

MINUTES
CITIZENS' LAW ENFORCEMENT REVIEW BOARD MEETING
November 13, 2018

Attachment A

- Roll Call** ▪ The meeting was held at the County Administration Center and came to order at 5:31 p.m. All Board members were present except Delores Chavez-Harmes and Jordan Gascon.
- Public Comments** ▪ N/A
- Minutes Approval** ▪ The October 2018 meeting minutes were approved by motion by Darrel Harrison and seconded by G.I. Wilson.
- Presentation/Training** ▪ Brown Act Training presented by the Office of County Counsel



Brown Act Training
(CLERB 11-13).pdf

- Gary Brown: So, if a deputy wanted to have open discussion of a case, he could?
 - County Counsel: They could request that, yes.
 - Mr. Harrison: These violations, these misdemeanors, who are they directed to? Are they directed to the Board as a whole?
 - County Counsel: The civil action would apply to the Board as a whole, but the criminal action would be directed towards the individual with the intent to deprive.
 - Kim-Thoa Hoang: The agenda always has an item where we could inquire of Sheriff and Probation liaisons, what are the items that we may discuss or ask about in that particular item.
 - County Counsel: That would be the exception where you could ask a question for clarification.
 - Ms. Hoang: But it has to be of a general nature not a particular case: that what we were told.
 - County Counsel: That is not a Brown Act issue, that is a POBR issue, because if you go too far down that road you would be discussing a case in open session and that needs to be done in closed session.
 - Mr. Brown: You mentioned that we had copies.
 - County Counsel: I will make sure that copies are emailed out to the Board.
 - Mr. Brown: Given this presentation, are we still required to take the two-hour training required by the State.
 - County Counsel: Yes, that is unrelated to this.
 - Sandra Arkin: Just a reminder about email, if the staff send an email to the Board, you will notice that the staff always sends it as a BCC so that the ability to reply to all has been removed.
 - Mr. Harrison: So, we just need to give you our email addresses, so we can have that information emailed out to us.
 - County Counsel: I will send it to Aron Hershkowitz or Tamicha Husband to distribute.
 - Mr. Hershkowitz: I can send you a copy of the presentation.
- Executive Officer's Report**
- Overview of Activities of CLERB Executive Officer and Staff Since Last Meeting
 - The Rules and Regulations have been amended and approved by County Counsel. County Counsel and CLERB are working on a letter for the Board of Supervisors to approve the Rules and Regulations and also put an Ordinance regarding Jail Inspections up for approval at the December Board of Supervisors Meeting.

- On October 4, 2018, Mr. Hershkowitz attended a Customer Experience Initiative Meeting to discuss implementation of a new Countywide Customer Service Survey.
- On October 11, 2018 Mr. Hershkowitz attended the Chief Administrative Officer (CAO) Leadership meeting.
- On October 19, 2018, Mr. Hershkowitz and Special Investigator, Lenore Aldridge, met with San Diego Sheriff's Department (SDSD) Division of Inspectional Services (DIS) CLERB Liaison, Aaron Meleen, at the CLERB office for our monthly meeting series.
- On October 24, 2018, Mr. Hershkowitz attended a one-on-one meeting with PSG representative, Jeff Grissom, to discuss CLERB.
- On October 29, 2018, Mr. Hershkowitz, Special Investigator, Ms. Aldridge and Executive Secretary, Ms. Husband attended a presentation on the Brown Act at the Office of County Counsel.
- The test version for CLERB's updated computer database called Administrative Investigations Management (AIM) is being finalized and should be ready for review in the next week or two.
- CLERB is negotiating with the County and the Property Management office to try and move to another space within CLERB's current building address that would provide more office space, to accommodate full staffing, as well as a conference room and allow for future growth.
- Investigative Workload Report for September
 - There were 5 new cases (as compared to 18 for October 2017).
 - At the end of October there were 80 active cases (1 in "lodged" status and 79 open and active).
 - There were 34 open death cases.
 - CLERB had documents for 17 cases and was awaiting documents on the remaining 17.
 - There were two new death cases in October (One was potentially a natural death and the other was a suicide.)
- SDSD Policy Recommendation and Sustained Responses
 - 18-028 / Medical Response
 - SDSD looked into the various practices
 - Medical personnel's failure to properly document the need for a bottom bunk in JIMS.
 - A deputy station's touchscreen did not provide a sound indicator from an intercom used by inmates; it was not specified if this was due to human error or a malfunction.
 - Sheriff's Policy and Procedure M.5 entitled "Medical Emergencies," states that when an inmate is admitted to a hospital for treatment of a serious illness or injury, the Watch Commander shall contact the inmate's emergency contact person; according to the complainant, this did not occur.
 - SDSD responses
 - SDSD recognized the JIMS entry was not made but was an isolated incident and does not represent common practice among the staff.
 - That concern was forwarded to the Detention Services Bureau for appropriate administrative action, including a referral for an Internal Affairs Investigation, if needed.
 - There was no next of kin information on file for the individual. When book the SDSD asks the arrestee for next of kin information. If the inmate refused to

