



New England First Amendment Coalition

The NEFAC Report

New England's monthly right-to-know dispatch

June 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.

FOI panel officer rules against The Day's bid for images

STONINGTON, Conn. - A state Freedom of Information Commission hearing officer is recommending the agency dismiss a request by The Day to force state police to release possibly inappropriate images that First Selectmen Ed Haberek allegedly sent to a Pawcatuck woman using his town-issued BlackBerry in January 2010.

State police had obtained search warrants to seize phone records, computers and hundreds of pages of material from Haberek's Facebook account after the woman filed a criminal complaint. Police later determined that no crime had been committed.

When The Day requested access to the images and the corresponding investigative documents, state police refused to release them. Police said they were exempt from disclosure under the Freedom of Information law because the investigation ultimately involved uncorroborated allegations and a signed witness statement and records that, if disclosed, would constitute an invasion of personal privacy. [Read more](#)

- Joe Wojtas, *The Day*, New London, Conn

6/15/11

Newspaper follows email trail in school chief vs. board

GREENWICH, Conn. - When Greenwich Time asked Superintendent of Schools Sidney Freund on Friday how much the emails and information requests from two school board members contributed to his May 17 resignation, he said: "Follow the email trail and draw your own conclusions."

Greenwich Time followed that trail.

Through a Freedom of Information Act request, the newspaper read, counted and catalogued email correspondence from September 2010 through May 2011 between Freund and board members Marianna Ponns Cohen and Peter Sherr, whose electronic communications the superintendent characterized as "voluminous, repetitive, manipulative and at times incoherent with no clear purpose or outcome" in a May 19 op-ed in the newspaper.

Freund's explanation for his resignation, as well as Board of Education Chairman Steve Anderson's estimate that Ponns Cohen and Sherr combined to send the schools chief 4,000 emails from fall 2010 to spring 2011, left many in town wondering -- can that be true, and what exactly was in those emails?

[Read more](#)

- Julie Ruth, *Greenwich (Conn.) Time*

6/15/11

400-plus state retirees collecting double pensions

PROVIDENCE, R.I. - More than 400 retired government workers in Rhode Island - or their beneficiaries - are getting two taxpayer-subsidized pensions that pay between \$11,236.92 and \$207,207 annually from the state-run retirement system for state employees, municipal workers and teachers.

Each of their stories is different.

And the state treasurer's office has withheld the names of all but 45 of the 425 double-pensioners, amid debate over what is and is not public under the state's open-records law. But this much is clear from the abbreviated list provided so far by Treasurer Gina M. Raimondo's office in response to a Journal inquiry:

Some of these double-pensioners are benefiting from laws wiped off the books in the paroxysm of reform that gripped lawmakers after the 1991 unsealing of the state's pension records. Two-thirds of them have legislative pensions, which are unavailable to new lawmakers since the mid-1990s.

But others are benefiting from opportunities that remain open for public employees to collect more than one taxpayer-financed pension by moving from one government job to another, or winning a seat, for example, on a local town council. [Read more](#)

- Katherine Gregg, The Providence Journal
6/14/11

Ex-treasurer puzzled successor won't release all the names

PROVIDENCE, R.I. -- Former state treasurer Nancy Mayer is questioning why current treasurer, Gina Raimondo, is refusing to release the names of 380 of the 425 retirees with more than one pension from the state-run retirement system for state workers, municipal employees and teachers.

"I don't understand why she won't release those records. I'd release them in a heartbeat," said Mayer, a Republican who presided over the state retirement system and treasury during the early 1990s era of reform.

During her tenure as state treasurer, Mayer disclosed the amounts paid to all state and local pensioners, as the state courts are still doing with respect to the pensions paid retired judges and, in a number of cases, their widows. [Read more](#)

- Katherine Gregg
6/14/11

Suit alleges open meeting violation on school head probe

SANDWICH, Mass. - Another lawsuit filed against the Sandwich School Committee can be added to the already mounting pile of suits leveled over the past year.

