



New England First Amendment Coalition

The NEFAC Report

New England's monthly right-to-know dispatch

January 2011

Prepared by the [New England First Amendment Coalition](#) in partnership with Northeastern University

The monthly **NEFAC Report** monitors print and online coverage of public access issues in the six-state region. Visit our revamped [Website](#) for the NEFAC blog, media updates from around New England, guides to the states' right-to-know laws, legal contacts and more.

Newspaper offering free FOI course to all comers

TORRINGTON, Conn. - A free three-week class on the Freedom of Information Act will be offered at The Register Citizen's new Community Journalism School next week, and it's not too late to sign up. The class will be available online.

Former Connecticut Freedom of Information Commission member Andy Thibault is teaching the class, which will also feature guest speakers including South Windsor Police Chief Matthew Reed, Freedom of Information Commission staff members and Jan Smolinski, who used the Freedom of Information Act to bring public attention to the infamous missing person-turned-homicide case of her son, Billy.

Two sessions of the class will be offered - at 11 a.m. and 8 p.m. - on three consecutive Wednesdays, Jan. 19, 26 and Feb. 2. It is open to anyone, from journalists, to bloggers, to public officials and citizens who serve on local boards and commissions, to interested members of the public. [Read more](#)

- *The Register Citizen, Torrington, Conn.*

1/16/11

CT town spends \$27k fending off FOI complaints

AVON, Conn. - The town has spent \$27,104 in legal fees to fight a resident's Freedom of Information complaints seeking access to documents about hiring in the Avon Police Department, according to the town manager's office.

"We have a resident in town who is filing a lot of FOI requests," Town Manager Brandon Robertson told the Board of Finance last month.

Avon resident Joao Godoy has made numerous FOI requests to the town and police department, including FOI complaints in 2009 and 2010. He declined a full interview with Patch, but did make some comments via text message.

"The town of Avon spent a significant amount of money in FOI issues because it tried to hide important information about hiring policies for the police department," Godoy wrote in a series of text messages to Patch. "The costs associated with FOI requests are a necessary evil. The benefit of having a transparent government surpasses the costs." [Read more](#)

- *Jessie Sawyer, AvonPatch, Avon, Conn.*

1/13/11

Resident claims school board broke open meeting law

FOXBORO, Mass - The State Attorney General's Office is reviewing a resident's claim that the school committee deliberately broke the Open Meeting Law in connection with its closed-door vote last summer to amend Superintendent Christopher Martes' contract.

In a Jan. 4 letter to the school lawyer, the attorney general's Division of Open Government asked the school committee to provide the office with all documents, memoranda, meeting minutes and e-mails it created

concerning Martes' contract over an almost 10-month period - Jan. 1 through Oct. 18.

The office also asked for the names and phone numbers of all members of the school committee serving on June 21, 2010, the date four of the committee members - Katie Adair, Bruce Gardner, Martha Slattery and Kate Kominsky - met in closed session with Martes. Member Beverley Lord was absent. [Read more](#)

- Frank Mortimer, The Sun Chronicle, Attleboro, Mass.

1/13/11

National editors' group seeking open government "heroes"

PROVIDENCE, R.I. - The American Society of News Editors is looking for "local heroes."

The organization said in a news release from its headquarters in Reston, Va., that it is seeking people around the country who have played significant roles in fighting for open government.

The quest is part of Sunshine Week, a national initiative to promote a dialogue about the importance of open government and freedom of information. Free materials that individuals and organizations can use to participate in Sunshine Week are available on the project's website at sunshineweek.org.

"As a society, we often associate the word 'hero' with movie stars and athletes," Tim Franklin, co-chair of the ASNE Freedom of Information Committee, said in the news release. Franklin is the Louis A. Weil Jr. Endowed Chair and Director of the National Sports Journalism Center at the Indiana University School of Journalism in Bloomington. "The ASNE Sunshine Week Local Heroes winners won't be seen on the big screen or on 'Sports Center' highlights. The largely unknown winners in this contest, however, will be heroes to anyone who pays taxes and votes in a local community -- in other words, to every single resident who lives there." [Read more](#)

- Thomas J. Morgan, Providence (R.I.) Journal

1/14/11

RI officials get primer on open records law

WARWICK, R.I. - Eighteen of the 26 public-records complaints filed with the attorney general last year alleged that officials from around Rhode Island violated a basic requirement of state law: Replying to a person's request within 10 business days.

