

EVERYDAY DEMOCRACY

CITIZEN ADVOCACY CENTER'S NEWSLETTER, FIRST EDITION, 2010

HELPING PEOPLE STAND UP TO BE COUNTED

The Center has been informing community leaders and the public about the imminence and importance of Census 2010. Our activities have been three-fold: working with DuPage County to help them establish a "Complete Count Committee" (CCC), working with local groups as part of DuPage Counts! to garner county-wide attention regarding the Census and conducting community organizing, outreach, and education to community leaders.

DuPage County CCC

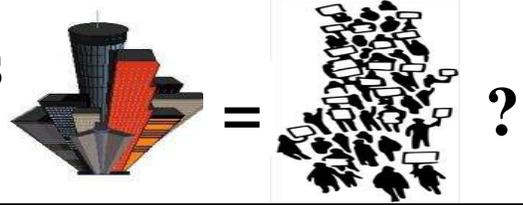
DuPage County, despite being one of the largest counties in the state with a dramatically changing demographic over the last thirty years, has never had a CCC. A CCC is a government formed committee whose purpose is to promote the Census and conduct outreach. The Center discussed the concept of a CCC with county staff and board members, provided information regarding the fiscal benefits of establishing a CCC to DuPage County, outlined the nuts and bolts of how to form a CCC and identified the fiscal cost to convene a CCC. The DuPage County Board issued a Proclamation declaring their support and participation in Census 2010 by forming a CCC for the first time!

DuPage Counts!

The Center, local chapters of the League of Women Voters, College of DuPage and DuPage County staff formed DuPage Counts!, an organizing committee focused on educating community leaders on the importance of the Census. DuPage Counts! coordinated a kick-off event wherein organizations such as The African-American Leadership Roundtable, Inc., YMCA Glen Ellyn, Serenity House Counseling Service, Outreach Community Ministries, DuPage PADS, Teen Parent Connection, Jack & Jill of Delta Sigma Theta, Peoples Resource Center, and The Community House were in attendance. The event was streamed live through the DuPage Counts! website and covered in the Daily Herald.

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DOES
THIS



The United States Supreme Court Says YES

The Center has been monitoring the effect of a controversial United States Supreme Court ruling that is dramatically affecting how money will impact politics in the years to come. In our last newsletter we asked, "[i]f we accept the premise that money 'equals' speech, or even that it merely enables speech, is it constitutionally permissible to restrict speech through regulating campaign contributions?" In late January 2010, the Supreme Court emphatically said "no" with respect to independent campaign expenditures in the historic case of Citizens United v. FEC.

The Issue: Prior to the 2008 primary election, Citizens United, a nonprofit corporation, sought to air a 90 minute film about Hillary Clinton. The medium it wanted to air the film was through the Video-on-Demand format. Citizen United produced the film through its general treasury funds, which was primarily made up of contributions from individuals but also included corporate contributions. Federal election law heavily regulates the airing of political media based on a variety of criteria that include the timing of release, content, funding and the medium of distribution. Citizens United challenged federal election law that would have prohibited the airing of its film based on: 1) the timing bring just prior to the Democratic primary election, 2) the partisan content, 3) the corporate funding and 4) the manner of distribution through Video-on Demand.

As the case wound its way to the Supreme Court, the ruling hinged on one question: Is it constitutional to prohibit corporations from using their general treasury funds on independent campaign expenditures?

In a complex and highly criticized Supreme Court opinion, the Court said that corporations *cannot* be prohibited from using their general treasury funds on independent campaign expenditures.

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In striking down the federal election law, the Supreme Court highlighted the First Amendment's core concern with protecting political speech. The majority opinion noted several ways in which the federal election law was unlawful and in conflict with First Amendment free speech principles:

- The law restricted the amount of money a person or group can spend on political communications during a federal campaign and thereby reduced the quantity of political expression by restricting the number of issues discussed, the depth of their exploration and the size of the audience reached.
- The law was riddled with loopholes that forced speakers to retain a campaign finance attorney, conduct demographic marketing research or seek a court ruling before discussing the most salient political issues of our day.
- The law suppressed federal political speech based on the identity of the speaker.

