



# THE PUBLIC SERVANT

The newsletter of the Illinois State Bar Association's Standing Committee on Government Lawyers

## National Labor Relations Board Chairman Wilma Liebman: Forging a new process

By Melissa Olivero

The National Labor Relations Board is an independent federal agency that was created on July 5, 1935, by the National Labor Relations Act (the Act). The Board is charged with protecting the rights of certain private sector employees to organize and designate representatives for collective bargaining, determining appropriate bargaining units, conducting representation elections, and enforcing prohibitions against specified employer and union unfair labor practices.

The NLRB is organized into two major components: a five-member governing Board and

the Office of the General Counsel. Board members and the General Counsel are appointed by the President and confirmed by the Senate. The Board is a quasi-judicial body that decides labor issues, while the General Counsel investigates and prosecutes cases. The Agency's headquarters are located in Washington, D.C. It has field offices in 51 U.S. locations.

On January 20, 2009, Wilma Liebman was appointed as the 20<sup>th</sup> Chairman of the National Labor Relations Board by President Obama. Al-

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## Right to speak comes to Illinois

By Thomas L. Ciecko\*

Until January 1, 2011, no one in Illinois had a legal right to address a public body at a public meeting. See *People v. Thompson*, 56 Ill. App. 3d 557, 562 (1978). That changed when the Illinois General Assembly passed and Governor Patrick Quinn signed Public Act 96-1473, effective January 1, 2011, which amended section 2.06 of the Open Meetings Act to provide:

(g) Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body. 5 ILCS 120/2.06(g), added by Public Act 96-1473.

A plain reading of the statute suggests that if there are no rules established and recorded there is no right of the public to address public officials. However woefully drafted, the intent of the legislature is clear: the public has a right to address a

public body, and that body has a right to promulgate rules concerning that right. The public policy of Illinois is to give citizens advance notice of and the right to attend all meetings where public business is discussed or acted upon. 5 ILCS 120/1; see also 735 ILCS 110/5 (it is the public policy of the State of Illinois to encourage involvement and free participation of citizens in the process of government... opinions and arguments of citizens are vital to the continuation of representative democracy). Now there is a right to speak.

Even before this change to the Open Meeting Act, some public bodies by either process, custom or ordinance allowed for public comment. The codification of the right to speak before a public body makes it important for a public body to establish rules and publish those rules to those who wish to address the public body. What

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## National Labor Relations Board Chairman Wilma Liebman: Forging a new process

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though she does not see herself as a trailblazer, Chairman Liebman is only the second woman to serve in this capacity since the creation of the Board in its current form. Chairman Liebman, a native of Philadelphia, Pennsylvania, holds a B.A. from Barnard College in New York and a J.D. from George Washington University Law Center. She was first appointed to the Board on November 14, 1997.

I had the distinct privilege of interviewing Chairman Liebman. Seeking a job in labor law, she came to work for the Board in Washington, D.C. as a staff attorney upon her graduation from law school in 1974. She says that working for the Board "seemed like an excellent way to learn the field." Government service, she notes, is a wonderful opportunity, particularly for young lawyers, to learn a field of specialty. Working for the Board exposes attorneys to a broad range of issues and to parties with different interests and, thus, provides a wonderful learning opportunity, she observes.

Chairman Liebman believes that the Board continues to make a difference. "As a member of the NLRB, I feel that I am doing something that matters, and I feel privileged to have the chance to do it," she says.

Chairman Liebman believes that at its core, the Act is a human rights statute. She explains, "The Act recognizes the right of workers to organize collectively, a form of freedom of association." The freedom of association and the freedom to engage in collective bargaining embodied in the Act are recognized around the world as core principles of democracy, she states. Chairman Liebman fully expects the Act, the collective bargaining system it establishes, and the labor movement itself to endure.

American employees, Chairman Liebman observes, may need the Act's protections more than ever. "Every day," she says, "I read the cases that come before us about working people who, despite the odds, despite the risks and obstacles, join together to improve life on the job. They work on assembly lines, in industrial laundries, on construction sites, and in mega-stores. They slaughter hogs, drive trucks, clean hotel rooms, and care for the disabled." Although these workers sometimes have unions to help them, other times they act spontaneously to help each other. Chairman Liebman emphatically states that,

"anyone who says that workers do not want, or need, some form of representation in today's economy is mistaken."