"It's really, frankly, inexcusable" to not meet that deadline, Attorney General Peter F. Kilmartin told officials and the public at a summit Thursday on open government and public records law. The response can include that the public official or public body needs 20 additional business days to either provide the record, reply that there is no such record or to deny it (subject to appeal to the attorney general's office), but these were alleged failures to respond.

At the Community College of Rhode Island's Knight Campus in Warwick, attendees of "Open Government 101" got an explanation of the laws from Assistant Attorney General Michael W. Field. [Read more](#)

- Michael P. McKinney, Providence Journal

1/14/11

Legislators told VT records law toothless

MONTPELIER, Vt. - When the Hardwick Gazette asked for a town-funded survey of long-disputed land in Craftsbury, officials refused to release it because it would cause a hornet's nest of controversy, Ross Connelly, publisher of the newspaper told a legislative committee Thursday. "I've never found 'hornet's nest' as a reason for an exemption," Connelly said.

Connelly's tale was one of several told Thursday about roadblocks encountered in seeking public information as the House Government Operations Committee started looking at possible changes to the state's public records law.

Vermont's laws have little teeth, with no one designated to hold officials accountable for refusing access, Connelly and others told the committee. [Read more](#)

- Terri Hallenbeck, *The Burlington (Vt.) Free Press*

1/14/11

Editorial: info on RI judges should be public

Citizens have a right to know about the judges who can hold enormous power over them. Rhode Island has made the nomination and retention of judges too much of a political insiders' game. It is time for reform.

For one thing, Rhode Island is the only state to permit appointed judges to serve for life, pretty much at will. Massachusetts and New Hampshire draw the line at age 70.

For another thing, most states either subject judges to re-election (a less than perfect system, in our view) or have a reappointment process in place, so that judges who display less than exemplary performance may be weeded out. Power without accountability or review can lead to judicial arrogance. Rhode Island should introduce a system of reviewing the performance of judges. [Read more](#)

- *Providence Journal*

1/14/11

No public scrutiny of RI judges' applications, performance

PROVIDENCE, R.I. - Rhode Island is the only state that gives lifetime tenure to its judges with no mandatory retirement age.

And unlike some states where judges are appointed, rather than elected, there is no public performance review of jurists during their careers.

In Rhode Island, the public also has no right to know whether someone being considered or selected for a judgeship has ever been accused or convicted of a crime, how much debt they have, whether they are current on paying their taxes, have ever filed for bankruptcy, or are addicted to drugs or alcohol.

All of these things are the subject of inquiry by the state's Judicial Nominating Commission, the "independent, nonpartisan" state body that screens candidates for the judiciary. But the answers, which are in a personal data questionnaire that is part of the judicial application process, are kept confidential and off-limits to public scrutiny. [Read more](#)

- *Tracy Breton, Providence Journal*

1/9/11

VT's Shumlin has chance to back up transparency pledge

The ruling against the state's effort to charge a union \$1,300 to inspect public records provides an early opportunity for Gov. Peter Shumlin to stand behind his campaign pledge on open government.

By accepting the ruling and calling for the legal challenge here, the governor sends a strong message that there is a new administration in Montpelier with a more enlightened outlook on the people's right to know.

The case was over the administration of former Gov. Jim Douglas charging the Vermont state employees union a fee -- \$1,300 -- to inspect e-mails and other documents having to do with cutting jobs and the state's buying of software to monitor employees' Internet activity. The fee, in effect, is double-billing for taxpayers already paying the wages of the state workers who will put the requested documents together.

More important than the application of the ruling to this specific case are the principles promoted by Washington Superior Court Judge Geoffrey Crawford, that forcing anyone to pay simply to look at public documents hampers open government, and that the burden of making the documents available for public inspection must be borne by the state. [Read more](#)

- *The Burlington (Vt.) Free Press*

1/13/11

Complaint prompts changes in MA town's procedures

SOUTHBOROUGH, Mass. - Selectmen made a number of modifications to town policies governing officials and committee members last November in response to a lengthy Open Meeting Law complaint filed by resident Nancy Vargas.

Vargas, a member of the Municipal Facilities Committee until it was disbanded last June, filed a complaint with the town in October and with attorney general's office in December alleging that local officials misused funds and violated the Open Meeting Law while the committee conducted the design phase for improvements to the police station.

According to a letter from selectmen chairwoman Bonnie Phaneuf to the attorney general's office, the town made changes last November to the committee handbook, e-mail policy and professional conduct policy after reading Vargas' complaint.

