

**Department of Consumer Affairs
Bureau of Security and Investigative Services**

Sunset Review Report 2018

Presented to the Senate Business, Professions and Economic Development Committee and
the Assembly Business and Professions Committee



Bureau of Security and Investigative Services

Sunset Review Report 2018

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BUREAU OF SECURITY AND INVESTIGATIVE SERVICES BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM As of December 1, 2018

Section 1

Background and Description of the Bureau and Regulated Profession

The private security industry in this country dates back to the 19th century with private citizens performing many duties that today are associated with federal and state law enforcement. The growth in the number of individuals and breadth of activities performed (guarding railroad shipments, detective work to investigate crimes, tracking down and apprehending criminals, and providing security advice to banks) was integral in determining that regulation of the industry was necessary.

In California, regulatory oversight of the private security industry began in 1915 with the creation of the Detective Licensing Board under the State Board of Prison Directors to license and regulate private detectives. The Detective Licensing Board was subsequently renamed the Detective Licensing Bureau and today its statutes are known as the Private Investigator Act. In 1955, the Detective Licensing Bureau became the Bureau of Private Investigators and Adjustors which in 1970 was combined with the Collection Agency Licensing Bureau and renamed the Bureau of Collection and Investigative Services. As a result of legislation (Assembly Bill 936, Chapter 1263, Statutes of 1993), the Bureau was formally renamed the Bureau of Security and Investigative Services (BSIS).

BSIS issues licenses, registrations, certificates, and permits; however, for the purpose of this report, the terms “license” and “licensee” will be used. There are currently over 433,000 BSIS licenses held by about 350,000 businesses and individuals carrying out activities relating to alarm systems, locks, private investigation, private security, repossession, and firearm and baton training.

BSIS regulates a total of six Acts, including:

Alarm Company Act

An alarm company operator is a business that sells (at the buyer’s home or business), installs, maintains, monitors, services, or responds to alarm systems. An alarm agent is an employee of the alarm company. Each alarm company licensee must designate a person, who is associated with the license in the BSIS’s records, to serve as the qualified manager. The qualified manager is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee (e.g., officer of a corporation, or officer or member of a limited liability company), or any other person designated by the licensee to serve in this capacity. The person serving as the qualified manager must meet the experience requirements specified in the Alarm Company Act and pass the alarm company licensing exam.

As specified in the Alarm Company Act, alarm companies hold a BSIS alarm company operator license, alarm company qualified managers hold a BSIS qualified manager certificate, and alarm agents hold a BSIS alarm employee registration. The Alarm Company Act authorizes alarm company licensees, qualified managers, and agents to obtain a BSIS-issued firearm permit under specified conditions. A business that sells alarms only and does not provide any installation, maintenance or monitoring services does not need to hold an alarm company operator license under specified conditions.

Locksmith Act

Pursuant to the Locksmith Act, a locksmith operates a business that installs, repairs, opens, or modifies locks, as well as originates keys for locks. Locksmiths must hold a BSIS locksmith license and employees of locksmiths who perform locksmithing duties must hold a BSIS locksmith registration. Persons who only make duplicate keys from an existing key are exempt from regulation.

Private Investigator Act

A private investigator is an individual who: investigates crimes; investigates the identity, business, occupation, or character of a person; investigates the location of lost or stolen property; investigates the cause of fires, losses, accidents, damage, or injury; or secures evidence for use in court. Private investigators may protect persons only if such services are incidental to an investigation. Private investigators may not protect property.

As specified in the Private Investigator Act, individuals performing private investigation activities must hold a BSIS private investigator license. Each private investigator licensee must designate a person, who is associated with the license in the BSIS's records, to serve as the qualified manager. The qualified manager is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee (e.g., officer of a corporation, or officer or member of a limited liability company), or any other person designated by the licensee to serve in this capacity. The person serving as the qualified manager must meet the experience requirements specified in the Private Investigator Act and pass the private investigator licensing exam.

Unlike the Alarm Company Act and the Collateral Recovery Act, the Private Investigator Act does not provide for a separate license or certificate for the qualified manager; the qualified manager is simply a qualifier for issuance and maintenance of the private investigator license. Employees of private investigators are not regulated and, accordingly, are not required to register with BSIS. The Private Investigator Act authorizes the private investigator licensee and the licensee's qualified manager to obtain a bureau-issued firearm permit under specified conditions.

Private Security Services Act

The Private Security Services Act regulates private patrol operators and security guards. A private patrol operator is a company that employs security guards and contracts with other persons or businesses to protect persons or property, or to prevent theft. A security guard is not authorized to contract themselves out for private security services unless they also hold a private patrol operator license. Private patrol operators are prohibited from making any investigation except those incidental to the theft or loss of property for a company it has contracted with to provide private security services.

Each private patrol operator licensee must designate a person, who is associated with the license in the BSIS's records, to serve as the qualified manager. The qualified manager is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee (e.g., officer of a corporation), or any other person designated by the licensee to serve in this capacity. The person serving as the qualified manager must meet the experience requirements specified in the Private Security Services Act and pass the private patrol operator licensing exam. Unlike the Alarm Company Act and the Collateral Recovery Act, the Private Security Services Act does not provide for a separate license or certificate for the qualified manager; the qualified manager is simply a qualifier for issuance and maintenance of the private patrol operator license.

The Private Security Services Act also authorizes the private patrol operator licensee, the licensee's qualified manager, and security guard registrants to obtain a bureau-issued firearm permit under specified conditions, and authorizes security guards to obtain a bureau-issued baton permit under specified conditions. The Private Security Services Act also regulates firearm and baton training facilities and instructors who provide the specified training for applicable BSIS licensees, registrants, and certificate holders to qualify for a BSIS firearms or baton permit. The specific license types are the BSIS firearm training facility certificate, firearm instructor certificate, baton training facility certificate, and baton instructor certificate.

Proprietary Security Services Act

The Proprietary Security Services Act regulates proprietary private security employers and proprietary private security officers. A proprietary private security employer is a person or company that employs one or more proprietary private security officers. Proprietary private security officers wear a distinctive uniform identifying them as a security officer and interact with the public when providing security services. A proprietary private security employer cannot contract out the services of its proprietary private security officers to any other person or entity; the proprietary private security officers may only provide security services to their employing proprietary private security employer. An example of a proprietary private security employer is a large corporation that employs its own security personnel. Proprietary private security officers are not authorized to carry a firearm.

Collateral Recovery Act

A repossession agency contracts with the legal owner (e.g., credit grantor of personal property) to locate and/or recover property sold under a security agreement. The most common property recovered is a motor vehicle. Each repossession agency licensee must designate a person, who is associated with the license in the BSIS's records, to serve as the qualified manager. The qualified manager is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee (e.g., officer of a corporation), or any other person designated by the licensee to serve in this capacity. The person serving as the qualified manager must meet the experience requirements specified in the Collateral Recovery Act and pass the repossession agency licensing exam. A repossession agent is the employee of the repossession agency whose duties entail locating and recovering the property.

The Collateral Recovery Act specifies that a repossession agency must hold a repossession agency license, persons serving as the qualified manager must hold a qualified manager certificate, and employees of a repossession company who locate and repossess property must hold a BSIS repossession agent registration.

1. Describe the makeup and functions of each of the Bureau's committees (cf., Section 12, Attachment B).

Disciplinary Review Committees

The Alarm Company Act, the Collateral Recovery Act, and the Private Investigator Act each establish one Disciplinary Review Committee (DRC), and the Private Security Services Act establishes two Disciplinary Review Committees, one in northern California and one in Southern California. DRCs provide applicants and licensees from the applicable Act an alternate path to appeal the BSIS's denial of a license application or the automatic suspension of a license (for those license types BSIS has statutorily authority to take such action), and the BSIS's assessment of an administrative fine(s) for violations of the specified Act. Each Committee is comprised of five members – three industry and two public – who are appointed by the Governor. Members of the Collateral Recovery, Private Investigator, and Private Security Services committees are appointed to four-year terms and may be reappointed to a second term. Alarm Company members do not have specific terms

and serve at the pleasure of the Governor. The requirements for the industry members are as follows:

- Alarm Company Operator Disciplinary Review Committee: Actively engaged in business as a licensed alarm company operator;
- Collateral Recovery Disciplinary Review Committee: Actively engaged in business as a licensed repossession agency;
- Private Investigator Disciplinary Review Committee: Actively engaged in the business of a licensed public investigator;
- Private Security Services Disciplinary Review Committee: One member shall be actively engaged in the business of a licensed private patrol operator, one shall be actively engaged in the business of a firearm training facility, and one shall be actively engaged in the business of a registered security guard.

All Disciplinary Review Committee meetings are conducted in accordance with the Bagley-Keene Open Meeting Act.

Disciplinary Review Committee member attendance information is detailed in Attachment B-1 and DRC member information is detailed in Attachment B-2.

Advisory Committee

BSIS reconstituted its voluntary Advisory Committee on July 1, 2014. The Committee is comprised of seven industry and six public members who provide insight and perspective to BSIS on policy issues relating to the alarm, locksmith, reposessor, private investigator, proprietary security services, and private security services industries, including bureau-certified firearm and baton training facilities and instructors.

Under current Committee guidelines, members are appointed to two-year terms, serve under the director of the Department of Consumer Affairs (DCA), and receive no salary or benefits to participate in Committee meetings and to carry out committee activities.

Advisory Committee member attendance information is detailed in Attachment B-3 and member information is detailed in Attachment B-4.

2. In the past four years, was the Bureau unable to hold any meetings due to lack of quorum? If so, please describe. Why? When? How did it impact operations?

Disciplinary Review Committees

No, during the past four years, BSIS has not had to cancel a meeting due to lack of a quorum for Alarm Company Disciplinary Review Committee or either of the two Private Security Services Disciplinary Review Committees.

Advisory Committee

No, since July 1, 2014, the BSIS has not had to cancel an Advisory Committee meeting.

3. Describe any major changes to the Bureau since the last Sunset Review, including, but not limited to:

- **Internal changes (i.e., reorganization, relocation, change in leadership, strategic planning).**
 - 1) Due to Bureau Chief Laura Alarcon's retirement, Darrel Woo was appointed as bureau chief on July 26, 2018.

- 2) BSIS successfully transitioned to BreEZe on January 19, 2016. BreEZe is the DCA's licensing and enforcement system that provides online license application ability, including fee payment, to most BSIS license types (see Item 67 for specific license types). BreEZe also allows individuals to file a complaint regarding a BSIS licensee or unlicensed activity online.
 - 3) As a result of the DCA's Complaint Resolution Program being disbanded and staff redirected to the various department bureaus served by the program, BSIS established an in-house Complaint Resolution Program within the Enforcement Unit. Having complaint resolution services in-house allows these staff to focus on the BSIS's laws, which enhances their abilities to assist complainants, educate licensees, and identify when cases should be referred for investigation. This redirection resulted in increased position authority as follows: 1.0 associate governmental program analyst, 1.0 staff services analyst, and 1.0 complaint services representative in the Private Security Services Fund and 1.0 complaint services representative in the Private Investigator Fund.
 - 4) BSIS adopted a 2017-2021 Strategic Plan on March 27, 2017, which identifies strategies for enhancing the BSIS's core regulatory functions of licensing, enforcement, and discipline as well as stakeholder outreach and employee satisfaction.
- **All legislation sponsored by the Bureau and affecting the Bureau since the last sunset review.**

BSIS has not sponsored legislation in the past four years. The following table lists enacted legislation that impacted BSIS and/or the industries it regulates:

Table 1c. Legislation Impacting the Bureau			
Year and Bill Number	Bill Author	Industry Affected	Description
2015 AB 281 Ch. 740	Gallagher	Repossessors	Established the Collateral Recovery Disciplinary Review Committee, effective July 1, 2017, to hear Repossession Agency, Repossession Agency Qualified Managers and Repossession Agent applicants'/licensees' appeals of BSIS's denials for licensure and issuance of a citation. The bill also made various technical changes to the Collateral Recovery Act.
2015 AB 921 Ch. 635	Jones	Private Investigators	Established BSIS's Private Investigator Disciplinary Review Committee, effective July 1, 2017, to hear private investigator applicants'/licensees' appeals of BSIS's denials, suspensions, revocations and citations. The bill also permitted an individual who is a private investigator licensee to gain qualifying experience to sit for the private investigator licensing exam under the qualified manager associated with their license.
2015 SB 177 Ch. 140	Wieckowski	Alarm Companies	Extended the sunset date for the BSIS to issue an Alarm Company Operator license to an alarm company organized as a limited liability company from January 1, 2016 to January 1, 2019.
2016 AB 1859 Ch. 509	Gallagher	Repossessors	Amended the Collateral Recovery Act to reinstate the term "skip tracing" to the definition of an "assignment," to make the term "repossession order" synonymous with the term "assignment," and to delete the definition "repossession" or "repossess."

Table 1c. Legislation Impacting the Bureau

Year and Bill Number	Bill Author	Industry Affected	Description
2016 AB 2632 Ch. 333	Olsen	Private Investigators	Amended the Private Investigator Act to permit private investigator applicants to use experience acquired through investigative journalism as qualifying experience toward the 6,000-hour requirement to sit for the private investigator qualifying exam and licensure.
2016 SB 1196 Ch. 800	Hill	All BSIS Industries (contained provisions responding to BSIS' sunset review)	(1) Established a requirement in the Locksmith Act, Collateral Recovery Act, Private Investigator Act, the Proprietary Security Services Act, Private Security Services Act and Alarm Company Act for the BSIS's powers and duties to be reviewed by the Legislature as if the Act were scheduled to be repealed as of January 1, 2020; (2) Effective January 1, 2018, revised various cite and fine amounts across the practice acts; (3) Required BSIS to inspect a firearms training facility within 120 days of licensure as well as conduct ongoing random inspections of all firearm training facilities; (4) Clarified that a private investigator licensee who possesses both a BSIS firearms permit and a concealed weapons permit may carry a concealed weapon while on duty; (5) Clarified the reporting requirements for a private patrol operator licensee when a guard employee discharges his/her firearm while on duty; (6) Added specified training exemptions for federal law enforcement officers; (7) Required an alarm agreement with an automatic contract renewal provision for a term greater than one month to provide a distinct and separate disclosure to the consumer regarding the provision and (8) Effective July 1, 2018, required firearm permit applicants who are security guards to complete an assessment.
2017 AB 290 Ch. 271	Salas	Repossessioners	Made permanent the exemption for the dealers of agricultural and construction equipment to carry out repossession activities without holding a Repossession Agency license, under specified conditions.
2017 AB 1616 Ch. 157	Nazarian	Alarm Companies	Prohibited local jurisdictions from charging fees to alarm company operator licensees for violations of ordinances related to false alarms, unless the false alarm is due to installation or monitoring error and specifies that the BSIS does not enforce these provisions.
2017 SB 547 Ch. 429	Hill	All BSIS industries, excluding Private Investigators	Increased license fees that support the Private Security Services Fund including those regulated by the Locksmith Act, Collateral Recovery Act, Proprietary Security Services Act, Private Patrol Operator Act and Alarm Company Act. Also, extended the deadline for BSIS to implement the required assessment for firearm permit applicants who are security guards from January 1, 2018 to a date no later than July 1, 2018.

Table 1c. Legislation Impacting the Bureau			
Year and Bill Number	Bill Author	Industry Affected	Description
2018 SB 904 Ch. 406	Wieckowski	Alarm Companies	Extended the sunset date for BSIS to issue an alarm company operator license to a business organized as a limited liability company to January 1, 2024 and made various technical changes to the Act including the terms “manager” and “qualified manager” to clarify that the former relates to the manager of a limited liability company as defined in the Corporations Code. Also added a requirement that an alarm company operator licensee organized as a limited liability company report annually to BSIS the date and amount of any claims paid from its general liability insurance and that BSIS report to the Legislature by no later than January 1, 2023 the number of renewals granted to an alarm company operator licensee organized as a limited liability company and claim payment information.
2018 SB 1217 Ch. 474	Morrell	Private Investigators	Established the specific requirements in the Private Investigator Act for a private investigator licensee and the licensee’s qualified manager thereof to obtain and renew a BSIS Firearms Permit. Previously, the Private Investigator Act cross-referenced the requirements specified in the Private Security Services Act.
2018 SB 1289 Ch. 92	Senate Judiciary Committee	Private Investigators	This bill was the Senate Judiciary Committee’s annual Maintenance of the Codes bill and included a technical amendment in the Private Investigator Act that a private investigator license may be assigned under specified conditions.

- **All regulation changes approved by the Bureau since the last Sunset Review. Include the status of each regulatory change approved by the Bureau.**

The following table details BSIS’s rulemaking activities since the last sunset review.

Table 1d. Bureau Regulations			
Year and File Number	Subject	Acts/ Industry Affected	Description
2015 2015-0421-05 Approved	License Assignment Fee	Private Investigators and Alarm Companies	Established the fees for the assignment of a private investigator license and alarm company operator license. Each practice act permits the assignment of a license from one business structure (e.g., sole proprietor, partnership, corporation, limited liability company) to a new business structure provided there is no change in ownership and other specified conditions are met. Also, made nonsubstantive changes to clean up several of BSIS’s regulations.

Table 1d. Bureau Regulations			
Year and File Number	Subject	Acts/ Industry Affected	Description
2016 2016-0325-03 Approved	Firearms Qualifications and Training for a BSIS Firearms Permit	Firearms Training Facilities/ Instructors, All BSIS license types authorized to obtain a BSIS firearms permit	Amended current and established new sections pertaining to the training required to obtain and renew a BSIS firearms permit including: (1) Prohibit the use of a firearms simulator for the training required for an initial BSIS firearms permit; (2) Restrict the use of a firearm simulator to one of the two qualifications required during each 12-month period of a permit's two-year term; (3) Prescribe the requirements for permitted simulators; (4) Clarify that the two-hour use of force/de-escalation of force training is required at each requalification; and (5) Changed the acceptable targets that can be used during range qualification and requalification.

4. Describe any major studies conducted by the Bureau (cf. Section 12, Attachment C).

BSIS has not conducted any major studies.

5. List the status of all national associations to which the Bureau belongs.

BSIS does not belong to any national associations at this time. In the past, BSIS has belonged to the International Association of Security and Investigative Regulators.

- Does the Bureau's membership include voting privileges?**

Not applicable

- List committees, workshops, working groups, task forces, etc., on which the Bureau participates.**

Not applicable

- How many meetings did Bureau representative(s) attend? When and where?**

Not applicable

- If the Bureau is using a national exam, how is the Bureau involved in its development, scoring, analysis, and administration?**

BSIS does not use a national exam for any of its licenses.

Section 2 Performance Measures and Customer Satisfaction Surveys

6. Provide each quarterly and annual performance measure report for the Bureau as published on the DCA website.

See attachments in Section 12, Attachment D for the following:

- Performance Measures Quarterly Reports 2017-18.

- Performance Measures Quarterly and Annual Reports 2016-17.
- Performance Measures Quarterly and Annual Reports 2015-16.
- Performance Measures Quarterly and Annual Reports 2014-15

7. Provide results for each question in the Bureau's customer satisfaction survey broken down by fiscal year. Discuss the results of the customer satisfaction surveys.

BSIS's customer service data is detailed in Attachment E.

BSIS utilizes the DCA's customer satisfaction survey questions, which are developed by the DCA's Strategic Organizational Leadership and Individual Development (SOLID) Training Office. SOLID revised the customer satisfaction survey questions on January 1, 2015 based on input from the DCA's boards and bureaus.

While the number of individuals who completed the survey is small, the majority of respondents provided positive feedback overall.

Section 3 Fiscal and Staff

Fiscal Issues

8. Is the Bureau's fund continuously appropriated? If yes, please cite the statute outlining this continuous appropriation.

No, neither the Private Security Services Fund nor the Private Investigator Fund are continuously appropriated.

9. Describe the Bureau's current reserve level, spending, and if a statutory reserve level exists.

BSIS oversees two funds: the Private Security Services Fund and the Private Investigator Fund. There is a statutory reserve limit on both. Pursuant to Business and Professions Code section 128.5(b), if either fund exceeds 24 months in reserve, BSIS must reduce fees associated with the applicable license types.

Due to the DCA's transition to Fi\$CAL, fiscal year 2017-18 year-end figures will not be available until after the required submission date for this report. For this reason, the fund condition information in the sections below are estimates and projected estimates.

Private Security Services Fund

The Private Security Services Fund is estimated to end fiscal year 2017-18 with a reserve balance of \$8,649,000, which equates to 6.4 months in reserve. The Bureau projects the reserve balance in fiscal year 2018-19 will be approximately \$7,219,000, equaling 5.1 months in reserve. Total expenditures for fiscal year 2017-18 are projected to be \$14,578,000.

Private Investigator Fund

The Bureau's Private Investigator Fund is estimated to end fiscal year 2017-18 with a reserve balance of \$373,000, which equates to 3.6 months in reserve. BSIS projects the

reserve balance in fiscal year 2018-19 to be approximately \$553,000, equaling 5.2 months in reserve. Total expenditures for fiscal year 2017-18 are projected to be \$1,144,000.

Table 2a. Fund Condition: Private Security Services Fund						
(Dollars in Thousands)	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Beginning Balance	\$7,483 ¹	\$7,134 ¹	\$14,954 ¹	\$12,178	\$8,649	\$7,219
Revenues and Transfers	\$10,729	\$11,808	\$11,006	\$11,049	\$14,711	\$14,711
Total Revenue	\$10,729	\$11,808	\$11,006	\$11,049	\$14,711	\$14,711
Budget Authority	\$13,015	\$14,359	\$15,274	\$14,926	\$15,180	\$15,484
Expenditures	\$11,156	\$12,192	\$13,782	\$14,578	\$16,141 ₂	\$16,445 ²
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$764	\$0	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$8,000	\$0	\$0	\$0	\$0
Fund Balance	\$7,056	\$14,750	\$12,178	\$8,649	\$7,219	\$5,485
Month in Reserve	6.9	12.8	10.0	6.4	5.3	3.9
NOTE: Fiscal data provided includes prior year adjustments and direct draws from the fund. Fiscal 2017-18 year-end data is projected due to Fi\$CAL year-end reports not being available by this report's submittal.						
1 These include beginning balance adjustments.						
2 Projected to spend full budget.						

Table 2b. Fund Condition: Private Investigator Fund						
(Dollars in Thousands)	FY 14-15	FY 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20
Beginning Balance	\$696 ¹	\$619 ¹	\$474 ¹	\$840	\$373	\$553
Revenues and Transfers	\$621	\$684	\$1,421	\$677	\$1,438	\$683
Total Revenue	\$621	\$684	\$671	\$677	\$688	\$683
Budget Authority	\$720	\$838	\$1,079	\$1,176	\$1,175	
Expenditures	\$707	\$835	\$1,055	\$1,144	\$1,258 ²	\$1,306 ²
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund	\$0	\$0	\$16	\$0	\$19.5	\$0
Loans Repaid from General Fund	\$0	\$0	\$750	\$0	\$750	\$0
Fund Balance	\$610	\$468	\$840	\$373	\$553	-\$46
Months in Reserve	8.8	5.3	8.8	3.6	5.2	-0.4
NOTE: Fiscal data provided includes prior year adjustments and direct draws from the fund. Fiscal 2017-18 year-end data is projected due to Fi\$CAL year-end reports not being available by this report's submittal.						
1 These include beginning balance adjustments.						
2 Projected to spend full budget.						

10. Describe if/when a deficit is projected to occur and if/when a fee increase or reduction is anticipated. Describe the fee changes (increases or decreases) anticipated by the Bureau.

Private Security Services Fund

Due to an ongoing revenue/expenditure imbalance, fund condition analyses carried out by the DCA's Budget Office in the fall of 2016 projected that the Private Security Services Fund would become insolvent by the end of fiscal year 2019-20. The imbalance was the result of licensing fees not having been increased in over a decade with many not being increased

for over 20 years and the increased costs of doing business. As a result of the projection, BSIS contracted with an independent auditor to perform an operational audit of the BSIS's revenues and expenditures associated with those activities related to the Private Security Services Fund. The auditor's Performance and Fee Report, which is available on the BSIS's website, identified the need for an overall revenue increase of 45 percent to address the imbalance and to support the solvency of the fund through fiscal year 2021-22.

BSIS opted to pursue fee increases equivalent to a 35 percent overall revenue increase and to work on ways to decrease application deficiencies and to increase BreEZe participation instead of pursuing an overall 45 percent increase. Legislation was enacted in 2017 (SB 547, Hill, Chapter 429, Statutes of 2017) which provided the statutory authority to increase various licensing fees to a specified floor amounts as well as enable BSIS to increase the fees, at a later date, to the specified ceiling amounts through the rulemaking process. The new licensing fees went into effect on July 1, 2018.

Private Investigator Fund

While the Private Investigator Fund has also experienced an ongoing revenue/expenditure imbalance, the need to increase revenues was not as imminent as that with the Private Security Services Fund in 2016. However, as a result of various budget bills enacted in 2017, costs increased for all state programs (i.e., increased statewide pro rata costs including those relating to Fi\$Cal, supplemental pension fund contributions and employee compensation and benefits) and as a result the Private Investigator Fund is now projected to become insolvent in FY 2019-20. BSIS contracted the same auditor that completed the Private Security Services Fund audit to perform an operational audit of BSIS's revenues and expenditures associated with those activities related to the Private Investigator Fund. The Auditor's Performance and Fee Report identified a fee structure that would bring in at least \$1.42 million in annual revenue by FY 2022-23, which would provide for a 5.2-month reserve by the end of that fiscal year. Given the imminent need to increase revenues, BSIS is working on options to address this issue.

11. Describe the history of general fund loans. When were the loans made? When have payments been made to the bureau? Has interest been paid? What is the remaining balance?

Private Security Services Fund

Since fiscal year 2003–04, the Private Security Services Fund made two loans to the General Fund: \$4 million in fiscal year 2003–04 and \$4 million in fiscal year 2011–12. Repayment for the full \$8 million loan amount was made in fiscal year 2015-16. In addition to payment for the principal amount, the Private Security Services Fund also received payment of \$764,000 in interest.

Private Investigator Fund

In FY 2011–12, the Private Investigator Fund made one loan to the General Fund of \$1.5 million. A \$750,000 repayment was made to the Private Investigator Fund in fiscal year 2016-17. Payment for the remaining \$750,000 was made in July 2018. In addition to payment for the principal amount, the Private Investigator Fund also received interest payments totaling about \$36,000.

12. Describe the amounts and percentages of expenditures by program component. Use Table 3, Expenditures by Program Component to provide a breakdown of expenditures by the bureau in each program. Expenditures by each component (except for pro rata) should be broken out by personnel expenditures and other expenditures.

The following tables reflect BSIS's expenditures for each of its two funds by program component.

Table 3a. Expenditures by Program Component: Private Security Services Fund								
(Dollars in Thousands)	FY 2014–15		FY 2015–16		FY 2016–17		FY 2017–18	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$1,945	\$1,377	\$2,036	\$1,205	\$2,122	\$1,240	\$2,290	\$1,708
Examination	\$0	\$39	\$0	\$21	\$0	\$55	\$0	\$39
Licensing	\$1,636	\$688	\$1,792	\$611	\$1,868	\$391	\$1,963	\$408
Administration*	\$566	\$238	\$521	\$178	\$543	\$114	\$605	\$126
DCA Pro Rata	\$0	\$5,389	\$0	\$6,496	\$0	\$7,060	\$0	\$6,637
Diversion (if applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS**	\$4,147	\$7,731	\$4,349	\$8,511	\$4,533	\$8,860	\$4,858	\$8,918

*Administration includes costs of executive staff, Bureau, administrative support, and fiscal services.
 **Total expenses are prior to reimbursements

Table 3b. Expenditures by Program Component: Private Investigator Fund								
(Dollars in Thousands)	FY 2014–15		FY 2015–16		FY 2016–17		FY 2017–18	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	\$173	\$170	\$186	\$233	\$162	\$225	\$187	\$226
Examination	\$0	\$37	\$0	\$11	\$0	\$20	\$0	\$20
Licensing	\$91	\$74	\$98	\$72	\$171	\$170	\$196	\$164
Administration*	\$9	\$7	\$10	\$7	\$9	\$8	\$10	\$8
DCA Pro Rata	\$0	\$153	\$0	\$231	\$0	\$246	\$0	\$267
Diversion (If Applicable)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS**	\$273	\$441	\$294	\$554	\$342	\$669	\$393	\$685

* Administration includes costs of executive staff, Bureau administrative support, and fiscal services.
 ** Total expenses are prior to reimbursements.

13. Describe the amount the Bureau has contributed to the BreZE program. What are the anticipated BreZE costs the Bureau has received from DCA?

To date, the Private Security Services Fund has contributed \$10,162,386 and the Private Investigator Fund has contributed \$362,370. The anticipated total costs for the Private Security Services fund will be \$18,419,386 through fiscal year 2019-20 and the anticipated cost for the Private Investigator fund will be \$667,370 through fiscal year 2019-20.

14. Describe license renewal cycles and history of fee changes in the last 10 years. Give the fee authority (Business and Professions Code and California Code of regulations citation) for each fee charged by the board.

License Terms

With the exception of those items listed below, Bureau licenses, registrations, permits, and certifications have a two-year renewal cycle with the expiration date being the last day of

the month in which it is originally issued.

- The term for an initial repossession agency license, repossession agent registration, and repossession agency qualified manager certificate is one year with the term expiring on the last day of the month in which it was originally issued. Thereafter, the license, registration and certificate have a two-year renewal cycle.
- The Private Security Services Act authorizes the issuance of a BSIS baton permit to a security guard registrant. Pursuant to current law, a baton permit never expires; however, by operation of law, the baton permit is automatically suspended if the security guard registration to which it is associated becomes invalid (i.e. expired, cancelled, suspended or revoked).

Fee Changes

- *Proprietary Private Security Officer and Proprietary Private Security Employer Registration Fees:* Legislation was enacted in 2009 to recast the Proprietary Security Services Act to provide for the registration of proprietary private security employers effective January 1, 2011. The bill also established the \$50.00 initial and \$35.00 renewal registration fees for a proprietary private security officer and the \$75.00 initial and \$35.00 renewal registration fees for a proprietary private security employers.
- *Assignment of License Fee – Alarm Company Operator License and Private Investigator License:* Legislation enacted in 2012 established the authority for an alarm company operator license to be assigned, under specified conditions, effective January 1, 2015 and provided for an assignment fee not to exceed \$125.00. Legislation enacted in 2014 established the authority for a private investigator license to be assigned, under specified conditions, effective January 1, 2015, and provided for an assignment fee not to exceed \$125.00. BSIS established the respective \$125.00 assignment fee by regulation in 2015 with the fees becoming operative on January 1, 2016.
- Legislation was enacted in 2017 to increase the fees that support the Private Security Services Fund effective July 1, 2018, with the exception of the renewal fee for a repossession agency qualified manager certificate and the renewal fee for a repossession agent registration which were decreased. In addition, the license replacement fee was set at \$25.00 (prior fee was \$5.00 for baton permit and \$10.00 for all others), the certificate of licensure fee was set at \$25.00 (prior fees either \$20.00 or \$50.00 depending on the Act; the Collateral Recovery Act does not provide for a certificate of licensure), and the verification of licensure fee was set at \$25.00.

Table 4a. Bureau Fee Authority		
Industry	Business & Professions Code	CA Code of Regulations Title 16, Division 7 ¹
Locksmiths	6980.79	638 ¹
Repossessors	7503.1; 7506.5; 7511	642 ¹
Private Investigators	7525.1; 7528; 7529 7532; 7570	639
Proprietary Security Services	7574.11; 7574.13; 7574.35	642.5 ¹

Private Security Services	7582.7; 7582.13; 7582.17; 7583.9; 7583.30; 7588	640 ¹
Alarm Company	7593.1; 7598.4; 7598.14; 7599.70	641 ¹
1 SB 574 (Hill, Chapter 429, Statutes of 2017) established the statutory authority for the new license fees in these acts. As such, regulations were not required for the fees to go into effect. BSIS will be submitting a Section 100 rulemaking packet to align the fees with the related statutory authority.		

License fee amounts and revenue for the past four years are listed in the following tables:

Table 4b. Fee Schedule and Revenue: Private Security Services Fund (List Revenue Dollars in Thousands)							
Fee Type	Current Fee Amount	Statutory Limit	FY 2014–15 Revenue	FY 2015–16 Revenue	FY 2016–17 Revenue	FY 2017–18 Revenue ²	% of Total Revenue
Alarm Company – Initial Application	35	35	7	4	4	5	0.05
Alarm Company – Initial License	280	280	32	22	23	30	0.25
Alarm Company -- Biennial Renewal	335	335	327	317	315	292	2.88
Alarm Company – Delinquent Renewal	167.50	167.5	15	14	21	16	0.15
Alarm Company – Assignment	125	125	0	0	1	2	0.01
Alarm Company – Duplicate	10	10	0	0	0	0	0.00
Alarm Company Branch – Initial Application	35	35	2	1	1	2	0.01
Alarm Company Branch – Biennial Renewal	35	35	2	4	2	4	0.03
Alarm Company Branch – Delinquent Renewal	25	25	0	0	0	0	0.00
Alarm Company Branch– Duplicate	10	10	0	0	0	0	0.00
Alarm Employee – Initial Registration	17	17	110	92	84	81	0.85
Alarm Employee -- Renewal	7	7	34	34	33	30	0.30
Alarm Employee – Delinquent Renewal	25	25	7	8	10	11	0.08
Alarm Employee – Duplicate	10	10	1	1	2	2	0.01
Alarm Qualified Manager – Initial Application/Exam	105	105	13	10	11	11	0.10
Alarm Qualified Manager –Renewal	120	120	115	122	113	115	1.07
Alarm Qualified Manager – Delinquent Renewal	60	60	7	7	9	0	0.05
Alarm Qualified Manager -- Duplicate	10	10	0	0	0	0	0.00
Baton Permit	50	50	261	279	281	240	2.45

Table 4b. Fee Schedule and Revenue: Private Security Services Fund

(List Revenue Dollars in Thousands)

Fee Type	Current Fee Amount	Statutory Limit	FY 2014–15 Revenue	FY 2015–16 Revenue	FY 2016–17 Revenue	FY 2017–18 Revenue ²	% of Total Revenue
Baton Permit - Duplicate	5	5	2	2	3	3	0.02
Firearms Permit – Initial Application	80	80	901	945	970	1,201	9.26
Firearm Permit –Renewal	60	60	690	832	703	693	6.73
Firearm Permit – Duplicate	10	10	14	15	17	21	0.15
Locksmith Company – Initial Application	30	30	6	6	8	10	0.07
Locksmith Company – Initial License	45	45	9	9	12	14	0.10
Locksmith Company –Renewal	45	45	57	56	57	50	0.51
Locksmith Company – Delinquent Renewal	22.5	22.5	3	4	5	4	0.04
Locksmith Company – Duplicate	10	10	0	0	0	0	0.00
Locksmith Company Branch– Initial Application	35	35	0	0	0	1	0.00
Locksmith Company Branch –Renewal	35	35	1	1	1	1	0.01
Locksmith Company Branch – Delinquent Renewal	17.5	17.5	0	0	0	0	0.00
Locksmith Company Branch – Duplicate	10	10	0	0	0	0	0.00
Locksmith Employee – Application	20	20	5	5	6	7	0.05
Locksmith Employee –Renewal	20	20	16	22	14	14	0.15
Locksmith Employee – Delinquent Renewal	10	10	0	0	0	1	0.00
Locksmith Employee – Duplicate	10	10	0	0	0	0	0.00
Private Patrol Operator – Initial Application/ Examination	500	500	189	225	228	221	1.99
Private Patrol Operator – Initial License	700	700	178	152	189	198	1.65
Private Patrol Operator –Renewal	700	700	784	810	700	804	7.14
Private Patrol Operator – Delinquent Renewal	350	350	42	30	39	37	0.34
Private Patrol Operator – Duplicate	10	10	1	0	1	0	0.00
Private Patrol Operator Branch – Initial Application	250	250	14	12	10	17	0.12
Private Patrol Operator Branch –Renewal	75	75	10	12	9	8	0.09
Private Patrol Operator Branch – Delinquent Renewal	37.5	37.5	1	0	1	0	0.00
Private Patrol Operator Branch -- Duplicate	10	10	0	0	0	0	0.00
Proprietary Private Security Employer – Application	75	75	10	9	12	17	0.11
Proprietary Private Security Employer –Renewal	35	35	10	7	11	5	0.08
Proprietary Private Security Employer – Delinquent Renewal	25	25	1	1	1	0	0.01
Proprietary Private Security Employer -- Duplicate	10	10	0	0	0	0	0.00
Proprietary Private Security Officer – Registration	50	50	69	113	114	123	0.97
Proprietary Private Security Officer –Renewal	35	35	55	44	36	40	0.40
Proprietary Private Security Officer – Delinquent Renewal	25	25	6	2	4	3	0.03
Proprietary Private Security Officer - Duplicate	10	10	0	0	0	0	0.00

Table 4b. Fee Schedule and Revenue: Private Security Services Fund

(List Revenue Dollars in Thousands)

Fee Type	Current Fee Amount	Statutory Limit	FY 2014–15 Revenue	FY 2015–16 Revenue	FY 2016–17 Revenue	FY 2017–18 Revenue ²	% of Total Revenue
Repossession Agency – Initial Application/License	825	825	17	29	17	21	0.19
Repossession Agency -- Renewal	715	715	100	101	88	97	0.89
Repossession Agency – Delinquent Renewal	357	357	3	4	2	4	0.03
Repossession Agency -- Duplicate	10	10	0	0	0	0	0.00
Repossession Agency -- Assignment	125	125	1	0	0	0	0.00
Repossession Employee – Initial Application	75	75	23	21	25	20	0.21
Repossession Employee – Re-registration Application ¹	30	30	3	3	2	2	0.02
Repossession Employee -- Renewal	60	60	20	19	16	21	0.18
Repossession Employee – Delinquent Renewal	30	30	1	1	1	1	0.01
Repossession Employee -- Duplicate	10	10	0	0	0	0	0.00
Repossession Qualified Manager – Initial Application/Examination	325	325	7	7	7	6	0.06
Repossession Qualified Manager -- Renewal	450	450	82	45	72	54	0.58
Repossession Qualified Manager – Delinquent Renewal	225	225	3	2	4	5	0.03
Repossession Qualified Manager -- Duplicate	10	10	0	0	0	0	0.00
Security Guard – Initial Application	50	50	2,759	2,859	2,987	3,230	27.29
Security Guard – Renewal Fee	35	35	3,123	3,019	2,913	2,895	27.55
Security Guard – Delinquent Renewal	25	25	152	170	189	178	1.59
Security Guard – Duplicate License	10	10	48	53	73	79	0.58
Training Facility Baton – Initial Application	500	500	8	12	11	8	0.09
Training Facility Baton -- Renewal	500	500	40	39	39	35	0.35
Training Facility Baton -- Reinstatement	750	750	3	5	6	7	0.05
Training Facility Baton -- Duplicate	10	10	0	0	0	0	0.00
Training Facility Firearm -- Initial Application	500	500	16	15	16	21	0.16
Training Facility Firearm -- Renewal	500	500	73	72	79	70	0.68
Training Facility Firearm -- Reinstatement	750	750	6	6	2	5	0.04
Training Facility Firearm -- Duplicate	10	10	0	0	0	0	0.00
Training Instructor Baton – Initial Application	250	250	5	7	7	5	0.06
Training Instructor Baton -- Renewal	250	250	24	26	24	24	0.23
Training Instructor Baton -- Reinstatement	375	375	0	0	0	2	0.00
Training Instructor Baton -- Duplicate	10	10	0	0	0	0	0.00
Training Instructor Firearm – Initial Application	250	250	18	18	16	18	0.16
Training Instructor Firearm – Renewal	250	250	64	64	66	66	0.60
Training Instructor Firearm – Reinstatement	375	375	1	0	0	3	0.01
Training Instructor Firearm – Duplicate	10	10	0	0	0	0	0.00

1 A repossession employee must re-register with BSIS for each company that employs the individual.

2 Since FY 2017-18 FM 13 Fi\$Cal reports were not available at time of report submission, revenue reported is derived from ad hoc reports based on DCA Cashiering BreZE data.

Table 4c. Fee Schedule and Revenue: Private Investigator Fund (List Revenue Dollars in Thousands)							
Fee	Current Fee Amount	Statutory Limit	FY 2014–15 Revenue	FY 2015–16 Revenue	FY 2016–17 Revenue	FY 2017–18 Revenue ¹	% of Total Revenue
Private Investigator Company – Initial Application/Exam	50	50	25	25	23	23	3.69
Private Investigator Company – License	175	175	62	47	48	53	8.08
Private Investigator Company – Renewal	125	125	498	567	523	536	81.72
Private Investigator Company – Delinquent Renewal	62.5	62.5	23	17	23	21	3.23
Private Investigator Company – Duplicate	10	10	1	1	1	1	0.15
Private Investigator Branch – Initial Application	30	30	0	1	1	1	0.12
Private Investigator Branch – Renewal	30	30	1	1	2	1	0.19
Private Investigator Branch – Delinquent Renewal	15	15	0	0	0	0	0.00
Private Investigator Branch – Duplicate	10	10	0	0	0	0	0.00
Firearms Permit – Initial Application	80	80	3	5	6	7	0.81
Firearms Permit – Renewal	60	60	2	7	15	10	1.31
Firearms Permit – Duplicate	10	10	0	0	0	0	0.00
¹ Since FY 2017-18 FM 13 Fi\$Cal reports were not available at time of report submission, revenue reported is derived from ad hoc reports based on DCA Cashiering BreEZe data.							

15. Describe Budget Change Proposals (BCPs) submitted by the Bureau in the past four fiscal years.

Private Security Services Fund BCPs

FY 2015-2016

BSIS submitted a legislative BCP (1111-010) to address the additional workload resulting from AB 2220 (Daly, Chapter 423, Statutes of 2014), which established a minimum insurance requirement for all private patrol operator licensees and a framework for private patrol operators to register their firearms with the Department of Justice Bureau of Firearms (DOJ) and the creation of a certificate of assignment that the private patrol operator must submit to DOJ when they issue one of their firearms to a security guard employee. The BCP augmented the position authority by and provided ongoing funding for the following positions: 0.5 permanent program technician II position in the Licensing Unit and 1.0 permanent associate governmental program analyst, and 1.0 two-year limited term associate governmental program analyst in the Enforcement Unit.

FY 2016-2017

BSIS submitted two BCPs (1111-001 and 1111-002) to address an overall increased licensing and enforcement workload resulting from a growing licensing population and new cashiering duties arising from BSIS's transition to BreEZe. The BCPs augmented the position authority by and provided funding for the following positions: 1.0 staff services manager I and ongoing funding for enforcement, 1.0 permanent associate governmental program analyst position but funding only for two-years for enforcement activities, 1.0 permanent staff services analyst position but funding only for two-years and 1.0 permanent program technician II and ongoing funding in the Licensing Unit. Due to operational needs, BSIS subsequently reclassified the staff services manager I position to a staff services manager II.

FY 2017-2018

BSIS submitted a legislative BCP (1111-051) to address the additional workload relating to SB 1196 (Hill, Chapter 800, Statutes of 2016), which established the completion of an assessment for a Bureau security guard registrant seeking an initial Bureau firearms permit or seeking to associate a firearms permit with a security guard registration. The BCP augmented the position authority by and provided ongoing funding for the following positions: 2.0 permanent program technician II positions in the Licensing Unit and 1.0 permanent staff services analyst position in the Disciplinary Review Unit.

FY 2018-2019

BSIS submitted a BCP (1111-060) to obtain ongoing funding for 1.0 staff services analyst position in the Licensing Unit and a BCP (1111-061) for 1.0 associated governmental program analyst position in the Enforcement Unit for which BSIS obtained permanent authority but only two-year funding in fiscal year 2016-17. BCPs due to the workload associated with these positions are continuous and ongoing.

Table 5a. Budget Change Proposals (BCP) – Private Security Services Fund								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Amount Requested	\$ Amount Approved	\$ Amount Requested	\$ Amount Approved
1111-010	15-16	AB 2220 Legislative Implementation	0.5 PT II 1.0 AGPA 1.0 AGPA (LT)	0.5 PT II 1.0 AGPA 1.0 AGPA (LT)	216,000	216,000	19,000	19,000
1111-001	16-17	Enforcement Augmentation	1.0 SSMI 1.0 AGPA	1.0 SSMI 1.0 AGPA	215,000	215,000	26,000	26,000
1111-002	16-17	Licensing Augmentation	1.0 PT II 1.0 SSA	1.0 PT II 1.0 SSA	204,000	204,000	41,000	41,000
1111-051	17-18	SB 1196 Legislative Implementation	2.0 PT II 1.0 SSA	2.0 PT II 1.0 SSA	135,000	135,000	9,000	9,000
1111-060	18-19	Licensing Augmentation	0	0	80,000	80,000	9,000	9,000
1111-061	18-19	Enforcement Augmentation	0	0	104,000	104,000	7,000	7,000

Private Investigator Fund BCPs

FY 2015-2016

No BCP submitted.

FY 2016-2017

BSIS submitted a BCP (1111-001) to establish a program technician II position in the Private Investigator Fund to correct the misallocation of a program technician II position in the Private Security Services Fund carrying out private investigator application processing activities. The BCP augmented the position authority by and provided ongoing funding for 1.0 program technician II position.

FY 2018-2019

BSIS submitted a legislative BCP (1111-060) to address the additional workload relating to SB 559 (Morrell, Chapter 569, Statutes of 2017), which established a new insurance claim reporting requirement to BSIS for private investigator licensees organized as a limited liability company. The BCP augmented the position authority and provided ongoing funding for 0.5 program technician II position.

Table 5b. Budget Change Proposals (BCP) – Private Investigator Fund								
BCP ID #	Fiscal Year	Description of Purpose of BCP	Personnel Services				OE&E	
			# Staff Requested (include classification)	# Staff Approved (include classification)	\$ Amount Requested	\$ Amount Approved	\$ Amount Requested	\$ Amount Approved
1111-002	16-17	Licensing Augmentation	1.0 PT II	1.0 PT II	65,000	65,000	14,000	14,000
1111-077	18-19	SB 559 Legislative Implementation	0.5 PT II	0.5 PT II	33,000	33,000	10,000	10,000

Staffing Issues

16. **Describe any Bureau staffing issues or challenges; i.e., vacancy rates, efforts to reclassify positions, staff turnover, recruitment and retention efforts, succession planning.**

Bureau Overview: Staffing Issues/Challenges

BSIS noted in its 2014 sunset report that many of its staff had been with BSIS for more than 15 years. During the past four years, this trend shifted with fifteen people leaving BSIS, primarily for promotions or retirements. The Enforcement Unit has been particularly affected by turnover with most leaving for managerial positions or special investigator positions. Turnover in the Licensing Unit is primarily the result of staff promoting within BSIS. The inherent heavy workload associated with licensing makes it difficult to retain personnel in the unit.

The most significant recruitment challenge is that many positions require several rounds of recruitment efforts to secure staff who either are qualified or meet the state hiring eligibility requirements.

Succession planning efforts include cross-training staff to ensure knowledge of BSIS's business processes and procedures is not isolated to a single employee, and the development of procedural manuals and reference documents to help retain institutional knowledge and ensure staff are correctly and consistently carrying out their duties.

17. **Describe the Bureau's staff development efforts and how much is spent annually on staff development (cf., Section 12, Attachment D).**

BSIS encourages all its employees to participate in training classes offered by the DCA's SOLID Training Office including:

- 1) Depending on a person's knowledge and skills, they complete classes on the software programs they use (Word, Excel, Outlook, etc.).
- 2) Depending on a person's duties they will attend training on BreEZe (Basics, Applications, Enforcement, etc.), and Quality Business Interactive Report Tool (an IBM Cognos product used to extrapolate, sort and analyze BreEZe data).
- 3) All staff complete information security training and sexual harassment training as required by law.
- 4) Staff (with a focus on Licensing personnel who handle phones and the front counter) are encouraged to attend Customer Service Excellence, Coping with Workplace Stress, and What Customers Want: Ultimate Telephone Techniques training.
- 5) Staff have also participated by units (Licensing, Enforcement, Disciplinary Review and Policy/Administration) in SOLID-led team-building training involving either Myers-Briggs or True Colors. These courses are designed to help individuals understand their own and other varying interpersonal and communication styles.
- 6) Individuals in analyst positions complete such courses as Completed Staff Work; Effective Business Writing; Research, Analysis, and Problem Solving; and Time Management.
- 7) The Custodian of Records is provided basic training from BSIS's counsel regarding the California Public Records Act as well responding to subpoenas.
- 8) Individuals who work on legislation and regulations complete training offered by the DCA's Division of Legislative Affairs and Division of Legal Affairs on the legislative and regulatory processes.
- 9) Other courses completed by Bureau staff include Effective Public Speaking, Learn to Lead, Growing in Your State Career, and Standing Out in a Crowded Job Market.

Enforcement analysts attend the Los Rios Community College District's 40-hour Regulatory Investigative course as a prerequisite to attending the DCA's 40-hour Enforcement Academy within the first year of assignment. Enforcement staff also attend DCA training courses to support the skills needed to perform investigations, such as interview techniques and report writing.

As noted above, BSIS relies heavily on training offered through the Department's SOLID Training Office. The course costs are part of BSIS's pro-rata training costs with the Department. In regard to outside training, over the past four fiscal years BSIS has spent close to \$2,000 for training classes offered through outside vendors. These trainings included Rulemaking Under the California Administrative Procedure Act, which is offered by the Office of Administrative Law, and Regulatory Investigative Techniques offered by the Los Rios Community College District.

Section 4

Licensing Program

18. What are the Bureau's performance targets and expectations for its licensing program? Is the Bureau meeting those expectations? If not, what is the Bureau doing to improve performance?

Section 601.4 of Division 7 of Title 16 of the California Code of Regulations identifies BSIS's processing times. Each processing time is described below. Overall, BSIS does meet its performance targets. However, processing times can increase around the holiday

season and summer months when security guard applications historically increase and staff time-off is higher than other times of the year. BSIS encourages all staff that are proficient in processing applications to participate in optional paid overtime when processing times are approaching or exceeding the targeted processing times.

Employee Registrations

- Initial Applications: BSIS strives to issue an employee registration within 45 days of receipt of a BreEZe application and within 60 days of receipt of a non-deficient paper application. Processing times for BreEZe applications can be longer due to DOJ or FBI requiring the applicant to re-fingerprint or delayed responses attributable to law enforcement entities not yet providing the specific criminal history to DOJ or FBI. Processing times for paper applications can be longer; in addition to fingerprinting timelines, applications are often missing required information (i.e. deficient application) that the applicant needs to remedy.

In cases where an employee registration applicant's DOJ information matches the data the applicant entered into the BreEZe application and the applicant has no criminal history, the BreEZe/DOJ interface is designed to automatically issue the license. In these instances, it is not uncommon for an applicant to be issued their registration within days of having submitted fingerprints via Live Scan. Repossession agent initial registrations are not available on BreEZe. Further, BreEZe registration renewals are processed in real time, which means the registration is renewed upon submission of the application and payment of the correct fee amount.

- Renewal Applications: By law, registrants are required to submit their renewal applications at least 60 days before expiration. If the renewal application is received within this timeframe and there are no deficiencies (e.g., failure to include payment or sign the form), BSIS, barring extenuating circumstances, is able to renew the registration before the current one expires. The vast majority of scenarios where a registration expires before renewal involves the registrant failing to submit the renewal application timely.
- Firearms Permits: Both initial and renewal firearms permit applications are only available in paper format. Originally, these applications were available on BreEZe, but due to high deficiency rates with individuals failing to upload a scanned copy of the application, firearms permit applications were discontinued from BreEZe in September 2017.
 - *Initial Applications:* The targeted processing time is 60 days for a non-deficient application. Processing delays occur for similar reasons as paper registration applications and BSIS addresses backlogs in the same manner as described above.

It should be noted that effective July 1, 2018, a requirement for the issuance of a BSIS firearms permit to a security guard registrant or to associate the firearms permit to a security registration under specified conditions is that the registrant complete an assessment to demonstrate they possess appropriate judgment, restraint, and self-control to carry and use a firearm while performing security guard duties. The assessment requirement will increase the processing time for an initial firearms permit application, although it is too soon to determine to what extent.

- *Renewal Applications:* By law, permitholders are required to submit their renewal applications at least 60 days before expiration. If the renewal application is received within this timeframe and there are no deficiencies (e.g., failure to include payment, sign the form, firearms instructor fails to provide required information or sign the form), BSIS, barring extenuating circumstances, is able to renew the permit before the current one expires. The vast majority of scenarios where a permit expires before renewal involves the application being deficient (deficiency rates run between 25 to 30 percent) or the permitholder failing to submit the renewal application timely.

Companies, Qualified Managers, Facilities and Training Instructors

- Initial Applications:

BSIS strives to issue:

- A locksmith company license, baton training facility certificate, and firearm training facility certificate for non-deficient applications within 90 days. Processing times can be longer for similar issues as registration applications, although the most common reasons relate to deficiencies.
 - An alarm qualified manager, repossession agent qualified manager, baton training instructor and firearm training instructor certificates within 75 days. Processing times can be longer for similar issues as registration applications, deficiencies, and in the case of the qualified manager applications the length of time it takes the applicant to pass the qualifying exam.
 - An alarm company operator, collateral recovery agency, private investigator company, and private patrol operator license within 120 days. Processing times can be longer for similar issues as registration applications, deficiencies, and the length of time it takes the person who will serve as the qualified manager to pass the qualifying exam.
- Renewal Applications: BSIS strives to process all non-deficient applications within 60 days. The most common reasons for the renewal license not being issued before the current one expires are deficiencies (e.g., not-previously-disclosed changes on the license that need to be addressed, an unauthorized person signing the renewal application) or the licensee failing to submit the renewal application at least 60 days before expiration of the current license. Also, BreZE renewals are processed in real time, which means the license/certificate is renewed upon submission of the application and payment of the correct fee amount.

19. Describe any increase or decrease in the Bureau's average time to process applications, administer exams and/or issue licenses. Have pending applications grown at a rate that exceeds completed applications? If so, what has been done to address them? What are the performance barriers and what improvement plans are in place? What has the Bureau done and what is the Bureau going to do to address any performance issues; i.e., process efficiencies, regulations, BCP, legislation?

In an effort to promote efficiencies, BSIS is exploring increasing the number of permanent staff involved in application processing activities and recently reassigned an analyst position to a second licensing supervisor position. Additionally, BSIS posts frequently asked application-related questions on its public website and has been revising application forms in an effort to reduce deficiencies – a deficient application doubles the processing workload.

BSIS is also revising deficiency letters to more clearly advise the applicant of the steps needed to remedy the deficiency.

Given that the DCA's Consumer Information Center (CIC) staff field many of BSIS's calls, BSIS and CIC carried out a two-week pilot project where a BSIS licensing analyst was assigned to the CIC to assist staff in handling BSIS calls. As a result of the positive feedback and outcomes, BSIS is assigning a licensing analyst one week per month to the CIC. Enhancing the abilities for CIC staff to address application-related questions and concerns means more time for BSIS staff to process applications.

While the magnitude of the number of applications received is challenging, BSIS continues to strive for continuous improvement and implements process efficiencies as we identify them.

20. How many licenses or registrations does the Bureau issue each year? How many renewals does the Bureau issue each year?

The average number of licenses *issued* are:

- 1,157 Company Licenses (includes alarm/repossession qualified managers and training instructors)
- 54,552 Employee Registrations
- 11,217 Firearms Permits

The average number of licenses *renewed* are:

- 9,795 Company Licenses (includes alarm/repossession qualified managers and training instructors)
- 92,729 Employee Registrations
- 11,376 Firearms Permits

21. How many licenses or registrations has the bureau denied over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC Section 480? Please provide a breakdown of each instance of denial and the acts the bureau determined were substantially related.

For the period covering fiscal year 2014-15 through fiscal year 2017-18 BSIS received about 72,050 initial applications per year. This figure excludes firearms permits and baton permits because those license types must be associated with a qualifying license and a denial based on criminal history would be driven by the qualifying license. About 22 percent (15,850) of the applicants had a criminal history record, and BSIS denied about 2 percent (1,441 per year) due to substantially-related criminal history that demonstrated an unfitness for licensure.

Given the significant operational impact of providing a background on each of the approximate 5,570 denials over the past four years, BSIS is instead providing general information regarding the denials. Convictions are considered substantially-related if, to a notable degree, they evidence a present or potential unfitness for licensure, and include crimes involving violence, sexual assault, sexual abuse or public indecency, misdemeanor or felony theft, unlawful possession or use of a firearm, felony property crimes, and felony controlled substance crimes related to manufacturing or sales. In reviewing a criminal

history, BSIS also considers the nature and severity of the act, the time that has lapsed since the commission of the crime, the applicant's compliance with parole, probation, or restitution terms, and any other evidence of rehabilitation. Evidence of rehabilitation include proof of having completed court-ordered counseling or character letters of reference.

Table 6. Licensee Population					
		FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Alarm Company	Active	2,038	1,922	1,914	1,905
	Delinquent	290	303	397	385
	Retired	N/A	N/A	N/A	N/A
	Out of State	15	30	19	16
	Out of Country				
Alarm Company Branch	Active	207	231	239	270
	Delinquent	76	70	48	56
	Retired	N/A	N/A	N/A	N/A
	Out of State	2	23	3	4
	Out of Country				
Alarm Employee	Active	21,735	19,709	18,624	18,565
	Delinquent	1,217	838	1,210	679
	Retired	N/A	N/A	N/A	N/A
	Out of State	1,430	887	1,722	1,088
	Out of Country				
Alarm Qualified Manager	Active	2,064	2,028	1,994	1,964
	Delinquent	282	298	332	328
	Retired	N/A	N/A	N/A	N/A
	Out of State	34	13	130	22
	Out of Country				
Baton Permit	Active	23,078	38,628	35,788	36,587
	Delinquent	34	40	0	0
	Retired	N/A	N/A	N/A	N/A
	Out of State	19	9	75	37
	Out of Country				
Firearms Permit	Active	45,387	42,037	41,562	45,536
	Delinquent ¹	1,243	873	1,194	944
	Retired	N/A	N/A	N/A	N/A
	Out of State	97	56	184	155

Table 6. Licensee Population					
		FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
	Out of Country				
Locksmith Company	Active	2,841	2,688	2,754	2,808
	Delinquent	640	642	690	680
	Retired	N/A	N/A	N/A	N/A
	Out of State	7	6	7	4
	Out of Country				
Locksmith Company Branch	Active	52	45	39	41
	Delinquent	11	13	22	15
	Retired	N/A	N/A	N/A	N/A
	Out of State	0	0	0	0
	Out of Country				
Locksmith Employee	Active	2,672	2,309	2,295	2,299
	Delinquent	123	55	35	21
	Retired	N/A	N/A	N/A	N/A
	Out of State	20	14	59	7
	Out of Country				
Private Investigator Company	Active	9,755	9,273	9,090	8,831
	Delinquent	1,461	1,536	1,691	1,778
	Retired	N/A	N/A	N/A	N/A
	Out of State	118	123	76	32
	Out of Country				
Private Investigator Branch	Active	133	137	138	127
	Delinquent	65	60	58	87
	Retired	N/A	N/A	N/A	N/A
	Out of State	1	2	1	4
	Out of Country				
Private Patrol Operator	Active	2,137	2,283	2,348	2,403
	Delinquent	635	686	436	292
	Retired	N/A	N/A	N/A	N/A
	Out of State	8	12	10	3
	Out of Country				
Private Patrol Operator Branch	Active	396	379	367	340
	Delinquent	126	120	159	173
	Retired	N/A	N/A	N/A	N/A

Table 6. Licensee Population

		FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
	Out of State	0	3	0	0
	Out of Country				
Proprietary Private Security Employer	Active	657	609	490	540
	Delinquent	138	162	50	16
	Retired	N/A	N/A	N/A	N/A
	Out of State	2	0	0	1
	Out of Country				
Proprietary Private Security Officer	Active	5,795	5,824	6,036	6,569
	Delinquent	486	369	322	341
	Retired	N/A	N/A	N/A	N/A
	Out of State	4	9	17	10
	Out of Country				
Repossession Agency	Active	296	291	276	271
	Delinquent	84	87	95	99
	Retired	N/A	N/A	N/A	N/A
	Out of State	0	0	1	0
	Out of Country				
Repossession Employee	Active	933	813	878	851
	Delinquent	48	61	19	38
	Retired	N/A	N/A	N/A	N/A
	Out of State	4	1	11	3
	Out of Country				
Repossession Qualified Manager	Active	297	306	280	282
	Delinquent	123	120	102	90
	Retired	N/A	N/A	N/A	N/A
	Out of State	0	0	7	2
	Out of Country				
Security Guard	Active	283,403	275,711	277,820	284,098
	Delinquent	14,600	12,398	10,472	8,863
	Retired	N/A	N/A	N/A	N/A
	Out of State	584	553	1,291	646
	Out of Country				

Table 6. Licensee Population

		FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Training Facility Baton	Active	199	176	180	173
	Delinquent ¹	11	5	0	1
	Retired	N/A	N/A	N/A	N/A
	Out of State	1	0	0	0
	Out of Country				
Training Facility Firearm	Active	363	339	336	335
	Delinquent ¹	10	10	1	4
	Retired	N/A	N/A	N/A	N/A
	Out of State	1	0	0	0
	Out of Country				
Training Instructor Baton	Active	258	233	225	217
	Delinquent ¹	1	4	0	1
	Retired	N/A	N/A	N/A	N/A
	Out of State	0	0	1	2
	Out of Country				
Training Instructor Firearm	Active	643	614	603	615
	Delinquent ¹	9	3	0	0
	Retired	N/A	N/A	N/A	N/A
	Out of State	5	0	8	4
	Out of Country				

Note: 'Out of State' and 'Out of Country' are two mutually exclusive categories. A licensee should not be counted in both.

- 1 There is no delinquency period for a firearms permit, baton or firearms training facility certificate, or baton or firearms training instructor certificate. Delinquent data for these license types reflects renewal applications, either submitted less than the 60-day processing time or deficient applications, that are pending processing by BSIS.

