. In terms of quality, poor layout and organization made many sets of minutes difficult, if not impossible, to use. There is significant room for improvement in how minutes are prepared in many jurisdictions.

Reasons for Noncompliance

What explains noncompliance with the Open Records Law? The answer appears to depend primarily on the specific department and the item requested. The city/town clerks performed better than the school and police departments, and, within departments, certain items, like school contracts and arrest reports, were more difficult to obtain than others were. But that observation does not explain why certain items are harder to obtain, or why certain departments are better at compliance than others.

This study was not designed to test causal hypothe-

ses. We did not try to interview those who denied access; in the case of numerous police departments, that would have been impossible because the researcher was essentially thrown out of the office. We formulated several possible explanations for noncompliance, however, in the course of surveying the 39 cities and towns. Those explanations are elaborated below, followed by some suggestions for improvement.

1. Ignorance of the Law

In collecting the data for this study, it became clear that some clerks and other municipal officials were not familiar with the law. They simply did not understand their obligations. With the exception of the police, a significant portion of the violations appeared to be from clerks who were unaware of the legal requirements, rather than being intentionally secretive, uncooperative or malicious.

For example, while the city and town clerks provided all of the requested index-items, there were nevertheless unnecessary delays, significant overcharges, and unfounded denials to requests for the most recently available city council minutes. These problems were even more obvious in the non-index-items. There were huge variations in the accessibility of the voting records. Some jurisdictions provided them only on disk, some only in hard copy, and some not at all. The price, in both electronic and hard-copy forms, varied greatly from jurisdiction to jurisdiction.

Similar problems regarding “transaction costs” revealed themselves at the school and police departments, and it is reasonable to suggest that steps should be taken to eliminate these obstacles to access by insisting that our public servants be aware of their obligations.

2. Police Secrecy

The most troubling finding — and hence the most significant policy puzzle in this study — involves the culture of police secrecy. The police departments are the least compliant of the three departments. In some sense, the police are quite open in their disdain for the law. This may not be surprising since the last attempt to enforce the law was three years ago when the

Attorney General sent a letter to all police departments outlining their minimal legal obligations.

Why are the police so secretive? The explanations for denying requests that the police gave us during this study are telling and provide useful clues for understanding this puzzle. Not only do police deny access to records that are public by law, but the way and the reason that police deny access is troubling. In many cases, police officers seem to think providing access to records would interfere with ongoing investigations or violate the privacy of the people involved. There is a well-established, almost paramilitary attitude that the police know what was best, and the police are in control. While some police records are rightfully confidential, this is no reason to deny access and be abrasive and secretive about all records. It is also possible that the police fear, as too many public officials in other settings do, that releasing records might somehow embarrass or incriminate them. How to overcome this kind of intransigence is a policy challenge.

3. School Secrecy

Although not as reluctant and as secretive as the police, secretaries and front-desk workers at school district offices appeared more reluctant than the city and town clerks to provide access to public records. Perhaps this is due, in part, to the culture of the institution. School districts, unlike city and town halls, have a significant number of records regarding student affairs, which, in many cases, are confidential. This may explain why secretaries are more cautious as to what records they give out. For example, clerks at school departments were often more inclined to consult a superior about whether they should release the public information. Additionally, school department clerks, in comparison to the clerks at city/town halls, may not be faced with the same frequency of requests for public documents. Perhaps this lack of regularity or experience in dealing with the public contributes to the reluctance and/or confusion of some school clerks. In any event, school clerks have the same obligations under the law as other public servants, so these circumstances do nothing to excuse

them from their non-compliance. They do suggest the need for better training.

4. Abuse of Discretion

Another disturbing revelation of this research is that some local clerks seem to have adopted their own ad hoc policies in violation of the Open Records Law. For example, the New Shoreham tax assessor stated that it was not her policy to release a list of tax delinquent properties until the day of the sale, even though other jurisdictions complied with this request. Similarly, the researcher was denied the school contract in Johnston on the stated grounds that the document would be too confusing for the researcher to understand. In instances like these, the clerk is acting as a gatekeeper rather than a person assigned to facilitate public access. The Open Records Law does not leave such decisions to the discretion of local clerks and there is an obvious need to standardize implementation.

Recommendations

1. Training and Continuing Education

Some of the compliance problems encountered in this study were undoubtedly due to ignorance of the law. For example, some clerks are apparently unaware that the Open Meetings Law specifies when unapproved minutes must be released. Similarly, many school department clerks seem unaware that the Open Records Law mandates release of documents such as the policy manual and the school contract. It is harder to attribute violations by the police to ignorance since police departments have been advised by the Attorney General and, of course, their stated mission is to enforce the law. Nevertheless, compliance would clearly improve if those responding to requests from the public received better training.

