

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-

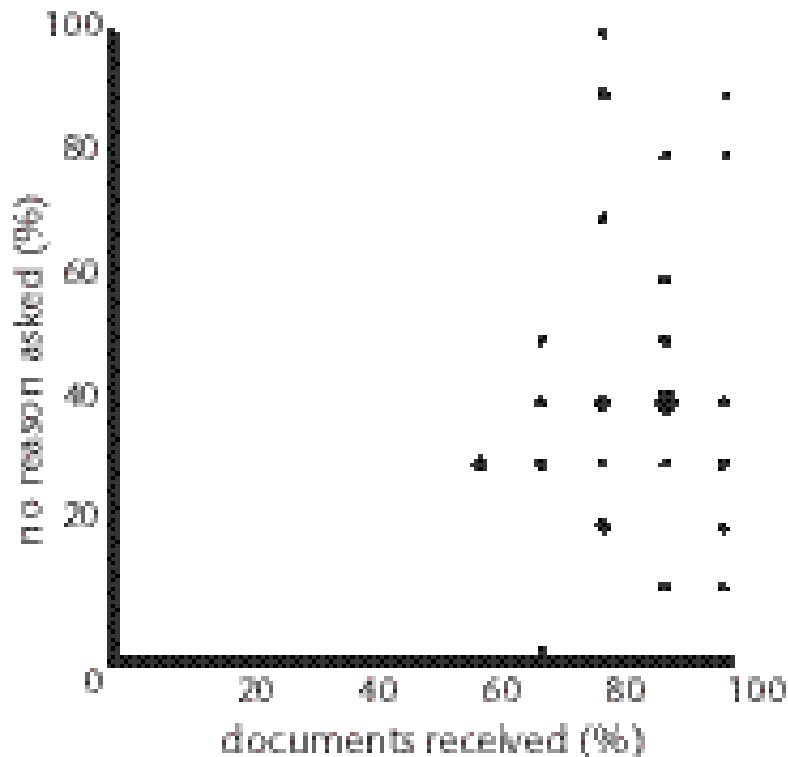
City & Town Summary

	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						

sionally, the third) visit. Admittedly, the necessity of a follow-up visit does not rise to the level of a legal violation. And in some cases, the reason for the second visit was entirely unavoidable (i.e., problems with the copy machine). Other cases, however, are more questionable (i.e., references to some superior, “who is not in now”). Members of the public who are subjected to continuous runaround, whether intentional or not, may ultimately be sapped of the time and energy needed to obtain a desired document.

Bureaucratic paperwork is often cited as a major frustration when dealing with public agencies. While not a violation of existing law, such paperwork might be an impediment to public access to information. Researchers confronted such bureaucracy when they were asked to submit a written request or to fill out the department’s paperwork as part of the town’s policies for access to public records. Five cities (Warren, Narragansett, Middletown, Lincoln, and Exeter) asked researchers to fill out some sort of department form, and in ten cities researchers had to leave their own written request. A response to a written request, if it is given at all, can take days or weeks, and this delay may prove troublesome to some members of the public. In many cases, it is also illegal. The Open Records Law requires agencies to identify requests in writing, citing the specific reasons for denial and indicating the procedures for appeal, within ten business days of the request (R.I.G.L. § 38-2-7(a)). This limit may be

Comparison of Cities & Towns



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.