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
FY 2014/15 ²	Alarm Company Initial License	200			68	92	-	-	-	-	
	Alarm Company Biennial Renewal				844		-	-	-	-	
	Alarm Company Branch Initial License	52			16	0	-	-	-	-	
	Alarm Company Branch Biennial Renewal				60		-	-	-	-	
	Alarm Employee Initial Registration	6,586			6,542	139	-	-	-	-	
	Alarm Employee Biennial Renewal				4,859		-	-	-	-	
	Alarm Qualified Manager Initial License	134			60	37	-	-	-	-	
	Alarm Qualified Manager Biennial Renewal				960		-	-	-	-	
	Firearms Permit Initial License	11,788			11,002	453	-	-	-	-	
	Firearms Permit Biennial Renewal				9,769		-	-	-	-	
	Locksmith Company Initial License	225			153	34	-	-	-	-	
	Locksmith Company Biennial Renewal				1,173		-	-	-	-	
	Locksmith Company Branch Initial License	1			0	0	-	-	-	-	
	Locksmith Company Branch Biennial Renewal				20		-	-	-	-	
	Locksmith Employee Initial Registration	240			238	9	-	-	-	-	
	Locksmith Employee Biennial Renewal				1,097		-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Private Investigator Company Initial License	388			295	120	-	-	-	-	
	Private Investigator Company Biennial Renewal				4,530		-	-	-	-	
	Private Investigator Branch Initial License	19			14	1	-	-	-	-	
	Private Investigator Branch Biennial Renewal				47		-	-	-	-	
	Private Patrol Operator Initial License	255			198	57	-	-	-	-	
	Private Patrol Operator Biennial Renewal				1,133		-	-	-	-	
	Private Patrol Operator Branch Initial License	57			50	1	-	-	-	-	
	Private Patrol Operator Branch Biennial Renewal				170		-	-	-	-	
	Proprietary Private Security Employer Initial Registration	148			120	15	-	-	-	-	
	Proprietary Private Security Employer Biennial Renewal				300		-	-	-	-	
	Proprietary Private Security Officer Initial Registration	1,441			1,246	47	-	-	-	-	
	Proprietary Private Security Officer Biennial Renewal				1,572		-	-	-	-	
	Repossession Agency Initial License	26			19	0	-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Repossession Agency Biennial Renewal				141		-	-	-	-	
	Repossession Employee Initial Registration	416			336	26	-	-	-	-	
	Repossession Employee Biennial Renewal				334		-	-	-	-	
	Repossession Qualified Manager Initial License	31			10	12	-	-	-	-	
	Repossession Qualified Manager Biennial Renewal				180		-	-	-	-	
	Security Guard Initial Registration	56,320			53,023	1,695	-	-	-	-	
	Security Guard Biennial Renewal				88,015		-	-	-	-	
	Training Facility Baton Initial License	18			39	3	-	-	-	-	
	Training Facility Baton Biennial Renewal				75		-	-	-	-	
	Training Facility Firearm Initial License	38			32	7	-	-	-	-	
	Training Facility Firearm Biennial Renewal				146		-	-	-	-	
	Training Instructor Baton Initial License	26			23	5	-	-	-	-	
	Training Instructor Baton Biennial Renewal				88		-	-	-	-	
	Training Instructor Firearm Initial License	73			55	18	-	-	-	-	
	Training Instructor				250		-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Firearm Biennial Renewal										
FY 2015/16 ²	Alarm Company Initial License	117			91	34	-	-	-	-	
	Alarm Company Biennial Renewal				943		-	-	-	-	
	Alarm Company Branch Initial License	19			29	2	-	-	-	-	
	Alarm Company Branch Biennial Renewal				106		-	-	-	-	
	Alarm Employee Initial Registration	5,104			4,443	321	-	-	-	-	
	Alarm Employee Biennial Renewal				4,790		-	-	-	-	
	Alarm Qualified Manager Initial License	93			66	18	-	-	-	-	
	Alarm Qualified Manager Biennial Renewal				1,039		-	-	-	-	
	Firearms Permit Initial License	10,894			9,950	811	-	-	-	-	
	Firearms Permit Biennial Renewal				13,208		-	-	-	-	
	Locksmith Company Initial License	210			150	25	-	-	-	-	
	Locksmith Company Biennial Renewal				1,251		-	-	-	-	
	Locksmith Company Branch Initial License	2			1	1	-	-	-	-	
	Locksmith Company Branch Biennial Renewal				23		-	-	-	-	
	Locksmith Employee Initial Registration	246			206	29	-	-	-	-	
	Locksmith Employee				787		-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Biennial Renewal										
	Private Investigator Company Initial License	346			204	100	-	-	-	-	
	Private Investigator Company Biennial Renewal				4,652		-	-	-	-	
	Private Investigator Branch Initial License	19			24	2	-	-	-	-	
	Private Investigator Branch Biennial Renewal				55		-	-	-	-	
	Private Patrol Operator Initial License	373			192	111	-	-	-	-	
	Private Patrol Operator Biennial Renewal				1,127		-	-	-	-	
	Private Patrol Operator Branch Initial License	43			37	8	-	-	-	-	
	Private Patrol Operator Branch Biennial Renewal				113		-	-	-	-	
	Proprietary Private Security Employer Initial Registration	185			40	15	-	-	-	-	
	Proprietary Private Security Employer Biennial Renewal				206		-	-	-	-	
	Proprietary Private Security Officer Initial Registration	2203 *			1,647	99	-	-	-	-	
	Proprietary Private Security Officer Biennial Renewal				1,168		-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Repossession Agency Initial License	25			15	2	-	-	-	-	
	Repossession Agency Biennial Renewal				122		-	-	-	-	
	Repossession Employee Initial Registration	300			246	27	-	-	-	-	
	Repossession Employee Biennial Renewal				284		-	-	-	-	
	Repossession Qualified Manager Initial License	18			10	3	-	-	-	-	
	Repossession Qualified Manager Biennial Renewal				107		-	-	-	-	
	Security Guard Initial Registration	56,067			51,994	3,265	-	-	-	-	
	Security Guard Biennial Renewal				87,961		-	-	-	-	
	Training Facility Baton Initial License	25			5	11	-	-	-	-	
	Training Facility Baton Biennial Renewal				81		-	-	-	-	
	Training Facility Firearm Initial License	33			15	12	-	-	-	-	
	Training Facility Firearm Biennial Renewal				159		-	-	-	-	
	Training Instructor Baton Initial License	25			8	13	-	-	-	-	
	Training Instructor Baton Biennial Renewal				111		-	-	-	-	
	Training Instructor Firearm Initial License	69			41	20	-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Training Instructor Firearm Biennial Renewal				284		-	-	-	-	
FY 2016/17	Alarm Company Initial License	126			89	1	-	-			
	Alarm Company Biennial Renewal	920			913	4	-	-	-	-	
	Alarm Company Branch Initial License	35			22	0	-	-			
	Alarm Company Branch Biennial Renewal	72			71	0	-	-	-	-	
	Alarm Employee Initial Registration	4,850			4,235	55	-	-			
	Alarm Employee Biennial Renewal	4,749			4,685	1	-	-	-	-	
	Alarm Qualified Manager Initial License	95			52	0	-	-			
	Alarm Qualified Manager Biennial Renewal	943			942	0	-	-	-	-	
	Firearms Permit Initial License	11,783			10,114	96	-	-			
	Firearms Permit Biennial Renewal	11,815			11,500	29	-	-	-	-	
	Locksmith Company Initial License	263			224	3	-	-			
	Locksmith Company Biennial Renewal	1,216			1,210	1	-	-	-	-	
	Locksmith Company Branch Initial License	10			2	0	-	-			
	Locksmith Company Branch Biennial Renewal	17			17	0	-	-	-	-	
	Locksmith Employee Initial Registration	307			270	6	-	-			

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Locksmith Employee Biennial Renewal	990			980	0	-	-	-	-	
	Private Investigator Company Initial License	413			279	38	-	-			
	Private Investigator Company Biennial Renewal	4,219			4,188	3	-	-	-	-	
	Private Investigator Branch Initial License	20			17	0	-	-			
	Private Investigator Branch Biennial Renewal	47			47	0	-	-	-	-	
	Private Patrol Operator Initial License	441			245	3	-	-			
	Private Patrol Operator Biennial Renewal	1,005			980	1	-	-	-	-	
	Private Patrol Operator Branch Initial License	40			48	0	-	-			
	Private Patrol Operator Branch Biennial Renewal	158			156	0	-	-	-	-	
	Proprietary Private Security Employer Initial Registration	157			62	0	-	-			
	Proprietary Private Security Employer Biennial Renewal	305			293	0	-	-	-	-	
	Proprietary Private Security Officer Initial Registration	2,306			2,006	42	-	-			
	Proprietary Private Security	1,191			1,160	0	-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Officer Biennial Renewal										
	Repossession Agency Initial License	21			22	0	-	-			
	Repossession Agency Biennial Renewal	126			127	0	-	-	-	-	
	Repossession Employee Initial Registration	319			359	4	-	-			
	Repossession Employee Biennial Renewal	290			289	0	-	-	-	-	
	Repossession Qualified Manager Initial License	22			18	0	-	-			
	Repossession Qualified Manager Biennial Renewal	150			148	0	-	-	-	-	
	Security Guard Initial Registration	58,433			55,072	384	-	-			
	Security Guard Biennial Renewal	84,722			84,140	2	-	-	-	-	
	Training Facility Baton Initial License	22			21	2	-	-			
	Training Facility Baton Biennial Renewal	71			69	0	-	-	-	-	
	Training Facility Firearm Initial License	31			23	2	-	-			
	Training Facility Firearm Biennial Renewal	151			151	1	-	-	-	-	
	Training Instructor Baton Initial License	29			17	2	-	-			
	Training Instructor Baton Biennial Renewal	91			89	0	-	-	-	-	
	Training Instructor	62			39	5	-	-			

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Firearm Initial License										
	Training Instructor Firearm Biennial Renewal	253			244	0	-	-	-	-	
FY 2017/18	Alarm Company Initial License	122			86	21	-	-	60	127	
	Alarm Company Biennial Renewal	871			863	2	-	-	-	-	
	Alarm Company Branch Initial License	57			62	0	-	-	41	259	
	Alarm Company Branch Biennial Renewal	116			116	0	-	-	-	-	
	Alarm Employee Initial Registration	4,736			4,623	130	-	-	50	154	
	Alarm Employee Biennial Renewal	4315			4,283	1	-	-	-	-	
	Alarm Qualified Manager Initial License	92			51	14	-	-	174	223	
	Alarm Qualified Manager Biennial Renewal	953			944	0	-	-	-	-	
	Firearms Permit Initial License	14,168			13,802	765	-	-	66	142	
	Firearms Permit Biennial Renewal	11,722			11,026	222	-	-	-	-	
	Locksmith Company Initial License	317			269	27	-	-	55	94	
	Locksmith Company Biennial Renewal	1,121			1,109	2	-	-	-	-	
	Locksmith Company Branch Initial License	16			10	2	-	-	34	87	
	Locksmith Company	20			20	0	-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Branch Biennial Renewal										
	Locksmith Employee Initial Registration	359			341	11	-	-	55	153	
	Locksmith Employee Biennial Renewal	677			667	0	-	-	-	-	
	Private Investigator Company Initial License	408			278	34	-	-	117	129	
	Private Investigator Company Biennial Renewal	4,284			4,217	6	-	-	-	-	
	Private Investigator Branch Initial License	36			34	1	-	-	51	0	
	Private Investigator Branch Biennial Renewal	38			37	0	-	-	-	-	
	Private Patrol Operator Initial License	446			268	55	-	-	97	102	
	Private Patrol Operator Biennial Renewal	1,144			1,097	4	-	-	-	-	
	Private Patrol Operator Branch Initial License	63			51	4	-	-	60	0	
	Private Patrol Operator Branch Biennial Renewal	106			104	0	-	-	-	-	
	Proprietary Private Security Employer Initial Registration	213			120	27	-	-	55	105	
	Proprietary Private Security Employer Biennial Renewal	133			122	0	-	-	-	-	

Table 7a. Licensing Data by Type

Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Proprietary Private Security Officer Initial Registration	2,440			2,200	88	-	-	55	168	
	Proprietary Private Security Officer Biennial Renewal	1,142			1,123	2	-	-	-	-	
	Repossession Agency Initial License	25			22	2	-	-	227	153	
	Repossession Agency Biennial Renewal	136			133	1	-	-	-	-	
	Repossession Employee Initial Registration	276			300	10	-	-	47	100	
	Repossession Employee Biennial Renewal	347			343	0	-	-	-	-	
	Repossession Qualified Manager Initial License	16			15	2	-	-	130	0	
	Repossession Qualified Manager Biennial Renewal	121			119	0	-	-	-	-	
	Security Guard Initial Registration	64,077			60,249	1,263	-	-	26	133	
	Security Guard Biennial Renewal	82,723			81,879	71	-	-	-	-	
	Training Facility Baton Initial License	15			9	4	-	-	101	165	
	Training Facility Baton Biennial Renewal	69			69	0	-	-	-	-	
	Training Facility Firearm Initial License	39			26	3	-	-	101	140	
	Training Facility Firearm Biennial Renewal	140			138	0	-	-	-	-	
	Training Instructor Baton Initial License	19			13	2	-	-	18	110	

Table 7a. Licensing Data by Type											
Application Type		Received	Approved	Closed	Issued	Pending Applications ¹			Cycle Times ¹		
						Total (Close of FY)	Outside Board control*	Within Board	Complete Apps	Incomplete Apps	combined, IF unable to separate out
	Training Instructor Baton Biennial Renewal	94			93	0	-	-	-	-	
	Training Instructor Firearm Initial License	71			52	7	-	-	141	137	
	Training Instructor Firearm Biennial Renewal	265			263	0	-	-	-	-	
<p>1 The time for an applicant to pass the required qualifying exams for the Alarm Company Qualified Manager Certificate (and related Alarm Company Operator License) Private Investigator Company License, Private Security Services Company License, and Repossession Agency Qualified Manager Certificate (and related Alarm Company Operator License) are integrated into the licensing process which accounts for the higher number of pending applications and cycle times associated with these license types.</p> <p>2 BSIS is unable to provide complete and incomplete application cycles times prior to FY 2017-18 because this functionality was not available in BSIS's licensing systems before BreEZe and staff's inconsistent use of the BreEZe function relating to incomplete applications within the first months after BSIS transitioned to BreEZe in January 2016.</p>											

Table 7b. Total Licensing Data				
	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Initial Licensing Data:				
Initial License/Initial Exam Applications Received	78,482	76,416	84,354	88,011
Initial License/Initial Exam Applications Approved				
Initial License/Initial Exam Applications Closed				
License Issued	73,539	69,414	77,404	82,881
Initial License/Initial Exam Pending Application Data:				
Pending Applications (total at close of FY) ¹	2,771	6,669	685	2,783
Pending Applications (outside of bureau control)*				
Pending Applications (within BSIS control)*				
Initial License/Initial Exam Cycle Time Data (WEIGHTED AVERAGE):				
Average Days to Application Approval (All - Complete/Incomplete) ²				26
Average Days to Application Approval (incomplete applications)*				
Average Days to Application Approval (complete applications)*				
License Renewal Data:				
License Renewed	115,763	118,576	112,399	108,765
NOTE: The values in Table 7b are the aggregates of the value contained in Table 7a				
* Optional. List if tracked by BSIS.				

Table 7b. Total Licensing Data

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
1	Pending application data for FY 2015-16, the year BSIS transitioned to BreEZe, reflects issues relating to converted data. Pending application data for FY 2016-17 was impacted by BSIS applying a manual hold on a deficient application to prevent it from automatically issuing until the BreEZe licensing function to address pending applications (i.e. application milestone) was rolled out.			
2	BSIS is unable to provide weighted average cycles times prior to FY 2017-18 because incomplete application processing times were not available in BSIS's licensing systems before BreEZe and staff's inconsistent use of the BreEZe function relating to incomplete applications within the first months after BSIS transitioned to BreEZe in FY 2015-16.			

22. How does the Bureau verify information provided by the applicant?

- a. What process does the Bureau use to check prior criminal history information, prior disciplinary actions, or other unlawful acts of the applicant? Has the Bureau denied any licenses over the last four years based on the applicant's failure to disclose information on the application, including failure to self-disclose criminal history? If so, how many times and for what types of crimes (please be specific).**

All applicants, with the exception of proprietary private security employers, must submit fingerprints to DOJ and FBI for a criminal background check. In addition, Bureau staff who process company applications, including for firearms training facilities and instructors, check the BreEZe enforcement information for prior accusations and revocations associated with training instructors and individuals who will serve as principals on a company license or training facility certificate. Given the volume of registration and firearms permit applications, BSIS relies on BreEZe alerts placed by BSIS enforcement staff if the individual had disciplinary actions taken on a prior license for a serious act(s) or violation(s).

BSIS has not denied a license based on the applicant's failure to respond affirmatively to the application question about having ever been convicted of a crime.

- b. Does the Bureau fingerprint all applicants?**

All applicants, except for proprietary private security employers, are fingerprinted. The law does not provide BSIS the authority to require proprietary private security employers to be fingerprinted.

- c. Have all current licensees been fingerprinted? If not, explain.**

All current licensees, except for proprietary private security employers, have been fingerprinted. The law does not provide BSIS the authority to require this license type to be fingerprinted.

- d. Is there a national databank relating to disciplinary actions? Does the Bureau check the national databank prior to issuing a license? Renewing a license?**

There is no national database for disciplinary actions for the industries under BSIS's purview.

- e. Does the Bureau require primary source documentation?**

Employee Registration Applications: A completed application and DOJ/FBI criminal offender record information directly from DOJ are required.

Firearms Permit Applications: A completed application, DOJ/FBI criminal offender record information directly from DOJ, and information from DOJ Bureau of Firearms on whether the applicant is or is not prohibited from possessing a firearm are required.

Baton Permit: The applicant must be listed on the course roster that a baton training facility submits to BSIS. (Note: The actual permit is issued to the individual by the baton training instructor and the facility submits the course rosters to BSIS.)

Baton Training Instructor Applications: A completed application, DOJ/FBI criminal offender record information directly from DOJ, proof of a postsecondary degree in specified subject area, and proof of a specified baton training instructor certificate or experience as a baton instructor is required.

Firearms Training Instructor Applications: A completed application, DOJ/FBI criminal offender record information directly from DOJ, proof of a postsecondary degree in specified subject area or proof of experience as a firearms instructor, and proof of a specified firearms instructor training certificate is required.

Company and Training Facility Applications: A completed company application is required, along with completed personal identification forms and DOJ/FBI criminal offender record information directly from DOJ for the qualified manager and all individuals who will be active in the business. If the applicant is a domestic corporation or a limited liability company, specified Secretary of State filing documents (e.g., Articles of Incorporation, Articles of Formation, and recent Statements of Information, etc.) are required. If the applicant is a foreign corporation or limited liability company, filing documents from their domicile state may also be required. Additionally, for applicants involving a holding company system or applications for partnerships involving entities (e.g., limited liability company or corporation), additional documents may be required for BSIS to ensure that all individuals who should undergo a background review are identified. For all private patrol operator business types, private investigator businesses organized as a limited liability company, and alarm company businesses organized as a limited liability company, a current Certificate of Liability Insurance as proof that the required insurance is being maintained is required.

Alarm and Repossession Qualified Manager: A complete application and DOJ/FBI criminal offender record information directly from DOJ is required. (Note: Private Patrol Operator and Private Investigator licenses types also require a qualified manager to be associated with the license. However, their respective practice acts do not authorize a separate certificate; they are simply a qualifier for the issuance and maintenance of the license). A qualified manager must satisfy specified experience or education requirements. Accordingly, proof of a postsecondary degree in specified subject areas may be required. Additionally, on a case-by-case basis, documentation may be requested if there are questions with the individual's experience information that is provided on the application.

23. Describe the Bureau's legal requirement and process for out-of-state and out-of-country applicants to obtain licensure.

There is no specific legal requirement for out-of-state and out-of-country applicants. Also, there are no license reciprocity provisions in any of the bureau-related practice acts.

Given that BSIS's jurisdiction ends at the state's borders, out-of-state and out-of-country applicants must establish California presence as a condition for the issuance and maintenance of the license. For company license types, this presence may be satisfied by establishing a branch office for those practice acts that authorize branch offices. Because the qualified manager for the company license must be actively in charge and in control of the California business, branch offices may be a satellite office where the qualified manager works or the qualified manager's residence. In both cases, business and employee records relating to California activities must be maintained at this location.

For those practice acts that do not authorize branch offices, out-of-state company applicants may need to establish a principal place of business in California and have this location licensed. When this is not feasible, the applicant may have the license issued to the out-of-state principal place of business and designate another location in California that will hold a separate license. Again, because the qualified manager must be actively in charge, the satellite office may be where the qualified manager works or the qualified manager's residence. Again, in both cases business and employee records relating to California activities must be maintained at this location.

The Private Investigator Act allows corporate or limited liability company licensees not to have in-state presence if the licensee provides a written statement that they are not actively carrying out private investigator licensed activity in this state.

24. Describe the Bureau's process, if any, for considering military education, training, and experience for purposes of licensing or credentialing requirements, including college credit equivalency.

a. Does the Bureau identify or track applicants who are veterans? If not, when does the Bureau expect to be compliant with BPC § 114.5?

Yes, all BSIS's paper applications, as well as security guard, proprietary private security officer, locksmith employee and alarm agent registration BreEZe applications inquire whether the applicant is currently, or has ever served, in the military. Company and firearms permit BreEZe applications do not contain the veteran inquiry as part of the online application script since these license types require a scanned copy of the application to be uploaded to the BreEZe record and the paper application contains the veteran question.

b. How many applicants offered military education, training, or experience toward meeting licensing or credentialing requirements, and how many applicants had such education, training, or experience accepted by the Bureau?

BSIS accepts military experience to satisfy specified experience required for licensure (see the answer to "c" below). BSIS does not track the number of applicants who have applied for licensure using military training or experience to satisfy licensure requirements. However, when an applicant seeks to use their military experience/training, BSIS verifies it as part of the determination process that it satisfies the statutory experience/training requirements for the applicable license type.

c. What regulatory changes has the Bureau made to bring it into conformance with BPC § 35?

BSIS made no regulatory changes relating to Business and Profession Code section 35 during the last four years. BSIS has statutory authority to recognize military experience from applicants to determine if their experience meets various licensure requirements. However, meeting the experience requirements does not provide an exemption from the examination requirement, when applicable.

d. How many licensees has the Bureau waived fees or requirements for pursuant to BPC § 114.3, and what has the impact been on Bureau revenues?

From fiscal year 2015-16 through fiscal year 2017-18, BSIS has waived fees or requirements for 34 licensees, causing minimal impact to BSIS revenue.

e. How many applications has the Bureau expedited pursuant to BPC § 115.5?

BSIS has not received any applications meeting the requirements of Business and Professions Code section 115.5.

25. Does the Bureau send No Longer Interested notifications to DOJ on a regular and ongoing basis? Is this done electronically? Is there a backlog? If so, describe the extent and efforts to address the backlog.

Yes, BSIS does send No Longer Interested notifications to DOJ. However, given the high number of Bureau licensees, the transient nature of the individuals dropping in and out of licensure, and the lag time for DOJ to process No Longer Interested requests, BSIS determined the potential of having DOJ process a No Longer Interested request after the person obtained a new license – which would result in BSIS not receiving subsequent arrest/conviction information – creates a significant gap in public safety and consumer protection. For this reason, BSIS carries out its No Longer Interested activities judiciously.

BSIS recently worked with the Department to have a large number of No Longer Interested requests processed for individuals who had not been licensed for several years through the BreEZe-DOJ No Longer Interested interface. BSIS continues to work with the Department's BreEZe coordinators to identify opportunities for expanding the use of the BreEZe-DOJ No Longer Interested interface for its inactive licensee population.

BSIS sends No Longer Interested notifications when it ascertains with a high degree of certainty that an individual is no longer eligible to renew or reinstate their license. Therefore, there is no backlog in the process.

Examinations

Table 8a. Examination Data			
Repossession Agency			
Exam Title		Repossessor Qualified Manager Licensing Examination – English Only	
		No. of Candidates	Pass Rate
FY 2014–15	First Attempt	11	91%
	Second Attempt	1	100%
	Third Attempt	0	0%

Table 8a. Examination Data			
Repossession Agency			
Exam Title		Repossessor Qualified Manager Licensing Examination – English Only	
		No. of Candidates	Pass Rate
	Fourth Attempt	0	0%
FY 2015–16	First Attempt	11	100%
	Second Attempt	0	0%
	Third Attempt	0	0%
	Fourth Attempt	0	0%
FY 2016–17	First Attempt	15	100%
	Second Attempt	0	0%
	Third Attempt	0	0%
	Fourth Attempt	0	0%
FY 2017–18	First Attempt	12	92%
	Second Attempt	1	100%
	Third Attempt	0	0%
	Fourth Attempt	0	0%
Date of Last Occupational Analysis		2017	
Name of Occupational Analysis Developer		Office of Professional Examination Services	
Target of Occupational Analysis Date		2024	

Table 8b. Examination Data			
Private Investigator			
Exam Title		Private Investigator Qualified Manager Licensing Examination – English Only	
		No. of Candidates	Pass Rate
FY 2014–15	First Attempt	290	74%
	Second Attempt	59	46%
	Third Attempt	34	29%
	Fourth Attempt	14	21%
FY 2015–16	First Attempt	195	78%
	Second Attempt	44	57%
	Third Attempt	20	45%
	Fourth Attempt	9	22%
FY 2016–17	First Attempt	259	78%
	Second Attempt	41	54%
	Third Attempt	10	30%
	Fourth Attempt	7	43%
FY 2017–18	First Attempt	261	77%
	Second Attempt	47	43%
	Third Attempt	15	33%
	Fourth Attempt	9	44%
Date of Last Occupational Analysis		2015	
Name of Occupational Analysis Developer		Office of Professional Examination Services	
Target of Occupational Analysis Date		2022	

Table 8c. Examination Data			
Private Patrol Operator			
Exam Title		Private Patrol Operator Qualified Manager Licensing Examination – English Only	
		No. of Candidates	Pass Rate
FY 2014–15	First Attempt	226	65%
	Second Attempt	81	54%
	Third Attempt	35	49%
	Fourth Attempt	15	33%
FY 2015–16	First Attempt	152	86%
	Second Attempt	44	52%
	Third Attempt	13	62%
	Fourth Attempt	6	50%
FY 2016–17	First Attempt	240	63%
	Second Attempt	70	43%
	Third Attempt	33	55%
	Fourth Attempt	17	53%
FY 2017–18	First Attempt	228	71%
	Second Attempt	60	48%
	Third Attempt	48	40%
	Fourth Attempt	8	50%
Date of Last Occupational Analysis		2012	
Name of Occupational Analysis Developer		Office of Professional Examination Services	
Target of Occupational Analysis Date		2019	

Table 8d. Examination Data			
Alarm Company			
Exam Title		Alarm Company Qualified Manager Licensing Examination – English Only	
		No. of Candidates	Pass Rate
FY 2014–15	First Attempt	45	73%
	Second Attempt	16	44%
	Third Attempt	9	22%
	Fourth Attempt	1	100%
FY 2015–16	First Attempt	70	70%
	Second Attempt	13	62%
	Third Attempt	2	50%
	Fourth Attempt	3	33%
FY 2016–17	First Attempt	57	49%
	Second Attempt	21	43%
	Third Attempt	9	89%
	Fourth Attempt	1	100%
FY 2017–18	First Attempt	58	60%
	Second Attempt	23	48%
	Third Attempt	8	63%
	Fourth Attempt	1	0%
Date of Last Occupational Analysis		2017	
Name of Occupational Analysis Developer		Office of Professional Examination Services	
Target of Occupational Analysis Date		2024	

26. Describe the examinations required for licensure. Is a national examination used? Is a California-specific examination required? Are examinations offered in a language other than English?

BSIS does not use a national examination, but requires a California-specific examination, developed by the DCA's Office of Professional Examination Services (OPES), for licensure as an alarm company operator, private patrol operator, private investigator, or repossession agency. Specifically, the qualified manager, who is the individual responsible for managing the day-to-day activities of the business for a licensee, must pass an exam for each of these license types. Below is a description of each examination:

- The Alarm Company Operator Qualified Manager examination consists of 100 multiple-choice questions focused on performing consultations, installations, service and repairs, management, monitoring, and false alarms.
- The Private Patrol Operator Qualified Manager examination consists of 100 multiple-choice questions focused on performing security services, management of records, employees, legal requirements, business administration, supervision, service agreements, screening, and training.
- The Private Investigator Qualified Manager examination consists of 150 multiple-choice questions focused on performing planning, information gathering, surveillance, analysis, reporting, trial preparation, and ethics.
- The Repossession Agency Qualified Manager examination consists of 100 multiple-choice questions focused on performing management duties, processing reports, release and disposal, and the statutory and regulatory requirements when carrying out repossession activities.

The following license types are subject to non-OPES related examination requirements:

- Security Guard Registration: Completion of BSIS Power to Arrest Training and passage of BSIS Power to Arrest Exam is a condition for issuance of a guard registration.
- Alarm Agent Registration: Alarm agents must complete BSIS Power to Arrest Training and pass BSIS Power to Arrest exam if their duties involve responding to triggered alarm systems. The training must be completed prior to the alarm company operator employer assigning the agent to the duty of responding to an alarm system.
- Firearms Permit: Passage of BSIS Firearms Written Exam with a score of 85 percent or greater is a condition for the initial issuance and renewal of a firearms permit.

Effective July 1, 2018, a Bureau security guard registrant applying for an initial Bureau Firearms Permit must also take and pass an assessment to demonstrate that he or she is capable, at the time the assessment is completed, of demonstrating appropriate judgment, restraint, and self-control for the purpose of carrying and using a firearm when performing security guard duties.

The specific assessment to be completed is the 16 Personality Factor Questionnaire, which is a personality test used in various setting including employers of protective services personnel (e.g., police officers, firefighters and security guards). However, scoring standards were established specific to the requirements specified in Business and Professions Code section 7583.47.

All exams (OPES and non-OPES) are only offered in English.

27. What are pass rates for first time vs. retakes in the past four fiscal years? (Refer to Table: Examination Data). Are pass rates collected for examinations offered in a language other than English?

All Bureau examinations, including the new firearms assessment, are only offered in English. BSIS has not received any requests for additional languages.

Repossession Agency

A 2011 exam version was administered for the past four years. The first-time passing rate for all four years has never been below 91 percent, with two years being at 100 percent. Further, all individuals who took the exam passed by the second attempt. The exact cause for such a high passage rate is unknown, although the small applicant population as well as the exam being so dated could be contributing factors. A new exam went into effect in July 2018. As of October 31, 2018, eight applicants have the new exam and the passage rate is 62.5 percent. This drop in the passing rate is typical when a new exam is implemented.

Private Investigator

A 2009 exam was administered in fiscal year 2014-15 and a 2015 exam was administered the remaining three years. In spite of the exam change, the first-time passage rate has been relatively consistent with the passage rate never dropping below 74 percent of those individuals who took the exam the second time, about half passed. Thereafter, the passage rate for the third and fourth attempts ran about 30 to 45 percent each. A new exam went into effect on November 1, 2018.

Private Patrol Operator

A 2014 exam was administered in fiscal year 2014-15, fiscal year 2015-16 and most of fiscal year 2016-17. Thereafter, a 2017 exam was administered. The average annual first-time passage rate has fluctuated between 65 to 86 percent. About half the individuals who took the exam a second time passed. The third and fourth attempts also ran an average of about 50 percent

Alarm Company Operator

A 2009 exam was administered all four years. The average first-time passage rate was 63 percent with a high of 75 percent and a low of 49 percent. About half of the individuals who took the exam a second time passed and about half of the individuals who took the exam a third time passed. Very few individuals take the test a fourth time; therefore, the passage rate for the fourth attempt has a wide range of outcomes.

Firearms Assessment

Effective July 1, 2018, a security guard registrant seeking a firearms permit must complete an assessment to demonstrate that they possess, at the time of completing the assessment, appropriate judgment, restraint and self-control to carry and use a firearm while performing armed security guard services. Due to the six to eight-week application processing times, BSIS began issuing notices to applicants to schedule their assessment appointments the beginning of September 2018 and PSI Services LLC, the vendor on contract to administer the assessments, began administering the assessment on September 10, 2018. From this date through October 31, 2018, about 420 individuals have completed the assessment with the passage rate of approximately 87 percent.

28. Is the Bureau using computer-based testing? If so, for which tests? Describe how it works. Where is it available? How often are tests administered?

Qualified Manager Exams

BSIS contracts with a private testing service, Psychology Services LLC, to administer computer-based examinations with paper and pencil exams available to those candidates who require special accommodations.

BSIS notifies Psychology Services LLC of the qualified manager applicant's eligibility to sit for the respective examination. Psychology Services LLC mails the applicant the applicable study materials and advises him or her on the process for scheduling the exam. Exam candidates may use Psychology Services LLC online registration and scheduling feature or call a toll-free number to schedule their test. Psychology Services LLC has 17 California-based and 22 out-of-state testing sites where qualified manager exam are administered. Each test site employs proctors for the exam and provides candidates a designated space with a computer terminal to take their test. Psychology Services LLC offers testing six days a week (Monday–Saturday), year-round, except on major holidays.

If a candidate fails the examination, he or she is eligible to retake the exam upon payment of the re-examination fee to BSIS. If a qualified manager applicant fails to pass the exam within one-year of being deemed eligible to take it, the application is abandoned by operation of law, and the individual must submit a new application.

Firearms Assessment

BSIS contracted with Psychology Services LLC to administer the firearms assessment. Psychology Services LLC has 23 California test sites where the assessment is administered. Each test site employs proctors for the exam and provides candidates a designated space with a computer terminal to take their test. Psychology Services LLC offers testing six days a week (Monday–Saturday), year-round, except on major holidays.

29. Are there existing statutes that hinder the efficient and effective processing of applications and/or examinations? If so, please describe.

Current law (Business and Professions Code sections 7583.25 and 7596.81) requires that a firearms permit not be renewed until BSIS receives notification from DOJ that the permitholder is not prohibited from possessing a firearm. Toward this end, the permitholder completes and submits a DOJ Firearms Qualification Applicant Form with BSIS Firearms Permit Renewal Application. BSIS staff forwards the Firearms Qualification Applicant Form via U.S. Mail to DOJ to research whether the permitholder has undergone a triggering event in another state, or due to federal law, that would prohibit them from possessing a firearm. The law requires DOJ to provide BSIS a response within 30 days of receipt. However, this turnaround time often is not feasible.

Operationally, BSIS automatically receives notification from DOJ any time a permitholder is determined to be prohibited from possessing a firearm. Accordingly, the Firearms Qualification Applicant form renewal requirement is not the only means by which BSIS is made aware of a firearms prohibition on a permitholder.

BSIS believes continuing to require the firearms permit renewal applicant to complete and

submit a DOJ Firearms Qualified Application form is needed to promote public safety but would be open to exploring with the Committees whether the actual renewal of the permit should be held up pending DOJ response. It should be noted that if the permit is renewed and DOJ notifies BSIS that the permitholder has a firearms prohibition, BSIS has statutory authority to automatically revoke the firearms permit.

School Approvals

30. Describe legal requirements regarding school approval. Who approves your schools? What role does BPPE have in approving schools? How does the Bureau work with BPPE in the school approval process?

BSIS certifies firearm and baton training facilities, which may include a school. Additionally, BSIS approves organizations and schools to provide security guard skills training,

Security Officer Skills Training Providers – Proprietary Security Services Officer

Business and Professions Code section 7574.18 specifies that the security officer skills training that a proprietary private security officer must complete may be administered by any proprietary private security employer, organization, or school approved by BSIS.

A proprietary private security employer, organization, or school that wants to provide the training must submit a letter to BSIS with a request to this effect. The letter must include the name of the proprietary private security employer, organization, or school, a brief explanation as to why it would like to be a training provider, the location where the training will take place, the location where all training records will be maintained, and the names and resumes for all related instructors. BSIS's process for reviewing an application for a proprietary private security employer includes ensuring it is currently registered with BSIS. BSIS's process for reviewing an organization or school application includes a general internet search on the entity. For school applicants, BSIS checks for BSIS of Private Postsecondary Education (BPPE) licensure or accreditation through the Accrediting Commission for Schools Western Association of Schools and Colleges or other accreditation sites depending on the kind of school.

Security Officer Skills Training Facilities – Security Guards

Business and Professions Code Section 7583.6 specifies that the training a security guard must complete may be administered by any private patrol operator, or by any organization or school approved by BSIS. A private patrol operator may provide the required training to its own security guard employees without having to be approved by BSIS. Bureau firearm and baton training facilities also may provide the required training without the additional approval specified in Section 7583.6. An organization or school seeking to provide the training must submit a letter to BSIS with a request to this effect. The letter must include the name of the organization or school, a brief explanation as to why it would like to be a training provider, the location where the training will take place, the location where all training certification records will be maintained, and the names and resumes for all related instructors. BSIS's process for reviewing an organization or school application includes a general internet search on the entity. For school applicants, BSIS checks for BPPE licensure or accreditation through the Accrediting Commission for Schools Western Association of Schools and Colleges (ACS WASC) or other accreditation sites depending on the kind of school with BSIS's approval contingent on whether the school is in compliance, and in good standing, with any licensure or accreditation requirements.

Firearm Training Facilities

Business and Professions Code section 7585.3 specifies that any institution, firm, or individual seeking BSIS's certification as a firearms training facility must complete an application that includes: the name and location of the entity; the places, days, and times the course will be offered; an estimate of the minimum and maximum class size; the location and description of the range facilities; and the names and certificate numbers of bureau-certified firearms training instructors who will teach the course. In addition, each owner or principal of the training facility business must complete a Bureau personal identification application form, pay the specified certification fee, and submit fingerprints.

Pursuant to sections 7585 and 7585.6, the initial and continued education firearms training course offered by a bureau-certified firearms training facility must comply with the content and format specified in BSIS's *Firearms Training Manual*. However, the firearm training facility is not required to provide its specific course materials to BSIS for approval.

Baton Training Facilities

Business and Professions Code section 7585.11 specifies that any institution, firm, or individual seeking BSIS's certification as a baton training facility shall complete an application that includes: the name and location of the institution, firm or individual; the places, days, and times the course will be offered; an estimate of the minimum and maximum class size; the location and description of the facilities; and the names and certificate numbers of bureau-certified baton training instructors who will teach the course. In addition, each owner or principal of the training facility business must complete a personal identification application form, pay the specified certification fee, and submit fingerprints.

Pursuant to sections 7585.9 and 7585.13, the baton training course offered by a Bureau-certified baton training facility must comply with the content and format specified in BSIS's *Baton Training Manual*. However, the baton training facility is not required to provide its specific course materials to BSIS for approval.

Bureau for Private Postsecondary Education

Under BSIS's law, a bureau-certified firearm or baton training facility, or bureau-approved school that provides training to proprietary private security officers or security guards does not need to be approved by BPPE in order to obtain BSIS's certification or approval, unless BPPE's law requires that they be approved. BSIS posts on its website FAQs advising bureau-certified firearm and baton training facilities that they may be required to seek approval to operate from BPPE pursuant to California Education Code section 94874(f), if one of the following conditions apply:

1. Students who receive their training using state or federal student and veterans financial aid programs to pay for it or;
2. Total charges for any set of training courses they provide exceed \$2,500.

31. How many schools are approved by the Bureau? How often are approved schools reviewed? Can the Bureau remove its approval of a school?

BSIS regulates firearms training facilities and baton training facilities that administer the training for a Bureau baton permit or firearms permit. The Proprietary Security Services Act specifies that the training a proprietary private security officer must complete may be administered by a proprietary private security employer, organization or school approved by BSIS. The Private Security Services Act specifies that the training a security guard must

complete may be administered by any private patrol operator licensee or an organization or school approved by BSIS. The law does not require a private patrol operator to notify BSIS if it is providing the security guard training to its employees nor to monitor the background/education of the individuals designated by the private patrol operators to provide training.

The following are the number of proprietary private security officers and security guard approved trainers, and the number of certified firearm and baton training facilities as of June 30, 2018:

Proprietary Private Security Officer Approved Trainers

Schools/Colleges 2

Proprietary Private Security Employers/Organizations 125

Note: BSIS does not separately track proprietary private security employer registrants and organizations providing proprietary private security officer skills training.

Security Guard Training

Schools/Colleges 85

Private Patrol Operators/Organizations 187

Note: BSIS does not separately track private patrol operator licensees and organizations providing security guard skills training.

Baton Training Facilities 173

Firearms Training Facilities 335

There is no statutory requirement for BSIS to inspect the approved schools or organizations providing the proprietary private security officer training or security guard training, or baton training facilities; however, they may be inspected as part of an investigation. Also, there isn't a statutory requirement for BSIS to inspect a private patrol operator licensee. However, BSIS routinely conducts random compliance inspections as well as inspects them as part of investigations. BSIS is statutorily mandated to inspect a firearms training facility within 120 days of initial certification and to maintain a program of random and targeted inspections of them.

BSIS has the statutory authority to suspend or revoke a firearm/baton training school's certification and a private patrol operator license for violations of the law. Also, BSIS has the ability to cancel the approval of an approved trainer.

32. What are the Bureau's legal requirements regarding approval of international schools?

BSIS has no legal requirements regarding international schools.

Continuing Education/Competency Requirements

33. Describe the Bureau's continuing education (CE)/competency requirements, if any. Describe any changes made by the Bureau since the last review.

BSIS has made no changes to CE requirements since the last review. With the exception of the license types listed below, Bureau licensees are not required to complete CE.

Proprietary Security Services Officer Registrants

A proprietary private security officer must complete 16 hours of security officer skills training within six months of being registered and commencing employment. A private security employer must provide its proprietary private security officers two (2) hours of annual CE in proprietary security guard skills training. Bureau regulations detail the courses for the 16-hour training. The annual CE may repeat any of the courses relating to the 16-hour training or involve other applicable security officer training. The training may be administered by the proprietary private security employer or by a bureau-approved school or organization and the entity that provides the training is required to issue a certificate of completion to the proprietary private security officer.

Security Guard Registrants

A security guard registrant must complete 32 hours of security guard training within six months of being registered. A private patrol operator (PPO) must provide its security guard employees eight hours of training on security officer skills annually. Bureau regulations detail mandatory and elective courses that may be completed for the 32-hour training. The annual CE may repeat any of the courses relating to the 32-hour training or involve other applicable security guard training. The training may be administered by the PPO or by a bureau-approved school or organization and the entity providing the training is required to issue a certificate of completion to the security guard.

Firearms Permit Renewal

To renew a firearms permit the holder must complete four range qualifications as follows: two range qualifications during each 12-month period of the permit's two-year term with no two range qualifications completed closer than four months apart. In addition, during each qualification the permitholder must complete a two-hour course on use of force and de-escalation of force with passage of the same written exam required for the initial permit required during one of the qualification sessions.

- a. How does the Bureau verify CE or other competency requirements? Has the Bureau worked with the Department to receive primary source verification of CE completion through the Department's cloud.**

Proprietary Security Services Officer Registrants: The Proprietary Security Services Act does not require proprietary private security officers to submit proof of CE completion to BSIS as a condition of a proprietary private security officer's registration renewal. However, their employers (proprietary private security employers) are required to maintain records verifying completion of the CE training for a minimum of two years and to make those records available for inspection by BSIS upon request.

Security Guard Registrants: The Private Security Services Act does not require security guards to submit proof of CE completion. However, their employers (Private Patrol Operators) are required to maintain records verifying completion of training for a minimum of two years and to make those records available for inspection by BSIS upon request. The Act requires a security guard to attest on the registration renewal form that they have completed the 32-hour training required within six months of initial registration. The Act does not authorize BSIS to require security guard renewal applicants to attest to CE completion on the security guard renewal application.

Firearms Permitholders: The bureau-certified instructor who administered the re-qualification training is required to sign the permitholder's renewal application attesting that the individual completed the required training and qualified on the range with a minimum score of 80 percent.

There is no legal authority for BSIS to require security guard and proprietary security services officer registrants to provide proof of CE completion to BSIS; consequently, it does not use the DCA's cloud for proof of CE completion. BSIS is exploring how the DCA's cloud may be used relating to the training required for renewal a firearms permit.

b. Does the Bureau conduct CE audits of licensees? Describe the Bureau's policy on CE audits.

BSIS does not conduct CE audits. The law places the duty of a proprietary private security officer registrant or a security guard registrant completing the required CE on the employer. As part of a routine compliance inspection or investigation of a private patrol operator, BSIS requests training records for its employees. Because the primary functions and duties of proprietary private security employers are essentially outside BSIS's purview (they are not private security businesses but bars, restaurants, sports and entertainment venues, hotels, etc.), the Proprietary Security Services Act provides few regulatory requirements. Accordingly, BSIS does not routinely inspect proprietary private security employers. However, if an investigation involves a proprietary private security employer, BSIS may request training records for its proprietary private security officer employees.

c. What are consequences for failing a CE audit?

BSIS does not conduct CE audits. If an inspection or investigation reveals that a private patrol officer or proprietary private security employer is not able to provide training records for its employees, BSIS's courses of action include a formal letter of education, issuance of a citation and fine, civil penalty in lieu of revocations, and an Accusation to revoke the license.

d. How many CE audits were conducted in the past four fiscal years? How many fails? What is the percentage of CE failure?

BSIS does not conduct CE audits. See Item h for information on compliance inspections of specified CE providers.

e. What is the Bureau's course approval policy?

Security Guards and Proprietary Private Security Officers

BSIS does not approve specific courses but has established training outlines by regulation (Title 16, Division 7, sections 643 and 645) for the respective trainings. The outlines provide both mandatory and elective courses and delineate specific topics to be included in each course.

Firearm Training

Business and Professions Code section 7585 prescribes the general subject areas and activities for the training required to obtain a BSIS firearms permit. BSIS regulations provide a course outline of the specific subjects and activities that must be covered in the training course to obtain and renew a BSIS firearms permit (Title 16, Division 7, sections 633 and 635). BSIS's *Firearms Training Manual* details the specific course content for the training required to obtain and renew a BSIS firearms permit. All bureau-certified firearm training instructors must carry out the training to obtain and renew a BSIS firearms permit in accordance with the manual's instructions and content.

Baton Training

BPC section 7585.9 prescribes the general subject areas and activities for the training required to obtain a BSIS baton permit. BSIS's *Baton Training Manual* details the specific course content for the training required to obtain a BSIS baton permit. All bureau-certified baton training instructors must carry out the training in accordance with the *Manual's* instructions and content.

f. Who approves CE providers? Who approves CE courses? If the Bureau approves them, what is the application review process?

See question 30 for BSIS's approval process for entities seeking to provide continuing security officer skills training to security guards and proprietary security services officers as well as the certification of firearms training facilities and firearms training instructors.

BSIS does not approve CE courses for security guards and proprietary security services officers. BSIS regulations outline the general course subject areas. The training required to renew a BSIS firearms permit must comply with the re-qualification training specified in BSIS regulations and BSIS's *Firearms Training Manual*.

g. How many applications for CE providers and CE courses were received? How many were approved?

	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
Approved Trainers Guards Received	9	17	12	13
Approved Trainers Guards Approved	5	8	9	8
Approved Trainers PPSO Received	9	5	5	11
Approved Trainers PPSO Approved	5	2	5	6
Firearms Training Facility	32	15	23	26
Firearms Training Instructor	55	41	39	52

h. Does the Bureau audit CE providers? If so, describe the policy and process.

BSIS does not conduct routine audits of approved trainers or baton training facilities. However, when carrying out an investigation of an approved trainer or baton training facility, BSIS staff will review training records.

As required by law, BSIS conducts a compliance inspection of a newly-certified firearms training facility within 120 days of initial certification. Thereafter, BSIS strives to conduct a random compliance inspection of each facility every four years, with follow-ups more frequently if warranted. This inspection rate aligns with two facility inspections monthly.

BSIS also routinely conducts compliance inspections of private patrol operators. Additionally, BSIS inspects training records in the course of an investigation, including

violent incident reports or firearm discharge reports, relating to training facilities, private patrol operators and proprietary private security employers. BSIS conducted 414 compliance inspections in the past four fiscal years with over 85 percent being firearms training facilities and private patrol operators.

- i. **Describe the Bureau's effort, if any, to review its CE policy for the purpose of moving toward performance-based assessments of the licensee's continuing competence.**

BSIS has not conducted any review of its CE policy as it relates to the continuing competency of its licensees.

Current law places the responsibility for ensuring that proprietary security services officers and security guards complete their required CE training and, accordingly, their continuing competence, on their respective employers. Current law precludes the renewal of a firearms permit if the applicant failed to complete the required qualification training as required by law and BSIS regulation.

Section 5 Enforcement Program

- 34. What are the Bureau's performance targets and expectations for its enforcement program? Is the Bureau meeting those expectations? If not, what is it doing to improve performance?**

BSIS's enforcement activities include the issuance of a citation and fine, civil penalty in lieu of revocations, revocation, and suspension. The Private Security Service Act gives BSIS the authority to automatically suspend guard registrations (Business and Professions Code section 7583.21). The Locksmith Act authorizes BSIS to automatically suspend locksmith licenses and locksmith registrations (BPC § 6980.73). The Alarm Company Act authorizes BSIS to automatically suspend alarm company operator licenses, alarm company qualified manager certificates, and alarm agent registrations (BPC section 7591.8).

BSIS's performance targets and expectations coincide with those standards created under the DCA's Consumer Protection Enforcement Initiative (CPEI), as follows:

- Intake: Average time to process complaints from receipt to the date the complaint was assigned to an investigator.
Target: 10 days
 - a. FY 2014-15 average cycle time: 5 days
 - b. FY 2015-16 average cycle time: 4 days
 - c. FY 2016-17 average cycle time: 5 days
 - d. FY 2017-18 average cycle time: 10 days
- Intake and Investigation: Average cycle time from complaint receipt to closure of the investigation process. This measurement does not include cases sent to the Attorney General or other forms of formal discipline.
Target: 120 days
 - a. FY 2014-15 average cycle time: 116 days

- b. FY 2015-16 average cycle time: 104 days
- c. FY 2016-17 average cycle time: 173 days
- d. FY 2017-18 average cycle time: 153 days

The above cycle times include those cases referred to the DCA's Division of Investigation (DOI), which generally take longer to complete given their complexity.

BSIS's implementation of BreEZe in fiscal year 2015-16, high staff turnover, and new statutory requirements led to increased timelines beginning in fiscal year 2016-17. With BreEZe fully implemented, staff becoming more proficient, and BSIS's implementation of new processes (e.g., abridged investigations of suspended private patrol operators for failure to maintain the required insurance), BSIS hopes to be back to its targeted time sometime in fiscal year 2019-20.

- **Formal Discipline:** Average number of days to complete the entire enforcement process for cases resulting in formal discipline (includes intake and investigation by BSIS and Prosecution by the Attorney General).
Target: 540 days
 - a. FY 2014-15 average cycle time: 404 days
 - b. FY 2015-16 average cycle time: 384 days
 - c. FY 2016-17 average cycle time: 584/1,084 days¹
 - d. FY 2017-18 average cycle time: 796 days¹
- **Probation Intake:** Average number of days from Monitor assignment, to the date the Monitor makes first contact with the probationer.
Target: 14 days
 - a. FY 2014–15 average cycle time: 6 days
 - b. FY 2015–16 average cycle time: 10 days
 - c. FY 2016–17 average cycle time: 5 days
 - d. FY 2017–18 average cycle time: 10 days
- **Probation Violation Response:** Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action
Target: 14 days
 - a. FY 2014–15 average cycle time: 6 days
 - b. FY 2015–16 average cycle time: 26 days
 - c. FY 2016–17 average cycle time: 10 days
 - d. FY 2017–18 average cycle time: 5 days

BSIS's efforts to improve the performance of the Enforcement Unit activities include:

- More robust complaint intake process focusing on obtaining more information up front before assigning complaints for investigation to help reduce the total investigation time.

¹ 584 excludes cases with greater than average number of continuances and appeals; 1,084 is all cases. The amount of time for the OAG to prosecute a case through to final adjudication is outside of the Bureau's control. Further, the time it takes for the Office of Administrative Hearing to schedule a hearing date is outside the OAG's control. For FY 2017-18, the 796 cases reflect a reduction from the previous fiscal year.

- Increased training and development for new enforcement staff and increased number of one-on-one meetings between management and staff to provide guidance on investigations and reduce aged cases and backlogs.
- Developed a simple, abridged investigation process to address the much higher than projected liability insurance non-compliance rate by private patrol operators and hiring student assistants to carry out them out.
- Exploration of need for a second enforcement manager, as well as other enforcement staff due to the recent growth of the Enforcement Unit up on redirection of the DCA's Complaint Resolution staff and new mandates.

35. Explain trends in enforcement data and the Bureau's efforts to address any increase in volume, timeframes, ratio of closure to pending cases, or other challenges. What are the performance barriers? What improvement plans are in place? What has the Bureau done and what is it going to do to address these issues; i.e., process efficiencies, regulations, BCP, legislation?

The number of complaints received by BSIS and the number of investigations completed has remained steady from fiscal year 2015-16 to fiscal year 2017-18. In fiscal year 2015-16, BSIS had to shift resources to prepare for the successful launch of BreEZe and to train staff on using a new system. This temporary shift in staff resources extended investigation times and resulted in case aging and a backlog. Management worked closely with staff throughout fiscal year 2016-17 to help them identify strategies for addressing the aged cases.

One of the biggest challenges the Enforcement Unit has faced is staff turnover due to retirements or promotions. During the past four years, over half of the analysts who conduct field investigations left and the enforcement manager position has transitioned twice. Staff turnover inherently results in case aging and increased investigation times. BSIS hires new staff as soon as possible, but training on the laws of the practice acts to complete accurate and timely investigations takes time. Further, BSIS's regulation of seven distinctive professions involving 20 license types via six different practice acts creates unique challenges for all enforcement staff.

New mandates have impacted BSIS's enforcement workload. For example, the rate of non-compliance with the new insurance requirement by private patrol operator licensees (AB 2220, Daly, Chapter 423, Statutes of 2014) continues to exceed the originally projected 2 percent the actual rate is between 15 percent to 18 percent despite subsequent legislation requiring BSIS be listed as a certificate holder on the policy. To address this workload, BSIS developed an abridged investigation and hired student assistants to assist with these efforts. The purpose of the abridged investigation is to determine if the private patrol operator licensee is continuing to do business on a suspended license; if yes, the case is referred to an enforcement analyst for a full investigation.

In addition, SB 1196 (Hill, Chapter 800, Statutes of 2016) mandated BSIS to inspect newly licensed firearm training facilities within 120 days of licensure and to maintain a program of random and targeted inspections of the facilities to ensure compliance with applicable laws is increasing the overall enforcement workload. Initially, BSIS absorbed this function and is now evaluating workload for increasing enforcement staff.

In addition, BSIS developed BreEZe procedural manuals to assist staff with carrying out these activities and has been developing policy reference documents.

Table 9. Enforcement Statistics				
	FY 14–15	FY 15–16	FY 16–17	FY 17–18
COMPLAINT				
Intake				
Received	2,546	1,536	1,587	1,779
Closed without Assignment	139	471	420	507
Referred to Investigation	2,900	1,042	1,159	1,297
Average Time to Assign	5	4	5	9
Pending (Close of FY)	65	127	143	98
Source of Complaint				
Public (Includes Anonymous Complaints)	1,249	901	831	823
Licensee/Professional Groups/Industry	150	186	224	233
Governmental Agencies	1,614	1,701	1,367	1,628
Other	9	12	27	29
Conviction/Arrest				
Conviction Received	21,128	21,565	20,964	23,860
Conviction Closed	20,300	20,894	21,096	22,430
Average Time to Close	41	59	48	40
Conviction Pending (Close of FY)	110	671	539	1,969
LICENSE DENIAL				
License Applications Denied	2,216	1,349	2,299	2,224
Statement of Issues Filed	28	14	7	38
Statement of Issues Withdrawn	5	1	2	2
Statement of Issues Dismissed	0	0	0	0
Statement of Issues Declined	0	0	0	0
Average Days Statement of Issues	249	197	386	492
ACCUSATION				
Accusations Filed	24	40	26	40
Accusations Withdrawn	4	10	3	3
Accusations Dismissed	0	0	2	0
Accusations Declined	5	3	3	0
Average Days Accusations	652	503	586	608
Pending (Close of FY)	107	102	149	193

Table 9. Enforcement Statistics				
	FY 14–15	FY 15–16	FY 16–17	FY 17–18
DISCIPLINE				
Disciplinary Actions				
Proposed/Default Decisions	79	61	41	38
Stipulations	8	6	4	15
Average Days to Complete	247	565	584	746
AG Cases Initiated	55	91	86	179
AG Cases Pending (Close of FY)	101	103	217	246
Disciplinary Outcomes				
Revocation	177	102	172	196
Voluntary Surrender	2	1	1	4
Suspension/Auto Suspension	805	638	470	851
Probation with Suspension	0	0	0	0
Probation	7	4	9	15
Probationary License Issued	0	0	0	0
Other	29	20	0	0
PROBATION				
New Probationers	29	11	14	16
Probations Successfully Completed	52	15	7	8
Probationers (Close of FY)	51	45	27	33
Petitions to Revoke Probation	0	2	0	0
Probations Revoked	11	1	0	0
Probations Modified	0	0	0	0
Probations Extended	0	0	0	0
Probationers Subject to Drug Testing	1	1	1	1
Drug Tests Ordered	2	3	5	0
Positive Drug Tests	0	0	0	0
Petition for Reinstatement Granted	0	0	0	0
DIVERSION				
New Participants	NA	NA	NA	NA
Successful Completions	NA	NA	NA	NA
Participants (Close of FY)	NA	NA	NA	NA

Table 9. Enforcement Statistics				
	FY 14–15	FY 15–16	FY 16–17	FY 17–18
Terminations	NA	NA	NA	NA
Terminations for Public Threat	NA	NA	NA	NA
Drug Tests Ordered	NA	NA	NA	NA
Positive Drug Tests	NA	NA	NA	NA
INVESTIGATION				
All Investigations				
First Assigned ¹	15,017 ²	8,153	6,401 ³	5,547
Closed ¹	14,782 ²	6,726	5,760 ³	5,360
Average Days to Close	116	104	173	134
Pending (close of FY)	1,712	1,779	2,600	2,572
Desk Investigations				
Closed ¹	13,677 ²	5,609	4,770 ³	4,766
Average Days to Close	30	36	42	40
Pending (Close of FY)	1,113	1,321	1,794	1,749
Nonsworn Investigation				
Closed	1,196	502	747	538
Average Days to Close	97	145	292	359
Pending (Close of FY)	593	435	779	801
Sworn Investigation				
Closed	7	14	29	24
Average Days to Close	213	80	220	246
Pending (Close of FY)	6	23	27	22
COMPLIANCE ACTION				
Interim Suspension Order & Temporary Restraining Order Issued				
PC 23 Orders Requested	2	3	36	24
Other Suspension Orders	0	0	0	0
Public Letter of Reprimand	0	0	0	0
Cease & Desist/Warning	0	0	0	0
Referred for Diversion	0	0	0	0
Compel Examination	0	0	0	0

Table 9. Enforcement Statistics				
	FY 14–15	FY 15–16	FY 16–17	FY 17–18
CITATION AND FINE				
Citations Issued	16	47	112	62
Average Days to Complete	141	218	278	297
Amount of Fines Assessed	\$17,187	\$32,682	\$159,740	\$116,274
Reduced, Withdrawn, Dismissed	\$12,925	\$5,285	\$4,200	\$250
Amount Collected	\$5,407	\$10,370	\$36,257	\$38,824
CRIMINAL ACTION				
Referred for Criminal Prosecution	10	5	0	1
<p>1 Data includes application investigations, including denials and open/close cases (applicant has a rap sheet, but the conviction(s) is not substantially-related, so the license is issued). The data also includes cases opened because of subsequent conviction(s) received on a licensee and a case must be opened to capture the automatic suspension of the license for those license types where BSIS has such authority.</p> <p>2 The higher number of investigations is attributable to BSIS reducing the backlog of open/close cases in preparation for our transition to BreZE (see prior footnote for explanation on what constitutes an open/close case).</p> <p>3 The decreased number of investigations is attributable to BSIS changing its business process for handling open/close cases (see footnote 1 for explanation on what constitutes an open/close case). Due to the significant workload associated with open/close cases, BSIS determined it was more cost-effective not to initiate a case for minor convictions.</p>				

Table 10. Enforcement Aging						
	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18	Cases Closed	Average Percent
Attorney General Cases (Average Percent)						
Closed Within:						
1 Year	193	17	10	4	224	47.46%
2 Years	31	33	36	37	137	29.02%
3 Years	19	25	12	24	80	16.95%
4 Years	7	9	7	1	24	5.08%
Over 4 Years	0	6	0	1	7	1.48%
Total Cases Closed	250	90	65	67	472	99.99%
Investigations (Average Percent)						
Closed Within:						
90 Days	3,899	5,008	2,610	2,933	14,450	63.79%
180 Days	1,519	556	1,196	1,537	4,808	21.22%
1 Year	793	227	672	531	2,223	9.81%
2 Years	250	115	314	252	931	4.11%
3 Years	19	11	63	80	173	0.76%
Over 3 Years	7	9	29	24	69	0.30%
Total Cases Closed	6,487	5,926	4,884	5,357	22,654	99.99%

36. What do overall statistics show as to increases or decreases in disciplinary action since last review.

Overall statistics show that disciplinary actions have remained steady since BSIS's last sunset review. BSIS continues to utilize its automatic suspension authority on those license types for which it has such authority, which significantly reduces the number of administrative filings. With the addition of two new Disciplinary Review Committees (Private Investigator and Collateral Recovery) effective July 1, 2017, this timelier alternate appeal process for application denials, automatic suspension of a license, and issuance of a fine is now available to a greater number of Bureau applicants and licensees.

BSIS continues to utilize the administrative process for denials that require a Statement of Issues and egregious violations that warrant an Accusation for revocation. BSIS refers cases to the Office of the Attorney General but has no control over the time it takes to prepare pleadings and serve documents. BSIS has been working with the Office of the Attorney General on strategies that can be implemented on BSIS's end to assist in expediting the process.

37. How are cases prioritized? What is the Bureau's compliant prioritization policy? Is it different from the DCA's *Complaint Prioritization Guidelines for Health Care Agencies* (August 31, 2009)? If so, explain why.

BSIS uses the *Complaint Prioritization Guidelines for DCA Agencies Regulating Business Services, Design, and Construction (Business Services Guidelines)*. Similar to the Health Care guidelines, the *Business Services Guidelines* have three priority levels—Urgent, High, and Routine—to guide BSIS in identifying the urgency of the investigation. Examples of cases involving a high priority include allegations involving sexual or physical abuse, weapon violations, and felony convictions.

BSIS prioritizes cases using public and consumer protection as the first and foremost criteria, and those cases with the highest potential for public harm are most expeditiously addressed. BSIS allocates its resources so cases involving fraud and dishonesty, unlicensed activities, and illegal or unethical behavior are also addressed with appropriately and timely. BSIS triages complaints to determine which ones should be handled by complaint resolution staff, which should be handled by the DCA's Division of Investigation, and which should be handled by BSIS enforcement staff.

38. Are there mandatory reporting requirements? For example, requiring local officials or organizations, or other professionals to report violations, or for civil courts to report to the Bureau actions taken against a licensee. Are there problems with the Bureau receiving the required reports? If so, what could be done to correct the problems?

Business and Professions Code section 7583.4 requires a security guard registrant and his or her employer private patrol operator licensee to file an incident report with BSIS, within seven days of the incident, when the security guard discharges his or her firearm while on duty. BCP section 7583.2 specifies that it is a violation of the Private Security Services Act for a private patrol operator licensee to fail to file with BSIS an incident report involving the licensee, its qualified manager or a security guard employee, relating to the discharge of a firearm or a physical altercation under specified conditions, within seven days of the incident. BCP section 7507.6 requires Repossessor Agencies to file an incident report with BSIS when an act of violence occurs involving a licensee, its qualified manager, or one of its registrants that requires law enforcement to respond. BCP section 7599.42 requires an

alarm company operator licensee or the licensee's qualified manager to file a report with BSIS relating to a violent incident involving a deadly weapon, including the discharge of a firearm involving the licensee, the licensee's qualified manager, or the licensee's alarm agent employee within seven days of the incident.

It is unknown how many of these violent incidents that meet the criteria for reporting are not reported to BSIS because this process depends upon self-reporting. However, if an incident rises to the level of a licensee/qualified manager/registrar being arrested, BSIS should receive a subsequent arrest report from DOJ. Additionally, BSIS is frequently made aware of firearm discharge incidents involving a licensee by local law enforcement and through media articles.

a. What is the dollar threshold for settlement reports received by the Bureau?

With the following exception, there is no threshold for settlement reports received by BSIS. In regards to civil court judgments, Business and Professions Code section 7507.7 mandates a Repossessor Agency licensee to notify BSIS of a final civil court judgment filed against the licensee or any officer, partner, qualified certificate holder, or registrant of a licensee, for an amount of more than the then prevailing maximum claim that may be brought in a small claims court pertaining to an act done within the course and scope of his or her employment or contract. BCP section 7599.43 mandates an alarm company operator licensee to notify BSIS when it receives a final civil court judgment order filed against the licensee or its employee for an amount greater than \$500.00. BSIS does not track settlement amounts given that these notifications are rarely received. If a notice is received, it is filed with the licensee's record. If the basis for the civil action involved possible violations of the practice act, BSIS would open an investigation.

b. What is the average dollar amount of settlements reported to the Bureau?

To date, BSIS is unaware of any settlements being reported as this process depends upon self-reporting.

39. Describe settlements the bureau, and Office of the Attorney General on behalf of the bureau, enter into with licensees.

a. What is the number of cases, pre-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

BSIS does not settle cases prior to the filing of an Accusation. BSIS can enter into stipulated settlements with licensee(s) once an Accusation has been served.

b. What is the number of cases, post-accusation, that the board settled for the past four years, compared to the number that resulted in a hearing?

Negotiated settlements generally include license revocation stayed in favor of probation with specified terms and conditions of probation and in some cases, cost recovery. Licensees also have the ability to appeal citations and the assessment of fines through the administrative process. In some cases, the Office of the Attorney General will work with the Respondent on negotiating settlements for citations. Negotiated settlements of citations generally include a reduction in the fine amount.

In the past four years, BSIS settled 33 cases post-accusation and 151 cases resulted in an actual administrative hearing.

c. What is the overall percentage of cases for the past four years that have been settled rather than resulted in a hearing?

Approximately 18 percent of the cases are settled in lieu of a hearing.

40. Does the Bureau operate with a statute of limitations? If so, please describe and provide citation. If so, how many cases have been lost due to statute of limitations? If not, what is the Bureau's policy on statute of limitations?

BSIS has no statute of limitations on enforcement actions.

41. Describe the Bureau's efforts to address unlicensed activity and the underground economy.

Unlicensed activity cases are difficult to investigate because the businesses and individuals are operating in a manner to elude regulatory oversight. In addition, complainants often lack sufficient identifying information about the unlicensed individual or business to enable BSIS to pursue the issue. Despite these challenges, BSIS continues to explore opportunities to combat unlicensed activities in the private security businesses it regulates.

Because an informed consumer is the best deterrent to unlicensed locksmith and alarm company activities, BSIS has worked with its Advisory Committee to update its locksmith and alarm consumer brochures. BSIS has also worked with the Committee to develop a new brochure for law enforcement personnel relating to the licensure requirements for security guards, private patrol operators, proprietary private security officers and proprietary security employers, including information on when licensure of any of these license types would not be required.

BSIS staff has presented the consumer brochures to both the Northern and Southern Assembly District Director Groups and at some legislators' townhall meetings. Additionally, the updated brochures were provided to the Congress of California Seniors, which is represented on BSIS's Advisory Committee, to share at their outreach venues. Lastly, the brochures are posted on BSIS's website.

BSIS also works with local law enforcement, District Attorney Offices, Employment Development Department, the Department of Insurance, and the Department of Alcohol and Beverage Control regarding Bureau-related unlicensed activities. These efforts include sharing BSIS's new law enforcement brochure.

Also, BSIS has the authority to issue administrative citations for unlicensed activity with a fine amount up to \$5,000.

Cite and Fine

42. Discuss the extent to which the Bureau has used its cite and fine authority. Discuss any changes from the last review and describe the last time regulations were updated and any changes that were made. Has the Bureau increased its maximum fines to the \$5,000 statutory limit?

BSIS continuously uses its cite and fine authority to enforce the provisions of the six acts under its oversight. The fines are issued up to the maximum amount authorized by the specific statute. Additionally, BSIS's regulations (Title 16, Division 7, sections 601.6, 601.7 and 601.8 of the California Code of Regulations) authorize BSIS to issue unlicensed activity administrative citations up to \$5,000.

Effective January 1, 2017, SB 1196 (Hill, Chapter 800, Statutes of 2016) authorized various fine increases throughout the six practice acts regulated by BSIS. In fiscal year 2016-17, BSIS issued 112 citations totaling an assessed fine amount of \$159,740. In fiscal year 2017-18, BSIS issued 62 citations totaling an assessed fine amount of \$116,274.

43. How is cite and fine used? What types of violations are the basis for citation and fine?

BSIS issues citations and fines to encourage compliance with the laws and regulations of the six acts within BSIS's oversight authority, to enhance disciplinary actions when warranted for the purposes of promoting a fair and level playing field for all licensees, and to protect California consumers from fraudulent, harmful, or illegal practices. Citations are issued for less egregious violations because the primary intent is to encourage compliance as opposed to pursuing actions to revoke or suspend licensure.

44. How many informal office conferences, Disciplinary Review Committee, reviews and/or Administrative Procedure Act appeals of a citation or fine in the last four fiscal years?

BSIS began conducting informal citation conferences with the bureau chief in fiscal year 2017-18, with four informal conferences held in that fiscal year. Previously, requests for an informal conference were handled through the Disciplinary Review Committees.

Disciplinary Review Committee Review Appeals: Citation/Fine				
	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18
Private Security DRC	1	6	5	4
Alarm DRC	0	0	0	19
Collateral Recovery ¹	N/A	N/A	N/A	0
Private Investigator ¹	N/A	N/A	N/A	0
1 The Collateral Recovery and Private Investigator DRCs went into effect July 1, 2017.				

Administrative Procedure Act Appeals: Citation/Fine				
Fiscal Year	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18
APA Citation/Fine Appeals*	3	4	4	15
*Administrative Procedure Act (APA) citation/fine appeals received by BSIS. Not all appealed citations/fines are heard in an administrative hearing as a number are resolved pursuant to appeal withdrawal, reconsideration, modification, or stipulation.				

45. What are the five most common violations for which citations are issued?

The five most common violations for which BSIS issued citations from July 1, 2014 through June 30, 2018 were:

- Administrative/Technical ² 65

² Examples of administrative/technical violations common to most industries include failure to maintain mandated records, failure to include mandated language on contracts or formal notifications to consumers, using a business name different from Bureau records, not including license number on all advertisements, and other technical requirements specific to each industry regulated.

• Unlicensed Activity	54
• Personal/Unprofessional Conduct	47
• Weapon Violations	11
• Contract Terms/Failure to Provide Service	7

46. What is the average fine pre- and post-appeal?

The average fine amount is approximately \$1,380 pre-appeal and \$1,280 post-appeal.

47. Describe the Bureau's use of Franchise Tax Board intercepts to collect outstanding fines.

BSIS contacts the debtor via three collection letters sent 30 days apart. If the issuance of these letters does not result in payment of the outstanding fine or subsequent contact to establish a payment plan, BSIS initiates the Franchise Tax Board intercept process. Any money intercepted from a Franchise Tax Board return is forwarded to the DCA's Accounting Office and forwarded to BSIS in order to update our records. If a payment is received by BSIS directly from a debtor on an existing Franchise Tax Board account, BSIS notifies the DCA's Accounting Office so the Franchise Tax Board account can be updated.