Chairman Liebman notes that in the midst of plenty, inequality is rising. "Much has changed in our society since 1935 when Congress enacted the Act in the midst of the Great Depression. Much has changed since the 1950s and 1960s, when millions of Americans came to enjoy a middle class way of life through the collective bargaining system," she says.

In her years with the Board, Chairman Liebman has seen significant changes in the dynamics of the American workforce. "Accelerated competitive pressures have certainly led businesses to look for greater flexibility in the employment relationship," she observes. Significantly, Chairman Liebman says, "employers seem to be using more and more part-time employees, temp workers, contract employees, and leased employees, and contracting out many ancillary functions." In her opinion, this has resulted in enormous flux and unpredictability in the employment relationship. She further observes significant volatility in the business world, with the rise of mergers, consolidations, and restructurings and the dislocations that result for countless workers.

Chairman Liebman finds that all of this instability makes collective bargaining more important than ever. "The constant churning of jobs, technological change, elimination of jobs, and creation of different types of jobs, causes tumult, which makes stable collective bargaining relationships very difficult. Enormous strains have been put on the system. Yet, the institution of collective bargaining is flexible enough to play a meaningful role in managing all of this change and allowing the parties to reach their own solutions," states Chairman Liebman.

Her term as Board Chairman has been marked by historic challenges. During a 27-month period that ended with the recess appointment of two members in late March 2010, the Board operated with only two members: Chairman Liebman and former Chairman and Board member Peter Schaumber. They decided nearly 600 cases on which they could agree. On June 17, 2010, the United States Supreme Court ruled that the Board was not authorized to issue deci-

sions when three of its five seats were vacant. See *New Process Steel, L.P. v. NLRB*, 560 U.S. \_\_\_\_ (2010). In July 2010, three-member panels of the Board began considering about 100 cases pending in the courts when the Supreme Court issued *New Process Steel*.

Under Chairman Liebman's leadership, the Board has issued 315 decisions between October 1, 2009 and September 30, 2010. Notably, about 182 decisions have issued since August 2010.

Several significant decisions have been issued by the Board in recent months. The Board has adopted two new remedial policies: adding daily compound interest to backpay and other monetary awards and requiring many employers and unions to notify employees electronically of NLRB orders in unfair labor practice cases. In addition, the Board recently found that a union practice of displaying large, stationary banners at the businesses of secondary employers (with which unions were not involved in a primary labor dispute) was lawful and not coercive.

Chairman Liebman has mixed feelings about the controversy over the last year surrounding proposed legislation to amend federal labor law and the nomination of new Board members. "While rancorous, it is in some respects welcome because it has brought important labor issues back into the public eye," she says. Ideally, however, the controversy will lead to a more constructive, sober dialogue about these serious issues.

Labor law practitioners, she believes, will see a more dynamic approach to the law from the new Board, one that will "make the law work better in a changed economy." She would also like to see confidence in the Agency restored. "Many stakeholders have avoided our processes, especially election processes, for years. I think a restoration of confidence will come through a combination of decision making and minimizing delays."

Another of Chairman Liebman's goals for the remainder of her term is to enhance public awareness of the Agency and the value of its work. She hopes that the Agency's current public outreach efforts will allow the Agency to "tell our own story rather than have the story told for us" and in so doing to better educate workers regarding their rights and employers their obligations.

Chairman Liebman has kind words for

employees in the field. "I want to thank them all for their commitment and service to this Agency, and to the public, and their dedication to applying this statute in a meaningful way," she said. She recognizes that the controversy of the last few years has been difficult. Chairman Liebman says, "I want to thank everyone for staying with us through this difficult period." She also welcomes input from people who work for the Agency as to ways to make the Agency work more effectively.

"Today's labor laws were the product of tremendous struggle," she says. "We honor that struggle when we take the Act seriously,

when we enforce it fairly and thoughtfully, and even when we point out its shortcomings."

In this 75<sup>th</sup> anniversary year of the National Labor Relations Act, she still sees its significance. "The Act still has vital importance for our country, in supporting a democratic society and a fair economy," she says. "The basic values in the Act are as vital today as they were 75 years ago." But because the Act has gone over 60 years without any substantial revision, "it is our responsibility to try to keep the Act dynamic and vital and make it work in today's changed economy." ■

## Right to speak comes to Illinois

*Continued from page 1*

are the limits on those rules?