provide the information they are unable to make the appropriate notifications as required per P&P M.5. The standard practice is to notify next of kin as soon as reasonable.

- Mr. Brown: Regarding the Customer Satisfaction Survey, how do you define our customer? Will it include people in prison?
- Mr. Hershkowitz: I think customer is a general term. I think it can involve any member of the public who either filed or didn't file a complaint. It could be somebody reviewing our website, it could be a complainant, it could be a deputy. I don't think there is limit as to who that can be.

Board Chair's Report ▪ N/A

New Business ▪ N/A

- Unfinished Business** ▪ Consideration and Adoption of Revisions to Rules and Regulations
- County Counsel noticed a few typos and errors during their review and asked that we review the document.
 - Ms. Arkin: Page 7 – 5.1.a- "Complaints" was changed to "complaints", Page 6 – 4.1.1- "Sections" was changed to "Section", Page 10 – 9.1.a.3- "section" was changed to "Section", Page 8 – 5.5- "complaint" was changed to "Complaint", Page 9 – 5.6.a "Party" was changed to "Person", Page 11 – 9.2.a- "Party" was changed to "Person", Page 13 – 12.1- "Members" was changed to "members", 12.2.a- "Board Members" was changed to "CLERB members", 12.3- "Board" was changed to "CLERB Members", 12.3.a- "Member" was changed to "member", and Page 14 – 12.3.c- "Board" was changed to "CLERB".
 - Mr. Brown: Should the "m" be lowercase to be consistent with the rest of the document.
 - Ms. Arkin: The word "Member" is being used as a title and should be capitalized.
 - Mr. Harrison: Is there any time when a complaint would be brought by anyone other than a person, organization, or a group?
 - Mr. Brown: When we had the complaints about the protests outside the building, was that by a group or was that by an individual?
 - Ms. Arkin: Counsel do you have an answer to that?
 - County Counsel: Go ahead and continue and I will look it up.
 - Ms. Arkin: Page 17 – 14.7.b- "the Review Board" was changed to "CLERB", in the title of section 16 "Review Board" was changed to "CLERB", and 16.2.c- "complaint" was changed to "Complaint".
 - Susan Youngflesh: Is complaint now capitalized because it is identifying a specific complaint because earlier, we lowercased complaints in the plural? In 5.1.a complaints is lowercase.
 - County Counsel: In 5.1 it is before filed or lodged; so, we you have a complaint generally. When you get to 16.2.c, it has already been filed.
 - Ms. Youngflesh: section 7 on the bottom of page 9, because section is spelled out, I presume that you are using the California Style Manual, which would then be Section 606 subdivision d, without the parenthesis around the d.
 - Ms. Arkin: Counsel do you have a preference?
 - County Counsel: I do not have a preference.
 - Ms. Arkin: So, you want to get rid of the parentheses and make it subdivision.
 - Ms. Youngflesh: Yes, please. Thank you.
 - Ms. Arkin: Could we circle back to Mr. Harrison question regarding party versus group?
 - County Counsel: I am still working on it.
 - Ms. Arkin: We will move on to something else while you continue to research this? Our goal was to have this to the Board of Supervisors by the end of 2018, but there has been a change in the timeline because it takes two Board of Supervisors meetings to accomplish this. The Public Safety Group (PSG) Director, Ron Lane, has been out

