CALIFORNIA’S OPEN MEETING LAW

The Ralph M. Brown Act

Stacy L. Saetta, Deputy, Office of the County Counsel

Monterey County Mental Health Commission
Regular Meeting
March 26, 2015
Intent and Purpose

- Public bodies in California exist to aid in the conduct of the people’s business

- Deliberations of public bodies should be conducted openly and their actions should be taken openly

- The Act is broadly interpreted to effect its purposes
The Mental Health Commission is a “Brown Act” Body

- The Brown Act applies to “legislative bodies” of “local agencies.”

- “Local agency” includes a city or a county, such as Monterey County

- “Legislative body” includes the governing body of a local agency (e.g., the Board of Supervisors)

- “Legislative body” includes bodies appointed by the Board of Supervisors (e.g., Mental Health Commission)
Conducting Meetings

• Meetings must be open and public
• Any sign-in sheets must clearly state are voluntary
• Meetings must be held within the boundaries of Monterey County
• Meetings must be accessible to the public
Opportunity for Public Comment

- Members of the public have the opportunity to directly address the Commission on any item of interest to the public, before or during the legislative body’s consideration of the item, which is within the subject matter jurisdiction of the Commission.
Meeting Agendas

- For a regular meeting, agenda must be posted at least 72 hours before the meeting; for a special meeting, 24 hours before the meeting

- Agenda must be posted where the Clerk of the Board posts agenda meetings of the BoS and at location of the meeting

- Agenda must contain a brief general description of each item of business to be transacted or discussed at the meeting

- No action or discussion of any item not appearing on the agenda

- Agenda and documents in agenda packet must be available in appropriate alternative formats to persons with a disability upon request
What Does a Commissioner Need to Think About if the Commissioner is at a Gathering Attended by Other Commissioners?

• If the gathering meets the definition of a meeting, then you need to follow the Brown Act rules for conducting your meeting.

• If it is not a meeting, then you do not need to follow the Brown Act for conducting a meeting.
What is a “Meeting” of the Mental Health Commission?

- “Meeting” includes any congregation of a majority of the members of a legislative body at the same time and place to hear, discuss, deliberate or take action upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains.
<table>
<thead>
<tr>
<th>Type of Gathering</th>
<th>Subject to Brown Act?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Majority of Commission Attends Annual Conferences</td>
<td>You do not need to follow Brown Act, but conference must be open to public.</td>
</tr>
<tr>
<td>Majority of Commission Attends Community Meeting of</td>
<td>You do not need to follow Brown Act, but be careful! Members cannot discuss, deliberate, or take action on business of the Commission.</td>
</tr>
<tr>
<td>Another Organization</td>
<td></td>
</tr>
<tr>
<td>Majority of Commission Attends Public Meeting of</td>
<td>You do not need to follow Brown Act, but be careful! Must not discuss, deliberate, or take action on business of the Commission.</td>
</tr>
<tr>
<td>Another Legislative Body</td>
<td></td>
</tr>
<tr>
<td>Majority of Commission Attends Social Gatherings</td>
<td>You do not need to follow Brown Act, but be careful! Must not discuss, deliberate, or take action on business of the Commission.</td>
</tr>
<tr>
<td>Retreats of the Commission</td>
<td>Must follow Brown Act.</td>
</tr>
<tr>
<td>Type of Gathering</td>
<td>Subject to Brown Act?</td>
</tr>
<tr>
<td>------------------------------------------------------</td>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td>Individual Commissioner Meets with Constituents</td>
<td>You can discuss business of the Commission without following Brown Act, but be careful! Avoid serial meetings.</td>
</tr>
</tbody>
</table>
Serial Meetings

• A serial meeting is a series of communications, whether in person or by phone or other media, each of which individually involves less than a quorum, but which, taken as a whole, involve a majority of the Commission’s members.

• Examples:
  • Daisy Chain: a | b | c
  • Hub: a | b, a | c

• Serial meetings are included in the definition of “meeting” under the Brown Act and must be avoided.
What Does “Action Taken” Mean?

- “Action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body upon a motion, proposal, resolution, order, or ordinance.

- No action may be taken by secret ballot.
Penalties for Violating the Act

• It is a criminal misdemeanor if a member of Commission attends a meeting where
  • action is taken in violation of the Act and
  • the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled

• A civil lawsuit can be filed in court for the purpose of stopping or preventing violations or threatened violations of the Act