



New England First Amendment Coalition

The NEFAC Report

New England's monthly right-to-know dispatch

August 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 [Website](#) for the NEFAC blog, media updates from around New England, guides to the states' right-to-know laws, legal contacts and more.

Sept. 15 is the **deadline** for applications to the Nov. 13-15 **NEFAC Institute** in Dedham, Mass. Details and application materials [here](#).

RI needs to strengthen its public records access law

Too often, we Rhode Islanders live in a bubble. "It's a beautiful bubble," said Tim White, a Channel 12 investigative reporter and New England First Amendment Coalition board member. "But we lose context. We don't realize what it's like elsewhere. It's bad here when it comes to public records."

Given Rhode Island's reputation for corruption, access to public records and meetings is crucial. "The best thing that we could do to crack down on corruption is to make the state more transparent," White said. "Sunlight is the best disinfectant."

To increase that sunlight, we need to strengthen the Access to Public Records Act, which White describes as "a law designed to say 'no,' a law that does not err on the side of transparency." [Read more](#)

- Edward Fitzpatrick, *The Providence Journal*

8/14/11

Court asked to force disclosure by NH school district

The continuing denial by members of Oyster River School Board that they did nothing wrong in deciding not to hire nominee Justin Campbell as high school principal and then ousting Howard Colter as superintendent doesn't hold water. Neither does it make sense to Durham resident David Taylor, who filed a right-to-know request and has pursued full disclosure by filing action in Superior Court.

As reported earlier by Foster's Daily Democrat:

"Over the last few months, the district has had turnover of three top positions, including superintendent, director of instruction and high school principal. At meetings, the board has listened to multiple complaints from community members stating they had an agenda and were not providing open discussion with the community.

"Taylor claims the board has failed to inform the public of alleged meetings held just before the buyout of the superintendent's contract. The reason for the buyout has still not been unveiled to the public, and Taylor has said people have wanted answers."

To believe the School Board did nothing in violation of the Right to Know Law is to believe that members individually woke up one day on the same page. To date there appears to be no logical trail of documentation that lays the groundwork for the board's actions. [Read more](#)

- Foster's Daily Democrat, *Dover, N.H.*

8/14/11

Some ME towns say public info requests a burden

LEWISTON, Maine - Is Dwight Hines a nuisance? Or is he an involved citizen?

It depends on whom you ask.

In the past year, Hines - a retired university professor who lives in Peru - has filed dozens of requests for public records under Maine's Freedom of Access Act in the towns of Peru, Dixfield, Mexico, Rumford, Canton, Auburn and Turner.

He has followed these requests with letters and e-mails threatening state and federal investigations if towns don't turn over the requested records.

In some of those towns, public officials have had enough.

Hines' requests for a broad array of records have become so numerous and so demanding that officials say they can't keep up, and working to satisfy his requests as quickly as possible is interfering with their ability to conduct the towns' daily business. [Read more](#)

- *Judith Meyer, Sun Journal, Lewiston, Maine*

8/14//11

Police ignore procedures in case involving chief's son

BROOKLINE, N.H. - Although the state's top law enforcement agency makes it clear that a police officer should investigate if domestic abuse is suspected, Brookline Police didn't do so after an alleged domestic incident between the police chief's son and his girlfriend.

On the day of a reported domestic altercation between Jonathan Quigley and Nicole Shank on May 19, a Brookline Police officer met with Quigley, saw marks on his face, and had knowledge there was a firearm and children in the home but didn't initiate a domestic violence investigation, according to court records.

Shank later reported she was punched and thrown by Quigley and in return pushed him during the incident, according to documents at Milford District Court. [Read more](#)

- *Hattie Bernstein, The Telegraph, Nashua, N.H.*

8/13//11

State court ruling hurts Connecticut FOI law

We have often remarked that the biggest danger to the public's right to know comes every year from under that golden dome in Hartford, the state Capitol.

Each year there are bills designed to limit the scope of the Freedom of Information Commission's domain. Fortunately, there are enough dedicated lawmakers who manage to derail these attempts.

