



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 10, 2021

Via electronic mail
Ms. Lakeidra Chavis
Reporter, The Trace
lchavis@thetrace.org

RE: OMA Request for Review – 2021 PAC 67024

Dear Ms. Chavis:

Pursuant to section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(a) (West 2018)), the Public Access Bureau has received your Request for Review alleging a possible violation of OMA in connection with the December 17, 2020, meeting of the Violence Prevention Planning Committee (Committee) of the City of Chicago (City). For the reasons set forth below, the Public Access Bureau has determined that the Committee is not a "public body" subject to the requirements of OMA.

On February 17, 2021, you submitted the above-referenced Request for Review alleging that the City notified you that it considers the Committee meetings to be advisory and not subject to OMA. You argue that "[s]ince these meetings discuss city business including how resources, policy, and funding should be allocated to address violence in Chicago," the Committee is subject to OMA.¹ Finally, you allege that more than 90 people attended the December 17, 2021, meeting, and that approximately 40 percent of them were representatives of city, county, and state government offices.

The intent of OMA is "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2018). Section 1.02 of OMA (5 ILCS 120/1.02 (West 2018)) defines "public body" as including:

all legislative, executive, administrative or advisory bodies of the
State, counties, townships, cities, villages, incorporated towns,

¹E-mail from Lakeidra Chavis, Reporter, The Trace to Sarah Pratt, Public Access Counselor, Office of the Attorney General (February 17, 2021).

school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue[.]

An "advisory body," for purposes of OMA, is an entity that generally has defined responsibilities and is a formal part of the structure of the **public body that it advises**. (Emphasis added.) *Board of Regents of Regency University System v. Reynard*, 292 Ill. App. 3d 968, 977-78 (4th Dist. 1997). OMA "is not intended to open to the public the deliberations of merely informal advisory committees who discuss internal" affairs of a public body, even if those discussions concern public business. *Pope v. Parkinson*, 48 Ill. App. 3d 797, 800 (4th Dist. 1977). In *Pope*, the court held that a committee of four faculty and four student members appointed by the chancellor of a university to advise the chancellor and the director of the university's basketball arena on issues related to the arena was not subject to OMA because the committee was "not formally appointed by, or accountable to, any public body of the State." *Pope*, 48 Ill. App. 3d at 799. Rather, the committee solely advised university administrators and served at the pleasure of the chancellor. *Pope*, 48 Ill. App. 3d at 799. In *University Professionals of Illinois v. Stukel*, 344 Ill. App. 3d 856, 868 (1st Dist. 2003), the court held that a group of presidents and chancellors of public universities, which made recommendations to the Illinois Board of Higher Education (IBHE), was not an advisory body of IBHE after considering various factors for determining whether a group constitutes an advisory body under OMA:

Those factors include who appoints the members of the entity, the formality of their appointment, and whether they are paid for their tenure; the entity's assigned duties, including duties reflected in the entity's bylaws or authorizing statute; whether its role is solely advisory or whether it also has a deliberative or investigative function; whether the entity is subject to government control or otherwise accountable to any public body; whether the group has a budget; its place within the larger organization or institution of which it is a part; and the impact of decisions or recommendations that the group makes. *Stukel*, 344 Ill. App. 3d at 865.

Similarly, Illinois courts consider the following factors in determining whether an entity could be a "subsidiary body": (1) the extent to which the entity has a legal existence independent of government resolution, (2) the degree of government control exerted over the entity, (3) the extent to which the entity is publicly funded, and (4) the nature of the functions performed by the entity. *Better Government Ass'n v. Illinois High School Ass'n*, 2017 IL 121124, ¶26, 89 N.E.3d 376, 384 (2017).

This office has reviewed the materials you submitted with your Request for Review, and also the document listed on your Request for Review, Our City, Our Safety: A

Comprehensive Plan to Reduce Violence in Chicago (Plan).² Your materials included a list indicating approximately 90 people representing City departments, county agencies, State agencies, non-profit organizations, foundations, and universities who participated in the meeting. The Plan available on the City's website primarily sets forth the City's strategies for addressing violence. It identifies the Mayor and the Deputy Mayor of Public Safety as having responsibility for coordinating public safety issues and overseeing an Office of Violence Reduction (OVR) to implement violence reduction strategy. The Plan describes the origin and historical role of the Committee in relation to the Mayor's OVR:

The Comprehensive Violence Reduction Strategy laid the foundation for OVR's work, but to fully meet these commitments, it was important to hear from partners, stakeholders, and impacted residents and incorporate their perspectives into the plan. For it to work, the approach to addressing violence must not be developed solely by those in City Hall for the City, but rather, must be developed by the city as a whole. Thus, we needed a process that would incorporate the voices, experiences, and expertise of stakeholders and residents across the city, as a whole.

