

## **Some Ontario municipalities still “shockingly secretive,” Ombudsman finds** **First annual report on “Sunshine Law” investigations of closed meetings**

**(TORONTO – October 30, 2012)** Ontario municipal councillors should hold fewer closed meetings, record them electronically and be more mindful of public concerns when they gather outside of council chambers, Ontario Ombudsman André Marin says in his latest report, released today.

The Ombudsman investigates public complaints about closed meetings in municipalities across the province. Today’s report reviews highlights of the 128 complaints received and reviewed by his office’s Open Meeting Law Enforcement Team (OMLET) from April 1, 2011 to August 31, 2012. It also reflects on the state of the “Sunshine Law” in Ontario – the public complaints system that came into effect in 2008.

Under the *Municipal Act, 2001*, all meetings of councils, committees and local boards must be open to the public unless they meet certain narrow requirements. Although most municipalities tend to follow the rules, there is still a “marked disparity” across the province in how councils operate, Mr. Marin says.

“Some are shockingly secretive, suspicious and resentful of the very idea they can be investigated,” he writes. “And many are well-intentioned but baffled by the complexity of the law.”

The Ombudsman is the investigator for 191 of Ontario’s 444 municipalities (the rest have appointed other investigators), although his report will be distributed to all 444 to encourage consistent practices. In the period covered by this report, he and OMLET found 45 violations of the Sunshine Law, ranging from procedural errors to blatant flouting of the rules – such as councils voting illegally behind closed doors and failing to keep records.

Unlike in some U.S. jurisdictions, there are no penalties for municipalities that violate the law. The Ombudsman recommends ways they can do better and reports publicly on his findings. “The focus is not on laying blame but on improving local government transparency by ensuring the law is being upheld and recommending best practices,” Mr. Marin says in the report.

“My overall impression, midway through our fifth year of doing this work, is frankly mixed,” he writes. “There is still a great deal of work and education to be done, and I hope this report helps meet that need.”

Complaints were made in several cities about informal gatherings of councillors – at restaurants, for example – that raised public suspicion. While it is “healthy” for municipal officials to socialize, the report says, councillors “must tread carefully” and make sure they don’t discuss official business.

The report also clearly sets out the Ombudsman's investigative process, noting that in some recent cases, councillors refused to co-operate with investigations, demanded to be represented by a lawyer, objected to the fact that complainants' names are kept confidential, and even questioned the Ombudsman's use of social media.

"It is completely unnecessary for witnesses to be represented by lawyers in Ombudsman investigations," Mr. Marin states. He also warns that for councils that have chosen his office as their closed meeting investigator, failing to co-operate in an Ombudsman investigation is a provincial offence.

"As Ombudsman, my interest is the public interest – ensuring that municipalities respect the law. Municipal officials must understand that the investigation of public complaints about their meetings is part of the responsibility that comes with their positions in local government.

Mr. Marin's report notes that OMLET investigations are efficient and resolved as quickly as possible; 50% were resolved within two months. But he argues that the process could move even faster if municipal councils simply kept good records of their closed meetings – preferably audio or video recordings.

"This would assist immeasurably in ensuring officials do not stray from the legal requirements once they retreat behind closed doors, and would provide a clear, accessible record for investigators to review," he says, noting that several U.S. jurisdictions require such recordings by law.

Along with the report, the Ombudsman is sending pocket-sized cards to all municipal councillors and clerks throughout Ontario that include "tips for closing meetings." The cards – reproduced on the inside cover of the report – can be used during meetings as a quick reference guide to the Sunshine Law, the Ombudsman says.

OMLET has handled 313 cases since the Sunshine Law took effect in January 2008. The Ombudsman and OMLET staff have also conducted training and information sessions for several councils on the open meeting requirements.

For full report, backgrounders and video of the Ombudsman's news conference, go to [www.ombudsman.on.ca](http://www.ombudsman.on.ca)

*Aussi disponible en français*

For further information, please contact:

Linda Williamson, Director of Communications, 416-586-3426, [lwilliamson@ombudsman.on.ca](mailto:lwilliamson@ombudsman.on.ca)

Patricia Tomasi, Communications Officer, 416-586-3402, [ptomasi@ombudsman.on.ca](mailto:ptomasi@ombudsman.on.ca)

Ashley Burse, Communications Officer, 416-586-3521, [aburse@ombudsman.on.ca](mailto:aburse@ombudsman.on.ca)

Elena Yunusov, Communications Officer, 416-586-3525, [eyunusov@ombudsman.on.ca](mailto:eyunusov@ombudsman.on.ca)