Cost Recovery and Restitution

48. Describe the Bureau's efforts to obtain cost recovery. Discuss any changes from the last review.

BSIS uses the authority of Business and Professions Code section 125.3(a) to recover the reasonable costs of investigation and enforcement of a case. BSIS submits cost certifications with each case that is referred to the Office of the Attorney General detailing the expenditures BSIS incurred in investigating and bringing the case to the Office of the Attorney General. As part of the administrative hearing process, the Deputy Attorney General will request cost recovery for BSIS's investigative costs, enforcement costs (costs for Deputy Attorney General to prepare and defend the case), or both. If cost recovery is ordered or agreed upon, the applicant (if issued a probationary license) or licensee may choose to pay the amount in full or enter into a payment plan with BSIS. If the applicant/licensee does not respond, BSIS initiates the Franchise Tax Board referral/intercept process.

BSIS has not changed any of its processes for cost recovery since the last review.

49. How many and how much is ordered by the Bureau for revocations, surrenders, and probationers? How much do you believe is uncollectable?

If a license is revoked and the revocation is stayed and probation ordered, cost recovery is usually included as a term of probation. BSIS is generally successful in collecting cost recovery from licensees who are on probation as payment is a condition of probation and BSIS's probation monitors work with the licensees to establish a payment plan. BSIS estimates that on average approximately 74 percent of the cost recovery ordered is collected. In instances where a license is revoked and cost recovery is ordered, BSIS has had success utilizing the Franchise Tax Board's Intercept Program to enhance its collection efforts.

50. Are there cases for which the Bureau does not seek cost recovery? Why?

BSIS does not seek cost recovery for Statement of Issues cases where the applicant is not granted a BSIS license. BSIS has no statutory authority to order cost recovery to persons who are not licensees.

51. Describe the Bureau's use of Franchise Tax Board intercepts to collect cost recovery.

BSIS employs the same process as identified in question 47 for collecting outstanding fines.

52. Describe the Bureau's efforts to obtain restitution for individual consumers, any formal or informal Bureau restitution policy, and the types of restitution that it attempts to collect; i.e., monetary, services, etc. Describe the situation in which the Bureau may seek restitution from the licensee to a harmed consumer.

BSIS does not have a formal restitution policy. However, complaint resolution and enforcement staff may attempt to negotiate a remedy involving the licensee recompensing the consumer in the course of conducting an investigation involving allegations of services not being provided or the costs for services rendered exceeding the perceived agreement. It should be noted that any negotiated arrangement for recompensation must be agreed upon by both the licensee and consumer. Table 12 details the dollar amounts related to this activity.

Additionally, an Administrative Law Judge may order a licensee to pay restitution to the harmed consumer as a condition of probation or part of the order. BSIS is not involved in the collection of restitution. However, if restitution is part of a probation requirement, BSIS monitors the activity and reports facts accordingly to the Administrative Law Judge for determination on whether all the terms of probation have been satisfied. No formal restitution was ordered through the formal administrative process for the report period.

Table 11. Cost Recovery

	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18
Total Enforcement Expenditures (in thousands)	\$3,665	\$3,660	\$3,749	\$4,411
Potential Cases for Recovery* ¹	--	--	--	--
Cases Recovery Ordered	22	27	26	46
Amount of Cost Recovery Ordered	\$83,301	\$9,092	\$38,755	\$28,815
Amount Collected	\$47,461	\$21,407	\$28,965	\$21,293
* "Potential Cases for Recovery" are those cases in which disciplinary action has been taken based on violation of the License Practice Act.				
¹ BSIS does not track requested cost recovery amounts.				

Table 12. Restitution

(list dollars in thousands)

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18
Amount Ordered	\$0	\$0	\$0	\$0
Amount Refunded	\$15,081	\$17,276	\$18,922	\$20,154
Rework at No Charge	\$768	\$599	\$3,700	\$0
Adjustments in Money Owed/Product Returned/Exchanged	\$128,393	\$99,727	\$30,322	\$39,432

Total Savings for Consumers	\$144,242	\$117,602	\$52,954	\$59,586
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Section 6

Public Information Policies

53. How does the Bureau use the Internet to keep the public informed of Bureau activities? Does the Bureau post meeting materials online? When are they posted? How long do they remain on the Bureau's website? When are draft meeting minutes posted online? When are final meeting minutes posted? How long do meeting minutes remain available online?

BSIS utilizes its website to provide a variety of information to applicants, licensees, and the public. The website features links to BSIS's laws and regulations, forms and publications, online license verification, disciplinary actions against licensees, and other BSIS activities. The website offers a feature for individuals to subscribe to an Interested Parties List to receive important information from BSIS through an e-mail notification.

BSIS posts notices and agendas for its meetings of the Private Security Disciplinary Review Committees, Alarm Company Disciplinary Review Committee, and BSIS's Advisory Committee in accordance with the noticing requirement prescribed by the Bagley-Keene Open Meeting Act. At this time, meeting notices and agendas remain on the website indefinitely; however, older information is archived by year to ensure current information is readily accessible.

BSIS does not post draft or final minutes for its Disciplinary Review Committees given that the outcomes involve disciplinary actions rendered in closed sessions. BSIS posts draft minutes for its Advisory Committee meetings as part of the agenda materials for the meeting during which the minutes will be adopted. The meeting minutes remain on the website indefinitely; however, older meeting agenda information is archived by year.

54. Does the Bureau webcast its meetings? What is the plan to webcast future Bureau and committee meetings? How long do webcast meetings remain available online?

BSIS does not webcast the meetings of its Disciplinary Review Committees. BSIS does webcast its Advisory Committee meetings, contingent upon availability of the DCA's webcast services. The Advisory Committee webcasts are posted on YouTube indefinitely.

55. Does the Bureau establish an annual meeting calendar and post it on the Bureau's website?

BSIS does not establish or post an annual meeting calendar on our website for its Discipline Review Committee and Advisory Committee meetings.

The purpose of the Disciplinary Review Committee is to consider appeals from applicants and licensees on BSIS's decisions relating to application denial, license suspension, or the imposition of a fine. The scheduling of the Committee meetings is dependent on the number of appeals received; therefore, it is not feasible for BSIS to establish an annual calendar for Disciplinary Review Committee meetings. However, the meetings are noted in compliance with the Bagley-Keene Open Meeting Act.

BSIS reestablished its Advisory Committee in July 2014 and established a meeting schedule of four times a year on February 5, 2015. However, due to BSIS's operational needs, the number of meetings held averaged around three per year. On April 12, 2018, the Committee revisited the frequency of the meetings and established a schedule of three meetings per year. This current schedule is posted on BSIS's website.

56. Is the Bureau's complaint disclosure policy consistent with DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*? Does the Bureau post accusations and disciplinary actions consistent with DCA's *Web Site Posting of Accusations and Disciplinary Actions* (May 21, 2010)?

Yes, BSIS's complaint disclosure policy is consistent with the DCA's *Recommended Minimum Standards for Consumer Complaint Disclosure*, and BSIS posts accusations and disciplinary actions consistent with the DCA's *Web Site Posting of Accusations and Disciplinary Actions*.

57. What information does the Bureau provide to the public regarding its licensees (i.e., education completed, awards, certificates, certification, specialty areas, disciplinary action, etc.)?

The public can use the DCA's "License Search" link on BSIS's website to check the current status of a licensee (clear, expired, cancelled, delinquent, etc.). Principals and qualified managers associated with the license and other BSS licenses held by the licensee are provided. Lastly, if applicable, accusations and disciplinary adjudications such as revocation, suspension, and probation are provided. Upon written or verbal request from a public member, BSIS provides information contained in the licensee's file that may be disclosed pursuant to the Public Records Act.

58. What methods are used to provide consumer outreach and education?

BSIS utilizes the following methods to provide consumer outreach and education:

- BSIS's website
- Alarm company and locksmith consumer brochures
- E-mails to consumers who have subscribed to the Interested Parties List
- Brochures provided to the DCA's Office of Public Affairs for distribution at events and on social media
- Locksmith and alarm company consumer brochures provided to the Congress of California Seniors for distribution at their consumer events
- Locksmith and alarm consumer brochures and general information regarding consumer issues in these industries provided to the Northern and Southern Assembly District Directors Group for distribution at their respective members' townhall meetings.
- Bureau staff participate in various legislative and law enforcement consumer outreach venues to distribute the locksmith and alarm brochures and provide general consumer protection information related to these industries

Section 7

Online Practice Issues

59. Discuss the prevalence of online practice and whether there are issues with unlicensed activity. How does the Bureau regulate online practice? Does the Bureau have any plans to regulate Internet business practices or believe there is a need to do so?

BSIS is aware of online advertising by businesses providing private security services and makes efforts to investigate those that do not hold a license. However, because online businesses are hard to locate and often do not have a physical presence in California, BSIS has limited means to regulate them. In cases where there is a physical presence and the individual or business can be located, BSIS educates them on the laws related to licensure or training requirements and takes appropriate action on those who fail to comply.

Because it is not always possible to locate unlicensed businesses, BSIS believes outreach and education are essential. BSIS partners with the DCAs Office of Public Affairs in developing informational brochures to educate consumers on how to confirm a business is licensed. In fiscal year 2016-17 and 2017-18, BSIS worked with its Advisory Committee to update BSIS's "Consumer Guide to Locksmiths" and the "Consumer Guide to Alarm Companies" and began efforts to provide the information to consumers throughout the state.

BSIS staff has presented the consumer brochures to both the Northern and Southern Assembly District Director Groups and have presented the brochures at some legislators' townhall meetings. Additionally, the updated brochures were provided to the Congress of California Seniors, which is represented on BSIS's Advisory Committee, to share during their outreach venues. Lastly, the brochures are posted on BSIS's website.

Section 8

Workforce Development and Job Creation

60. What actions have the Bureau taken in terms of workforce development?

BSIS's website is designed to provide specific information to each of the industries regulated by BSIS relating to licensing requirements, pertinent laws and regulations, frequently asked questions for each industry, forms and applications, and BSIS contact information. BSIS provides updates of laws, regulations, policies, and procedures on BSIS's website, as well as provides this information by e-mail to subscribers of BSIS's Interested Parties List. Anyone can subscribe to BSIS's Interested Parties List through BSIS's website.

Additionally, the bureau chief and other management meet routinely with representatives of our regulated industries to discuss issues affecting their respective industries.

61. Describe any assessment the Bureau has conducted on the impact of licensing delays.

BSIS has not conducted an impact assessment of licensing delays. However, BSIS strives to ensure that licensing delays are avoided or kept to a minimum through overtime and the hiring of limited-term staff to help support timely processing of license applications.

62. Describe Bureau efforts to work with schools to inform potential licensees of the licensing requirements and process.

BSIS updated the initial and renewal firearms permit applications with additional information for firearms training facilities and instructors on the applicant's and instructor's requirements for the issuance of a firearms permit. BSIS also issues letters to both baton and firearms training facilities about changes in licensing processes and requirements. Most notable are the recent changes relating to firearms permits. BSIS management also maintains strong working relationships with the industry association to which many of the training facilities belong and utilizes the association's infrastructure to get the word out on changes in the law and licensing processes.

63. Describe any barriers to licensure and/or employment the board believes exist.

BSIS is not aware – nor have representatives from the industries it regulates made note – of any barriers to licensure or employment for any of the license types it regulates.

64. Provide any workforce development data collected by the Bureau, such as:

a. Workforce shortages

BSIS does not formally collect workforce shortage data. However, based on management's discussions with leadership of the associations for the various private security industries, the lack of an available workforce for any specific industry does not appear to be an issue.

b. Successful training programs.

BSIS does not collect this data.

Section 9

Current Issues

65. What is the status of the implementation of the Uniform Standards for Substance Abusing Licensees?

Uniform Standards do not apply because BSIS is not a healing arts program.

66. What is the status of the implementation of the Consumer Protection Enforcement Initiative (CPEI) regulations?

Because BSIS is not a healing arts program, the regulatory changes mandated by CPEI do not apply. However, BSIS provides information to DCA to post on its website relative to BSIS's enforcement activities for the established performance measures relating to the handling of complaints, investigations, and disciplinary action. As noted in Section 5 (Enforcement Program) of this report, BSIS has established its own internal performance measures in these areas that are more stringent than those established by DCA.

67. Describe how the board is participating in development of BreEZe and any other secondary IT issues affecting the board.

a. Is the board utilizing BreEZe? What Release was the board included in? What is the status of the board's change requests?

BSIS transitioned to BreEZe on January 19, 2016 and was included in Release 2. With the exception of the license types listed below, individuals seeking to apply for an initial BSIS license type or to renew their license can do so online via BreEZe.

- Initial repossession agent registration: Given that the legal owner of the registration is the repossession agency, initial applications may only be submitted via paper with the repossession agency licensee's address listed as the registrant's address of record. Renewal applications can be submitted via BreEZe and the registration is mailed to the repossession agency licensee's address.
- Baton Permits: By law, a bureau-certified baton training facility issues the baton permit to the security guard registrant or security guard registration applicant. The training facilities obtain the permits from BSIS. Upon completion of a baton training course and the issuance of the baton permit to attendees, the training facility submits the course roster to BSIS, where staff officially associate the permit with the guard registration in BreEZe. Baton permits do not need to be renewed because they do not expire.
- Firearms Permits: At BreEZe launch, initial and renewal firearms permit applications could be submitted through BreEZe. However, because the application requires the firearms instructor's signature attesting that the applicant has completed the required training, applicants were required to scan and upload the hard-copy application into the BreEZe platform. Because the deficiency rate for providing the actual application was about 50%, these applications were removed from the BreEZe platform.

b. If the board is not utilizing BreEZe, what is the board's plan for future IT needs. What discussions has the board had with DCA about IT needs and options? What is the board's understanding of Release 3 boards? Is the board currently using a bridge or workaround system?

BSIS does not have any other secondary IT issues.

Section 10

Bureau Action and Response to Prior Sunset Issues

Include the following:

1. Background information concerning BSIS.
2. Short discussion of recommendations made by the Committees/Joint Committee during prior Sunset Review.
3. What action the board took in response to recommendations or findings made under prior Sunset Review.
4. Any recommendations the board has for dealing with the issue, if appropriate.

The Committees identified the following recommendations during BSIS's 2015 Sunset Review.

Issue #1: BreEZe Implementation

Staff Recommendation: The Bureau should advise the Committees as to the status of BreEZe and efforts staff has taken to ensure the Bureau is ready to transition to the new program. The Bureau should provide the Committees with information about some of the specific issues the Bureau anticipates in using the new BreEZe system as well as how the system will track important information like incidents involving armed guards and its other licensees. The Bureau should report how BreEZe will impact unlicensed activity and the Bureau's ability to address this activity?

BSIS utilized lessons learned from the first release of BreEZe to build a BreEZe platform that appropriately aligned with BSIS's business processes, carried out organizational change management activities to mitigate staff issues with adapting to the new technology, and provided BreEZe tutorials and resource documents on BSIS's website to assist applicants and the public (e.g., how to monitor a licensee) with using BreEZe.

BSIS transitioned to BreEZe on January 19, 2016. Overall, BSIS's implementation of BreEZe was successful and without any significant issues. The transition entailed a 5-day window where applications and complaints could not be processed. Nominal application processing delays occurred as a result of issues with the DOJ-BreEZe fingerprint response interface. During the first 12 months after launch, BSIS required several system modifications or enhancements to address some processing issues that came to light upon going live with the system. In addition, after several efforts to decrease the number of applicants for an initial firearms permit or firearms permit renewal failing to upload a copy of the hard-copy application, BSIS had to take firearms permit applications off the BreEZe platform. Modifications to BSIS's BreEZe platform continue with the implementation of new statutory requirements as well as when an opportunity to enhance operational efficiency is identified.

Issue #2: Online Access to Bureau Information

Staff Recommendation: The Bureau should advise the Committees as to the overall benefits of switching to a paperless information system, including how this might affect Licensing staff workload and provide efficiencies as well as barriers to licensees who do not have access to the internet if in fact a paperless information system is implemented. The Bureau should outline any special provisions and accommodations for licensees who do not have access to the internet or who do not have an email address

BSIS's statutes and regulations are currently available on BSIS's website. The current statutory requirements to mail BSIS's laws and regulations book, which are published by Lexis Nexis, are geared toward company applicants and licensees. BSIS provides a link on its website for individuals to purchase the book. In the rare instance that an individual does not have access to the internet and does not wish to purchase the book, they can call BSIS and we can print and mail a copy of its laws and regulations from the website.

In 2015 BSIS revised how it provides its training manuals and other training materials to private patrol operator licensees (for their guard employees), firearm and baton training facility certificate holders, and approved trainers from hard-copy to links on BSIS website. Additionally, the answer keys for the related trainings are sent via email with hard-copy versions provided to licensees and approved trainers upon request.

Lastly, BreEZe provides access to online applications for virtually all BSIS license types.

Issue #3: Staffing

Staff Recommendation: The Bureau should conduct a workload and staff resource analysis after the implementation of BreEZe in order to measure the new system's effectiveness in handling the license population and effect in lowering the workload of the Licensing Unit staff. What are the Bureau's expectations in workload reduction with the implementation of BreEZe? If those expectations are not met, what is the Bureau's strategic plan to addresses workload issues relating to the Licensing Unit? What other improvements in efficiency can the Bureau make in processing license applications?

The Bureau has also mentioned its method of cross-training staff and is in the development of a process and procedures manual to retain institutional knowledge. The Bureau should map out a specific timeline for completion of an administrative manual and an appropriate training procedure for its staff in the utilization of the manual before the implementation of BreEZe. To what extent does the Bureau aim to utilize an administration manual as a training tool?

BSIS has conducted workload analyses of BreEZe impact on license application processing times as part of efforts to increase staff through the budget process as well as part of its two fee audits. Ultimately, BreEZe has resulted in longer processing times and, accordingly an increase in workload due to additional controls that were put in place to ensure quality of the data. The overall benefits of having this new licensing and enforcement system greatly outweigh the additional workload. Since the last sunset review, BSIS has submitted several budget change proposals to increase the number of staff including several to address the increased workload resulting from newly-enacted legislation. On July 1, 2015, the Licensing Unit was comprised of 19 authorized positions. As of July 1, 2018, there are 27 authorized positions.

While the number of licensing staff has increased, there continues to be staff resource issues in certain areas, and BSIS utilizes temporary help and routine overtime to help maintain reasonable application processing times.

As a component of BSIS's change management efforts to transition to BreEZe, various licensing desk manuals and policy/procedural reference documents were developed and used to facilitate staff's transition to BreEZe. BSIS continues to develop new policy/procedure documents and update the manuals in response to new work processes arising from new mandates. For example, the new firearms assessment that is required for a security guard registrant to associate a firearms permit with the registration. These manuals and reference documents comprise BSIS's licensing administrative manuals.

Issue #4: Strategic Plan

Staff Recommendation: The Bureau should report to the Committees on the progress of updating its Strategic Plan, including the timeline for completion as well as strategies the Bureau will use to address new and existing issues raised through the Sunset Review process.

BSIS completed its 2014-15 Strategic Plan in late 2014. Due to BSIS's transition to BreEZe in January 2016, BSIS carried out its strategic planning activities for the subsequent plan in the fall of 2016. BSIS's current 2017-21 Strategic Plan, which is posted on BSIS's website under the *About Us* tab, focuses on objectives for improving BSIS's core regulatory functions – licensing, enforcement, and discipline – as well as strategies for enhancing consumer outreach and staff development. It also includes objectives relating to the new firearms assessment and

firearms training facility compliance inspection activities, as well as continued efforts to develop/update various procedural manuals and reference documents.

Issue #5: Reporting Practices and Investigation of Incidents

Staff Recommendation: The Bureau should provide the Committees with more information regarding the number and types of firearms incidents involving its armed guard licensees. The Committees may wish to direct the Bureau to develop new reporting protocols for shooting incidents that do not rely on the practice of self-reporting. The Bureau should report to the Committees on how long it takes for an incident to be reported, what the Bureau is doing to enforce the compliance of reporting incidents, the average timeframe for an investigation to be initiated and then completed, the training the Bureau provide its staff to handle the investigation process and whether there needs to be statutory clarification in order for the Bureau to continue to be able to protect consumers in this area.

SB 1196 (Hill, Chapter 800, Statutes of 2016), which went into effect January 1, 2017, clarified the requirement for a private patrol operator to report to BSIS, within seven days, when one of its security guard employees discharges a firearm while on duty, and increased the fine amount that may be imposed against the private patrol operator for failing to provide the notification as required. Specifically, the fine amount was increased from \$250 for the first violation and \$500 thereafter to \$1,000 for the first violation and \$2,500 thereafter.

In addition to the self-reporting requirement for guards and private patrol operator, BSIS also relies on media stories, law enforcement tips, and complaints from the public or other licensees to initiate investigations of an armed guard discharging their firearm while on duty.

BSIS recently created a specific BreEZe enforcement code relating to firearm discharges to better track the information. From July 1, 2016 to June 30, 2018, there were 13 firearm discharge incidents reported to BSIS that involved an on-duty security guard. The average reporting time for the 13 cases is 7.8 days, and the average investigation time for the 11 investigations completed to date is 181 days.

In the past couple of years, BSIS staff worked with the Advisory Committee – notably, those members affiliated with law enforcement – to develop a BSIS pocket card detailing the licensing requirements for security guards, private patrol operators, proprietary private security officers and proprietary private security employers. The card includes information on BSIS’s email account dedicated to law enforcement for reporting any violent incident they encounter involving a Bureau license. Bureau enforcement staff have presented the pocket card at various law enforcement-related venues throughout the state.

As previously noted, Bureau enforcement staff complete the following training:

- Department of Consumer Affairs’ Enforcement Academy (40 hours);
- Sacramento Regional Public Safety Training Center Regulatory Investigating Course (40 hours);
- Miscellaneous courses on conducting interviews and writing reports; and
- On-the-job training (i.e. shadowing a seasoned enforcement analyst).

BSIS previously advised the Committees that the Private Investigator Act, unlike the Private Security Services Act, the Collateral Recovery Act and the Alarm Company Act, does not

require the licensee to report any violent incident or discharge of the firearm that occurred while on duty.

Issue #6: Fine and Citation Structure

Staff Recommendation: The Bureau should conduct an analysis on how effective are the fine and citation structures in encouraging compliance. The Bureau should advise the Committees whether the current fine structure reflects the seriousness of the offense that warranted the fine or citation and if not, then how the fine structure need to be adjusted in order to encourage compliance or enhance the disciplinary action. The Bureau should also inform the Committees as to the administrative, investigative, and enforcement costs associated with the violation and whether the fine structure helps to mitigate any of these expenses.

Effective January 1, 2017 (SB 1196, Hill, Chapter 800, Statutes of 2016) various fines throughout the six practice scts regulated by BSIS were increased. In fiscal year 2016-17, BSIS issued 112 fines and the average fine amount was under \$1,425. In fiscal year 2017-18, BSIS issued 62 fines and the average fine amount was about \$1,875.

Issue #7: Underground Economy

Staff Recommendation: The Bureau should inform the Committees of the most effective means of enforcement the Bureau takes in addressing unlicensed activity, as well as the effectiveness of disseminating licensing requirements and information to businesses. The Bureau should advise the Committees on the compliance rate after the Bureau has given these businesses this information. The Bureau should also inform the Committees as to how it becomes aware of unlicensed activity and whether any statutory changes are necessary to enhance these efforts.

As discussed in detail in the response to question 41 of this report, unlicensed activity can be hard to identify. However, BSIS does outreach to the public to make them aware, partners with other relevant agencies, and believes that the current cite and fine structure for unlicensed activity is a strong deterrent. After educating businesses and individuals that they are violating the law and performing unlicensed activity, many of them come into compliance. For those that do not, BSIS will issue an administrative unlicensed activity citation; in some instances, BSIS may reach out to local law enforcement about their willingness to pursue the matter criminally.

Issue #8: Licensure Suspensions and Holds

Staff Recommendation: The Bureau should provide the Committees additional information about the tools that it needs to take action against licensees in a timely manner, ensuring that due process is followed.

The Private Security Services Act authorizes BSIS to automatically suspend a guard's registration and the Locksmith Act authorizes BSIS to automatically suspend a locksmith company license or locksmith employee registration if the holder of the license/registration is convicted of a substantially-related crime. Upon notification by DOJ of the conviction(s), BSIS must obtain the court records to invoke the automatic suspension. The Alarm Company Act authorizes BSIS to automatically suspend an alarm company license, an alarm qualified manager certificate or an alarm agent registration if BSIS determines that the continued possession of the license, certificate or registration presents an undue hazard to public safety which may result in substantial injury to another. BSIS generally invokes this authority for convictions of substantially-related crimes.

Provisions in the Private Investigator Act, the Private Security Services Act and the Alarm Company Act authorize BSIS to revoke a BSIS Firearms Permit upon notification from DOJ's Bureau of Firearms that the permitholder is prohibited from possessing a firearm. SB 1196 (Hill, Chapter 800, Statutes of 2016) provided BSIS the authority to seek an emergency order against a firearms permit holder if BSIS's investigation determines the permitholder presents a hazard to public safety.

Issue #9: Mental Health Screenings and Psychiatric Evaluations

Staff Recommendation: The Bureau should advise the Committee on what would be required for the implementation of new mental health screening protocols of its armed guard licensees, including an estimated cost of implementing this new screening procedure as well as the number of times a psychiatric evaluation be required during the lifetime or duration of the license. The Bureau should also inform the Committees about resources and mental health guidelines in place and available to an individual or entities involved in an incident involving an armed guard.

SB 1196 (Hill, Chapter 800, Statutes of 2016) and SB 547 (Hill, Chapter 429, Statutes of 2017) established the requirement, which went into effect July 1, 2018, for an applicant of a BSIS firearms permit who is a BSIS security guard registrant to complete the Sixteen Personality Factor Questionnaire and demonstrate that he or she is capable of exercising appropriate judgment, restraint and self-control for the purposes of carrying and using a firearm while on duty effective as a condition for the issuance of a permit. Completion of the Sixteen Personality Factor Questionnaire is also required under certain conditions when a firearms permitholder is seeking to associate the permit with a security guard registration.

The Sixteen Personality Factor Questionnaire is a personality test used in various settings including employers of protective services personnel (e.g., police officers, firefighters and security guards). However, scoring standards were established specific to the requirements specified in Business and Professions Code section 7583.47. BSIS executed a contract with PSI Services LLC to administer the Sixteen Personality Factor Questionnaire to an individual at a cost of \$60.00. PSI is an industry leader in administering licensing, credentialing and public safety tests and has 23 testing centers located throughout California where the assessment can be taken.

Given BSIS's 60-day processing time, individuals subject to the assessment began receiving the notices to contact PSI to schedule an appointment to complete the assessment in September 2018.

Issue #10: Firearms Training: Curriculum

Staff Recommendation: The Bureau should evaluate the comprehensiveness of the requirements to receive a Bureau Firearms Permit and inform the Committees whether these current training requirements adequately reflect the real-life situations licensees will face. The Committees may wish to establish a standardized curriculum for licensees to receive a Firearms Permit and determine whether the Bureau should have more oversight over the training and course materials provided by the training facilities.

The training course to obtain a BSIS firearms permit is comprised of two parts. The first is designed to ensure the individual has a general understanding of the laws governing the possession and use of firearms; use of force/de-escalation of force issues; the parts of a handgun and general handgun safety activities and includes a written exam that must be passed with score of 85 percent or greater. The second part involves firing two 50-rounds (once

for practice and the second for scoring) on an actual firearm with live ammunition for the individual to demonstrate proficiency in shooting at a targeted area with an 80 percent passing score required.

To renew a firearms permit the holder must complete four range qualifications as follows: two range qualifications during each 12-month period of the permit's two-year term with no two range qualifications completed closer than four months apart. In addition, during each qualification the permitholder must complete a two-hour course on use of force and de-escalation of force with passage of the same written exam required for the initial permit required during one of the qualification sessions. The purpose of the training is refresh the individual on de-escalation of force issues as well as to continue to demonstrate proficiency in shooting at a targeted area (80 percent passing score required).

BSIS adopted regulations, which became operative on January 1, 2017, to prohibit the use of a firearms simulator for the initial training and to limit their use for re-qualification to no more than one time per each 12-month period of the permit's two-year term, providing the simulator met specified requirements to provide a realistic imitation of an actual firearm.

Issue #11: Firearms Training: Trainers and Facilities

Staff Recommendation: The Bureau should outline its plans to finish inspecting the remaining firearms training facilities. The Bureau should also address whether these training facilities adequately provide the experience and strategies necessary to address the real-life situations licensees will face and advise the Committees whether it should have more oversight over the training and course materials provided by the training facilities. The Bureau should provide information to the Committees on the number and type of complaints that have been filed against firearm/baton training schools and what administrative actions or protocols are currently in place to regulate these schools and bring them into compliance.

SB 1196 (Hill, Chapter 800, Statutes of 2016) established Business and Professions section 7585.4.1. which requires BSIS to inspect a firearms training facility within 120 days of initial certification and to maintain a program of random and targeted inspections of the facilities. Based on an average of about 350 certified facilities and staff resources, BSIS identified a four-year random inspection cycle as reasonable with more frequent inspections of facilities where issues were identified that did not warrant taking formal disciplinary action on the certificate. Since January 1, 2017, BSIS has inspected all newly-certified firearms training facilities within the required 120 days. However, given the need to do compliance inspections of other license types as well as conduct investigations and the recent staff turnover, BSIS has struggled with carrying out the random inspections of all existing firearms facilities. BSIS anticipates being able to carry out the targeted inspections in fiscal year 2019-20.

For example, many private patrol operators are not properly inventorying their firearms and providing their guard employees the required security guard skills training courses. Given that this non-compliance can impact public safety, BSIS believes that carrying out random inspections of these licensees is also critical. Additionally, inspections of Repossession Agencies and Alarm Companies are critical to ensuring that temporary employee registrations are not being misused. In fiscal year 2016-17, BSIS carried out 89 compliance inspections and in fiscal year 2017-18, BSIS carried out 95 inspections. These counts included the newly-licensed firearms training facilities.

The following table details the most frequent number of violations identified during the compliance inspections of firearms training facilities.

TYPE	FY 14-15	FY 15-16	FY 16-17	FY 17-18	TOTAL
Administrative/Technical Requirement	3	12	9	13	37
Fraud/Dishonesty	9	5	10	3	27
Unprofessional Conduct	2	4	9	1	16
Unlicensed Trainer/Facility	1	3	3	1	8
Weapon Violations	1	1	1	0	3
Total Violations	16	25	32	18	91

In regard to the regulatory oversight of firearm instructors, a condition for obtaining BSIS certification is the possession of a police or security firearms instructor training certificate from the National Rifle Association (NRA), or a firearms instructor training certificate from a federal, state or local agency. However, there is no continuing training requirement to renew the instructor training certificate, nor is there a requirement for the individual to provide proof that he or she continues to hold a current NRA or public agency certificate.

Issue #12: Firearms Training Exemptions for Federal Law Enforcement Officers

Staff Recommendation: The Bureau should inform the Committees to the requirements Federal Law Enforcement Officers should have to qualify for this exemption and whether there are any additional changes that would need to be made in order to clarify other exemptions for Federal Law Enforcement Officers who seek employment as an armed security guard. While California makes a clear and deliberate distinction between Federal Law Enforcement Officers and peace officers, it would be helpful for the Committees to know whether a policy to allow the same exemptions for Federal Law Enforcement Officers as with peace officers would affect other areas of licensure for this population within the scope of the Bureau.

SB 1196 (Hill, Chapter 800, Statutes of 2016) extended various exemptions afforded to California peace officers throughout BSIS's six practice acts to a federal qualified law enforcement officer, as defined in section 926B of Title 18 of the United States Code.

Issue #13: Evergreen Clause

Staff Recommendation: The Bureau should inform the Committees whether alarm companies should be required to notify consumers of automatic renewal clauses in their contracts, whether any specific consumer complaints about the ambiguity or misunderstanding of automatic renewal clauses in their contracts have been raised and how the Bureau may enforce a notification requirement.

SB 1196 (Hill, Chapter 800, Statutes of 2016) added the requirement that if an alarm contract includes a provision for the automatic renewal of the contract for a term greater than a month it must include disclosure language advising the consumer of the renewal provision. SB 800 (Committee on Business, Professions, and Economic Development, Chapter 573, Statutes of 2017) clarified that the disclosure requirement only applied to residential alarm agreements, not commercial agreements.

Prior to the new disclosure requirement, BSIS received approximately 70 complaints per year related to an automatic renewal. In 2017-18, BSIS received no complaints relating to an automatic renewal.

Issue #14: Concealed Carry

Staff Recommendation: The Bureau should provide the Committees with a background and basis for the informal opinion released on the issue of concealed carry for their PI licensees as well as information about the number of PI licensees also have a CCW permit and whether the issue of concealed carry has affected the ability of PIs to carry out their duties as a PI and their investigations. The Bureau should provide information to the Committees about the status of enforcement against PIs for carrying a concealed firearm while performing an investigation.

SB 1196 (Hill, Committee on Business, Professions and Economic Development, Chapter 800, Statutes of 2016) clarified that a private investigator licensee who possesses both a BSIS Firearms Permit and a concealed weapons permit may carry a concealed weapon while on duty.

Issue #15: Veterans Employment

Staff Recommendation: Although the Bureau has taken great measures to help integrate veterans into the civilian work force, the Bureau should also evaluate the effectiveness of its veterans programs in fully supporting these individuals and what efforts the Bureau may take, in conjunction with other organizations and Bureau-licensed occupations.

Since the inception of BSIS's Veterans Come First program in 2012, BSIS has assisted nearly 24,900 current and former military personnel through the license application process. BSIS continues to explore opportunities to enhance its Veterans Comes First program. The program provides veteran applicants a unique phone line, email account and P.O. Box; dedicated staff; and priority handling of their license applications. Additionally, BSIS's webpage for Veterans Come First program includes links to several entities that provide veterans assistance in finding employment including the California Employment Development Department and CareerOneStop Veterans Reemployment program.

BSIS recently upgraded the position that serves as the liaison for the Veterans Comes First program to an analyst position as part of BSIS's efforts to enhance its overall effectiveness. At the lower position level, the services targeted applicants for employee registrations and registrants. Having the liaison at an analyst level enables BSIS to better serve individuals seeking company licenses as well as training facility and instructor certifications. An analyst-level liaison also improves BSIS's overall outreach efforts with the California Department of Military, Work for Warriors and other programs that assist veterans.

Issue #16: Should the Bureau be Continued?

Staff Recommendation #16: Staff recommends that the Bureau's operations and Alarm Company Act, Locksmith Act, Private Investigator Act, Private Security Services Act, Proprietary Security Services Act, and Collateral Recovery Act be extended for four years and be reviewed at that time by the respective Committees of the Senate and Assembly. Recommend that security guards, alarm company operators, repossessioners, locksmiths, and private investigators continue to be regulated by the Bureau in order to protect the interests of licensees and the public and be reviewed once again in four years.

California's private security industries are better served with oversight from BSIS, and the public is better protected by Bureau regulation and accountability toward these professions.

Section 11

New Issues

This is the opportunity for the Bureau to inform the Committees of solutions to issues identified by the Bureau and Committees. Provide a short discussion of each of the outstanding issues, and the Bureau's recommendation for action that could be taken by the Bureau, by DCA, or by the Legislature to resolve these issues (i.e., policy direction, budget changes, legislative changes) for each of the following:

1. Issues that were raised under the prior Sunset Review that have not been addressed.

None.

2. New issues that are identified by the Bureau in this report.

A key issue identified in this report is whether the process for the handling of DOJ Firearms Qualification Applicant form to renew a firearms permit should be revised.

3. New issues not previously discussed in this report.

None.

4. New issues raised by the Committees.

No issues have been raised by the Committees at this time.

Section 12

Attachments

1. Attachment A provides BSIS's various administrative manuals.
2. Attachment B provides the various member information, member attendance information and organizational charts for BSIS's various committees.
3. Attachment C provides BSIS year-end organizational charts.
4. Attachment D provides BSIS Consumer Protection Enforcement Initiative Data.
5. Attachment E provides BSIS Customer Satisfaction Survey Data.
6. Attachment F provides Executive Summary of BSIS Occupational Analyses.
7. Attachment G provides the California Bureau of Security and Investigative Services Fee Audit Report – Private Investigator Fees Report completed by CPS HR Consulting.

Attachment A

Administrative Manuals





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ALARM COMPANY OPERATOR DISCIPLINARY REVIEW COMMITTEE REFERENCE AND PROCEDURES MANUAL

November 2017

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INTRODUCTION

History

The Alarm Company Operator Disciplinary Review Committee (DRC) was established, for the purpose of considering appeals from alarm company operator, qualified manager, and agent applicants and licensees of the Bureau's denials, suspensions, and revocations as well as the assessment of administrative fines. Each DRC consists of five members appointed by the Governor with three members actively engaged in the business as alarm company operators and two members from the general public.

Bureau and Department of Consumer Affairs Mission and Core Values

The Bureau's 2017-2021 Strategic Plan identifies the Bureau's mission as: *To protect and serve the public and consumers through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

The Bureau's Core Values are:

- **Accountability**
- **Consumer Protection**
- **Customer Service**
- **Integrity**
- **Professionalism**
- **Teamwork**

Appointment of Committee Members

As a Governor appointee, DRC members are representatives of the Governor and his/her administration. A DRC member is expected at all times to conduct himself/herself in a respectful, impartial, professional and courteous manner when participating in any DRC meeting or activity.

Member Per Diem

Pursuant to Business and Professions Code Sections 7591.17 and 103, a DRC member is paid a \$100 per diem for each day actually spent in the discharge of official duties. Accordingly, if a DRC appeal meeting is scheduled for one day, a DRC member will receive one day per diem to review the case files and one day per diem to attend the meeting. If a DRC appeal meeting is scheduled for two days, a member will receive two days per diem to review the case files and two days per diem to attend the meeting. In regard to other DRC-related training or activities, a DRC member will receive one day per diem for each day he/she is involved in a DRC training or activity. A DRC member is also entitled to reimbursement for travel and other necessary expenses related to attending a DRC-related meeting or activity.

Duties of Committee Members

The DRC provides an applicant or licensee an alternate process to appeal the Bureau's decision relating to denials, suspensions, revocations, and the Bureau's imposition of administrative fines for the security industries. Specifically, Business and Professions Code Section 7591.18 states:

- (a) The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:
 - (1) Affirm, rescind, or modify all appealed initial Bureau decisions concerning administrative fines assessed by the bureau against alarm company operators or their employees.
 - (2) Affirm, rescind, or modify all appealed initial Bureau decisions concerning denial or suspension of licenses, and certificates, registrations, or permits issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.
- (b) The Alarm Company Operator Disciplinary Review Committee may grant a probationary license, certificate, registration, or permit with respect to the appealed decisions described in subdivision (a).

The other appeal process option available is a hearing before an Administrative Law Judge with the Office of Administrative Hearings. However, if the matter is appealed to a DRC and the respondent disagrees with the DRC decision, he or she has the option to appeal the DRC decision to an ALJ.

Committee Resignations

If a DRC member is resigning from the DRC, he/she must provide a letter of resignation to the Governor's Office stating he/she will no longer serve on the DRC. A copy of the letter of resignation must also be submitted to the Director of the Department of Consumer Affairs and the Bureau Chief.

PRE-MEETING DAY ACTIVITIES

Scheduling Meetings

DRC meetings must be scheduled every 60 days; however, the frequency may be more or less depending on the number of appeals received (Business and Professions Code section 7591.17). All meetings are subject to the requirements of the Bagley-Keene Opening Meeting Act and, accordingly, are publically noticed with an agenda of the scheduled appeals and other items to be considered during the meeting.

Upon receipt of a licensee's or applicant's (hereafter referred to as "respondent") appeal request, Bureau staff schedule the review for an upcoming meeting and mail the respondent information about the meeting and what to expect when attending the DRC meeting. Additionally, Bureau staff will post the meeting's notice on the BSIS public website in accordance with the **Bagley-Keene Open Meeting Act** (Attachment 2 and 3 on pages 21 and 23).

The number of appeals scheduled for a meeting is based on an average case review time of 20 minutes. Given this timeframe, committee members need to be focused and on point in their actions and inquiries during an appeal. This requires each member to have reviewed

the case documents in advance to be sufficiently knowledgeable of the history and circumstances. **NOTE:** Historically, not all respondents show up for their scheduled appeals. For this reason, having a case or two run slightly longer than 20 minutes, due to their complexity or other extenuating factors, should not create hardships relative to the overall meeting day.

Case Files to DRC Members

Approximately two weeks before a scheduled meeting, Bureau staff sends each DRC member the case files for each appeal to be heard during a meeting via the FedEx service requiring receipt signature. Each file contains the pertinent information the Bureau considered in reaching its decision on the applicant/licensee. Bureau staff will send each DRC member an email notifying them that the case files have been mailed and the date they were mailed. Given that the case files may contain information restricted by law or otherwise confidential, it is imperative that committee members handle the documents accordingly and immediately notify the Bureau if the files are misplaced or are not received from the delivery service. If a DRC member does not receive the case files package within 2-3 days of the notification of them having been mailed or if the case files could have been subject to any unauthorized access, **he/she must immediately notify the Bureau of this fact** by sending an email to the Bureau DRU manager and Bureau staff who oversees DRC activities.

It is the responsibility of each DRC member to promptly notify the Bureau's DRU manager and Bureau staff who oversees DRC activities immediately of any change of their mailing address.

If a committee member has a question regarding any scheduled appeal prior to the meeting, he/she should contact the DRU manager or the Bureau staff who oversees DRC activities.

Committee members must not discuss an appeal with external parties or another committee member before the meeting by any means or method. Prior communications could prejudice the appeal review and could result in the committee's decision being challenged or nullified. Under certain conditions, prior discussions also may be subject to the **Bagley-Keene Open Meeting Act** requirements and **Public Records Act** requests.

MEETING DAY PROCEDURES

All DRC meetings must be carried out in accordance with the **Bagley-Keene Open Meeting Act** (Attachments 2 and 3 on pages 21 and 23), the committee's **Rules of Order** (Attachment 4 on page 51), the **Committee Member Expectation Guidelines** (Attachment 5 on page 55) and the **Chairperson's Instructions** (Attachment 1 on page 17).

Meeting Date Expectations

The meetings generally begin at 9:00 a.m. with the length depending on the number of appeals scheduled to be heard. One or more Bureau staff members will be present at each scheduled meeting to answer questions DRC members may have with regard to Bureau laws, regulations, policies and procedures, and to facilitate the proceedings. Department representatives from the Executive Office or Legal Affairs Office may also attend the meetings. Lastly, the Bureau may arrange for law enforcement personnel to attend DRC meetings.

The meeting notice/agenda lists the respondents to be heard during the meeting. However, reviews are heard in order of sign-in by respondents on the "Respondent Sign-In" sheet

located in the designated waiting room. The committee may hear a case out of sign-in order due to hardship-related circumstances. The committee will consider these requests on a case-by-case basis. In addition, since the Bagley-Keene Act requires agenda items to be taken up in agenda order, at the beginning of each meeting a motion must be made and adopted by the committee to allow respondents to be heard in sign-in order. This motion must be carried out in accordance with the committee's **Rules of Order** (Attachment 4, page 51).

Prior to the committee members calling the meeting to order, Bureau staff will check-in the respondents in the waiting room, review their photo identification to confirm identity, and answer any questions they and/or their representatives may have. Additionally, Bureau staff will advise respondents and their witnesses and/or representatives that weapons are not allowed in the meeting room or the waiting room.

Meal and Rest Periods

DRC members are not employees of the state and not subject to requirements relating to meal and rest periods. However, the Bureau staff who serve as the DRC facilitator and scribe are represented employees and may be granted a minimum 30-minute lunch break. Accordingly, rest and meal periods should be taken as needed and/or upon request of Bureau staff.

Commencing a Meeting – Quorum

DRC meeting proceedings are carried out in accordance with the committee's **Rules of Order** (Attachment 4 on page 51). In accordance with the **Rules of Order**, a minimum of three DRC members are needed to establish a quorum of the committee. Bureau staff works closely with committee members to ensure attendance at each meeting is sufficient to establish a quorum. If for any unforeseeable reason a quorum is not established at the onset of a meeting, but is expected to be established within a short time (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal heard later when a quorum is established, or request the review to be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal, in closed session, at a time deemed appropriate by the Chairperson. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the appeal. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals – respondent, his/her witness(es) or representative as well the committee members – are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

Threatening Behavior by Respondent/Representative/Member of the Public

If a respondent, his/her representative or witness, or a member of the audience becomes unruly or threatens any committee member, Bureau staff, or another meeting attendee, the Chairperson shall pause the meeting and address the situation. If appropriate, the meeting should be adjourned and committee members and Bureau staff leave the room. If present, law enforcement personnel assigned to monitor the meeting will take over the matter. If no law enforcement is present, law enforcement personnel may be summoned by calling 911.

APPEAL REVIEW PROCEDURES

Committee Introductions

In accordance with the **Chairperson's Instructions** (Attachment 1 on page 17), at the beginning of each review, the Chairperson will introduce the committee members, advise that the members are appointees of the Governor, and briefly explain the responsibilities and purpose of the DRC.

Respondent's Witnesses/Representation

The respondent may present his/her appeal or be represented by an attorney or other person. If represented, the respondent is still responsible for presenting his appeal. A representative may not testify to facts or events about which he/she does not have direct knowledge.

The Chairperson will swear in the respondent and, if applicable, his/her witness(es) to tell the truth. **NOTE:** Representatives (e.g., legal counsel, an interpreter, or any individual providing only moral or technical support) are not witnesses and, therefore, are not to be sworn in.

Bureau's Presentation of Case Facts

The Chairperson will request Bureau staff to state the facts of the case by reading the Bureau's prepared statement for the appeal. In accordance with the **Chairperson's Instructions** (Attachment 1 on page 17), the Chairperson will ask the respondent if he/she has any objections to the official notice.

- If the respondent has no objections, the Chairperson will note that the committee takes official notice of the information presented and proceed with the review.
- If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections and the Chairperson shall note the objections for the record.
 - If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is not the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.
 - If the Chairperson believes the respondent's testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent's conviction record, the Chairperson should allow the review to proceed.
 - If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the review should not

proceed and the Chairperson should request a motion to withdraw the review and return the case to the Bureau. Upon the motion's passage, the Chairperson should advise the respondent that he/she will be contacted by Bureau staff for instructions on how to proceed.

- If the respondent has objections to the crime being substantially related to the applicable license type, the committee must hear the objections, the Chairperson shall note the objection for the record, and the review should proceed.
- If the respondent has objections to the accuracy of the Bureau's findings relating to the issuance of a fine, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.
- If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

Respondent's Testimony

The review provides the respondent the opportunity to tell the committee his/her version of the relevant events of his/her conviction(s), the acts or circumstances relating to the Bureau's issuance of fine(s), or his/her experience as it relates to the statutory requirements for licensure. Below are some of the Chairperson responsibilities to facilitate this effort.

1. The Chairperson will ask the respondent for the reason(s) why he/she believes the decision of the Bureau should be modified or rescinded.
2. The Chairperson may advise the respondent or his/her witnesses when testimony is repetitive or unrelated to the case, and may guide and advise the respondent and/or representatives so testimony given will assist the committee in reaching a decision.
3. The Chairperson may discontinue a respondent's or his/her witnesses' testimony if it is irrelevant and relevant testimony does not appear to be forthcoming.
4. If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.
5. If it becomes apparent during a review that a respondent is having difficulty understanding the proceedings because he/she is not sufficiently fluent in English, the Chairperson should consider stopping the review and advising the respondent that Bureau staff will reschedule the review for a later meeting at which time the respondent is to bring an interpreter. Any cost associated with the services of an interpreter shall be the sole responsibility of the respondent. However, if the respondent elects to continue with the review, the Chairperson should allow the matter to proceed.
6. The Chairperson should not make any inquiries, or allow any committee member to make

any inquiries, into inappropriate or irrelevant areas. Such inappropriate areas of inquiries include but are not limited to all protected statuses, receipt or not of governmental aid.

Purpose of Appeal Review

The purpose of the review is for committee members to obtain sufficient information on the appeal to make a determination on whether the Bureau's decision to deny or suspend licensure, the Bureau's decision to issue a fine or fines, or the Bureau's decision that the respondent does not meet the experience qualifications as required by the Business and Professions Code should be affirmed, rescinded or modified. In making inquiries to obtain information, committee members should confine questions to those events and information on which the Bureau took its action and use good judgment to control the review length to ensure sufficient time for other respondents scheduled for the meeting.

It is misconduct for a committee member to ask a respondent if there are other arrest(s) in his/her background which did not result in a conviction. It is also not appropriate for a committee member to inquire on personal matters not related to the case, with the exception of those noted below relating to the respondent's rehabilitation efforts. If the respondent raises issues personal in nature, committee members must confine their responses, and subsequent inquiries should only be relevant to the events and information on which the Bureau took its action.

During all portions of the review, the committee shall accept any documents submitted by the respondent or the Bureau. The Chairperson must advise the respondent that documents submitted to the committee must be retained by the committee. (NOTE: The respondent is advised in his/her review notification letter that he/she may submit documents in support of their appeal, and that if the respondent submits the documents the day of the hearing he/she should be prepared to leave the documents with the committee. The documents must be retained by the committee, and provided to Bureau staff after the review, in the event the committee upholds the Bureau's decision and the respondent appeals his case to an administrative law judge.

The information below is provided to assist committee members in conducting the applicable review.

1. *Appeals of Denials Relating to Conviction(s):* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's act(s) and/or behavior that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be considered during their deliberations on the respondent's appeal. The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.
Committee members may make reasonable inquiries, including those personal in nature, relating to the respondent's rehabilitation if they are connected with the issues relating to the review. Appropriate questions include but are not limited to the activities the respondent has engaged in since the crime/act, the nature and level of responsibilities of such activities, lengths of employment, participation in appropriate rehabilitation programs (alcohol, drug abuse, child abuse), and changes in life style which may have contributed to the crime/act. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 57).
2. *Appeals of Denials Relating to Making a False Statement of Fact on Application:* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's reasons for making the false statement(s) of fact,

which will be considered during their deliberations on the respondent's appeal. Generally, false statements relate to the respondent's response to conviction questions. However, false statements may also relate to the respondent's experience or training.

Whether or not a substantially-related conviction is a ground for a denial, the Bureau also may deny licensure due to the respondent making a false statement on the application by answering "no" to the conviction questions on the application. NOTE: Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. Below are the conviction questions:

*"Have you ever been convicted of, or pled guilty or nolo contendere to ANY criminal or civil offense in the United States, its territories, or a foreign country? This includes every citation, infraction, misdemeanor and/or felony. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), (e) or section 11360(b) which are two years or older, as well as criminal charges dismissed under section 1000.3 of the Penal Code or equivalent non-California laws, should **NOT** be reported. Convictions that were later dismissed pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law **MUST** be disclosed."*

"Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?"

3. *Appeals Relating to Automatic Suspension of Alarm Company Operator, Alarm Company Qualified Manager and Alarm Agent Registration:* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's behavior and/or act(s) that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be considered during their deliberations on the respondent's appeal. Since an automatic suspension involves a recent conviction, the respondent may not have yet undertaken steps of rehabilitation. However, if the respondent makes note of having done so, committee members may make reasonable inquiries, including those personal in nature, if they are connected with the issues relating to the review. (See item 1 for examples of appropriate questions.) The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.
4. *Appeals Relating to Issuance of Fine(s):* Committee members must obtain information from the respondent and/or his/her witnesses, if applicable, relating to the respondent's specific act(s) or omission(s) that the Bureau determined to be a violation of the Alarm Company Act and gave rise to the issuance of the fine(s), which will be considered during their deliberations on the respondent's appeal.
5. *Appeals of Denials for Failing to Meet Required Experience or Training:* Committee members must obtain information and evidence from the respondent and his/her witnesses, if applicable, regarding the respondent's experience or training, which will be considered during their deliberations on the respondent's appeal.

Disqualification from a Hearing

In accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 55), a committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality. Committee members must adhere to the specific steps outlined in the Guidelines when recusing themselves from a review. NOTE: Recusal

requires the member to have no involvement with the process. While the hearing portion is open to the public, a recused committee member MUST leave the room during testimony to prevent accidental participation such as through body language. Further, a recused committee member shall NOT be in the hearing room during closed session.

If a committee member recusing himself/herself from the review results in the committee no longer having a quorum, the review shall be carried out in accordance with the section in this document entitled “Commencing a Meeting – Quorum.”

DELIBERATIONS – CLOSED SESSIONS

Following the conclusion of all testimony, the Chairperson shall call the committee into closed session. Only committee members and Bureau staff responsible for taking closed session minutes are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision-making, but may answer meeting-related procedural questions and shall record the minutes of the closed session activities, as required by Section 11126.1 of the Government Code (Attachment 2 on Page 21).

Making a Decision on the Appeal

Committee members should weigh the reasonableness and relevance of the evidence provided by the Bureau, and the reasonableness and relevance of the evidence and testimony provided by the respondent and the respondent’s witnesses, if applicable. Committee members should only consider the facts provided and not make assumptions regarding what may have or may have not transpired. The burden of proof standards are as follows:

1. Denial of Licensure – Lack of Qualifying Experience: The burden of proof rests with the applicant. The applicant must show by “preponderance of the evidence” that he/she satisfies the specified statutory experience or training requirement for licensure.
2. Denial of Licensure – Substantially-Related Conviction: The burden of proof rests with the applicant. The applicant must show by preponderance of the evidence that the conviction did not occur, the conviction is not substantially related to the duties of the license, or that he/she has rehabilitated and is fit for licensure.

3. Bureau Issuing a Citation/Fine: The burden of proof rests with the Bureau. By the “preponderance of the evidence” the Bureau must show that the licensee committed a violation of the Act.”
4. Suspension of an Alarm Company Operator, Alarm Company Qualified Manager and Alarm Agent Registration: The burden of proof rests with the Bureau. By “preponderance of the evidence” the Bureau must show that the continued possession of such a license, certificate, registration or permit presents an undue hazard to public safety which may result in substantial injury to another.

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

In rendering their decisions, committee members should also consider the Bureau’s and Department’s mission of protecting consumers and the public. Ultimately, each committee member is entrusted with making a decision of the respondent’s fitness for licensure, the respondent’s eligibility for licensure, or the appropriateness of the issuance of the fine(s) to the respondent. Fitness for licensure means that the respondent will be able to carry out the duties of the license in a manner that will likely not result in public or consumer harm.

Appeal of Denials Relating to a Criminal Convictions: The grounds for the committee rescinding the Bureau’s denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent’s act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she proved rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau’s denial of the respondent’s application for licensure due to a criminal conviction.

1. *A Conviction was Not Sustained:* The committee should assess whether the respondent demonstrated that no criminal conviction was sustained. If the evidence presented by the respondent does not satisfy this burden of proof, then the Bureau’s official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which he/she was denied a license have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code sections 7591.10 and 7591.12, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent’s conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.
2. *The Crime or Act is Substantially Related to the Duties of the License:* If a crime is associated to a significant extent with the qualifications, functions and duties of the license it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the respondent to be denied licensure. The grounds for making a substantially related determination include the

committee member's knowledge and understanding of the responsibilities and qualifications of the licensee. If a committee member has a question regarding this determination when reviewing a case file prior to meeting day, he/she should email the DRU Manager.

3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator of the severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person, property or public.
4. *Rehabilitation:* For the purpose of making a decision of fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend and that protection of the public would be maintained despite a prior conviction.

Appeal of Denials Relating to Making False Statement of Fact on Application: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Did not make a false statement of fact on the application; OR
- Did make a false statement of fact on the application, but doing so does not constitute an act that is substantially-related to the duties of the license and, accordingly, do not demonstrate that the respondent is unfit for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to the respondent making a false statement of fact on the application.

Making a false statement of fact on an application is grounds for denial pursuant to Business and Professions Code Section 7591.10(a)(1). False statement of fact on the application includes the respondent stating he/she possesses experience or training that he/she does not; stating that he/she has no criminal convictions or pending arrests when he/she does; providing fraudulent documents to demonstrate experience or training; or falsifying a declarant's attestation as to his/her experience.

Some respondents state that employers misinformed them when filing their application by telling them that Bureau only cares about felony convictions, the conviction was not serious enough to report. This type of testimony does not establish a defense. Ignorance of the law and its requirements is not a defense. The license application contains information on the licensure requirements, including disclosure requirements. Ultimately, it is the applicant who, under penalty of perjury, attests to his/her statements made on the application, whether by signature on a paper application or through the electronic submission of a BreZE application, as being truthful and factual.

Additionally, some respondents may state that they did not complete the application. Given that the applicant is the one who allegedly signed the paper application or clicked the "Yes" radio button in the BreZE application attesting, under penalty of perjury, that the "statements on this application are true and correct" this statement is not in of itself a defense. Other evidence must be presented to substantiate the fact (i.e., witness testimony that witness himself/herself actually completed the application). However, if this is the defense brought forth, the committee should consider whether the act or acts of misleading the Bureau by having another complete the application rise to the level of demonstrating that

the respondent is unfit for licensure.

Appeals Relating to Automatic Suspensions of Alarm Company Operator, Alarm Company Qualified Manager and Alarm Agent Licenses: The grounds for the committee rescinding the Bureau's suspension of an alarm company, alarm qualified manager or alarm agent license is based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent's act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she substantiated rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's suspension of an alarm company, alarm qualified manager or alarm agent license due to a criminal conviction.

1. *A Crime or Act Occurred:* The committee should assess whether the respondent demonstrated that no criminal conviction was sustained. If the evidence presented by the respondent does not satisfy this burden of proof, then the Bureau's official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which his/her license, certificate, registration or permit was automatically suspended have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code sections 7591.8, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent's conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.
2. *The Act/Crime is Substantially Related to the Duties of an Alarm Company, Alarm Qualified Manager and/or Alarm Agent:* If a crime is associated to a significant extent to the qualifications, functions and duties of an Alarm Company, Alarm Qualified Manager and/or Alarm Agent license, then it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the Alarm Company, Alarm Qualified Manager and/or Alarm Agent license to be automatically suspended. The grounds for making a substantially related determination include the committee member's knowledge and understanding of an Alarm Company, Alarm Qualified Manager and/or Alarm Agent licensee's responsibilities and qualifications. If a committee member has a question regarding this determination when reviewing the case file prior to meeting day, he/she should email the DRU Manager.
3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator as to the nature and severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person or property
4. *Rehabilitation:* Automatic suspensions involve recent convictions; therefore, there may be insufficient time for the respondent to demonstrate rehabilitation. However, if the respondent provides evidence to this effect, for the purpose of making a decision of

fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend in the future. Consideration of mitigating factors is also appropriate.

Appeals Relating to Issuance of Fine(s): The grounds for the committee rescinding the Bureau's issuance of a fine is based on the preponderance of the evidence demonstrating that the respondent did not violate the specified provision of the Alarm Company Act. The grounds for the committee modifying a fine the Bureau issued is based on the preponderance of the evidence substantiating that a violation of the Alarm Company Act occurred, the authorizing section of law providing discretionary authority on the fine amount, and the committee's determination as to appropriate fine amount. **NOTE:** The committee does not have the statutory authority to modify fines set in statute.

The following information is provided to assist committee members in deciding whether to affirm, rescind or modify the Bureau's issuance of a fine.

The Legislature established requirements for maintenance of the license and standards of conduct for licensees in the Alarm Company Act to help support public safety and consumer protection. As a means to promote licensees' compliance, the Legislature authorized the Bureau to issue fines for violations of these requirements and standards. Many fine amounts are established in law and the Bureau only needs to establish that the violation occurred. Other fines have a maximum amount that may be imposed, and the Bureau must establish that a violation occurred and determine a fine amount commensurate with the act(s) or omission(s) committed by the licensee.

Committee members should keep in mind that they are not determining whether the respondent's act or omission is acceptable or unacceptable. The Legislature determined the conduct and acts as unacceptable by identifying them as a violation of the Alarm Company Act, and authorizing the Bureau to issue a fine to promote compliance.

Some respondents may state that he/she was not aware of the requirement(s) or standard(s). This type of testimony does not establish a defense. The licensee or the licensee's qualified manager is responsible for being knowledgeable of the requirements in the Alarm Company Act, and ignorance of the law and its requirements is not a defense.

1. ***Violation of the Act Occurred:*** The Notice of Citation the Bureau issued to the licensee details the applicable code section(s), a brief description of the statutory requirement(s) and the Bureau's findings relating to the respondent's act(s) or omission(s) that gave rise to the violation(s). Committee members are to assess the reasonableness and relevance of the evidence (Notice of Citation and Investigation Report) provided by the Bureau and the testimony and evidence provided by the respondent and the respondent's witnesses, if applicable, in guiding their determinations.
2. ***Modifying the Fine Amount:*** If the committee determines that a violation of the Act occurred and the violation is associated with an up-to-maximum fine amount, committee members should consider what amount of fine would be commensurate with the respondent's act(s) and behavior as well as the effect the fine would have in deterring the respondent from committing a future violation of the Alarm Company Act. **NOTE:** The Committee may not modify a fine amount set in statute nor may the Committee increase a fine assessed by the Bureau.

Appeals of Denials for Failing to Meet Required Experience or Training: The grounds for the committee rescinding the Bureau's denial of licensure is based on the preponderance of the evidence (applicant's statements, supporting documents and declarant's attestations) demonstrating that the respondent satisfies the requirements for the license.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's determination that the respondent does not meet the requirements for licensure.

The Legislature established minimum standards for obtaining a license regulated by the Alarm Company Act. See ***Minimum Requirements for Licenses Regulated by the Alarm Company Act*** (Attachment 7, page 59) for a list of the licenses and their related minimum requirements. Committee members must determine if the respondent has demonstrated that he/she complies with the requirements. In making this determination, committee members must keep in mind that the minimum requirements for licensure set by statute may NOT be waived, lessened or modified. The committee solely must consider whether the respondent, by preponderance of the evidence, demonstrates that he/she satisfies the minimum requirements.

Committee Motions

All committee motions and votes shall be carried out in accordance with the Committee's **Rules of Order** (Attachment 4 on page 51). A decision is reached on a given motion by a majority of voting members. In the case of a tie, the decision reverts to the Bureau's decision to deny, suspend or fine the respondent. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 57) for additional factors to consider when reaching decisions.

The committee may make the following motions on the Bureau's initial action to deny an applicant; suspend a license, registration, certificate or permit; or issue an administrative citation to a license, registrant, and certificate or permit holder:

- Affirm (uphold)
- Rescind (overturn); or
- Modify

NOTE: The committee may not take an action that includes a penalty more severe than the Bureau's action (e.g., increasing the amount of an administrative fine). Furthermore, in some instances (e.g., fines set by statute), the committee may NOT modify the penalty.

Preparing the Decision

Bureau staff will provide the Chairperson with the Decision and Order document, which is addressed to the respondent, to complete with the committee's decision and the basis for the decision. The Chairperson, or the Vice Chairperson in the absence of the Chairperson, or the Acting Chairperson in the absence of the Chairperson and the Vice Chairperson must sign the document. The Bureau will mail the document to the respondent along with a cover letter outlining the procedures for the respondent to appeal to an administrative law judge if respondent disagrees with the DRC's decision. DRC committee decisions are final if the respondent fails to request an administrative hearing within 30 days from the date the Decision is mailed to the respondent.

Discussion of Cases

Committee members must remember that while a primary purpose of the DRC is to provide respondents a more timely decision than that afforded through the administrative hearing process, the respondent has the right to appeal the DRC's decision to an administrative law

judge. To maintain the integrity of any subsequent hearings, committee members shall not discuss the nature of the appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to any case heard by the committee, he/she MUST immediately notify the DRU Manager and the Bureau staff who oversee the DRC activities.

NON-REVIEW AGENDA ITEMS

Other Items on Agenda

The Chairperson must verbally recognize all items on the Agenda posted online with the public Notice of the meeting and ensure that, if applicable, the public has an opportunity to directly provide comment to the committee during the discussion of each item prior to any action taken. Any motions made shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 51)

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 51)
2. The adjournment and time will be announced by the Chairperson and recorded for the *Meeting Minutes*.

ALARM COMPANY OPERATOR DISCIPLINARY REVIEW COMMITTEE CHAIRPERSON'S INSTRUCTIONS

OPENING THE MEETING INSTRUCTIONS:

- Confirm Bureau staff has started the audio recorder
- Establish a quorum of Committee
- Approve past Disciplinary Review Committee meeting minutes and address all other items on the Agenda listed before Review items
- Request motion to hear respondents in sign-in order instead of Agenda order

REVIEW INSTRUCTIONS

INTRODUCTION

Chairperson introduces all committee members.

Chairperson reads:

"Please note that this review is being audio recorded. This Disciplinary Review Committee is appointed by the Governor of the State of California to hear appeals of decisions made by the Bureau of Security and Investigative Services regarding denials, suspensions, and administrative fine assessments. The committee may affirm, rescind or modify the Bureau's decision based on the information in the Bureau's file and your testimony today. We will now begin the review of the Bureau's decision to:

- **deny** the (type of license/registration/certificate) of (name of respondent).
- **suspend** the (type of license/registration/certificate) of (name of respondent).
- **impose an administrative fine** against (name of respondent)."

RESPONDENT'S COUNSEL/WITNESS

Ask Respondent if he/she is represented by counsel or is being assisted by a representative. If yes, ask the Respondent to introduce him/her for the record.

Ask Respondent if he/she has any witnesses. If yes, ask the Respondent to identify the person by name, and relationship to the respondent for the record. Chairperson should ask if the witness is there as a character reference or as a witness to the events.

OATH TO RESPONDENT AND, IF APPLICABLE, WITNESS(ES).

NOTE: LEGAL COUNSEL OR OTHER REPRESENTATIVES ASSISTING THE RESPONDENT ARE NOT TO BE SWORN IN.

Chairperson reads:

"Please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?"

RESPONDENT'S NAME AND ADDRESS

Ask Respondent to state his/her full name, current address, and name of their employer for the record.

BUREAU PRESENTS CASE FACTS

Chairperson reads:

"A Bureau representative will now read the facts of this case."

After the Bureau representative reads the facts, Chairperson reads:

"Before moving on to your testimony, please advise the committee if you have any objections to the information read by Bureau staff."

If the respondent has no objection, the Chairperson shall state for the record:

"Having heard no objection, the committee takes official notice of the Bureau's case facts. We will continue with the review."

If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections.

If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is **not** the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.

The Chairperson shall state for the record:

The committee notes, for the record, the respondent's objections. We will now proceed with the review.

If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the Chairperson should request a motion to withdraw the review and return the case to the Bureau. The Chairperson shall state for the record:

"The committee notes, for the record, the respondent's objections. I request a motion to withdraw the review of <respondent's name> relating to agenda item number <agenda number> from today's meeting and that the case be sent back to the Bureau for further review."

The motion is to be carried out in accordance with the committee's Rules of Order. Upon passage of the motion, the Chairperson shall state for the record:

"The motion to withdraw the review of <respondent name> and to send the case back to the Bureau passes. Bureau staff will be contacting you within 48 hours to instruct you on how to proceed."

If the Chairperson believes the respondent's testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent's conviction record, the review should proceed and the Chairperson shall state for the record:

"The committee notes for the record the objections of respondent <respondent's name>. We will now continue with the review."