Now we have another threat to the viability of the law, already suffering under the governors' combining FOI with a bunch of other unrelated agencies into a super-agency - with the director appointed by the governor.

A recent Supreme Court ruling, according to the News-Times of Danbury, requires municipalities to redact the addresses of police officers, corrections officers, firefighters and other members of "protected classes" from motor vehicle grand lists before releasing such lists to the public. [Read more](#)

- *The Hour, Norwalk, Conn.*

8/12//11

New London officials should explain closed meeting

The New London City Council, administration and police chief need to come clean about the circumstances that led to an extensive secret meeting Wednesday evening between Chief Margaret Ackley, the council and their respective lawyers.

Taxpayers, who pay for the chief's salary and benefits and are dependent on her department for their safety, have the right to know what is going on. Instead all the public received is this cryptic explanation: "Council will meet in Executive Session with Director of law Thomas J. Londregan to receive a report from Thomas J. Londregan concerning the employment (not the performance or evaluation) of the Chief of Police."

Any discussion about the employment of the chief should be public. Any contracts or other agreements between the city and the chief should be public. Any discussion or explanation of the city's obligations under those deals or contracts should be public. [Read more](#)

- *The Day, New London, Conn.*

8/12//11

MA town council splits on open meetings questions

BARNSTABLE, Mass - The record will show that the Barnstable Town Council found three open meeting complaints filed by two of its own members without merit last week.

It will also show that six councilors agreed with that statement and six councilors disagreed, depending on

whether the complaint had been filed by Councilor Jim Crocker or Councilor Janet Joakim.

What the state attorney general made of all this when the council's special counsel, Jonathan Davis, reported the Aug. 4 vote remains to be seen.

The council ruled also that complaints by residents John Julius and Gary Lopez were not timely, a decision protested by Julius. He said state law provides leeway by allowing that complaints can be filed with the time that someone could reasonably have known that a violation had occurred. The vote in that case was 8 to 3, with councilors Greg Milne, Jim Munafo, Jr., and John Norman voting to discuss the complaints; Councilor Hank Farnham abstained. [Read more](#)

- Edward F. Maroney, The Barnstable (Mass.) Patriot
8/12/11

NH district won't discuss payment to ousted principal

The Hillsboro-Deering School District agreed to pay Dixie Tremblay more than \$68,700 after she resigned last month as Hillsboro-Deering High School principal, but neither she nor any district official will discuss her departure.

Tremblay, the school's fourth principal in the past four years, would not comment when reached by phone this week. "I don't want to talk about it," she said.

Hillsboro-Deering School Board members and Alan Genovese, superintendent of SAU 34, which includes the Hillsboro-Deering district, also would not discuss Tremblay's departure or the settlement, citing confidentiality rules that govern personnel decisions.

The payments are considered separation pay and accrued vacation and sick time, and will be doled out in three payments over the next six months, according to documents released to the Monitor under the state's Right-To-Know Law. [Read more](#)

- Sarah Palermo, Concord (N.H.) Monitor
8/11/11

Trust the people, not secrecy, in managing VT affairs

Vermont's heavy-handed restraints on access to public documents could mean the public will never know the identity of doctors who held "official positions" with the state and were investigated for misconduct by the state Medical Practice Board.

Judge Helen Toor, who will decide whether to release information about the inquiry the state wants to keep secret, indicated "state law seems to protect the information from disclosure."

Simply put, the state's laws are on the side of government secrecy, even when it comes to the conduct of those acting in "official positions" as described in a publicly filed lawsuit. [Read more](#)

- The Burlington (Vt.) Free Press
8/11/11

NH newspaper wants tot's death affidavits unsealed

BRENTWOOD, N.H. - A judge is mulling whether to unseal affidavits in the case of a Texas mother accused of killing her 6-year-old son in response to a petition by the New Hampshire Union Leader.

Julianne McCrery, 42, of Irving, Texas, is charged with two counts of second-degree murder, one alleging she knowingly killed her son, Camden Hughes, and the other that she recklessly caused his death.

