

Independent Civilian Advisory Commission on the Sheriff's Office

- Regular Meeting -
July 16, 2024



Item 1: Roll Call



Item 2: Welcome and Introductions



Swearing In Oath – Supervisor Slocum

I, (name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I will take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.



Introduction of New Commissioners



Item 3: Presentation / Training



Sheriff's Office Overview



Ralph M. Brown Act & Conflict of Interest



AN INTRO TO THE BROWN ACT

SAN MATEO COUNTY ATTORNEY

JULY 2024

WHAT IS THE BROWN ACT?

- Enacted in 1953
- Law's intent is that the actions of California's public Boards, Commissions, and Councils should be taken openly and their deliberations should be public
- Law attempts to balance public's right to access most proceedings and the need to conduct some proceedings with confidential candor



Ralph M. Brown

WHAT EVERY PRESENTATION ON THE BROWN ACT MUST COVER

1. To Whom Does it Apply?
2. What is a Meeting?
3. The Agenda Requirements
4. The Public's Rights
5. Closed Sessions
6. Consequences for Violations

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- Presumption is in favor of public access
 - Privacy (“closed session”) for specified topic areas only
 - Exceptions to public access are construed narrowly
 - The Brown Act can be found at California Government Code §§ 54950 et seq.

THREE MAIN RULES

1. Notice to the public before any meeting describing when, where, and what for;
2. Opportunity for public participation during the meeting;
3. Exceptions to the public access/participation rules.

FIVE STAGES OF GRIEF

- Denial: “Really? That can’t POSSIBLY be against the rules to do.”
- Anger: “How do they expect us to get anything done?”
- Bargaining: “I think I figured out a way to get equal or better transparency without needing to follow these ridiculous rules.”
- Depression: “Every effective way of getting business done is closed off to us.”
- Acceptance: “Let’s just post an agenda for this.”

IS THIS
“AGENDIZED”?



WHO HAS TO COMPLY?

- If you're receiving this training, you do.
- But subsidiary bodies that you create might also be subject to the Brown Act
- Exception: ad hoc advisory subcommittees consisting solely of less than a quorum
- NOT individual decisionmakers

WHAT DO THEY MEAN BY A “MEETING”?

- Noticed, agendized public meetings
- Any gathering of a majority of the members in a place to hear, discuss or deliberate on a matter within the subject matter jurisdiction of the body
- Any use of a technological artifice to develop a collective concurrence as to a matter within the subject matter jurisdiction of the body (e.g., e-mail; social media)

“A MEETING”

- Includes regular meetings, special meetings, study sessions, board retreats, workshops . . .
- Includes lunches and social gatherings (if Commission related subjects are discussed)
- Includes telephone calls and e-mail chains
- Includes social media threads and bulletin boards
- Includes using intermediaries or representatives
- Includes circumstances where no action is taken!

SOCIAL MEDIA

- Previously, the status of “public” posts on social media was questionable
- AB 992 authorized posting on “open and accessible” platforms (as defined)
- Members cannot “discuss among themselves” the posting
- Commenting, sharing, retweeting, and “liking” or “disliking” other members’ posts is prohibited
- Recent case: If you use your profile in your official capacity, you cannot block members of the public from commenting, or delete their comments or posts

“A MEETING” IS NOT:

- Individual discussions with stakeholders
- Attending a conference (without discussing substantive matters together)
- Attending a meeting of another public entity
- Attending a purely social or ceremonial gathering

YOUR MAGIC
NUMBER IS:

4

(INCLUDING YOU)

WHAT ABOUT SUBCOMMITTEES?

- Subcommittees created by formal action of the body must also comply with the Brown Act
- A special type of subcommittee, “advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body”, may meet without posting agendas or otherwise complying
 - Basically, to research a distinct complicated issue and report back in open session with a recommendation
- Consult with staff and counsel on the appropriate measures to effectuate your intent

HOW DO I GET SOMETHING AGENDIZED?

- The notice of meeting must include a brief summary of each item of business to be conducted
 - Hear, discuss, deliberate (DISCUSSION / ACTION)
 - Must be posted at least 72 hours in advance of a regular meeting (i.e., recurring meetings and those set by the Committee itself or by its organizing documents)
 - Must be posted at least 24 hours in advance of a special meeting (i.e., those set by other action)
 - New items may only be added under special (i.e., rare) circumstances!
 - About 20 words (more is not more!)
 - The contents of the agenda packet are not sufficient notice of the item

WHAT IS THE PUBLIC ENTITLED TO?

- To adequate advance notice the time, place, and topics of meetings
- To geographically proximate meetings (within the jurisdiction)
- To accessible meeting locations and assistive devices
- To record the meeting
- To bring new issues to the Board's attention (public comment)
- To timely receive access to the materials in the Board Packet
- To comment on each item before the Board deliberates (public hearing)
- To hear the deliberation, to know the (final) actions, and to know who voted how

WHAT IS THE PUBLIC ENTITLED TO?

- The right to orderly comment is subject to reasonable rules and regulations
 - Per-speaker time limits
 - Per-item time limits
 - Not content-based (i.e., no rule against public criticism)

ADDRESSING A SPEAKER

- The public is allowed to comment on items not on the agenda
- Meanwhile, the Board is forbidden to “hear, discuss or deliberate” on items not appearing on the agenda
- The Board members may “briefly respond” to public comment
 - Give information or correct misinformation
 - Refer to staff for followup
 - Ask that matter be agendized for a future meeting

CAN WE TALK ABOUT THIS IN CLOSED SESSION?

