

EL DORADO COUNTY COMMISSION ON AGING

GJ05-022

Reason for the Report

The El Dorado County Grand Jury received a complaint regarding a meeting of the Commission on Aging, on November 18, 2004, wherein a violation of *The Brown Act* is alleged to have occurred.

Scope of the Investigation

People Interviewed

- Commission on Aging Members

Documents Reviewed

- Meeting Agenda for November 18, 2004
- Meeting Minutes for November 18, 2004
- California Government Code Sections 54950-54963
 - *The Brown Act*
- Meeting Minutes and Agendas for random months
 - *November 2004*
 - *August 2005*
 - *September 2005*
 - *October 2005*
 - *November 2005*

Background

The Commission on Aging is an advisory body to the Department of Human Services and the El Dorado County Board of Supervisors, regarding programs administered by the Department of Human Services.

The Commission on Aging meets monthly to conduct business. Agendas are posted to inform the public of the time, place, and subject matter. Minutes of the meeting are published.

During the meeting of November 18, 2004 a member of the Commission suggested that they adjourn to closed session. According to testimony they did adjourn to a closed session and excluded members of the public.

The Agenda did not include that a closed session was planned at that particular meeting. The Minutes reflect that a closed session was held; however, no synopsis of the discussion was posted.

Testimony also indicates that the Commission routinely asks members of the public in attendance to identify themselves and whom they represent.

As a sanctioned Commission of El Dorado County, the Commission on Aging is covered by **California Government Code Sections 54950-54963**. These sections are known as *The Brown Act* and cover what is allowed and how meetings must be conducted, and to insure full public disclosure.

The following sections are a summary of the legislation wording.

Section 54954 (a) in summary states that if an advisory committee or standing committee posts an agenda at least 72 hours in advance of the meeting the meeting shall be considered as a regular meeting of the legislative body for purposes of *The Brown Act*.

Section 54954.2 (a) in summary states that the agenda must be posted at least 72 hours before a regular meeting and must contain a brief general description of each item of business to be transacted or discussed at the meeting, **including** items to be discussed in closed session. The only exceptions to the requirement of posting agenda items are: “(1) Emergency situations, (2) Two-thirds vote of the body determines there is need for immediate action and the item came to their attention after the posting of the agenda, and (3) The item was posted for a prior meeting and the meeting was not more than five calendar days prior and the item was continued to the meeting where action is being taken”.

Section 54957.1 (a) in summary requires a public report of any action taken in closed session and the vote or abstention of every member present. If no action is taken the minutes should reflect that fact.

Section 54953.5 (a) in summary states that a member of the public **shall not** be required, as a condition of attendance, to register his or her name, to provide other information, to complete a questionnaire, or otherwise fulfill any obligation precedent to his or her attendance

Section 54960.1 In summary, by subsections, lists penalties regarding violations of *The Brown Act*.

Facts

1. On November 18, 2004 at a regular meeting of the Commission on Aging a closed session was held.
2. This closed session had not been properly noticed as required by *The Brown Act*.
3. The Minutes reflect that a closed session was held, however, no indication as to the subject matter discussed was recorded.
4. Members of the public in attendance at Commission on Aging meetings are routinely asked to identify themselves.

Findings/Recommendations

1F. Finding: The members of the Commission on Aging are not well versed in the requirements and penalties of *The Brown Act*.

1R. Recommendation: Members of the Commission on Aging be issued copies of *The Brown Act* to be read and applied.

2F. Finding: On November 18, 2004 the Commission on Aging went into closed session without prior public notice on the Agenda. Government Code Section **54954.2 (a)** grants exception where a body may go into closed session without notice, however, none of the exceptions were met in this instance.

2R. Recommendation: Future closed sessions should strictly adhere to the provision of the law.

3F. Finding: Minutes of the November 18, 2004 meeting reflect the closed session, however, no synopsis of the item discussed was recorded.

3R. Recommendation: Amend the Minutes of the November 18, 2004 meeting to reflect the item discussed and the result.

4F. Finding: The Commission on Aging does not hold closed sessions often. This is supported by testimony and review of Agendas.

4R1. Recommendation: Protocol be put into place to ensure new members, when appointed, receive proper training and a copy of *The Brown Act*.

4R2. Recommendation: Support staff must become familiar with *The Brown Act* to ensure that proper posting and notification of closed sessions is provided in public documents.

5F. Finding: The Commission on Aging routinely asks people in the audience to identify themselves and whom they represent.

5R. Recommendation: The Commission on Aging require identification only from those persons addressing the Commission as a whole on a specific matter.

A response is required by the Board of Supervisors within ninety (90) days. See Table of Contents, "*Notice to Respondents.*"