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**MADIGAN ISSUES 2016 PUBLIC ACCESS REPORT DURING SUNSHINE WEEK*****Public Access Bureau Received Over 4,700 New Matters in 2016, Issued 15 Binding Opinions***

**Chicago** —In recognition of Sunshine Week, Attorney General Lisa Madigan today released the Public Access Bureau's [annual report](#) detailing more than 4,700 new matters received in 2016. The Public Access Bureau works to increase transparency in Illinois government by resolving disputes regarding compliance with the state's Freedom of Information Act (FOIA) and Open Meetings Act (OMA).

"Seven years after we implemented stronger sunshine laws in Illinois, the demand for help from my Public Access Bureau remains high," Madigan said. "We continue to resolve thousands of disputes every year on behalf of the public and the media and educate and enforce the law to increase transparency without the need for intervention."

The Public Access Bureau received 4,720 formal requests for assistance pursuant to FOIA and OMA in 2016 or an average of nearly 400 new matters per month. In response to these requests from members of the public and the media, the Bureau made determinations, closing over 4,450 pending requests for review. The Bureau also works informally to resolve disputes over records or government meetings without having to issue a binding or non-binding decision. Last year, the PAC's intervention in matters led to either a response or the release of records in nearly 1,300 of the matters filed.

In addition, the Bureau issued 15 binding opinions in response to requests for review of open government disputes. These opinions are an important tool to enforce rulings in court and create legal precedent in Illinois to increase transparency in government.

The binding opinions issued in 2016 addressed significant barriers that the public and the media encounter when seeking to obtaining records and understand public business. One of the most important issues the Bureau addressed in a binding opinion involves the ongoing debate nationwide over whether emails relating to government business that are sent or received using personal email addresses are subject to disclosure under FOIA. In this ruling prompted by a request filed by a member of the media, the Bureau found that the use of personal emails to hide the public's business "would be contrary to the General Assembly's intent of ensuring public access to full and complete information regarding the affairs of government."

Among other notable matters that resulted in binding opinions were the following:

- **Ill. Att'y Gen. Pub. Acc. Op. No. 16-002, issued February 10, 2016** – In response to a request for records from the Illinois State Police (ISP) regarding the death of a close family member, ISP withheld crime scene and autopsy photographs under the personal privacy exemption in section 7(1)(c) of FOIA. The Bureau concluded that while a person's personal privacy interest ceases after death, close relatives retain a privacy interest in postmortem images of a family member. In this case, however, the requester was a close family member and the appointed executor of the family member's estate. As a result, the Bureau concluded that the requester was the holder of the personal privacy interest, and ISP violated FOIA by withholding the responsive photographs.
- **Ill. Att'y Gen. Pub. Acc. Op. No. 16-007, issued September 13, 2016** – A member of the public alleged the village of Lisle board of trustees improperly entered into a closed session meeting under the exception in section 2(c)(11) of OMA which allows public bodies to discuss pending, probable or imminent litigation during closed sessions. The member of the public had raised the prospect of litigation in a previous meeting, but later explained that a lawsuit would not be filed. The Board argued that the closed session was appropriate not because of the previous threat of litigation but because of other indications of potential litigation. In reviewing the Board's arguments and the facts, however, the Bureau concluded the Board lacked a specific basis for finding that litigation was probable or imminent, as is expressly required by section 2(c)

(11) of OMA. Consequently, the Bureau found that the Board violated OMA by entering into closed session and informed the Board that it should publicly release the verbatim recording of the closed session.

- **III. Att'y Gen. PAC Req. Rev. Ltr. 16-014, issued December 28, 2016** – A member of the public alleged that the Board of Education of Norridge School District 80 violated OMA by prohibiting him from recording the open session of a Board meeting. The member of the public had approached the Board president shortly before the start of the meeting and asked to record the open session and was told that he could not. In response to the Bureau's request for an explanation of the Board's decision, the Board stated that it requires 24-hours' advance notice of any request to record a meeting and argued that this policy is a "reasonable rule govern[ing] the right to make such recordings" as allowed by section 2.05 of OMA. After reviewing the Board's arguments, the Bureau concluded that the Board had not met its burden of demonstrating that its requirement of advance notice of recording is reasonable. Specifically, the Bureau noted that the Board did not cite any compelling reason for requiring advance notice or allege that advance notice is necessary to prevent disruptions or avoid safety hazards.

### 2016 Public Access Bureau Activities

The Public Access Bureau received 4,720 new matters in 2016. The role of the Public Access Bureau is to analyze and work to resolve disputes regarding the release of public records and the public's access to government meetings.

Of the 4,720 new matters received by the Public Access Bureau:

- 4,354 requests for review came from those who were denied records under FOIA:
  - 3,640 from members of the public,
  - 681 from the media or other organizations, and
  - 33 from public bodies.
- 366 requests for review raised issues under OMA:
  - 297 from members of the public,
  - 66 from the media or other organizations, and
  - 3 from public bodies.

More information about Illinois' sunshine laws can be found at Madigan's [website](#). For assistance from the Public Access Bureau, contact the hotline at 1-877-299-FOIA (3642) or send an email to [publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us).

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