The public comment portion of a public meeting is considered a designated public forum (public property intentionally opened for use by the public as a place for expressive activity). See *Madison Joint School District No. 8 v. Wisconsin Employment Relations Commission*, 429 U.S. 167, 175-76 (1976); *White v. City of Norwalk*, 900 F. 2d 1421, 425 (9th Cir. 1990). This limits the ability of a public body to regulate expressive activity. *Perry Education Association v. Perry Local Educators' Association*, 460 U.S. 37, 45 (1983). Content-based restrictions are subject to strict scrutiny with the public body required to show its restriction is necessary to serve a compelling state interest and is narrowly drawn to achieve that purpose. *Id.* at 45-46.

The public body may impose reasonable time, place, and manner regulations that are content neutral if those regulations are narrowly tailored to serve a significant governmental interest and leave open ample alternative channels of communication. *Id.* Time limits on public comments are reasonable. See *Wright v. Anthony*, 733 F.2d 575, 577 (8th Cir. 1984) (Three minutes). Public comment limited only to the subjects on the agenda is reasonable. See *White v. City of Norwalk*, 900 F. 2d 1421, 1425 (9th Cir. 1990). Speakers can be stopped if the comment becomes irrelevant, repetitious, or disruptive. *Id.* at 1425-26. Public comment cannot be regulated when the motivating ideology, opinion, or perspective of the person is rationale for the

regulation. See *Rosenberger v. Rector & Visitors of University of Virginia*, 515 U.S. 819, 829 (1985).

Public bodies in Illinois should be establishing rules for public comment; rules consistent with well establish case law. Those rules should then be widely published by that public body. ■

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## Got spare time? Need a break from brief writing? Check out these legal blogs—and have fun browsing!

Compiled by Sharon L. Eisman

The following list of popular legal blogs is borrowed, in significant part, from a recent issue of the “NAPABA Lawyer,” the periodic newsletter of the National Asian Pacific American Bar Association (Volume XX No. 3 Election 2010). We are indebted to the organization for its foresight in printing these Web addresses so that lawyers—as well as others interested in legal issues—may entertain themselves in their abundant spare time. The first eight sites listed, along with the snappy overviews of what you will discover there, are from the NAPABA list. We have added five more sites to the list to keep you engaged for an even longer time. We do include one caveat. If you decide to participate in the give-and-take of any blog-site, be mindful of your posts. Your messages could come back to haunt you in quite unexpected ways.

**Above The Law** (abovethelaw.com): Casting itself as a “Legal Tabloid,” this Web site is akin to the lovechild of CNN and E!—with a law degree. Everything from the latest news in the legal world to the inside scoop on BigLaw culture is covered here, and what’s missing is often filled in by the “comments” section by the blog’s avid readers.

**The Volokh Conspiracy** (volokh.com): Written in roundtable format by some of the most prominent and cutting edge legal minds in academia, this blog is short on pictures but goes beyond mere issue-spotting coverage by mainstream media into the nuances of the matter as only law professors can tell it.

**SCOTUS Blog** (scotusblog.com): This blog covers all the goings-on of its namesake, the Supreme Court of the United States. Cases, and more recently, SCOTUS nominations constitute the main topics of debate and discussion among its authors.

**The Jonathon Turley Blog** (jonathan-turley.org): The stories stun, anger, and plain gross out its readers, but that’s what keeps them coming back to this blog written by a GW law professor who is also a regular on MSNBC.

**The Wall Street Journal Law Blog** (blogs.wsj.com/law): The legal world seen through the eyes of a BigLaw litigator turned journalist, this blog also offers interviews and in-depth analysis of prominent cases.

**FP Legal Post** (business.financialpost.com/category/legal-post): For an international dose of legal news (with heavy emphasis on the Canadian and British legal worlds), this blog tracks cases across the border and across the pond.

**Corporette** (corporette.com): Although not strictly tailored to the legal profession, the brains behind this Web site, that focuses on “work-oriented fashion for women,” is a BigLaw associate in Manhattan whose on-target advice regarding style and etiquette would be useful for any summer or first year associate to glean before stepping into the corporate world.

**Ms.JD** (ms-jd.org): Written by law students with a feminist bent on the law, Ms.JD styles itself as an online community which provides a forum for women lawyers to share their unique experiences and challenges with fellow practitioners as well as budding associates.