Additionally, in the majority opinion:

- Corporations *were likened to individuals*, even to the extent that no difference was made between corporations and "other associations."
- The Supreme Court admonished the federal government for passing a law that interfered with the marketplace of ideas that are protected by the First Amendment and stated that the public has a right to hear differing viewpoints, no matter what type of association it might be or how much wealth it has amassed.
- The Supreme Court *did not* overturn limits on direct contributions to campaigns. The Justices reasoned that limiting independent expenditures suppresses more speech than necessary and that the First Amendment guides us to err on the side of allowing speech.
- The Supreme Court *upheld campaign finance disclosure requirements* because they help inform the citizenry on how to vote.

In addition to holding a CAC community forum on Citizens United, our founder Ms. Theresa Amato participated in a panel discussion on Citizens United and its effect on elections, government reform, and how the public can mobilize to take money out of politics.

Watch for more information from the Center on Supreme Court rulings on the extent to which corporations can be regulated, if at all, from financially impacting elections.

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Keynote speakers and panelists included:

- Debra Olson, DuPage County Board Member;
- Diana Almanza, U.S. Census Bureau Regional Specialist;
- Mark R. Avery, DuPage County Planning Division Manager;
- Mario Lambert, NAACP DuPage County Branch Vice President;
- Christopher Oakley, Carol Stream Assistant Village Manager and Carol Stream CCC member; and
- Darlene Ruscitti, Ph.D., DuPage County Regional Superintendent.

Community Education

Dispelling misconceptions about how Census information is used and which government agencies are allowed to access Census information has been a large part of the our work, as well as disseminating educational materials to stakeholders, social justice groups and other organizations such as the Proviso Action Committee and the Unitarian Church in Naperville. The Center has talked with community leaders about the sensitive issues surrounding the Census and signed a letter with dozens of other advocacy organizations urging Secretary Napolitano from the Department of Homeland Security to suspend immigration raids during the Census to encourage participation.

Finally, the Center has provided the community with two resources available on our website: a 2010 Census Lesson Plan "You Count" for middle and high school social study teachers and a citizen guide that provides more detailed information about the census.

HAVE YOU FILLED OUT YOUR CENSUS FORM?

If not, your household will be visited by Census officials who will attempt to obtain the answers to the 10 questions from a person who is at least 15 years old. Census workers are identifiable by their official badge with the U.S. Department of Commerce watermark. **They should never ask you for your social security number, financial information, or citizenship status.**

Public Comment and Municipalities: Is the Public Allowed to Speak?

In 2009, the Center released a comprehensive report on five Midwestern states open government laws titled: “Accessing Government” How Difficult Is It?” A noticeable issue was that only one state, Michigan, codified the right of the public to comment at open government meetings! The Center was intrigued that the most basic element of democracy, the right to petition our legislators at government meetings was not codified across the Midwestern states. As such, we launched an investigation into the current practices and procedures of one of the most local levels of government that directly affect the public and that can be affected by citizen participation—municipalities—regarding the public’s right to give comment at open government meetings.



Our hypothesis was that most municipalities allowed public comment either informally, through just posting the opportunity on their agenda, or formally through the municipal code. With students from Benedictine University’s Center for Civic Leadership and Public Service, we conducted a five county review of municipal public comment policies (DuPage, Kane, Lake, McHenry, and Will).

Our survey was conducted via a web analysis and showed that out of 135 public bodies, 116 had information regarding their ordinances or agendas/ meeting minutes available via the Internet. A review of the 116 available municipalities confirmed our hypothesis that most municipalities surveyed allowed for public comment, either formally or informally. Of those 116 municipalities:

- 66 (56%) allowed for public comment in their municipal code;
- 51 (44%) allowed for public comment as posted on meeting agendas or noted in meeting minutes; and
- 101 (87%) has listed on their agenda the ability of the public to give public comment—regardless if public comment was also listed in the municipal code.

Upcoming Evening Forum: Join us at CAC!