Former school board members S. Aleta Barton and Robert E. Guerin, along with resident Richard W. Augustine of Manor Drive, filed a complaint in Superior Court on May 20 alleging that the school board violated the state's Open Meeting Law by holding a closed door meeting on Tuesday, May 3, 2011, to discuss an investigative report that concluded that Superintendent of Schools Mary Ellen Johnson had violated the school department's sexual harassment, bullying, and hazing policy.

In the complaint, the plaintiffs allege that the school board violated state laws by not granting Dr. Johnson's request for a public meeting to discuss the matter. [Read more](#)

- Mary Stanley, The Enterprise, Falmouth, Mass.
6/10/11

Documents cast doubt on value of CT union concessions

Actuarial estimates and other documents obtained in a Freedom of Information Act request show how the state will save \$1 billion by implementing a union concession agreement negotiated by Gov. Dannel Malloy's administration.

However, the documents do not include support for the \$1.6 billion total claimed by the administration. The Office of Policy and Management did not respond to requests for comment before publication. To arrive at the \$1 billion total, documents were taken at face value as long as they could be matched with a category of savings reported by the Malloy administration.

Internal documents from OPM confirm the value of the freezing wages is \$448.4 million over two years. A May 12 memo from the actuarial firm Milliman supports \$290.5 million in healthcare savings over two years, short of the \$391.3 million claimed by the administration. [Read more](#)

- Zachary Janowski, Raising Hale

Lawrence, MA, mayor's family members on city payroll

Lawrence has one of the state's highest unemployment rates, but landing a steady-paying city post hasn't been a problem for the women in Mayor William Lantigua's life.

Public records show that Lantigua's ex-wife, his estranged current wife, his current live-in girlfriend and his daughter are all on the city payroll, earning a total of more than \$80,000.

The city's controversial mayor is the focus of state and federal probes, according to sources.

Lantigua refused to comment on the jobs obtained by his relatives while he was a state rep from 2003 to 2010.

"I have nothing to say," he said. "Just write what you're going to write."

State ethics laws do not prohibit relatives of state reps from being hired by the municipality the legislator serves, said Massachusetts Ethics Commission spokesman David Giannotti. [Read more](#)

- *Christine McConville, Boston Herald*

6/9/11

Request yields blacked-out report on firefighter's arrest

A picture is worth a thousand words. Especially when most of the words have been assaulted by a magic marker.

Acting on a tip Wednesday, Tim White broke a story about a North Providence firefighter arrested for allegedly stealing painkillers from a terminally ill patient while responding to an emergency call.

To confirm the news, Tim called the North Providence Police Department and spoke to the deputy chief. He also asked for the department's arrest report on the case. That's common practice; Rhode Island's public records law specifically says that "records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public."

The most interesting part of an arrest report is usually the narrative, where the officer describes how the alleged crime was committed and how the suspect was caught. It often provides the most vivid details you read in the news article on a crime. [Read more, view redacted reports](#)

- *WPRI-TV, Providence, R.I.*

6/9/11

Mayor won't reveal names of police chief candidates

HOLYOKE, Mass - Mayor Elaine A. Pluta Thursday refused to release the names of the three finalists for police chief, even though state rulings dating at least to 1976 generally have determined finalists' names must be made public.

Pluta said that though the search process has narrowed the field from 39 candidates to three, those three haven't been designated the official finalists for police chief.

A search committee Pluta appointed is meeting Saturday and might add two candidates to the three remaining. After those five candidates are put through an evaluation known as an assessment center June 18, three finalists will be designated and their identities revealed publicly, Pluta said.

"We're in a state of flux. These are not finalists. We're still going to have the assessment center," Pluta said.

[Read more](#)

- *Mike Plaisance, The Republican, Springfield, Mass.*

6/9/11

Mayor: generous pensions threaten town's fiscal health

STRATFORD, Conn. - If you've retired from the town in the last five years, you are likely earning a pension that is greater than or nearly equal to your former salary.