The institutional framework for improving education for city and town clerks exists in the form of the Rhode Island Town and City Clerks Association. Most cities and towns in Rhode Island hold membership in the Association, but some do not. The Association

holds quarterly meetings and it sponsors a summer program at Salve Regina University through which clerks can receive accreditation. The regular meetings offer an excellent opportunity for continuing education and the courses taught at Salve Regina seems to offer an ideal opportunity for detailed instruction in the Open Meetings and Open Records Laws.

The Rhode Island Association of School Committees provides a similar opportunity for school board members and school department clerks. All but four or five of Rhode Island's school committees are currently members, and this association offers in-service training and workshops ranging from issues of contract negotiations to the Open Meetings Law. These seminars are offered after each general election and are aimed primarily at newly elected school committee members, but these seminars are open to committee clerks as well. This study indicates that there is room for improvement. These efforts obviously are not reaching enough of the front-line clerks.

The Rhode Island Police Academy is the institution in place for training police officers. Along with instructing cadets, the academy also offers in-service training each year for current police officers. Representatives from the Attorney General's office have participated in programs designed to offer information to officers and cadets on various law enforcement procedures. The academy offers classes on the use of force, instruction regarding firearms, and a constitutional law course as part of its curriculum, but there are currently no courses or programs specifically designed to instruct officers on their responsibilities under the Open Records Law. Beyond the Academy, there is an obvious need for continuing education, and possibly even some kind of monitoring, since the police seem to disinclined to obey these laws.

2. Monitoring

Government programs do not implement themselves. Rather, they require monitoring if the government is to assure that the desired goals are being met. Recognizing the importance of such monitoring, the American Library Association has interpreted the

right to use a library to require that libraries:

“systematically monitor their programs of service for potential barriers to access and strive to eliminate such barriers when they occur” (Economic Barriers to Information Access, *An Interpretation of the Library Bill of Rights*; ALA).

Prior to this study, there had never been a systematic statewide audit of this nature in Rhode Island. The Attorney General’s Office has been made aware of the problem through complaints, but no Attorney General has ever undertaken a proactive study of how well the law is implemented. If authority to enforce this law remains with the Attorney General, then the A.G. should monitor implementation in order to identify problems and decide which enforcement actions are most important. If this authority is transferred elsewhere (as recommended below), then the responsibility to monitor follows.

3. Transfer the Attorney General’s Enforcement Powers

The law currently allows aggrieved citizens to file complaints with the Attorney General. The Attorney General then may either file suit on behalf of the complainant, issue an advisory opinion, or choose to take no action. The difficulty with this method of redress is that there may be little incentive for the Attorney General to consistently take action, especially by filing suit, on behalf of citizens who are attempting to obtain public information. Since the Attorney General often depends on other government agencies and officials, especially police departments, to perform the functions the office, the Attorney General may be disinclined to disrupt the relationships with those agencies in order to enforce the Open Records Law.

That is certainly the track record under more than one Attorney General. Actions taken by the Attorney General regarding public information, especially in terms of police records, have tended to be in the form of non-binding advisory opinions, such as the letter to police departments in 1994, that specify the bare minimum that has to be released. The ineffectiveness of this current means of enforcement power is illustrated by this study in that no jurisdiction provided redacted

police brutality complaints, which appear to be open records according to *The Rake* case.

The current practice of routing complaints through the Attorney General’s office should be examined to determine if this best meets the public’s needs. Other states have recognized this possible conflict of interest and removed the Attorney General from the process and, in some cases, set up other institutional mechanisms for complainants. Only thirteen other states make some provisions for the Attorney General to be involved in disputes over public records. Most of these state’s statutes outline the Attorney General’s involvement as being more of an advisor and mediator rather than a proactive advocate. Rather than placing the responsibility of enforcement in the hands of the Attorney General, Connecticut has created an innovative Freedom of Information Commission that investigates complaints regarding public access. Interestingly, the Attorney General proposed moving the enforcement power for the Open Records Law to the Ethics Commission, but the proposal did not include any additional funding for the commission to carry out its increased workload. (See, *Statement in Opposition to 93-S 923, Rhode Island Ethics Commission*) Such a restructuring seems plausible, but the funding is necessary in order for this reform to be successful. Also, the suggestion, in itself, indicates that the Attorney General’s office would feel more comfortable if the powers of enforcement were transferred out of their hands.

