

**From:** [Carmen Reid](#)  
**To:** [Lara Weisiger](#); [Elizabeth Mackenzie](#)  
**Subject:** [EXTERNAL] Fwd: New Legal Hotline Question  
**Date:** Wednesday, April 14, 2021 2:02:30 PM

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Re: PRA request  
Also, please add to commissioner correspondence for next OGC meeting.  
Thank you.

Sent from my iPhone

Begin forwarded message:

**From:** "Bateman, Ashley" <[ashley.bateman@bryancave.com](mailto:ashley.bateman@bryancave.com)>  
**Date:** March 30, 2021 at 1:40:02 PM PDT  
**To:** [carmereid@gmail.com](mailto:carmereid@gmail.com)  
**Cc:** Legal Hotline <[hotline@firstamendmentcoalition.org](mailto:hotline@firstamendmentcoalition.org)>  
**Subject:** RE: New Legal Hotline Question

Dear Carmen,

Bryan Cave Leighton Paisner LLP is general counsel for the First Amendment Coalition and responds to FAC hotline inquiries. In responding to these inquiries, we can give general information regarding open government and speech issues but cannot provide specific legal advice or representation. No attorney-client relationship has been formed by way of this response.

As you probably know, the Brown Act requires that deliberations as to the public's business must generally take place in public, and votes must also generally be taken in public. Cal. Gov't Code § 54953. Accordingly, Brown Act provisions only apply to a local "legislative body," defined by Gov't Code § 54952. Certain types of committees are considered "a legislative body" under the Brown Act. Under Gov't Code § 54952(a) & (b) a committee (or subcommittee) that is "created by charter, ordinance, or formal action of a legislative body" is subject to the Brown Act's requirements whether it is "permanent or temporary, decisionmaking or advisory." Committees that govern a private corporation, limited liability company, or other entities may also be considered "a legislative body" as defined by Gov't Code § 54952(c).

Advisory committees composed solely of the members of the legislative body that constitute less than a quorum and that have neither a continuing scope of business nor a schedule set by the legislative body are generally not covered by the Brown Act. However, a committee that adds a staff person or member of the public would bring the committee under the Brown Act as an advisory body, since it would no longer be made up solely of members of a legislative body. Therefore, your hypothetical subcommittee would appear to have to adhere to the Brown Act's requirements, unless an exemption applies.

A good case to take a look at would be *Joiner v. City of Sebastopol*, 125 Cal. App. 3d 799 (1981). This opinion is publicly available for you to read at:

<https://law.justia.com/cases/california/court-of-appeal/3d/125/799.html>

If you have additional questions, please feel free to submit them to the legal hotline. We hope this information is helpful and wish you the best of luck in your efforts.

Best regards,

Ashley Bateman

ASHLEY C. BATEMAN, PH.D.  
Associate



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**From:** Legal Hotline <[hotline@firstamendmentcoalition.org](mailto:hotline@firstamendmentcoalition.org)>

**Sent:** Saturday, March 6, 2021 8:24 PM

**To:** [hotline@firstamendmentcoalition.org](mailto:hotline@firstamendmentcoalition.org)

**Subject:** New Legal Hotline Question

[carmerid@gmail.com](mailto:carmerid@gmail.com)

Carmen

Reid

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3/6/2021 20:20:58>CA

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Volunteer/Open Gov Commission

Subcommittees

I have a question regarding how to interpret the Brown Act. If a legislative body creates a subcommittee with less than a quorum if its legislative body members but also adds members of the public, does this subcommittee need to adhere to the Brown Act? If so, can you please help and provide case laws and examples that support this or other relevant information? Thank you. I sincerely appreciate your assistance.

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