If the respondent has objections to the crime(s) being substantially related to the applicable license, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

"The committee notes for the record the objections of respondent <respondent's name>. We will now continue with the review."

If the respondent has objections to the accuracy of the Bureau's findings relating to the issuance of a fine, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

"The committee notes for the record the objections of respondent <respondent's name>. We will now continue with the review."

If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

"The committee notes for the record the objections of respondent <respondent's name>. We will now continue with the review."

BEFORE INTERVIEWING THE RESPONDENT

If a witness is to provide information regarding the events relating to the Respondent, the Chairperson is to ask him/her to leave the room while you interview the Respondent.

WITNESS

After the Respondent's testimony, the Chairperson may call any witness for his/her testimony. The Chairperson should remind the witness that he/she is under oath.

COUNSEL/REPRESENTATIVE

If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the

informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.

CONCLUSION OF TESTIMONY/CLOSED SESSION

Upon determination that all committee members have asked all of their questions and the respondent has provided sufficient information for the DRC to make a decision, the Chairperson shall ask the respondent if he/she has anything else to share. NOTE: To ensure sufficient time for all respondents scheduled for the meeting to be heard, the Chairperson should remain focused and on point in his/her actions and inquiries and may need to remind committee members to be focused and on point in their actions and inquiries.

The Chairperson shall state for the record:

“Prior to the Disciplinary Review Committee going into closed session, if you have anything else you want to add or expand on, please do so now.”

Upon conclusion of the respondent's additional information, the Chairperson shall close the record of the matter by stating

“The record in the review of the <denial, revocation, citation> against <respondent's name> is now closed.

After the Chairperson closes the record, the Chairperson shall inquire for public comment.

If public comment is to be made, the Chairperson should request the individual to state his/her name for the record (however, if the member of the public refuses, the Committee may not insist that a name be given).

The Chairperson should provide the public member sufficient time to provide his/her comments; however, if he/she becomes repetitive and the information provided is no longer relevant to the review or does not further the review, the Chairperson may request the individual to conclude his comments. Public comment, however, is not testimony and should not be given consideration as sworn testimony. It should always be remembered that the hearing is informal in nature and should remain non-adversarial.

After public comment, if any, is received the Chairperson shall conclude the open portion of the review by stating for the record:

“The Disciplinary Review Committee is now going into closed session to deliberate on your case. You will be notified by mail of the Committee's decision within 30 days. Please do not call the Bureau for the results of your review before this time. Thank you for appearing for your review.”

RETURNING TO OPEN SESSION

Upon reconvening back into open session, the Chairperson should state for the record:

"The Committee is back in open session. For the record, the Committee made a decision on <respondent's Name's> appeal, which will be mailed to the respondent within 30 days. The review is now concluded.”

ALARM COMPANY OPERATOR DISCIPLINARY REVIEW COMMITTEE BAGLEY-KEENE OPEN MEETING ACT – KEY PROVISIONS

(Note: GC = Government Code Section)

All Disciplinary Review Committee (DRC) meetings must be carried out in accordance with the provisions of the Bagley-Keene Open Meeting Act (Act). It should be noted that the Act's provisions also apply when three or more DRC members are in communication by telephone or email. This means that these communications would be subject to the Act's noticing and minute-taking requirements, as well as public records act requests.

1. DRC meetings are open to the public except during periods when a meeting is in "closed session" as identified on a meeting agenda. *(GC 11123)*
2. All DRC meetings must be publically noticed. The Notice and Agenda must be posted on the BSIS website at least 10 calendar days in advance of the scheduled meeting and include a brief description of each specific item to be discussed. *(GC 11125)*
3. No item will be added to a meeting's Agenda after the meeting has been noticed. *(GC 11125)*
4. DRC members must permit public comment on an Agenda item after discussion of the item by DRC members and before going to closed session, **unless**: *(GC 11125.7)*
 - a. The public was provided an opportunity to comment at a previous meeting and the item has not substantially changed since the last meeting.
 - b. The subject matter is appropriate for closed session.
5. The open sessions of DRC meetings are audio recorded by BSIS staff. The recordings are retained for at least 30 days from the date of the meeting. *(GC 11124.1(b))*
6. The public has the right to record DRC proceedings with an audio or video recording device **unless** doing so creates undue noise or other persistent disruption to the meeting. *(GC 11124.1)*
7. A BSIS staff member must be present during all closed sessions during the meeting to record minutes of the topics discussed and decisions made. *(GC 11126.1)*
8. During a DRC meeting, an emergency closed session is not allowed. *(GC 11126.3)*
9. The Meeting Agenda will include an item entitled "Agenda Items for Future DRC Meetings" to provide DRC members and the public the opportunity to request a specific item for a future meeting. Issues raised under this Agenda item should be discussed only to the extent necessary to determine whether they should be included as an Agenda item for a future meeting.

GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)

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BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation 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.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

- (1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.
- (2) To consider proposed legislation.
- (3) To consider issuance of a legal opinion.
- (4) To consider disciplinary action involving a state officer or employee.
- (5) To consider the purchase, sale, exchange, or lease of real property.
- (6) To consider license examinations and applications.
- (7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.
- (8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.
- (9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to "... consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing ... which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

“(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

“(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

ALARM COMPANY OPERATOR DISCIPLINARY REVIEW COMMITTEE RULES OF ORDER

All committee meetings will be conducted according to the Alarm Company Operator Disciplinary Review Committee Rules of Order (Rules of Order). These rules are meant to be used as tools to help make orderly, collective decisions in a cooperative, respectful way. Committee members should be familiar with these Rules of Order and conduct themselves accordingly.

Committee Chairperson Selection

Committee members shall select a Chairperson to preside over the meetings for a one-year term. However, there is no restriction on the number of terms a Chairperson may serve and committee members may change the selection of a Chairperson at any given time by noticing the event on a meeting agenda and by a majority vote of the committee. The committee should also establish a Vice Chairperson in case the Chairperson is absent or must disqualify himself/herself from any item before the committee. The selection of both the Chairperson and Vice Chairperson shall be conducted by an official vote of the committee and the motion and vote shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

If neither the Chairperson nor Vice Chairperson is present, an Acting Chairperson will be selected by an official vote of the members present with the motion and vote carried out in accordance with the "Meeting Motions" section of these Rules of Order. However, the committee may not proceed as a formal committee if it does not have a quorum (see Item 2 under Opening the Committee Meeting Section).

It should be noted that the Chairperson, Vice Chairperson, or Acting Chairperson has no more authority than any other DRC member regarding participation in the decision of an appeal. The Chairperson, Vice Chairperson or Acting Chairperson is responsible for conducting the meeting in accordance with these Rules of Order, maintaining order during the meeting, and assuring that all persons before the committee are treated impartially and courteously.

Meeting Motions

When a motion is made, the committee members who made and seconded the motion, and the official committee vote on the motion are to be recorded for the Meeting Minutes. A decision is reached by a majority vote of the committee. In the case of a tie vote on a motion relating to a respondent's appeal, the Bureau's decision to deny, suspend or fine the respondent stands.

Opening the Committee Meeting

1. The Chairperson shall conduct a roll call of the members present to establish a quorum. Each committee member must verbally acknowledge his/her presence for the Meeting Minutes.
2. Upon establishment of a quorum, the Chairperson must note the official time the meeting is called to order and the time is recorded for the Meeting Minutes.

If a quorum is not established, but is expected to be established within a short time from the commencement of the meeting (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal review heard later when the quorum is established, or request the review be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal review, in closed session, at a time deemed appropriate by the committee chair.

However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the case. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals -- respondent and his/her witness(es) or representative as well the committee members -- are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

3. The Chairperson shall note for the record that the meeting will be conducted in the order of the Agenda of the meeting's Public Notice. A motion must be made to modify the Agenda item listing the respondents scheduled to appear before the committee to hear their appeals in accordance with the respondents' sign-in sheet. The motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.
4. A motion should be made to adopt the Minutes from the previous DRC meeting and the motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

Review of a Respondent's Appeal

1. While respondents are to be heard in sign-in order, a motion can be made to hear a respondent out of order for hardship situations only upon motion and vote of the Committee. Any motion made shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

2. At the beginning of each review, the Chairperson must read, for the record, the respondent's name and corresponding item number from the meeting's Agenda even if the respondent is being heard out of Agenda order or providing written testimony.
3. A committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality in accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 55).
4. Chairperson shall use the *Disciplinary Review Committee Chairperson's Instructions* (Attachment 1 on page 17 of the Alarm Company Disciplinary Review Committee Reference and Procedures Manual) to carry out the review.
5. Chairperson will ensure that all committee members present are afforded the opportunity to ask questions or provide comments on any item on the meeting's Agenda.
6. Upon conclusion of each respondent's appeal review, the Chairperson will state for the record that the meeting is going into Closed Session.

Closed Session Deliberations

1. Only committee members and permitted Bureau staff are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision making, but may answer procedural questions and shall record the minutes of the closed session as required by Section 11126.1 of the Government Code.
2. Closed Session deliberations are not audio recorded.
3. Closed Session Minutes are confidential. Members cannot discuss closed session items in open session or in public, even with other members.
4. The motion to affirm, rescind, or modify the Bureau's initial decision shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order. The Committee shall render a decision on every appeal noted on the Agenda, including those involving respondents who did not appear. Exception: Respondents who opted not to present their case due to lack of a quorum.

NOTE: The committee cannot issue a decision that includes a penalty more severe than the Bureau action under review such as increasing the amount of a fine. Further, when a fine amount is set by law (e.g., \$100.00 for the first violation) the committee cannot issue a decision that alters the fine amount.

Other Agenda Items

The Chairperson must establish for the record all respondents who did not attend the meeting by reading his/her name and corresponding item number from the meeting's Agenda and stating "no show."

The Chairperson must verbally recognize all remaining items on the Agenda on the Public Notice. Any motions made shall be carried out in accordance with "Meeting Motions" section

of these Rules of Order.

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out during open session and in accordance with the "Meeting Motions" section of these Rules of Order.
2. The adjournment and time will be announced by the Chairperson and recorded for the Meeting Minutes.

Committee Member Expectation Guidelines

1. Review the cases prior to the hearings so you are familiar with the issues and prepared to make inquiries as needed.
2. Arrive at least 15 minutes before the meeting start time to allow for time to take care of any pending issues.
3. Speak audibly and clearly during the meeting to enable everyone in the room to hear and understand you.
4. During a respondent's review, be courteous, respectful, and provide your full attention to the person speaking whether it is the respondent, his or her attorney or witness(es), or another committee member.
 - Do not make inquiries or comments about a respondent's clothes or appearance UNLESS it is directly related to the issue(s) of the appeal.
 - Do not make inquiries or comments about a respondent's ability to speak/comprehend English unless it relates to determining the respondent's ability to comprehend procedural activities.
 - Do not question the education of a respondent UNLESS it is directly related to the issue(s) of the appeal.
 - Do not ask the respondent questions personal in nature unless it relates to rehabilitation (see guidelines for rehabilitation in the DRC manual).
 - Do not make inquiries into matters unrelated to the direct facts or issues of the case.
 - Do not make inquiries that relate to protected statuses. For example, "what is your religion or ethnic background?" or "are you a U.S. citizen?"
 - Do not indicate either through words or demeanor that you and/or the committee may have already reached a decision or may be predisposed to a certain decision.
 - Do not use cell phones (including texting), laptops or any other telecommunication device that could give the impression that you are not providing your full attention to the appeal. **REMEMBER:** A person is more likely to accept the committee's decision if he/she believes that he/she was heard, and treated impartially and respectfully.
5. Do not discuss an appeal case with another committee member before the review. Prior communication(s) could prejudice the review and could result in the committee's decision being challenged or nullified. Further, under certain circumstances, prior discussions could be subject to **Bagley-Keene Open Meeting Act** and **Public Records Act** (Act) requests. Violations of the Act may be a criminal offense. If you have a question regarding an appeal case, contact the DRU Manager or Bureau employee who staffs the committee.
6. You must recuse yourself from a review as soon as you become aware of factors that could affect your impartiality or could be perceived as affecting your impartiality. These factors may include but are not limited to a prior or current work-related or personal relationship with the applicant or licensee. If you recuse yourself, do **NOT** make any statements to the other committee members regarding the respondent or issues relating

to the appeal. You are only to state, for the record, that you are recusing yourself from the review due to a conflict. The member's name and the act of recusal shall be recorded in the Meeting Minutes. Once you recuse yourself from a review, you MUST leave the room during testimony to prevent accidental participation such as through body language. Further, you are NOT permitted to be in the room during closed session.

NOTE: If you determine that you will need to recuse yourself from a review prior to the day of the hearing, immediately contact the DRU manager and Bureau staff who oversees DRC activities. This information is important to identify a potential lack of quorum for the case.

7. Committee members should respect the Chairperson's right to control the process of the meeting. Only one matter will be before the committee at any time and no other discussion is in order.
8. Remember, your comments and/or actions could impact any future proceedings on the appeal. For this reason, you are not to discuss the nature of appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to an administrative or court proceeding for any case heard by the committee, he/she MUST immediately notify the DRU Manager and Bureau staff who oversee the DRC activities.

Criteria for Evaluating Rehabilitation

The following information is provided to assist members with decisions relating to rehabilitation.

CALIFORNIA CODE OF REGULATIONS, TITLE 16, Division 7, Section 602.1

When considering the denial, suspension, revocation, or reinstatement of a license for which application has been made under Chapters 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by applicant.
- (6) If applicable, evidence of proceedings pursuant to Section 1203.4 of the Penal Code.

Penal Code Section 1203.4

If an individual has fulfilled the conditions of probation, he/she may petition the court and be granted an Order of Dismissal under Penal Code Section 1203.4. This section allows a plea of guilty or nolo contendere to be put aside and a plea of not guilty to be entered. However, the order shall state that this dismissal does not relieve petitioner of the obligation to disclose the conviction in response to any direct questions contained in any questionnaire or application for public office or licensure by any state or local agency. The section does not reduce a felony to a misdemeanor nor does it restore the right to bear firearms. Convictions dismissed under this section must be disclosed on applications for licensure.

Business and Professions Code Section 480(c) provides, as follows: "Notwithstanding any other provisions of the code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal."

Bureau Comment Regarding PC 1203.4 Dismissals: While a committee member may not consider the conviction that has been set aside as the sole basis for making a decision on the appeal, factors such as the testimony of the respondent and witnesses about the nature and circumstances of the crime may be considered. In other words, in cases involving a dismissal, the focus should be on the act(s) and/or conduct and not the conviction itself.

Minimum Requirements for Licenses Regulated by the Alarm Act

Alarm Agent Registration (BPC Sections 7590.5 and 7598.6)

1. 18 years of age

Alarm Company Qualified Manager (BPC Section 7599)

1. 18 years of age
2. Possess at least two years (not less than 4,000 hours) of paid experience in alarm company work or the equivalent thereof as determined by the Bureau Chief.
3. Pass the required examination

Alarm Company Operator License (BPC Sections 7590.5 7593, 7593.1, 7593.2, 7593.3, 7593.4 7593.5 and 7599.23)

1. 18 years of age
2. License must be associated with an Alarm Company Qualified Manager Certificate Holder (can be the applicant or another individual).
3. Business organized as a sole owner, partnership, corporation or LLC.
4. An LLC licensee with five or fewer members must maintain a minimum of \$1 million liability insurance policy. If the LLC licensee has more than five members, an additional \$100,000 of coverage is required for each additional member up to a maximum of \$5 million.
- 5.

Firearms Permit -- Initial (BPC 7596 and 7596.3)

1. Completed the 8-hours Power to Arrest Course
2. Completed a BSIS Firearms Training Course as prescribed in Title 16, Division 7, Section 635 of the California Code of Regulations (Attachment 8, page 61).
3. Not prohibited by the Department of Justice from possessing a firearm

Firearms Training Course - California Code of Regulations §635

(a) Each applicant for an initial firearms permit shall complete classroom training related to the use of firearms, as outlined below, and complete and successfully pass an examination. Classroom training shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility. The following outline includes the minimum subjects which shall be taught and the minimum length of time which shall be devoted to each subject. Classroom training shall be completed before range training and before any attempt at range qualification.

FIREARMS TRAINING OUTLINE	
Recommended Instruction Sequence	
<i>Subject and Objective</i>	<i>Length of Time</i>
I. Registration (Classroom)	
A. Administration. Objective: to enroll individual in course.	1/2 hour
1. Check individual identification	
2. Check individuals Bureau registration status	
3. Course admission and discussion	
B. Laws and regulations for issuing a firearms permit.	1/2 hour
Objective: to familiarize and instruct individual on the laws, regulations, other requirements, and the administrative process for issuing a firearms permit and renewals.	
II. Moral and Legal Aspects (Classroom)	
A. Laws regarding possession and carrying of firearms.	1/2 hour
Objective: to familiarize and instruct individual on the applicable laws relating to the possession and carrying of firearms while working as an armed security guard.	
1. Penal Code sections	
2. Government Code sections	
3. Bureau statutes and regulations	
4. Instructor examples	
B. Laws and standards regarding use of deadly force.	2 hours
Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.	
1. Penal Code sections	
2. Government Code sections	
3. Bureau statutes and regulations	
4. Instructor examples	
C. Avoidance of deadly force--The de-escalation of force.	2 hours
Objective: to familiarize and instruct individual on the role of the firearms permit holder, the role that deadly force may play and when and how to de-escalate the use of deadly force.	
D. Shooting incidents.	1 hour
Objective: to familiarize and instruct individual on what is likely to happen in a shooting incident and how a firearms permit holder should act to minimize the use of deadly force.	
E. Effects of firearms use.	1/2 hour
Objective: to familiarize and instruct individual on how and why bullets travel and what implications this has on the use of deadly force.	
III. Firearms Nomenclature, Maintenance (Classroom)	
A. The revolver and semi-automatic, ammunition, parts and nomenclature.	1 hour
Objective: to familiarize and instruct individual on the principles and operation of weapons, the differences between weapons and how to care for a weapon.	
1. Picture of revolver and semi-automatic with parts identified	
2. Revolver and semi-automatic, parts and description	
3. Picture of ammunition with parts identified	

- 4. Ammunition parts and description
- B. Firearms safety, general. 1 hour
 - Objective: to familiarize and instruct individual on how to safely fire, wear and store the weapon while on the firing range, or on duty or off duty.
 - 1. General safety rules
 - 2. Specific safety rules
 - 3. Safety at home and off duty
 - 4. Transporting the weapon to the range
 - 5. Carrying the weapon on duty
 - 6. Suggested eye and ear protective equipment
 - 7. Inspection, cleaning, and maintenance
 - a. General information
 - b. Inspection
 - c. Cleaning
 - d. Cleaning kit
 - e. To clean the weapon
 - f. Check list
- IV. Weapon Handling and Shooting Fundamentals 1 hour
 - Objective: to familiarize and instruct individual on the fundamentals of marksmanship and the handling of weapons.
 - A. Weapon fundamentals, general differences between handguns
 - B. Loading/Unloading
 - 1. Proper loading procedures
 - 2. Proper loading procedures (right handed)
 - 3. Proper unloading procedures (right handed)
 - 4. Proper loading procedures (left handed)
 - 5. Proper unloading procedures (left handed)
 - 6. Loading devices
 - C. Proper positions
 - 1. Point shoulder position
 - 2. Standing, barricade or supported position
 - 3. Kneeling position
 - 4. Sitting position
 - 5. Prone position
 - 6. Cover and concealment
 - 7. Bouncing bullets
 - D. Grip
 - 1. Two-handed grip

- E. The draw
 - 1. General information
 - 2. The holster and the draw
- F. Shooting Fundamentals
 - 1. Sight alignment
 - 2. Trigger squeeze (control)
 - a. Single action
 - b. Double action
 - c. Count your shots
 - d. Anticipation
 - e. Dry firing
 - 3. Establishing the Dominant Eye
- V. Examination 1 hour

(b) In addition to completing and successfully passing an examination related to the use of firearms, each applicant for an initial firearms permit shall complete range training as outlined below. Range training shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Range Training Outline

- VI. Range Preparation (Classroom) 1 hour
 - Objective: individual will review range safety and the fundamentals of marksmanship and deployment of weapons. In addition, the individual will review requirements for the use of deadly force.
 - A. Range location
 - B. Equipment needed
 - C. Course of fire (explanation)
 - D. Targets, scoring explanation
 - E. Range commands (explanation)
 - F. Use of deadly force
- VII. Range Training As needed
 - Objective: to instruct individual in the safe and accurate use of a firearm until such time as the individual demonstrates to the instructor that he or she can safely draw and fire the weapon and has a high likelihood of passing the qualification course.
 - A. Instructions
 - B. Drawing and holstering practice
 - C. Dry firing
 - D. Loading and reloading procedures

(c) After completing both classroom-based firearms training and range training, each applicant for an initial firearms permit shall complete range qualification. The applicants initial range qualification shall only be completed by firing live ammunition and shall not be completed with a firearm simulator. The applicant must complete each range qualification with the same caliber of weapon that will be listed on the firearms permit and carried by the permit holder while on duty. If the applicant seeks to qualify for more than one caliber of weapon, the applicant must complete a range qualification for each additional caliber to be listed on the firearms permit. Each Range qualification shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

VIII. Range Qualification

Objective: individual shall pass a range qualification based on his or her demonstrated use of a weapon.

- A. Course of fire. Each individual shall discharge 50 rounds a minimum of 2 times according to the following schedule: (All stages are unsupported.)

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6,6 and 2) *6 standing position *8 kneeling position
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands) *6 weak hand unsupported
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

- B. Scoring. The first course of 50 rounds discharged shall be considered practice. The second course of 50 rounds discharged shall be used for scoring.
1. Silhouette targets shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass) as specified in Section 635.1.
 2. Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment.
 3. Each individual shall be informed whether his or her score passes or fails.

(d) A Bureau-approved Firearms Training Instructor conducting the range qualification must certify under penalty of perjury that an initial firearms permit applicant completed the required range qualification using live ammunition and provide a signed copy of the qualification documentation to the applicant.

Authority cited: Sections 7515, 7581, 7585, 7585.6 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.22, 7583.23, 7583.37, 7596, 7596.3 and 7599.40, Business and Professions Code.

Biennial Renewal of Firearms Permit - California Code of Regulations §633

(a) An applicant shall complete and pass the review training course on the laws and standards regarding use of deadly force, avoidance of deadly force, and de-escalation of force, as outlined below. All required classroom training shall be completed prior to attempting each range qualification. Training regarding use of deadly force and avoidance of deadly force shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Review Training Outline

<i>Subject and Objective</i>	<i>Length of Time</i>
A. Laws and standards regarding use of deadly force. Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.	1 hour
1. Penal Code sections	
2. Government Code sections	
3. Bureau statutes and regulations	
4. Instructor examples	
B. Avoidance of deadly force--The de-escalation of force. Objective: to familiarize and instruct individual on the role of the armed security guard, the role that deadly force may play and when and how to de-escalate the use of deadly force.	1 hour

(b) The permit holder shall complete a range qualification by firing fifty (50) rounds with a passing score:

(1) On two (2) separate occasions, at least four months apart, within each twelve-month period before the permit expires, and

(2) With at least one (1) of the range qualifications in each twelve-month period completed using live ammunition.

(3) Permit holders must complete each required range qualification for each caliber of firearm listed on the permit.

(4) Scoring: Silhouette targets as described in Section 635.1 shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass). Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment. Each individual shall be informed whether his or her score passes or fails.

Course of Fire

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6, 6 and 2)
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands)
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

(c) The application for the renewal of a firearms permit shall include the following proof and information:

(1) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed and passed each range qualification. Each Bureau-approved Firearms Training Instructor administering the range qualification must certify under penalty of perjury the method (live ammunition or firearm simulator) in which each range qualification was completed and provide a signed copy of the requalification documentation to the applicant.

(2) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed the review course prior to each range qualification.

(d) A Reserve Peace Officer is exempt from the firearms requalification requirements providing he/she submits documentation of firearms proficiency provided by the Law Enforcement entity with which he/she is associated, with their proof of renewal. This documentation must be submitted with the request for renewal of the firearms permit.

Authority cited: Sections 7515, 7581 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.32, 7596.7 and 7599.40, Business and Professions Code.



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**PRIVATE INVESTIGATOR
DISCIPLINARY REVIEW COMMITTEE
REFERENCE AND PROCEDURES
MANUAL**

November 2017

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INTRODUCTION

History

The Private Investigator Disciplinary Review Committee (DRC) was established, for the purpose of considering appeals from private investigator licensees of the Bureau's denials and revocations as well as the assessment of administrative fines. Each DRC consists of five members appointed by the Governor with three members actively engaged in the business of a license private investigator and two members from the general public.

Bureau and Department of Consumer Affairs Mission and Core Values

The Bureau's 2017-2021 Strategic Plan identifies the Bureau's mission as: *To protect and serve the public and consumers through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

The Bureau's Core Values are:

- **Accountability**
- **Consumer Protection**
- **Customer Service**
- **Integrity**
- **Professionalism**
- **Teamwork**

Appointment of Committee Members

As a Governor appointee, DRC members are representatives of the Governor and his/her administration. A DRC member is expected at all times to conduct himself/herself in a respectful, impartial, professional and courteous manner when participating in any DRC meeting or activity.

Member Per Diem

Pursuant to Business and Professions Code Sections 7519.1(c) and 103, a DRC member is paid a \$100 per diem for each day actually spent in the discharge of official duties. Accordingly, if a DRC appeal meeting is scheduled for one day, a DRC member will receive one day per diem to review the case files and one day per diem to attend the meeting. If a DRC appeal meeting is scheduled for two days, a member will receive two days per diem to review the case files and two days per diem to attend the meeting. In regard to other DRC-related training or activities, a DRC member will receive one day per diem for each day he/she is involved in a DRC training or activity. A DRC member is also entitled to reimbursement for travel and other necessary expenses related to attending a DRC-related meeting or activity.

Duties of Committee Members

The DRC provides an applicant or licensee an alternate process to appeal the Bureau's decision relating to denials, suspensions, revocations, and the Bureau's imposition of administrative fines for the security industries. Specifically, Business and Professions Code Section 7519.2 states:

- (a) The Private Investigator Disciplinary Review Committee shall perform the following functions:
 - (1) Affirm, rescind, or modify all decisions concerning administrative fines assessed by the bureau against private investigators that are appealed to the committee.
 - (2) Affirm, rescind, or modify all decisions concerning denial, suspension, or revocation of licenses or permits issued by the bureau, except denials, suspensions, or revocations ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that are appealed to the committee.
- (b) The committee may grant a probationary license with respect to the appealed decisions described in subdivision (a).
- (c) This section shall become operative on July 1, 2017.

The other appeal process option available is a hearing before an Administrative Law Judge with the Office of Administrative Hearings. However, if the matter is appealed to a DRC and the respondent disagrees with the DRC decision, he or she has the option to appeal the DRC decision to an ALJ.

Committee Resignations

If a DRC member is resigning from the DRC, he/she must provide a letter of resignation to the Governor's Office stating he/she will no longer serve on the DRC. A copy of the letter of resignation must also be submitted to the Director of the Department of Consumer Affairs and the Bureau Chief.

PRE-MEETING DAY ACTIVITIES

Scheduling Meetings

DRC meetings must be scheduled every 60 days; however, the frequency may be more or less depending on the number of appeals received (Business and Professions Code section 7519.1(c)). All meetings are subject to the requirements of the Bagley-Keene Opening Meeting Act and, accordingly, are publically noticed with an agenda of the scheduled appeals and other items to be considered during the meeting.

Upon receipt of a licensee's or applicant's (hereafter referred to as "respondent") appeal request, Bureau staff schedule the review for an upcoming meeting and mail the respondent information about the meeting and what to expect when attending the DRC meeting. Additionally, Bureau staff will post the meeting's notice on the BSIS public website in accordance with the **Bagley-Keene Open Meeting Act** (Attachment 2 and 3 on pages 19 and 21).

The number of appeals scheduled for a meeting is based on an average case review time of 20 minutes. Given this timeframe, committee members need to be focused and on point in their actions and inquiries during an appeal. This requires each member to have reviewed the case documents in advance to be sufficiently knowledgeable of the history and

circumstances. **NOTE:** Historically, not all respondents show up for their scheduled appeals. For this reason, having a case or two run slightly longer than 20 minutes, due to their complexity or other extenuating factors, should not create hardships relative to the overall meeting day.

Case Files to DRC Members

Approximately two weeks before a scheduled meeting, Bureau staff sends each DRC member the case files for each appeal to be heard during a meeting via the FedEx service requiring receipt signature. Each file contains the pertinent information the Bureau considered in reaching its decision on the applicant/licensee. Bureau staff will send each DRC member an email notifying them that the case files have been mailed and the date they were mailed. Given that the case files may contain information restricted by law or otherwise confidential, it is imperative that committee members handle the documents accordingly and immediately notify the Bureau if the files are misplaced or are not received from the delivery service. If a DRC member does not receive the case files package within 2-3 days of the notification of them having been mailed or if the case files could have been subject to any unauthorized access, **he/she must immediately notify the Bureau of this fact** by sending an email to the Bureau DRU manager and Bureau staff who oversees DRC activities.

It is the responsibility of each DRC member to promptly notify the Bureau's DRU manager and Bureau staff who oversees DRC activities immediately of any change of their mailing address.

If a committee member has a question regarding any scheduled appeal prior to the meeting, he/she should contact the DRU manager or the Bureau staff who oversees DRC activities.

Committee members must not discuss an appeal with external parties or another committee member before the meeting by any means or method. Prior communications could prejudice the appeal review and could result in the committee's decision being challenged or nullified. Under certain conditions, prior discussions also may be subject to the **Bagley-Keene Open Meeting Act** requirements and **Public Records Act** requests.

MEETING DAY PROCEDURES

All DRC meetings must be carried out in accordance with the **Bagley-Keene Open Meeting Act** (Attachments 2 and 3 on pages 19 and 21), the committee's **Rules of Order** (Attachment 4 on page 49), the **Committee Member Expectation Guidelines** (Attachment 5 on page 53) and the **Chairperson's Instructions** (Attachment 1 on page 15).

Meeting Date Expectations

The meetings generally begin at 9:00 a.m. with the length depending on the number of appeals scheduled to be heard. One or more Bureau staff members will be present at each scheduled meeting to answer questions DRC members may have with regard to Bureau laws, regulations, policies and procedures, and to facilitate the proceedings. Department representatives from the Executive Office or Legal Affairs Office may also attend the meetings. Lastly, the Bureau may arrange for law enforcement personnel to attend DRC meetings.

The meeting notice/agenda lists the respondents to be heard during the meeting. However, reviews are heard in order of sign-in by respondents on the "Respondent Sign-In" sheet located in the designated waiting room. The committee may hear a case out of sign-in order due to hardship-related circumstances. The committee will consider these requests on a

case-by-case basis. In addition, since the Bagley-Keene Act requires agenda items to be taken up in agenda order, at the beginning of each meeting a motion must be made and adopted by the committee to allow respondents to be heard in sign-in order. This motion must be carried out in accordance with the committee's Rules of Order (Attachment 4, page 49).

Prior to the committee members calling the meeting to order, Bureau staff will check-in the respondents in the waiting room, review their photo identification to confirm identity, and answer any questions they and/or their representatives may have. Additionally, Bureau staff will advise respondents and their witnesses and/or representatives that weapons are not allowed in the meeting room or the waiting room.

Meal and Rest Periods

DRC members are not employees of the state and not subject to requirements relating to meal and rest periods. However, the Bureau staff who serve as the DRC facilitator and scribe are represented employees and may be granted a minimum 30-minute lunch break. Accordingly, rest and meal periods should be taken as needed and/or upon request of Bureau staff.

Commencing a Meeting – Quorum

DRC meeting proceedings are carried out in accordance with the committee's **Rules of Order** (Attachment 4 on page 49). In accordance with the **Rules of Order**, a minimum of three DRC members are needed to establish a quorum of the committee. Bureau staff works closely with committee members to ensure attendance at each meeting is sufficient to establish a quorum. If for any unforeseeable reason a quorum is not established at the onset of a meeting, but is expected to be established within a short time (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal heard later when a quorum is established, or request the review to be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal, in closed session, at a time deemed appropriate by the Chairperson. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the appeal. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals – respondent, his/her witness(es) or representative as well the committee members – are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

Threatening Behavior by Respondent/Representative/Member of the Public

If a respondent, his/her representative or witness, or a member of the audience becomes unruly or threatens any committee member, Bureau staff, or another meeting attendee, the

Chairperson shall pause the meeting and address the situation. If appropriate, the meeting should be adjourned and committee members and Bureau staff leave the room. If present, law enforcement personnel assigned to monitor the meeting will take over the matter. If no law enforcement is present, law enforcement personnel may be summoned by calling 911.

APPEAL REVIEW PROCEDURES

Committee Introductions

In accordance with the **Chairperson's Instructions** (Attachment 1 on page 15), at the beginning of each review, the Chairperson will introduce the committee members, advise that the members are appointees of the Governor, and briefly explain the responsibilities and purpose of the DRC.

Respondent's Witnesses/Representation

The respondent may present his/her appeal or be represented by an attorney or other person. If represented, the respondent is still responsible for presenting his appeal. A representative may not testify to facts or events about which he/she does not have direct knowledge.

The Chairperson will swear in the respondent and, if applicable, his/her witness(es) to tell the truth. **NOTE:** Representatives (e.g., legal counsel, an interpreter, or any individual providing only moral or technical support) are not witnesses and, therefore, are not to be sworn in.

Bureau's Presentation of Case Facts

The Chairperson will request Bureau staff to state the facts of the case by reading the Bureau's prepared statement for the appeal. In accordance with the **Chairperson's Instructions** (Attachment 1 on page 15), the Chairperson will ask the respondent if he/she has any objections to the official notice.

- If the respondent has no objections, the Chairperson will note that the committee takes official notice of the information presented and proceed with the review.
- If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections and the Chairperson shall note the objections for the record.
 - If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is not the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.
 - If the Chairperson believes the respondent's testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent's conviction record, the Chairperson should allow the review to proceed.
 - If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the review should not proceed and the Chairperson should request a motion to withdraw the review and return the case to the Bureau. Upon the motion's passage, the Chairperson should advise the respondent that he/she will be contacted by Bureau staff for instructions

on how to proceed.

- If the respondent has objections to the crime being substantially related to the applicable license type, the committee must hear the objections, the Chairperson shall note the objection for the record, and the review should proceed.
- If the respondent has objections to the accuracy of the Bureau's findings relating to the issuance of a fine, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.
- If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

Respondent's Testimony

The review provides the respondent the opportunity to tell the committee his/her version of the relevant events of his/her conviction(s), the acts or circumstances relating to the Bureau's issuance of fine(s), or his/her experience as it relates to the statutory requirements for licensure. Below are some of the Chairperson responsibilities to facilitate this effort.

1. The Chairperson will ask the respondent for the reason(s) why he/she believes the decision of the Bureau should be modified or rescinded.
2. The Chairperson may advise the respondent or his/her witnesses when testimony is repetitive or unrelated to the case, and may guide and advise the respondent and/or representatives so testimony given will assist the committee in reaching a decision.
3. The Chairperson may discontinue a respondent's or his/her witnesses' testimony if it is irrelevant and relevant testimony does not appear to be forthcoming.
4. If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.
5. If it becomes apparent during a review that a respondent is having difficulty understanding the proceedings because he/she is not sufficiently fluent in English, the Chairperson should consider stopping the review and advising the respondent that Bureau staff will reschedule the review for a later meeting at which time the respondent is to bring an interpreter. Any cost associated with the services of an interpreter shall be the sole responsibility of the respondent. However, if the respondent elects to continue with the review, the Chairperson should allow the matter to proceed.
6. The Chairperson should not make any inquiries, or allow any committee member to make any inquiries, into inappropriate or irrelevant areas. Such inappropriate areas of inquiries include but are not limited to all protected statuses, receipt or not of governmental aid.

Purpose of Appeal Review

The purpose of the review is for committee members to obtain sufficient information on the appeal to make a determination on whether the Bureau's decision to deny or suspend licensure, the Bureau's decision to issue a fine or fines, or the Bureau's decision that the respondent does not meet the experience qualifications as required by the Business and Professions Code should be affirmed, rescinded or modified. In making inquiries to obtain information, committee members should confine questions to those events and information on which the Bureau took its action and use good judgment to control the review length to ensure sufficient time for other respondents scheduled for the meeting.

It is misconduct for a committee member to ask a respondent if there are other arrest(s) in his/her background which did not result in a conviction. It is also not appropriate for a committee member to inquire on personal matters not related to the case, with the exception of those noted below relating to the respondent's rehabilitation efforts. If the respondent raises issues personal in nature, committee members must confine their responses, and subsequent inquiries should only be relevant to the events and information on which the Bureau took its action.

During all portions of the review, the committee shall accept any documents submitted by the respondent or the Bureau. The Chairperson must advise the respondent that documents submitted to the committee must be retained by the committee. (NOTE: The respondent is advised in his/her review notification letter that he/she may submit documents in support of their appeal, and that if the respondent submits the documents the day of the hearing he/she should be prepared to leave the documents with the committee. The documents must be retained by the committee, and provided to Bureau staff after the review, in the event the committee upholds the Bureau's decision and the respondent appeals his case to an administrative law judge.

The information below is provided to assist committee members in conducting the applicable review.

1. *Appeals of Denials Relating to Conviction(s):* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's act(s) and/or behavior that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be considered during their deliberations on the respondent's appeal. The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.

Committee members may make reasonable inquiries, including those personal in nature, relating to the respondent's rehabilitation if they are connected with the issues relating to the review. Appropriate questions include but are not limited to the activities the respondent has engaged in since the crime/act, the nature and level of responsibilities of such activities, lengths of employment, participation in appropriate rehabilitation programs (alcohol, drug abuse, child abuse), and changes in life style which may have contributed to the crime/act. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 55).

2. *Appeals of Denials Relating to Making a False Statement of Fact on Application:* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's reasons for making the false statement(s) of fact, which will be considered during their deliberations on the respondent's appeal. Generally, false statements relate to the respondent's response to conviction questions. However, false statements may also relate to the respondent's experience or training.

Whether or not a substantially-related conviction is a ground for a denial, the Bureau also may deny licensure due to the respondent making a false statement on the application by answering "no" to the conviction questions on the application. NOTE: Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. Below are the conviction questions:

*"Have you ever been convicted of, or pled guilty or nolo contendere to ANY criminal or civil offense in the United States, its territories, or a foreign country? This includes every citation, infraction, misdemeanor and/or felony. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), (e) or section 11360(b) which are two years or older, as well as criminal charges dismissed under section 1000.3 of the Penal Code or equivalent non-California laws, should **NOT** be reported. Convictions that were later dismissed pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law **MUST** be disclosed."*

"Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?"

3. *Appeals Relating to Issuance of Fine(s):* Committee members must obtain information from the respondent and/or his/her witnesses, if applicable, relating to the respondent's specific act(s) or omission(s) that the Bureau determined to be a violation of the Private Investigators Act and gave rise to the issuance of the fine(s), which will be considered during their deliberations on the respondent's appeal.
4. *Appeals of Denials for Failing to Meet Required Experience or Training:* Committee members must obtain information and evidence from the respondent and his/her witnesses, if applicable, regarding the respondent's experience or training, which will be considered during their deliberations on the respondent's appeal.

Disqualification from a Hearing

In accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 53), a committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality. Committee members must adhere to the specific steps outlined in the Guidelines when recusing themselves from a review. NOTE: Recusal requires the member to have no involvement with the process. While the hearing portion is open to the public, a recused committee member **MUST** leave the room during testimony to prevent accidental participation such as through body language. Further, a recused committee member shall **NOT** be in the hearing room during closed session.

If a committee member recusing himself/herself from the review results in the committee no longer having a quorum, the review shall be carried out in accordance with the section in this document entitled "Commencing a Meeting – Quorum."

DELIBERATIONS – CLOSED SESSIONS

Following the conclusion of all testimony, the Chairperson shall call the committee into closed session. Only committee members and Bureau staff responsible for taking closed session minutes are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the

Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision-making, but may answer meeting-related procedural questions and shall record the minutes of the closed session activities, as required by Section 11126.1 of the Government Code (Attachment 2 on Page 19).

Making a Decision on the Appeal

Committee members should weigh the reasonableness and relevance of the evidence provided by the Bureau, and the reasonableness and relevance of the evidence and testimony provided by the respondent and the respondent's witnesses, if applicable. Committee members should only consider the facts provided and not make assumptions regarding what may have or may have not transpired. The burden of proof standards are as follows:

1. Denial of Licensure – Lack of Qualifying Experience: The burden of proof rests with the applicant. The applicant must show by “preponderance of the evidence” that he/she satisfies the specified statutory experience or training requirement for licensure.
2. Denial of Licensure – Substantially-Related Conviction: The burden of proof rests with the applicant. The applicant must show by preponderance of the evidence that the conviction did not occur, the conviction is not substantially related to the duties of the license, or that he/she has rehabilitated and is fit for licensure.
3. Bureau Issuing a Citation/Fine: The burden of proof rests with the Bureau. By the “preponderance of the evidence” the Bureau must show that the licensee committed a violation of the Act.”

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

In rendering their decisions, committee members should also consider the Bureau's and Department's mission of protecting consumers and the public. Ultimately, each committee member is entrusted with making a decision of the respondent's fitness for licensure, the respondent's eligibility for licensure, or the appropriateness of the issuance of the fine(s) to the respondent. Fitness for licensure means that the respondent will be able to carry out the duties of the license in a manner that will likely not result in public or consumer harm.

Appeal of Denials Relating to a Criminal Convictions: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent's act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she proved rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to a criminal conviction.

1. *A Conviction was Not Sustained:* The committee should assess whether the respondent demonstrated that no criminal conviction was sustained. If the evidence presented by the

respondent does not satisfy this burden of proof, then the Bureau's official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which he/she was denied a license have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code section 7561.1, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent's conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.

2. *The Crime or Act is Substantially Related to the Duties of the License:* If a crime is associated to a significant extent with the qualifications, functions and duties of the license it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the respondent to be denied licensure. The grounds for making a substantially related determination include the committee member's knowledge and understanding of the responsibilities and qualifications of the licensee. If a committee member has a question regarding this determination when reviewing a case file prior to meeting day, he/she should email the DRU Manager.
3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator of the severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person, property or public.
4. *Rehabilitation:* For the purpose of making a decision of fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend and that protection of the public would be maintained despite a prior conviction.

Appeal of Denials Relating to Making False Statement of Fact on Application: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Did not make a false statement of fact on the application; OR
- Did make a false statement of fact on the application, but doing so does not constitute an act that is substantially-related to the duties of the license and, accordingly, do not demonstrate that the respondent is unfit for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to the respondent making a false statement of fact on the application.

Making a false statement of fact on an application is grounds for denial pursuant to Business and Professions Code Section 7561.1(a). False statement of fact on the application includes the respondent stating he/she possesses experience or training that he/she does not; stating that he/she has no criminal convictions or pending arrests when he/she does; providing fraudulent documents to demonstrate experience or training; or falsifying a declarant's attestation as to his/her experience.

Some respondents state that employers misinformed them when filing their application by telling them that Bureau only cares about felony convictions, the conviction was not serious

enough to report. This type of testimony does not establish a defense. Ignorance of the law and its requirements is not a defense. The license application contains information on the licensure requirements, including disclosure requirements. Ultimately, it is the applicant who, under penalty of perjury, attests to his/her statements made on the application, whether by signature on a paper application or through the electronic submission of a BreEZe application, as being truthful and factual.

Additionally, some respondents may state that they did not complete the application. Given that the applicant is the one who allegedly signed the paper application or clicked the “Yes” radio button in the BreEZe application attesting, under penalty of perjury, that the “statements on this application are true and correct” this statement is not in of itself a defense. Other evidence must be presented to substantiate the fact (i.e., witness testimony that witness himself/herself actually completed the application). However, if this is the defense brought forth, the committee should consider whether the act or acts of misleading the Bureau by having another complete the application rise to the level of demonstrating that the respondent is unfit for licensure.

Appeals Relating to Issuance of Fine(s): The grounds for the committee rescinding the Bureau’s issuance of a fine is based on the preponderance of the evidence demonstrating that the respondent did not violate the specified provision of the Private Investigator Act. The grounds for the committee modifying a fine the Bureau issued is based on the preponderance of the evidence substantiating that a violation of the Private Investigator Act occurred, the authorizing section of law providing discretionary authority on the fine amount, and the committee’s determination as to appropriate fine amount. **NOTE:** The committee does not have the statutory authority to modify fines set in statute.

The following information is provided to assist committee members in deciding whether to affirm, rescind or modify the Bureau’s issuance of a fine.

The Legislature established requirements for maintenance of the license and standards of conduct for licensees in the Private Investigator Act to help support public safety and consumer protection. As a means to promote licensees’ compliance, the Legislature authorized the Bureau to issue fines for violations of these requirements and standards. Many fine amounts are established in law and the Bureau only needs to establish that the violation occurred. Other fines have a maximum amount that may be imposed, and the Bureau must establish that a violation occurred and determine a fine amount commensurate with the act(s) or omission(s) committed by the licensee.

Committee members should keep in mind that they are not determining whether the respondent’s act or omission is acceptable or unacceptable. The Legislature determined the conduct and acts as unacceptable by identifying them as a violation of the Private Investigator Act, and authorizing the Bureau to issue a fine to promote compliance.

Some respondents may state that he/she was not aware of the requirement(s) or standard(s). This type of testimony does not establish a defense. The licensee or the licensee’s qualified manager is responsible for being knowledgeable of the requirements in the Private Investigator Act, and ignorance of the law and its requirements is not a defense.

1. ***Violation of the Act Occurred:*** The Notice of Citation the Bureau issued to the licensee details the applicable code section(s), a brief description of the statutory requirement(s) and the Bureau’s findings relating to the respondent’s act(s) or omission(s) that gave rise to the violation(s). Committee members are to assess the reasonableness and relevance of the evidence (Notice of Citation and Investigation Report) provided by the Bureau and the testimony and evidence provided by the respondent and the respondent’s witnesses, if applicable, in guiding their determinations.

2. *Modifying the Fine Amount:* If the committee determines that a violation of the Act occurred and the violation is associated with an up-to-maximum fine amount, committee members should consider what amount of fine would be commensurate with the respondent's act(s) and behavior as well as the effect the fine would have in deterring the respondent from committing a future violation of the Private Investigator Act. **NOTE:** The Committee may not modify a fine amount set in statute nor may the Committee increase a fine assessed by the Bureau.

Appeals of Denials for Failing to Meet Required Experience or Training: The grounds for the committee rescinding the Bureau's denial of licensure is based on the preponderance of the evidence (applicant's statements, supporting documents and declarant's attestations) demonstrating that the respondent satisfies the requirements for the license.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's determination that the respondent does not meet the requirements for licensure.

The Legislature established minimum standards for obtaining a license regulated by the Private Investigator Act. See *Minimum Requirements for Licenses Regulated by the Private Investigator Act* (Attachment 7, page 57) for a list of the licenses and their related minimum requirements. Committee members must determine if the respondent has demonstrated that he/she complies with the requirements. In making this determination, committee members must keep in mind that the minimum requirements for licensure set by statute may NOT be waived, lessened or modified. The committee solely must consider whether the respondent, by preponderance of the evidence, demonstrates that he/she satisfies the minimum requirements.

Committee Motions

All committee motions and votes shall be carried out in accordance with the Committee's **Rules of Order** (Attachment 4 on page 49). A decision is reached on a given motion by a majority of voting members. In the case of a tie, the decision reverts to the Bureau's decision to deny, suspend or fine the respondent. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 55) for additional factors to consider when reaching decisions.

The committee may make the following motions on the Bureau's initial action to deny an applicant or issue an administrative citation to a license:

- Affirm (uphold)
- Rescind (overturn); or
- Modify

NOTE: The committee may not take an action that includes a penalty more severe than the Bureau's action (e.g., increasing the amount of an administrative fine). Furthermore, in some instances (e.g., fines set by statute), the committee may NOT modify the penalty.

Preparing the Decision

Bureau staff will provide the Chairperson with the Decision and Order document, which is addressed to the respondent, to complete with the committee's decision and the basis for the decision. The Chairperson, or the Vice Chairperson in the absence of the Chairperson, or the Acting Chairperson in the absence of the Chairperson and the Vice Chairperson must sign the document. The Bureau will mail the document to the respondent along with a cover

letter outlining the procedures for the respondent to appeal to an administrative law judge if respondent disagrees with the DRC's decision. DRC committee decisions are final if the respondent fails to request an administrative hearing within 30 days from the date the Decision is mailed to the respondent.

Discussion of Cases

Committee members must remember that while a primary purpose of the DRC is to provide respondents a more timely decision than that afforded through the administrative hearing process, the respondent has the right to appeal the DRC's decision to an administrative law judge. To maintain the integrity of any subsequent hearings, committee members shall not discuss the nature of the appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to any case heard by the committee, he/she MUST immediately notify the DRU Manager and the Bureau staff who oversee the DRC activities.

NON-REVIEW AGENDA ITEMS

Other Items on Agenda

The Chairperson must verbally recognize all items on the Agenda posted online with the public Notice of the meeting and ensure that, if applicable, the public has an opportunity to directly provide comment to the committee during the discussion of each item prior to any action taken. Any motions made shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 49)

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 49)
2. The adjournment and time will be announced by the Chairperson and recorded for the *Meeting Minutes*.

PRIVATE INVESTIGATOR DISCIPLINARY REVIEW COMMITTEE CHAIRPERSON'S INSTRUCTIONS

OPENING THE MEETING INSTRUCTIONS:

- Confirm Bureau staff has started the audio recorder
- Establish a quorum of Committee
- Approve past Disciplinary Review Committee meeting minutes and address all other items on the Agenda listed before Review items
- Request motion to hear respondents in sign-in order instead of Agenda order

REVIEW INSTRUCTIONS

INTRODUCTION

Chairperson introduces all committee members.

Chairperson reads:

"Please note that this review is being audio recorded. This Disciplinary Review Committee is appointed by the Governor of the State of California to hear appeals of decisions made by the Bureau of Security and Investigative Services regarding denials, suspensions, and administrative fine assessments. The committee may affirm, rescind or modify the Bureau's decision based on the information in the Bureau's file and your testimony today. We will now begin the review of the Bureau's decision to:

- **deny** the (type of license/registration/certificate) of (name of respondent).
- **impose an administrative fine** against (name of respondent)."

RESPONDENT'S COUNSEL/WITNESS

Ask Respondent if he/she is represented by counsel or is being assisted by a representative. If yes, ask the Respondent to introduce him/her for the record.

Ask Respondent if he/she has any witnesses. If yes, ask the Respondent to identify the person by name, and relationship to the respondent for the record. Chairperson should ask if the witness is there as a character reference or as a witness to the events.

OATH TO RESPONDENT AND, IF APPLICABLE, WITNESS(ES).

NOTE: LEGAL COUNSEL OR OTHER REPRESENTATIVES ASSISTING THE RESPONDENT ARE NOT TO BE SWORN IN.

Chairperson reads:

"Please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?"

RESPONDENT'S NAME AND ADDRESS

Ask Respondent to state his/her full name, current address, and name of their employer for the record.

BUREAU PRESENTS CASE FACTS

Chairperson reads:

"A Bureau representative will now read the facts of this case."

After the Bureau representative reads the facts, Chairperson reads:

"Before moving on to your testimony, please advise the committee if you have any objections to the information read by Bureau staff."

If the respondent has no objection, the Chairperson shall state for the record:

"Having heard no objection, the committee takes official notice of the Bureau's case facts. We will continue with the review."

If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections.

If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is **not** the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.

The Chairperson shall state for the record:

The committee notes, for the record, the respondent's objections. We will now proceed with the review.

If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the Chairperson should request a motion to withdraw the review and return the case to the Bureau. The Chairperson shall state for the record:

"The committee notes, for the record, the respondent's objections. I request a motion to withdraw the review of <respondent's name> relating to agenda item number <agenda number> from today's meeting and that the case be sent back to the Bureau for further review."

The motion is to be carried out in accordance with the committee's Rules of Order. Upon passage of the motion, the Chairperson shall state for the record:

“The motion to withdraw the review of <respondent name> and to send the case back to the Bureau passes. Bureau staff will be contacting you within 48 hours to instruct you on how to proceed.”

If the Chairperson believes the respondent’s testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent’s conviction record, the review should proceed and the Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the crime(s) being substantially related to the applicable license, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the accuracy of the Bureau’s findings relating to the issuance of a fine, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

BEFORE INTERVIEWING THE RESPONDENT

If a witness is to provide information regarding the events relating to the Respondent, the Chairperson is to ask him/her to leave the room while you interview the Respondent.

WITNESS

After the Respondent's testimony, the Chairperson may call any witness for his/her testimony. The Chairperson should remind the witness that he/she is under oath.

COUNSEL/REPRESENTATIVE

If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.

CONCLUSION OF TESTIMONY/CLOSED SESSION

Upon determination that all committee members have asked all of their questions and the respondent has provided sufficient information for the DRC to make a decision, the Chairperson shall ask the respondent if he/she has anything else to share. NOTE: To ensure sufficient time for all respondents scheduled for the meeting to be heard, the Chairperson should remain focused and on point in his/her actions and inquiries and may need to remind committee members to be focused and on point in their actions and inquiries.

The Chairperson shall state for the record:

“Prior to the Disciplinary Review Committee going into closed session, if you have anything else you want to add or expand on, please do so now.”

Upon conclusion of the respondent's additional information, the Chairperson shall close the record of the matter by stating

“The record in the review of the <denial, revocation, citation> against <respondent's name> is now closed.

After the Chairperson closes the record, the Chairperson shall inquire for public comment.

If public comment is to be made, the Chairperson should request the individual to state his/her name for the record (however, if the member of the public refuses, the Committee may not insist that a name be given).

The Chairperson should provide the public member sufficient time to provide his/her comments; however, if he/she becomes repetitive and the information provided is no longer relevant to the review or does not further the review, the Chairperson may request the individual to conclude his comments. Public comment, however, is not testimony and should not be given consideration as sworn testimony. It should always be remembered that the hearing is informal in nature and should remain non-adversarial.

After public comment, if any, is received the Chairperson shall conclude the open portion of the review by stating for the record:

“The Disciplinary Review Committee is now going into closed session to deliberate on your case. You will be notified by mail of the Committee's decision within 30 days. Please do not call the Bureau for the results of your review before this time. Thank you for appearing for your review.”

RETURNING TO OPEN SESSION

Upon reconvening back into open session, the Chairperson should state for the record:

"The Committee is back in open session. For the record, the Committee made a decision on <respondent's Name's> appeal, which will be mailed to the respondent within 30 days. The review is now concluded.”

PRIVATE INVESTIGATOR DISCIPLINARY REVIEW COMMITTEE BAGLEY-KEENE OPEN MEETING ACT – KEY PROVISIONS

(Note: GC = Government Code Section)

All Disciplinary Review Committee (DRC) meetings must be carried out in accordance with the provisions of the Bagley-Keene Open Meeting Act (Act). It should be noted that the Act's provisions also apply when three or more DRC members are in communication by telephone or email. This means that these communications would be subject to the Act's noticing and minute-taking requirements, as well as public records act requests.

1. DRC meetings are open to the public except during periods when a meeting is in "closed session" as identified on a meeting agenda. *(GC 11123)*
2. All DRC meetings must be publically noticed. The Notice and Agenda must be posted on the BSIS website at least 10 calendar days in advance of the scheduled meeting and include a brief description of each specific item to be discussed. *(GC 11125)*
3. No item will be added to a meeting's Agenda after the meeting has been noticed. *(GC 11125)*
4. DRC members must permit public comment on an Agenda item after discussion of the item by DRC members and before going to closed session, **unless**: *(GC 11125.7)*
 - a. The public was provided an opportunity to comment at a previous meeting and the item has not substantially changed since the last meeting.
 - b. The subject matter is appropriate for closed session.
5. The open sessions of DRC meetings are audio recorded by BSIS staff. The recordings are retained for at least 30 days from the date of the meeting. *(GC 11124.1(b))*
6. The public has the right to record DRC proceedings with an audio or video recording device **unless** doing so creates undue noise or other persistent disruption to the meeting. *(GC 11124.1)*
7. A BSIS staff member must be present during all closed sessions during the meeting to record minutes of the topics discussed and decisions made. *(GC 11126.1)*
8. During a DRC meeting, an emergency closed session is not allowed. *(GC 11126.3)*
9. The Meeting Agenda will include an item entitled "Agenda Items for Future DRC Meetings" to provide DRC members and the public the opportunity to request a specific item for a future meeting. Issues raised under this Agenda item should be discussed only to the extent necessary to determine whether they should be included as an Agenda item for a future meeting.

GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)

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BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation 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.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to " . . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

"A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed." (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that "We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed." (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

"(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

PRIVATE INVESTIGATOR DISCIPLINARY REVIEW COMMITTEE RULES OF ORDER

All committee meetings will be conducted according to the Private Investigator Disciplinary Review Committee Rules of Order (Rules of Order). These rules are meant to be used as tools to help make orderly, collective decisions in a cooperative, respectful way. Committee members should be familiar with these Rules of Order and conduct themselves accordingly.

Committee Chairperson Selection

Committee members shall select a Chairperson to preside over the meetings for a one-year term. However, there is no restriction on the number of terms a Chairperson may serve and committee members may change the selection of a Chairperson at any given time by noticing the event on a meeting agenda and by a majority vote of the committee. The committee should also establish a Vice Chairperson in case the Chairperson is absent or must disqualify himself/herself from any item before the committee. The selection of both the Chairperson and Vice Chairperson shall be conducted by an official vote of the committee and the motion and vote shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

If neither the Chairperson nor Vice Chairperson is present, an Acting Chairperson will be selected by an official vote of the members present with the motion and vote carried out in accordance with the "Meeting Motions" section of these Rules of Order. However, the committee may not proceed as a formal committee if it does not have a quorum (see Item 2 under Opening the Committee Meeting Section).

It should be noted that the Chairperson, Vice Chairperson, or Acting Chairperson has no more authority than any other DRC member regarding participation in the decision of an appeal. The Chairperson, Vice Chairperson or Acting Chairperson is responsible for conducting the meeting in accordance with these Rules of Order, maintaining order during the meeting, and assuring that all persons before the committee are treated impartially and courteously.

Meeting Motions

When a motion is made, the committee members who made and seconded the motion, and the official committee vote on the motion are to be recorded for the Meeting Minutes. A decision is reached by a majority vote of the committee. In the case of a tie vote on a motion relating to a respondent's appeal, the Bureau's decision to deny, suspend or fine the respondent stands.

Opening the Committee Meeting

1. The Chairperson shall conduct a roll call of the members present to establish a quorum. Each committee member must verbally acknowledge his/her presence for the Meeting Minutes.
2. Upon establishment of a quorum, the Chairperson must note the official time the meeting is called to order and the time is recorded for the Meeting Minutes.

If a quorum is not established, but is expected to be established within a short time from the commencement of the meeting (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal review heard later when the quorum is established, or request the review be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal review, in closed session, at a time deemed appropriate by the committee chair. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the case. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals -- respondent and his/her witness(es) or representative as well the committee members -- are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

3. The Chairperson shall note for the record that the meeting will be conducted in the order of the Agenda of the meeting's Public Notice. A motion must be made to modify the Agenda item listing the respondents scheduled to appear before the committee to hear their appeals in accordance with the respondents' sign-in sheet. The motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.
4. A motion should be made to adopt the Minutes from the previous DRC meeting and the motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

Review of a Respondent's Appeal

1. While respondents are to be heard in sign-in order, a motion can be made to hear a respondent out of order for hardship situations only upon motion and vote of the Committee. Any motion made shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

2. At the beginning of each review, the Chairperson must read, for the record, the respondent's name and corresponding item number from the meeting's Agenda even if the respondent is being heard out of Agenda order or providing written testimony.
3. A committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality in accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 53).
4. Chairperson shall use the *Disciplinary Review Committee Chairperson's Instructions* (Attachment 1 of the Private Investigator Disciplinary Review Committee Reference and Procedures Manual) to carry out the review.
5. Chairperson will ensure that all committee members present are afforded the opportunity to ask questions or provide comments on any item on the meeting's Agenda.
6. Upon conclusion of each respondent's appeal review, the Chairperson will state for the record that the meeting is going into Closed Session.

Closed Session Deliberations

1. Only committee members and permitted Bureau staff are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision making, but may answer procedural questions and shall record the minutes of the closed session as required by Section 11126.1 of the Government Code.
2. Closed Session deliberations are not audio recorded.
3. Closed Session Minutes are confidential. Members cannot discuss closed session items in open session or in public, even with other members.
4. The motion to affirm, rescind, or modify the Bureau's initial decision shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order. The Committee shall render a decision on every appeal noted on the Agenda, including those involving respondents who did not appear. Exception: Respondents who opted not to present their case due to lack of a quorum.

NOTE: The committee cannot issue a decision that includes a penalty more severe than the Bureau action under review such as increasing the amount of a fine. Further, when a fine amount is set by law (e.g., \$100.00 for the first violation) the committee cannot issue a decision that alters the fine amount.

Other Agenda Items

The Chairperson must establish for the record all respondents who did not attend the meeting by reading his/her name and corresponding item number from the meeting's Agenda and stating "no show."

The Chairperson must verbally recognize all remaining items on the Agenda on the Public Notice. Any motions made shall be carried out in accordance with "Meeting Motions" section of these Rules of Order.

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out during open session and in accordance with the “Meeting Motions” section of these Rules of Order.
2. The adjournment and time will be announced by the Chairperson and recorded for the Meeting Minutes.

Committee Member Expectation Guidelines

1. Review the cases prior to the hearings so you are familiar with the issues and prepared to make inquiries as needed.
2. Arrive at least 15 minutes before the meeting start time to allow for time to take care of any pending issues.
3. Speak audibly and clearly during the meeting to enable everyone in the room to hear and understand you.
4. During a respondent's review, be courteous, respectful, and provide your full attention to the person speaking whether it is the respondent, his or her attorney or witness(es), or another committee member.
 - Do not make inquiries or comments about a respondent's clothes or appearance UNLESS it is directly related to the issue(s) of the appeal.
 - Do not make inquiries or comments about a respondent's ability to speak/comprehend English unless it relates to determining the respondent's ability to comprehend procedural activities.
 - Do not question the education of a respondent UNLESS it is directly related to the issue(s) of the appeal.
 - Do not ask the respondent questions personal in nature unless it relates to rehabilitation (see guidelines for rehabilitation in the DRC manual).
 - Do not make inquiries into matters unrelated to the direct facts or issues of the case.
 - Do not make inquiries that relate to protected statuses. For example, "what is your religion or ethnic background?" or "are you a U.S. citizen?"
 - Do not indicate either through words or demeanor that you and/or the committee may have already reached a decision or may be predisposed to a certain decision.
 - Do not use cell phones (including texting), laptops or any other telecommunication device that could give the impression that you are not providing your full attention to the appeal. **REMEMBER:** A person is more likely to accept the committee's decision if he/she believes that he/she was heard, and treated impartially and respectfully.
5. Do not discuss an appeal case with another committee member before the review. Prior communication(s) could prejudice the review and could result in the committee's decision being challenged or nullified. Further, under certain circumstances, prior discussions could be subject to **Bagley-Keene Open Meeting Act** and **Public Records Act** (Act) requests. Violations of the Act may be a criminal offense. If you have a question regarding an appeal case, contact the DRU Manager or Bureau employee who staffs the committee.
6. You must recuse yourself from a review as soon as you become aware of factors that could affect your impartiality or could be perceived as affecting your impartiality. These factors may include but are not limited to a prior or current work-related or personal relationship with the applicant or licensee. If you recuse yourself, do **NOT** make any statements to the other committee members regarding the respondent or issues relating to the appeal. You are only to state, for the record, that you are recusing yourself from the

review due to a conflict. The member's name and the act of recusal shall be recorded in the Meeting Minutes. Once you recuse yourself from a review, you MUST leave the room during testimony to prevent accidental participation such as through body language. Further, you are NOT permitted to be in the room during closed session.

NOTE: If you determine that you will need to recuse yourself from a review prior to the day of the hearing, immediately contact the DRU manager and Bureau staff who oversees DRC activities. This information is important to identify a potential lack of quorum for the case.

7. Committee members should respect the Chairperson's right to control the process of the meeting. Only one matter will be before the committee at any time and no other discussion is in order.
8. Remember, your comments and/or actions could impact any future proceedings on the appeal. For this reason, you are not to discuss the nature of appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to an administrative or court proceeding for any case heard by the committee, he/she MUST immediately notify the DRU Manager and Bureau staff who oversee the DRC activities.

Criteria for Evaluating Rehabilitation

The following information is provided to assist members with decisions relating to rehabilitation.

CALIFORNIA CODE OF REGULATIONS, TITLE 16, Division 7, Section 602.1

When considering the denial, suspension, revocation, or reinstatement of a license for which application has been made under Chapters 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by applicant.
- (6) If applicable, evidence of proceedings pursuant to Section 1203.4 of the Penal Code.

Penal Code Section 1203.4

If an individual has fulfilled the conditions of probation, he/she may petition the court and be granted an Order of Dismissal under Penal Code Section 1203.4. This section allows a plea of guilty or nolo contendere to be put aside and a plea of not guilty to be entered. However, the order shall state that this dismissal does not relieve petitioner of the obligation to disclose the conviction in response to any direct questions contained in any questionnaire or application for public office or licensure by any state or local agency. The section does not reduce a felony to a misdemeanor nor does it restore the right to bear firearms. Convictions dismissed under this section must be disclosed on applications for licensure.

Business and Professions Code Section 480(c) provides, as follows: "Notwithstanding any other provisions of the code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal."

Bureau Comment Regarding PC 1203.4 Dismissals: While a committee member may not consider the conviction that has been set aside as the sole basis for making a decision on the appeal, factors such as the testimony of the respondent and witnesses about the nature and circumstances of the crime may be considered. In other words, in cases involving a dismissal, the focus should be on the act(s) and/or conduct and not the conviction itself.

Minimum Requirements for Licenses Regulated by the Private Investigator Act

Private Investigator Qualified Manager (BPC Section 7526, 7527 and 7541)

1. 18 years of age
2. Possess at least three years (not less than 6,000 hours) experience in investigation work
3. Pass the required examination

Private Investigator License (BPC Sections 7520.3, 7525.1, 7526 and 7527)

1. 18 years of age
2. Applicant or qualified manager for applicant must possess at least three years (not less than 6,000 hours) experience in investigation work
3. Business organized as a sole owner, partnership, corporation or LLC.
 - a) An LLC licensee with five or fewer managing members must maintain a minimum of \$1 million liability insurance policy
 - b) In addition to the \$1 million liability insurance policy, an LLC with more than five managing members must add an additional \$100,000 for each additional managing member.

Firearms Permit -- Initial (BPC 7542)

1. Completed the 8-hours Power to Arrest Course
2. Completed a 40-hours course as prescribed in Title 16, Division 7, Section 635 of the California Code of Regulations (Attachment 8, page 59).
3. Not prohibited by the Department of Justice from possessing a firearm

Firearms Training Course - California Code of Regulations §635

(a) Each applicant for an initial firearms permit shall complete classroom training related to the use of firearms, as outlined below, and complete and successfully pass an examination. Classroom training shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility. The following outline includes the minimum subjects which shall be taught and the minimum length of time which shall be devoted to each subject. Classroom training shall be completed before range training and before any attempt at range qualification.