of the office and expected to return on November 19, 2018. During his absence, the Director of the Office of Emergency Services, Holly Crawford, explained to me why this should not occur over the next two months. PSG is already presenting a number of issues at the November Board of Supervisors meeting. She informed me that it would not be a good idea to add our items due to the fact that we have an Interim Executive Officer and that she was the Acting PSG Director. She expressed her concerns about rushing this through since the Jail Inspection Ordinance might raise some questions to be asked by the Board of Supervisors. I have accepted her recommendation and I agreed that the initial presentation to the Board of Supervisors be moved to December 11, 2018. Ms. Crawford will brief Mr. Lane upon his return. I asked if we could meet with the Board Aides before the Board of Supervisors meeting in December, so that they could be briefed on any changes that have been made to the Rules and Regulations. She stated that she did not know if that was appropriate and that she would check with Mr. Lane upon his return. The Board Aides meet on the Friday prior to the Board of Supervisors meeting and we are hoping to meet with them to show them the changes that were made, to discuss the Jail Inspection Ordinance and to get everything nailed down before the meeting.

- County Counsel: Under the existing law, complaint is defined as a complaint received from any person without regard to age, citizenship, residence, criminal record, incarceration or any other characteristic, which would speak to whether person could apply to an organization as well.
- Ms. Arkin: So, person is very general.
- County Counsel: The term person is not defined.
- Mr. Wilson: A legal definition of a person can be a human or a non-human; a corporation.
- County Counsel: Exactly. The reason for the change from party to person is because the defined term is aggrieved person. It used to be aggrieved party, so that was just a left over that we had to change.
- Ms. Youngflesh: I think the debate is whether we should change the definition of aggrieved person; that is what I am hearing. Maybe there is a way we can incorporate both.
- County Counsel: Aggrieved person is the person who is injured. I don't know that there would be an aggrieved organization. An organization can submit a complaint on behalf of an aggrieved person.
- Mr. Harrison: And it would be on the individual. Okay, I see. So, we don't have aggrieved organizations, we have organizations bringing it in on behalf of the aggrieved person.
- Ms. Arkin: My suggestion would be to keep it as aggrieved person. I did not hear any additional changes aside from Section 606 subdivision d, so would anyone like to make a motion to accept the amended Rules and Regulations to present to the Board of Supervisors.
- County Counsel: Note all formatting will be corrected prior to submitting the document to the Board of Supervisors.
- Ms. Youngflesh: Just to be consistent with our capitalization – in 13.8 “section” is not capitalized in the first sentence of the second paragraph.
- Ms. Hoang: In 13.8 there should be a capital “f” in “Submission to full...”
- Ms. Arkin: Should section at the bottom of page 9 be capitalized.
- Ms. Youngflesh: Going back to the California Style Guide “section” should not be capitalized and neither should “subdivision”, but to keep with consistency, while not adhering to proper citation format, I did not bring up section being capitalized in the rest of the document.
- Ms. Arkin: So, should it or should it not be capitalized?
- Ms. Youngflesh: It should not be.
- Ms. Arkin: Is there a motion to re-adopt the Rules and Regulations with the changes that have been made.
- Motion made by Mr. Wilson and seconded by James Lasswell.

