

March 12, 2019

ATTORNEY GENERAL RAOUL ISSUES 2018 PUBLIC ACCESS REPORT DURING SUNSHINE WEEK

Public Access Bureau Handled Nearly 3,800 New Matters in 2018

Chicago — In recognition of Sunshine Week, Attorney General Kwame Raoul today released the Public Access Counselor Annual Report with details of a sampling of nearly 3,800 new matters received in 2018. The Public Access Counselor (PAC) works to increase transparency in Illinois government by resolving disputes regarding public bodies' compliance with the state's Freedom of Information Act (FOIA) and Open Meetings Act (OMA).

Since the PAC's creation under state law in 2010, members of the public and the media have submitted more than 38,000 matters to the PAC for review, and approximately 95 percent of those matters have been closed. Last year, the PAC received 3,748 formal requests for assistance pursuant to FOIA and OMA — an average of more than 300 new matters per month.

"The Public Access Counselor is an important resource that helps ensure transparency at all levels of state government," Raoul said. "I am committed to working with the General Assembly to increase the PAC's resources so that the office is able to continue and expand its work to proactively educate public bodies to comply with Illinois' transparency laws."

The Public Access Counselor's determinations have created new and important legal guidance in Illinois to enforce the disclosure of records and foster increased transparency in government. They have successfully clarified the law, especially on issues that have not been addressed by courts.

In 2018, a binding opinion of the PAC reinforced that the disclosure of public employee compensation is required because it is related to a government body's use of public funds. In another, the PAC clarified that a university board of trustees' decision to meet in closed session was improper because the board was discussing general categories of employees, not specific employees. Another binding opinion emphasized that complaints concerning a police officer's on-duty conduct are not protected by FOIA's personal privacy exemption and cannot be withheld from the public.

In addition to analyzing and resolving disputes through binding and non-binding opinions, the PAC conducts trainings that inform government officials about their duties under FOIA and OMA, and fields tens of thousands of phone calls on its hotline (1-877-299-FOIA) to help public bodies, the public, and the media understand the open records and open meetings laws.

2018 Public Access Bureau Activities

The Public Access Bureau received 3,748 new matters in 2018:

- 3,372 Freedom of Information Act requests:
 - 2,657 from members of the public,
 - 695 from the media or other organizations, and
 - 20 from public bodies.

- 376 Open Meetings Act requests:
 - 309 from members of the public,
 - 59 from the media or other organizations, and

- 8 from public bodies.

In 2018, the PAC issued 18 binding opinions, which are official documents that create legal guidance and aid in the court enforcement of Illinois' government transparency laws. Among the notable matters that resulted in binding opinions last year were the following:

- **No. 18-005, issued March 13, 2018, concerning public employee pay:** A member of the public submitted a FOIA request to the city of Nashville seeking information about wages and salaries its employees received in 2016 and 2017. The city denied the request as an unwarranted invasion of personal privacy. The PAC concluded that disclosing a public employee's compensation relates to the city's receipt of public funds and, therefore, is required by FOIA and is not an invasion of personal privacy. Because there is a significant public interest in the amount of public funds paid to public employees, any privacy interest an employee may have in this information is outweighed by the public's legitimate interest in knowing how public funds are spent.
- **No. 18-012, issued Oct. 2, 2018, concerning a closed board meeting:** A union official filed a request for review alleging that the Western Illinois University Board of Trustees violated OMA by improperly discussing its budget, layoffs and related matters in closed session. The board asserted that its closed session was authorized by the OMA exception that permits public bodies to discuss the appointment, employment, compensation, discipline, performance or dismissal of specific employees. After reviewing a verbatim recording of the discussion, the PAC determined that the board mostly discussed budgetary matters and considerations applicable to categories of employees rather than the merits or conduct of specific employees. Accordingly, the PAC concluded that those portions of the closed session discussion were improper and directed the board to disclose them.
- **No. 18-018, issued Dec. 31, 2018, concerning the public duties of a police officer:** A reporter from "South Side Weekly" sought records concerning complaints of misconduct against a former police officer of the Metropolitan Water Reclamation District of Greater Chicago. The district withheld two reports concerning complaints against the officer, arguing that because one complaint was unfounded and one involved conduct by the officer that was found to be appropriate, the disclosure of the accusations would be an invasion of the officer's personal privacy. The PAC concluded that because the complaints concerned the officer's actions while he was performing his public duties as a district police officer, the records unequivocally bear on the officer's public duties, and disclosure of the reports would not constitute an unwarranted invasion of the officer's personal privacy. However, the PAC found that information identifying the individuals who made the complaints is highly personal, and that identifying information could be redacted from the responsive reports.

The PAC also helps resolve transparency issues between government bodies and members of the public through the use of non-binding determinations and informal negotiations. Here are some examples of such resolutions:

- **2018 PAC 51609:** A reporter for "Reason" magazine submitted a FOIA request to the city of Chicago's Department of Administrative Hearings seeking database information concerning vehicle impounds. The reporter requested the department's database dictionary with the intention of using that information to submit a follow-up FOIA request for specific information from the database. The department asserted several objections to turning over the database dictionary, and the reporter submitted a request for review. The PAC worked with the department to determine what fields

existed in the database and worked with the requester to understand what fields were most relevant to the research. The department furnished the requester with a report containing the relevant data.

- **2018 PAC 54458:** A reporter for the "Rockford Star Register" submitted a FOIA request to the Winnebago County Sheriff's Department seeking records concerning physical altercations among detainees. The department initially denied certain information related to the incidents. After intervention by the PAC, the department released information to the reporter.

More information about Illinois' sunshine laws, as well as a copy of the report that includes frequently asked questions can be found on [Raoul's website](#). For assistance from the Public Access Bureau, contact the hotline at 1-877-299-FOIA (3642) or send an email to publicaccess@ilag.gov.