**Overlawyered** (overlawyered.com): This site describes itself as “Chronicling the high cost of our legal system,” and to do so, it reprints (and critiques) pieces from various law journals and media sources concerning high-profile legal cases and issues, including federal government initiatives. A comment section is available for bloggers. It also provides links to numerous policy think tanks, including the Cato Institute.

**Legal Blog Watch** (legalblogwatch.typepad.com): Besides offering articles on popular, emerging issues like E-Discovery, this site connects its audience to the Law.Com Blog Network and numerous law-based blog sites through its “Blogroll.” One example is the Wall Street Journal blogsite, which focuses on “cases, trends, and personalities of interest to the business community.” It also features coverage of developing cases on the national and international news scene, most recently

the surrender of Wikileaks’ Julian Assange to London’s police authorities.

**Underneath Their Robes** (underneath-theirrobes.blogs.com): In its own words, Underneath Their Robes provides “News, gossip, and colorful commentary about the federal judiciary.” It is perhaps so colorful that government employees may be blocked from accessing the site. If that is the case, try your home computer.

**The Legal Balance** (thelegalbalance.com): Defining itself as an “exclusive online community for women attorneys in Chicago, this Web site presents a range of resources to help its audience achieve balance among the often competing demands of work-life-law. To assist in career development, the site also facilitates networking and connections to ‘supportive communities.’

**Law Jobs** (lawjobs.com): Law Jobs bills itself as your ‘hiring partner’ and allows visitors to browse for job openings by category and location. To proceed to application, you will have to sign in and create an account, which may require a fee. ■



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## Someone you should know: Debbie Simpson, Assistant Attorney General

By Ronald A. Rascia\*

**D**ebbie Simpson currently serves as the supervising attorney of the Labor Unit in the General Law Bureau of Attorney General Lisa Madigan's Chicago office. Her arrival at the Attorney General's office resulted from a long and interesting route with many stops along the way.

Deb graduated from DePaul University with a Bachelor of Arts degree in speech and drama. She received her law degree from The John Marshall Law School in 1984. While in law school, she served as a 711 law clerk in the Cook County State's Attorney's Office. Deb credits much of her early development to the mentoring and role models provided by the Assistant State's Attorneys she worked for in Markham. At first, Deb was shy and not really interested in the courtroom experience, but she got the "trial bug" from working with Assistant State's Attorneys Terry Burns, Ed Cozzi, John Groark and Pat Quinn. By the time she was officially an Assistant State's Attorney, Deb had tried ten felony bench trials and drafted numerous motions and various discovery pleadings. 300-plus jury trials later, Deb appreciates that her time with this group of dedicated prosecutors shaped her career.

Deb left the Cook County State's Attorney's Office for the smaller venue of Vermillion County. After only a couple years, Deb earned the position of First Assistant State's Attorney in Vermillion County and, along with that, assumed responsibility for all major felony trials, as well as oversight of the charging and appeals functions of the office. Deb's first 50 trials were before future-Supreme Court Justice Rita Garman in the court's misdemeanor division.

During her time in Vermillion County, Deb's attention was focused on two separate areas of the law. First, Deb became involved with the investigation and prosecution of arson cases. She found an interest in the science and law enforcement aspects of such cases. Her efforts in this area resulted in a string of arson convictions, for which she was honored by the International Association of Arson Investigators and the Danville Fire and Police Departments, as well as being named an honorary firefighter by the city of Danville.

Her second focus was the advocacy of abused, neglected and exploited children.

While taking the lead in prosecuting cases on behalf of these victims in Vermillion County, Deb's commitment led her to an interest in developing a child advocacy center to more effectively represent children and the needs of the justice system.

Deb's next move found her at the Kane County State's Attorney's Office in 1993. The seven years she spent in Kane County were some of her most fulfilling as a public servant and prosecutor. State's Attorney Dave Ackeman was instrumental in establishing Kane County's child advocacy center. Deb was tasked with making it an effective model for advocacy. She handled the vertical prosecution of abuse and neglect cases, as well as delinquency, misdemeanor and felony cases. Additionally, she assisted in the establishment of a unit designed to investigate and prosecute crimes against the elderly and to help them through the court system, all this while maintaining responsibility for trial prosecution of other felonies and serving on the Kane County fire and arson task force.