- Mr. Lasswell: I wonder if it makes since to have Mr. Wilson modify his motion to allow Counsel to make simple grammatical changes should there be another one that exists within the document.
- Mr. Wilson: Madame Chair I would be happy to move that Counsel make grammatical changes.
- Ms. Youngflesh: Madam Chair if I may, please correct if I am wrong, but I believe that Counsel can already do that without adding such a motion.
- Ms. Arkin: Yes, and Counsel could do that in this case, but chose to bring it back to the Board to make everything as clear as possible.
- County Counsel: The document was brought back because some of the changes were a little more substantive, for example, capitalizing “complaint” could give it a different meaning.
- Ms. Arkin: There is a motion on the floor to re-adopt the Rules and Regulations with the corrections.
- Mr. Brown: Madame Chair when you spoke to the action PSG Director, did you re-establish some sort of schedule?
- Ms. Arkin: Yes, this is going to be presented to the Board of Supervisors for the first time at the meeting on December 11, 2018, and the second time will be at the meeting on January 8, 2019.
- Motion made by Mr. Wilson to re-adopt the Rules and Regulations with the changes that have been made. The motion was seconded by Mr. Lasswell. The vote was unanimous, and the motion carried.
- Update of CLERB Executive Officer Selection and Appointment Committee presented by Ms. Arkin on behalf of Ms. Chavez-Harmes
 - November 14, 2018 – Eight candidates will be interviewed by Ms. Chavez-Harmes, Ms. Arkin, Ms. Silva and Mr. Gascon.
 - December 11, 2018 – The entire Board will meet at 3 pm to interview the finalists.
 - December 11, 2018 – The announcement will be made at the Board meeting, at 5:30 pm, that pending background a candidate has been selected.
 - Please be sure that you have both times on your calendar. The finalists will be interviewed at 3pm, prior to our regular Board meeting, on December 11, 2018.

Board Comments

- Ms. Hoang: On Monday November 5th, 2018, Ms. Hoang, Mr. Brown and Mr. Wilson participated in a jail tour at the San Diego Central Jail. Ms. Hoang thanked Lieutenant Gilmore and Sergeant Meleen for assistance with the tour. Ms. Hoang gave special thanks to Sergeant Binsfield who did a great job showing them around. Ms. Hoang was particularly impressed by how the Central Jail was organized and structured, especially the staff, the leadership of the people in charge and the resources available to the inmates. Ms. Hoang was also impressed with the fact that the Central Jail had its’ own dialysis unit with twelve beds. It was something that Ms. Hoang did not know about and believed it was a great asset to the facility. She was also impressed with the fact there were multiple free phones everywhere, including in holding tanks and in common areas, for the inmates to use as they wish when in those areas. Ms. Hoang was impressed with the new program where inmates could have face to face video calls with friends or relatives. Ms. Hoang believes that helps a lot with the mental health of inmates. Ms. Hoang offered her congratulations to the Sheriff’s Department.
- Mr. Wilson: I was very impressed with the mental health facility and the training of the deputies. In addition to that it is quite obvious that the jail is becoming a defacto mental health facility. They even have a section for those incompetent to stand trial, whereby, they try to provide them with a treatment regime where they are able to stand trial. It was very impressive and extremely complex, with medications, and constant observations; it is a very complex operation.

**Sheriff/Probation
Liaison Query**

- Lieutenant Gilmore: I wanted to address the items that you just discussed in unfinished business. There were a couple of items that were brought up that were new, such as

timelines. Could you provide a copy of what you are presenting as the Jail Inspection Ordinance?