She is accused of killing him at a motel on Route 1 in Hampton in May and then leaving his body alongside a dirt road in South Berwick, Maine.

To date, few details about the case have emerged. Authorities said Hughes was asphyxiated, but no possible motive has been presented and McCrery's whereabouts before and after Hughes died are not publicly known.

The N.H. Union Leader petitioned to unseal the affidavits on May 20, leading the state Attorney General's office, which is leading the investigation, to unseal a portion of the documents. Most of the information about the case remains under seal. [Read more](#)

- Clynton Namuo, New Hampshire Union Leader, Manchester, N.H.
8/10/11

RI state police propose sealing witness statements

PROVIDENCE - The state's Department of Public Safety is proposing a rules change that an open government group says will further limit the amount of information the public can get from its crime reports.

Under the proposal - scheduled for public hearing next Tuesday - any witness statements gathered by the Rhode Island State Police that are taken for incident or arrest reports would be withheld from the public.

State police Supt. Steven G. O'Donnell said Tuesday that the state police have always deemed witness statements stemming from an incident or arrest to be exempt from public-records laws. "We do not believe they are public records and never have," he said. [Read more](#)

- Tracy Breton, *The Providence Journal*

8/10/11

Editorial: Pearlman ideal pick to head merged CT agencies

Mitchell W. Pearlman, former longtime executive director of the state Freedom of Information Commission, would be an ideal choice to fill the top staff job at the new Office of Governmental Accountability.

Mr. Pearlman is one of three finalists recommended to Gov. Dannel P. Malloy by the heads of the agencies now incorporated under the "governmental accountability" umbrella. He has the experience and understanding of the unique missions and needs of each division that's required to help each one function effectively in its new environment.

Mr. Malloy is faced with a Sept. 1 deadline to appoint an OGA executive director who will oversee business and administrative functions of the watchdog agencies. He should name Mr. Pearlman, subject to confirmation by the legislature. [Read more](#)

- *The Hartford Courant*

8/7/11

ME board reviewing ban on talk of town-district relations

HARPSWELL, Maine - A month after she cited a clause in the town's public participation policy to ban discussion of Harpswell's relationship with School Administrative District 75, Board of Selectmen Chairwoman Elinor Multer has proposed removing the clause and reviewing other aspects of the policy.

Multer said at the board's Aug. 4 meeting that she had received "several letters of strong complaint" after the July 7 ruling. Selectman Jim Henderson appealed that ruling, but Selectman Alison Hawkes, the third member of the board, supported Multer, so the ruling stood.

The action came to light in a story published July 27 by *The Forecaster*, which included a warning to the board from the Maine Civil Liberties Union about possible free speech consequences. [Read more](#)

- Alex Lear, *The Forecaster, Falmouth, Maine*

8/7/11

AG cites UMass for violations of open meeting law

BOSTON - Attorney General Martha M. Coakley on Thursday found that trustees for the University of Massachusetts committed "wide ranging and serious" violations of the state's Open Meeting Law throughout the process of selecting a new president, culminating in January with an "unlawful executive session" to interview three finalists for the top job.

In a 17-page letter to the university's general counsel, Assistant Attorney General Jonathan Scarsic spelled out the violations in detail and ordered seven remedies, including requiring all trustees to undergo training in the Open Meeting Law prior to the process for appointing a new chancellor for the University of Massachusetts at Amherst. [Read more](#)

- Dan Ring, *The Republican, Springfield, Mass.*

8/4/11

Connecticut ACLU joins bid for phone-tracking details

The American Civil Liberties Union of Connecticut has joined a massive coordinated national campaign demanding information on when, why and how law-enforcement agencies are using cellphone location data to

track Americans. The effort is one of the largest coordinated freedom of information requests in American history.

The ACLU of Connecticut sent FOI requests today to the Connecticut State Police and the police departments in Waterbury, Danbury, Willimantic, New Haven, New London and Berlin. The goal is to obtain information about this data collection from a geographical cross-section of the state's police agencies.