In 2000, Debbie she joined the Illinois Attorney General's staff. She has worked in the General Law Bureau's Administrative Review/Civil Prosecutions Unit for the past ten years. In that unit, she served as assistant supervisor to the group of lawyers who respond to emergency motions, injunctions and TROs directed at various State entities and branches of government throughout the northern part of the State. Deb also civilly prosecuted matters involving State agencies, such as the Department of Public Health's and the Department of Professional Regulation's enforcement of their statutes. Her trial skills have served her well in bringing actions against medical professionals accused of wrongdoing, seeking orders for the protection of citizens, as well as litigating nursing home actions for the protection of the elderly and challenged residents.

When asked for her most meaningful contributions and accomplishments to date, she replied: "working with abused and neglected children, helping them through the court system and getting them out of the abusive situations without letting the system cause them further abuse." In addition, she also mentioned "being able to treat them all with

compassion, listening to them tell me what they need to see happen to make life easier for them and giving them a voice and some control of the situation, which in all abuse cases is the one thing victims never have, control."

Deb is gratified to know that through the years she has had a hand in shaping the perspective of young Assistant State's Attorneys in their handling of juvenile matters. A suggestion from Deb on strategy, courtroom presentation, or "how to do the right thing for the people of the State of Illinois" is invaluable for new, as well as, seasoned lawyers. In addition to her informal mentoring over the past 25 years, Deb has presented dozens of training seminars on juvenile and criminal justice issues, missing and exploited children, arson investigations and prosecutions, DNA and other forensic sciences for the courtroom, as well as traditional trial advocacy litigation skills.

In her spare time, Deb has been a community college instructor and has been active in her church and community, teaching confirmation classes, as well as career coaching for high school students interested in careers in the law. Her other hobbies and interests are usually anything that involves interacting with one of her 18 nieces and nephews and cooking and baking. It is a lucky Assistant Attorney General who receives a birthday cake made by Deb. (Carrot and Red Velvet cakes seem to be office favorites.)

On the topic of what it means to be a good supervisor, Deb offers the following: A good supervisor must have an open door and an open mind. In a trial situation, a good supervisor must have patience, be a good listener, and show restraint as attorneys make arguments and present evidence in their own way, all the while keeping track to ensure nothing is overlooked. Further, a supervisor should help lawyers bring out their strengths and strengthen their weaknesses. Most important, a supervisor must be able to admit not knowing the answer to a question and be willing to search for that answer along with the attorney.

Given the opportunity to have a "do over," Deb says she's loved being a lawyer all her 25-plus years of government service. Maybe she would have explored other career op-

tions, but in reality, she knew from the age of nine that she wanted to be a lawyer and a teacher and make a difference. In this job, Deb says she's been able to do it all. When crossing over from criminal prosecution to civil law at the AG's office, she promised herself she would give it at least three years before going back to criminal law, just to make

sure she gave it a chance. "Ten years later, I'm still here," she says.

In the end, the countless kids of Vermillion and Kane Counties, along with her 18 nieces and nephews, her colleagues and all those she's represented, are lucky to have had Deb in their lives. Deb Simpson, a person of the utmost competence and skills as a trial law-

yer, blessed with compassion of heart, is a person you should know. ■

\*Ronald Rascia, formerly supervising attorney in the General Law Bureau of the Illinois Attorney General's Chicago Office, is in private practice with Anderson & Wanca, where he concentrates in plaintiffs' class action litigation.

## Attorney General issues opinions

By Lynn Patton

Under section 4 of the Attorney General Act (15 ILCS 205/4 (West 2009 Supp.)), the Attorney General is authorized, upon request, to furnish written legal opinions to State officers and State's Attorneys on matters relating to their official duties. The following is a summary of official opinion Nos. 10-001 through 10-003 and informal opinion Nos. I-10-009 through I-10-014 that may be of interest to the government bar.

Copies of an opinion may be requested by contacting the Opinions Bureau in the Attorney General's Springfield office at (217)782-9070. Copies of official opinions may also be found on the internet at <<http://www.illinoisattorneygeneral.gov/opinions/index.html>>.

### Opinion No. 10-001

Issued December 17, 2010

#### Public Library District's Operation of a Raffle

Special districts, such as public library districts, possess only those powers expressly granted to them by the Constitution or by statute, together with those powers necessarily implied therefrom. Under the Public Library District Act of 1991, public library districts do not possess the requisite authority to operate a raffle. Therefore, the Schaumburg Township Public Library District may not receive a raffles license, nor may it operate a raffle under current Illinois law. 230 ILCS 15/2 (West 2008). <<http://illinoisattorneygeneral.gov/opinions/2010/10 001.pdf>>.