FIREARMS TRAINING OUTLINE Recommended Instruction Sequence		
<i>Subject and Objective</i>		<i>Length of Time</i>
I. Registration (Classroom)		
A. Administration. Objective: to enroll individual in course.		1/2 hour
1. Check individual identification		
2. Check individuals Bureau registration status		
3. Course admission and discussion		
B. Laws and regulations for issuing a firearms permit.		1/2 hour
Objective: to familiarize and instruct individual on the laws, regulations, other requirements, and the administrative process for issuing a firearms permit and renewals.		
II. Moral and Legal Aspects (Classroom)		
A. Laws regarding possession and carrying of firearms.		1/2 hour
Objective: to familiarize and instruct individual on the applicable laws relating to the possession and carrying of firearms while working as an armed security guard.		
1. Penal Code sections		
2. Government Code sections		
3. Bureau statutes and regulations		
4. Instructor examples		
B. Laws and standards regarding use of deadly force.		2 hours
Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.		
1. Penal Code sections		
2. Government Code sections		
3. Bureau statutes and regulations		
4. Instructor examples		
C. Avoidance of deadly force--The de-escalation of force.		2 hours
Objective: to familiarize and instruct individual on the role of the firearms permit holder, the role that deadly force may play and when and how to de-escalate the use of deadly force.		
D. Shooting incidents.		1 hour
Objective: to familiarize and instruct individual on what is likely to happen in a shooting incident and how a firearms permit holder should act to minimize the use of deadly force.		
E. Effects of firearms use.		1/2 hour
Objective: to familiarize and instruct individual on how and why bullets travel and what implications this has on the use of deadly force.		
III. Firearms Nomenclature, Maintenance (Classroom)		
A. The revolver and semi-automatic, ammunition, parts and nomenclature.		1 hour
Objective: to familiarize and instruct individual on the principles and operation of weapons, the differences between weapons and how to care for a weapon.		
1. Picture of revolver and semi-automatic with parts identified		
2. Revolver and semi-automatic, parts and description		

3. Picture of ammunition with parts identified
 4. Ammunition parts and description
- B. Firearms safety, general. 1 hour
- Objective: to familiarize and instruct individual on how to safely fire, wear and store the weapon while on the firing range, or on duty or off duty.
1. General safety rules
 2. Specific safety rules
 3. Safety at home and off duty
 4. Transporting the weapon to the range
 5. Carrying the weapon on duty
 6. Suggested eye and ear protective equipment
 7. Inspection, cleaning, and maintenance
 - a. General information
 - b. Inspection
 - c. Cleaning
 - d. Cleaning kit
 - e. To clean the weapon
 - f. Check list
- IV. Weapon Handling and Shooting Fundamentals 1 hour
- Objective: to familiarize and instruct individual on the fundamentals of marksmanship and the handling of weapons.
- A. Weapon fundamentals, general differences between handguns
 - B. Loading/Unloading
 1. Proper loading procedures
 2. Proper loading procedures (right handed)
 3. Proper unloading procedures (right handed)
 4. Proper loading procedures (left handed)
 5. Proper unloading procedures (left handed)
 6. Loading devices
 - C. Proper positions
 1. Point shoulder position
 2. Standing, barricade or supported position
 3. Kneeling position
 4. Sitting position
 5. Prone position
 6. Cover and concealment
 7. Bouncing bullets
 - D. Grip
 1. Two-handed grip

- E. The draw
 - 1. General information
 - 2. The holster and the draw
- F. Shooting Fundamentals
 - 1. Sight alignment
 - 2. Trigger squeeze (control)
 - a. Single action
 - b. Double action
 - c. Count your shots
 - d. Anticipation
 - e. Dry firing
 - 3. Establishing the Dominant Eye
- V. Examination 1 hour

(b) In addition to completing and successfully passing an examination related to the use of firearms, each applicant for an initial firearms permit shall complete range training as outlined below. Range training shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Range Training Outline

- VI. Range Preparation (Classroom) 1 hour
 - Objective: individual will review range safety and the fundamentals of marksmanship and deployment of weapons. In addition, the individual will review requirements for the use of deadly force.
 - A. Range location
 - B. Equipment needed
 - C. Course of fire (explanation)
 - D. Targets, scoring explanation
 - E. Range commands (explanation)
 - F. Use of deadly force
- VII. Range Training As needed
 - Objective: to instruct individual in the safe and accurate use of a firearm until such time as the individual demonstrates to the instructor that he or she can safely draw and fire the weapon and has a high likelihood of passing the qualification course.
 - A. Instructions
 - B. Drawing and holstering practice
 - C. Dry firing
 - D. Loading and reloading procedures

(c) After completing both classroom-based firearms training and range training, each applicant for an initial firearms permit shall complete range qualification. The applicants initial range qualification shall only be completed by firing live ammunition and shall not be completed with a firearm simulator. The applicant must complete each range qualification with the same caliber of weapon that will be listed on the firearms permit and carried by the permit holder while on duty. If the applicant seeks to qualify for more than one caliber of weapon, the applicant must complete a range qualification for each additional caliber to be listed on the firearms permit. Each Range qualification shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

VIII. Range Qualification

Objective: individual shall pass a range qualification based on his or her demonstrated use of a weapon.

- A. Course of fire. Each individual shall discharge 50 rounds a minimum of 2 times according to the following schedule: (All stages are unsupported.)

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6,6 and 2) *6 standing position *8 kneeling position
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands) *6 weak hand unsupported
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

- B. Scoring. The first course of 50 rounds discharged shall be considered practice. The second course of 50 rounds discharged shall be used for scoring.

1. Silhouette targets shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass) as specified in Section 635.1.
2. Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment.
3. Each individual shall be informed whether his or her score passes or fails.

(d) A Bureau-approved Firearms Training Instructor conducting the range qualification must certify under penalty of perjury that an initial firearms permit applicant completed the required range qualification using live ammunition and provide a signed copy of the qualification documentation to the applicant.

Authority cited: Sections 7515, 7581, 7585, 7585.6 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.22, 7583.23, 7583.37, 7596, 7596.3 and 7599.40, Business and Professions Code.

Biennial Renewal of Firearms Permit - California Code of Regulations §633

(a) An applicant shall complete and pass the review training course on the laws and standards regarding use of deadly force, avoidance of deadly force, and de-escalation of force, as outlined below. All required classroom training shall be completed prior to attempting each range qualification. Training regarding use of deadly force and avoidance of deadly force shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Review Training Outline

<i>Subject and Objective</i>	<i>Length of Time</i>
A. Laws and standards regarding use of deadly force. Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.	1 hour
1. Penal Code sections	
2. Government Code sections	
3. Bureau statutes and regulations	
4. Instructor examples	
B. Avoidance of deadly force--The de-escalation of force. Objective: to familiarize and instruct individual on the role of the armed security guard, the role that deadly force may play and when and how to de-escalate the use of deadly force.	1 hour

(b) The permit holder shall complete a range qualification by firing fifty (50) rounds with a passing score:

(1) On two (2) separate occasions, at least four months apart, within each twelve-month period before the permit expires, and

(2) With at least one (1) of the range qualifications in each twelve-month period completed using live ammunition.

(3) Permit holders must complete each required range qualification for each caliber of firearm listed on the permit.

(4) Scoring: Silhouette targets as described in Section 635.1 shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass). Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment. Each individual shall be informed whether his or her score passes or fails.

Course of Fire

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6, 6 and 2)
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands)
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

(c) The application for the renewal of a firearms permit shall include the following proof and information:

(1) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed and passed each range qualification. Each Bureau-approved Firearms Training Instructor administering the range qualification must certify under penalty of perjury the method (live ammunition or firearm simulator) in which each range qualification was completed and provide a signed copy of the requalification documentation to the applicant.

(2) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed the review course prior to each range qualification.

(d) A Reserve Peace Officer is exempt from the firearms requalification requirements providing he/she submits documentation of firearms proficiency provided by the Law Enforcement entity with which he/she is associated, with their proof of renewal. This documentation must be submitted with the request for renewal of the firearms permit.

Authority cited: Sections 7515, 7581 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.32, 7596.7 and 7599.40, Business and Professions Code.



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PRIVATE SECURITY DISCIPLINARY REVIEW COMMITTEE REFERENCE AND PROCEDURES MANUAL

July 2017

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INTRODUCTION

History

The Private Security Disciplinary Review Committees (DRC) were established, one for northern and one for southern California, for the purpose of considering appeals from private patrol operator, security guard registration, firearm training and baton training programs, and proprietary private security officer applicants and licensees of the Bureau's denials, suspensions and revocations as well as the assessment of administrative fines. Each DRC consists of five members appointed by the Governor with one member actively engaged in the business as a licensed private patrol operator, one member as a licensed firearm training facility, one member as a registered security guard, and two members from the general public.

Bureau and Department of Consumer Affairs Mission and Core Values

The Bureau's 2017-2021 Strategic Plan identifies the Bureau's mission as: *To protect and serve the public and consumers through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

The Bureau's Core Values are:

- **Accountability**
- **Consumer Protection**
- **Customer Service**
- **Integrity**
- **Professionalism**
- **Teamwork**

Appointment of Committee Members

As a Governor appointee, DRC members are representatives of the Governor and his/her administration. A DRC member is expected at all times to conduct himself/herself in a respectful, impartial, professional and courteous manner when participating in any DRC meeting or activity. As a reminder, members serve at the pleasure of the Governor and a DRC appointment may be terminated at any time for misconduct, incompetence, or neglect of duty.

Member Per Diem

Pursuant to Business and Professions Code Sections 7581.1 and 103, a DRC member is paid a \$100 per diem for each day actually spent in the discharge of official duties. Accordingly, if a DRC appeal meeting is scheduled for one day, a DRC member will receive one day per diem to review the case files and one day per diem to attend the meeting. If a DRC appeal meeting is scheduled for two days, a member will receive two days per diem to review the case files and two days per diem to attend the meeting. In regard to other DRC-related training or activities, a DRC member will receive one day per diem for each day he/she is involved in a DRC training or activity. A DRC member is also entitled to reimbursement for travel and other necessary expenses related to attending a DRC-related meeting or activity.

Duties of Committee Members

The DRC provides an applicant or licensee an alternate process to appeal the Bureau's decision relating to denials, suspensions, revocations, and the Bureau's imposition of administrative fines for the security industries. Specifically, Business and Professions Code Section 7581.2 states:

Each disciplinary review committee shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors, as licensed, certified, or registered by the bureau under this chapter, and proprietary security officers, as registered by the bureau under Chapter 11.4 (commencing with Section 7574):

- (a) Affirm, rescind, or modify all appealed decisions which concern administrative fines assessed by the director.
- (b) Affirm, rescind, or modify all appealed decisions which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

The other appeal process option available is a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings. However, if the matter is appealed to a DRC and the respondent disagrees with the DRC decision, he or she has the option to appeal the DRC decision to an ALJ.

Committee Resignations

If a DRC member wishes to resign from the DRC, he/she must provide a letter of resignation to the Governor's Office stating that he/she no longer wishes to serve on the DRC. A copy of the letter of resignation must also be submitted to the Director of the Department of Consumer Affairs and the Bureau Chief.

PRE-MEETING DAY ACTIVITIES

Scheduling Meetings

DRC meetings must be scheduled at least every 60 days; however, the frequency may be more or less depending on the number of appeals received (Business and Professions Code section 7581.1). All meetings are subject to the requirements of the Bagley-Keene Opening

Meeting Act and, accordingly, are publically noticed with an agenda of the scheduled appeals and other items to be considered during the meeting.

Upon receipt of a licensee's or applicant's (hereafter referred to as "respondent") appeal request, Bureau staff schedule the review for an upcoming meeting and mail the respondent information about the meeting and what to expect when attending the DRC meeting. Additionally, Bureau staff will post the meeting's notice on the BSIS public website in accordance with the **Bagley-Keene Open Meeting Act** (Attachments 2 and 3 on pages 21 and 23).

The number of appeals scheduled for a meeting is based on an average case review time of 20 minutes. Given this timeframe, committee members need to be focused and on point in their actions and inquiries during an appeal. This requires each member to have reviewed the case documents in advance to be sufficiently knowledgeable of the history and circumstances. **NOTE:** Historically, not all respondents show up for their scheduled appeals. For this reason, having a case or two run slightly longer than 20 minutes, due to their complexity or other extenuating factors, should not create hardships relative to the overall meeting day.

Case Files to DRC Members

Approximately two weeks before a scheduled meeting, Bureau staff sends each DRC member the case files for each appeal to be heard during a meeting via the FedEx service requiring receipt signature. Each file contains the pertinent information the Bureau considered in reaching its decision on the applicant/licensee. Bureau staff will send each DRC member an email notifying them that the case files have been mailed and the date they were mailed. Given that the case files may contain information restricted by law or otherwise confidential, it is imperative that committee members handle the documents accordingly and immediately notify the Bureau if the files are misplaced or are not received from the delivery service. If a DRC member does not receive the case files package within 2-3 days of the notification of them having been mailed or if the case files could have been subject to any unauthorized access, **he/she must immediately notify the Bureau of this fact** by sending an email to the Bureau DRU manager and Bureau staff who oversees DRC activities.

It is the responsibility of each DRC member to promptly notify the Bureau's DRU manager and Bureau staff who oversees DRC activities immediately of any change of their mailing address.

If a committee member has a question regarding any scheduled appeal prior to the meeting, he/she should contact the DRU manager or the Bureau staff who oversees DRC activities.

Committee members must not discuss an appeal with external parties or another committee member before the meeting by any means or method. Prior communications could prejudice the appeal review and could result in the committee's decision being challenged or nullified. Under certain conditions, prior discussions also may be subject to the **Bagley-Keene Open Meeting Act** requirements and **Public Records Act** requests.

MEETING DAY PROCEDURES

All DRC meetings must be carried out in accordance with the **Bagley-Keene Open Meeting Act** (Attachments 2 and 3 on pages 21 and 23), the committee's **Rules of Order** (Attachment 4 on page 51), the **Committee Member Expectation Guidelines** (Attachment 5 on page 55) and the **Chairperson's Instructions** (Attachment 1 on page 17).

Meeting Date Expectations

The meetings generally begin at 9:00 a.m. with the length depending on the number of appeals scheduled to be heard. One or more Bureau staff members will be present at each scheduled meeting to answer questions DRC members may have with regard to Bureau laws, regulations, policies and procedures, and to facilitate the proceedings. Department representatives from the Executive Office or Legal Affairs Office may also attend the meetings. Lastly, the Bureau may arrange for law enforcement personnel to attend DRC meetings.

The meeting notice/agenda lists the respondents to be heard during the meeting. However, reviews are heard in order of sign-in by respondents on the "Respondent Sign-In" sheet located in the designated waiting room. The committee may hear a case out of sign-in order due to hardship-related circumstances. The committee will consider these requests on a case-by-case basis. In addition, since the Bagley-Keene Act requires agenda items to be taken up in agenda order, at the beginning of each meeting a motion must be made and adopted by the committee to allow respondents to be heard in sign-in order. This motion must be carried out in accordance with the committee's Rules of Order (Attachment 4, page 51).

Prior to the committee members calling the meeting to order, Bureau staff will check-in the respondents in the waiting room, review their photo identification to confirm identity, and answer any questions they and/or their representatives may have. Additionally, Bureau staff will advise respondents and their witnesses and/or representatives that weapons are not allowed in the meeting room or the waiting room.

Meal and Rest Periods

DRC members are not employees of the state and not subject to requirements relating to meal and rest periods. However, the Bureau staff who serve as the DRC facilitator and scribe are represented employees and may be granted a minimum 30-minute lunch break. Accordingly, rest and meal periods should be taken as needed and/or upon request of Bureau staff.

Commencing a Meeting – Quorum

DRC meeting proceedings are carried out in accordance with the committee's **Rules of Order** (Attachment 4 on page 51). In accordance with the **Rules of Order**, a minimum of three DRC members are needed to establish a quorum of the committee. Bureau staff works closely with committee members to ensure attendance at each meeting is sufficient to establish a quorum. If for any unforeseeable reason a quorum is not established at the onset of a meeting, but is expected to be established within a short time (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal heard later when a quorum is established, or request the review to be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal, in closed session, at a time

deemed appropriate by the Chairperson. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the appeal. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals – respondent, his/her witness(es) or representative as well the committee members – are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

Threatening Behavior by Respondent/Representative/Member of the Public

If a respondent, his/her representative or witness, or a member of the audience becomes unruly or threatens any committee member, Bureau staff, or another meeting attendee, the Chairperson shall pause the meeting and address the situation. If appropriate, the meeting should be adjourned and committee members and Bureau staff leave the room. If present, law enforcement personnel assigned to monitor the meeting will take over the matter. If no law enforcement is present, law enforcement personnel may be summoned by calling 911.

APPEAL REVIEW PROCEDURES

Committee Introductions

In accordance with the **Chairperson's Instructions** (Attachment 1 on page 17), at the beginning of each review, the Chairperson will introduce the committee members, advise that the members are appointees of the Governor, and briefly explain the responsibilities and purpose of the DRC.

Respondent's Witnesses/Representation

The respondent may present his/her appeal or be represented by an attorney or other person. If represented, the respondent is still responsible for presenting his appeal. A representative may not testify to facts or events about which he/she does not have direct knowledge.

The Chairperson will swear in the respondent and, if applicable, his/her witness(es) to tell the truth. **NOTE:** Representatives (e.g., legal counsel, an interpreter, or any individual providing only moral or technical support) are not witnesses and, therefore, are not to be sworn in.

Bureau's Presentation of Case Facts

The Chairperson will request Bureau staff to state the facts of the case by reading the Bureau's prepared statement for the appeal. In accordance with the **Chairperson's Instructions** (Attachment 1 on page 17), the Chairperson will ask the respondent if he/she has any objections to the official notice.

- If the respondent has no objections, the Chairperson will note that the committee takes official notice of the information presented and proceed with the review.

- If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections and the Chairperson shall note the objections for the record.
 - If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is not the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.
 - If the Chairperson believes the respondent's testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent's conviction record, the Chairperson should allow the review to proceed.
 - If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the review should not proceed and the Chairperson should request a motion to withdraw the review and return the case to the Bureau. Upon the motion's passage, the Chairperson should advise the respondent that he/she will be contacted by Bureau staff for instructions on how to proceed.
- If the respondent has objections to the crime being substantially related to the applicable license type, the committee must hear the objections, the Chairperson shall note the objection for the record, and the review should proceed.
- If the respondent has objections to the accuracy of the Bureau's findings relating to the issuance of a fine, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.
- If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.

NOTE: Preponderance of the evidence means "more likely than not" or "at least 50% plus any additional measure."

Respondent's Testimony

The review provides the respondent the opportunity to tell the committee his/her version of the relevant events of his/her conviction(s), the acts or circumstances relating to the Bureau's issuance of fine(s), or his/her experience as it relates to the statutory requirements for licensure. Below are some of the Chairperson responsibilities to facilitate this effort.

1. The Chairperson will ask the respondent for the reason(s) why he/she believes the decision of the Bureau should be modified or rescinded.
2. The Chairperson may advise the respondent or his/her witnesses when testimony is repetitive or unrelated to the case, and may guide and advise the respondent and/or representatives so testimony given will assist the committee in reaching a decision.

3. The Chairperson may discontinue a respondent's or his/her witnesses' testimony if it is irrelevant and relevant testimony does not appear to be forthcoming.
4. If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.
5. If it becomes apparent during a review that a respondent is having difficulty understanding the proceedings because he/she is not sufficiently fluent in English, the Chairperson should consider stopping the review and advising the respondent that Bureau staff will reschedule the review for a later meeting at which time the respondent is to bring an interpreter. Any cost associated with the services of an interpreter shall be the sole responsibility of the respondent. However, if the respondent elects to continue with the review, the Chairperson should allow the matter to proceed.
6. The Chairperson should not make any inquiries, or allow any committee member to make any inquiries, into inappropriate or irrelevant areas. Such inappropriate areas of inquiries include but are not limited to all protected statuses, receipt or not of governmental aid.

Purpose of Appeal Review

The purpose of the review is for committee members to obtain sufficient information on the appeal to make a determination on whether the Bureau's decision to deny or suspend licensure, the Bureau's decision to issue a fine or fines, or the Bureau's decision that the respondent does not meet the experience qualifications as required by the Business and Professions Code should be affirmed, rescinded or modified. In making inquiries to obtain information, committee members should confine questions to those events and information on which the Bureau took its action and use good judgment to control the review length to ensure sufficient time for other respondents scheduled for the meeting.

It is misconduct for a committee member to ask a respondent if there are other arrest(s) in his/her background which did not result in a conviction. It is also not appropriate for a committee member to inquire on personal matters not related to the case, with the exception of those noted below relating to the respondent's rehabilitation efforts. If the respondent raises issues personal in nature, committee members must confine their responses, and subsequent inquiries should only be relevant to the events and information on which the Bureau took its action. .

During all portions of the review, the committee shall accept any documents submitted by the respondent or the Bureau. The Chairperson must advise the respondent that documents submitted to the committee must be retained by the committee. (NOTE: The respondent is advised in his/her review notification letter that he/she may submit documents in support of their appeal, and that if the respondent submits the documents the day of the hearing he/she should be prepared to leave the documents with the committee. The documents must be retained by the committee, and provided to Bureau staff after the review, in the event the committee upholds the Bureau's decision and the respondent appeals his case to an administrative law judge.

The information below is provided to assist committee members in conducting the applicable review.

1. *Appeals of Denials Relating to Conviction(s)*: Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's act(s) and/or behavior that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be considered during their deliberations on the respondent's appeal. The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.

Committee members may make reasonable inquiries, including those personal in nature, relating to the respondent's rehabilitation if they are connected with the issues relating to the review. Appropriate questions include but are not limited to the activities the respondent has engaged in since the crime/act, the nature and level of responsibilities of such activities, lengths of employment, participation in appropriate rehabilitation programs (alcohol, drug abuse, child abuse), and changes in life style which may have contributed to the crime/act. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 57).

2. *Appeals of Denials Relating to Making a False Statement of Fact on Application*: Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's reasons for making the false statement(s) of fact, which will be considered during their deliberations on the respondent's appeal. Generally, false statements relate to the respondent's response to conviction questions. However, false statements may also relate to the respondent's experience, education and/or training.

Whether or not a substantially-related conviction is a ground for a denial, the Bureau also may deny licensure due to the respondent making a false statement on the application by answering "no" to the conviction questions on the application. NOTE: Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. Below are the conviction questions:

*"Have you ever been convicted of, or pled guilty or nolo contendere to ANY criminal or civil offense in the United States, its territories, or a foreign country? This includes every citation, infraction, misdemeanor and/or felony. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), (e) or section 11360(b) which are two years or older, as well as criminal charges dismissed under section 1000.3 of the Penal Code or equivalent non-California laws, should **NOT** be reported. Convictions that were later dismissed pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law **MUST** be disclosed."*

"Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?"

3. *Appeals Relating to Automatic Suspension of Guard Registration*: Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's behavior and/or act(s) that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be

considered during their deliberations on the respondent's appeal. Since an automatic suspension involves a recent conviction, the respondent may not have yet undertaken steps of rehabilitation. However, if the respondent makes note of having done so, committee members may make reasonable inquiries, including those personal in nature, if they are connected with the issues relating to the review. (See item 1 for examples of appropriate questions.) The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.

4. *Appeals Relating to Issuance of Fine(s)*: Committee members must obtain information from the respondent and/or his/her witnesses, if applicable, relating to the respondent's specific act(s) or omission(s) that the Bureau determined to be a violation of the Private Security Services (PSS) Act and gave rise to the issuance of the fine(s), which will be considered during their deliberations on the respondent's appeal.
5. *Appeals of Denials for Failing to Meet Required Experience and/or Education*: Committee members must obtain information and evidence from the respondent and his/her witnesses, if applicable, regarding the respondent's experience, education, and/or training, which will be considered during their deliberations on the respondent's appeal.

Disqualification from a Hearing

In accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 55), a committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality. Committee members must adhere to the specific steps outlined in the Guidelines when recusing themselves from a review. NOTE: Recusal requires the member to have no involvement with the process. While the hearing portion is open to the public, a recused committee member MUST leave the room during testimony to prevent accidental participation such as through body language. Further, a recused committee member shall NOT be in the hearing room during closed session.

If a committee member recusing himself/herself from the review results in the committee no longer having a quorum, the review shall be carried out in accordance with the section in this document entitled "Commencing a Meeting – Quorum."

DELIBERATIONS – CLOSED SESSIONS

Following the conclusion of all testimony, the Chairperson shall call the committee into closed session. Only committee members and permitted Bureau staff are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision-making, but may answer meeting-related procedural questions and shall record the minutes of the closed session activities, as required by Section 11126.1 of the Government Code (Attachment 2 on Page 21).

Making a Decision on the Appeal

Committee members should weigh the reasonableness and relevance of the evidence provided by the Bureau, and the reasonableness and relevance of the evidence and testimony provided by the respondent and the respondent's witnesses, if applicable. Committee members should only consider the facts provided and not make assumptions regarding what may have or may have not transpired. The burden of proof standards are as follows:

1. Denial of Licensure – Lack of Qualifying Experience: The burden of proof rests with the applicant. The applicant must show by “preponderance of the evidence” that he/she satisfies the specified statutory experience, education and/or training requirements for licensure.
2. Denial of Licensure – Substantially-Related Conviction: The burden of proof rests with the applicant. The applicant must show by preponderance of the evidence that the conviction did not occur, the conviction is not substantially related to the duties of the license, or that he/she has rehabilitated and is fit for licensure.
3. Bureau Issuing a Citation/Fine: The burden of proof rests with the Bureau. By the “preponderance of the evidence” the Bureau must show that the licensee committed a violation of the Act.”
4. Suspension of a Guard Registration: The burden of proof rests with the Bureau. By “preponderance of the evidence” the Bureau must show that the conviction occurred, the conviction is substantially related to the duties of a guard, and the registrant is unfit for licensure.

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

In rendering their decisions, committee members should also consider the Bureau's and Department's mission of protecting consumers and the public. Ultimately, each committee member is entrusted with making a decision of the respondent's fitness for licensure, the respondent's eligibility for licensure, or the appropriateness of the issuance of the fine(s) to the respondent. Fitness for licensure means that the respondent will be able to carry out the duties of the license in a manner that will likely not result in public or consumer harm.

Appeal of Denials Relating to a Criminal Convictions: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent's act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she proved rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to a criminal conviction.

1. *A Conviction was Not Sustained:* The committee should assess whether the respondent demonstrated, that no criminal conviction was sustained. If the evidence presented by the respondent does not satisfy this burden of proof, then the Bureau's official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which he/she was denied a license have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code sections 7582.24, 7583.9, 7583.13, and 7583.16, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent's conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.
2. *The Crime or Act is Substantially Related to the Duties of the License:* If a crime is associated to a significant extent with the qualifications, functions and duties of the license it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the respondent to be denied licensure. The grounds for making a substantially related determination include the committee member's knowledge and understanding of the responsibilities and qualifications of the licensee. If a committee member has a question regarding this determination when reviewing a case file prior to meeting day, he/she should email the DRU Manager.
3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator of the severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person, property or public.
4. *Rehabilitation:* For the purpose of making a decision of fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend and that protection of the public would be maintained despite a prior conviction.

Appeal of Denials Relating to Making False Statement on Fact on Application: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Did not make a false statement of fact on the application; OR
- Did make a false statement of fact on the application, but doing so does not constitute an act that is substantially-related to the duties of the license and, accordingly, do not demonstrate that the respondent is unfit for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to the respondent making a false statement of fact on the application.

Making a false statement of fact on an application is grounds for denial pursuant to Business and Professions Code Section 7587.1(a). False statement of fact on the application includes the respondent stating he/she possesses experience or training that he/she does not; stating that he/she has no criminal convictions or pending arrests when he/she does; providing fraudulent documents to demonstrate experience or training; or falsifying a declarant's attestation as to his/her experience.

Some respondents state that employers or training facilities misinformed them when filing their application by telling them that Bureau only cares about felony convictions, the conviction was not serious enough to report, or they don't need to complete the full 8-hour Powers-to-Arrest training. This type of testimony does not establish a defense. Ignorance of the law and its requirements is not a defense. The license application contains information on the licensure requirements, including disclosure requirements. Ultimately, it is the applicant who, under penalty of perjury, attests to his/her statements made on the application, whether by signature on a paper application or through the electronic submission of a BreZE application, as being truthful and factual.

Additionally, some respondents may state that they did not complete the application. Given that the applicant is the one who allegedly signed the paper application or clicked the "Yes" radio button in the BreZE application attesting, under penalty of perjury, that the "statements on this application are true and correct" this statement is not in of itself a defense. Other evidence must be presented to substantiate the fact (i.e., witness testimony that witness himself/herself actually completed the application). However, if this is the defense brought forth, the committee should consider whether the act or acts of misleading the Bureau by having another complete the application rise to the level of demonstrating that the respondent is unfit for licensure.

Appeals Relating to Automatic Suspensions of Guard Registrations: The grounds for the committee rescinding the Bureau's suspension of a guard registration is based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent's act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she substantiated rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's suspension of a security guards registration due to a criminal conviction.

1. *A Crime or Act Occurred:* The committee should assess whether the respondent demonstrated, that no criminal conviction was sustained. If the evidence presented by the respondent does not satisfy this burden of proof, then the Bureau's official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which his/her registration was automatically suspended have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code sections 7583.16 and 7583.22, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent's conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.

2. *The Act/Crime is Substantially Related to the Duties of a Guard:* If a crime is associated to a significant extent to the qualifications, functions and duties of a security guard, then it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the guard registration to be automatically suspended. The grounds for making a substantially related determination include the committee member's knowledge and understanding of a security guard's responsibilities and qualifications. If a committee member has a question regarding this determination when reviewing the case file prior to meeting day, he/she should email the DRU Manager.
3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator as to the nature and severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person or property
4. *Rehabilitation:* Automatic suspensions involve recent convictions; therefore, there may be insufficient time for the respondent to demonstrate rehabilitation. However, if the respondent provides evidence to this effect, for the purpose of making a decision of fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend in the future. Consideration of mitigating factors is also appropriate.

Appeals Relating to Issuance of Fine(s): The grounds for the committee rescinding the Bureau's issuance of a fine is based on the preponderance of the evidence demonstrating that the respondent did not violate the specified provision of the PSS Act. The grounds for the committee modifying a fine the Bureau issued is based on the preponderance of the evidence substantiating that a violation of the PSS occurred, the authorizing section of law providing discretionary authority on the fine amount, and the committee's determination as to appropriate fine amount. **NOTE:** The committee does not have the statutory authority to modify fines set in statute.

The following information is provided to assist committee members in deciding whether to affirm, rescind or modify the Bureau's issuance of a fine.

The Legislature established requirements for maintenance of the license and standards of conduct for licensees in the PSS Act to help support public safety and consumer protection. As a means to promote licensees' compliance, the Legislature authorized the Bureau to issue fines for violations of these requirements and standards. Many fine amounts are established in law and the Bureau only needs to establish that the violation occurred. Other fines have a maximum amount that may be imposed, and the Bureau must establish that a violation occurred and determine a fine amount commensurate with the act(s) or omission(s) committed by the licensee.

Committee members should keep in mind that they are not determining whether the respondent's act or omission is acceptable or unacceptable. The Legislature determined the conduct and acts as unacceptable by identifying them as a violation of the PSS Act, and authorizing the Bureau to issue a fine to promote compliance.

Some respondents may state that he/she was not aware of the requirement(s) or standard(s). This type of testimony does not establish a defense. The licensee or the licensee's qualified manager is responsible for being knowledgeable of the requirements in the PSS Act, and ignorance of the law and its requirements is not a defense.

1. *Violation of the Act Occurred:* The Notice of Citation the Bureau issued to the licensee details the applicable code section(s), a brief description of the statutory requirement(s) and the Bureau's findings relating to the respondent's act(s) or omission(s) that gave rise to the violation(s). Committee members are to assess the reasonableness and relevance of the evidence (Notice of Citation and Investigation Report) provided by the Bureau and the testimony and evidence provided by the respondent and the respondent's witnesses, if applicable, in guiding their determinations.
2. *Modifying the Fine Amount:* If the committee determines that a violation of the Act occurred and the violation is associated with an up-to-maximum fine amount, committee members should consider what amount of fine would be commensurate with the respondent's act(s) and behavior as well as the effect the fine would have in deterring the respondent from committing a future violation of the PSS Act. **NOTE: The Committee may not modify a fine amount set in statute nor may the Committee increase a fine assessed by the Bureau.**

Appeals of Denials for Failing to Meet Required Experience and/or Education: The grounds for the committee rescinding the Bureau's denial of licensure is based on the preponderance of the evidence (applicant's statements, supporting documents and declarant's attestations) demonstrating that the respondent satisfies the requirements for the license.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's determination that the respondent does not meet the requirements for licensure.

The Legislature established minimum standards for obtaining a license regulated by the PSS Act. See *Minimum Requirements for Licenses Regulated by the PSS Act* (Attachment 7, page 59) for a list of the licenses and their related minimum requirements. Committee members must determine if the respondent has demonstrated that he/she complies with the requirements. In making this determination, committee members must keep in mind that the minimum requirements for licensure set by statute may NOT be waived, lessened or modified. The committee solely must consider whether the respondent, by preponderance of the evidence, demonstrates that he/she satisfies the minimum requirements.

Committee Motions

All committee motions and votes shall be carried out in accordance with the Committee's **Rules of Order** (Attachment 4 on page 51). A decision is reached on a given motion by a majority of voting members. In the case of a tie, the decision reverts to the Bureau's decision to deny, suspend or fine the respondent. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 57) for additional factors to consider when reaching decisions.

The committee may make the following motions on the Bureau's initial action to deny an applicant; suspend a license, registration, certificate or permit; or issue an administrative citation to a license, registrant, and certificate or permit holder:

- Affirm (uphold)
- Rescind (overturn); or
- Modify

NOTE: The committee may not take an action that includes a penalty more severe than the Bureau's action (e.g., increasing the amount of an administrative fine). Furthermore, in some instances (e.g., fines set by statute), the committee may NOT modify the penalty.

Preparing the Decision

Bureau staff will provide the Chairperson with the Decision and Order document, which is addressed to the respondent, to complete with the committee's decision and the basis for the decision. The Chairperson, or the Vice Chairperson in the absence of the Chairperson, or the Acting Chairperson in the absence of the Chairperson and the Vice Chairperson must sign the document. The Bureau will mail the document to the respondent along with a cover letter outlining the procedures for the respondent to appeal to an administrative law judge if respondent disagrees with the DRC's decision. DRC committee decisions are final if the respondent fails to request an administrative hearing within 30 days from the date the Decision is mailed to the respondent.

Discussion of Cases

Committee members must remember that while a primary purpose of the DRC is to provide respondents a more timely decision than that afforded through the administrative hearing process, the respondent has the right to appeal the DRC's decision to an administrative law judge. To maintain the integrity of any subsequent hearings, committee members shall not discuss the nature of the appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to any case heard by the committee, he/she MUST immediately notify the DRU Manager and the Bureau staff who oversee the DRC activities.

NON-REVIEW AGENDA ITEMS

Other Items on Agenda

The Chairperson must verbally recognize all items on the Agenda posted online with the public Notice of the meeting and ensure that, if applicable, the public has an opportunity to directly provide comment to the committee during the discussion of each item prior to any action taken. Any motions made shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 51)

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 51)
2. The adjournment and time will be announced by the Chairperson and recorded for the *Meeting Minutes*.

PRIVATE SECURITY DISCIPLINARY REVIEW COMMITTEE CHAIRPERSON'S INSTRUCTIONS

OPENING THE MEETING INSTRUCTIONS:

- Confirm Bureau staff has started the audio recorder
- Establish a quorum of Committee
- Approve past Disciplinary Review Committee meeting minutes and address all other items on the Agenda listed before Review items
- Request motion to hear respondents in sign-in order instead of Agenda order

REVIEW INSTRUCTIONS

INTRODUCTION

Chairperson introduces all committee members.

Chairperson reads:

"Please note that this review is being audio recorded. This Disciplinary Review Committee is appointed by the Governor of the State of California to hear appeals of decisions made by the Bureau of Security and Investigative Services regarding denials, suspensions, and administrative fine assessments. The committee may affirm, rescind or modify the Bureau's decision based on the information in the Bureau's file and your testimony today. We will now begin the review of the Bureau's decision to:

- **deny** the (type of license/registration/certificate) of (name of respondent).
- **suspend** the (type of license/registration/certificate) of (name of respondent).
- **impose an administrative fine** against (name of respondent)."

RESPONDENT'S COUNSEL/WITNESS

Ask Respondent if he/she is represented by counsel or is being assisted by a representative. If yes, ask the Respondent to introduce him/her for the record.

Ask Respondent if he/she has any witnesses. If yes, ask the Respondent to identify the person by name, and relationship to the respondent for the record. Chairperson should ask if the witness is there as a character reference or as a witness to the events.

OATH TO RESPONDENT AND, IF APPLICABLE, WITNESS(ES).

NOTE: LEGAL COUNSEL OR OTHER REPRESENTATIVES ASSISTING THE RESPONDENT ARE NOT TO BE SWORN IN.

Chairperson reads:

"Please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?"

RESPONDENT'S NAME AND ADDRESS

Ask Respondent to state his/her full name, current address, and name of their employer for the record.

BUREAU PRESENTS CASE FACTS

Chairperson reads:

"A Bureau representative will now read the facts of this case."

After the Bureau representative reads the facts, Chairperson reads:

"Before moving on to your testimony, please advise the committee if you have any objections to the information read by Bureau staff."

If the respondent has no objection, the Chairperson shall state for the record:

"Having heard no objection, the committee takes official notice of the Bureau's case facts. We will continue with the review."

If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections.

If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is **not** the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.

The Chairperson shall state for the record:

The committee notes, for the record, the respondent's objections. We will now proceed with the review.

If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the Chairperson should request a motion to withdraw the review and return the case to the Bureau. The Chairperson shall state for the record:

"The committee notes, for the record, the respondent's objections. I request a motion to withdraw the review of <respondent's name> relating to agenda item number <agenda number> from today's meeting and that the case be sent back to the Bureau for further review."

The motion is to be carried out in accordance with the committee's Rules of Order. Upon passage of the motion, the Chairperson shall state for the record:

“The motion to withdraw the review of <respondent name> and to send the case back to the Bureau passes. Bureau staff will be contacting you within 48 hours to instruct you on how to proceed.”

If the Chairperson believes the respondent’s testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent’s conviction record, the review should proceed and the Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the crime(s) being substantially related to the applicable license, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the accuracy of the Bureau’s findings relating to the issuance of a fine, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

BEFORE INTERVIEWING THE RESPONDENT

If a witness is to provide information regarding the events relating to the Respondent, the Chairperson is to ask him/her to leave the room while you interview the Respondent.

WITNESS

After the Respondent's testimony, the Chairperson may call any witness for his/her testimony. The Chairperson should remind the witness that he/she is under oath.

COUNSEL/REPRESENTATIVE

If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.

CONCLUSION OF TESTIMONY/CLOSED SESSION

Upon determination that all committee members have asked all of their questions and the respondent has provided sufficient information for the DRC to make a decision, the Chairperson shall ask the respondent if he/she has anything else to share. NOTE: To ensure sufficient time for all respondents scheduled for the meeting to be heard, the Chairperson should remain focused and on point in his/her actions and inquiries and may need to remind committee members to be focused and on point in their actions and inquiries.

The Chairperson shall state for the record:

“Prior to the Disciplinary Review Committee going into closed session, if you have anything else you want to add or expand on, please do so now.”

Upon conclusion of the respondent’s additional information, the Chairperson shall close the record of the matter by stating

“The record in the review of the <denial, revocation, citation> against <respondent’s name> is now closed.

After the Chairperson closes the record, the Chairperson shall inquire for public comment.

If public comment is to be made, the Chairperson should request the individual to state his/her name for the record (however, if the member of the public refuses, the Committee may not insist that a name be given).

The Chairperson should provide the public member sufficient time to provide his/her comments; however, if he/she becomes repetitive and the information provided is no longer relevant to the review or does not further the review, the Chairperson may request the individual to conclude his comments. Public comment, however, is not testimony and should not be given consideration as sworn testimony. It should always be remembered that the hearing is informal in nature and should remain non-adversarial.

After public comment, if any, is received the Chairperson shall conclude the open portion of the review by stating for the record:

“The Disciplinary Review Committee is now going into closed session to deliberate on your case. You will be notified by mail of the Committee’s decision within 30 days. Please do not call the Bureau for the results of your review before this time. Thank you for appearing for your review.”

RETURNING TO OPEN SESSION

Upon reconvening back into open session, the Chairperson should state for the record:

"The Committee is back in open session. For the record, the Committee made a decision on <respondent’s Name’s> appeal, which will be mailed to the respondent within 30 days. The review is now concluded.”

PRIVATE SECURITY DISCIPLINARY REVIEW COMMITTEE BAGLEY-KEENE OPEN MEETING ACT – KEY PROVISIONS

(Note: GC = Government Code Section)

All Disciplinary Review Committee (DRC) meetings must be carried out in accordance with the provisions of the Bagley-Keene Open Meeting Act (Act). It should be noted that the Act's provisions also apply when three or more DRC members are in communication by telephone or email. This means that these communications would be subject to the Act's noticing and minute-taking requirements, as well as public records act requests.

1. DRC meetings are open to the public except during periods when a meeting is in "closed session" as identified on a meeting agenda. *(GC 11123)*
2. All DRC meetings must be publically noticed. The Notice and Agenda must be posted on the BSIS website at least 10 calendar days in advance of the scheduled meeting and include a brief description of each specific item to be discussed. *(GC 11125)*
3. No item will be added to a meeting's Agenda after the meeting has been noticed. *(GC 11125)*
4. DRC members must permit public comment on an Agenda item after discussion of the item by DRC members and before going to closed session, **unless**: *(GC 11125.7)*
 - a. The public was provided an opportunity to comment at a previous meeting and the item has not substantially changed since the last meeting.
 - b. The subject matter is appropriate for closed session.
5. The open sessions of DRC meetings are audio recorded by BSIS staff. The recordings are retained for at least 30 days from the date of the meeting. *(GC 11124.1(b))*
6. The public has the right to record DRC proceedings with an audio or video recording device **unless** doing so creates undue noise or other persistent disruption to the meeting. *(GC 11124.1)*
7. A BSIS staff member must be present during all closed sessions during the meeting to record minutes of the topics discussed and decisions made. *(GC 11126.1)*
8. During a DRC meeting, an emergency closed session is not allowed. *(GC 11126.3)*
9. The Meeting Agenda will include an item entitled "Agenda Items for Future DRC Meetings" to provide DRC members and the public the opportunity to request a specific item for a future meeting. Issues raised under this Agenda item should be discussed only to the extent necessary to determine whether they should be included as an Agenda item for a future meeting.

GUIDE TO THE BAGLEY-KEENE OPEN MEETING ACT

(Includes Amendments through January 1, 2017)

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BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation 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.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to " . . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

“(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

“(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

PRIVATE SECURITY DISCIPLINARY REVIEW COMMITTEE RULES OF ORDER

All committee meetings will be conducted according to the Private Security Disciplinary Review Committee Rules of Order (Rules of Order). These rules are meant to be used as tools to help make orderly, collective decisions in a cooperative, respectful way. Committee members should be familiar with these Rules of Order and conduct themselves accordingly.

Committee Chairperson Selection

Committee members shall select a Chairperson to preside over the meetings for a one-year term. However, there is no restriction on the number of terms a Chairperson may serve and committee members may change the selection of a Chairperson at any given time by noticing the event on a meeting agenda and by a majority vote of the committee. The committee should also establish a Vice Chairperson in case the Chairperson is absent or must disqualify himself/herself from any item before the committee. The selection of both the Chairperson and Vice Chairperson shall be conducted by an official vote of the committee and the motion and vote shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

If neither the Chairperson nor Vice Chairperson is present, an Acting Chairperson will be selected by an official vote of the members present with the motion and vote carried out in accordance with the "Meeting Motions" section of these Rules of Order. However, the committee may not proceed as a formal committee if it does not have a quorum (see Item 2 under Opening the Committee Meeting Section).

It should be noted that the Chairperson, Vice Chairperson, or Acting Chairperson has no more authority than any other DRC member regarding participation in the decision of an appeal. The Chairperson, Vice Chairperson or Acting Chairperson is responsible for conducting the meeting in accordance with these Rules of Order, maintaining order during the meeting, and assuring that all persons before the committee are treated impartially and courteously.

Meeting Motions

When a motion is made, the committee members who made and seconded the motion, and the official committee vote on the motion are to be recorded for the Meeting Minutes. A decision is reached by a majority vote of the committee. In the case of a tie vote on a motion relating to a respondent's appeal, the Bureau's decision to deny, suspend or fine the respondent stands.

Opening the Committee Meeting

1. The Chairperson shall conduct a roll call of the members present to establish a quorum. Each committee member must verbally acknowledge his/her presence for the Meeting Minutes.
2. Upon establishment of a quorum, the Chairperson must note the official time the meeting is called to order and the time is recorded for the Meeting Minutes.

If a quorum is not established, but is expected to be established within a short time from the commencement of the meeting (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal review heard later when the quorum is established, or request the review be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal review, in closed session, at a time deemed appropriate by the committee chair. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the case. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals -- respondent and his/her witness(es) or representative as well the committee members -- are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

3. The Chairperson shall note for the record that the meeting will be conducted in the order of the Agenda of the meeting's Public Notice. A motion must be made to modify the Agenda item listing the respondents scheduled to appear before the committee to hear their appeals in accordance with the respondents' sign-in sheet. The motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.
4. A motion should be made to adopt the Minutes from the previous DRC meeting and the motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

Review of a Respondent's Appeal

1. While respondents are to be heard in sign-in order, a motion can be made to hear a respondent out of order for hardship situations only upon motion and vote of the Committee. Any motion made shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.
2. At the beginning of each review, the Chairperson must read, for the record, the respondent's name and corresponding item number from the meeting's Agenda even if the respondent is being heard out of Agenda order or providing written testimony.

3. A committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality in accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 55).
4. Chairperson shall use the *Disciplinary Review Committee Chairperson's Instructions* (Attachment 1 of the Private Security Disciplinary Review Committee Reference and Procedures Manual) to carry out the review.
5. Chairperson will ensure that all committee members present are afforded the opportunity to ask questions or provide comments on any item on the meeting's Agenda.
6. Upon conclusion of each respondent's appeal review, the Chairperson will state for the record that the meeting is going into Closed Session.

Closed Session Deliberations

1. Only committee members and permitted Bureau staff are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision making, but may answer procedural questions and shall record the minutes of the closed session as required by Section 11126.1 of the Government Code.
2. Closed Session deliberations are not audio recorded.
3. Closed Session Minutes are confidential. Members cannot discuss closed session items in open session or in public, even with other members.
4. The motion to affirm, rescind, or modify the Bureau's initial decision shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order. The Committee shall render a decision on every appeal noted on the Agenda, including those involving respondents who did not appear. Exception: Respondents who opted not to present their case due to lack of a quorum.

NOTE: The committee cannot issue a decision that includes a penalty more severe than the Bureau action under review such as increasing the amount of a fine. Further, when a fine amount is set by law (e.g., \$100.00 for the first violation) the committee cannot issue a decision that alters the fine amount.

Other Agenda Items

The Chairperson must establish for the record all respondents who did not attend the meeting by reading his/her name and corresponding item number from the meeting's Agenda and stating "no show."

The Chairperson must verbally recognize all remaining items on the Agenda on the Public Notice. Any motions made shall be carried out in accordance with "Meeting Motions" section of these Rules of Order.

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out during open session and in accordance with the “Meeting Motions” section of these Rules of Order.
2. The adjournment and time will be announced by the Chairperson and recorded for the Meeting Minutes.

Committee Member Expectation Guidelines

1. Review the cases prior to the hearings so you are familiar with the issues and prepared to make inquiries as needed.
2. Arrive at least 15 minutes before the meeting start time to allow for time to take care of any pending issues.
3. Speak audibly and clearly during the meeting to enable everyone in the room to hear and understand you.
4. During a respondent's review, be courteous, respectful, and provide your full attention to the person speaking whether it is the respondent, his or her attorney or witness(es), or another committee member.
 - Do not make inquiries or comments about a respondent's clothes or appearance UNLESS it is directly related to the issue(s) of the appeal.
 - Do not make inquiries or comments about a respondent's ability to speak/comprehend English unless it relates to determining the respondent's ability to comprehend procedural activities.
 - Do not question the education of a respondent UNLESS it is directly related to the issue(s) of the appeal.
 - Do not ask the respondent questions personal in nature unless it relates to rehabilitation (see guidelines for rehabilitation in the DRC manual).
 - Do not make inquiries into matters unrelated to the direct facts or issues of the case.
 - Do not make inquiries that relate to protected statuses. For example, "what is your religion or ethnic background?" or "are you a U.S. citizen?:"
 - Do not indicate either through words or demeanor that you and/or the committee may have already reached a decision or may be predisposed to a certain decision.
 - Do not use cell phones (including texting), laptops or any other telecommunication device that could give the impression that you are not providing your full attention to the appeal. **REMEMBER:** A person is more likely to accept the committee's decision if he/she believes that he/she was heard, and treated impartially and respectfully.
5. Do not discuss an appeal case with another committee member before the review. Prior communication(s) could prejudice the review and could result in the committee's decision being challenged or nullified. Further, under certain circumstances, prior discussions could be subject to **Bagley-Keene Open Meeting Act** and **Public Records Act** (Act) requests. Violations of the Act may be a criminal offense. If you have a question regarding an appeal case, contact the DRU Manager or Bureau employee who staffs the committee.
6. You must recuse yourself from a review as soon as you become aware of factors that could affect your impartiality or could be perceived as affecting your impartiality. These factors may include but are not limited to a prior or current work-related or personal relationship with the applicant or licensee. If you recuse yourself, do **NOT** make any statements to the other committee members regarding the respondent or issues relating to the appeal. You are only to state, for the record, that you are recusing yourself from the

review due to a conflict. The member's name and the act of recusal shall be recorded in the Meeting Minutes. Once you recuse yourself from a review, you MUST leave the room during testimony to prevent accidental participation such as through body language. Further, you are NOT permitted to be in the room during closed session.

NOTE: If you determine that you will need to recuse yourself from a review prior to the day of the hearing, immediately contact the DRU manager and Bureau staff who oversees DRC activities. This information is important to identify a potential lack of quorum for the case.

7. Committee members should respect the Chairperson's right to control the process of the meeting. Only one matter will be before the committee at any time and no other discussion is in order.
8. Remember, your comments and/or actions could impact any future proceedings on the appeal. For this reason, you are not to discuss the nature of appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to an administrative or court proceeding for any case heard by the committee, he/she MUST immediately notify the DRU Manager and Bureau staff who oversee the DRC activities.

Criteria for Evaluating Rehabilitation

The following information is provided to assist members with decisions relating to rehabilitation.

CALIFORNIA CODE OF REGULATIONS, TITLE 16, Division 7, Section 602.1

When considering the denial, suspension, revocation, or reinstatement of a license for which application has been made under Chapters 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by applicant.
- (6) If applicable, evidence of proceedings pursuant to Section 1203.4 of the Penal Code.

Penal Code Section 1203.4

If an individual has fulfilled the conditions of probation, he/she may petition the court and be granted an Order of Dismissal under Penal Code Section 1203.4. This section allows a plea of guilty or nolo contendere to be put aside and a plea of not guilty to be entered. However, the order shall state that this dismissal does not relieve petitioner of the obligation to disclose the conviction in response to any direct questions contained in any questionnaire or application for public office or licensure by any state or local agency. The section does not reduce a felony to a misdemeanor nor does it restore the right to bear firearms. Convictions dismissed under this section must be disclosed on applications for licensure.

Business and Professions Code Section 480(c) provides, as follows: "Notwithstanding any other provisions of the code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal."

Bureau Comment Regarding PC 1203.4 Dismissals: While a committee member may not consider the conviction that has been set aside as the sole basis for making a decision on the appeal, factors such as the testimony of the respondent and witnesses about the nature and circumstances of the crime may be considered. In other words, in cases involving a dismissal, the focus should be on the act(s) and/or conduct and not the conviction itself.

Minimum Requirements for Licenses Regulated by the PSS Act

Security Guard Registration (BPC Sections 7582.8 and 7583.6)

1. 18 years of age
2. Completion of the 8-hours Powers to Arrest Training

Private Patrol Operator License (BPC Sections 7582.7, 7582.8, 7583.1, 7583.39 & 7583.40)

1. 18 years of age
2. Applicant or qualified manager for applicant must possess at least one year of experience as a patrolperson, guard, or watchman, or the equivalent thereof as determined by the Bureau Chief.
3. Business organized as a sole owner, partnership or corporation. PPO cannot be organized as a limited liability company.
4. \$1 million general liability insurance policy naming PPO as the sole insured

Firearms Training Facility (BPC 7582.8 and 7585.3)

1. 18 years of age
2. Business organized as a sole owner, partnership, or corporation. TFF cannot be organized as a limited liability company.

Firearms Training Instructor (BPC 7582.8 and 7585.5)

1. 18 years of age
2. Must satisfy both of the following requirements:
 - Associate Degree in the administration of justice, OR one year (1 yr = 2,000 hours) of teaching or training experience in firearms OR the equivalent, AND
 - A police or security firearms instructor training certificate issued by the NRA, OR a firearms instructor training certificate issued by a federal, state or local agency.
(NOTE: Cannot be just an NRA Firearms Instructor Certificate; must be a police or security firearms instructor certificate.)

Baton Training Facility (BPC 7582.8 and 7585.11)

3. 18 years of age
4. Business organized as a sole owner, partnership, or corporation. TFB cannot be organized as a limited liability company.

Baton Training Instructor (BPC 7582.8 and 7585.12)

1. 18 years of age
2. Must satisfy both of the following requirements:
 - Associate Degree in the administration of justice or the equivalent, AND
 - Possess a baton instructor training certificate issued by a federal, state or local agency OR one year (1 yr = 2,000 hours per CCR 620) of verifiable baton teaching or training experience OR equivalent.

Firearms Permit -- Initial (BPC 7582.8, 7583.22 and 7583.4)

1. 18 years of age
2. Completed the 8-hours Power to Arrest Course
3. Completed a BSIS Firearms Training Course as prescribed in Title 16, Division 7, Section 635 of the California Code of Regulations (Attachment 8, page 61).
4. Not prohibited by the Department of Justice from possessing a firearm

Firearms Permit – Renewal (BPC 7583.25 and 7583.32)

1. Must submit an application with no deficiencies prior to the expiration of the current permit.
2. Completed four (4) requalifications as prescribed in Title 16, Division 7, Section 633 of the California Code of Regulations (Attachment 9, page 65).
 - a. Completed and passed a review training course with each four (4) requalifications
 - b. Qualified on range on two (2) separate occasions, at least four months apart, within each twelve-month period before the permit expires.
 - c. At least one (1) of the range qualifications in each twelve-month period completed using live ammunition.
 - d. Completed range qualification for each caliber of firearm listed on the permit.

Firearms Training Course - California Code of Regulations §635

(a) Each applicant for an initial firearms permit shall complete classroom training related to the use of firearms, as outlined below, and complete and successfully pass an examination. Classroom training shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility. The following outline includes the minimum subjects which shall be taught and the minimum length of time which shall be devoted to each subject. Classroom training shall be completed before range training and before any attempt at range qualification.

FIREARMS TRAINING OUTLINE Recommended Instruction Sequence		
<i>Subject and Objective</i>		<i>Length of Time</i>
I. Registration (Classroom)		
A. Administration. Objective: to enroll individual in course.		1/2 hour
1. Check individual identification		
2. Check individuals Bureau registration status		
3. Course admission and discussion		
B. Laws and regulations for issuing a firearms permit. Objective: to familiarize and instruct individual on the laws, regulations, other requirements, and the administrative process for issuing a firearms permit and renewals.		1/2 hour
II. Moral and Legal Aspects (Classroom)		
A. Laws regarding possession and carrying of firearms. Objective: to familiarize and instruct individual on the applicable laws relating to the possession and carrying of firearms while working as an armed security guard.		1/2 hour
1. Penal Code sections		
2. Government Code sections		
3. Bureau statutes and regulations		
4. Instructor examples		
B. Laws and standards regarding use of deadly force. Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.		2 hours
1. Penal Code sections		
2. Government Code sections		
3. Bureau statutes and regulations		
4. Instructor examples		
C. Avoidance of deadly force--The de-escalation of force. Objective: to familiarize and instruct individual on the role of the firearms permit holder, the role that deadly force may play and when and how to de-escalate the use of deadly force.		2 hours
D. Shooting incidents. Objective: to familiarize and instruct individual on what is likely to happen in a shooting incident and how a firearms permit holder should act to minimize the use of deadly force.		1 hour
E. Effects of firearms use. Objective: to familiarize and instruct individual on how and why bullets travel and what implications this has on the use of deadly force.		1/2 hour
III. Firearms Nomenclature, Maintenance (Classroom)		
A. The revolver and semi-automatic, ammunition, parts and nomenclature. Objective: to familiarize and instruct individual on the principles and operation of weapons, the differences between weapons and how to care for a weapon.		1 hour
1. Picture of revolver and semi-automatic with parts identified		
2. Revolver and semi-automatic, parts and description		
3. Picture of ammunition with parts identified		
4. Ammunition parts and description		

B. Firearms safety, general.

1 hour

Objective: to familiarize and instruct individual on how to safely fire, wear and store the weapon while on the firing range, or on duty or off duty.

1. General safety rules
2. Specific safety rules
3. Safety at home and off duty
4. Transporting the weapon to the range
5. Carrying the weapon on duty
6. Suggested eye and ear protective equipment
7. Inspection, cleaning, and maintenance
 - a. General information
 - b. Inspection
 - c. Cleaning
 - d. Cleaning kit
 - e. To clean the weapon
 - f. Check list

IV. Weapon Handling and Shooting Fundamentals

1 hour

Objective: to familiarize and instruct individual on the fundamentals of marksmanship and the handling of weapons.

- A. Weapon fundamentals, general differences between handguns
- B. Loading/Unloading
 1. Proper loading procedures
 2. Proper loading procedures (right handed)
 3. Proper unloading procedures (right handed)
 4. Proper loading procedures (left handed)
 5. Proper unloading procedures (left handed)
 6. Loading devices
- C. Proper positions
 1. Point shoulder position
 2. Standing, barricade or supported position
 3. Kneeling position
 4. Sitting position
 5. Prone position
 6. Cover and concealment
 7. Bouncing bullets
- D. Grip
 1. Two-handed grip

- E. The draw
 - 1. General information
 - 2. The holster and the draw
- F. Shooting Fundamentals
 - 1. Sight alignment
 - 2. Trigger squeeze (control)
 - a. Single action
 - b. Double action
 - c. Count your shots
 - d. Anticipation
 - e. Dry firing
 - 3. Establishing the Dominant Eye
- V. Examination 1 hour

(b) In addition to completing and successfully passing an examination related to the use of firearms, each applicant for an initial firearms permit shall complete range training as outlined below. Range training shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Range Training Outline

- VI. Range Preparation (Classroom) 1 hour
 - Objective: individual will review range safety and the fundamentals of marksmanship and deployment of weapons. In addition, the individual will review requirements for the use of deadly force.
 - A. Range location
 - B. Equipment needed
 - C. Course of fire (explanation)
 - D. Targets, scoring explanation
 - E. Range commands (explanation)
 - F. Use of deadly force
- VII. Range Training As needed
 - Objective: to instruct individual in the safe and accurate use of a firearm until such time as the individual demonstrates to the instructor that he or she can safely draw and fire the weapon and has a high likelihood of passing the qualification course.
 - A. Instructions
 - B. Drawing and holstering practice
 - C. Dry firing
 - D. Loading and reloading procedures

(c) After completing both classroom-based firearms training and range training, each applicant for an initial firearms permit shall complete range qualification. The applicants initial range qualification shall only be completed by firing live ammunition and shall not be completed with a firearm simulator. The applicant must complete each range qualification with the same caliber of weapon that will be listed on the firearms permit and carried by the permit holder while on duty. If the applicant seeks to qualify for more than one caliber of weapon, the applicant must complete a range qualification for each additional caliber to be listed on the firearms permit. Each Range qualification shall be conducted by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

VIII. Range Qualification

Objective: individual shall pass a range qualification based on his or her demonstrated use of a weapon.

- A. Course of fire. Each individual shall discharge 50 rounds a minimum of 2 times according to the following schedule: (All stages are unsupported.)

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6,6 and 2) *6 standing position *8 kneeling position
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands) *6 weak hand unsupported
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

- B. Scoring. The first course of 50 rounds discharged shall be considered practice. The second course of 50 rounds discharged shall be used for scoring.
1. Silhouette targets shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass) as specified in Section 635.1.
 2. Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment.
 3. Each individual shall be informed whether his or her score passes or fails.

(d) A Bureau-approved Firearms Training Instructor conducting the range qualification must certify under penalty of perjury that an initial firearms permit applicant completed the required range qualification using live ammunition and provide a signed copy of the qualification documentation to the applicant.

Authority cited: Sections 7515, 7581, 7585, 7585.6 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.22, 7583.23, 7583.37, 7596, 7596.3 and 7599.40, Business and Professions Code.

Biennial Renewal of Firearms Permit - California Code of Regulations §633

(a) An applicant shall complete and pass the review training course on the laws and standards regarding use of deadly force, avoidance of deadly force, and de-escalation of force, as outlined below. All required classroom training shall be completed prior to attempting each range qualification. Training regarding use of deadly force and avoidance of deadly force shall be conducted through traditional classroom instruction by a Bureau-approved Firearms Training Instructor at a Bureau-approved Firearms Training Facility.

Review Training Outline

<i>Subject and Objective</i>	<i>Length of Time</i>
A. Laws and standards regarding use of deadly force. Objective: to familiarize and instruct individual on the meaning of deadly force, the standards for using deadly force, the applicable laws relating to the use of deadly force and the consequences of not properly using deadly force or violating the standards and requirements for use of a weapon.	1 hour
1. Penal Code sections	
2. Government Code sections	
3. Bureau statutes and regulations	
4. Instructor examples	
B. Avoidance of deadly force--The de-escalation of force. Objective: to familiarize and instruct individual on the role of the armed security guard, the role that deadly force may play and when and how to de-escalate the use of deadly force.	1 hour

(b) The permit holder shall complete a range qualification by firing fifty (50) rounds with a passing score:

(1) On two (2) separate occasions, at least four months apart, within each twelve-month period before the permit expires, and

(2) With at least one (1) of the range qualifications in each twelve-month period completed using live ammunition.

(3) Permit holders must complete each required range qualification for each caliber of firearm listed on the permit.

(4) Scoring: Silhouette targets as described in Section 635.1 shall be used. A 5 point score shall be granted for each round discharged inside of the seven (7) ring (center mass). Each individual shall qualify with an 80% score (200 out of 250 points) on the scoring segment. Each individual shall be informed whether his or her score passes or fails.

Course of Fire

Stage 1	15 yards	6 rounds in 30 seconds *6 standing position
Stage 2	7 yards	14 rounds in 45 seconds (includes 2 reloads) (load 6, 6 and 2)
Stage 3	7 yards	6 rounds in 10 seconds (any position)
Stage 4	7 yards	12 rounds in 25 seconds (includes reload) (load 6 and 6) *6 strong hand unsupported (reload and switch hands)
Stage 5	5 yards	6 rounds *3 rounds in 4 seconds (2 stages)
Stage 6	3 yards	6 rounds *2 rounds in 3 seconds (3 stages)

(c) The application for the renewal of a firearms permit shall include the following proof and information:

(1) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed and passed each range qualification. Each Bureau-approved Firearms Training Instructor administering the range qualification must certify under penalty of perjury the method (live ammunition or firearm simulator) in which each range qualification was completed and provide a signed copy of the requalification documentation to the applicant.

(2) Certification or documentation from each Bureau-approved Firearms Training Facility and by each Bureau-approved Firearms Training Instructor that the applicant has completed the review course prior to each range qualification.

(d) A Reserve Peace Officer is exempt from the firearms requalification requirements providing he/she submits documentation of firearms proficiency provided by the Law Enforcement entity with which he/she is associated, with their proof of renewal. This documentation must be submitted with the request for renewal of the firearms permit.

Authority cited: Sections 7515, 7581 and 7591.6, Business and Professions Code. Reference: Sections 7542, 7583.32, 7596.7 and 7599.40, Business and Professions Code.



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COLLATERAL RECOVERY DISCIPLINARY REVIEW COMMITTEE REFERENCE AND PROCEDURES MANUAL

November 2017

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INTRODUCTION

History

The Collateral Recovery Disciplinary Review Committee (DRC) was established on July 1, 2017 (AB 281, Chapter 740, Statutes of 2015), for the purpose of considering appeals from repossession agency, qualified manager, and repossession agency employee applicants and licensees of the Bureau's denials, suspensions and revocations as well as the assessment of administrative fines. Each DRC consists of five members appointed by the Governor with three members actively engaged in the business as a licensed repossession agency and two members from the general public.

Bureau and Department of Consumer Affairs Mission and Core Values

The Bureau's 2017-2021 Strategic Plan identifies the Bureau's mission as: *To protect and serve the public and consumers through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

The Bureau's Core Values are:

- **Accountability**
- **Consumer Protection**
- **Customer Service**
- **Integrity**
- **Professionalism**
- **Teamwork**

Appointment of Committee Members

As a Governor appointee, DRC members are representatives of the Governor and his/her administration. A DRC member is expected at all times to conduct himself/herself in a respectful, impartial, professional and courteous manner when participating in any DRC meeting or activity.

Member Per Diem

Pursuant to Business and Professions Code Sections 7509.1 and 103, a DRC member is paid a \$100 per diem for each day actually spent in the discharge of official duties. Accordingly, if a DRC appeal meeting is scheduled for one day, a DRC member will receive one day per diem to review the case files and one day per diem to attend the meeting. If a DRC appeal meeting is scheduled for two days, a member will receive two days per diem to review the case files and two days per diem to attend the meeting. In regard to other DRC-related training or activities, a DRC member will receive one day per diem for each day he/she is involved in a DRC training or activity. A DRC member is also entitled to reimbursement for travel and other necessary expenses related to attending a DRC-related meeting or activity.

Duties of Committee Members

The DRC provides an applicant or licensee an alternate process to appeal the Bureau's decision relating to denials, suspensions, revocations, and the Bureau's imposition of administrative fines for the security industries. Specifically, Business and Professions Code Section 7509.2 states:

- (a) The Collateral Recovery Disciplinary Review Committee shall perform the following functions:
 - (1) Affirm, rescind, or modify all decisions concerning administrative fines assessed by the director or bureau against repossession agencies or their employees that are appealed to the committee.
 - (2) Affirm, rescind, or modify all decisions concerning denial of licenses issued by the director or bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that are appealed to the committee.
- (b) The Collateral Recovery Disciplinary Review Committee may grant a probationary license, certificate, registration, or permit with respect to the appealed decisions described in subdivision (a).
- (c) This section shall become operative on July 1, 2017.

