



**FOR IMMEDIATE RELEASE:
March 18, 2009**

Contact: Terry Pastika, Citizen Advocacy Center
630-833-4080
Charlie Boesel, Joyce Foundation
312-795-3816
Emily Blum, Valerie Denney Com.
312-408-2580 ext 13

ILLINOIS OPEN GOVERNMENT LAWS WEAKEST IN THE MIDWEST, STUDY FINDS

Illinois' 50 Loopholes to Disclosure Dwarf Totals in Other States

(Chicago, Ill.) Illinois's public disclosure laws contain more than 50 different loopholes – as many as in four other Midwest states combined – entitling government agencies to spurn requests for information, according to a study released Wednesday by the Citizen Advocacy Center (Center) in celebration of Sunshine Week (March 15-21).

The report also found that Illinois is alone among Michigan, Minnesota, Ohio and Wisconsin in allowing public agencies to reject informational requests with impunity, because the state's Freedom of Information Act (FOIA) is devoid of enforcement mechanisms to police against violations.

Meanwhile, Illinois law entitles agencies conducting a meeting to use one of 24 reasons, more than twice as many as the next highest total of states analyzed, to escape public scrutiny and retreat into a "closed session" insulated from outside observers.

"With one political scandal after another, it is essential that the state of Illinois close these loopholes and take immediate action to be as open and transparent as possible," said Terry Pastika, Executive Director and Community Lawyer for the Center. "These documents and meetings are created and maintained with public tax dollars, and the citizens of Illinois have the right to access them without having to navigate institutional barriers."

In conducting the study on behalf of the Midwest Democracy Network, which is working on political reform across the region, the Center reviewed each state's laws as well as more than 1,000 legal cases, attorney general opinions, and professional publications to produce a comprehensive study of each state's strengths and weaknesses. The Center also provided specific reform recommendations that good government advocates can use to

advance changes within each state. Reforms range from changing how fees should be levied to implementing training programs for public officials.

The full report and state-by-state comparison charts are available online at www.citizenadvocacycenter.org or www.midwestdemocracynetwork.org.

Concerns about FOIA are on the front burner across the state: the Illinois Attorney General is advocating for comprehensive reform of the FOIA; the Governor's Reform Commission is examining how to strengthen FOIA provisions; the Illinois General Assembly's Joint Commission on Government Reform has heard testimony on issues of concern related to the FOIA; and, just yesterday, the Illinois Supreme Court heard oral arguments on a case involving whether or not superintendent contracts should be publicly disclosed under the FOIA.

The study found that efforts to obtain information from government agencies in Illinois are hampered by several factors, including:

- **No accountability.** Under Illinois FOIA and Open Meetings Act (OMA), government agencies can simply ignore requests for disclosure without threat of penalties, breeding a perverse incentive to withhold information. While the public can seek a court decision compelling agencies to comply with a request, the time required to file legal action represents another substantial barrier to disclosure.
- **Outdated restrictions on compiling “new records.”** Under the Illinois FOIA, agencies are not obligated to furnish records in any form that does not already exist. This exemption permits agencies to reject a request for information even if it would simply require a few clicks of a computer mouse to produce requested information.
- **Meeting minutes are vague.** Under Illinois OMA, public bodies are required to record votes and summarize discussions; however, the law does not include specific enough requirements as to what information should be included.
- **Abuse of “draft” exemption.** Under Illinois FOIA, agencies can withhold documents in “draft” form, a characterization that many government bodies defined so broadly it can shield almost any kind of information.

To remedy these problems, the Center recommended that lawmakers reform Illinois FOIA and OMA laws to:

- Reduce the number of exemptions, using the federal FOIA, which has minimal exemptions, as a guide.
- Implement mandatory and regular FOIA and OMA trainings for public employees.
- Mandate the awarding of attorney's fees when a party prevails in a sunshine lawsuit..
- Mandate imposition of fees and penalties on public bodies that ignore FOIA requests and violate OMA.
- Give the Illinois Attorney General's Public Access Counselor statutory authority to enforce FOIA and OMA laws.

The Center reviewed Michigan, Ohio, Illinois, Wisconsin and Minnesota’s Freedom of Information and Open Meetings Acts and found striking similarities between all states, including:

- Open government laws are sporadically enforced, which means public bodies are more likely to be unresponsive to records requests and employ exemptions to keep meetings closed.
- No state surveyed has a government office with statutory authority specifically created to oversee and enforce sunshine laws.
- State employees are not adequately trained to carry out open government policies and may be unintentionally violating the laws.
- Citizens may be able to attend meetings, but there are very few opportunities to participate.

“For our democracy to thrive and grow, we must have open government laws that are both strong and effective,” said Cindi Canary, Director of the Illinois Campaign for Political Reform. “Without good sunshine laws, the public can not fully participate in the democratic process, knowledgeably discuss issues of public concern, make informed judgments about the actions of elected officials, or monitor government to make sure it’s acting in their interest.”

The study, conducted by the Center and funded by the Joyce Foundation, is distributed by the Midwest Democracy Network, an alliance of political reform advocates who are working to strengthen democracy and build the capacity of the public to participate and affect government decision-making.

To view the full report online, visit www.citizenadvocacycenter.org or www.midwestdemocracynetwork.org.

###

The Citizen Advocacy Center (www.citizenadvocacycenter.org) is a non-profit, non-partisan community legal organization dedicated to building democracy for the 21st century. Center community lawyers and volunteers focus on strengthening the citizenry's capacity and motivation to participate in civic affairs, building community resources, and improving democratic protocols within our community institutions.

The Midwest Democracy Network (www.midwestdemocracynetwork.org) is an alliance of political reform advocates committed to improving democratic institutions in Illinois, Michigan, Minnesota, Ohio and Wisconsin. The Network includes state-based civic and public interest organizations as well as prominent academic institutions and respected policy and legal experts.

Based in Chicago, the Joyce Foundation (www.joycefdn.org) supports efforts to strengthen public policies in ways that improve the quality of life in the Great Lakes region. Cultural funding supports projects that bring diverse audiences together to share common cultural experiences and encourage more people to see the arts as integral parts of their lives. The Foundation also makes grants in the areas of Education, Employment, Environment, Gun Violence Prevention, and Money and Politics.

Sunshine Week (www.sunshineweek.org) is a national initiative to open a dialogue about the importance of open government and freedom of information. Participants include print, broadcast and online news media, civic groups, libraries, non-profits, schools and others interested in the public’s right to know.