Among the 71 town employees who retired between 2006 and January 2011 and for whom human resources officials provided data, more than half are earning more or nearly the same amount of money in retirement than they did from their former base pay. Pensions exceed former salaries for 74 percent of the top-earning pensioners in this camp.

On a larger scale, the town's pension funds are floundering. Currently they are underfunded by about 51 percent. There is now a \$109 million gap between the town pension fund's assets and what it owes to future retirees. Here's one of the main reasons why: Many of the town's Police Department and Public Works employees, and all of the Fire Department employees, are still in a system that uses overtime and saved vacation to calculate pensions. [Read more](#)

- *Brittany Lyte, Connecticut Post, Bridgeport, Conn.*

6/7/11

Public should see teacher contracts before getting the bill

The reluctance of the Burlington School District to release details of a contract negotiated with teachers before the two sides approved the deal is one more case of a government body withholding information the public needs to know.

A contract with the teachers locks in the biggest single cost within the school district's budget -- a budget that must be paid for by taxpayers. The public must be given ample opportunity to study the terms of a contract and weigh in before the district commits itself. A public that's given a voice might be more willing to support the schools come budget time.

In a statement released Wednesday, Burlington Schools Superintendent Jeanne Collins said, "By agreement of the negotiating committees, the terms of the tentative agreement will not be publicly disclosed until the agreement has been ratified by both parties." [Read more](#)

- *The Burlington (Vt.) Free Press*

6/5/11

Top Worcester cops boost pay with private details

WORCESTER, Mass. - Three of the Police Department's four deputy chiefs make tens of thousands of dollars a year from private details directing traffic, crossing schoolchildren and accompanying public works crews - a practice that is barred by most of the state's largest law enforcement agencies.

Over the last three years, Deputy Chiefs Edward J. McGinn Jr., Mark S. Roche and Steven M. Sargent have collected more than \$150,000 from paid detail assignments at the Hanover Theatre, Bancroft School, a TD Bank branch and city Water Department job sites, among other locations. The fourth deputy, Sean J. Fleming, does not work private details.

The income from paid details is in addition to the three deputies' base salaries, which, in 2010, were: \$138,952 for Deputy McGinn; \$147,202 for Deputy Roche; and \$144,233 for Deputy Sargent.

Critics say that allowing the highest-ranking and highest-paid police managers other than the chief to do off-duty details impairs their ability to perform their regular jobs, undermines morale among the rank-and-file, and appears to violate the department's policy on details and the chief's ban on changing schedules to take advantage of overtime opportunities. [Read more](#)

- *Shaun Sutner, Worcester (Mass.) Telegram & Gazette*

6/5/11

ME House wrong to close accident reports

The state's House of Representatives did a horrid thing Thursday.

Lawmakers passed - with no debate and no recorded vote - a bill that would make vehicle accident reports inaccessible to the general public.

To be clear, the bill closes access to reports of all accidents - minor and major - that happen on the public roads we all drive.

The bill, LD 1167, permits law enforcement officers to verbally disclose "certain" information regarding

accidents, including date, time, location of the accident, names of those involved and the towns where they live, but anything an officer decides may contain personal identifying information - like a driver's street address - would be secret.

In Lewiston, where there are multiple people with the same name, how could the public know which Jeannette Gagne or which Joseph Morin was involved in an accident?

The answer is, we can't. [Read more](#)

- *Sun Journal, Lewiston, Maine*

6/3/11

VT governor signs bill putting teeth in public access law

MONTPELIER, Vt. - The next time Ross Connelly's Hardwick Gazette asks a local government official for a public document, he expects a better answer than being told release would cause a hornet's nest in town.

The next time Abigail Winters asks a state agency to allow the Vermont State Employees Association to look through state files, she expects it won't mean a hefty price tag.

Gov. Peter Shumlin signed into law Wednesday a bill that advocates say is Vermont's most significant move toward open government in 35 years, giving long-lacking teeth to the law.

"For the first time in more than three decades, the public records law has taken a major step toward openness for Vermonters who want to know what their governments are doing," said Maria Archangelo, president of the Vermont Press Association, which was among the groups pushing for the legislation.