The other appeal process option available is a hearing before an Administrative Law Judge with the Office of Administrative Hearings. However, if the matter is appealed to a DRC and the respondent disagrees with the DRC decision, he or she has the option to appeal the DRC decision to an ALJ.

Committee Resignations

If a DRC member is resigning from the DRC, he/she must provide a letter of resignation to the Governor's Office stating he/she will no longer serve on the DRC. A copy of the letter of resignation must also be submitted to the Director of the Department of Consumer Affairs and the Bureau Chief.

PRE-MEETING DAY ACTIVITIES

Scheduling Meetings

DRC meetings must be scheduled every 60 days; however, the frequency may be more or less depending on the number of appeals received (Business and Professions Code section 7509.1). All meetings are subject to the requirements of the Bagley-Keene Opening Meeting Act and, accordingly, are publically noticed with an agenda of the scheduled appeals and other items to be considered during the meeting.

Upon receipt of a licensee's or applicant's (hereafter referred to as "respondent") appeal request, Bureau staff schedule the review for an upcoming meeting and mail the respondent information about the meeting and what to expect when attending the DRC meeting. Additionally, Bureau staff will post the meeting's notice on the BSIS public website in accordance with the **Bagley-Keene Open Meeting Act** (Attachment 2 and 3 on pages 19 and 21).

The number of appeals scheduled for a meeting is based on an average case review time of 20 minutes. Given this timeframe, committee members need to be focused and on point in their actions and inquiries during an appeal. This requires each member to have reviewed

the case documents in advance to be sufficiently knowledgeable of the history and circumstances. **NOTE:** Historically, not all respondents show up for their scheduled appeals. For this reason, having a case or two run slightly longer than 20 minutes, due to their complexity or other extenuating factors, should not create hardships relative to the overall meeting day.

Case Files to DRC Members

Approximately two weeks before a scheduled meeting, Bureau staff sends each DRC member the case files for each appeal to be heard during a meeting via the FedEx service requiring receipt signature. Each file contains the pertinent information the Bureau considered in reaching its decision on the applicant/licensee. Bureau staff will send each DRC member an email notifying them that the case files have been mailed and the date they were mailed. Given that the case files may contain information restricted by law or otherwise confidential, it is imperative that committee members handle the documents accordingly and immediately notify the Bureau if the files are misplaced or are not received from the delivery service. If a DRC member does not receive the case files package within 2-3 days of the notification of them having been mailed or if the case files could have been subject to any unauthorized access, **he/she must immediately notify the Bureau of this fact** by sending an email to the Bureau DRU manager and Bureau staff who oversees DRC activities.

It is the responsibility of each DRC member to promptly notify the Bureau's DRU manager and Bureau staff who oversees DRC activities immediately of any change of their mailing address.

If a committee member has a question regarding any scheduled appeal prior to the meeting, he/she should contact the DRU manager or the Bureau staff who oversees DRC activities.

Committee members must not discuss an appeal with external parties or another committee member before the meeting by any means or method. Prior communications could prejudice the appeal review and could result in the committee's decision being challenged or nullified. Under certain conditions, prior discussions also may be subject to the **Bagley-Keene Open Meeting Act** requirements and **Public Records Act** requests.

MEETING DAY PROCEDURES

All DRC meetings must be carried out in accordance with the **Bagley-Keene Open Meeting Act** (Attachments 2 and 3 on pages 19 and 21), the committee's **Rules of Order** (Attachment 4 on page 49), the **Committee Member Expectation Guidelines** (Attachment 5 on page 53) and the **Chairperson's Instructions** (Attachment 1 on page 15).

Meeting Date Expectations

The meetings generally begin at 9:00 a.m. with the length depending on the number of appeals scheduled to be heard. One or more Bureau staff members will be present at each scheduled meeting to answer questions DRC members may have with regard to Bureau laws, regulations, policies and procedures, and to facilitate the proceedings. Department representatives from the Executive Office or Legal Affairs Office may also attend the meetings. Lastly, the Bureau may arrange for law enforcement personnel to attend DRC meetings.

The meeting notice/agenda lists the respondents to be heard during the meeting. However, reviews are heard in order of sign-in by respondents on the "Respondent Sign-In" sheet

located in the designated waiting room. The committee may hear a case out of sign-in order due to hardship-related circumstances. The committee will consider these requests on a case-by-case basis. In addition, since the Bagley-Keene Act requires agenda items to be taken up in agenda order, at the beginning of each meeting a motion must be made and adopted by the committee to allow respondents to be heard in sign-in order. This motion must be carried out in accordance with the committee's **Rules of Order** (Attachment 4, page 49).

Prior to the committee members calling the meeting to order, Bureau staff will check-in the respondents in the waiting room, review their photo identification to confirm identity, and answer any questions they and/or their representatives may have. Additionally, Bureau staff will advise respondents and their witnesses and/or representatives that weapons are not allowed in the meeting room or the waiting room.

Meal and Rest Periods

DRC members are not employees of the state and not subject to requirements relating to meal and rest periods. However, the Bureau staff who serve as the DRC facilitator and scribe are represented employees and may be granted a minimum 30-minute lunch break. Accordingly, rest and meal periods should be taken as needed and/or upon request of Bureau staff.

Commencing a Meeting – Quorum

DRC meeting proceedings are carried out in accordance with the committee's **Rules of Order** (Attachment 4 on page 49). In accordance with the **Rules of Order**, a minimum of three DRC members are needed to establish a quorum of the committee. Bureau staff works closely with committee members to ensure attendance at each meeting is sufficient to establish a quorum. If for any unforeseeable reason a quorum is not established at the onset of a meeting, but is expected to be established within a short time (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal heard later when a quorum is established, or request the review to be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal, in closed session, at a time deemed appropriate by the Chairperson. However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the appeal. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals – respondent, his/her witness(es) or representative as well the committee members – are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

Threatening Behavior by Respondent/Representative/Member of the Public

If a respondent, his/her representative or witness, or a member of the audience becomes unruly or threatens any committee member, Bureau staff, or another meeting attendee, the Chairperson shall pause the meeting and address the situation. If appropriate, the meeting should be adjourned and committee members and Bureau staff leave the room. If present, law enforcement personnel assigned to monitor the meeting will take over the matter. If no law enforcement is present, law enforcement personnel may be summoned by calling 911.

APPEAL REVIEW PROCEDURES

Committee Introductions

In accordance with the **Chairperson's Instructions** (Attachment 1 on page 15), at the beginning of each review, the Chairperson will introduce the committee members, advise that the members are appointees of the Governor, and briefly explain the responsibilities and purpose of the DRC.

Respondent's Witnesses/Representation

The respondent may present his/her appeal or be represented by an attorney or other person. If represented, the respondent is still responsible for presenting his appeal. A representative may not testify to facts or events about which he/she does not have direct knowledge.

The Chairperson will swear in the respondent and, if applicable, his/her witness(es) to tell the truth. **NOTE:** Representatives (e.g., legal counsel, an interpreter, or any individual providing only moral or technical support) are not witnesses and, therefore, are not to be sworn in.

Bureau's Presentation of Case Facts

The Chairperson will request Bureau staff to state the facts of the case by reading the Bureau's prepared statement for the appeal. In accordance with the **Chairperson's Instructions** (Attachment 1 on page 15), the Chairperson will ask the respondent if he/she has any objections to the official notice.

- If the respondent has no objections, the Chairperson will note that the committee takes official notice of the information presented and proceed with the review.
- If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections and the Chairperson shall note the objections for the record.
 - If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is not the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.
 - If the Chairperson believes the respondent's testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent's conviction record, the Chairperson should allow the review to proceed.
 - If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the review should not

proceed and the Chairperson should request a motion to withdraw the review and return the case to the Bureau. Upon the motion's passage, the Chairperson should advise the respondent that he/she will be contacted by Bureau staff for instructions on how to proceed.

- If the respondent has objections to the crime being substantially related to the applicable license type, the committee must hear the objections, the Chairperson shall note the objection for the record, and the review should proceed.
- If the respondent has objections to the accuracy of the Bureau's findings relating to the issuance of a fine, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.
- If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections, the Chairperson shall note the objections for the record, and the review should proceed.

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

Respondent's Testimony

The review provides the respondent the opportunity to tell the committee his/her version of the relevant events of his/her conviction(s), the acts or circumstances relating to the Bureau's issuance of fine(s), or his/her experience as it relates to the statutory requirements for licensure. Below are some of the Chairperson responsibilities to facilitate this effort.

1. The Chairperson will ask the respondent for the reason(s) why he/she believes the decision of the Bureau should be modified or rescinded.
2. The Chairperson may advise the respondent or his/her witnesses when testimony is repetitive or unrelated to the case, and may guide and advise the respondent and/or representatives so testimony given will assist the committee in reaching a decision.
3. The Chairperson may discontinue a respondent's or his/her witnesses' testimony if it is irrelevant and relevant testimony does not appear to be forthcoming.
4. If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.
5. If it becomes apparent during a review that a respondent is having difficulty understanding the proceedings because he/she is not sufficiently fluent in English, the Chairperson should consider stopping the review and advising the respondent that Bureau staff will reschedule the review for a later meeting at which time the respondent is to bring an interpreter. Any cost associated with the services of an interpreter shall be the sole responsibility of the respondent. However, if the respondent elects to continue with the review, the Chairperson should allow the matter to proceed.
6. The Chairperson should not make any inquiries, or allow any committee member to make

any inquiries, into inappropriate or irrelevant areas. Such inappropriate areas of inquiries include but are not limited to all protected statuses, receipt or not of governmental aid.

Purpose of Appeal Review

The purpose of the review is for committee members to obtain sufficient information on the appeal to make a determination on whether the Bureau's decision to deny or suspend licensure, the Bureau's decision to issue a fine or fines, or the Bureau's decision that the respondent does not meet the experience qualifications as required by the Business and Professions Code should be affirmed, rescinded or modified. In making inquiries to obtain information, committee members should confine questions to those events and information on which the Bureau took its action and use good judgment to control the review length to ensure sufficient time for other respondents scheduled for the meeting.

It is misconduct for a committee member to ask a respondent if there are other arrest(s) in his/her background which did not result in a conviction. It is also not appropriate for a committee member to inquire on personal matters not related to the case, with the exception of those noted below relating to the respondent's rehabilitation efforts. If the respondent raises issues personal in nature, committee members must confine their responses, and subsequent inquiries should only be relevant to the events and information on which the Bureau took its action.

During all portions of the review, the committee shall accept any documents submitted by the respondent or the Bureau. The Chairperson must advise the respondent that documents submitted to the committee must be retained by the committee. (NOTE: The respondent is advised in his/her review notification letter that he/she may submit documents in support of their appeal, and that if the respondent submits the documents the day of the hearing he/she should be prepared to leave the documents with the committee. The documents must be retained by the committee, and provided to Bureau staff after the review, in the event the committee upholds the Bureau's decision and the respondent appeals his case to an administrative law judge.

The information below is provided to assist committee members in conducting the applicable review.

1. *Appeals of Denials Relating to Conviction(s):* Committee members must obtain information from the respondent and his/her witnesses, if applicable, regarding the respondent's act(s) and/or behavior that led to the conviction(s), and the rehabilitation efforts the respondent has made since the conviction(s), which will be considered during their deliberations on the respondent's appeal. The committee is not to "retry" the case to determine if the respondent did or did not commit the act; this determination was made through the judicial process.

Committee members may make reasonable inquiries, including those personal in nature, relating to the respondent's rehabilitation if they are connected with the issues relating to the review. Appropriate questions include but are not limited to the activities the respondent has engaged in since the crime/act, the nature and level of responsibilities of such activities, lengths of employment, participation in appropriate rehabilitation programs (alcohol, drug abuse, child abuse), and changes in life style which may have contributed to the crime/act. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 55).

2. *Appeals of Denials Relating to Making a False Statement of Fact on Application:* Committee members must obtain information from the respondent and his/her witnesses,

if applicable, regarding the respondent's reasons for making the false statement(s) of fact, which will be considered during their deliberations on the respondent's appeal. Generally, false statements relate to the respondent's response to conviction questions. However, false statements may also relate to the respondent's experience or training.

Whether or not a substantially-related conviction is a ground for a denial, the Bureau also may deny licensure due to the respondent making a false statement on the application by answering "no" to the conviction questions on the application. NOTE: Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. Below are the conviction questions:

*"Have you ever been convicted of, or pled guilty or nolo contendere to ANY criminal or civil offense in the United States, its territories, or a foreign country? This includes every citation, infraction, misdemeanor and/or felony. Convictions that were adjudicated in the juvenile court or convictions under California Health and Safety Code sections 11357(b), (c), (d), (e) or section 11360(b) which are two years or older, as well as criminal charges dismissed under section 1000.3 of the Penal Code or equivalent non-California laws, should **NOT** be reported. Convictions that were later dismissed pursuant to sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or equivalent non-California law **MUST** be disclosed."*

"Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?"

3. *Appeals Relating to Issuance of Fine(s):* Committee members must obtain information from the respondent and/or his/her witnesses, if applicable, relating to the respondent's specific act(s) or omission(s) that the Bureau determined to be a violation of the Collateral Recovery Act and gave rise to the issuance of the fine(s), which will be considered during their deliberations on the respondent's appeal.
4. *Appeals of Denials for Failing to Meet Required Experience or Training:* Committee members must obtain information and evidence from the respondent and his/her witnesses, if applicable, regarding the respondent's experience or training, which will be considered during their deliberations on the respondent's appeal.

Disqualification from a Hearing

In accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 53), a committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality. Committee members must adhere to the specific steps outlined in the Guidelines when recusing themselves from a review. NOTE: Recusal requires the member to have no involvement with the process. While the hearing portion is open to the public, a recused committee member **MUST** leave the room during testimony to prevent accidental participation such as through body language. Further, a recused committee member shall **NOT** be in the hearing room during closed session.

If a committee member recusing himself/herself from the review results in the committee no longer having a quorum, the review shall be carried out in accordance with the section in this document entitled "Commencing a Meeting – Quorum."

DELIBERATIONS – CLOSED SESSIONS

Following the conclusion of all testimony, the Chairperson shall call the committee into closed session. Only committee members and Bureau staff responsible for taking closed session minutes are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision-making, but may answer meeting-related procedural questions and shall record the minutes of the closed session activities, as required by Section 11126.1 of the Government Code (Attachment 2 on Page 19).

Making a Decision on the Appeal

Committee members should weigh the reasonableness and relevance of the evidence provided by the Bureau, and the reasonableness and relevance of the evidence and testimony provided by the respondent and the respondent's witnesses, if applicable. Committee members should only consider the facts provided and not make assumptions regarding what may have or may have not transpired. The burden of proof standards are as follows:

1. Denial of Licensure – Lack of Qualifying Experience: The burden of proof rests with the applicant. The applicant must show by “preponderance of the evidence” that he/she satisfies the specified statutory experience or training requirement for licensure.
2. Denial of Licensure – Substantially-Related Conviction: The burden of proof rests with the applicant. The applicant must show by preponderance of the evidence that the conviction did not occur, the conviction is not substantially related to the duties of the license, or that he/she has rehabilitated and is fit for licensure.
3. Bureau Issuing a Citation/Fine: The burden of proof rests with the Bureau. By the “preponderance of the evidence” the Bureau must show that the licensee committed a violation of the Act.”

NOTE: Preponderance of the evidence means “more likely than not” or “at least 50% plus any additional measure.”

In rendering their decisions, committee members should also consider the Bureau's and Department's mission of protecting consumers and the public. Ultimately, each committee member is entrusted with making a decision of the respondent's fitness for licensure, the respondent's eligibility for licensure, or the appropriateness of the issuance of the fine(s) to the respondent. Fitness for licensure means that the respondent will be able to carry out the duties of the license in a manner that will likely not result in public or consumer harm.

Appeal of Denials Relating to a Criminal Convictions: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Was not convicted of the crime(s);
- Was convicted of the crime(s), but the crime(s) and/or respondent's act(s) leading to the conviction(s) are not substantially related; OR
- Was convicted of a substantially-related crime, but he/she proved rehabilitation to the extent that he/she demonstrates fitness for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to a criminal conviction.

1. *A Conviction was Not Sustained:* The committee should assess whether the respondent demonstrated that no criminal conviction was sustained. If the evidence presented by the respondent does not satisfy this burden of proof, then the Bureau's official notice of the occurrence of a crime or act shall stand. **Note:** If respondent demonstrates that the conviction(s) for which he/she was denied a license have been set aside or dismissed pursuant to Penal Code section 1203.4 or any other provision of law, the committee may not presume that a conviction occurred. However, in light of Business and Profession Code sections 7503.5, 7504.1 and 7506.8, the committee should inquire on the nature and circumstances that led to the conviction(s), with a focus on the respondent's conduct and actions at the time of the event(s) leading to arrest and conviction so it can determine whether respondent is fit for licensure.
2. *The Crime or Act is Substantially Related to the Duties of the License:* If a crime is associated to a significant extent with the qualifications, functions and duties of the license it is considered to be substantially related. Generally, a conviction or the act(s) leading to the conviction must be substantially related for the respondent to be denied licensure. The grounds for making a substantially related determination include the committee member's knowledge and understanding of the responsibilities and qualifications of the licensee. If a committee member has a question regarding this determination when reviewing a case file prior to meeting day, he/she should email the DRU Manager.
3. *Nature and Severity of a Substantially-Related Crime:* By law, a felony is a more severe crime than a misdemeanor. However, felonies often are pled down to misdemeanors and, therefore, committee members should not consider the classification of the crime as the sole indicator of the severity of a crime or act. Committee members also should consider the nature and severity of the respondent's act(s) or behavior that led to the conviction including the resulting harm and/or damage to person, property or public.
4. *Rehabilitation:* For the purpose of making a decision of fitness for licensure, rehabilitation involves the extent that a respondent demonstrates the likelihood not to reoffend and that protection of the public would be maintained despite a prior conviction.

Appeal of Denials Relating to Making False Statement of Fact on Application: The grounds for the committee rescinding the Bureau's denial of licensure are based on the preponderance of the evidence substantiating that the respondent:

- Did not make a false statement of fact on the application; OR
- Did make a false statement of fact on the application, but doing so does not constitute an act that is substantially-related to the duties of the license and, accordingly, do not demonstrate that the respondent is unfit for licensure.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's denial of the respondent's application for licensure due to the respondent making a false statement of fact on the application.

Making a false statement of fact on an application is grounds for denial pursuant to Business and Professions Code Section 480(d). False statement of fact on the application includes the respondent stating he/she possesses experience or training that he/she does not; stating

that he/she has no criminal convictions or pending arrests when he/she does; providing fraudulent documents to demonstrate experience or training; or falsifying a declarant's attestation as to his/her experience.

Some respondents state that employers misinformed them when filing their application by telling them that Bureau only cares about felony convictions, the conviction was not serious enough to report. This type of testimony does not establish a defense. Ignorance of the law and its requirements is not a defense. The license application contains information on the licensure requirements, including disclosure requirements. Ultimately, it is the applicant who, under penalty of perjury, attests to his/her statements made on the application, whether by signature on a paper application or through the electronic submission of a BreZE application, as being truthful and factual.

Additionally, some respondents may state that they did not complete the application. Given that the applicant is the one who allegedly signed the paper application or clicked the "Yes" radio button in the BreZE application attesting, under penalty of perjury, that the "statements on this application are true and correct" this statement is not in of itself a defense. Other evidence must be presented to substantiate the fact (i.e., witness testimony that witness himself/herself actually completed the application). However, if this is the defense brought forth, the committee should consider whether the act or acts of misleading the Bureau by having another complete the application rise to the level of demonstrating that the respondent is unfit for licensure.

Appeals Relating to Issuance of Fine(s): The grounds for the committee rescinding the Bureau's issuance of a fine is based on the preponderance of the evidence demonstrating that the respondent did not violate the specified provision of the Collateral Recovery Act. The grounds for the committee modifying a fine the Bureau issued is based on the preponderance of the evidence substantiating that a violation of the Collateral Recovery Act occurred, the authorizing section of law providing discretionary authority on the fine amount, and the committee's determination as to appropriate fine amount. **NOTE:** The committee does not have the statutory authority to modify fines set in statute.

The following information is provided to assist committee members in deciding whether to affirm, rescind or modify the Bureau's issuance of a fine.

The Legislature established requirements for maintenance of the license and standards of conduct for licensees in the Collateral Recovery Act to help support public safety and consumer protection. As a means to promote licensees' compliance, the Legislature authorized the Bureau to issue fines for violations of these requirements and standards. Many fine amounts are established in law and the Bureau only needs to establish that the violation occurred. Other fines have a maximum amount that may be imposed, and the Bureau must establish that a violation occurred and determine a fine amount commensurate with the act(s) or omission(s) committed by the licensee.

Committee members should keep in mind that they are not determining whether the respondent's act or omission is acceptable or unacceptable. The Legislature determined the conduct and acts as unacceptable by identifying them as a violation of the Collateral Recovery Act, and authorizing the Bureau to issue a fine to promote compliance.

Some respondents may state that he/she was not aware of the requirement(s) or standard(s). This type of testimony does not establish a defense. The licensee or the licensee's qualified manager is responsible for being knowledgeable of the requirements in the Collateral Recovery Act, and ignorance of the law and its requirements is not a defense.

1. *Violation of the Act Occurred:* The Notice of Citation the Bureau issued to the licensee details the applicable code section(s), a brief description of the statutory requirement(s) and the Bureau's findings relating to the respondent's act(s) or omission(s) that gave rise to the violation(s). Committee members are to assess the reasonableness and relevance of the evidence (Notice of Citation and Investigation Report) provided by the Bureau and the testimony and evidence provided by the respondent and the respondent's witnesses, if applicable, in guiding their determinations.
2. *Modifying the Fine Amount:* If the committee determines that a violation of the Act occurred and the violation is associated with an up-to-maximum fine amount, committee members should consider what amount of fine would be commensurate with the respondent's act(s) and behavior as well as the effect the fine would have in deterring the respondent from committing a future violation of the Collateral Recovery Act. **NOTE:** The Committee may not modify a fine amount set in statute nor may the Committee increase a fine assessed by the Bureau.

Appeals of Denials for Failing to Meet Required Experience or Training: The grounds for the committee rescinding the Bureau's denial of licensure is based on the preponderance of the evidence (applicant's statements, supporting documents and declarant's attestations) demonstrating that the respondent satisfies the requirements for the license.

The following information is provided to assist committee members in deciding whether to affirm or rescind the Bureau's determination that the respondent does not meet the requirements for licensure.

The Legislature established minimum standards for obtaining a license regulated by the Collateral Recovery Act. See ***Minimum Requirements for Licenses Regulated by the Collateral Recovery Act*** (Attachment 7, page 57) for a list of the licenses and their related minimum requirements. Committee members must determine if the respondent has demonstrated that he/she complies with the requirements. In making this determination, committee members must keep in mind that the minimum requirements for licensure set by statute may NOT be waived, lessened or modified. The committee solely must consider whether the respondent, by preponderance of the evidence, demonstrates that he/she satisfies the minimum requirements.

Committee Motions

All committee motions and votes shall be carried out in accordance with the Committee's **Rules of Order** (Attachment 4 on page 49). A decision is reached on a given motion by a majority of voting members. In the case of a tie, the decision reverts to the Bureau's decision to deny, suspend or fine the respondent. See **Criteria for Evaluating Rehabilitation** (Attachment 6 on page 55) for additional factors to consider when reaching decisions.

The committee may make the following motions on the Bureau's initial action to deny an applicant; suspend a license, registration, or certificate; or issue an administrative citation to a license, registrant, and certificate holder:

- Affirm (uphold)
- Rescind (overturn); or
- Modify

NOTE: The committee may not take an action that includes a penalty more severe than the Bureau's action (e.g., increasing the amount of an administrative fine). Furthermore, in some instances (e.g., fines set by statute), the committee may NOT modify the penalty.

Preparing the Decision

Bureau staff will provide the Chairperson with the Decision and Order document, which is addressed to the respondent, to complete with the committee's decision and the basis for the decision. The Chairperson, or the Vice Chairperson in the absence of the Chairperson, or the Acting Chairperson in the absence of the Chairperson and the Vice Chairperson must sign the document. The Bureau will mail the document to the respondent along with a cover letter outlining the procedures for the respondent to appeal to an administrative law judge if respondent disagrees with the DRC's decision. DRC committee decisions are final if the respondent fails to request an administrative hearing within 30 days from the date the Decision is mailed to the respondent.

Discussion of Cases

Committee members must remember that while a primary purpose of the DRC is to provide respondents a more timely decision than that afforded through the administrative hearing process, the respondent has the right to appeal the DRC's decision to an administrative law judge. To maintain the integrity of any subsequent hearings, committee members shall not discuss the nature of the appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to any case heard by the committee, he/she MUST immediately notify the DRU Manager and the Bureau staff who oversee the DRC activities.

NON-REVIEW AGENDA ITEMS

Other Items on Agenda

The Chairperson must verbally recognize all items on the Agenda posted online with the public Notice of the meeting and ensure that, if applicable, the public has an opportunity to directly provide comment to the committee during the discussion of each item prior to any action taken. Any motions made shall be carried out in accordance with "Meeting Motions." (Attachment 4, page 49)

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out in accordance with “Meeting Motions.” (Attachment 4, page 49)
2. The adjournment and time will be announced by the Chairperson and recorded for the *Meeting Minutes*.

COLLATERAL RECOVERY DISCIPLINARY REVIEW COMMITTEE CHAIRPERSON'S INSTRUCTIONS

OPENING THE MEETING INSTRUCTIONS:

- Confirm Bureau staff has started the audio recorder
- Establish a quorum of Committee
- Approve past Disciplinary Review Committee meeting minutes and address all other items on the Agenda listed before Review items
- Request motion to hear respondents in sign-in order instead of Agenda order

REVIEW INSTRUCTIONS

INTRODUCTION

Chairperson introduces all committee members.

Chairperson reads:

"Please note that this review is being audio recorded. This Disciplinary Review Committee is appointed by the Governor of the State of California to hear appeals of decisions made by the Bureau of Security and Investigative Services regarding denials, suspensions, and administrative fine assessments. The committee may affirm, rescind or modify the Bureau's decision based on the information in the Bureau's file and your testimony today. We will now begin the review of the Bureau's decision to:

- **deny** the (type of license/registration/certificate) of (name of respondent).
- **impose an administrative fine** against (name of respondent)."

RESPONDENT'S COUNSEL/WITNESS

Ask Respondent if he/she is represented by counsel or is being assisted by a representative. If yes, ask the Respondent to introduce him/her for the record.

Ask Respondent if he/she has any witnesses. If yes, ask the Respondent to identify the person by name, and relationship to the respondent for the record. Chairperson should ask if the witness is there as a character reference or as a witness to the events.

OATH TO RESPONDENT AND, IF APPLICABLE, WITNESS(ES).

NOTE: LEGAL COUNSEL OR OTHER REPRESENTATIVES ASSISTING THE RESPONDENT ARE NOT TO BE SWORN IN.

Chairperson reads:

"Please raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth?"

RESPONDENT'S NAME AND ADDRESS

Ask Respondent to state his/her full name, current address, and name of their employer for the record.

BUREAU PRESENTS CASE FACTS

Chairperson reads:

"A Bureau representative will now read the facts of this case."

After the Bureau representative reads the facts, Chairperson reads:

"Before moving on to your testimony, please advise the committee if you have any objections to the information read by Bureau staff."

If the respondent has no objection, the Chairperson shall state for the record:

"Having heard no objection, the committee takes official notice of the Bureau's case facts. We will continue with the review."

If the respondent has objections to the accuracy of the conviction information, the committee must hear the objections.

If the respondent's testimony and evidence demonstrate, by preponderance of the evidence, that the respondent is **not** the same individual identified in the conviction record (e.g., conviction occurred before the respondent was born), the Chairperson should note the testimony and evidence for the record and allow the review to proceed.

The Chairperson shall state for the record:

The committee notes, for the record, the respondent's objections. We will now proceed with the review.

If the respondent is persistent that he/she is not the individual identified in the record and is unable to give testimony regarding the circumstances relating to the conviction(s) because he/she is not allegedly the person, the Chairperson should request a motion to withdraw the review and return the case to the Bureau. The Chairperson shall state for the record:

"The committee notes, for the record, the respondent's objections. I request a motion to withdraw the review of <respondent's name> relating to agenda item number <agenda number> from today's meeting and that the case be sent back to the Bureau for further review."

The motion is to be carried out in accordance with the committee's Rules of Order. Upon passage of the motion, the Chairperson shall state for the record:

“The motion to withdraw the review of <respondent name> and to send the case back to the Bureau passes. Bureau staff will be contacting you within 48 hours to instruct you on how to proceed.”

If the Chairperson believes the respondent’s testimony and evidence does not, by preponderance of the evidence, demonstrate issues with the respondent’s conviction record, the review should proceed and the Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the crime(s) being substantially related to the applicable license, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections to the accuracy of the Bureau’s findings relating to the issuance of a fine, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

If the respondent has objections relating to the statutory requirements for licensure or his/her experience relative to the statutory requirements, the committee must hear the objections and the review should proceed. The Chairperson shall state for the record:

“The committee notes for the record the objections of respondent <respondent’s name>. We will now continue with the review.”

BEFORE INTERVIEWING THE RESPONDENT

If a witness is to provide information regarding the events relating to the Respondent, the Chairperson is to ask him/her to leave the room while you interview the Respondent.

WITNESS

After the Respondent's testimony, the Chairperson may call any witness for his/her testimony. The Chairperson should remind the witness that he/she is under oath.

COUNSEL/REPRESENTATIVE

If Counsel or a representative for the respondent is present, the Chairperson should ask the Counsel/representative if he/she has anything to share. NOTE: There may be need to advise Counsel not to disrupt the review proceedings and to admonish Counsel of the informal, non-adversarial nature of the review. Counsel should not interrupt the Committee nor prevent the Committee from carrying out its duties.

CONCLUSION OF TESTIMONY/CLOSED SESSION

Upon determination that all committee members have asked all of their questions and the respondent has provided sufficient information for the DRC to make a decision, the

Chairperson shall ask the respondent if he/she has anything else to share. NOTE: To ensure sufficient time for all respondents scheduled for the meeting to be heard, the Chairperson should remain focused and on point in his/her actions and inquiries and may need to remind committee members to be focused and on point in their actions and inquiries.

The Chairperson shall state for the record:

“Prior to the Disciplinary Review Committee going into closed session, if you have anything else you want to add or expand on, please do so now.”

Upon conclusion of the respondent's additional information, the Chairperson shall close the record of the matter by stating

“The record in the review of the <denial, revocation, citation> against <respondent's name> is now closed.

After the Chairperson closes the record, the Chairperson shall inquire for public comment.

If public comment is to be made, the Chairperson should request the individual to state his/her name for the record (however, if the member of the public refuses, the Committee may not insist that a name be given).

The Chairperson should provide the public member sufficient time to provide his/her comments; however, if he/she becomes repetitive and the information provided is no longer relevant to the review or does not further the review, the Chairperson may request the individual to conclude his comments. Public comment, however, is not testimony and should not be given consideration as sworn testimony. It should always be remembered that the hearing is informal in nature and should remain non-adversarial.

After public comment, if any, is received the Chairperson shall conclude the open portion of the review by stating for the record:

“The Disciplinary Review Committee is now going into closed session to deliberate on your case. You will be notified by mail of the Committee's decision within 30 days. Please do not call the Bureau for the results of your review before this time. Thank you for appearing for your review.”

RETURNING TO OPEN SESSION

Upon reconvening back into open session, the Chairperson should state for the record:

"The Committee is back in open session. For the record, the Committee made a decision on <respondent's Name's> appeal, which will be mailed to the respondent within 30 days. The review is now concluded.”

COLLATERAL RECOVERY DISCIPLINARY REVIEW COMMITTEE BAGLEY-KEENE OPEN MEETING ACT – KEY PROVISIONS

(Note: GC = Government Code Section)

All Disciplinary Review Committee (DRC) meetings must be carried out in accordance with the provisions of the Bagley-Keene Open Meeting Act (Act). It should be noted that the Act's provisions also apply when three or more DRC members are in communication by telephone or email. This means that these communications would be subject to the Act's noticing and minute-taking requirements, as well as public records act requests.

1. DRC meetings are open to the public except during periods when a meeting is in "closed session" as identified on a meeting agenda. *(GC 11123)*
2. All DRC meetings must be publically noticed. The Notice and Agenda must be posted on the BSIS website at least 10 calendar days in advance of the scheduled meeting and include a brief description of each specific item to be discussed. *(GC 11125)*
3. No item will be added to a meeting's Agenda after the meeting has been noticed. *(GC 11125)*
4. DRC members must permit public comment on an Agenda item after discussion of the item by DRC members and before going to closed session, **unless**: *(GC 11125.7)*
 - a. The public was provided an opportunity to comment at a previous meeting and the item has not substantially changed since the last meeting.
 - b. The subject matter is appropriate for closed session.
5. The open sessions of DRC meetings are audio recorded by BSIS staff. The recordings are retained for at least 30 days from the date of the meeting. *(GC 11124.1(b))*
6. The public has the right to record DRC proceedings with an audio or video recording device **unless** doing so creates undue noise or other persistent disruption to the meeting. *(GC 11124.1)*
7. A BSIS staff member must be present during all closed sessions during the meeting to record minutes of the topics discussed and decisions made. *(GC 11126.1)*
8. During a DRC meeting, an emergency closed session is not allowed. *(GC 11126.3)*
9. The Meeting Agenda will include an item entitled "Agenda Items for Future DRC Meetings" to provide DRC members and the public the opportunity to request a specific item for a future meeting. Issues raised under this Agenda item should be discussed only to the extent necessary to determine whether they should be included as an Agenda item for a future meeting.

GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)

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BAGLEY-KEEN OPEN MEETING ACT

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**GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2017)**

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2017. Please disregard all previous Guides to the Bagley-Keene Open Meeting Act (distributed prior to January 15, 2017) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation 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.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give timely and sufficient public notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

Section 11121 defines the "state body" that is subject to the Bagley Keene Act.

Unless specifically excluded by statute, a "state body" is defined as a state board, commission or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order; or a

board, commission committee or similar multimember body that exercises any authority, delegated to it by that state body; or an advisory commission, an advisory board, advisory committee, advisory subcommittee or similar multimember advisory body of a state body, if created by formal action of the state body or any member of the state body, and if the advisory body so created, consists of three or more persons. Effective April 1, 2016, the definition of "state body" was amended to include the State Bar of California, as described in Section 6001 of the Business and Professions Code. Notwithstanding subdivision (a) of section 11121.1, amended effective April 1, 2016, the State Bar is subject to the Bagley-Keene Open Meeting Act and the California Public Records Act. (§ 11121(e))

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b) (1)).

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))

- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official of a state agency from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject matter jurisdiction – with the limitation that the person cannot communicate to members of the legislative body, the comments or position of any other member of the legislative body. (§11122.5(b)(2))

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons and does not exercise any authority of a state body delegated to it by that state body. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body" in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) The notice must include the name, address, and telephone number of a person who can provide further information prior to the meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. (§11125(f)) We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, lack sufficient specificity to meet the standards of the Open Meeting Act and cannot be used to circumvent the notice requirement of a specific agenda. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be acted on or discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

It must be reiterated that no action may be taken on any such item and discussion is limited to that which is necessary to make the determination as to whether the item will be added to a future board agenda.

While neither the California Victim Compensation Board nor the Government Claims Board are within the Department of Consumer Affairs, any hearing conducted by either of these boards, pursuant to Section 13963.1 and neither representative requests the hearing be open to the public, the notice, agenda, announcement or report need not identify the applicant. (§11125.8)

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so choose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. Effective January 1, 2015, an agency is authorized to provide that notice by regular mail, email or both. However, that same section requires an agency to give a person requesting notice the option of receiving the notice by regular mail, email or both and the agency must comply with that requester's choice for receiving notice of meetings. (Business and Professions Code section 101.7) You may elect to send such notice to those persons on your regular mailing list.

Remember, you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, identified as a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing

notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * A copy of the rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes:

1. Personnel Matters

A board may meet in closed session to "... consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing ... which notice shall be delivered to the employee personally or by mail at least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

" . . . discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126(f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3 (a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above,

also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

“A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed.” (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that “We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed.” (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

“(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

“(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

Effective January 1, 2015, subdivision (c) was added to Government Code section 11123 to require that any action taken and the vote or abstention on that action of each member present for the action be publicly reported by the state body. (Stats. 2014, Chapt.510; AB 2720)

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members "to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency." (Emphasis added.) (§11122.5(b))

B. E-Mail Prohibition

Section 11122.5 was amended by Stats. 2009, c. 150 (A.B. 1494) to provide:

(b)(1) A majority of the members of the state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state

agency, if that person does not communicate to members of the legislative body the comments or position or any other member or members of the legislative body.

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

G. Recording and Reporting Votes

Beginning January 1, 2015, for each item on which a vote is taken, the minutes must contain a record of how each member voted on that action item. (For example, Yes – Members A, B, & C; No – Members D & E; Abstain – Member F.)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

Whether or not webcasting is required, if your meeting is webcast, it is our recommendation that you place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

Section 11125.7 was amended, effective June 27, 2016 to provide an equal time provision when the state body limits the time for public comment, by requiring the state body to provide at least twice the allotted time to a member of the public who uses a translator. This amendment is to ensure that non-English speakers receive an equal opportunity to address the state body when simultaneous translation equipment is not used. (Stats of 2016 chapt. 31 SB 836)

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open

Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor." (Emphasis added.)

COLLATERAL RECOVERY DISCIPLINARY REVIEW COMMITTEE RULES OF ORDER

All committee meetings will be conducted according to the Collateral Recovery Disciplinary Review Committee Rules of Order (Rules of Order). These rules are meant to be used as tools to help make orderly, collective decisions in a cooperative, respectful way. Committee members should be familiar with these Rules of Order and conduct themselves accordingly.

Committee Chairperson Selection

Committee members shall select a Chairperson to preside over the meetings for a one-year term. However, there is no restriction on the number of terms a Chairperson may serve and committee members may change the selection of a Chairperson at any given time by noticing the event on a meeting agenda and by a majority vote of the committee. The committee should also establish a Vice Chairperson in case the Chairperson is absent or must disqualify himself/herself from any item before the committee. The selection of both the Chairperson and Vice Chairperson shall be conducted by an official vote of the committee and the motion and vote shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

If neither the Chairperson nor Vice Chairperson is present, an Acting Chairperson will be selected by an official vote of the members present with the motion and vote carried out in accordance with the "Meeting Motions" section of these Rules of Order. However, the committee may not proceed as a formal committee if it does not have a quorum (see Item 2 under Opening the Committee Meeting Section).

It should be noted that the Chairperson, Vice Chairperson, or Acting Chairperson has no more authority than any other DRC member regarding participation in the decision of an appeal. The Chairperson, Vice Chairperson or Acting Chairperson is responsible for conducting the meeting in accordance with these Rules of Order, maintaining order during the meeting, and assuring that all persons before the committee are treated impartially and courteously.

Meeting Motions

When a motion is made, the committee members who made and seconded the motion, and the official committee vote on the motion are to be recorded for the Meeting Minutes. A decision is reached by a majority vote of the committee. In the case of a tie vote on a motion relating to a respondent's appeal, the Bureau's decision to deny, suspend or fine the respondent stands.

Opening the Committee Meeting

1. The Chairperson shall conduct a roll call of the members present to establish a quorum. Each committee member must verbally acknowledge his/her presence for the Meeting Minutes.
2. Upon establishment of a quorum, the Chairperson must note the official time the meeting is called to order and the time is recorded for the Meeting Minutes.

If a quorum is not established, but is expected to be established within a short time from the commencement of the meeting (e.g., a member is running late due to traffic, but is expected to arrive within an hour or less) the committee may meet ONLY as an informal committee. However, the informal committee shall not take official action on any issue or agenda item.

During the time of an informal committee, the respondent has the option of presenting his/her appeal to the committee members in attendance, having his/her appeal review heard later when the quorum is established, or request the review be changed to a future date. If a respondent opts to present his/her appeal to an informal committee, when a quorum is established the committee can render a decision on the respondent's appeal review, in closed session, at a time deemed appropriate by the committee chair.

However, a member who was not present during the appeal may NOT participate in the deliberations unless he/she has heard the recording of the proceedings prior to the deliberation of the case. It is imperative that the device used to record the committee proceedings is operating properly and that all individuals -- respondent and his/her witness(es) or representative as well the committee members -- are speaking in a sufficient volume to ensure the audibility of the proceedings.

If a quorum is not anticipated to be established within an hour less of a meeting commencement or a quorum is lost during a meeting, due to a member or members having to leave due to an emergency, and a quorum is not expected to be re-established within an hour, the meeting is to be discontinued and all scheduled respondents awaiting a review advised of this fact and that Bureau staff will contact them to reschedule their review.

3. The Chairperson shall note for the record that the meeting will be conducted in the order of the Agenda of the meeting's Public Notice. A motion must be made to modify the Agenda item listing the respondents scheduled to appear before the committee to hear their appeals in accordance with the respondents' sign-in sheet. The motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.
4. A motion should be made to adopt the Minutes from the previous DRC meeting and the motion shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

Review of a Respondent's Appeal

1. While respondents are to be heard in sign-in order, a motion can be made to hear a respondent out of order for hardship situations only upon motion and vote of the Committee. Any motion made shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order.

2. At the beginning of each review, the Chairperson must read, for the record, the respondent's name and corresponding item number from the meeting's Agenda even if the respondent is being heard out of Agenda order or providing written testimony.
3. A committee member must immediately recuse himself/herself as soon as he/she becomes aware of factors that could affect his/her impartiality or could be perceived as affecting his/her impartiality in accordance with Item 6 of the **Committee Member Expectation Guidelines** (Attachment 5 on page 53).
4. Chairperson shall use the *Disciplinary Review Committee Chairperson's Instructions* (Attachment 1 of the Collateral Recovery Disciplinary Review Committee Reference and Procedures Manual) to carry out the review.
5. Chairperson will ensure that all committee members present are afforded the opportunity to ask questions or provide comments on any item on the meeting's Agenda.
6. Upon conclusion of each respondent's appeal review, the Chairperson will state for the record that the meeting is going into Closed Session.

Closed Session Deliberations

1. Only committee members and permitted Bureau staff are allowed in the committee room during closed sessions. Permitted Bureau staff includes the individual responsible for taking closed session minutes and Department legal staff assigned to the Bureau or legal counsel from the Office of the Attorney General. Permitted Bureau staff, however, shall not take part in the deliberation or decision making, but may answer procedural questions and shall record the minutes of the closed session as required by Section 11126.1 of the Government Code.
2. Closed Session deliberations are not audio recorded.
3. Closed Session Minutes are confidential. Members cannot discuss closed session items in open session or in public, even with other members.
4. The motion to affirm, rescind, or modify the Bureau's initial decision shall be carried out in accordance with the "Meeting Motions" section of these Rules of Order. The Committee shall render a decision on every appeal noted on the Agenda, including those involving respondents who did not appear. Exception: Respondents who opted not to present their case due to lack of a quorum.

NOTE: The committee cannot issue a decision that includes a penalty more severe than the Bureau action under review such as increasing the amount of a fine. Further, when a fine amount is set by law (e.g., \$100.00 for the first violation) the committee cannot issue a decision that alters the fine amount.

Other Agenda Items

The Chairperson must establish for the record all respondents who did not attend the meeting by reading his/her name and corresponding item number from the meeting's Agenda and stating "no show."

The Chairperson must verbally recognize all remaining items on the Agenda on the Public Notice. Any motions made shall be carried out in accordance with "Meeting Motions" section

of these Rules of Order.

Adjourning Meeting

1. The motion to adjourn the meeting shall be carried out during open session and in accordance with the "Meeting Motions" section of these Rules of Order.
2. The adjournment and time will be announced by the Chairperson and recorded for the Meeting Minutes.

Committee Member Expectation Guidelines

1. Review the cases prior to the hearings so you are familiar with the issues and prepared to make inquiries as needed.
2. Arrive at least 15 minutes before the meeting start time to allow for time to take care of any pending issues.
3. Speak audibly and clearly during the meeting to enable everyone in the room to hear and understand you.
4. During a respondent's review, be courteous, respectful, and provide your full attention to the person speaking whether it is the respondent, his or her attorney or witness(es), or another committee member.
 - Do not make inquiries or comments about a respondent's clothes or appearance UNLESS it is directly related to the issue(s) of the appeal.
 - Do not make inquiries or comments about a respondent's ability to speak/comprehend English unless it relates to determining the respondent's ability to comprehend procedural activities.
 - Do not question the education of a respondent UNLESS it is directly related to the issue(s) of the appeal.
 - Do not ask the respondent questions personal in nature unless it relates to rehabilitation (see guidelines for rehabilitation in the DRC manual).
 - Do not make inquiries into matters unrelated to the direct facts or issues of the case.
 - Do not make inquiries that relate to protected statuses. For example, "what is your religion or ethnic background?" or "are you a U.S. citizen?"
 - Do not indicate either through words or demeanor that you and/or the committee may have already reached a decision or may be predisposed to a certain decision.
 - Do not use cell phones (including texting), laptops or any other telecommunication device that could give the impression that you are not providing your full attention to the appeal. **REMEMBER:** A person is more likely to accept the committee's decision if he/she believes that he/she was heard, and treated impartially and respectfully.
5. Do not discuss an appeal case with another committee member before the review. Prior communication(s) could prejudice the review and could result in the committee's decision being challenged or nullified. Further, under certain circumstances, prior discussions could be subject to **Bagley-Keene Open Meeting Act** and **Public Records Act** (Act) requests. Violations of the Act may be a criminal offense. If you have a question regarding an appeal case, contact the DRU Manager or Bureau employee who staffs the committee.
6. You must recuse yourself from a review as soon as you become aware of factors that could affect your impartiality or could be perceived as affecting your impartiality. These factors may include but are not limited to a prior or current work-related or personal relationship with the applicant or licensee. If you recuse yourself, do **NOT** make any statements to the other committee members regarding the respondent or issues relating

to the appeal. You are only to state, for the record, that you are recusing yourself from the review due to a conflict. The member's name and the act of recusal shall be recorded in the Meeting Minutes. Once you recuse yourself from a review, you MUST leave the room during testimony to prevent accidental participation such as through body language. Further, you are NOT permitted to be in the room during closed session.

NOTE: If you determine that you will need to recuse yourself from a review prior to the day of the hearing, immediately contact the DRU manager and Bureau staff who oversees DRC activities. This information is important to identify a potential lack of quorum for the case.

7. Committee members should respect the Chairperson's right to control the process of the meeting. Only one matter will be before the committee at any time and no other discussion is in order.
8. Remember, your comments and/or actions could impact any future proceedings on the appeal. For this reason, you are not to discuss the nature of appeal cases, whether related to open or closed session discussions or decisions, outside the review session. If a committee member is subpoenaed relative to an administrative or court proceeding for any case heard by the committee, he/she MUST immediately notify the DRU Manager and Bureau staff who oversee the DRC activities.

Criteria for Evaluating Rehabilitation

The following information is provided to assist members with decisions relating to rehabilitation.

CALIFORNIA CODE OF REGULATIONS, TITLE 16, Division 7, Section 602.1

When considering the denial, suspension, revocation, or reinstatement of a license for which application has been made under Chapters 8, 8.5, 11, 11.3, 11.4, 11.5 or 11.6 of the Code, the Director, in evaluating the rehabilitation of the applicant, licensee or petitioner and his or her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by applicant.
- (6) If applicable, evidence of proceedings pursuant to Section 1203.4 of the Penal Code.

Penal Code Section 1203.4

If an individual has fulfilled the conditions of probation, he/she may petition the court and be granted an Order of Dismissal under Penal Code Section 1203.4. This section allows a plea of guilty or nolo contendere to be put aside and a plea of not guilty to be entered. However, the order shall state that this dismissal does not relieve petitioner of the obligation to disclose the conviction in response to any direct questions contained in any questionnaire or application for public office or licensure by any state or local agency. The section does not reduce a felony to a misdemeanor nor does it restore the right to bear firearms. Convictions dismissed under this section must be disclosed on applications for licensure.

Business and Professions Code Section 480(c) provides, as follows: "Notwithstanding any other provisions of the code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal."

Bureau Comment Regarding PC 1203.4 Dismissals: While a committee member may not consider the conviction that has been set aside as the sole basis for making a decision on the appeal, factors such as the testimony of the respondent and witnesses about the nature and circumstances of the crime may be considered. In other words, in cases involving a dismissal, the focus should be on the act(s) and/or conduct and not the conviction itself.

Minimum Requirements for Licenses Regulated by the Collateral Recovery Act

Repossession Agency Employee Registration (BPC Sections 7506.3)

1. 18 years of age

Repossession Agency Qualified Manager (BPC Section 7504)

1. 18 years of age
2. At least two years (4000 hours) of lawful experience, during the five years preceding the date on which the application was filed as a repossession agency employee registrant or at least two years (4,000 hours) of lawful experience in recovering collateral within this state.
3. Pass the required examination

Repossession Agency License (BPC Sections 7503.2, 7503.3 and 7503.4)

1. Business organized as a sole owner, partnership, corporation. Repossession Agency licensee cannot be organized as an LLC.
2. License must be associated with a Repossession Agency Qualified Manager Certificate Holder (can be the applicant or another individual).

DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF SECURITY AND INVESTIGATIVE SERVICES



**MEMBER ORIENTATION AND REFERENCE
MANUAL**
**FOR THE
BSIS ADVISORY COMMITTEE**

Governor Edmund G. Brown Jr.
State of California

Alexis Podesta, Secretary
Business, Consumer Services, and Housing Agency

Dean R. Grafilo, Director
Department of Consumer Affairs

Darrel Woo, Chief
Bureau of Security and Investigative Services

August 2018

DEPARTMENT OF CONSUMER AFFAIRS

MISSION

We protect California consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure of professions.

VISION

Together, empowering California consumers.

VALUES

- **ACCOUNTABILITY**
- **COMMUNICATION**
- **DIVERSITY**
- **EMPLOYEES**
- **INTEGRITY**
- **LEADERSHIP**
- **SERVICE**
- **TRANSPARENCY**

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

MISSION

To protect and serve the public and consumers through effective regulatory oversight of the professions within the Bureau's jurisdiction.

VISION

To be a regulatory leader of the industries within the Bureau's jurisdiction to promote consumer protection and public safety.

VALUES

- **ACCOUNTABILITY**
- **CONSUMER PROTECTION**
- **CUSTOMER SERVICE**
- **EFFECTIVENESS**
- **INTEGRITY**
- **PROFESSIONALISM**
- **TEAMWORK**
- **TRANSPARENCY**

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES ADVISORY COMMITTEE INFORMATION

GENERAL OVERVIEW

The Advisory Committee is comprised of six (6) public members and seven (7) industry members that encompass the following Bureau of Security and Investigative Services (Bureau and BSIS) regulated industries: Alarm, Locksmith, Repossessor, Private Investigator, Proprietary Security, Private Security and Bureau-certified Firearm Training Facilities.

PURPOSE

The Advisory Committee is an informal committee comprised of voluntary members who provide insight and perspective to the Bureau on issues relating to the industries regulated by the Bureau. This committee may make recommendations to the Bureau for consideration.

DEFINITIONS

Industry Member means an individual who holds a current Bureau license, certificate, or registration or is a member of an association relating to a Bureau-regulated industry.

Public Member means an individual with a background in consumer protection/advocacy or law enforcement, as well as individuals involved with the businesses who contract with Bureau licensees for services and associations relating to these businesses.

DUTIES

The Committee's input is in an advisory capacity only. The Committee is expected to provide important professional and technical assistance to the Bureau on issues related to the regulation of the Locksmith, Repossessor, Private Investigator, Proprietary Security, Private Security, and Alarm industries. Specifically, the Committee, as directed by the Bureau Chief, may be asked to provide input on the following functions:

- ❖ Perspectives on issues affecting private security consumers and industries;
- ❖ Outreach to the public/consumers, licensees, registrants, and the industry on private security issues; and
- ❖ Viewpoints on the legislative, regulatory and policy efforts impacting private security industries.

TERM OF APPOINTMENT

The Director of the Department of Consumer Affairs (Department) appoints members to the Advisory Committee for two-year terms. However, the Director may elect to re-appoint a member to more than one term.

REMOVAL OF MEMBERS

All members of the Advisory Committee serve at the pleasure of the Director of the Department of Consumer Affairs. The Director may remove any member from the Committee at any time for disruptive or unprofessional behavior counterproductive to the orderly conduct of the business of the Committee.

Consistent attendance by committee members is vital to the success of the committee's efforts. Members who miss two consecutive meetings without a reasonable excuse may be removed from the Committee at the discretion of the Director.

COMPENSATION FOR MEMBERS

The Advisory Committee is not established in statute; rather, it is a committee comprised of volunteers appointed by the Director of the Department of Consumer Affairs. As such, the Bureau does not have the authority to provide members reimbursement. Committee members are not entitled to and will not receive a salary and/or any form of compensation for attending committee meetings. Members are responsible for all costs incurred to attend and participate in the committee meetings.

MEETINGS

The Bureau Chief or his/her designee shall preside over all committee meetings and oversee all of the business of the Committee. Meetings shall be held two to four times per year in Sacramento. Members must attend meetings in person, and cannot attend meetings via a teleconference.

Advisory Committee meetings are subject to the Bagley-Keene Open Meeting Act. A notice and agenda of each meeting shall be posted on the Bureau's website at least 10 days prior to the date of the meeting and shall include the date, time and location of the meeting, an agenda of issues to be discussed, and applicable meeting materials. Meetings are open to the public and all attendees shall be afforded an opportunity to comment on the meeting's agenda items, as well as items that are not on the agenda. Meetings will be audio recorded and, as scheduling permits, transmitted publically via webcast. Minutes will be recorded and posted on the BSIS public website.

Meetings will be held in facilities that are accessible to persons with disabilities in accordance with the *Americans with Disabilities Act*.

Advisory Committee Member Expectation Guidelines

Committee members should be familiar with these guidelines and are expected to conduct themselves accordingly.

1. Arrive at least 15 minutes before the meeting's scheduled start time to allow time to take care of any possible pending issues.
2. Speak audibly and clearly during the meeting to enable everyone in the room to hear and understand you.
3. Please respect the Bureau Chief's or his/her designee's right to control the process of the meeting.
4. Please refrain from peripheral discussions during the meeting (i.e. sidebar discussions).
5. Be fair, impartial, and respectful of the public, Bureau staff, and other committee members including ensuring all committee members have an opportunity to participate in committee discussions.
6. Be respectful of differences in points of view whether between each other, the public, or Bureau staff.
7. Serial communications regarding matters within the committee's jurisdiction between a majority of committee members is prohibited. It is a violation of the Bagley Keene Open Meeting Act to discuss, deliberate or take action to obtain a collective commitment on any issue or item of business within the committee's subject matter jurisdiction outside of the meeting. Members must refrain from calling or otherwise contacting other members on a one-to-one basis or conducting meetings in order to discuss, deliberate or take action outside a committee meeting on a subject matter of the Committee.
8. Attendance of committee meetings must be in person; this committee will not conduct meetings by teleconference.
9. Do not use cell phones (including texting), laptops, iPads, or any other electronic device for personal use during a committee meeting as that could give the impression that you are not providing your full attention to the meeting's proceedings.

Bagley-Keene Open Meeting Act – Key Provisions

(Note: GC = Government Code)

All Advisory Committee Meetings must be carried out in accordance with the provisions of the Bagley-Keene Open Meeting Act (Act). It should be noted that the Act's provisions also apply when three or more Advisory Committee members are in communication by telephone or email. This means that these communications are subject to the Act's notice and minute taking requirements, as well as Public Records Act requests.

Key Provisions:

1. The Advisory Committee meetings are open to the public. (GC §11123)
2. All Advisory Committee meetings must be publicly noticed. The Notice and Agenda must be posted on the BSIS website at least 10 calendar days in advance of the scheduled meeting and include a brief description of each item to be discussed. (GC §11125)
3. No item will be added to a meeting's Agenda after the meeting has been noticed. (GC §11125)
4. Advisory Committee members must permit public comment on an Agenda item before or during discussion of the item, **unless** the public was provided an opportunity to comment at a previous meeting and the item has not substantially changed since the last meeting. (GC §11125.7)
5. Advisory meetings are audio recorded. These recordings are retained for 30 days from the date of the meeting and then destroyed. (GC §11124.1(b))
6. The public has the right to record Advisory Committee meeting proceedings with an audio or video recording device **unless** doing so creates undue noise or other persistent disruption to the meeting. (GC §11124.1(a))
7. The Meeting Agenda will include an item entitled "Agenda Items for Future Advisory Committee Meetings" to provide Advisory Committee members and the public the opportunity to request a specific item for a future meeting. Issues raised under this Agenda item should be discussed only to the extent necessary to determine whether they should be included as an Agenda item for a future meeting.
8. The purposes for which a closed session may be called are outside of the jurisdiction of the Advisory Committee. Therefore, this committee will not convene a closed session to transact any business.

ADVISORY COMMITTEE MEETING RULES OF ORDER

The Advisory Committee Rules of Order (Rules) are to ensure committee meetings are carried out consistently, appropriately and orderly. All committee members should become familiar with these Rules and ensure that all committee meeting activities are conducted in accordance with these Rules.

Opening the Committee Meeting

1. The Bureau Chief or his/her designee shall call the meeting to order and conduct a roll call of the members to establish a quorum of the Committee. Each committee member must verbally acknowledge his/her presence for the Meeting Minutes.
2. Upon establishment of a quorum, the Bureau Chief or his/her designee will note the official time the meeting is called to order and that time is recorded for the Meeting Minutes.
3. The Bureau Chief or his/her designee shall note for the record that the meeting will be conducted in accordance with the Agenda, as noticed. A matter may be heard out of order only upon a properly noticed motion. The motion, properly noticed, shall be carried out in accordance with the "Meeting Motions" section of these Rules.
NOTE: Items cannot be added to the Meeting's Agenda during a meeting.
4. A motion should be made to adopt the Minutes from the previous Advisory Committee Meeting. The motion shall be carried out in accordance with the "Meeting Motions" section of these Rules.
5. Only one matter will be before the Committee at any time.

Meeting Motions

1. Motions shall be made and seconded by a committee member prior to the matter being discussed.
2. The minutes shall reflect the maker of the motion as well as the committee member who seconds the motion.
3. The Bureau Chief or his/her designee shall restate the motion prior to the discussion and shall restate the motion prior to taking the vote on the motion.
4. Each motion shall be dispensed with before moving to the next agenda item.
5. The official vote on the motion shall be recorded in the meeting minutes.
6. A majority of the votes cast for a motion is required to carry a motion.
7. Following the vote on a motion, the Bureau Chief or his/her designee shall announce the outcome of the vote and whether the motion passed or failed.

Agenda Items

The Bureau Chief or his/her designee must verbally recognize all items listed on the Agenda on the Public Notice. Should action be required on an Agenda item, it shall be carried out in accordance with the "Meeting Motions" section of these Rules.

Public Sign-in

Public attendees will be provided an opportunity to sign a meeting attendance log; however, signing the log is strictly voluntary.

Public Comment

The public will have the opportunity to comment to the Committee on each agenda item as well as matters not on the agenda at the appropriate time. The Bureau Chief or his/her designee may limit a public attendee's comments if the individual's comments are repetitive, unreasonably lengthy, disruptive or unrelated to the Agenda item.

Adjourning Meeting

1. A motion to adjourn the meeting shall be carried out in accordance with the "Meeting Motions" section of these Rules.
2. The adjournment and time will be announced by the Bureau Chief or his/her designee and recorded for the Meeting Minutes.