4. Provide for Attorneys’ Fees

While some states allow complaints to be filed with the Attorney General, most states, Rhode Island included, also allow citizens to independently seek legal action in order to obtain public information. However, Rhode Island is one of the few states that does not allow citizens who successfully sue to obtain records to receive reimbursement for court costs and attorneys’ fees. Forty-one of the fifty states make some sort of allowance for recovery of court costs, attorney fees, or both. For example, Maine and Massachusetts allow successful plaintiffs to be reimbursed for their court expenses but do not allow for the recovery of attorneys’ fees. Other states, like Connecticut, allow

trial expenses to be granted to a successful plaintiff up to a \$1,000 limit. (Tapping Officials' Secrets: The Door to Open Government in the 50 States and D.C., The Reporters' Commission for Freedom of the Press, 1997) Often, the recovery of court costs and attorneys' fees are left to the discretion of the court, as is the case in states such as Maryland, Delaware, Illinois, and Indiana. Some states go even further since their statutes require that successful plaintiffs be completely reimbursed for their expenses. These states include California, Florida, Iowa, and Missouri. In many of these states, the statute allows for recovery of expenses only if the plaintiff "substantially prevails" or if the agency who denies the request is found to have committed a willful violation of the law.

By giving citizens the opportunity to independently pursue litigation while failing to allow for reimbursement, the state, in effect, makes this avenue of recourse expensive and denies its potential effectiveness. Court costs and attorneys' fees act as another structural impediment to citizens who seek to obtain documents that are, by law, public information. By amending the Open Records Law to provide for attorneys' fees and court costs, the Rhode Island legislature could remove this obstacle to access and create a more effective means for citizens to protect their right to public information.

5. Electronic Access: Problems and Possibilities

As we move closer to the next millennium, government records are increasingly being stored or created on a computer. The computerization of everything from the "booking" of an arrestee to the list of registered voters has greatly improved the efficiency of local governments and made records more rapidly accessible and searchable. At the same time, this rapid computerization has created questions about how such records are protected under existing open records statutes.

a. Are electronic records as legally accessible as hard-copy documents?

Rhode Island's law, although enacted in 1979, is relatively progressive in that it specifically states that public records should be available regardless of physical form and also provides that printouts of any computer stored data be available R.I.G.L. § 38-2-3(d) and 38-2-3(e). This would imply that all public records created on computers would be open, and that, at the very least, a hard copy should be made available. The issue of the format of the data, electronic or on paper, has been debated around the country and in numerous court cases. The general trend in recent cases is that, unless there are extenuating circumstances, the data should be made available in electronic form (Chris Lopeta "Access to Electronic Access" A Guide to Reporting in the Computer Age, Reporters' Committee for Freedom of the Press, 1994) Some states have amended their laws to clarify this issue. In Connecticut, for example, the state legislature passed an amendment to its open records law requiring that the records must be provided in the form in which they are asked for, if available.

A legal loophole often used by agencies to deny access to electronic database records is a provision in practically all open record acts, include Rhode Islands, stating that agencies are not required to create a new document to meet a public request. Some agencies have argued in court, occasionally successfully, that by having to run a search of a database to only pull out certain records constitutes the creation of a new record.

Clearly, this issue requires legislative clarification.

b. How much should electronic documents cost?

Many people seeking electronic records find that they are allowed to access the records, but only for an unreasonable cost. For example, in the Providence Journal-Bulletin case, the state requested several million dollars for the records. The statute specifies only two costs to be associated with access to public records: a maximum of \$.15 a page for copying of documents,

and a maximum of \$15 an hour for staff time put into assembling the documents. Some states, such as Connecticut, have enacted laws that the cost of access shall not exceed the direct cost of the agency to provide it. Again, whether or not these costs are appropriate for electronic access is an issue that could use legislative clarification.

C. Possibilities

The increase in the use of computers in the compilation and storage of government records has not only increased productivity for the government, but has created a unique opportunity for extremely easy access to records. Computerized access to the records is not only faster than to its paper counterparts, but is generally less expensive, both in terms of materials and staff time. For these reasons, two main recommendations are appropriate since they suggest ways to increase access to electronic public records.

i. Local governments should recognize the efficiency, in terms of administrative costs and time required by the public, associated with electronic access.