- Ms. Arkin: Counsel is preparing that, so that would need to go through her.
- County Counsel: Yes, once it is done.
- Lieutenant Gilmore: I would appreciate the opportunity to have the Sheriff review that document, as well as, have all of the supervisors.
- County Counsel: Yes.
- Lieutenant Gilmore: Okay, thank you.
- Mr. Brown: Madame Chair in response to your comment, it might be best to call it an Ordinance that adds to our duties regarding the inspections of jails.
- Lieutenant Gilmore: It is not my ordinance, so I will not be labeling it.
- Mr. Brown: I was just trying to clarify.
- Ms. Arkin: Counsel will be handling that.
- County Counsel: I can tell you that there is nothing new, it is exactly the same language as what is already there, but you will have the opportunity to see it.
- Mr. Brown: Who is responsible for making sure that arms lethal and non-lethal are ready to be fired when deputies go out; that they are loaded?
- Lieutenant Gilmore: Your question is who is responsible for ensuring that the gun I carry out into the field is ready to go.
- Mr. Brown: A gun, a bean bag, a taser.
- Lieutenant Gilmore: I am going to hand this off to one of our Weapons Training Instructors, Sergeant Meleen.
- Sergeant Meleen: Items that are carried out into the field, for example, my gun issued to me by the department, I am responsible for making sure that it is ready to go. We do have armor that is available to the department and makes it rounds through the department throughout the year to inspect weapons, but it's my gun, so ultimately the responsibility falls on me to make sure that it is operational. With regards to the less lethal shotguns, the bean bags and the pepper-ball launchers, that is up to the individual operator to make sure that those are functional. Again, our armor travels around the department to inspect those and make sure that they are all operational. They are seen at least once a year during our inventory and qualification shoot. Basically, armor will do a preventive maintenance on them and then return them.
- Mr. Brown: If a bean bag shotgun, I am not sure what you call them.
- Sergeant Meleen: It's a bean bag shotgun or a less lethal shotgun.
- Mr. Brown: Okay, if it were taken out and it wasn't properly loaded would that be the deputy's responsibility? I guess is that an infraction of your rules and procedures.
- Sergeant Meleen: It is the responsibility of the deputy at the beginning of their shift to ensure that the weapon is functioning properly and that it gets loaded properly. If Lieutenant Gilmore were going off shift and he passes off his less lethal shotgun or his shotgun to me, it is up to me to download it and reload it to make that proper rounds are loaded in the proper shotgun. It keeps lethal rounds from being placed in a less lethal emission system.
- Mr. Brown: If a correspondence came into the prison system and it was considered to be contraband, what are you supposed to do with it.
- Lieutenant Gilmore: That would depend on the contraband.
- Mr. Brown: What if the letter itself...is it contraband if the letter comes from another inmate in an underhanded way.
- Lieutenant Gilmore: May be...
- Mr. Brown: Okay, if it is considered to be contraband what is supposed to happen to it.
- Lieutenant Gilmore: Well there are a couple of different pieces of that. Number one is it contraband with drugs? It needs to be processed for drugs, put into evidence, the appropriate charges filed, and an investigation conducted. If it is contraband for example with, I am in one jail and my friend is in another jail in the same system, that is not allowed communication between inmates, I believe. If it was caught it would be a potential rule violation written up, confiscated communication, it may be scanned for appropriateness because the inmate who is supposed to receive could say "hold it, I was supposed to get

- a communication from my brother in another jail here that is related to mom”, we would have to filter it based upon reasonableness at that point.
- Mr. Brown: On your brother example, I am in prison and I write my brother who is out of prison to communicate with someone else in prison, if that is called contraband, what is supposed to happen to the letter?
 - Lieutenant Gilmore: Again, that depends sir on what the messaging is. Are we negotiating a gang hit? Are we trying to get drugs smuggled in? It truly depends upon the situation sir.
 - Mr. Wilson: I would like to again thank Lieutenant Gilmore and Sergeant Meleen for taking all of the time out of their day to escort us around the jail. It was a very transparent visit to the jail. It was extremely professional and very time-consuming on their part. It really disrupts their day.
 - Lieutenant Gilmore: I have to second that on the staff in the jail. Captain Kneeshaw was there to greet us and his Command staff came out and there were available for questions/answers. I did not know that they were going to provide that resource. It was pretty awesome. As far as Binsfield, he had more details that I realized were available. There was a lot there, so I agree with the staff, they did a fantastic job.
 - Mr. Brown: I know you were outstanding, showing us that old-fashioned way to open the doors. It was a giant system of...I don't know how to describe it, but
 - Lieutenant Gilmore: It was all mechanical and you have to set up a catch down the way and then you would have to listen for it. When I was brand new, you lose skin off your knuckles on it and the inmates would give you a hard time if you didn't know how to do it. I said you have been here longer than me. If you do not help me, when this place catches fire, I am going to give it a few good chances and I am out of here. They decided to help me out.
 - Ms. Arkin: Thank you. If anyone else is interested in a jail tour and we have enough Board Members who would like to do it, we can take care of that again, I'm sure.