Much of the new language reiterates the importance of topics such as proper and timely minute-taking and adherence to Open Meeting Law. But other additions are more substantive and seem to relate directly to Vargas' complaint, which alleges that committee members and town employees hid information from her while she was on the Municipal Facilities Committee. [Read more](#)

- Brad Parishen, MetroWest Daily News, Framingham, Mass.

1/12/11

MA standardizing vital records fees statewide

A new statewide system for birth, marriage and death certificates and other public records will standardize their fees and provide access to them from any city or town hall in Massachusetts.

Starting with birth records, a statewide electronic filing system will be adopted and the state Registry of Vital Records and Statistics will work with cities and towns to determine uniform fees from community to community.

"The standardization of fees is part of a much larger systems change being undertaken," said Julia Hurley, a spokeswoman for the state Department of Health and Human Services.

For decades, town and cities have looked to each other when adjusting fees. City and town clerks are responsible for setting them.

"It's been a long time coming and we all support it," said Quincy City Clerk Joseph Shea. "No two cities or towns have the same type of birth certificate." [Read more](#)

- Anne Reed, The Patriot Ledger, Quincy, Mass.

1/10/11

Editorial: Public should see report on school records

Did administrators alter records to help athletes, children of board members?

There is a compelling public interest for the East Haven school board to release a report on whether attendance records were altered at the high school.

The majority of the board may want to release the report. It hasn't, because two board members, Patricia DePalma and Christine Maisano, have sued their colleagues to prevent it. Both women's daughters attended the high school. One of the allegations covered by the investigation is whether they used their influence to alter attendance records to allow their children to graduate.

DePalma and Maisano have counter charged that school officials allowed other school board members improper access to attendance records. A police investigation of the charge found that no state laws were violated. An assistant high school principal, Bob Proto, said he had talked about general attendance policies with the board's chairman, Nicholas Palladino, and a board member, Ronald Nuzzo. [Read more](#)

- New Haven (Conn.) Register

1/10/11

Focus of police actions on abuse call questioned

WHITE RIVER JUNCTION, Vt. - During the Hartford Police Department's investigation into allegations that an officer injured a woman he had been called to help, three eyewitnesses told police that officer Jon Adams threw the woman headfirst to the pavement for no good reason, according to internal department

records obtained by the Valley News.

The eyewitnesses, who were interviewed separately but offered almost identical accounts, told police that Adams grabbed Monica Therrien by the back of the neck and shoved her to the ground outside the Shady Lawn Motel on the night of Sept. 10. One eyewitness said the impact sounded like "a watermelon when it splits open," the records show.

Therrien was hospitalized for several days with a concussion and other injuries.

After gathering this and other evidence in the past four months, police have not taken action against Adams or any other officer on the scene, although their investigation continues. Hartford Police Chief Glenn Cutting said last month that he hadn't seen any signs of misconduct by his officers. [Read more](#)

- Mark Davis, Valley News, Lebanon, N.H.

1/9/11

Mass. AG says town broke open-meeting law

WAYLAND, Mass. - The attorney general's office has ruled the Board of Selectmen violated the state's Open Meeting Law in an executive session last summer.

The attorney general's review resulted from a complaint filed by local attorney and former selectman George Harris.

In the latest ruling, Assistant Attorney General Jonathan Scarsic wrote that selectmen were allowed to go into executive session last July to discuss traffic for the Town Center project, as it was subject to the litigation between the Historic District Commission and Twenty Wayland, the developer, but it should have reconvened in open session to approve a traffic certificate.

"It should have approved the traffic certification in executive session and then immediately reconvened in open session and announced the vote to the public and recorded its approval in the minutes of the open session," Scarsic wrote. [Read more](#)

- Michael Wyner, Wicked Local-Wayland

1/7/11

CT spends \$750k yearly handling inmate info requests

The Department of Corrections estimates that it spends at least \$750,000 each year responding to Freedom of Information requests from its inmate population, according to a December report by the Office of Legislative Research.

The largest chunk of that spending, about \$625,000, is attributed to staff hours spent responding to the requests, the report said. In a typical week, DOC staff members spend about 286 hours searching through records and redacting the social security numbers and home addresses of employees, the agency estimated.

