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April 2, 2019

BY MAIL and EMAIL

City of Providence
Jeffrey Dana, City Solicitor
Office of City Solicitor
444 Westminster Street, Suite 220
Providence, RI, 02903

RE: Record Request #19-262

Dear Solicitor Dana:

Please consider this an appeal, per R.I.G.L. § 38-2-8, from the denial of requested records pursuant to the Access to Public Records (APRA). For ease of reference, a copy of the denial is attached, as is a copy of our original APRA request.

I believe that none of the reasons cited for the denial is in fact applicable to our request. We sought a copy of the Notice/Communication (also known as a Findings Letter) from the U.S. Department of Justice to the City of Providence with regard to conditions that violate Section 1703(f) of the Equal Education Opportunities Act of 1974.

The first reason cited for the denial is R.I.G.L. § 38-2-2(4)(A)(l)(a), which references records protected by the client/attorney privilege. That privilege does not apply to a communication from the Department of Justice to the City of Providence as no attorney client privilege exists or existed between the two agencies or their employees.

The second reason cited for the denial is R.I.G.L. § 38-2-2(4)(E), "any records that would not be available by law or rule of court to an opposing party in litigation." I know of no law or rule of court which would make this Findings Letter/DOJ communication subject to this section. Indeed, the denial fails to mention any such rule.

Likewise, R.I.G.L. § 38-2-2(4)(K) is inapplicable. It applies only to "Preliminary drafts, notes, impressions memoranda, working papers and work products, including those involving research at state institutions of higher education on commercial, scientific artistic, technical or scholarly issues...." Clearly the compliance matters addressed in the DOJ Findings Letter do not pertain to "commercial, scientific, artistic, technical or scholarly issues..." For that reason alone this section is inapplicable. Moreover, nothing

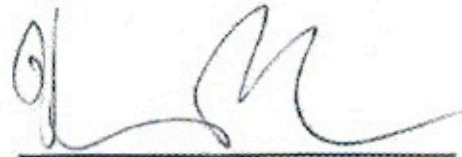
about the Findings Letter can be characterized as "preliminary draft, notes, impressions..." It is very much a **final statement of noncompliance findings**, upon which findings, the DOJ Settlement Agreement is based.

Finally, R.I.G.L. § 38-2-2(4)(P) does not apply in this case. That section exempts "investigatory records of public bodies, with the exception of law enforcement agencies, pertaining to possible violations of statute, rule, or regulation other than records of final actions taken, provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public."

- First, the DOJ is in fact a law enforcement agency, and therefore not encompassed by this section.
- Second, the Findings Letter /Notice sought by our request is a "formal notification of violations or noncompliance," and not an "investigatory record" occurring "prior to formal notification." Thus this section is inapplicable as well.

Because none of the reasons stated for the denial is pertinent, please provide the requested document as quickly as possible.

Very truly yours,



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