Attachment B

BSIS Committees



Attachment B-1: BSIS Disciplinary Review Committees Member Attendance Information for FY 2014-15 through FY 2017-18

Table 1a-1. Attendance Current Members: Southern California Private Security DRC			
Hugo Rodriguez, Industry Member			
Date Appointed:	October 21, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Southern California Private Security Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	August 12-13, 2014	Riverside, CA	Yes
	September 9, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	Yes
	November 13-14, 2014	Riverside, CA	Yes
	December 16, 2014	Riverside, CA	Yes
	January 21, 2015	Riverside, CA	No
	February 18, 2015	Riverside, CA	Yes
	March 17, 2015	Riverside, CA	Yes
	April 14, 2015	Riverside, CA	Yes
	May 12, 2015	Riverside, CA	No
	July 22, 2015	Riverside, CA	Yes
	August 11, 2015	Riverside, CA	Yes
	September 15, 2015	Riverside, CA	Yes
	October 13, 2015	Riverside, CA	Yes
	December 15, 2015	Riverside, CA	No
	February 9, 2016	Riverside, CA	Yes
	March 15, 2016	Riverside, CA	Yes
	April 12, 2016	Riverside, CA	Yes
	May 17, 2016	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	Yes
	July 26, 2016	Riverside, CA	Yes
	August 30, 2016	Riverside, CA	Yes
	October 4, 2016	Riverside, CA	Yes
	December 14, 2016	Riverside, CA	Yes
	January 24, 2017	Riverside, CA	Yes
	March 7-8, 2017	Riverside, CA	Yes
	April 11, 2017	Riverside, CA	Yes
	May 15-16, 2017	Riverside, CA	Yes
	June 27, 2017	Riverside, CA	Yes
	August 9, 2017	Riverside, CA	Yes
	September 11-12, 2017	Riverside, CA	Yes
	October 17, 2017	Riverside, CA	Yes
	November 15, 2017	Riverside, CA	Yes
	December 11, 2017	Riverside, CA	Yes
	January 8, 2018	Riverside, CA	Yes
	February 12, 2018	Riverside, CA	Yes
	March 20, 2018	Riverside, CA	Yes
	April 30, 2018	Riverside, CA	Yes
	May 1, 2018	Riverside, CA	Yes
	June 11, 2018	Riverside, CA	Yes

Table 1a-1. Attendance Current Members: Southern California Private Security DRC**Gwendolyn Cross, Public Member**

Date Appointed:	May 23, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Southern California Private Security Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	August 12-13, 2014	Riverside, CA	Yes
	September 9, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	No
	November 13-14, 2014	Riverside, CA	Yes
	December 16, 2014	Riverside, CA	Yes
	January 21, 2015	Riverside, CA	Yes
	February 18, 2015	Riverside, CA	Yes
	March 17, 2015	Riverside, CA	Yes
	April 14, 2015	Riverside, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 22, 2015	Riverside, CA	Yes
	August 11, 2015	Riverside, CA	Yes
	September 15, 2015	Riverside, CA	No
	October 13, 2015	Riverside, CA	Yes
	December 15, 2015	Riverside, CA	Yes
	February 9, 2016	Riverside, CA	Yes
	March 15, 2016	Riverside, CA	Yes
	April 12, 2016	Riverside, CA	Yes
	May 17, 2016	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	Yes
	July 26, 2016	Riverside, CA	Yes
	August 30, 2016	Riverside, CA	Yes
	October 4, 2016	Riverside, CA	Yes
	December 14, 2016	Riverside, CA	No
	January 24, 2017	Riverside, CA	Yes
	March 7-8, 2017	Riverside, CA	Yes
	April 11, 2017	Riverside, CA	Yes
	May 15-16, 2017	Riverside, CA	Yes
	June 27, 2017	Riverside, CA	Yes
	August 9, 2017	Riverside, CA	Yes
	September 11-12, 2017	Riverside, CA	Yes
	October 17, 2017	Riverside, CA	Yes
	November 15, 2017	Riverside, CA	No
	December 11, 2017	Riverside, CA	No
	January 8, 2018	Riverside, CA	Yes
	February 12, 2018	Riverside, CA	Yes
	March 20, 2018	Riverside, CA	Yes
	April 30, 2018	Riverside, CA	Yes
	May 1, 2018	Riverside, CA	Yes
	June 11, 2018	Riverside, CA	Yes

Table 1a-1. Attendance Current Members: Southern California Private Security DRC**Mary Beth Garber, Public Member**

Date Appointed:	June 4, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Southern California Private Security Disciplinary Review Committee	June 11, 2018	Riverside, CA	No

Table 1a-2. Attendance Current Members: Northern California Private Security DRC**Lawrence Garcia, Industry Member**

Date Appointed:	June 4, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Northern California Private Security Disciplinary Review Committee	June 5, 2018	Oakland, CA	Yes

Collin Wong, Industry Member

Date Appointed:	June 21, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended?
Northern California Private Security Disciplinary Review Committee	July 22, 2014	Sacramento, CA	Yes
	August 19, 2014	Sacramento, CA	Yes
	October 21, 2014	Oakland, CA	Yes
	December 9, 2014	Oakland, CA	Yes
	January 6, 2015	Oakland, CA	Yes
	February 10, 2015	Oakland, CA	No
	April 7, 2015	Oakland, CA	Yes
	June 2, 2015	Oakland, CA	No
	July 15, 2015	Sacramento, CA	No
	September 1, 2015	Sacramento, CA	Yes
	November 3, 2015	Sacramento, CA	Yes
	December 8, 2015	Oakland, CA	Yes
	March 8, 2016	Oakland, CA	Yes
	April 19, 2016	Sacramento, CA	Yes
	July 12, 2016	Sacramento, CA	Yes
	August 23, 2016	Oakland, CA	Yes
	October 11, 2016	Sacramento, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	February 28, 2017	Oakland, CA	Yes
	April 25, 2017	Sacramento, CA	Yes
	April 26, 2017	Sacramento, CA	Yes
	June 13, 2017	Oakland, CA	Yes
	July 18, 2017	Sacramento, CA	Yes
	August 29, 2017	Oakland, CA	Yes
	October 10, 2017	Sacramento, CA	Yes

Table 1a-2. Attendance Current Members: Northern California Private Security DRC

	November 28, 2017	Oakland, CA	Yes
	January 17, 2018	Sacramento, CA	Yes
	February 27, 2018	Oakland, CA	Yes
	April 17, 2018	Sacramento, CA	Yes
	June 5, 2018	Oakland, CA	Yes
Matthew Lujan, Industry Member			
Date Appointed:	June 9, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Northern California Private Security Disciplinary Review Committee	June 5, 2018	Oakland, CA	No
Leslye Tinson, Public Member			
Date Appointed:	April 7, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Northern California Private Security Disciplinary Review Committee	June 2, 2015	Oakland, CA	Yes
	July 15, 2015	Sacramento, CA	No
	September 1, 2015	Sacramento, CA	Yes
	November 3, 2015	Sacramento, CA	Yes
	December 8, 2015	Oakland, CA	Yes
	March 8, 2016	Oakland, CA	Yes
	April 19, 2016	Sacramento, CA	Yes
	July 12, 2016	Sacramento, CA	Yes
	August 23, 2016	Oakland, CA	Yes
	October 11, 2016	Sacramento, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	February 28, 2017	Oakland, CA	Yes
	April 25, 2017	Sacramento, CA	Yes
	April 26, 2017	Sacramento, CA	Yes
	June 13, 2017	Oakland, CA	Yes
	July 18, 2017	Sacramento, CA	No
	August 29, 2017	Oakland, CA	Yes
	October 10, 2017	Sacramento, CA	No
	November 28, 2017	Oakland, CA	Yes
	January 17, 2018	Sacramento, CA	No
	February 27, 2018	Oakland, CA	Yes
	April 17, 2018	Sacramento, CA	Yes
	June 5, 2018	Oakland, CA	Yes
Susan Johnson, Public Member			
Date Appointed:	October 25, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Northern California Private Security Disciplinary Review Committee	December 9, 2014	Oakland, CA	Yes
	January 6, 2015	Oakland, CA	Yes
	February 10, 2015	Oakland, CA	Yes
	April 7, 2015	Oakland, CA	Yes
	June 2, 2015	Oakland, CA	Yes
	July 15, 2015	Sacramento, CA	Yes

Table 1a-2. Attendance Current Members: Northern California Private Security DRC

	September 1, 2015	Sacramento, CA	Yes
	November 3, 2015	Sacramento, CA	Yes
	December 8, 2015	Oakland, CA	Yes
	March 8, 2016	Oakland, CA	Yes
	April 19, 2016	Sacramento, CA	Yes
	July 12, 2016	Sacramento, CA	Yes
	August 23, 2016	Oakland, CA	Yes
	October 11, 2016	Sacramento, CA	Yes
	November 15, 2016	Oakland, CA	No
	February 28, 2017	Oakland, CA	Yes
	April 25, 2017	Sacramento, CA	Yes
	April 26, 2017	Sacramento, CA	Yes
	June 13, 2017	Oakland, CA	Yes
	July 18, 2017	Sacramento, CA	Yes
	August 29, 2017	Oakland, CA	Yes
	October 10, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	Yes
	January 17, 2018	Sacramento, CA	Yes
	February 27, 2018	Oakland, CA	Yes
	April 17, 2018	Sacramento, CA	Yes
	June 5, 2018	Oakland, CA	Yes

Table 1a-3. Attendance Current Members: Alarm Company DRC**Randy Kajioka, Public Member**

Date Appointed:	January 10, 2003		
Meeting Type	Meeting Date	Meeting Location	Attended?
Alarm Company Operator Disciplinary Review Committee	July 15, 2014	Riverside, CA	No
	October 7, 2014	Riverside, CA	Yes
	October 21, 2014	Oakland, CA	Yes
	January 21, 2015	Riverside, CA	Yes
	April 7, 2015	Oakland, CA	No
	May 12, 2015	Riverside, CA	No
	July 15, 2015	Sacramento, CA	Yes
	September 15, 2015	Riverside, CA	No
	June 21, 2016	Riverside, CA	Yes
	August 23, 2016	Oakland, CA	No
	October 4, 2016	Riverside, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	March 8, 2017	Riverside, CA	No
	July 17, 2017	Sacramento, CA	Yes
	August 9, 2017	Riverside, CA	Yes
	October 18, 2017	Riverside, CA	Yes
	November 2, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	Yes
	February 13, 2018	Riverside, CA	Yes
	June 5, 2018	Oakland, CA	Yes

Kaci Patterson, Public Member

Date Appointed:	April 1, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Alarm Company Operator Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	Yes
	October 21, 2014	Oakland, CA	No
	January 21, 2015	Riverside, CA	Yes
	April 7, 2015	Oakland, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 15, 2015	Sacramento, CA	No
	September 15, 2015	Riverside, CA	No
	June 21, 2016	Riverside, CA	Yes
	August 23, 2016	Oakland, CA	No
	October 4, 2016	Riverside, CA	Yes
	November 15, 2016	Oakland, CA	No
	March 8, 2017	Riverside, CA	Yes
	July 17, 2017	Sacramento, CA	Yes
	August 9, 2017	Riverside, CA	Yes
	October 18, 2017	Riverside, CA	Yes
	November 2, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	No
	February 13, 2018	Riverside, CA	Yes
	June 5, 2018	Oakland, CA	Yes

Table 1a-3. Attendance Current Members: Alarm Company DRC**Matthew Westphal, Industry Member**

Date Appointed:	February 10, 2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Alarm Company Operator Disciplinary Review Committee	July 15, 2014	Riverside, CA	No
	October 7, 2014	Riverside, CA	Yes
	October 21, 2014	Oakland, CA	Yes
	January 21, 2015	Riverside, CA	Yes
	April 7, 2015	Oakland, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 15, 2015	Sacramento, CA	Yes
	September 15, 2015	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	No
	August 23, 2016	Oakland, CA	No
	October 4, 2016	Riverside, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	March 8, 2017	Riverside, CA	No
	July 17, 2017	Sacramento, CA	No
	August 9, 2017	Riverside, CA	No
	October 18, 2017	Riverside, CA	Yes
	November 2, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	Yes
	February 13, 2018	Riverside, CA	Yes
	June 5, 2018	Oakland, CA	Yes

Lawrence Garcia, Industry Member

Date Appointed:	January 26, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Alarm Company Operator Disciplinary Review Committee	February 13, 2018	Riverside, CA	Yes
	June 5, 2018	Oakland, CA	Yes

Table 1a-4. Attendance Current Members: Collateral Recovery DRC**Ruth Atkins, Public Member**

Date Appointed:	July 3, 2017
Meeting Type	Meeting Date
	The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

Table 1a-5. Attendance Current Members: Private Investigator DRC**Leticia Alejandrez, Public Member**

Date Appointed:	July 3, 2017
Meeting Type	Meeting Date
	The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

Gary Davis, Public Member

Date Appointed:	July 21, 2017
Meeting Type	Meeting Date
	The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

Collin Wong, Industry Member

Date Appointed:	July 16, 2017
Meeting Type	Meeting Date
	The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

Table 1a-6. Attendance Prior Members: Southern California Private Security DRC**David Chandler, Industry Member**

Date Appointed:

May 23, 2013

Meeting Type	Meeting Date	Meeting Location	Attended?
Southern California Private Security Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	August 12-13, 2014	Riverside, CA	Yes
	September 9, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	Yes
	November 13-14, 2014	Riverside, CA	Yes
	December 16, 2014	Riverside, CA	Yes
	January 21, 2015	Riverside, CA	Yes
	February 18, 2015	Riverside, CA	Yes
	March 17, 2015	Riverside, CA	Yes
	April 14, 2015	Riverside, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 22, 2015	Riverside, CA	Yes
	August 11, 2015	Riverside, CA	Yes
	September 15, 2015	Riverside, CA	Yes
	October 13, 2015	Riverside, CA	Yes
	December 15, 2015	Riverside, CA	Yes
	February 9, 2016	Riverside, CA	Yes
	March 15, 2016	Riverside, CA	Yes
	April 12, 2016	Riverside, CA	Yes
	May 17, 2016	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	Yes
	July 26, 2016	Riverside, CA	Yes
	August 30, 2016	Riverside, CA	Yes
	October 4, 2016	Riverside, CA	Yes
	December 14, 2016	Riverside, CA	Yes
	January 24, 2017	Riverside, CA	Yes
	March 7-8, 2017	Riverside, CA	Yes
	April 11, 2017	Riverside, CA	Yes
	May 15-16, 2017	Riverside, CA	Yes
	June 27, 2017	Riverside, CA	No
	August 9, 2017	Riverside, CA	Yes
	September 11-12, 2017	Riverside, CA	Yes
	October 17, 2017	Riverside, CA	Yes
	November 15, 2017	Riverside, CA	Yes
	December 11, 2017	Riverside, CA	Yes
	January 8, 2018	Riverside, CA	Yes
	February 12, 2018	Riverside, CA	Yes
	March 20, 2018	Riverside, CA	Yes
	April 30, 2018	Riverside, CA	Yes
	May 1, 2018	Riverside, CA	Yes

Table 1a-6. Attendance Prior Members: Southern California Private Security DRC**Mario Campos, Industry Member**

Date Appointed:

July 10, 2013

Meeting Type**Meeting Date****Meeting Location****Attended**

**Southern California
Private Security
Disciplinary Review
Committee**

July 15, 2014

Riverside, CA

Yes

August 12-13, 2014

Riverside, CA

Yes

September 9, 2014

Riverside, CA

Yes

October 7, 2014

Riverside, CA

Yes

November 13-14, 2014

Riverside, CA

Yes

December 16, 2014

Riverside, CA

Yes

January 21, 2015

Riverside, CA

Yes

February 18, 2015

Riverside, CA

Yes

March 17, 2015

Riverside, CA

Yes

April 14, 2015

Riverside, CA

Yes

May 12, 2015

Riverside, CA

Yes

July 22, 2015

Riverside, CA

Yes

August 11, 2015

Riverside, CA

Yes

September 15, 2015

Riverside, CA

No

October 13, 2015

Riverside, CA

Yes

December 15, 2015

Riverside, CA

Yes

February 9, 2016

Riverside, CA

Yes

March 15, 2016

Riverside, CA

Yes

April 12, 2016

Riverside, CA

Yes

May 17, 2016

Riverside, CA

Yes

June 21, 2016

Riverside, CA

Yes

July 26, 2016

Riverside, CA

Yes

August 30, 2016

Riverside, CA

Yes

October 4, 2016

Riverside, CA

Yes

December 14, 2016

Riverside, CA

Yes

January 24, 2017

Riverside, CA

Yes

March 7-8, 2017

Riverside, CA

Yes

April 11, 2017

Riverside, CA

Yes

May 15-16, 2017

Riverside, CA

Yes

June 27, 2017

Riverside, CA

No

August 9, 2017

Riverside, CA

Yes

September 11-12, 2017

Riverside, CA

Yes

October 17, 2017

Riverside, CA

Yes

November 15, 2017

Riverside, CA

Yes

December 11, 2017

Riverside, CA

Yes

January 8, 2018

Riverside, CA

Yes

February 12, 2018

Riverside, CA

Yes

March 20, 2018

Riverside, CA

Yes

April 30, 2018

Riverside, CA

Yes

May 1, 2018

Riverside, CA

Yes

June 11, 2018

Riverside, CA

Yes

Table 1a-6. Attendance Prior Members: Southern California Private Security DRC**Nancy Teel, Public Member**

Date Appointed:

October 21, 2013

Meeting Type**Meeting Date****Meeting Location****Attended**

**Southern California
Private Security
Disciplinary Review
Committee**

July 15, 2014

Riverside, CA

Yes

August 12-13, 2014

Riverside, CA

Yes

September 9, 2014

Riverside, CA

Yes

October 7, 2014

Riverside, CA

Yes

November 13-14, 2014

Riverside, CA

Yes

December 16, 2014

Riverside, CA

Yes

January 21, 2015

Riverside, CA

No

February 18, 2015

Riverside, CA

Yes

March 17, 2015

Riverside, CA

Yes

April 14, 2015

Riverside, CA

Yes

May 12, 2015

Riverside, CA

Yes

July 22, 2015

Riverside, CA

Yes

August 11, 2015

Riverside, CA

Yes

September 15, 2015

Riverside, CA

No

October 13, 2015

Riverside, CA

Yes

December 15, 2015

Riverside, CA

Yes

February 9, 2016

Riverside, CA

Yes

March 15, 2016

Riverside, CA

Yes

April 12, 2016

Riverside, CA

Yes

May 17, 2016

Riverside, CA

Yes

June 21, 2016

Riverside, CA

Yes

July 26, 2016

Riverside, CA

Yes

August 30, 2016

Riverside, CA

Yes

October 4, 2016

Riverside, CA

Yes

December 14, 2016

Riverside, CA

No

January 24, 2017

Riverside, CA

Yes

March 7-8, 2017

Riverside, CA

Yes

April 11, 2017

Riverside, CA

Yes

May 15-16, 2017

Riverside, CA

Yes

June 27, 2017

Riverside, CA

Yes

August 9, 2017

Riverside, CA

Yes

September 11-12, 2017

Riverside, CA

Yes

October 17, 2017

Riverside, CA

Yes

November 15, 2017

Riverside, CA

Yes

December 11, 2017

Riverside, CA

Yes

Table 1a-7. Attendance Prior Members: Northern California Private Security DRC**Scott McDonald, Industry Member**

Date Appointed:

December 29, 2008

Meeting Type**Meeting Date****Meeting Location****Attended?****Northern California
Private Security
Disciplinary Review
Committee**

July 22, 2014

Sacramento, CA

Yes

August 19, 2014

Sacramento, CA

Yes

October 21 2014

Oakland, CA

Yes

December 9, 2014

Oakland, CA

Yes

January 6, 2015

Oakland, CA

Yes

February 10, 2015

Oakland, CA

Yes

April 7, 2015

Oakland, CA

Yes

June 2, 2015

Oakland, CA

Yes

July 15, 2015

Sacramento, CA

Yes

September 1, 2015

Sacramento, CA

No

November 3, 2015

Sacramento, CA

No

December 8, 2015

Oakland, CA

Yes

March 8, 2016

Oakland, CA

Yes

April 19, 2016

Sacramento, CA

Yes

July 12, 2016

Sacramento, CA

No

August 23, 2016

Oakland, CA

Yes

October 11, 2016

Sacramento, CA

Yes

November 15, 2016

Oakland, CA

Yes

February 28, 2017

Oakland, CA

Yes

April 25, 2017

Sacramento, CA

Yes

April 26, 2017

Sacramento, CA

Yes

June 13, 2017

Oakland, CA

Yes

July 18, 2017

Sacramento, CA

No

August 29, 2017

Oakland, CA

No

October 10, 2017

Sacramento, CA

Yes

November 28, 2017

Oakland, CA

Yes

January 17, 2018

Sacramento, CA

Yes

February 27, 2018

Oakland, CA

No

April 17, 2018

Sacramento, CA

Yes

Robert Hessee, Industry Member

Date Appointed:

December 23, 2008

Meeting Type**Meeting Date****Meeting Location****Attended****Northern California
Private Security
Disciplinary Review
Committee**

July 22, 2014

Sacramento, CA

Yes

August 19, 2014

Sacramento, CA

Yes

October 21 2014

Oakland, CA

Yes

December 9, 2014

Oakland, CA

Yes

January 6, 2015

Oakland, CA

Yes

February 10, 2015

Oakland, CA

Yes

April 7, 2015

Oakland, CA

No

June 2, 2015

Oakland, CA

No

July 15, 2015

Sacramento, CA

Yes

September 1, 2015

Sacramento, CA

Yes

November 3, 2015

Sacramento, CA

Yes

Table 1a-7. Attendance Prior Members: Northern California Private Security DRC

	December 8, 2015	Oakland, CA	Yes
	March 8, 2016	Oakland, CA	Yes
	April 19, 2016	Sacramento, CA	Yes
	July 12, 2016	Sacramento, CA	Yes
	August 23, 2016	Oakland, CA	No
	October 11, 2016	Sacramento, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	February 28, 2017	Oakland, CA	Yes
	April 25, 2017	Sacramento, CA	Yes
	April 26, 2017	Sacramento, CA	Yes
	June 13, 2017	Oakland, CA	Yes
	July 18, 2017	Sacramento, CA	Yes
	August 29, 2017	Oakland, CA	Yes
	October 10, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	Yes
	January 17, 2018	Sacramento, CA	Yes
	February 27, 2018	Oakland, CA	Yes
	April 17, 2018	Sacramento, CA	Yes
Rachel Michelin, Public Member			
Date Appointed:	January 6, 2009		
Meeting Type	Meeting Date	Meeting Location	Attended
Northern California Private Security Disciplinary Review Committee	July 22, 2014	Sacramento, CA	Yes
	August 19, 2014	Sacramento, CA	Yes
	October 21 2014	Oakland, CA	Yes
Clifford Blakely, Public Member			
Date Appointed:	May 23, 2013		
Meeting Type	Meeting Date	Meeting Location	Attended
Northern California Private Security Disciplinary Review Committee	July 22, 2014	Sacramento, CA	Yes
	August 19, 2014	Sacramento, CA	Yes
	October 21 2014	Oakland, CA	Yes
	December 9, 2014	Oakland, CA	Yes
	January 6, 2015	Oakland, CA	Yes

Table 1a-8. Attendance Prior Members: Alarm Company DRC**Jonathan Sargent, Industry Member**

Date Appointed:	February 10, 2012		
Meeting Type	Meeting Date	Meeting Location	Attended?
Alarm Company Operator Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	No
	October 21, 2014	Oakland, CA	No
	January 21, 2015	Riverside, CA	Yes
	April 7, 2015	Oakland, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 15, 2015	Sacramento, CA	Yes
	September 15, 2015	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	Yes
	August 23, 2016	Oakland, CA	Yes
	October 4, 2016	Riverside, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	March 8, 2017	Riverside, CA	Yes

Steve Sopkin, Industry Member

Date Appointed:	February 28, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended
Alarm Company Operator Disciplinary Review Committee	July 15, 2014	Riverside, CA	Yes
	October 7, 2014	Riverside, CA	Yes
	October 21, 2014	Oakland, CA	Yes
	January 21, 2015	Riverside, CA	No
	April 7, 2015	Oakland, CA	Yes
	May 12, 2015	Riverside, CA	Yes
	July 15, 2015	Sacramento, CA	No
	September 15, 2015	Riverside, CA	Yes
	June 21, 2016	Riverside, CA	Yes
	August 23, 2016	Oakland, CA	Yes
	October 4, 2016	Riverside, CA	Yes
	November 15, 2016	Oakland, CA	Yes
	March 8, 2017	Riverside, CA	Yes
	July 17, 2017	Sacramento, CA	Yes
	August 9, 2017	Riverside, CA	Yes
	October 18, 2017	Riverside, CA	No
	November 2, 2017	Sacramento, CA	Yes
	November 28, 2017	Oakland, CA	Yes
	February 13, 2018	Riverside, CA	Yes

Table 1a-9. Attendance Prior Member: Collateral Recovery DRC**Darrel Woo, Public Member**

Date Appointed:

July 3, 2017

Meeting Type**Meeting Date**

The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

Table 1a-10. Attendance Prior Member: Private Investigator DRC**Meeting Type****Meeting Date**

The statutory operative date for this DRC was July 1, 2017. However, no meetings were held in FY 2017-18. Subsequent members appointed in FY 2018-19

**Attachment B-2: BSIS Disciplinary Review Committees Member Information
for FY 2014-15 through FY 2017-18**

Table 1b-1. Member Roster: Southern California Private Security DRC					
Member Name (Includes Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Hugo Rodriguez	10/21/2013	07/27/2018	07/27/2022	Governor	Professional
Gwendolyn Cross	05/23/2013	06/04/2018	05/16/2022	Governor	Public
Mary Beth Garber	06/01/2018		05/30/2022	Governor	Public
Vacant				Governor	Professional
Vacant				Governor	Professional
David Chandler	05/23/2013		05/23/2017	Governor	Professional
Mario Campos	07/10/2013		07/10/2017	Governor	Professional
Nancy Teel	10/21/2013		10/21/2017 (Resigned)	Governor	Public

BOLD TEXT reflects current members.

Table 1b-2. Member Roster: Northern California Private Security DRC					
Member Name (Include Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Lawrence Garcia	06/04/2018		05/30/2022	Governor	Professional
Collin Wong	06/21/2013	05/25/2018	05/16/2022	Governor	Professional
Matthew Lujan	06/09/2018		06/06/2022	Governor	Professional
Leslye Tinson	04/07/2015		04/07/2019	Governor	Public
Susan Johnson	10/25/2014		10/28/2018	Governor	Public
Robert Hessee	12/23/2008	05/23/2013	05/23/2017	Governor	Professional
Rachel Michelin	01/06/2009	05/23/2013	10/21/2014 (resigned)	Governor	Public
Clifford Blakely	05/23/2013		01/06/2015 (resigned)	Governor	Public
Scott McDonald	12/26/2008	12/26/2008	06/25/2017	Governor	Professional

BOLD TEXT reflects current members.

1b-3. Member Roster: Alarm Company DRC					
Member Name (Include Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Randy Kajioka	01/10/2003		At the Pleasure of the Governor	Governor	Public
Kaci Patterson	04/01/2014		At the Pleasure of the Governor	Governor	Public
Matthew Westphal	02/10/2012		At the Pleasure of the Governor	Governor	Professional
Lawrence Garcia	01/26/2018		At the Pleasure of the Governor	Governor	Professional
Vacant			At the Pleasure of the Governor	Governor	Professional
Jonathon Sargent	02/10/2012		At the Pleasure of the Governor	Governor	Professional
Steve Sopkin	02/28/2014		At the Pleasure of the Governor	Governor	Professional

BOLD TEXT reflects current members.

1b-4. Member Roster: Collateral Recovery DRC					
Member Name (Include Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Marci Baker	04/23/2018		06/30/2021	Governor	Professional
Albert Martinez	04/18/2018		06/30/2021	Governor	Professional
Ruth Atkins	07/03/2017		06/30/2021	Governor	Public
Vacant				Governor	Professional
Vacant				Governor	Public
Darrel Woo	07/03/2017		07/25/2018 (resigned)	Governor	Public

BOLD TEXT reflects current members.

1b-5. Member Roster: Private Investigator DRC					
Member Name (Include Vacancies)	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type (Public or Professional)
Leticia Alejandre	07/11/2017		06/30/2021	Governor	Public
Gary Davis	07/21/2017		06/30/2021	Governor	Public
Collin Wong	07/06/2017		06/30/2021	Governor	Professional
Vacant				Governor	Professional
Vacant				Governor	Professional

BOLD TEXT reflects current members.

Attachment B-3: BSIS Advisory Committee Member Attendance Information for FY 2014-15 through FY 2017-18

Table 1a-1. Attendance Current Industry Members¹			
Simon M. Cruz – Training Facilities			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016/July 1, 2018		
Term Expires:	June 30, 2020		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	No
Roy Rahn – Proprietary Private Security Industry			
Date Appointed:	April 1, 2017		
Term Expires:	April 30, 2019		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Frank Huntington III – Private Investigator Industry			
Date Appointed:	August 1, 2017		
Term Expires:	July 31, 2019		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes

1) Locksmith, Collateral Recovery, Alarm Company Operator and Private Patrol Operator member positions are vacant as of August 2018.

Table 1a-2. Attendance Current Advisory Committee Public Members			
Lynn Steven Mohrfeld, California Hotel & Lodging Association			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016/July 1, 2018		
Term Expires:	June 30, 2020		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	No
	July 2, 2015	Sacramento, CA	No
	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	No
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes

Table 1a-2. Attendance Current Advisory Committee Public Members			
Nancy Lee Murrish, Congress of California Seniors			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016/July 1, 2018		
Term Expires:	June 30, 2020		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	No
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Anton Famby, SEIU United Services Workers West			
Date Appointed:	February 8, 2017		
Term Expires:	February 8, 2019		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Todd Inglis, Ventura County Sheriff's Office			
Date Appointed:	July 1, 2016		
Term Expires:	June 30, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	No
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Eli Owen, California Governor's Office of Emergency Services			
Date Appointed:	April 1, 2017		
Term Expires:	April 30, 2019		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Stanton H. Perez, Public Safety Services			
Date Appointed:	December 16, 2016		
Term Expires:	December 16, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes

Table 1a-3. Attendance Prior Advisory Committee Members			
Marcelle Lynn Egle – Collateral Recovery Industry			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016		
Term Expired:	June 30, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Matthew J. Lujan – Private Patrol Operator Industry			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016		
Term Expired:	June 30, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	Yes
Tim Bradley Westphal – Alarm Industry			
Date Appointed:	July 1, 2014		
Date Re-appointed:	July 1, 2016		
Term Expired:	June 30, 2018		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	No
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	No
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	No
	July 13, 2017	Sacramento, CA	Yes
	January 11, 2018	Sacramento, CA	Yes
	April 12, 2018	Sacramento, CA	No
Aaron “Riley” Parker – Private Investigator Industry			
Date Appointed:	July 1, 2014		
Date Re-Appointed:	July 1, 2016		
Resigned:	February 13, 2017		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	No

	April 7, 2016	Sacramento, CA	Yes
	July 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	No
Thomas Martin Uretsky – Proprietary Private Security Industry			
Date Appointed:	July 1, 2014		
Term Expired:	June 30, 2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	Yes
James B. Gordon, Jr., Consumer Federation of California			
Date Appointed:	July 1, 2014		
Term Expired:	June 30, 2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	No
Commander Greg P. Ferrero, California State Threat Assessment Center (CHP)			
Date Appointed:	July 1, 2014		
Resigned:	July 2, 2015		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
Kara Bush, California Restaurant Association			
Date Appointed:	July 1, 2014		
Resigned:	August 29, 2014		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	No
Javier Gonzalez, California Restaurant Association			
Date Appointed:	December 1, 2015		
Resigned:	September 19, 2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	April 7, 2016	Sacramento, CA	Yes
	January 12, 2017	Sacramento, CA	Yes
	July 13, 2017	Sacramento, CA	No
Captain Mark Thomas Franke, California Sheriffs' Association			
Date Appointed	July 1, 2014		
Term Expired:	June 30, 2016		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	August 28, 2014	Sacramento, CA	Yes
	February 5, 2015	Sacramento, CA	Yes
	July 2, 2015	Sacramento, CA	Yes
	April 7, 2016	Sacramento, CA	No
Douglas R. Lee, California Governor's Office of Emergency Services			
Date Appointed:	July 1, 2016		
Resigned:	January 10, 2017		
Meeting Type	Meeting Date	Meeting Location	Attended?
Advisory Committee	July 7, 2016	Sacramento, CA	Yes

Attachment B-4: BSIS Advisory Committee Member Information for FY 2014-15 through FY 2017-18

Table 1a-1. Current Member Roster*

Members serve two-year terms. The Director may elect to reappoint a member to more than one term.

Member Name	Date First Appointed	Date Reappointed	Date Term Expires	Appointing Authority	Type: Public or Professional
Simon M. Cruz, Training Facilities	July 1, 2014	July 1, 2016 July 1, 2018	June 30, 2020	DCA Director	Professional
Frank Huntington III, Private Investigator Industry	August 1, 2017	N/A	July 31, 2019	DCA Director	Professional
Roy Rahn, Proprietary Private Security Industry	April 1, 2017	N/A	April 30, 2019	DCA Director	Professional
Anton Farmby, SEIU United Services Workers West	February 8, 2017	N/A	February 8, 2019	DCA Director	Public
Todd Inglis, Ventura County Sheriff's Office	July 1, 2016	July 1, 2018	June 30, 2020	DCA Director	Public
Lynn Steven Mohrfeld, California Hotel & Lodging Association	July 1, 2014	July 1, 2016 July 1, 2018	June 30, 2020	DCA Director	Public
Nancy Lee Murrish, Congress of California Seniors	July 1, 2014	July 1, 2016 July 1, 2018	June 30, 2020	DCA Director	Public
Eli Owen, California Governor's Office of Emergency Services	April 1, 2017	N/A	April 30, 2019	DCA Director	Public
Stanton Perez, Public Safety Services	December 16, 2016	N/A	December 16, 2018	DCA Director	Public

*The list of current Advisory Committee Members is as of August 2018. Check for additional appointments before finalizing.

Table 1a-2. Prior Members

Member Name	Date First Appointed	Date Reappointed	Date Term Ended or Resigned	Appointing Authority	Type: Public or Professional
Marcelle Lynn Egley, Repossessor Industry	July 1, 2014	July 1, 2016	June 30, 2018	DCA Director	Professional
Sandra Lee Hardin, Locksmith Industry	July 1, 2014	July 1, 2016	July 24, 2017	DCA Director	Professional
Matthew J. Lujan, Private Patrol Operator Industry	July 1, 2014	July 1, 2016	June 30, 2018	DCA Director	Professional
Aaron "Riley" Parker, Private Investigator Industry	July 1, 2014	July 1, 2016	February 13, 2017	DCA Director	Professional
Thomas Martin Uretsky, Proprietary Private Security Industry	July 1, 2014	N/A	June 30, 2016	DCA Director	Professional

Table 1a-2. Prior Members

Member Name	Date First Appointed	Date Reappointed	Date Term Ended or Resigned	Appointing Authority	Type: Public or Professional
Marcelle Lynn Egley, Repossessor Industry	July 1, 2014	July 1, 2016	June 30, 2018	DCA Director	Professional
Tim Bradey Westphal, Alarm Company Industry	July 1, 2014	July 1, 2016	June 30, 2018	DCA Director	Professional
James B. Gordon, Jr., Consumer Federation of California	July 1, 2014	N/A	June 30, 2016	DCA Director	Public
Commander Greg P. Ferrero, California State Threat Assessment Center	July 1, 2014	N/A	July 2, 2015	DCA Director	Public
Kara Bush, California Restaurant Association	July 1, 2014	N/A	August 29, 2014	DCA Director	Public
Javier Gonzalez, California Restaurant Association	December 1, 2015	N/A	September 19, 2016	DCA Director	Public
Captain Mark Thomas Franke, California Sheriffs' Association	July 1, 2014	N/A	June 30, 2016	DCA Director	Public
Douglas R. Lee, California Governor's Office of Emergency Services	July 1, 2016	N/A	January 10, 2017	DCA Director	Public

Attachment B-5: Organizational Chart – BSIS Disciplinary Review Committees (as of October 31, 2018)

Governor's Office Edmund G. Brown, Jr.

Private Security DRC- (South) ¹	Private Security DRC (North) ¹	Alarm DRC ¹	Collateral Recovery DRC ¹	Private Investigator DRC ¹
Hugo Rodriguez Industry Member	Lawrence Garcia Industry Member	Matthew Westphal Industry Member	Marci Baker Industry Member	Collin Wong Industry Member
Gwendolyn Cross Public Member	Collin Wong Industry Member	Lawrence Garcia Industry Member	Albert Martinez Industry Member	Leticia Alejandrez Public Member
Mary Beth Garber Public Member	Matthew Lujan Industry Member	Randy Kajioka Public Member	Ruth Atkins Public Member	Gary Davis Public Member
Vacant Industry Member	Leslye Tinson Public Member	Kaci Patterson Public Member	Vacant Industry Member	Vacant Industry Member
Vacant Industry Member	Susan Johnson Public Member	Vacant Industry Member	Vacant Industry Member	Vacant Industry Member

1) The Disciplinary Review Committee (DRC) members are appointed by the Governor. DRCs are autonomous of the Bureau and the Department of Consumers Affairs. However, the members' per diem and travel expenses to participate in DRC meetings are paid by the Bureau.

Attachment B-6: Organizational Chart – BSIS Advisory Committee (as of October 31, 2018)

Governor’s Office
Edmund G. Brown, Jr.

Department of Consumer Affairs
Dean Grafilo, Director

Bureau of Security and
Investigative Services
Darrel Woo, Chief

Advisory Committee

Simon Cruz Industry Member, Training Facilities	Eli Owen Public Member
Roy Rahn Industry Member, Proprietary Security Services	Todd Inglis Public Member
Frank Huntington, III Industry Member, Private Investigator	Lynn Mohrfeld Public Member
Vacant Industry Member, Private Patrol Operators	Stanton Perez Public Member
Vacant Industry Member, Alarm Companies	Nancy Murrish Public Member
Vacant Industry Member, Locksmiths	Anton Farmby Public Member
Vacant Industry Member, Repossessors	

Attachment C

BSIS Year-End Organization Charts (FY 2014-15 to FY 2017-18)



Department of Consumer Affairs
Bureau of Security and Investigative Services

June 30, 2015

Director, DCA
Awet Kidane
Chief Deputy Director
Tracy Rhine

Laura Alarcon
Bureau Chief (Exempt)
625-100-8896-001

Clarisa Serrato-Chavez
Deputy Chief
Staff Services Manager II (Sup)
625-100-4801-002

Connie Bouvia
Staff Services Manager II (Sup)
625-100-4801-907 ++

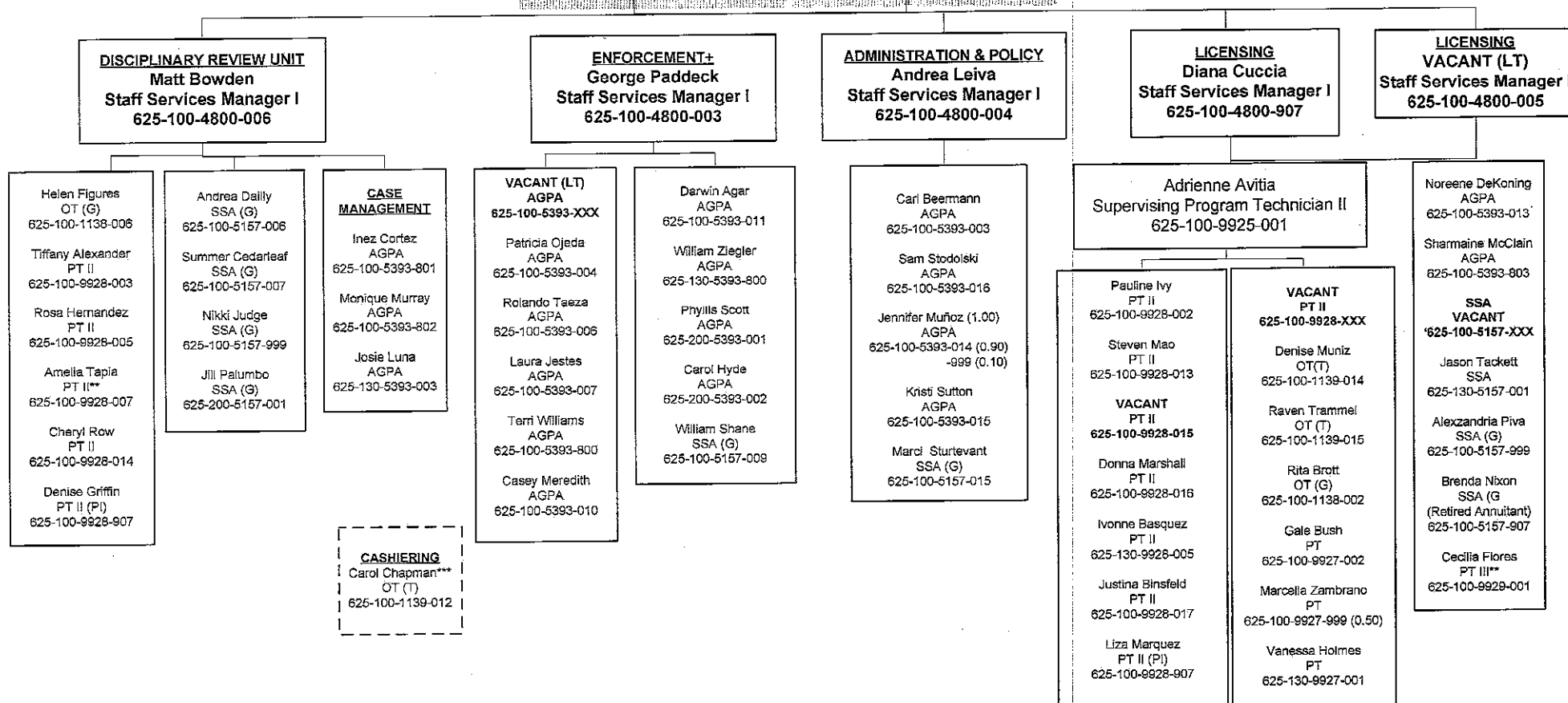
Current

FY: 14-15

Authorized Positions: 50.90

BL 12-03 (999): 2.60 *

Temp Help (907): 4.00



NOTE: All positions are CORI designated

+ = Includes Unlicensed Activity Unit

++ = Position 625-100-4801-907 is flagged as a created blanket position. Position to be addressed when current SSMII returns from BreZE project.

* = Reduced Time Base of positions effective 7/1/2012, due to Budget Letter 12-03.

** = Bilingual Pay

*** = Positions physically located within DCA's Cashiering Unit and report to supervisors and/or managers within the Cashiering unit.

Department of Consumer Affairs
Bureau of Security and Investigative Services

June 30, 2016

Director, DCA
Awet Kidane
Chief Deputy Director
Tracy Rhine

Laura Alarcon
Bureau Chief (Exempt)
625-100-8896-001

Current

FY: 15-16

Authorized Positions: 62.4
BL 12-03 (999): 2.60 *
Temp Help (907): 7.00

Connie Bouvia
Deputy Chief
Staff Services Manager II (Sup)
625-100-4801-907 ++

Clarisa Serrato-Chavez
Deputy Chief
Staff Services Manager II (Sup)
625-100-4801-002

DISCIPLINARY REVIEW UNIT
Matt Bowden
Staff Services Manager I
625-100-4800-006

ENFORCEMENT
VACANT
Staff Services Manager I
625-100-4800-007

ENFORCEMENT+
George Paddeck
Staff Services Manager I
625-100-4800-003

ADMINISTRATION & POLICY
Sam Stodolski
Staff Services Manager I
625-100-4800-004

LICENSING
Marco Bautista
Staff Services Manager I
625-100-4800-005

Helen Figures
OT (G)
625-100-1139-006

Denise Griffin
PT II
625-100-9928-003

Rosa Hernandez
PT II
625-100-9928-005

Amelia Tapia
PT II**
625-100-9928-007

Cheryl Row
PT II
625-100-9928-014

Justina Binsfeld
SSA (G)
625-100-5157-007

Nikki Judge
SSA (G)
625-100-5157-999

Jill Palumbo
SSA (G)
625-200-5157-001

**COMPLAINT
RESOLUTION PRGM**

Ruby Montoya
AGPA
604-391-5393-800
(on loan)

Cynthia Parry
SSA
604-391-5157-008
(on loan)

**CASE
MANAGEMENT**

Inez Cortez
AGPA
625-100-5393-801

Monique Murray
AGPA
625-100-5393-802

Josie Luna
AGPA
625-130-5393-003

CASHIERING
Carol Chapman***
OT (T)
625-100-1139-012

Patricia Ojeda
AGPA
625-100-5393-004

Rolando Tazza
AGPA
625-100-5393-006

Laura Jastes
AGPA
625-100-5393-007

Casey Meredith
AGPA
625-100-5393-010

Darwin Agar
AGPA
625-100-5393-011

VACANT
AGPA
625-100-5393-017

VACANT
AGPA
625-100-5393-018

Daniel Rangel
AGPA (LT)
625-100-5393-800

Terri Williams
AGPA
625-100-5393-800

William Ziegler
AGPA
625-130-5393-800

Phyllis Scott
AGPA
625-200-5393-001

Carol Hyde
AGPA
625-200-5393-002

William Shane
SSA (G)
625-100-5157-009

Carl Beermann
AGPA
625-100-5393-003

VACANT
AGPA
625-100-5393-016

Jennifer Muñoz (1.00)
AGPA
625-100-5393-014 (0.90)
-999 (0.10)

Kristi Sutton
AGPA
625-100-5393-015

Marc Sturtevant
SSA (G)
625-100-5157-015

Jennifer Jewell
PT
625-100-9927-907

Linda Stout
PT
625-100-9927-907

Natalee Mendoza
PT
625-100-9927-907

Pauline Ivy
PT II
625-100-9928-907

Jené Hughes
Supervising Program Tech II
625-100-9925-001

VACANT
PT II
625-100-9928-001

Tiffany Sanchez
PT II
625-100-9928-002

Steven Mao
PT II
625-100-9928-013

Donna Marshall
PT II
625-100-9928-016

Camelita Rivera
PT II
625-100-9928-017

Eva Gutierrez
PT II
625-100-9928-018 (0.50)

Ashley Verrett
PT II
625-100-9928-019

Jasmine Argo
PT II
625-100-9928-020

Jason Knecht
PT II
625-100-9928-021

Alyse Hutchison
PT II
625-100-9928-022

Ivonne Basquez
PT II
625-130-9928-005

VACANT
PT II
625-200-9928-001

Vanessa Holmes
PT
625-130-9927-001

Davida Cory
PT
625-100-9927-XXXX

Gale Bush
PT
625-100-9927-002

Marcella Zambrano
PT
625-100-9927-999 (0.50)

Andrea Dailly
AGPA
625-100-5393-013

Sharmaine McClain
AGPA
625-100-5393-803

Jason Tackett
SSA
625-130-5157-001

Dannny Gonzales
SSA
625-100-5157-006

Adrienne Avitia
SSA
625-100-5157-016

VACANT
SSA
625-100-5157-017

VACANT
SSA
625-100-5157-XXXX

Ariann Cooper
SSA
625-100-5157-999

Nicole Ishiura
SSA (PI)
625-100-5157-907

Nora Myagmar
SSA (PI)
625-100-5157-907

Brenda Nixon
SSA (RA)
625-100-5157-907

NOTE: All positions are CORI designated

+ = Includes Unlicensed Activity Unit

++ = Position is an exceptional allocation.

* = Reduced Time Base of positions effective 7/1/2012, due to Budget Letter 12-03.

** = Bilingual Pay

*** = Positions physically located within DCA's Cashiering Unit and report to supervisors and/or managers within the Cashiering unit.

Department of Consumer Affairs
Bureau of Security and Investigative Services

June 30, 2017

Director, DCA
Dean R. Grafilo
Chief Deputy Director
Jeffrey Mason

Laura Alarcon
Bureau Chief (Exempt)
625-100-8896-001

Current

FY: 16-17

Authorized Positions: 63.4

BL 12-03 (999): 2.60 *

Temp Help (907): 6.00

Sam Stodolski
Deputy Chief
Staff Services Manager II (Sup)
625-100-4801-003

Clarisa Serrato- Chavez
Deputy Chief
Staff Services Manager II (Sup)
625-100-4801-002

DISCIPLINARY REVIEW UNIT
Matt Bowden
Staff Services Manager I
625-100-4800-006

ENFORCEMENT
Tammy Gasper
Staff Services Manager I
625-100-4800-003

ADMINISTRATION & POLICY
Antoine Hage
Staff Services Manager I
625-100-4800-004

LICENSING
Jennifer Munoz
Staff Services Manager I
625-100-4800-005

Helen Figures
OT (G)
625-100-1138-006

Denise Griffin
PT II
625-100-9928-003

Rosa Hernandez
PT II
625-100-9928-005

Amelia Tapia
PT II**
625-100-9928-007

Cheryl Row
PT II
625-100-9928-014

VACANT
SSA
625-100-5157-018

Jasmine Argo
SSA
625-100-5157-999

VACANT
SSA
625-200-5157-001

CASE
MANAGEMENT

Inez Cortez
AGPA
625-100-5393-801

Monique Murray
AGPA
625-100-5393-802

Josie Luna
AGPA
625-130-5393-003

William Shane
SSA
625-100-5157-009

Patricia Ojeda
AGPA
625-100-5393-004

Rolando Taeza
AGPA
625-100-5393-006

Russell Sammons
AGPA
625-100-5393-007

Shelia Keechel
AGPA
625-100-5393-010

Andrea Dailly
AGPA
625-100-5393-011

Jason Tackett
AGPA
625-100-5393-017

Nikki Judge
AGPA
625-100-5393-018

Terri Williams
AGPA
625-100-5393-800

William Ziegler
AGPA
625-130-5393-800

Phyllis Scott
AGPA
625-200-5393-001

Carol Hyde
AGPA
625-200-5393-002

COMPLAINT
RESOLUTION

Cynthia Parry
SSA
625-100-5157-019

Marc Silvey
SSA
625-200-5157-002

Ruby Montoya
AGPA
625-100-5393-020

Justina Binsfeld
SSA
625-100-5157-007

Cha Xiong
AGPA
625-100-5393-003

VACANT
AGPA
625-100-5393-013

Adrienne Avitia (1.00)
AGPA
625-100-5393-014 (0.90)
-999 (0.10)

VACANT
AGPA
625-100-5393-015

VACANT
AGPA
625-100-5393-016

Marci Sturtevant
AGPA
625-100-5393-019

Linda Stout
PT
625-100-9927-005

Gale Bush
PT
625-100-9927-002

David Cory
PT
625-100-9927-004

Jennifer Jewell
PT
625-100-9927-907

Marcella Zambrano
PT
625-100-9927-999
(0.50)

Vanessa Holmes
PT
625-130-9927-001

Natalie Mendoza
PT
625-200-9927-001

Eva Gutierrez
PT II
625-100-9928-001

Tiffany Sanchez
PT II
625-100-9928-002

VACANT
PT II
625-100-9928-013

Donna Marshall
PT II
625-100-9928-016

Carmelita Rivera
PT II
625-100-9928-017

VACANT
PT II
625-100-9928-018
(0.50)

Robin Perez
PT II
625-100-9928-020

Jason Knecht
PT II
625-100-9928-021

Guadalupe Cabanyog
PT II
625-100-9928-022

VACANT
PT II
625-100-9928-023

VACANT
PT II
625-100-9928-024

John Leyva
PT II
625-100-9928-907

Ivonne Bascquez
PT II
625-130-9928-005

Shelby Crocker
OA
625-100-1441-907

Gerald Jennings
OA
625-100-1441-907

Kyle Shallcross
SA
625-100-4870-907

Danny Gonzales
SSA
625-100-5157-006

Steven Mao
SSA
625-100-5157-016

Nicole Ishiura
SSA
625-100-5157-017

Jené Hughes
SSA
625-100-5157-020

Nora Myagmar
SSA (PI)
625-100-5157-907

Jonathan Nazario
SSA
625-100-5157-999

Maria Ejaz
SSA
625-130-5157-002

Sharmaine McClain
AGPA
625-100-5393-803

NOTE: All positions are CORI designated

* = Reduced Time Base of positions effective
7/1/2012, due to Budget Letter 12-03.

** = Bilingual Pay

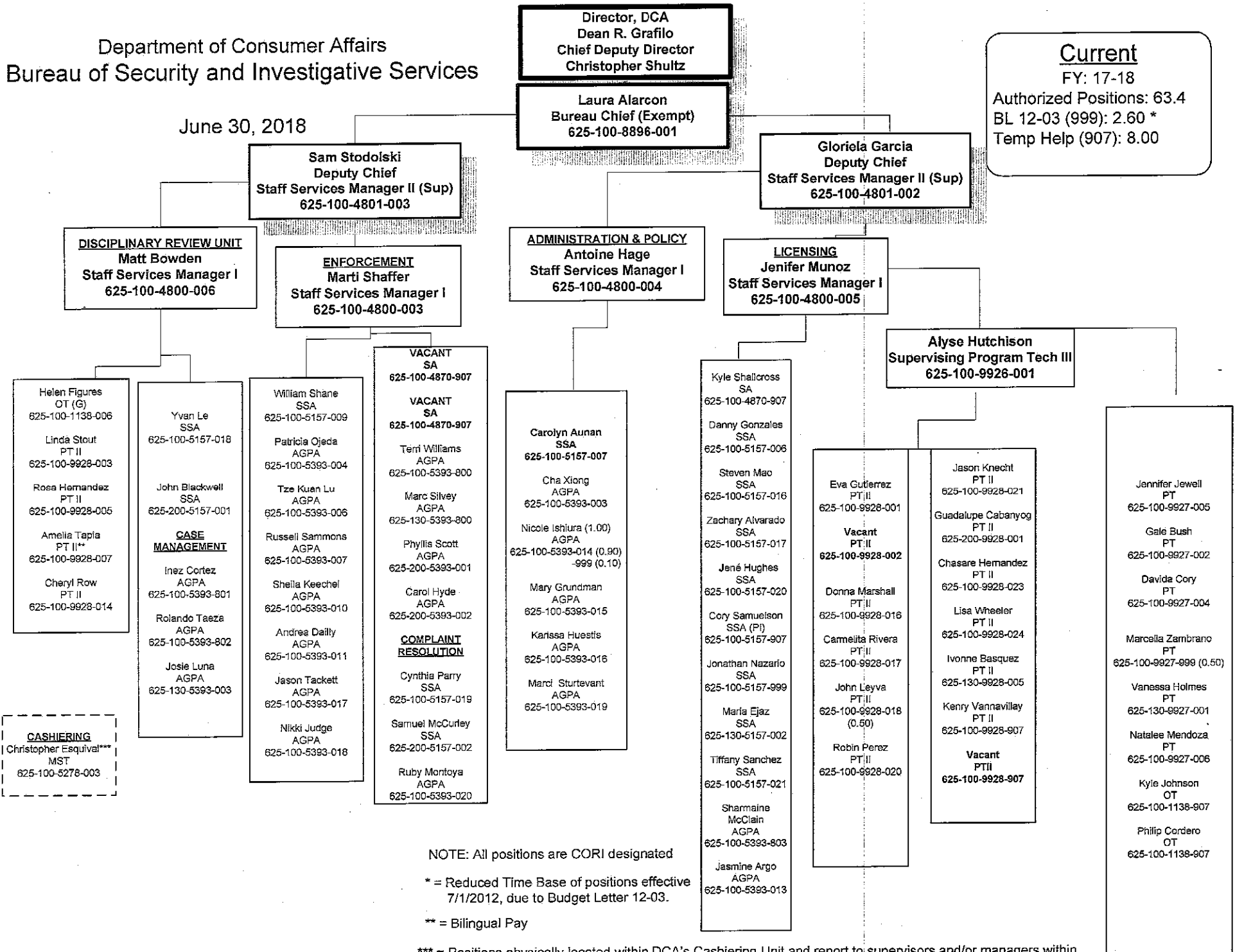
*** = Positions physically located within DCA's Cashiering Unit and report to supervisors and/or managers within
the Cashiering unit.

CASHIERING

Christopher Esquivel***
MST
625-100-5278-003

Department of Consumer Affairs
Bureau of Security and Investigative Services

June 30, 2018



Current
FY: 17-18
Authorized Positions: 63.4
BL 12-03 (999): 2.60 *
Temp Help (907): 8.00

NOTE: All positions are CORI designated

* = Reduced Time Base of positions effective 7/1/2012, due to Budget Letter 12-03.

** = Bilingual Pay

*** = Positions physically located within DCA's Cashiering Unit and report to supervisors and/or managers within the Cashiering unit.

Attachment D

BSIS Consumer Protection Enforcement Initiative Data



Department of Consumer Affairs
Bureau of Security and
Investigative Services

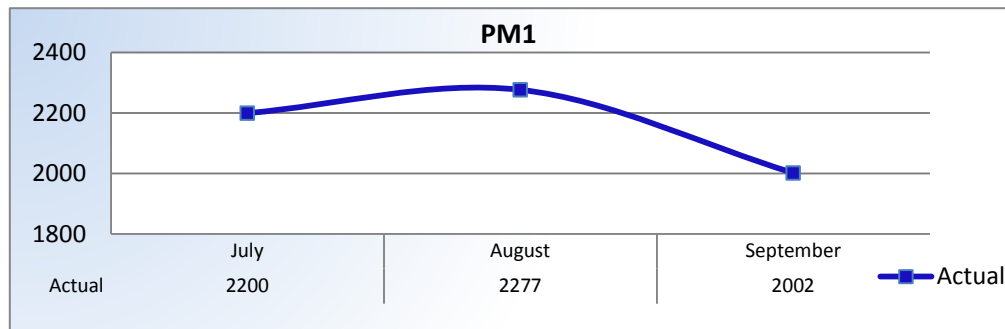
Performance Measures

Q1 Report (July - September 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

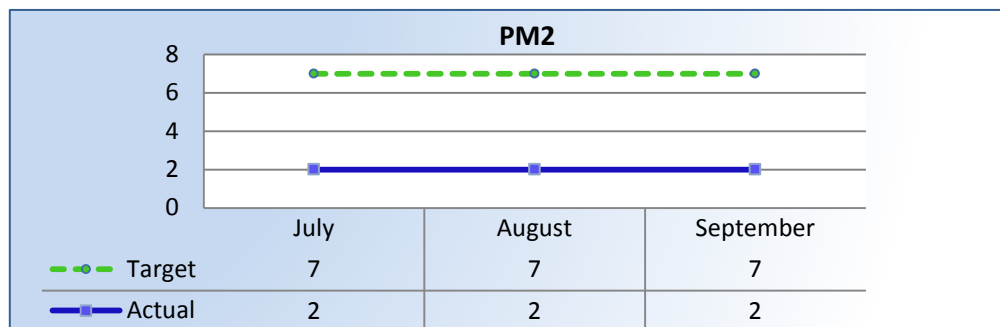


Total Received: 6,479 Monthly Average: 2,160

Complaints: 815 | Convictions: 5,664

PM2 | Intake

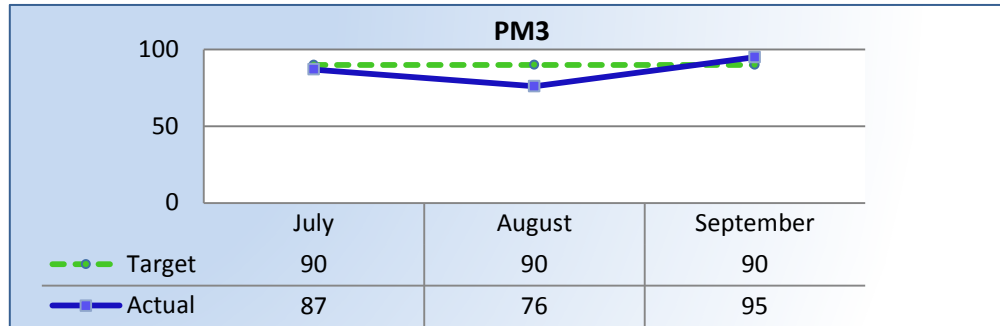
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | Actual Average: 2 Days

PM3 | Intake & Investigation

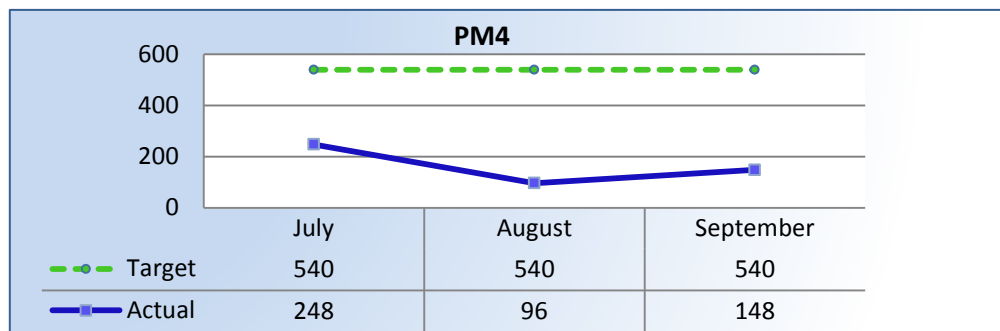
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days | Actual Average: 85 Days

PM4 | Formal Discipline

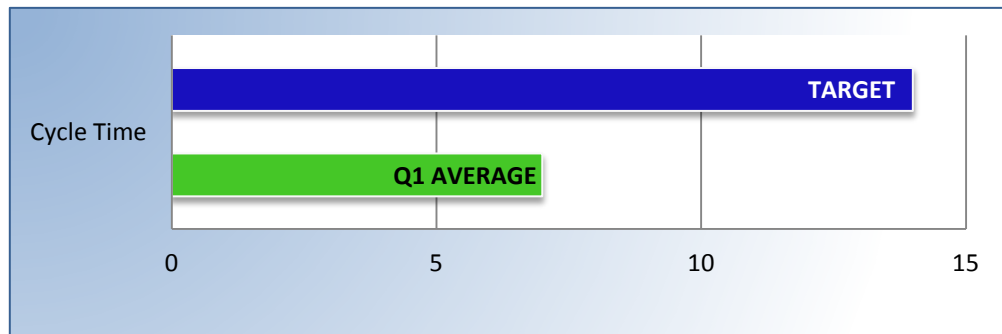
Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



Target Average: 540 Days | Actual Average: 168 Days

PM7 | Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 14 Days | Actual Average: 7 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Bureau did not report any probation violations this quarter.

Target Average: 30 Days | Actual Average: N/A

Department of Consumer Affairs
Bureau of Security and
Investigative Services

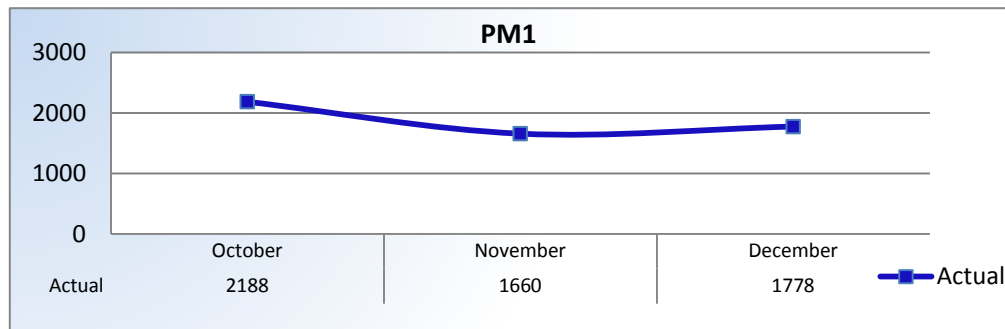
Performance Measures

Q2 Report (October - December 2014)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

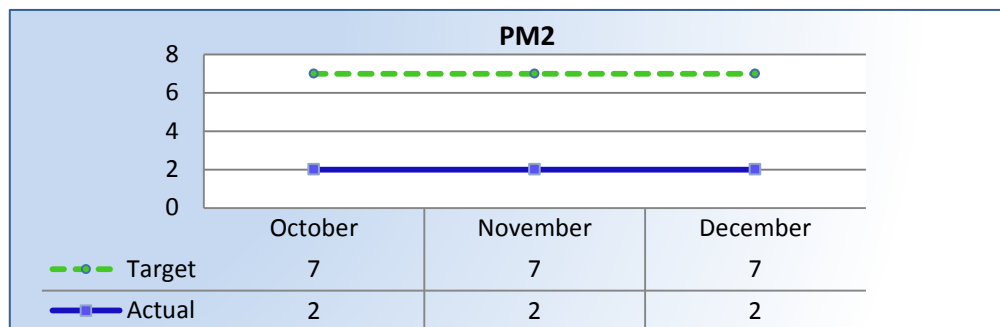


Total Received: 5,626 Monthly Average: 1,875

Complaints: 497 | Convictions: 5,129

PM2 | Intake

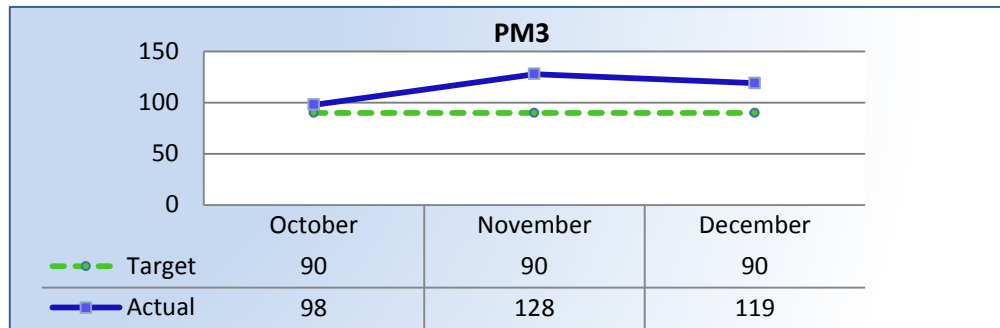
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | Actual Average: 2 Days

PM3 | Intake & Investigation

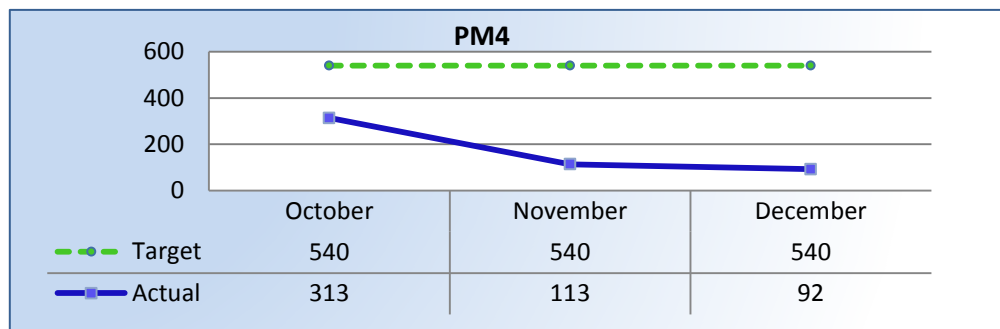
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days | Actual Average: 116 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



Target Average: 540 Days | Actual Average: 133 Days

PM7 | Probation Intake

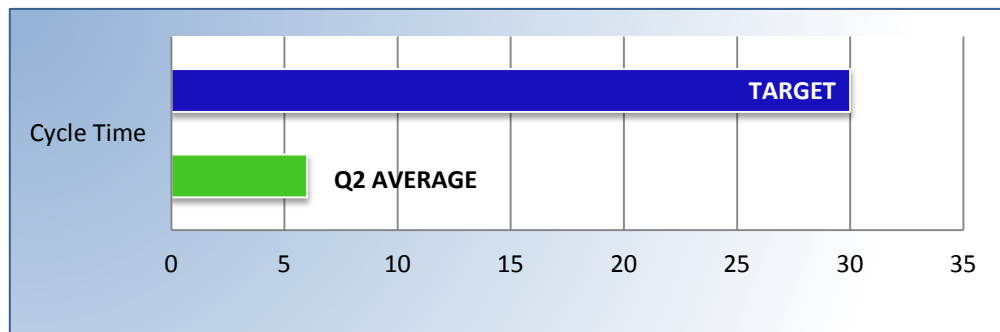
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Bureau did not contact any probation violations this quarter.

Target Average: 14 Days | Actual Average: N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 30 Days | Actual Average: 6 Days

Department of Consumer Affairs
Bureau of Security and
Investigative Services

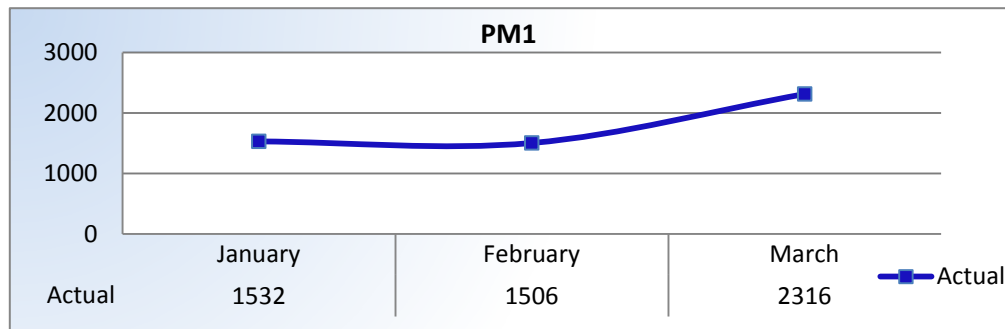
Performance Measures

Q3 Report (January - March 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

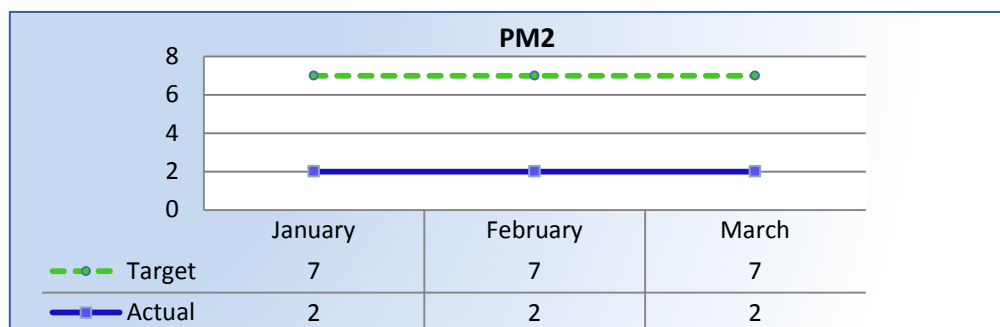


Total Received: 5,354 Monthly Average: 1,785

Complaints: 494 | Convictions: 4,860

PM2 | Intake

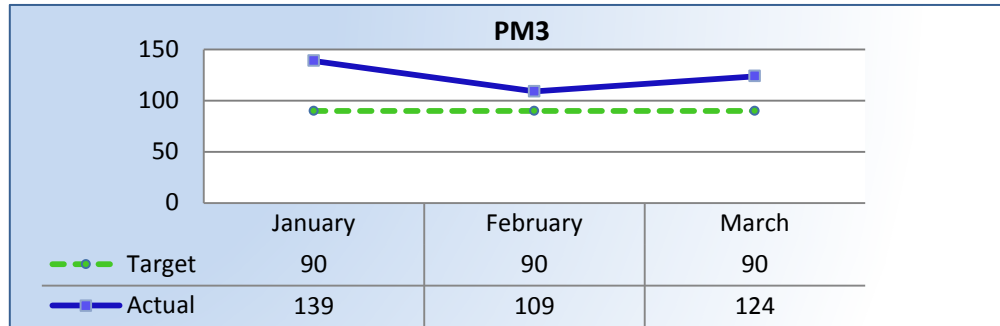
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | Actual Average: 2 Days

PM3 | Intake & Investigation

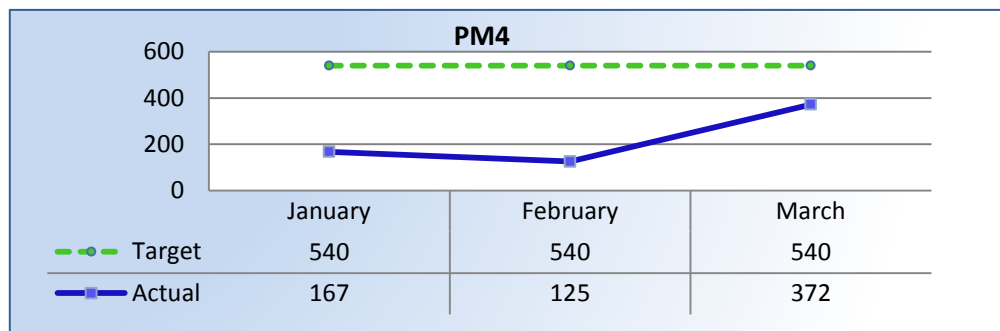
Average cycle time from complaint receipt to closure of the investigation process. Does not include cases sent to the Attorney General or other forms of formal discipline.



Target Average: 90 Days | Actual Average: 128 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases resulting in formal discipline. (Includes intake and investigation by the Bureau and prosecution by the AG).



Target Average: 540 Days | Actual Average: 203 Days

PM7 | Probation Intake

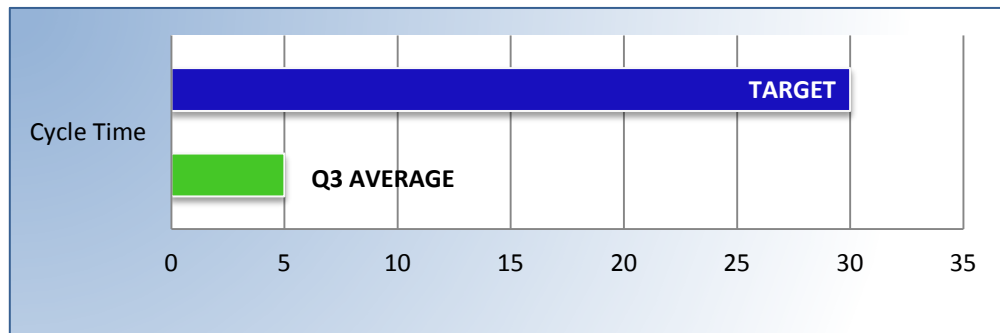
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Bureau did not contact any probation violations this quarter.