This important input was largely collected through a multi-stakeholder Violence Prevention Planning (VPP) process. In 2019, the Mayor's Office applied for and received State of Illinois grant funding to conduct such an endeavor in 2020. As part of the process, the Mayor's Office convened government officials, service providers, faith leaders, philanthropic and university partners, individuals with lived experience, and advocates to form a VPP committee, which was tasked with developing recommendations to reduce violence in the city of Chicago.^[3]

Going forward, the Plan states that the City will reconvene the Committee "every six months to hold itself accountable and increase transparency to its work and progress made[,] and "to review the City's progress on implementing these initiatives."⁴

²City of Chicago, *Our City, Our Safety: A Comprehensive Plan to Reduce Violence in Chicago* (2020), <https://www.chicago.gov/content/dam/city/sites/public-safety-and-violenc-reduction/pdfs/OurCityOurSafety.pdf>

³City of Chicago, *Our City, Our Safety: A Comprehensive Plan to Reduce Violence in Chicago*, p. 22-23 (2020), <https://www.chicago.gov/content/dam/city/sites/public-safety-and-violenc-reduction/pdfs/OurCityOurSafety.pdf>

⁴City of Chicago, *Our City, Our Safety: A Comprehensive Plan to Reduce Violence in Chicago*, p. 20, 24, 68 (2020), <https://www.chicago.gov/content/dam/city/sites/public-safety-and-violenc-reduction/pdfs/OurCityOurSafety.pdf>

Although the Plan explains that the Committee has played and will continue to play an advisory role on violence prevention issues, it does not appear to be a formal part of the structure of the City of Chicago City Council (City Council), which is the City's governing body. Rather, the Committee was created to advise the Mayor and the Deputy Mayor of Public Safety on the development and implementation of the City's violence reduction plan. The Plan gives no indication that the Committee has any authority to make binding recommendations or take final action, nor is it accountable to any public body for purposes of OMA. Additionally, there is no indication that the Committee has a budget, nor does it have any deliberative or investigative functions.

Furthermore, as the holding in *Pope* demonstrates, the administrative creation of a group to advise an individual elected official or administrator generally does not constitute a public body of the municipality. *See also* Ill. Att'y Gen. PAC Req. Rev. Ltr. 45537, issued April 6, 2017 (liquor commission that advised mayor in his individual capacity as mayor not subject to the requirements of OMA because it was not an advisory body of the city council); Ill. Att'y Gen. PAC Req. Rev. Ltr. 64667, issued September 15, 2020 (Superintendent's Metrics Reopening Advisory Team not subject to the requirements of OMA because it was not an advisory body of the Board of Education); Ill. Att'y Gen. PAC Req. Rev. Ltr. 45537, issued April 6, 2017 (concluding that a Superintendent's Task Force was not a "public body" under OMA because it "was an internal group formed to assist the Superintendent rather than any public body."). Likewise, the Committee was formed to advise the Mayor and her staff, rather than the City Council. Because the Mayor and her staff are not a public body under OMA, the Committee's role of advising the Mayor and her staff does not make the Committee an advisory body.

Similarly, the Committee does not meet the requirements of a subsidiary body of the City Council. The available information indicates that it is an ad hoc body formed by the Mayor's office to provide advice on the formation and implementation of the Mayor's violence prevention plan. Your Request for Review notes that many of the members of the Committee represent City, county, and State government offices. However, there is no indication that members of the Committee affiliated with government offices are represented in sufficient numbers to exercise control over the Committee. *See Hopf v. Topcorp, Inc.*, 170 Ill. App. 3d 88, 92-93 (1st Dist. 1998) (not-for-profit corporations' boards of directors comprised of equal numbers of city officials and representative of a private university not subject to OMA partly because city could not direct the operations of the boards). Therefore, their involvement does not subject the Committee to the control of any other public body.

Because the Committee is neither an advisory body nor a subsidiary body of the City Council, it is not a "public body" subject to the requirements of OMA. Accordingly, this office has determined that no further action is warranted as to this matter.

Ms. Lakeidra Chavis
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This file is closed. Please contact me at lbartelt@atg.state.il.us or (312) 814-6437 if you have any questions.

Very truly yours,



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Deputy Public Access Counselor
Public Access Bureau

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