- Probably not
- Must be one of the specified issues set forth in the statute
- When allowed, must be described on the agenda and noticed to the public
- Public has a right to be heard on closed session items before action is taken
- Nothing else about Brown Act compliance changes
 - Including prohibition on serial meetings
 - Including the right to know who voted how (but not deliberations)

CAN I JUST CALL IN TO THE MEETING?

- The teleconference provisions of the Brown Act were written at a time when “teleconference meeting” was thought to be two public conference rooms, miles apart
- To be a legal meeting, the teleconference provisions of the Act must be strictly followed
- Both (or all) locations must be accessible to the public and have a posted agenda

AB 2449

- Allows individual members to participate remotely BUT
 - Only on specified grounds
 - Just cause (as defined)
 - Emergency circumstances (as defined) (basically medical emergencies only)
 - Number of times this is allowed is numerically limited
 - A quorum of members must be physically present
 - Full online access must be provided to the public in order for this even to be an option

WHAT IF THERE'S A VIOLATION?

- Call your staff liaison and ask to consult our office
- May result in reversal of the decision made using an improper process
- Requires that a demand be made, giving you the opportunity to correct your process
- Serious violations involving intentional conduct may result in criminal prosecutions

90 SECONDS ON CONFLICTS OF INTEREST

- Form 700 and the FPPC
- 1090 of the Government Code
- Appearance of Conflict

10 SECONDS ON THE PRA

- Assume that everything you write will be seen by someone else

QUESTIONS?

Elected Positions and Roles

Chair of the Commission

- **Provides** leadership to board & organization
- **Ensures** meeting procedures are done in a timely and orderly matter
- Adheres to by-laws and policies,
- **Evaluates** board decision making and effectiveness to meet commissions' purpose



Vice-Chair of the Commission

- Shares the same responsibilities as the Chair
- Acts as sitting Chair in the Chair's absence



Additional Chair Responsibilities



- Works with staff to develop agenda in advance
- Calls meeting to order
- Facilitates deliberations
- Maintains order
- Addresses disruptions at meetings

- Manages public comment
 - Refer the speaker to staff
 - Refer to speakers to appropriate reference material
 - Request staff to report back at a future meeting or ask if staff wants to respond
 - Direct staff to place the matter on a future agenda



Item 4: Motion: Discussion of On-Boarding



Review Commissioner On-Boarding Process and Binder



On-Boarding Process

- Boards and Commissions Training
- Sheriff's Office Structure, Priorities, Key Programs and Activities
- Existing Accountability Structures: State and Local
- Goal Setting and Work Plan Development Process



Determine the Frequency of Commissioner On-Boarding Schedule

Beginning August 20

Option 1: Twice a month on

1st and 3rd Tuesdays

PLUS 1-day Retreat

OR

1st and 3rd Wednesdays

PLUS 1-day Retreat

Option 2: Monthly PLUS 1-day Retreat

1st and 3rd Tuesdays

Retreat Options:

- November 2
- November 16

Determine Frequency of Regular Meetings

Option 1: Every Other Month (6 times a year)

- January, March, May, July, September, November

Option 2: Monthly (11 times a year)

- Every month except December



Determine Date and Times of Regular Meetings

**Option 1: 3rd Tuesday of the Month
(5:00-7:00pm OR 6:00-8:00pm)**

**Option 2: 1st Wednesday of the Month
(5:00-7:00pm OR 6:00-8:00pm)**



Determine Retreat Date (2024)

Option 1: Saturday, November 2 (9:00 am - 3:00 pm)

Option 2: Saturday, November 16 (9:00 am - 3:00 pm)



Motion to Determine Frequency, Date, and Time of On-Boarding Meetings (Beginning August)

Discussion

- “I motion that on-boarding meetings occur on the _____ of the month, from _____ pm beginning August 20, 2024 through December 2024.”

When discussion is over, vote on motion to close discussion.

- “I move to close motion.” Then, someone else says, “I second the motion.”

Vote on motion.

- When your name is called, say **Aye, Nay, or Abstain.**



Motion to Determine Frequency, Date, and Time of Regular Meetings (2025)

Discussion

- “I motion that regular meetings occur on the _____ of the month, from _____ pm beginning January 2025.”

When discussion is over, vote on motion to close discussion.

- “I move to close motion.” Then, someone else says, “I second the motion.”

Vote on motion.

- When your name is called, say **Aye, Nay, or Abstain.**



Motion to Determine Date and Time of Commission Retreat (2024)

Discussion

- “I motion that the **Special Meeting Retreat** will occur on _____ , from 9:00 am to 3:00 pm.”

When discussion is over, vote on motion to close discussion.

- “I move to close motion.” Then, someone else says, “I second the motion.”

Vote on motion.

- When your name is called, say **Aye, Nay, or Abstain.**



Item 5: General Public Comment

General Public Comment – *This item is reserved for persons wishing to address the Independent Civilian Advisory Commission on a topic within the jurisdiction of the Commission but that is not on the agenda. Public comments on matters on the agenda shall be heard at the time the matter is called.*

The Commission may not discuss or take action on items not on the agenda.



Item 6: Commissioner Announcements



**Subscribe to stay informed and receive
updates by email or text
smcgov.org/icac**



All public comments should be sent to
ICACFeedback@smcgov.org



Item 7: Adjournment



Next meeting: August 20, 2024
at the Regional Operations Center