[Read more](#)

- *Jeanne Leblanc, CTWatchdog.com*

8/3//11

Maine town allows wind project work despite moratorium

FRANKFORT, Maine - Selectmen have chosen not to enforce a wind power moratorium the town's voters enacted in May.

After a wind energy firm expressed interest in installing four to six wind turbines on top of Mount Waldo, residents decided to temporarily ban all wind power activities to give the town time to research and write regulations concerning such development. But for a few weeks now, the Board of Selectmen purposely has allowed Eolian, a New Hampshire-based wind energy company, to do preliminary testing on Mount Waldo.

Documents obtained Monday night by the Bangor Daily News through the Freedom of Information Act indicate that the town's attorney advised selectmen to look the other way as wind testing equipment went up on the mountain.

The selectmen then told Eolian that site testing activities "will not result in enforcement action by the Selectmen of the Town of Frankfort, so long as the activities occur on property that Eolian ... owns or has an interest in." [Read more](#)

- *Hather Steeves, Bangor (Maine) Daily News*

8/3//11

Brown pushes for NOAA documents on abuses

U.S. Sen. Scott Brown Monday formally asked the National Oceanic and Atmospheric Administration for all memoranda and documents used by Commerce Secretary Gary Locke to reach his decision not to discipline or punish the then- director of federal fisheries law enforcement or any of his agents and litigators involved in the mistreatment of fishermen documented by investigators.

In a letter to Eric Schwaab, administrator of the National Marine Fisheries Service, Brown specifically asked for "41 documents you located but did not release in response" to a private attorney, whom the Times has identified as Paul Muniz, of Burns & Levenson, Muniz represents the Gloucester Seafood Display Auction.

The auction was one of 11 businesses or individuals identified by Locke as having been victimized by overzealous law enforcement or miscarriages of justice and given apologies and reparations in May.

[Read more](#)

- *Richard Gaines, Gloucester Times*

8/1//11

CT court says ethics panel cannot order session taping

HARTFORD, Conn. - The state Freedom of Information Commission can't order government agencies to make audio recordings of their secret executive sessions as punishment for violating Connecticut's open meetings law, the state Supreme Court ruled Friday.

Justices in a 6-0 decision overturned a Superior Court judge's ruling in a case involving the Glastonbury Ethics Commission.

In 2006, the FOI panel had ordered the Glastonbury commission to record its executive sessions for three years.

Town officials and leaders of a statewide municipalities group said the order could have a chilling effect on all local officials' ability to discuss whistleblower complaints, unproven allegations and other sensitive matters in private. [Read more](#)

- *Dave Collins, The Associated Press*

7/29/11

How about a moratorium on right-to-know exemptions?

A legislative committee has begun the painstaking task of understanding why the state of Vermont has constructed so many walls that block a fuller scrutiny of how government conducts the public's business.

This endeavor should be less onerous if you believe in the need for accountability of government. Obviously, the citizen legislators of the past didn't accept this premise. And, if the gnashing of teeth in the last assembly to change a word from "may" to "shall" is any indication of what's ahead, expect a lot of foaming at the mouth. It took nearly the entire session to accomplish this five-letter triumph.

That's as in, courts "shall" award reimbursement to plaintiffs who win in records challenges, as opposed to "may" award. This was a simple effort pushed by First Amendment advocates to encourage officialdom to think twice about the often knee-jerk responses in rebuffing requests for public information. [Read more](#)

- *The Burlington Free Press*

7/28/11

The FOI commission says report on police chief protected

AVON, Conn. - The state Freedom of Information Commission on Wednesday dismissed complaints brought against the town by the police union and a WFSB-TV reporter, which claimed that the town was obligated to release an investigative report on the police chief.

The commission found that, as the town and its attorneys had claimed, that the report was protected by attorney-client privilege.

The town's legal firm, Murtha Cullina LLP, hired Frank Rudewicz to perform the investigation after the union overwhelmingly expressed "no confidence" in Chief Mark Rinaldo in April 2010, with 95 percent of the Avon members of the International Brotherhood of Police Officers voting in favor of the motion.