### Opinion No. 10-002

Issued December 29, 2010

#### Acceptance of Mexican Consular Identification Cards by a Notary Public

Notaries public are State officers under

section 10 of the Consular Identification Document Act (the Identification Act). As such, they are required to accept Mexican consular identification cards from Mexican nationals for identification purposes with limited exceptions. Section 6-102 of the Illinois Notary Public Act, which provides that identification documents include those "documents \* \* \* issued by a state or federal government agency," was not intended to limit those documents which notaries public may accept for identification purposes generally, but rather was intended to restrict documents used as identification in certain real estate conveyances in Cook County, as contemplated by section 3-102 of the Notary Public Act. Accordingly, construing the Notary Public Act and the Consular Identification Document Act so as to give effect to both statutes, notaries are required to accept the Mexican consular identification card for identification purposes, subject only to the exceptions set out in section 10 of the Identification Act and for real estate transactions contemplated by section 3-102 of the Notary Public Act. 5 ILCS 230/10 (West 2008); 5 ILCS 312/3-102, 6-102 (West 2008). <<http://illinoisattorneygeneral.gov/opinions/2010/10 002.pdf>>.

### Opinion No. 10-003

Issued December 30, 2010

#### Authority to Contract with Private, Not-For-Profit Corporations for Auxiliary Police Services

While the Illinois Municipal Code authorizes municipalities to appoint auxiliary police officers, neither the Illinois Constitution of 1970, the Illinois Municipal Code, nor any other State statutes grant non-home-rule municipalities the authority to contract with private, not-for-profit corporations, private

security firms, or other private business entities for the provision of auxiliary police services. Although home rule municipalities may appoint auxiliary police officers, home rule municipalities do not possess, as an exercise of their home rule powers, the authority to contract with private, not-for-profit corporations, private security firms, or other private business entities for auxiliary police services and to grant the entity's unidentified employees or members the authority to carry firearms and wear peace officer style uniforms, unless specific employees or members are properly appointed as auxiliary police officers and successfully complete all necessary training. Ill. Const. 1970, art. VII, §6, 10; 65 ILCS 5/3.1-30-5; 3.1-30-20 (West 2008). <<http://illinoisattorneygeneral.gov/opinions/2010/10 003.pdf>>.

### Informal Opinion No. I-10-009

Issued July 30, 2010

County Board Member's Interest in Wind Energy Company Seeking a Special Use Permit Whether a county board member who has contracted with a developer for the use of his property for the erection of wind towers for a proposed wind energy conversion system has a conflict of interest with regard to the county board's consideration of and vote on other wind energy conversion system projects proposed by the same developer or other wind energy conversion systems proposed generally is a question of fact.

### Informal Opinion No. I-10-010

Issued August 30, 2010

#### Compatibility of Offices –County Board Member and Assistant Public Defender

The offices of assistant public defender and county board member are incompatible.

Assistant public defenders are deemed to be public officers in Illinois. Section 1 of the Public Officer Prohibited Activities Act (the Act) prohibits a county board member from serving in another public office, unless otherwise authorized by law. If an assistant public defender were to be elected to the office of county board member, the appointment as an assistant public defender would be void under section 1 of the Act. It is also impermissible to hold the positions of assistant public defender and county board member simultaneously under section 3 of the Act. 50 ILCS 105/1 (West 2008); 50 ILCS 105/3 (West 2009 Supp.), as amended by Public Act 96-1058, effective July 14, 2010.

### **Informal Opinion No. I-10-011**

**Issued September 9, 2010**

#### **State's Attorney as a "Law Enforcement Agency" for Purposes of the Reciprocal Reporting Requirements of the School Code and the Juvenile Court Act of 1987**

The term "law enforcement agency" as used in sections 10-20.14 and 22-20 of the School Code and sections 1-7 and 5-905 of the Juvenile Court Act does not include the State's Attorney's office or any part thereof. To conclude otherwise would render language in each of the statutes superfluous. Because neither a State's Attorney's office nor a unit thereof is considered to be a law enforcement agency, for purposes of these provisions, it is unnecessary to address whether records of the State's Attorney's office constitute "law enforcement records" under section 5-915 of the Juvenile Court Act. 105 ILCS 5/10-20.14, 22-20 (West 2008); 705 ILCS 405/1-7, 5-905 (West 2009 Supp.); 705 ILCS 405/5-915 (West 2009 Supp.).