Mon., July 19, 2010 at 7:00 PM
INTERN NIGHT!

Hear our high school, college, and legal interns discuss issues they addressed. Below is just a sampling of topics:

- Can non-profits like Choose DuPage who work with government entities to spur economic development be subject to Illinois’ transparency laws?
- When can public bodies regulate public comment and political expression, such as can a person be removed from a government meeting for facial expressions as at an Elmhurst Finance Committee meeting?
- Can public bodies mandate that people who want to obtain parade permits get liability insurance AND leave the amount of insurance needed to the total discretion of an administrator?

Civility Restrictions: Can I Say That?!

A separate yet equally important issue we investigated was the *kind of restrictions* placed on public comment opportunities. While governments may place time, place, and manner restrictions to procedurally

control public comment periods, they may not unconstitutionally restrict the content of speakers’ comments. Any content-based restrictions are strictly scrutinized by courts, with a particular aversion to viewpoint-based restrictions.

The Center found dozens of municipalities as having questionable content-based restrictions. Examples include:

- Mandated “civility”;
- Mandated “propriety”;
- Prohibition on “personal attacks”;
- Prohibition on the “impugning of motive”;
- Prohibition on “repetitive” statements, such as “please do not repeat topics previously discussed.”

A common problem with the above regulations is the ambiguity of who determines what constitutes a “civil” comment or a “personal attack” as well as the high risk that a decision to prevent an individual from giving a public comment is motivated by dislike of specific speakers or their message.

Where to Find if Public Comments are Allowed

In the process of documenting public comment policies, students from Benedictine University discovered the difficulty which average citizens face in obtaining an answer to the most basic question of, “Can I speak at a government meeting?” Because public comment can be allowed informally or formally there was no easy way to find out if public comment is allowed. To find an answer to this simple question, students had to:

- Review websites for references to public comment opportunities;
- Review approved meeting minutes;
- Review agendas; and
- Review municipal ordinances.

When students found a reference to public comment, time, place, and manner restrictions were often very difficult to find, or entirely absent. The Center circulated our findings to legislators and recommended a codification of the right to give public comment within the Open Meetings Act. Mandating public comment is a simple (because many public bodies already do it in some form) yet significant reform to build the capacity of the public to participate in the government decision-making process. To read our report, visit www.citizenadvocacycenter.org.

Everyday Democracy is a publication of the *Citizen Advocacy Center*, a non-profit, nonpartisan, 501(c)(3) corporation. Submissions from citizen advocates in the western suburbs of Chicago are encouraged. The *Center* is an educational and charitable organization dedicated to building democracy for the 21st century by strengthening the public's capacities, resources, and institutions for self-governance.

If you are interested in more information, becoming a volunteer, or making a tax-deductible contribution, please feel free to contact or visit us.

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Census
2010



IT'S IN OUR HANDS

If you haven't filled out your Census form, a census taker will visit your household up to three times and attempt to reach the household by phone three times. The census worker will leave a double-sided (English and Spanish) NOTICE of VISIT in the doorway that includes a phone number for the resident to schedule an appointment.

The census taker will ONLY ask the questions that appear on the census form. The census taker who collects your information is sworn for life to protect your data under Federal Law Title 13. Those who violate the oath face criminal penalties: Under federal law, the penalty for unlawful disclosure is a fine of up to \$250,000 or imprisonment for up to 5 years, or both.

EXTRA! EXTRA! **CITIZEN ADVOCACY CENTER** **FEATURED**

Citizen Advocacy Center funder, The Joyce Foundation, highlighted us on its website through posting an editorial in Wisconsin's *The Appleton Post* that features the Center's regional report on open government! Check it out at www.JoyceFoundation.org

McCormick Freedom Project, a civic education project funded by the McCormick Foundation spotlighted community lawyer Maryam Judar in their monthly e-newsletter FreeSource (January 2010, Volume 30). Ms Judar has been talking with high school students throughout Chicagoland about the First Amendment and issues with political campaigns. Go to www.FreedomProject.US to find the newsletter and find out how to invite Ms. Judar to YOUR class.