[Read more](#)

- *Terri Hallenbeck, The Burlington Free Press*

6/2/11

MA financial disclosure forms long overdue for update

Two years after lawmakers tightened ethics rules to calm public outrage over corruption scandals, the state continues to use outdated financial disclosure forms that allow political leaders to avoid providing a clear picture of their finances, business dealings, and potential conflicts of interest.

Yesterday was the annual deadline for Beacon Hill's decision makers to reveal their financial holdings, but the public can expect to get only a narrow glimpse of politicians' assets and family income on a form that has not been updated in three decades.

"It is pretty outrageous that these haven't been updated in 30 years," said Pam Wilmot, executive director of Common Cause of Massachusetts, who helped craft the law in 1979. "They are essentially meaningless in a number of areas."

For example, officials must disclose only whether their mortgage is worth "\$100,000 or more," but are not required to provide specifics. Stocks must be listed if they are worth \$1,000 or more, but fair market value need not be included. [Read more](#)

- *Frank Phillips and Noah Bierman, The Boston Globe*

6/1/11

Consolidation of CT's oversight panels

Proposal would create an 'office of contradiction'

This is what can happen when an aggressive governor dictates policy to a legislature overwhelmingly controlled by the same party as the governor. You can get legislation that doesn't make any sense and is inherently contradictory.

The state, it appears, will soon have a new Office of Governmental Accountability that will make government less accountable. It will include some agencies that at best have a tangential connection to keeping government accountable. And while the legislature predicts savings of \$3.3 million over two years (modest by state-spending standards and a bit suspect), it creates a new level of managerial bureaucracy.

This idea germinated to fulfill Gov. Dannel P. Malloy's promise to consolidate state government. It has led to the Office of Governmental Accountability, consolidated within which will be the Office of State Ethics,

State Elections Enforcement Commission, Freedom of Information Commission, Judicial Review Council, Judicial Selection Commission, Board of Firearms Permit Examiners, Office of the Child Advocate, Office of Victim Advocate, and the State Contracting Standards Board.

Whether that's true consolidation is arguable, since all these agencies will continue to exist as will their individual directors, while a new executive administrator appointed by the governor will oversee the entire office. [Read more](#)

- *The Day, New London*

6/3/11

Republicans wary of proposed term changes

State Senators squared off Wednesday on a controversial bill that merges the Freedom of Information Commission and other watchdog agencies into a multi-faceted Office of Governmental Accountability.

Republicans have been complaining that the bill decreases the length of terms for the State Elections Enforcement Commission members from five years to three years and prevents any commissioners from serving consecutive terms. As such, the staff members - rather than the commissioners - would gain increased control over the agency and would be able to steamroll over the freshman commissioners who lack expertise in the technicalities of election law, Republicans said.

The provision first came up on Tuesday night when Republican Rep. Themis Klarides of Derby questioned Democratic Rep. Russ Morin of Wethersfield on why there was no public hearing on the reduction in the terms. After the vote Tuesday night, Democrats were unable to explain how the provision was inserted into the bill. [Read more](#)

- *Christopher Keating, The Hartford Courant*

6/1/11

Former FOI panel head says merger would be disastrous

Mitchell W. Pearlman, the retired 30-year executive director and general counsel of the state's Freedom of Information Commission, is blasting the administration of Democratic Gov. Dannel P. Malloy over legislation that will merge the FOI commission with other state "watchdog agencies" under a newly created super-agency.

Pearlman also pointed at legislative leaders who are going along with Malloy on the merger that he said would be disastrous for freedom of information in the state.

Pearlman said the legislation will deprive the FOI commission of the independence it needs to preserve its credibility as the lone forum in which an individual citizen can enforce his or her legal right to overcome government agencies' and officials' efforts to withhold public documents.

In an e-mailed statement Wednesday about an upcoming budget-implementation bill that leaders of the Democrat-controlled legislature are preparing (but have not yet disclosed the final language of), Pearlman said that the version he's seen of the bill would be "a disaster for FOI in Connecticut." [Read more](#)

- *John Lender, The Hartford Courant*

5/26/11

Would merger doom FOI and election financing?