### **Informal Opinion No. I-10-012**

**Issued September 9, 2010**

#### **Applicability of FOIA to the Circuit Clerk; Exclusion of Information in Court Records under the Privacy of Child Victims of Criminal Sexual Offenses Act**

Court files maintained by a circuit clerk are not subject to the Freedom of Information Act (FOIA), because FOIA does not apply to the judiciary and circuit clerks are members of the judicial branch of State government. Under the Clerks of Courts Act, however, all court records are to be "open to inspection" and examination. The Privacy of Child Victims of Criminal Sexual Offenses Act (the Privacy Act) limits the provision of free access

to court records, by requiring a circuit clerk to exclude the name of any child victim of a criminal sexual offense from any requested court record. Therefore, it is proper for a circuit clerk to redact a child victim's name from a court record involving a criminal sexual offense. In the absence of a statutory period otherwise providing, the White County circuit clerk's procedures for responding to requests for court records containing information excluded from disclosure under section 3 of the Privacy Act within five days of receipt are reasonable. 725 ILCS 190/3 (West 2008); 5 ILCS 140/2 (West 2009 Supp.), as amended by Public Act 96-1000, effective July 2, 2010.

### **Informal Opinion No. I-10-013**

**Issued November 16, 2010**

#### **Residency Requirement for County Health Department Employees and for the Employees of the County's Elected Officials**

In the absence of a statutory provision, a county board may not apply an ordinance requiring the county's employees to establish or maintain residency within the county to the employees of the county's elected officials, who possess internal control over the operation of their offices, or to the county's health department. 55 ILCS 5/3-2003.2, 3-3003, 3-5005.2, 3-6018, 3-9006, 3-10005.1,

5-25001, 5-25012, 5-25013, 5-25015 (West 2008); Ill. Const. 1970, art. VII, §4.

### **Informal Opinion No. I-10-014**

**Issued December 7, 2010**

#### **Proper Distribution of Fees Collected Pursuant to Section 5-1101(d-5) of the Counties Code**

Subsection 5-1101(d-5) of the Counties Code authorizes counties to impose a \$10 fee on a judgment of guilty or a grant of supervision entered under section 5-9-1 of the Unified Code of Corrections, provided that the fees are placed in the county general fund and used to finance the county drug court, the county mental health court, or other specified court use. Section 27.6 of the Clerks of Courts Act sets forth a statutory fee disposition formula for a limited class of traffic, criminal, and quasi-criminal offenses. To the extent that fees collected under subsection 5-1101(d-5) relate to the offenses specified in section 27.6 of the Clerks of Courts Act, the distribution method set forth in subsection 5-1101(d-5) controls. 55 ILCS 5/5-1101(d-5) (West 2009 Supp.), as amended by Public Act 96-924, effective June 14, 2010; 705 ILCS 105/27.6 (West 2009 Supp.), as amended by Public Act 96-1175, effective September 20, 2010. ■

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### April

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**Tuesday, 4/5/11- Teleseminar**—Debt Collection Liability and Strategies for Businesses, Part 1. 12-1.

**Wednesday, 4/6/11- Teleseminar**—Debt Collection Liability and Strategies for Businesses, Part 2. 12-1.

**Thursday, 4/7/11- Chicago, ISBA Chicago Regional Office**—Elder Law Issues for Everyone: Your Aging Clients, Their Parents, and You. Presented by the ISBA Standing Committee on Women and the Law; co-sponsored by the Elder law Section, the General Practice Section and the Senior Lawyers Section. 8:15-4:45.

**Friday, 4/8/11- Bloomington, Holiday Inn and Suites**—DUI, Traffic and Secretary of State Related Issues. Presented by the ISBA Traffic Laws/Courts Section. 8:55-4:00.

**Friday, 4/8/11- Chicago, ISBA Chicago Regional Office**—Practice Tips and Pointers on Child-Related Issues. Presented by the ISBA Child Law Section; co-sponsored by the Mental Health Law Section, the ISBA Family Law Section; and the ISBA Education Law Section. TBD.

**Friday, 4/8/11- Dekalb, NIU School of Law**—Mechanics Liens and Construction Claims. Presented by the ISBA Special Committee on Construction Law; co-sponsored by the ISBA Commercial, Banking and Bankruptcy Section, the ISBA Alternate Dispute Resolution Section, and the ISBA Real Estate Section. 8:55-3:45.