Given that DOC employees have varied salaries, the agency used an average cost of \$42 per hour to calculate those expenses. Using those figures, the DOC estimated a weekly personnel cost of \$12,012, or \$624,624 per year dealing with the requests. [Read more](#)

- Hugh McQuaid, CT News Junkie

1/7/11

Michaud says weakening of "pay-go" rule a bad sign

Maine 2nd District Rep. Mike Michaud says Congress has gotten off to a bad start with new rules approved today in the House.

Michaud says the rules pushed through by the Republican majority gut the so-called "pay-go" budget provision, which requires that spending and tax provisions be paid for through offsets elsewhere in the budget.

The new rules package, which Michaud voted against, limits spending offsets to budget cuts only--tax increases are off limits. Under the rules, tax cuts won't require offsets. Michaud says that's bad policy.

"The American people know that both tax policy and spending affect our overall debt, and they want our entire fiscal house to be put in order," Michaud says in a statement. "We need to get serious about addressing

our record deficits. This package represents a huge step back that puts us on the wrong track to enact serious change." [Read more](#)

- *Maine Public Broadcasting Network*

1/6/11

ME sheriff sues state agency for info on probe of a deputy

MACHIAS, Maine - Sheriff Donnie Smith stunned the Washington County commissioners Thursday night when he announced that earlier in the day he had filed a lawsuit against the Maine Drug Enforcement Agency in Penobscot County under the state's Freedom of Access law.

The commissioners said they were unaware Smith was planning a lawsuit, and they had no prior knowledge of his actions.

Smith said he is seeking information about an alleged investigation by MDEA in which one or more of Smith's deputies may have taken or misappropriated \$3,000 in drug "buy" money while on assignment with the MDEA.

Within the past five years, Smith has had three Washington County deputies assigned to MDEA, he said. He did not release their names nor did the lawsuit name them. [Read more](#)

- *Sharon Kiley Mack, Bangor (Maine) Daily News*

1/6/11

Chafee's order: Abide by RI ethics, open government laws

PROVIDENCE, R.I. - In one of his first acts as Rhode Island's new governor, Lincoln D. Chafee on Tuesday signed his first executive order.

It begins: "As governor of the state of Rhode Island, I expect all officers and employees under my direction, supervision and control to be accountable to the citizens of Rhode Island."

Titled "Ethics and Integrity in Government," the [order](#) says: "It is imperative that the citizens of Rhode Island believe in and trust their state government."

Broadly, it directs every state employee to abide by state laws, including the state's open records, open meetings and ethics laws. [Read more](#)

- *Katherine Gregg, Providence Journal*

1/4/11

Target of political attack site files ME ethics complaint

AUGUSTA, Maine - Despite the online confession of one of the authors Thursday, state ethics officials are still refusing to identify the people behind The Cutler Files.

The website that launched in August criticized independent gubernatorial candidate Eliot Cutler. Until last week, its authors remained anonymous, despite a ruling Monday that one of the authors was in violation of state ethics rules for failing to identify himself.

State officials say they won't identify the authors until Jan. 27, the state ethics commission's next meeting, even though political consultant Dennis Bailey wrote Thursday that he is one of two people behind the site, and that he is the one found in violation of ethics rules. The delay, the state said, is to allow the authors to decide whether they will appeal the ruling. [Read more](#)

- *Susan M. Cover, The Portland (Maine) Press Herald*

12/26/10

Complaint claims elected mayor backers got free ads

PORTLAND, Maine - An opponent of the successful effort to have an elected mayor has filed a formal ethics complaint over nearly \$47,000 in free advertising provided to the campaign by The Portland Press Herald.

Jonathan Wayne, executive director of the Maine Commission on Governmental Ethics and Election Practices, on Monday confirmed the agency received the complaint filed by Thomas Valleau. Wayne said it will likely be taken up by commissioners at their February meeting.

At issue are nearly \$47,000 in free advertisements given to the Elect Our Mayor/Yes on 1 Political Action Committee in the week leading up to the November City Charter amendment referendum.

Valleau, a former Charter Commission member, claims the Press Herald gave the PAC eight full-page color ads without disclosing its involvement to the city or its readers. [Read more](#)

- Randy Billings, *Sun Journal, Lewiston, Maine*

1/3/11

NEFAC honors columnist **Anthony Lewis** at Boston's Park Plaza Hotel on Feb. 11. Read [details](#) and reserve a seat at the New England First Amendment Center [site](#).

Join us in a **wine tasting** to benefit NEFAC, Jan. 20, at the Providence Art Club, 6:30 p.m. Tickets and details available at our [site](#)

Comments welcome.

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