



July 16, 2015

CLETS Advisory Committee
California Department of Justice
4949 Broadway, Room G249
Sacramento, CA 95820

Re: Comment submission for July 22, 2015 CLETS Advisory Committee Meeting, Agenda Item #9

Dear Chairman Spiegel,

Since 1967, the Bagley-Keene Open Meeting Act has existed to ensure that state bodies conduct their business openly so that the public may remain informed and in control of the government that represents them. The California Attorney General's office puts it another way: "There needs to be a seat at the table reserved for the public."

We write today to express our concern that the California Law Enforcement Telecommunications System Advisory Committee (CAC) and its Standing Strategic Planning Subcommittee (SSPS) have routinely ignored the spirit of the Bagley-Keene Act and quite possibly the letter of the law.

Since at least July 2013, CAC and SSPS have scheduled their meetings on the same day. SSPS convenes in the morning and votes to make recommendations, then CAC meets in the afternoon and votes to finalize those recommendations. This has resulted in a system in which the public has only a few hours to analyze decisions and formulate comment before these proposals are formally approved.

The Bagley-Keene Act requires meeting agendas to include "a brief description of the items of business to be transacted or discussed" of no more than 20 words. As the Attorney General writes in its guidelines, these descriptions should provide "enough information to allow [an interested lay person] to decide whether to attend the meeting or to participate in that particular agenda item."

Rather than describe in any detail what will be discussed during its session, SSPS routinely lists agenda items with vague text such as “2009 CLETS Strategic Plan,” while CAC has broad items such as “VOTE: Standing Strategic Planning Subcommittee Recommendations.” Neither of these descriptions provide enough information for a member of the public to decide whether to attend the meeting, especially when the “recommendations” presented to CAC have only been formulated mere hours before the session. In fact, through this process, SSPS and CAC can propose and approve essentially any action they can imagine without ever describing these actions in writing in advance, let alone with the 10 day buffer required by law.

This exact scenario happened in 2014, when SSPS pushed through updates to the CLETS Strategic Plan that would have put California on the path to connecting the DMV photograph database to a national network and allowing officers to use facial recognition technology on these images. When the public learned about this, *after the vote*, they were outraged, submitting approximately 1,500 comments at the following CAC meeting. To CAC’s credit, this measure was subsequently removed from the strategic plan.

Moving forward, we ask that CAC institute new policies to ensure that there is sufficient time between SSPS and CAC meetings for the public to become aware of what issues are at stake. This can be accomplished two ways. One option would be for SSPS and CAC to meet on different days, with enough time between the two to comply with the Bagley-Keene Act’s 10-day-out agenda requirement. Alternatively, if the committee and subcommittee would prefer to continue meeting on the same day, then SSPS recommendations made in the morning should be carried over to the next quarter’s meeting.

In addition, CAC and SSPS must describe its agenda items in far more detail than it has in the past. Finally, we believe it would greater serve the cause of transparency if CAC and SSPS created audio or video recordings of its hearings and made these recordings available on the California Attorney General’s website.

We thank you for considering these measures at the July 22 hearing. Through transparency, we can all better serve the public interest.

Sincerely,

Dave Maass
Investigative Researcher
Electronic Frontier Foundation

Natasha Minsker
Director, Center for Advocacy & Policy
ACLU of California

Terry Francke
General Counsel
Californians Aware

Peter Scheer
Executive Director
First Amendment Coalition