In October, town officials refused to release to the public or to the union the report, which said that complaints against Rinaldo had no merit. [Read more](#)

- *Julie Stagis, The Hartford Courant*

7/28/11

VT panel begins studying exemption-riddled FOI law

MONTPELIER, Vt. - It's well-established in law that most government records are public, but what about the records of contractors who do government's business? If a private company is housing state prisoners, how much of that company's records are available to state residents?

Those are among the questions that a special panel of lawmakers mulled Wednesday as they met for the first time to try to tackle public-records issues left undone during the legislative session that ended in May. The summer study committee also plans to study exemptions to the state public-records laws -- numbering 239 -- and determine if they are needed.

The six-member committee plans to delve more deeply into the exemptions at its next meeting in September, but Wednesday the panel wrestled with what to do about private contractors that essentially are fulfilling the function of government. [Read more](#)

- *Terri Hellenbeck, The Burlington Free Press*

7/28/11

Records show muddled state response on corroded bridge

FALL RIVER, Mass. - Ironically, the Massachusetts Department of Transportation cited "security-sensitive information" as the reason for its refusal to release a recent Brightman Street Bridge inspection report or any significant information detailing its findings.

Now that the report finally has been released in response to a Freedom of Information Act request filed by The Herald News, it's clear that MassDOT ought be more worried about the bridge collapsing due to its many "severe" deficiencies, rather than at the hands of a terrorist.

The heavily redacted inspection report and a series of deeply disturbing photos illustrating structural deficiencies in multiple areas of the circa-1906 Brightman Street Bridge is nothing short of shocking. The condition of multiple supports was marked "severe," a 3 on a 0-to-9 scale, indicating deterioration, or cracking steel or concrete that makes "local failures ... possible." [Read more](#)

- *The Herald News, Fall River, Mass.*

The Fees to view police reports draw complaint in CT

HARTFORD, Conn. - Last year, state police told a local gadfly that he'd have to pay them \$6,352 to look at the 397 accident reports he'd asked to see.

That is extortionate.

The high charge for merely inspecting records - figured at \$16 per report - is a bar to the public's right to freely scrutinize what is clearly public information.

Ed Peruta, a Rocky Hill resident with a history of fighting for access to government records, filed a complaint with the state Freedom of Information Commission. Good for him for challenging the attempt to keep public data secret by imposing a stiff fee to see it.

And good for FOI hearing officer Clifton A. Leonhardt, who in a draft report recommended that the FOI Commission order the state Department of Public Safety "to permit inspection of accident or investigative reports without charge." [Read more](#)

- *The Hartford Courant*

7/22/11

Persistent ME town critic says he's doing a public service

FALMOUTH, Maine - Town officials are responding publicly to Shady Lane resident Michael Doyle's accusations of nepotism, corruption and mismanagement in town government.

"His engagement has gone far beyond asking for public records," Town Manager Nathan Poore said Tuesday, "and in some cases has included attacks and other offensive statements that affect employee morale and, ultimately, employee performance."

Doyle, who finished last among six candidates in the School Board election in June, frequently speaks during the public comment portions of Town Council and School Board meetings. His comments are often argumentative, accusatory and critical of town staff and elected officials, and he is also a frequent political advertiser in *The Forecaster*.

Some town officials have felt so threatened by Doyle that they have asked that a police officer be present for all Town Council and School Board meetings. That special patrol costs approximately \$150 per meeting. In April, the bill was \$621. [Read more](#)

- *Emily Parkhurst, The Forecaster, Falmouth, Maine*

7/20/11

Comments welcome.

Send to *The NEFAC Report* editor Larry Laughlin, lmlaughlin@gmail.com.

Use the **Forward email** link below to send *The NEFAC Report* to others. Use the **Unsubscribe** link to remove yourself from our mailing list.

[Forward email](#)



Try it FREE today.

This email was sent to lmlaughlin@gmail.com by lmlaughlin@gmail.com | [Update Profile/Email Address](#) | Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

The New England First Amendment Coalition | PO Box 15 | Niantic | CT | 06357