When a member of the public asks for documents stored electronically, clerks often locate the records in their digital form and then produce a printout. Not only does this require significant staff involvement, but consumes considerable amounts of paper. It would be far simpler, in most cases, if the public could simply access the electronic versions directly. As long as the contents were organized in a user-friendly fashion, the data could be accessed by the public without the involvement of the staff. Also, as time progresses, electronic access to records is going to become a larger issue. Those towns that make an effort now to create an on-line presence will not only make it easier for their citizens to obtain the information they need, but will save themselves the hassles of trying to catch up in the future.

In terms of the citizenry, electronic access would provide the ultimate in accessibility as anyone, anywhere, at any time could access the records from their home, business or one of the numerous public libraries or internet cafes offering no cost access to the Internet. Placing the records on the Internet would also allow a searching capacity such that the public could electronically find the information they are looking for among many records.

ii. Local governments should learn from the example set by federal and state efforts to make documents accessible via electronic means.

The benefits of placing public records online have already been well exploited by the federal government. Not only are versions of bills before Congress available online, but most federal agencies have placed thousands of regulations, informational pamphlets, and other materials on the Internet.

The State of Rhode Island has recently placed legislative information, including bills, on the Secretary of State's Web site. Although there is still a lot of room for improvement, some localities have made bits and pieces of public information on the Web. Providence, for example, on the mayor's home page, has placed an electronic copy of the city ordinances.

Another interesting example is that of Jamestown where "unofficial" agendas to upcoming meetings and minutes from past Town Council, Planning Council, and Zoning Board meetings are available on the Internet (<http://users.ids.net/~allphin/meetings.htm>). The site is not sponsored by the Town of Jamestown, but rather by a member of its Zoning Board who is working in cooperation with the Town. While unofficial, it does provide a good example of the possibilities for placing public records on the Internet. While not searchable, the site does provide up-to-date information in an easily accessible format.

Unadjusted Compliance Rate

	Compliance Rate. 10 Index-items	Police Brutality	Voter Records	Tax Delinquency	Unadjusted Rate of Compliance*
Barrington	90%	No	Yes	No	76.9%
Bristol	80%	No	Yes	Yes	76.9%
Burrillville	80%	No	Yes	No	69.2%
Central Falls	90%	No	Yes	Yes	84.6%
Charlestown	70%	b	No	No	58.3%
Coventry	90%	b	No	No	75.0%
Cranston	80%	No	Yes	No	69.2%
Cumberland	100%	No	Yes	No	84.6%
East Greenwich	100%	a	No	d	90.1%
East Providence	100%	No	Yes	No	84.6%
Exeter	80%	N/A	Yes	e	81.8%
Foster	80%	a	No	Yes	75.0%
Glocester	90%	a	Yes	Yes	83.3%
Hopkinton	60%	b	Yes	No	58.3%
Jamestown	90%	a	Yes	No*	83.3%
Johnston	70%	a	Yes	No	66.6%
Lincoln	90%	b	Yes	f	90.1%
Little Compton	70%	a	Yes	Yes	75.0%
Middletown	100%	No	Yes	f	91.6%
Narragansett	90%	No	Yes	No	76.9%
New Shoreham	100%	a	Yes	No	91.6%
Newport	90%	No	Yes	f	83.3%
North Kingstown	100%	No	Yes	No	84.6%
North Providence	70%	No	Yes	f	66.6%
North Smithfield	80%	No	Yes	f	75.0%
Pawtucket	60%	No	Yes	f	58.3%
Portsmouth	70%	No	Yes	f	66.6%
Providence	90%	No	Yes	f	83.3%
Richmond	60%	No	No	Yes	53.8%
Scituate	80%	No	No	No	66.6%
Smithfield	80%	No	Yes	f	75.0%
South Kingstown	100%	No	Yes	f	91.6%
Tiverton	80%	No	Yes	Yes	76.9%
Warren	90%	No	Yes	Yes	84.6%
Warwick	90%	c	Yes	No	83.3%
West Greenwich	100%	No	Yes	Yes	92.3%
West Warwick	80%	No	Yes	Yes	76.9%
Westerly	80%	No	Yes	f	75.0%
Woonsocket	70%	No	Yes	Yes	69.2%

Key for Compliance Table

a Police responded there were no brutality complaints on file.

b Prevented from asking about brutality complaints due to police behavior.

c File problem.

d Referral, not followed-up.

e Assessor responded there were none.

f Results unclear from original fieldwork; no follow-up after item was discarded from compliance index.

N* Three visits, assessor not in. Deemed a denial.

N/A No police visit in Exeter.

***** Includes only those additional items with definite results.