The Board entered closed session at 6:33 p.m.

Closed Session

- a) **PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE**
Discussion & Consideration of Complaints & Reports: Pursuant to Government code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session). Notice to government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation (if applicable).

| CASE NO. | LAST NAME | CASE NAME | LAST NAME |
|----------|-----------|-----------|---------------|
| 17-019 | Bazan | 17-065 | Weaver |
| 17-141 | Cueva | 18-013 | Adams |
| 18-110 | Pritchard | 18-134 | Shallenberger |

The meeting was adjourned at 6:41 p.m.

Minutes prepared by Tamicha Husband, Administrative Secretary


 ARON HERSHKOWITZ
 Interim Executive Officer


 KIM-THOA HOANG
 Secretary to the Board

THE BROWN ACT

Presented to
the Citizens' Law Enforcement Review Board

Thomas E. Montgomery, County Counsel

Presented by:

Shiri Hoffman, Senior Deputy

November 13, 2018

The Brown Act

Government Code Section 54950, et seq.

“In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.”

Who is Subject to the Brown Act?

“Legislative Bodies”

- The governing body of a local agency
 - Local Agency: city, county, school district, board, commission, or an agency thereof
- Other bodies of a local agency, whether:
 - Permanent or temporary
 - Decision-making or advisory
 - Created by charter, ordinance, resolution, or formal action of legislative body

Who is Subject to the Brown Act?

(cont'd)

- CLERB
 - County Administrative Code § 340.7(e)
- Exception: ad hoc advisory committees made up solely of CLERB members and constituting less than a quorum

What is a Meeting?

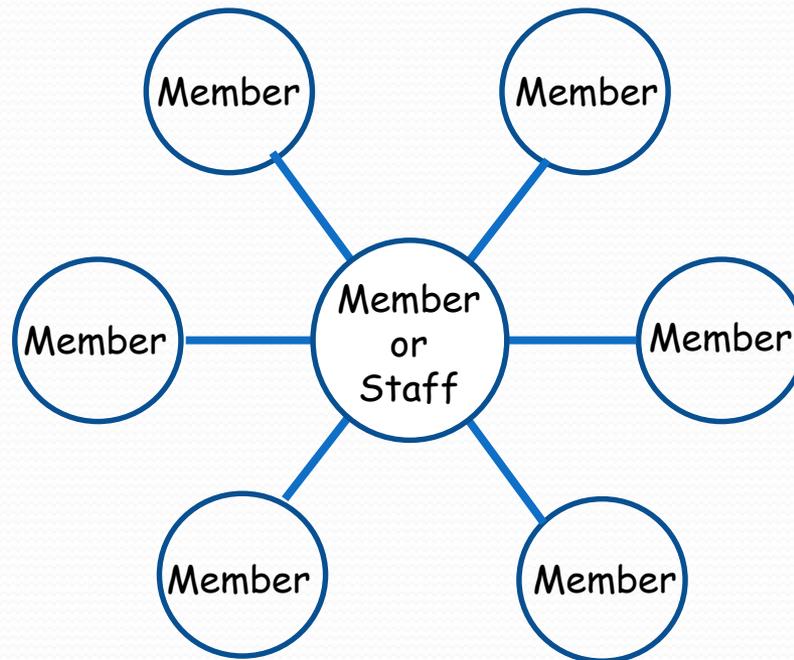
- A congregation of a majority of members
- At the same time and place
- To hear, discuss or deliberate on something within their jurisdiction
- And including indirect communication (serial meetings) to develop a collective concurrence

What is a Meeting?

(cont'd)

2 Types of Serial Meetings:

- “Hub and Spoke”



What is a Meeting?

(cont'd)

- “Daisy-chain”



What is Not a Meeting?

- Individual contacts between a CLERB member and other person
- Individual contact with an employee or official of CLERB in order to answer questions or provide information
 - Provided that person does not communicate to members of CLERB the comments or position of any other member of CLERB

What is Not a Meeting?