The machinations of a General Assembly session can be ugly even in the best of times. Old scores get settled with the flick of a budget keystroke; backroom deals are brokered or broken; and political resentments give birth to rat-like clauses buried in the bowels of technical bills.

In this year of deficit crisis, there are even more opportunities for skull-duggery and political payback. Take, for example, the uncertain future of Connecticut's Elections Enforcement Commission (EEC) and other state watchdog agencies dealing with freedom of information and state ethics, commissions that have frequently gotten under the skin of state lawmakers and other political powers.

Some legislators insist all they're doing at the moment is trying to shrink state spending and have no intention of cutting the balls off these irritating watchdogs. Some of the dogs worry castration is exactly

what's on the agenda.

What happens to the elections enforcement commission and these other agencies could help determine the future of Connecticut's landmark system of public campaign financing and this state's efforts to rid itself of the stench of corruption left from the era of ex-Gov. John G. Rowland. [Read more](#)

- *Gregory L. Hladky, New Haven Advocate*

5/25/11

Time to let the public in on Newburyport hotel plans

It's clear now that the elephant in the room is stomping, and it's past time for city officials to lift the curtain so all can see.

After more than seven years of gathering up property and quietly formulating plans, the city's biggest landowner, Stephen Karp, is ready to move on the project Newburyport has waited 43 years to see come to fruition - a waterfront hotel.

Karp, a major developer whose holdings stretch from Maryland to Maine, is making headway on plans for a hotel near the eastern end of the city's waterfront boardwalk. The 80-room hotel will be placed to take advantage of the grand views afforded across the mouth of the Merrimack River. Apart from that, there's nothing more the public knows. That's wrong, and that's where city officials need to step in and start insisting that the public be allowed into this process. [Read more](#)

- *Daily News, Newburyport, Mass.*

5/27/11

"Arsenic and Old Lace" records found but not released

Solving at least one mystery connected to Connecticut's most notorious female killer, state mental health officials say they have found her missing treatment files.

But they say a journalist who questioned their diligence in finding them won't get Amy Archer Gilligan's files any time soon because of doctor-patient privilege laws.

Ronald Robillard had requested records pertaining to Gilligan's treatment at Connecticut Valley Hospital, where she was committed in 1924 five years after pleading guilty to one of two dozen murders she was suspected of committing at her home for the aged in Windsor. But the state Department of Mental Health and Addiction Services had repeatedly said the records could not be found and were assumed destroyed.

But Robillard discovered that the hospital had pulled back Gilligan's records from a batch sent for destruction and that they were last filed in the vault of a former hospital official in 1988. The hospital had never received required state approval to destroy the records of Gilligan, who died in 1962 and was the inspiration for the Hollywood film "Arsenic and Old Lace."

"You talk about the power of sunshine," said Robillard. "All of a sudden, a record they couldn't find and assumed to be destroyed, they have it. That's amazing, isn't it?" [Read more](#)

- *Marie Grady, Connecticut Law Tribune*

5/23/11

ME open records proposal shelved until next session

AUGUSTA - A bill that would provide greater public access to government records has been delayed until the next legislative session.

The Legislature's Judiciary Committee, which is reviewing the bill, will continue its deliberations in the fall.

The Right to Know Advisory Committee, made up of representatives of the government and the press, is also reviewing the bill. That committee only meets when the Legislature is not in session, so will likely make its recommendation to the Judiciary Committee this summer.

The bill, LD 1465, has bipartisan support in the Statehouse, but is opposed by a coalition of government officials and agencies.

The legislation was drafted by the Maine Heritage Policy Center and Maine Civil Liberties Union, and is

sponsored by Sen. Richard Rosen, R-Bucksport.

It seeks to amend Maine's Freedom of Access Act, which governs the way government agencies provide public access to documents. [Read more](#)

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

5/23/11

Comments welcome.

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