**Tuesday, 4/12/11- Chicago, ISBA Chicago Regional Office**—Recent Developments in IP Law. Presented by the ISBA Intellectual Property Section. 9:30-11:30.

**Tuesday, 4/12/11- Teleseminar**—Creditor Interests in Partnership, LLC and S Corp Interests. 12-1.

**Thursday, 4/14/11- Teleseminar**—Ethics Issues for Transactional Attorneys. 12-1.

**Thursday, 4/14/11- Chicago, ISBA Chicago Regional Office**—Civil Practice Update. Presented by the ISBA Civil Practice and Procedure Section. 9-4.

**Friday, 4/15/11- Chicago, ISBA Chicago Regional Office**—Liens. Presented by the ISBA Tort Law Section. 9-12:30.

**Monday, 4/18/11- Chicago, ISBA Chicago Regional Office**—Illinois Supreme Court in Review: Important 2010 Cases, Procedures and Rules. Presented by the Illinois State Bar Association. 11:45-2:00.

**Tuesday, 4/19/11- Teleseminar**—Structuring, Administering and Investing Charitable Endowments, Part 1. 12-1.

**Wednesday, 4/20/11- Teleseminar**—Structuring, Administering and Investing Charitable Endowments, Part 2. 12-1.

**Tuesday, 4/26/11- Teleseminar**—2011 Retaliation Claims Update. 12-1.

**Thursday, 4/28/11- Chicago, ISBA Chicago Regional Office**—The Ethics of Good Regulatory Decision Making. Presented by the ISBA Energy Utilities, Telecommunications and Transportation Section; co-sponsored by the Chicago Bar Association Public Utilities Law Committee. 1:00- 3:15.

**Thursday, 4/28/11- Friday, 4/29/11- Spoon River College, Macomb**—Attorney Education in Child Custody & Visitation Matters in 2010. Presented by the ISBA Bench and Bar Section; co-sponsored by the ISBA Child Law Section and the ISBA Family Law Section. 8:30-4; 8:30-1.

### May 2011

**Tuesday, 5/3/11- Teleseminar**—Ethics & Confidentiality in a Digital World. 12-1.

**Tuesday, 5/3/11- Chicago, ISBA Chicago Regional Office**—Hanging Out a Shingle or Putting Up a Roof. Presented by the ISBA Young Lawyers Division. 12:30-4:00.

**Wednesday, 5/4/11- Chicago, ISBA Chicago Regional Office**—Settlement in Federal Courts. Presented by the ISBA Federal Civil Practice Section. 11:55- 4:15.

**Thursday, 5/5/11- Teleseminar**—Securities Law Issues for Medium and Smaller Businesses. 12-1.

**Thursday, 5/5/11- Chicago, ISBA Chicago Regional Office**—Municipal Administrative Law Judge Education Program. Presented by the ISBA Administrative Law Section; co-sponsored by the Illinois Association of Administrative Law Judges. TBD.

**Friday, 5/6/11- Lombard, Lindner Conference Center**—Business Purchases Involving Real Estate. Presented by the ISBA Real Estate Section. 8:55-4:30.

**Friday, 5/6/11- Chicago, ISBA Chicago Regional Office**—Legal Ethics in Corporate Law- 2011. Presented by the ISBA Corporate Law Department Section. 12:30-4:45.

**Tuesday, 5/10/11- Teleseminar**—Managing a Trust: Trustee Duties, Liability, and Investment Decisions, Part 1. 12-1.

**Tuesday, 5/10/11- Chicago, ISBA Chicago Regional Office**—A Primer on Trademark Office Actions- A Panel Discussion. Presented by the ISBA Intellectual Property Section. 9:30-11:30.

**Wednesday, 5/11/11- Teleseminar**—Managing a Trust: Trustee Duties, Liability, and Investment Decisions, Part 2. 12-1.

**Wednesday, 5/11/11- Chicago, ISBA Chicago Regional Office**—Effective Advocacy for Juveniles with Mental Health Needs. Presented by the ISBA Mental Health Law Section; co-sponsored by the ISBA Education Law Section, the Child Law Section and the ISBA Standing Committee on Disability Law. TBD.

**Thursday, 5/12-Friday, 5/13/11- Chicago, ISBA Chicago Regional Office**—2011 Annual Environmental Law Conference. Presented by the ISBA Environmental Law Section. 9-5; 9-1. ■



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