(cont'd)

Majority of CLERB members at:

- Conference
 - If open to the public and involves issues of interest to the public
- Local public meeting
 - If regarding a topic of local concern
- Open meeting of another body
- Social or ceremonial event

All provided that members don't discuss matters within their jurisdiction unless part of schedule

What is Not a Meeting?

(cont'd)

Attendance as observers only at an open and noticed standing committee meeting

Open and Public Meetings

- All meetings shall be open and public except as provided in the Brown Act
- Secret ballots are prohibited

When Can Meetings be Held?

- Regular meetings:
 - Agenda posted 72 hours before
- Special meetings:
 - Called by chair or majority of CLERB
 - 24-hour notice to members and media having requested it
 - Agenda posted 24 hours before
- Emergency meetings
 - Immediately, with one-hour notice to the media that requested it (or less if a dire emergency)

Where can Meetings be Held?

- Within County boundaries (with some exceptions)
- Must be accessible to disabled and free to the public
- Can use teleconferencing or videoconferencing if quorum is within County
 - Votes must be roll call
 - Agendas must be posted at all locations
 - Statutory and constitutional rights of the public must be protected
 - Notices and agendas must identify all locations
 - All locations must be accessible to the public
 - All locations must provide for members of the public to address the body

Right to Record

- By audio, video, or motion camera recording unless persistent disruption results
- Recordings made by CLERB are public records but may be destroyed 30 days after recording
- Inspection of video or tape recordings must be provided for without charge

Agenda Descriptions

- Brief general description of each item
- Inform public of scope of CLERB's intended plans so they can decide whether to participate

Limited Response to Public Comment on Items not on Agenda

- Brief response to statements or questions
- Brief announcement or report on own activities
- Ask questions for clarification
- Refer to staff:
 - For information
 - To report back
 - To direct that matter be placed on future agenda

Consideration of Matters not on Agenda

- **Only if:**
 - Majority vote determines emergency exists
 - Two-thirds vote determines a need to take immediate action and that the need arose after agenda posted

Public Right to Comment

- Regular meeting
 - On every regular meeting agenda
 - Before or during consideration of the item
- Special meeting
 - For any item on the special meeting notice
 - Before or during consideration of the item

Clearing of Meeting Room

- Willful interruption making the orderly conduct of meeting unfeasible
- Order cannot be restored by removal of disruptive individuals
- Removal of everyone except media not participating in the disturbance

Materials

- Writings must be made available to public
- Must be made available in alternative formats for persons with disabilities
- If prepared by CLERB, writings must be available at the meeting
- If prepared by someone other than CLERB, writings must be made available after the meeting
- Most materials exempt from disclosure under the Public Records Act need not be made available

Closed Sessions

- May be held **only** if a specific section of Brown Act allows, for example:
 - Threat to security of public buildings
 - Conference with labor negotiators
 - Conference with real property negotiators
 - Conference with legal counsel where there is:
 - Pending litigation
 - Anticipated litigation
 - Initiation of litigation

Closed Sessions

(cont'd)

- Personnel exception (Government Code § 54957)
 - Appointment
 - Employment
 - Evaluation of performance
 - Discipline
 - Dismissal
 - Hear complaints or charges
- Employee must be given 24 hours' notice of right to have complaints or charges heard in open session

Closed Session Confidentiality

- Information acquired in closed session cannot be disclosed
- Violations:
 - Injunction
 - Disciplinary action against an employee
 - Referral to the grand jury
- The following are not violations:
 - Confidential complaint to DA or grand jury
 - Expression of opinion regarding legality of actions taken
 - Disclosure of non-confidential information
 - Disclosure under whistleblower statutes

Violations of Brown Act

Criminal penalties

- Misdemeanor where there is intent to deprive public of information

Violations of Brown Act

(cont'd)

Civil actions

- DA or any interested party may begin action
- Cure and correct violations of open meetings, agenda item descriptions, call and holding of regular, special, and emergency meetings provisions
- Action not void if:
 - Substantial compliance
 - Evidence of indebtedness
 - Contractual obligations
 - Collection of tax
 - Actual timely notice
- With judgment, can require recording closed sessions



Questions?