Target Average: 14 Days | **Actual Average:** N/A

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 30 Days | **Actual Average:** 5 Days

Department of Consumer Affairs
Bureau of Security and
Investigative Services

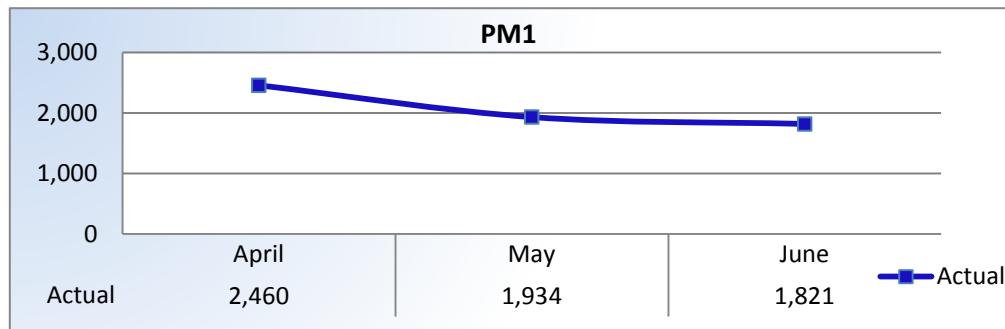
Performance Measures

Q4 Report (April - June 2015)

To ensure stakeholders can review the Bureau's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

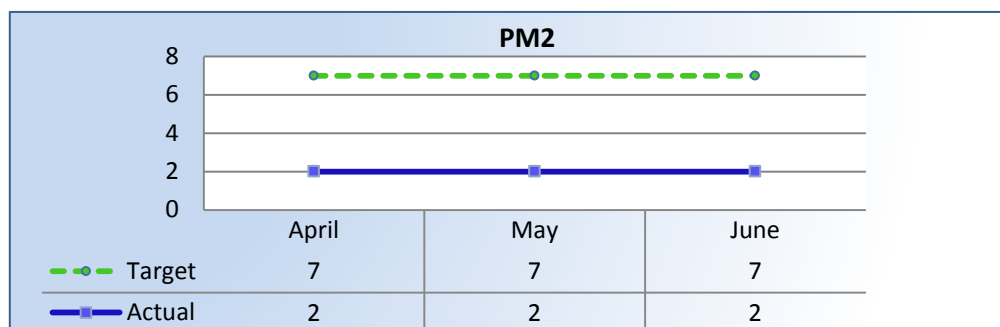


Total Received: 6,215 Monthly Average: 2,072

Complaints: 740 | Convictions: 5,475

PM2 | Intake

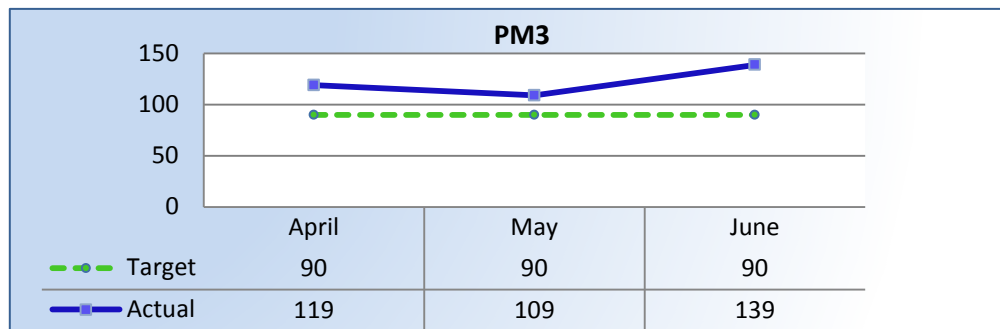
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | Actual Average: 2 Days

PM3 | Intake & Investigation

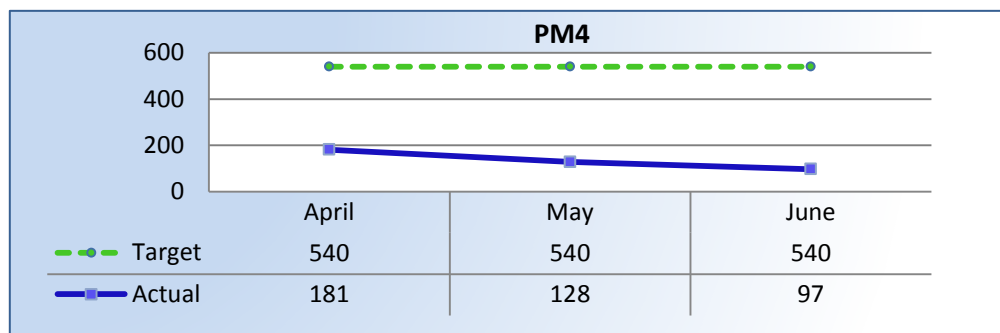
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 90 Days | Actual Average: 120 Days

PM4 | Formal Discipline

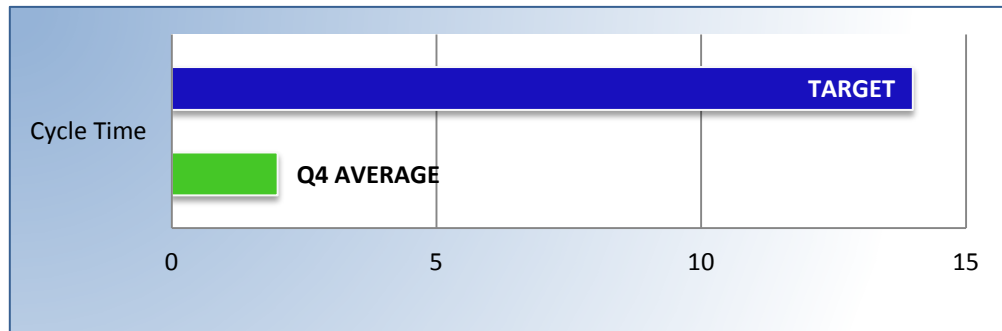
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | Actual Average: 128 Days

PM7 | Probation Intake

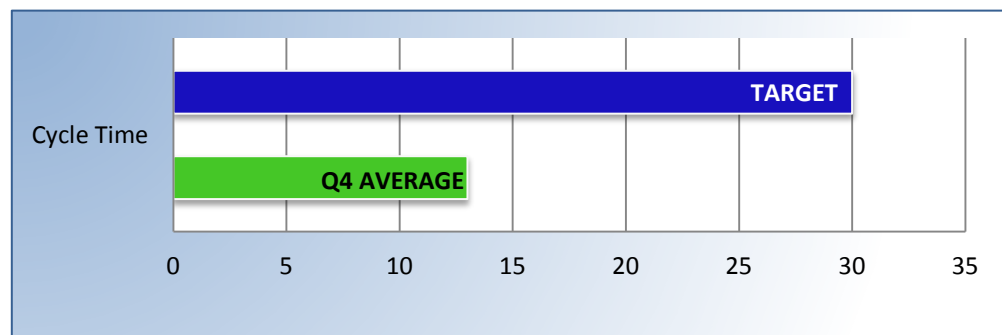
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 14 Days | Actual Average: 2 Days

PM8 | Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 30 Days | Actual Average: 13 Days

Attachment E

BSIS Customer Satisfaction Survey Data



Attachment E-2: Customer Satisfaction Survey (Sunset Report Question 7)

2014-15 (July 1, 2014-December 31, 2014) Customer Satisfaction Survey			
Q1	How did you contact our Board/Bureau?	Number	% of Total
	Website	6	12.76%
	Regular mail	3	6.38%
	E-mail	7	14.89%
	Phone	6	12.76%
	In-person	1	2.12%
	No Response	24	51.06%
	Total	47	100%
Q2	How satisfied were you with the format and navigation of our website?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%
Q3	How satisfied were you with the information pertaining to your complaint available on our website?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%
Q4	How satisfied were you with the time it took to respond to your initial correspondence?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%
Q5	How satisfied were you with our response to your initial correspondence?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%
Q6	How satisfied were you with the time it took to speak to a representative of our Bureau?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%

2014-15 (July 1, 2014-December 31, 2014) Customer Satisfaction Survey			
Q7	How satisfied were you with our representative's ability to address your complaint?	Number	% of Total
	Very satisfied	1	100%
	Somewhat satisfied	0	0%
	Neither satisfied nor dissatisfied	0	0%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	0	0%
	Total	1	100%
Q8	How satisfied were you with the time it took for us to resolve your complaint?	Number	% of Total
	Very satisfied	37	82.22%
	Somewhat satisfied	5	11.11%
	Neither satisfied nor dissatisfied	2	4.44%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	1	2.22%
	Total	45	100%
Q9	How satisfied were you with the explanation you were provided regarding the outcome of your complaint?	Number	% of Total
	Very satisfied	39	86.66%
	Somewhat satisfied	1	2.22%
	Neither satisfied nor dissatisfied	2	4.44%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	3	6.66%
	Total	45	100%
Q10	Overall, how satisfied were you with the way in which we handled your complaint?	Number	% of Total
	Very satisfied	37	82.22%
	Somewhat satisfied	4	8.88%
	Neither satisfied nor dissatisfied	1	2.22%
	Somewhat dissatisfied	0	0%
	Very dissatisfied	3	6.66%
	Total	45	100%
Q11	Would you contact us again for a similar situation?	Number	% of Total
	Definitely	40	88.88%
	Probably	0	0%
	Maybe	1	2.22%
	Probably not	2	4.44%
	Absolutely not	2	4.44%
	Total	45	100%
Q12	Would you recommend us to a friend or family member experiencing a similar situation?	Number	% of Total
	Definitely	40	88.88%
	Probably	0	0%
	Maybe	1	2.22%
	Probably not	2	4.44%
	Absolutely not	2	4.44%
	Total	45	100%

2014-15 (January 1, 2015-June 30, 2015) Customer Satisfaction Survey**NOTE:** Survey questions revised in FY 2014-15

Q1	How well did we explain the complaint process to you?	Number	% of Total
	Very Poor	4	7.14%
	Poor	2	3.57%
	Good	4	7.14%
	Very Good	46	82.14%
	Total	56	100%
Q2	How clearly was the outcome of your complaint explained to you?	Number	% of Total
	Very Poor	5	9.26%
	Poor	2	3.70%
	Good	2	3.70%
	Very Good	45	83.33%
	Total	54	100%
Q3	How well did we meet the time frame provided to you?	Number	% of Total
	Very Poor	4	7.27%
	Poor	3	5.45%
	Good	4	7.27%
	Very Good	44	80%
	Total	55	100%
Q4	How courteous and helpful was staff?	Number	% of Total
	Very Poor	4	7.27%
	Poor	2	3.64%
	Good	3	5.45%
	Very Good	46	83.64%
	Total	55	100%
Q5	Overall, how well did we handle your complaint?	Number	% of Total
	Very Poor	8	14.81%
	Poor	2	3.70%
	Good	3	5.55%
	Very Good	41	75.93%
	Total	54	100%
Q6	If we were unable to assist you, were alternatives provided to you?	Number	% of Total
	Yes	9	45%
	No	11	55%
	Total	20	100%
Q7	Did you verify the provider's license prior to service?	Number	% of Total
	Yes	19	61.29%
	No	12	38.70%
	Total	31	100%

2015-16 Customer Satisfaction Survey			
Q1	How well did we explain the complaint process to you?	Number	% of Total
	Very Poor	3	3.61%
	Poor	1	1.20%
	Good	4	4.82%
	Very Good	75	90.36%
	Total	83	100%
Q2	How clearly was the outcome of your complaint explained to you?	Number	% of Total
	Very Poor	3	3.61%
	Poor	1	1.20%
	Good	4	4.82%
	Very Good	75	90.36%
	Total	83	100%
Q3	How well did we meet the time frame provided to you?	Number	% of Total
	Very Poor	3	3.61%
	Poor	0	0%
	Good	3	3.61%
	Very Good	77	92.77%
	Total	83	100%
Q4	How courteous and helpful was staff?	Number	% of Total
	Very Poor	1	1.20%
	Poor	0	0%
	Good	3	3.61%
	Very Good	79	95.18%
	Total	83	100%
Q5	Overall, how well did we handle your complaint?	Number	% of Total
	Very Poor	1	1.20%
	Poor	1	1.20%
	Good	3	3.61%
	Very Good	78	93.98%
	Total	83	100%
Q6	If we were unable to assist you, were alternatives provided to you?	Number	% of Total
	Yes	12	75%
	No	4	25%
	Total	16	100%
Q7	Did you verify the provider's license prior to service?	Number	% of Total
	Yes	25	53.19%
	No	22	46.81%
	Total	47	100%

2016-17 Customer Satisfaction Survey			
Q1	How well did we explain the complaint process to you?	Number	% of Total
	Very Poor	0	0%
	Poor	1	5.88%
	Good	0	0%
	Very Good	16	94.12%
	Total	17	100%
Q2	How clearly was the outcome of your complaint explained to you?	Number	% of Total
	Very Poor	1	5.88%
	Poor	0	0%
	Good	1	5.88%
	Very Good	15	88.24%
	Total	17	100%
Q3	How well did we meet the time frame provided to you?	Number	% of Total
	Very Poor	1	5.88%
	Poor	0	0%
	Good	2	11.76%
	Very Good	14	82.35%
	Total	17	100%
Q4	How courteous and helpful was staff?	Number	% of Total
	Very Poor	0	0%
	Poor	0	0%
	Good	1	5.88%
	Very Good	16	94.12%
	Total	17	100%
Q5	Overall, how well did we handle your complaint?	Number	% of Total
	Very Poor	0	0%
	Poor	2	11.76%
	Good	1	5.88%
	Very Good	14	82.35%
	Total	17	100%
Q6	If we were unable to assist you, were alternatives provided to you?	Number	% of Total
	Yes	3	75%
	No	1	25%
	Total	4	100%
Q7	Did you verify the provider's license prior to service?	Number	% of Total
	Yes	2	40%
	No	3	60%
	Total	5	100%

2017-18 Customer Satisfaction Survey			
Q1	How well did we explain the complaint process to you?	Number	% of Total
	Very Poor	0	0%
	Poor	1	33.33%
	Good	0	0%
	Very Good	2	66.66%
	Total	3	100%
Q2	How clearly was the outcome of your complaint explained to you?	Number	% of Total
	Very Poor	0	0%
	Poor	1	33.33%
	Good	1	33.33%
	Very Good	1	33.33%
	Total	3	100%
Q3	How well did we meet the time frame provided to you?	Number	% of Total
	Very Poor	0	0%
	Poor	0	0%
	Good	1	33.33%
	Very Good	2	66.66%
	Total	3	100%
Q4	How courteous and helpful was staff?	Number	% of Total
	Very Poor	0	0%
	Poor	1	33.33%
	Good	1	33.33%
	Very Good	1	33.33%
	Total	3	100%
Q5	Overall, how well did we handle your complaint?	Number	% of Total
	Very Poor	0	0%
	Poor	1	33.33%
	Good	1	33.33%
	Very Good	1	33.33%
	Total	3	100%
Q6	If we were unable to assist you, were alternatives provided to you?	Number	% of Total
	Yes	2	66.66%
	No	1	33.33%
	Total	3	100%
Q7	Did you verify the provider's license prior to service?	Number	% of Total
	Yes	2	100%
	No	0	0%
	Total	2	100%

Attachment F

Executive Summaries for Alarm Company, Private Investigator, Private Patrol Operator, and Repossession Agency Occupational Analyses



BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE ALARM COMPANY OPERATOR QUALIFIED MANAGER PROFESSION



OFFICE OF PROFESSIONAL EXAMINATION SERVICES



BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE ALARM COMPANY OPERATOR QUALIFIED MANAGER PROFESSION

This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs

December 2017

Heidi Lincer, Ph.D., Chief

Brian Petrie, M.A., Research Analyst II



EXECUTIVE SUMMARY

The Bureau of Security and Investigative Services (Bureau) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of alarm company operator qualified manager (ACQ) practice in California. The purpose of the OA is to define practice for ACQs in terms of the actual job tasks that new licensees must be able to perform safely and competently at the time of licensure. The results of this OA provide a description of practice for the ACQ profession that can then be used as the basis for the ACQ licensing examination in California.

OPES test specialists began by researching the profession and conducting telephone interviews with licensed ACQs working in various locations throughout California. The purpose of these interviews was to identify the tasks performed by ACQs and to specify the knowledge required to perform those tasks in a safe and competent manner. An initial workshop of practitioners was held at OPES in January 2017 to review the results of the interviews, to identify changes and trends in ACQ practice specific to California, and to refine the task and knowledge statements derived from the telephone interviews. Licensees in the workshop also performed a preliminary linkage of the task and knowledge statements to ensure that all tasks had a related knowledge and all knowledge statements had a related task.

Upon completion of the first workshop, OPES test specialists developed a three-part questionnaire to be completed by ACQs statewide. Development of the questionnaire included a pilot study which was conducted using a group of licensees. The pilot study participants' feedback was incorporated into the final questionnaire, which was administered in May 2017.

In the first part of the questionnaire, licensees were asked to provide demographic information relating to their work settings and practice. In the second part, licensees were asked to rate specific job tasks in terms of frequency (i.e., how often the licensee performs the task in the licensee's current practice) and importance (i.e., how important the task is to performance of the licensee's current practice). In the third part of the questionnaire, licensees were asked to rate specific knowledge statements in terms of how important that knowledge is to performance of their current practice.

In May 2017, OPES distributed an invitation to the entire California-licensed population of ACQs (a total of 2,000 licensees) on behalf of the Bureau to complete the questionnaire online. A total of 94 ACQs, or approximately 4.7% of the licensed ACQs, responded by accessing the online questionnaire. The final sample size included in the data analysis was 68, or 3.4% of the licensed population. This response rate reflects two adjustments. First, data from respondents who indicated they were not currently licensed and practicing as ACQs in California were excluded from

analysis. Second, questionnaires containing a large volume of incomplete and unresponsive data were removed. The demographic composition of the respondent sample is representative of the California ACQ population.

OPES test specialists then performed data analyses of the task and knowledge ratings obtained from the questionnaire respondents. The task frequency and importance ratings were combined to derive an overall criticality index for each task statement. The mean importance rating was used as the criticality index for each knowledge statement.

Once the data had been analyzed, an additional workshop was conducted with licensed ACQs to evaluate the criticality indices and determine whether any task or knowledge statements should be eliminated. The licensees in this group also established the linkage between job tasks and knowledge statements, organized the task and knowledge statements into content areas, and defined those areas. The licensees then evaluated and confirmed the content area weights of the new examination content outline for the ACQ licensing examination.

The examination content outline is structured into six content areas weighted by criticality relative to the other content areas. The examination content outline specifies the job tasks and knowledge critical to safe and effective practice as an ACQ in California at the time of licensure. It also serves as a basis for developing an examination for inclusion in the process of granting California ACQ licensure. Similarly, this examination content outline serves as a basis for evaluating the degree to which the content of any examination under consideration measures content critical to California ACQ practice.

At this time, California licensure as an ACQ is granted by meeting the requisite training requirements and passing the written examination for California ACQs.

OVERVIEW OF THE ALARM COMPANY OPERATOR QUALIFIED MANAGER
EXAMINATION CONTENT OUTLINE

Content Area	Content Area Description	Percent Weight
1. Consultation	This area assesses the candidate's ability to provide recommendations about the installation and placement of alarm system components according to customer needs while taking into consideration the applicable laws and ordinances.	15
2. Installation	This area assesses the candidate's ability to install alarm systems according to system design, code, and manufacturer's specifications, and to educate the customer about alarm system functions.	27
3. Service and Repair	This area assesses the candidate's ability to investigate reported alarm system problem(s), repair or service alarm systems, and verify that the repaired alarm system is operational.	14
4. Management	This area assesses the candidate's ability to manage the operations of the alarm company in accordance with BSIS laws and regulations.	20
5. Monitoring	This area assesses the candidate's ability to establish and maintain the monitoring of installed alarm systems in accordance with BSIS laws and regulations.	8
6. False Alarms	This area assesses the candidate's ability to identify and correct the situations that lead to false alarms as well as educate the customer about false alarm prevention.	16
Total		100

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE PRIVATE INVESTIGATOR PROFESSION



OFFICE OF PROFESSIONAL EXAMINATION SERVICES



BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE PRIVATE INVESTIGATOR PROFESSION

This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs

July 2015

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EXECUTIVE SUMMARY

The Bureau of Security and Investigative Services (Bureau) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of Private Investigator practice in California. The purpose of the occupational analysis is to define practice for Private Investigators in terms of actual job tasks that new licensees must be able to perform safely and competently at the time of licensure. The results of this occupational analysis serve as the basis for the California Private Investigator licensing examination.

Initially, OPES test specialists conducted a literature review for the profession (e.g., previous OA reports, articles, publications) followed by telephone interviews with 15 Private Investigators throughout California. The purpose of these interviews was to identify the tasks performed in Private Investigator practice and the knowledge required to perform those tasks in a safe and competent manner. Using the information gathered from the literature review and interviews, OPES test specialists developed a preliminary list of tasks performed in Private Investigator practice along with statements representing the knowledge needed to perform those tasks.

An initial focus group of Private Investigators was then held in August 2014 to discuss and review the preliminary task and knowledge statements. The subject matter experts (SMEs) in this workshop refined the task and knowledge statements and developed new statements when needed as well as demographic variables and rating scales that were to be used in the next phase of the OA. The SMEs in this focus group also performed a preliminary linkage of the task and knowledge statements to ensure that all tasks had a related knowledge and all knowledge statements had a related task.

Upon completion of the workshop, OPES developed a three-part questionnaire to be completed by Private Investigators statewide. Development of the questionnaire included a pilot study using a group of 18 licensees who had participated in the task and knowledge statement development workshop and interviews. The participants' feedback was used to refine the questionnaire. The final questionnaire was prepared by OPES for administration in October 2014.

In the first part of the questionnaire, licensees were asked to provide demographic information related to their work settings and practice. Licensees were also asked to specify specialty areas (e.g., Asset Investigation, Fraud), their occupation prior to becoming a licensed Private Investigator (e.g., Law Enforcement, Journalism) and other California state-issued licenses or certifications (e.g., Process Server).

In the second part of the questionnaire, the licensees were asked to rate specific job tasks in terms of importance (i.e., how important the task was to performance of the licensee's current practice) and frequency (i.e., how often the licensee performed the task in the licensee's current practice). In the third part of the questionnaire, licensees were asked to rate specific knowledge statements in terms of how important that knowledge was to performance of their current practice.

The Bureau sent letters to 2,111 California-licensed Private Investigators inviting them to complete the questionnaire online. Of this sample, 8% of the Private Investigators (174) responded by accessing the Web-based survey. The final sample size included in the data analysis was 160, or 7.5% of the population that was invited to complete the questionnaire. The final sample size reflects two adjustments: 1) non California-licensed Private Investigators were removed from the sample, and 2) incomplete, erroneous, and partially completed questionnaires were removed from the sample. The demographic composition of the final respondent sample is representative of the California Private Investigator population. OPES test specialists then performed data analyses on the task and knowledge ratings. Task ratings were combined to derive an overall criticality index for each task statement. The mean importance rating was used as the criticality index for each knowledge statement.

A subsequent workshop with a sample of seven California-licensed Private Investigators serving as SMEs with diverse backgrounds in the Private Investigator profession (e.g., location of practice, years licensed, specialty area) was conducted in December 2014. The purpose of the workshop was to evaluate the criticality indices and determine whether any task or knowledge statements should be eliminated. Ultimately, none were eliminated. The SMEs in this group also established the linkage between job tasks and knowledge statements, organized the task and knowledge statements into content areas, and defined those areas. The SMEs then evaluated and confirmed the content area weights.

The resulting content outline for the Private Investigator profession is structured into six content areas weighted by criticality relative to the other content areas. This outline provides a description of practice for California-licensed Private Investigators, and it also specifies the job tasks and knowledge critical to safe and effective Private Investigator practice in California at the time of licensure.

The content outline developed as a result of this occupational analysis serves as a basis for developing a written examination for inclusion in the process of granting California Private Investigator licensure.

OVERVIEW OF PRIVATE INVESTIGATOR CONTENT OUTLINE

Content Area	Content Area Description	Percent Weight
I. Ethics	This area assesses the candidate's ability to comply with ethical standards of private investigators regarding privacy rights, confidentiality, scope of practice, and management of investigative bias.	18
II. Planning	This area assesses the candidate's ability to analyze information from the client and other sources in order to establish an investigative plan to include client objectives, plan development, and resources needed.	18
III. Information Gathering	This area assesses the candidate's ability to lawfully collect case related information by conducting interviews, researching public and private sources, and performing surveillance.	26
IV. Evidentiary Evaluation	This area assesses the candidate's ability to evaluate and analyze information and evidence to advance the investigative process.	10
V. Case Documentation	This area assesses the candidate's ability to prepare and organize investigative results and methods of reporting the findings to the client.	17
VI. Trial Preparation	This area assesses the candidate's ability to secure and review evidence, evaluate witnesses for presentation in legal proceedings, and conduct service of legal process.	11
Total		100

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE PRIVATE PATROL OPERATOR PROFESSION



OFFICE OF PROFESSIONAL EXAMINATION SERVICES



BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE PRIVATE PATROL OPERATOR PROFESSION

This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs

December 2012

Sonja Merold, Chief

Cynthia Marquez, Senior Examination Development Consultant



EXECUTIVE SUMMARY

The Bureau of Security and Investigative Services (BSIS) requested the Department of Consumer Affairs' Office of Professional Examination Services (OPES) to conduct an occupational analysis to identify critical job activities performed by licensed Private Patrol Operators in California. The purpose of the occupational analysis is to define practice for Private Patrol Operators in terms of actual job tasks that new licensees must be able to perform safely and competently. The results of this occupational analysis serve as the basis for the examination program for the licensed Private Patrol Operator profession in California.

To develop a legally defensible examination outline for Private Patrol Operators in California, OPES conducted interviews with eight California-licensed Private Patrol Operators, researched the profession, and facilitated three focus group workshops between February 2012 and September 2012.

An OPES test development consultant facilitated three focus groups of licensees to establish a description of practice using a content validation strategy. The first group of Private Patrol Operators worked on reconciling and revising the task and knowledge statements included in the existing examination outline. The second group of Private Patrol Operators reviewed task statements developed by OPES based on the research of the profession and the interviews. To assist in defining the practice of Private Patrol Operators in California, licensees in the second group were asked to review and refine existing task statements and to develop additional task statements. Several new task and knowledge statements were created as a result of this process, and some statements were eliminated due to overlap and reconciliation.

Upon completion of the first two focus groups, OPES developed a three-part questionnaire to be completed by Private Patrol Operators statewide. In the first part of the questionnaire, licensees were asked to provide demographic information relating to their work settings and businesses. In the second part, the licensees were asked to rate specific job tasks in terms of frequency (i.e., how often the licensee performs the task in the licensee's current job) and importance (i.e., how important the task is to performance of the licensee's current job). In the third part of the questionnaire, licensees were asked to rate specific knowledge statements in terms of how important that knowledge is to performance of their current jobs.

BSIS sent notification letters to all Private Patrol Operators with active licenses in California (total of 2,581) inviting them to complete the questionnaire online. Eleven percent of licensed Private Patrol Operators (272) responded by accessing the Web-based survey. The final sample size included in the data analysis was 197, or 8 percent of the population that was invited to complete the questionnaire. This response rate reflects two adjustments, the details of which are described in the Response Rate section of this report. The 8-percent response rate indicates a reasonable level of participation by current licensees.

OPES used the frequency and importance ratings to arrive at a critical value for each task statement. The importance rating was used as the critical value for each knowledge statement. A third focus group of licensed Private Patrol Operators evaluated the task critical values and knowledge ratings and agreed that all tasks and knowledge statements would be retained in the examination outline. After the content area tasks were grouped, these licensees were asked to establish a linkage between job tasks and knowledge statements.

The new examination outline is structured into five content areas weighted by criticality relative to the other content areas. The examination outline specifies the job tasks and knowledge that a California-licensed Private Patrol Operator is expected to have mastered at the time of licensure. An overview of the final examination outline is provided below.

OVERVIEW OF THE EXAMINATION OUTLINE

Content Area	Content Area Description	Percent Weight
I. Business Administration	This area assesses the candidate's ability to develop accounts, business policies, and procedures to meet the client's and organization's needs.	25
II. Personnel	This area assesses the candidate's ability to evaluate prospective employees and maintain required personnel records.	25
III. Management	This area assesses the candidate's ability to manage the organization's operational activity such as contractual and legal obligations, work assignments, billing procedures, and record keeping.	31
IV. Screening	This area assesses the candidate's ability to determine employment eligibility by using screening techniques to verify employment information and report irregularities to BSIS.	6
V. Training	This area assesses the candidate's ability to prepare and provide training to employees that meets contractual and legal requirements.	13
Total		100

BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE REPOSSESSOR QUALIFIED MANAGER PROFESSION



OFFICE OF PROFESSIONAL EXAMINATION SERVICES



BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

OCCUPATIONAL ANALYSIS OF THE REPOSSESSOR QUALIFIED MANAGER PROFESSION

This report was prepared and written by the
Office of Professional Examination Services
California Department of Consumer Affairs

February 2017

Heidi Lincer, Ph.D., Chief

Brian Petrie, Research Analyst II



EXECUTIVE SUMMARY

The Bureau of Security and Investigative Services (Bureau) requested that the Department of Consumer Affairs' Office of Professional Examination Services (OPES) conduct an occupational analysis of the reposessor qualified manager (RAQ) profession in California. The purpose of the occupational analysis is to define the profession for RAQs in terms of actual job tasks that new licensees must be able to perform safely and competently at the time of licensure. The results of this occupational analysis provide a thorough description of practice for the RAQ profession that can be used as the basis for the content of the California RAQ licensing examination.

Initially, OPES conducted a literature review of the profession, researching previous occupational analysis reports, articles, and publications. They also held telephone interviews and an on-site interview with licensed RAQs who work in locations throughout California. The purpose of these interviews was to identify the tasks performed in the RAQ profession and to specify the knowledge required to perform those tasks in a safe and competent manner. Using the information gathered from the literature review and the interviews, OPES developed a preliminary list of tasks performed in the RAQ profession along with statements representing the knowledge needed to perform those tasks.

An initial focus group of California-licensed RAQs was held in November 2015 to discuss and review the preliminary list of task and knowledge statements. The licensees refined the task and knowledge statements, developed new statements when needed, and determined the demographic variables and rating scales that were to be used in the next phase of the occupational analysis process. They also performed a preliminary linkage of the task and knowledge statements to ensure that all tasks had a related knowledge and all knowledge statements had a related task.

Upon completion of the focus group, OPES developed a three-part questionnaire to be completed by RAQs statewide. Development of the questionnaire included a pilot study which was conducted using the group of licensees who had participated in the interviews and the November 2015 initial focus group. The participants' feedback was used to refine the questionnaire. The final questionnaire was prepared by OPES for administration from January to April 2016.

In the first part of the questionnaire, the licensees were asked to provide demographic information related to their work and work settings. The licensees were also asked to specify their occupation prior to becoming a licensed RAQ (e.g., nonrelated, law enforcement) and to indicate possession of other California state-issued licenses or certifications (e.g., private investigator, private patrol operator). In the second part of the questionnaire, the licensees were asked to rate specific job tasks in terms of frequency (i.e., how often the licensee performs the task in the licensee's current job) and importance (i.e., how important the task is to performance of the licensee's current job). In the third part of the questionnaire, the licensees were asked to rate specific

knowledge statements in terms of how important that knowledge is to performance of their current job.

In February 2016, the Bureau reached out to all of the California-licensed RAQs inviting them to complete the questionnaire online. Due to the small population of licensed RAQs in California, the Bureau mailed notification letters to all the licensees (a total of 297). In March 2016, the Bureau also e-mailed licensees an additional invitation to participate in the online questionnaire. Because of the low response rate, the Bureau extended the deadline for the questionnaire and sent out additional reminders and notices to the licensed community to participate in the questionnaire. A total of 19 (6.4%) RAQs responded by accessing the Web-based questionnaire. The final sample size included in the data analysis was 9, or 3% of the population that was invited to complete the questionnaire. This response rate reflects two adjustments. First, data from respondents who indicated they were not currently licensed and were not currently working as RAQs in California were excluded from analysis. Second, data from respondents who failed to complete a significant portion of the questionnaire were excluded from analysis.

OPES then performed data analyses on the task and knowledge ratings obtained from the questionnaire respondents. The task frequency and importance ratings were combined to derive an overall critical value for each task statement. The mean importance rating was used as the critical value for each knowledge statement.

A subsequent focus group of California-licensed RAQs with diverse backgrounds in the RAQ profession (e.g., location of job, years licensed) was conducted in July 2016 to develop the new examination content outline. The licensees evaluated the critical values in order to determine whether any task and knowledge statements should be eliminated from the new examination content outline. Ultimately, none were eliminated. The licensees also established the linkage between job tasks and knowledge statements, organized the task and knowledge statements into content areas, and defined those areas. They then evaluated and confirmed the content area weights. The new examination content outline for the RAQ licensing examination is structured into four content areas weighted by criticality relative to the other content areas.

The examination content outline provides a description of the scope of work for licensed RAQs in California, and it also specifies the job tasks and knowledge critical to safe and effective RAQ performance of the profession in California at the time of licensure. Additionally, the content outline serves as a basis for developing a written examination for inclusion in the process of granting RAQ licensure in California.

OVERVIEW OF THE REPOSSESSOR QUALIFIED MANAGER (RAQ)
EXAMINATION CONTENT OUTLINE

Content Area	Content Area Description	Percent Weight
I. Operations	This area assesses the candidate's ability to oversee registrants, implement procedures, securely maintain required records, and comply with laws and regulations.	23%
II. Repossession	This area assesses the candidate's ability to verify repossession assignments, locate collateral, and perform repossession procedures in accordance with laws and regulations.	32%
III. Process Report	This area assesses the candidate's ability to complete, verify, and process required reports in accordance with laws and regulations.	25%
IV. Release/ Dispose	This area assesses the candidate's ability to perform and oversee the release and disposal of collateral or personal effects resulting from repossessions in accordance with laws and regulations.	20%
Total		100

Attachment G

California Bureau of Security and Investigative Services Fee Audit Review – Private Investigator Fees Report



California Bureau of Security and Investigative Services

Fee Audit Review --Private Investigator Fees

September 7, 2018

SUBMITTED BY:

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Your Path to Performance

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Executive Summary

The mission of the California Bureau of Security and Investigative Services (Bureau or BSIS) is to protect and serve the public and consumers through effective regulatory oversight of the professions within its jurisdiction. The Bureau licenses and regulates companies and employees in the private security industry. BSIS is one of 37 regulatory entities within the California Department of Consumer Affairs (DCA).

A specific function of the Bureau is to review/set fees levied on applicants for initial and renewal licensure, registrations, certificates or permits, as well as any modifications. The fees are intended to be sufficient to cover the cost of the Bureau's regulatory services.

In 2017 CPSHR reviewed the licenses and fees supporting the Private Security Services (PSS) Fund. This study will address the Private Investigator licenses and fees and fund condition.

Summary of Findings and Recommendations

Based on the review, CPS HR found the following. The information is covered in detail in the body of the report:

- PI funded positions increased from 3 to 5.5 personnel years (PYs) between FY 14-15 and FY 18-19. The Bureau will over expend the .5 py to 1 py beginning in FY 18-19 to meet operational needs by redirecting operating expense savings.
- PI licensing trends: overall the number of active PI licensees declined by an estimated 11% between FY 13-14 and FY 17-18. Initial PI licenses issued were down over the last five fiscal years. The renewal licensing trend continued down throughout the same period.
- On January 19, 2016, the Bureau implemented DCA's BreEZe online licensing and enforcement system which offers one-stop shopping for BSIS licensees, applicants and consumers. The Bureau incurred significant costs to implement BreEZe.
- PI enforcement trends: Overall, PI licenses (8831) represent only about 2.5% of the total licenses regulated by the Bureau (about 350,000), but represent an increasing percentage of total complaints received. As a percentage of total complaints received in the last three fiscal years, PI complaints have increased from 7.0% and are now 10.8% of the total complaints received.
- Also, PI cases are more complex than the general Enforcement cases. With limited cite and fine authority in the Private Investigator Act, a larger percentage of the PI cases are referred to the Office of the Attorney General (OAG) than their representation in the general licensee population. In the last two years, they increased from 9.9% to 13.1% of all the cases referred to the OAG.

- Fee income has been up and down slightly over the last three Fiscal Years, but overall revenues have not kept up with expenditures since FY 14-15. Moreover, scheduled fees have not been raised for 20 years.
- The current PI fee structure is insufficient to recover actual PI-related costs and will deplete the reserve in FY 19-20 unless action is taken before then to increase fees.
- Between FY 16-17 and FY 18-19, various Budget Change Proposals (BCPS) were approved to reimburse expenditures from the PSS fund to support PI licensing activity, and add staff to cover PI workload. Newly enacted legislation, as well as collective bargaining salary increases totaling 12% over three years will also increase expenditures from the PI fund. By the end of Fiscal Year 19-20, these additional obligations will add an estimated \$414,000 annually to the expenditures from the PI Fund. This is approximately a 39% increase from the FY 16-17 expenditures.

As a result of the above findings, CPS recommends the following:

1. To increase productivity and contain costs, the Bureau should strongly encourage new and renewal customers to take full advantage of BreEZe online services.
2. After consultation with DCA and its licensees, BSIS should determine fees for PI licenses and services at rates that will maintain the PI fund with an acceptable reserve. One approach is to consider using a fully absorbed cost rate of \$122 per hour. However, this may result in Initial application and initial license fees that could discourage new applications. The Bureau may want to consider a lower fee for those license types and support the fund through increased renewal fees, which are spread across a larger population and represent about 79% of fee revenue.
3. BSIS management should develop and introduce legislation to revise the fee schedule as soon as possible, and inform current and prospective licensees of the changes.
4. The Bureau should also implement a regular schedule of between 3-5 years to review and revise the annual amount transferred to the PSS fund to support PI activities to recognize cost changes.
5. The Bureau should consider and discuss with the PI community whether it makes sense to combine the PSS and PI funds into one fund. Given the small size of the PI fund, it is not efficient to keep separate records, and track expenditures separately. Also, given the small size of the fund, even a small change in revenue or expenditures can have a disproportionate impact on the solvency of the fund.
6. The Bureau in consultation with its licensees should also consider pursuing a broader cite and fine authority for PI Licensees similar to its authority for other licensees. It would be less time consuming and expensive for both the Bureau and licensees who wish to appeal the Bureau's decisions. As described in the report, the current process requires almost all

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appeals to be heard through the administrative hearing process and requires involvement of the OAG. Broader Cite and Fine authority would allow appeals to be heard by the newly established Private Investigator Disciplinary Review Committee.

Introduction

The mission of the California Bureau of Security and Investigative Services (Bureau or BSIS) is to protect and serve the public and consumers through effective regulatory oversight of the professions within its jurisdiction. The Bureau licenses and regulates companies and employees in the private security industry. The Bureau has jurisdiction over alarm companies and their employees, locksmiths and their employees, repossession companies and their employees, baton and firearm training facilities and their instructors, private investigators, private patrol operators and their security guard employees, and proprietary private security employers and their proprietary private security officer employees. The Board is one of 37 regulatory entities within the California Department of Consumer Affairs (DCA).

Background

In November 2016, the Bureau engaged CPS HR Consulting (CPS) to provide performance auditing and consulting services to review Bureau performance and the structure for the 21 license fees collected only within the Private Security Services (PSS) fund for fiscal years 2012-13 through 2015-16, including accomplishing the following objectives:

- Assess and correlate the workload for approximately 65 Bureau employees to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.
- Analyze all fees and other revenues collected by the Bureau within the PSS fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.
- Project fees/revenues and related costs for the next three to five fiscal years.
- Determine a cost basis to fairly increase existing fees to: cover all PSS-related costs, ensure a sufficient PSS fund reserve, and assess other services provided by the Bureau when a separate fee is not provided by statute or regulation.

As a result of this study, the Bureau increased fees for most licenses supporting the Private Security Services fund effective July 1, 2018.

In April 2018, the Bureau engaged CPS HR Consulting (CPS HR) to provide performance auditing and consulting services to review Bureau's fee structure for the 2 license types collected within the Private Investigator fund:

- Ensure that the fees are set at an appropriate level to cover the Bureau's costs to support all PI related activities.
- Determine a cost basis to fairly increase existing fees to: cover all PI-related costs, ensure a sufficient PI fund reserve, and assess other services provided by the Bureau when a separate fee is not provided by statute or regulation.

Private Investigator Act

Pursuant to Business and Professions Code (BPC) Section 7521, a private investigator, within the meaning of the Private Investigator Act (Act) is an individual who for any consideration engages in business or accepts employment to make any investigation to obtain information relating to: crimes or wrong doings against the U.S, states or territories; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of a person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility of fires, libels, losses, accidents, damage, or injury to persons or property; or securing evidence for use in any court, board, officer or investigating committee. Pursuant to BPC Section 7521.5, a private investigator may protect a person only if such services are incidental to an investigation they were previously hired to perform; they may not protect property. As specified in the Private Investigator Act, individuals performing private investigation activities must hold a Bureau private investigator (PI) license unless otherwise exempted pursuant to BPC Section 7522.

Each PI licensee's business must be operated under the active direction, control, or management of the qualified manager (QM), who can be the licensee if they meet the specified requirements or another individual designated by the licensee who meets the specified requirements. The qualified manager must meet the requirements for licensure specified under Section 7526 of the Business and Profession Code (BPC) and pass a PI Licensing exam. The QM does not hold a separate license; they are the qualifier for the PI license. The Act does not regulate employees of private investigator licensees and, accordingly they are not required to register with the Bureau.

The Act authorizes the private investigator licensee and the qualified manager to obtain a Bureau-issued firearm permit under specified conditions. As of June 13, 2018, there were 8,831 BSIS-licensed Private Investigator and 127 BSIS-certified Private Investigator Branch offices. Legislation was enacted in 2014 (AB 1608, Chapter 669) to authorize a PI license to be held by a Limited Liability Company (LLC) from January 1, 2015 through January 1, 2018. Legislation enacted in 2017 (SB 559, Chapter 569) extended the authority to January 1, 2021. In addition, the bill required that effective July 1, 2018, a PI LLC licensee report to the Bureau any pending or paid claim against its liability insurance policy, and the Bureau to specify that a PI licensee is an LLC and to post the PI LLC licensee's claim data on DCA's public License Search website. These new mandates have created additional PI-related workload for the Bureau.

Bureau History, Composition and Governance Structure

Regulatory oversight of the California private security industry began in 1915 with the creation of the Detective Licensing Board. After several name changes, Assembly Bill 936 of the Statutes of 1993 formally renamed the organization as the Bureau of Security and Investigative Services.

The BSIS Bureau Chief reports to the DCA Director and oversees approximately 63 authorized positions. On average, there are about nine temporary positions at any given time. The Bureau has five statutorily-established Disciplinary Review Committees (DRC), including one established in the PI Act. Each DRC is composed of three respective industry and two public members. The DRCs consider appeals of license denials and suspensions as well as assessment of administrative fines. The Bureau also has a voluntary Advisory Committee comprised of seven professional and six public volunteer members. This committee provides policy insight and perspective to the Bureau. The DCA Director appoints the committee members to two-year terms with no salary or benefits.

Private Investigator License/Renewal Fees and Fee Change History

The Bureau's current Private Investigator fee schedule has four (4) separate fees for two (2) license types. In 1994, AB 3291 repealed the then existing Private Investigator Act and reorganized and re-enacted the provisions into two different acts, the Private Investigator Act and the Private Security Services Act. The PI licensing fees have not been increased since 1998. The renewal period for licenses is two years from the date issued.

Bureau Functions and Staffing

From fiscal year (FY) 2012-13 through FY 2015-16, there were three (3) permanent positions wholly dedicated to Private Investigator activities and, accordingly, supported by the PI Fund: two Associate Governmental Program Analysts (AGPAs) in the Enforcement Unit and one Staff Services Analyst in the Disciplinary Review Unit. As a result of an FY 2016-17 Budget Change Proposal (BCP), the number of permanent positions supported by the PI fund increased to four (4) in FY 2017-18 with the addition of a Program Technician II (PT II) in the Licensing Unit. Prior to this BCP, a PT II wholly supported by the Private Security Services Fund processed all initial and renewal PI applications as well as other PI licensing activities (e.g., name changes, address changes, changes of qualified managers, etc.).

As a result of a FY 2017-18 DCA BCP which redirected staff from the Department's Complaint Resolution Program to the various Department Bureaus based on the apportioned number of complaints received for the Bureau, one (1) SSA position was directed to carry out PI complaint-related activities and, accordingly, the position was allocated to the PI Fund. In addition to the five (5) permanent positions, other staff in the Bureau funded by the PSS fund provide support services to the PI program. These activities are funded by an annual payment from the PI fund to the PSS fund of \$269,000.

An FY 2018-19 BCP added a 0.5 PT II to the PI Fund, effective July 1, 2018 to administer the provisions of SB 559. That legislation requires a PI licensee organized as an LLC to report a paid or pending claim against its general liability insurance to the Bureau for posting on the Department of Consumer Affairs (DCA) License Search website. This requires ongoing maintenance of the pending and paid claim to ensure it is accurately being reported on the public website. Because of the overall volume of PI-licensing workload, the Bureau obtained approval to over-expend the 0.5 PT II position to 1.0 PT II position and as of the date of this report, the Bureau is in the process of recruiting for the position.

As a result of the recent BCP, effective July 1, 2018, five and a half (5.5) permanent positions are supported by the PI fund.

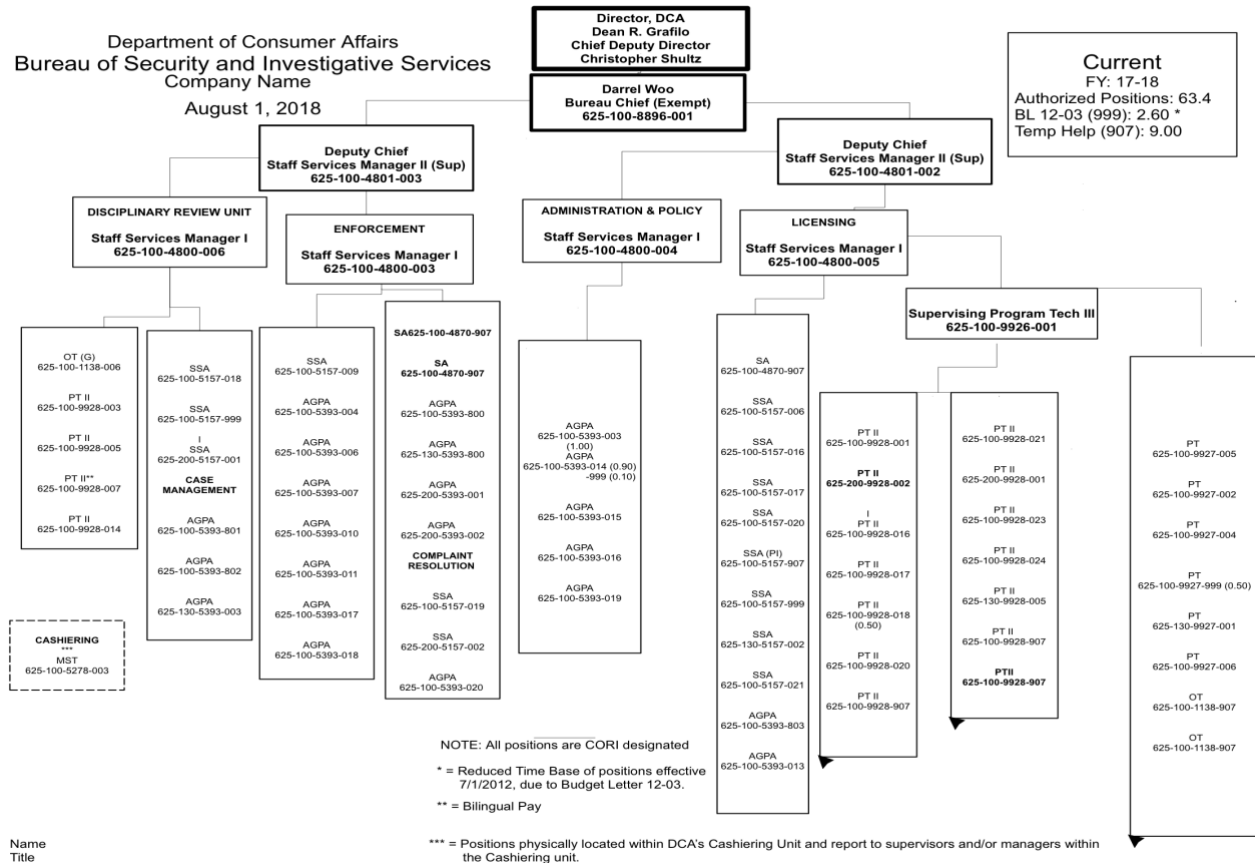
The Bureau Chief is an exempt position and reports to the DCA Director. Two Deputy Chiefs (Staff Services Manager II) report to the Bureau Chief. The Disciplinary Review Unit and Enforcement Unit report to one Deputy Chief, while the Administration & Policy Unit and Licensing Unit report to the other Deputy Chief.

The Bureau's primary civil service classifications include:

- Staff Services Managers (SSM) I and II (Supervisory)
- Associate Governmental Program Analyst (AGPA)
- Staff Services Analyst (SSA)
- Program Technician (PT) and Program Technician II (PT II)
- Office Technician (OT)

The Bureau organization chart (Figure 1) was effective August 1, 2018. During the course of the study, some positions were filled and/or reclassified. The chart also reflects one position in the DCA Cashiering Office that the Bureau directly supports.

Figure 1
Organization Chart
Bureau of Security and Investigative Services as of August 1, 2018



Scope, Objectives and Methodology

The scope of this engagement focused on a review of the Bureau's fee structure and staff workload related solely to the fees of the two (2) license types collected within the Private Investigator (PI) fund, including the following objectives:

- Assess and correlate the workload for approximately six (6) Bureau employees supported by the PI fund to the actual activities performed to determine an hourly or unit cost to support licensing, renewal, enforcement, etc.
- Analyze all fees and other revenues collected by the Bureau within the PI fund and related expenditures (including DCA overhead pro rata expenses), to determine if fee levels are sufficient for the recovery of the actual cost of conducting its programs.

- Determine a cost basis to fairly increase existing fees to: cover all PI-related costs, ensure a sufficient PI fund reserve, and assess other PI funded services provided by the Bureau when a separate fee is not provided by statute or regulation.
- Based on the financial analysis, project fees/revenues and related costs for the next three to five fiscal years.
- Prepare a written report of the findings and recommendations.

The study scope **did not** include auditing the license types and fees collected within the Private Security Services (PSS) fund.

The CPS HR methodology included:

- Conducted an on-site kickoff meeting;
- Conducted off-site document reviews of the PI Practice Act, the Bureau strategic plan, 2014 Sunset Review, fee schedule, online forms, multi-year Bureau financial information covering revenues and expenditures for four fiscal years, FY 2014-15 through FY 2017-18, organization chart and current staff duty statements.
- Reviewed and applied staff workload time assumptions regarding the processing of initial and renewal paper and online licensing applications, automatic renewal coupons, replacement and delinquent licenses.
- Observed and sampled licensing work performed to confirm the completeness and accuracy of Bureau staff duty statements, and staff workload processing time assumptions.
- Analyzed revenues and expenditures for four fiscal years, FYs 2014-15 through FY 2017-18 for various anomalies and trends to serve as the basis for projecting future revenues, expenses and fees required to recover the expenses.
- Prepared draft and final reports with recommendations for improvement.

Constraints and Data Qualifications

CPS relied on information received from Bureau management and staff, the DCA Budget Office and reviews of unaudited data.

Acknowledgment

CPS wishes to thank all participants at the Bureau of Security and Investigative Services and the DCA Budget Office for their significant, invaluable and timely contributions.

Study Results

The following presents information about Bureau PI fund license types, fees and revenue, staff tasks and workload by function, and operational observations, findings and recommendations. This section also analyzes revenue, expenses, and PI fund balance. Finally, this section presents assumptions, hourly rate and license fee revenue projections based on fully absorbed costs to cover future estimated PI-funded expenses.

License Types

Table 1 displays for Fiscal Years (FYs) 2014-15 through 2017-18, the total number of current licenses for the 2 license types that support the PI Fund. These license types are: Private Investigator (PI) license and Private Investigator Branch Office (PIB) certificate. The Private Investigator License is a company application which includes the review of the qualifications for the individual who will serve as the Qualified Manager (QM) as part of the overall application process. Each PI license must be associated with a PI qualified manager, which may be the licensee or person designated by the PI licensee, who is responsible for the active management, direction, and control of the PI-licensed business. A condition for an individual to serve as the QM is passage of the PI licensing exam. The PI QM does not hold a separate license; the QM is a qualifier for the issuance and maintenance of the PI license. Employees of private investigators are not regulated by the PI Act and, accordingly, are not required to register with the Bureau. In addition, there are Private Investigator Branch Certificates. A branch office certificate is required for each additional location, separate from the PI licensee's principal place of business. In general, the overall number of PI licenses decreased by almost 11% percent over the four fiscal-year period, while the number of Branch registrations remained stable.

The Private Investigator licensing process involves two steps, each with a different fee. First, a PI applicant files a license application/examination (\$50 fee). At this point, the application process will determine whether the applicant, either personally or the person designated by the licensee to serve as the Qualified Manager on the license meets the age, education/experience, and criminal history background requirements to be eligible to sit for the PI licensing examination. The Qualified Manager may be an owner, partner, corporate officer, managing member, or any other person designated by the PI license applicant who meets the requirements for Qualified Manager.

Once the Private investigator or Qualified Manager is determined to meet the requirements and passes the examination, the Private Investigator Company license fee (\$175) is paid. The next phase of the application process involves ensuring all individuals who will be active in the PI business have completed a Personal Identification Form and satisfied the criminal history background requirement, as well as determining the type of company and whether there is

appropriate documentation for the type of company, i.e. sole proprietor, partnership, Corporation, or Limited Liability Corporation (LLC). The type of company influences the complexity of the company license application. Some business types like LLCs or partnerships comprised of legal entities instead of persons are much more complex than other business types.

Initial and renewal licenses are good for two years. Biennial renewals occur at the end of the month of the license issuance anniversary date, which is typical of most DCA Boards, Bureaus and Commissions.

Table 1
BSIS Private Investigator Fund Licenses Type 4 Year Activity

Private Investigator licenses						
License Type		FY 14-15	FY 15-16	FY 16-17	FY 17-18	4 Yr Avg
Private Investigator (PI)	Total Licenses	9755	9273	9090	8831	9237
	Initial Applications	388	346	413	408	389
	Renewals	4530	4652	4188	4217	4397
	Licenses Issued	295	204	279	278	264
Private Investigator Branch Office	Total Licenses	133	137	138	127	134
	Initial Applications	19	19	20	36	24
	Renewals	47	55	47	37	47
	Licenses Issued	14	24	17	34	22

Source: BSIS

For the four-year period reviewed, Table 1 shows initial PI licenses issued and indicates an overall decreasing trend of 6%. Total active PI licenses shows a decline of 9% over the four-year period. PI license renewals have fluctuated, but on the whole, show a downward trend of -7% from the FY 14-15 renewals. The number of PI Branch offices remained relatively stable over the 4-year period, in spite of declining numbers PI licenses, but showed a drop of almost 5% in FY 17-18.

License Fees and Revenues

The PI fund receives fees from 2 license types, an initial application fee, and a renewal fee. There are two fees associated with an initial PI license, the application/examination fee and the license

fee. The renewal period for the PI licenses is two years. As stated above, PI Qualified Managers do not hold a separate license, they are a conditional requirement for a PI license and accordingly, are not subject to renewal.

Table 2 below shows the current fees for PI licenses and the statutory maximum limits. As previously noted, the PI licensing fees have not been increased since 1998, twenty years.

**Table 2
Current Private Investigator Fee Schedule**

	Current Fee
Private Investigator (Initial Application and Exam Fee)	\$50.00
Private Investigator Initial License Fee	\$175.00
Private Investigator - Branch -(PIB)	\$30.00
Private Investigator Biennial Renewal	\$125.00
Private Investigator Branch Renewal	\$30.00

NOTE: Under current law, the BSIS Firearms Permit initial and renewal fees for a PI licensee and a PI Qualified Manager are set by cross reference to the Private Security Services (PSS) Act. Since BSIS Firearms Permit fees were already addressed as part of BSIS 2017 efforts to increase license fees that support the PSS Fund, firearms permit fees are not be considered in this audit.

Staff Tasks and Workload Breakdown

As the organization chart displays, Bureau staff tasks and workload are broken down into leadership and four functional operations units: Licensing, Disciplinary Review, Enforcement, and Administration & Policy. CPS HR validated workload tasks and processing assumptions through observation and interviews.

CPS HR found BSIS staff in each functional unit have current written standard operating procedures and guides. In addition, applicants have access to a variety of guides, reference documents and instructions provided on the Bureau's website (www.bsis.ca.gov).

In general, Bureau management claims all critical and essential function tasks are being performed in a relatively timely manner. They acknowledge the DCA's BreZE system has increased processing times but believe the benefits of utilizing relational licensing and enforcement systems outweigh the productivity loss. Staff report BreZE is more comprehensive but contains more data entry steps and operates slower than prior DCA systems.

Following are discussions about each functional operations unit and the most significant processes. In general, the duties are not specifically broken out by license type. All employees handle all license types within their functional area. There is one Program Technician II and one Staff Services Analyst in Licensing who specialize in Private Investigator QM and Initial

applications, but they also perform duties for other license types on the phone or as needed. In addition, the Bureau is in the process of filling the PT II position created by the SB 559 BCP.

Bureau Leadership Tasks and Responsibilities

Bureau Chief

The Bureau Chief's primary duties entail performing managerial oversight of the BSIS functions; setting policy and operational priorities; maintaining relationships with consumer groups, licensees and industry associations; proposing legislative and regulatory changes; budget/fiscal control, administration, legislation and regulations, and working with DCA Public Affairs to educate consumers, the industry and the general public.

Bureau Deputy Chiefs

There are two Bureau Deputy Chiefs. One Deputy Chief (DC) oversees the Licensing Unit and the Administration & Policy Unit. The incumbent's primary duties include supervising staff, and consulting and advising management, legislative staff and industry groups on key Bureau licensing-related issues.

The other DC oversees the Enforcement Unit and Disciplinary Review Unit (DRU). The incumbent's primary duties entail supervising staff, consulting and advising management and industry groups on key Bureau enforcement-related issues and ensuring compliance with BSIS requirements, goals and objectives relating to enforcement and disciplinary activities.

Licensing Activities

The Bureau's Licensing staff performs licensing activities for all licenses, registrations, permits, and certificates issued by the Bureau. Licensing duties include receipt and processing of initial paper applications and online applications via BreEZe, and paper and online renewals and automatic renewal coupons. In addition, the Bureau receives and processes applications for company change of name, duplicate/replacement licenses, license reinstatements, and delinquent renewals. Duties related to receipt and processing of fee payments for initial and renewal paper applications and automated coupons are performed by the DCA Cashiering Office and paid from the Bureau's pro rata costs to DCA. However, Bureau license analysts perform cashiering duties related to processing refunds, duplicate payments, misapplied payments and credit card chargebacks.

The licensing staff's targeted processing time for clean (i.e. non-deficient) initial PI company paper and BreEZe applications is 120 days. The targeted processing time does not account for the time it takes for the QM to take and pass the exam and the time for the applicant to remedy any deficiencies.

Licensing Workload Assumptions and Task Time Estimates

Based on staff interviews, observation and the development of workload assumptions (Appendix 1) for general licensing tasks, the following briefly describes initial and renewal application/coupon and miscellaneous license processing tasks the Licensing Unit performs, and that are built into the costing model.

Initial Application Processing

The Bureau receives Private Investigator License applications either by paper in the mail or online through BreEZe. Mailed paper applications are first routed through the DCA Cashiering Office where cursory information is entered into BreEZe to establish a BreEZe account for the applicant and fee payments are processed. Next, the applications are routed through inter-office mail to the Bureau where staff enter all other application information, including criminal history responses into BreEZe, and review the applications for completeness. Applications submitted via BreEZe may be paid by credit card, (only the \$50 application fee is accepted online) and require the application documents to be scanned and uploaded to submit via BreEZe.

Due to the complexity of company applications, they undergo additional levels of review by a Licensing Analyst, and in some cases, by the Licensing Manager (5-15% review) with a small number of the more complex cases also being reviewed by the Licensing Deputy Chief or Bureau Chief.

A PI license may be held by a sole proprietor, partnership, corporation, or LLC. There are different documentation requirements for each of the different company types, but in all cases a PI license must be associated with a PI Qualified Manager, who has passed the required examination. Each principal who will be active in the PI licensed business (owner, partners, officers in a corporation, or officer, manager or member of an LLC) as well as the Private Investigator Qualified Manager must complete a personal identification form and undergo a criminal history background check to be associated with the PI license.

If the person who will serve as the Qualified Manager is deemed to meet the age and education/experience requirements and has no convictions that would preclude licensure, the person is advised to contact the third-party vendor to schedule an appointment to complete the PI Qualified Manager Examination. If the application documents for the person who will serve as the Qualified Manager are deficient, Bureau staff generate and mail a deficiency letter to the applicant. Upon receipt of the deficient information, Bureau staff determine if the deficiencies are satisfied. If the deficiencies are satisfied, Bureau staff will advise the person to schedule an appointment to complete the examination. If the newly submitted documentation does not satisfy the deficiency/deficiencies, Bureau staff will either issue another deficiency letter or issue a denial notice advising the applicant that the person designated to serve as the Qualified

Manager does not meet the statutory requirements to sit for the qualifying exam, depending on the nature of the deficiency.

If the person who will serve as the Qualified Manager fails the exam, they may request to sit for it again with a re-examination fee. The person has up to one year from the date Bureau staff deemed them eligible to sit for the exam to pass it. If the person does not pass the examination after one year has lapsed, the application is deemed abandoned. After Bureau staff are notified that the applicant or the person designated by the applicant to serve as the Qualified Manager passes the exam, they issue the applicant a letter notifying them that they must pay the \$175.00 initial license fee and indicating if there are any remaining deficiencies or issues needed to complete the application. For complex applications (e.g., partnerships involving legal entities instead of persons or corporations/LLCs that may be part of a holding company system), there is a second level review by a Licensing Analyst and potentially the Licensing Deputy Chief or Bureau Chief.

CPS HR was advised that a large number of initial applications (70%), whether submitted by mail or BreEZe are deficient in some way. The most common causes of deficiencies are incomplete or inaccurate information, or the documents for the person who will serve as the Qualified Manager inadequately detailing how the person meets the education and/or experience qualifications. Applications received without payment are returned and not processed.

Deficient applications incur more processing time because of the preparation and mailing of one or more deficiency letters, receipt of the corrected application and/or related documents needed to remedy any deficiency through the mail, and subsequent staff review until the application is complete. Each time an application is deficient, it takes approximately 80 to 90 minutes of additional processing time. However, since some company/QM deficiencies require two levels of review, these deficient applications can take an additional 90 to 180 minutes to process.

The \$175 license fee is paid after the qualified manager passes the PI qualifying exam and payment must be submitted through the DCA Cashiering Office.

Initial Branch applications are much smaller in number, only 20 in FY 16-17 and 36 in FY 17-18. A review of the records shows that approximately 25% of the initial branch applications were submitted through BreEze in FY17-18. They are much simpler and are 90% clean. Clean applications take about 30 minutes to review and process.

Renewal Paper Application Processing

Due to the Bureau's renewal application processing times, licensees are advised to submit their renewal application and fee payments to the Bureau at least 60 days, but not more than 90 days, before their license expiration date to help ensure that the renewed license is issued before the current one expires.

The Bureau reports that the processing of renewal paper applications is faster due to fewer deficiencies than initial applications. Clean applications take about 30 minutes to process and approve. Deficiencies are dramatically lower with 10% for PI Licenses and 2% for PI Branch renewals.

Deficiencies can increase processing time by 80 minutes for each subsequent deficient application. One common renewal deficiency involves PI licensees organized as an LLC and relates to their failing to provide proof of maintaining the required general liability insurance. Another frequent deficiency involves staff having to change the address associated with the licensee.

Online Renewal Application Processing

A review of the information since the Bureau began using BreEZe in January 2106 through June 2018, indicates that most renewal applications are submitted via the automatic renewal coupon. In FY 17-18, the Bureau received 25% of PI Licenses and 35% of PI Branch renewal applications through BreEZe. In general, processing online renewals and payments through BreEZe is an automatic process. It does not require Bureau staff to review documents and there are no deficiencies.

Automatic Renewal Coupon Processing

The Bureau reports automatic renewal coupons take a similar amount of time to process as renewal paper applications, and the percentage of deficiencies are the same with the most frequent deficiencies involving address changes and PI licenses held by an LLC failing to provide proof of maintaining the required general liability insurance.

A review covering FY 16-17 and FY 17-18 revealed that the Bureau received an average of 67% of renewal applications by Automated Renewal Coupons.

Miscellaneous Licensing Task Processing

Miscellaneous Licensing tasks that generate fees include change of name, duplicate/replacement license, license reassignments and re-examination requests. Change of Name and Duplicate/Replacement applications have fewer deficiencies (90-98% clean) and can be processed in 30 minutes for clean applications. It takes 80 minutes for applications with initial deficiencies, plus another 80 minutes for applications with secondary deficiencies. However, the volume of such items for PIs is relatively small. The processing times and deficiency rates for an Application to Reassign the License run comparable to applications for initial licensure. Re-examination for Qualified Managers for clean applications (95%), includes cashiering, mail handling, data entry into BreEZe, and approval in 30 minutes. Applications with initial deficiencies (5%) complete the cashiering, mail handling, data entry, preparing/sending a deficiency letter, return processing and approval steps in 80 minutes. Processing time can range from 30 minutes for a clean application with an additional 80 minutes for each deficient submission.

Licensing Staff Tasks and Workload Breakdown

The Licensing function contains the following classifications: Staff Services Manager I, Supervising Program Technician III, Associate Governmental Program Analyst, Staff Services Analyst, Program Technician, Program Technician II, and Student Assistant. As previously noted, the Bureau supports one Management Services Technician position in the DCA Cashiering Office. A portion of the Bureau's DCA pro rata costs support these cashiering services provided to the Bureau.

PI licensing tasks are handled by 1.0 PT II and 1.0 SSA. However, as previously noted, 1.0 PTII will be hired shortly (SB 559 BCP) and application review and troubleshooting, as well as miscellaneous PI licensing tasks are spread across all of the licensing staff along with all other licensing activity.

Staff Services Manager I and Supervising Program Technician III

The Licensing Manager's primary duties include developing policies and procedures and implementing effective program management strategies to support timely licensing activities according to statutory mandates and in alignment with Bureau priorities; conducting complex licensing-related research and analysis; overseeing various statistical reports to monitor production activities and for reporting purposes; and general management activities. The Licensing Manager has direct oversight of all licensing analysts.

The Supervising Program Technician III trains, schedules, supervises and oversees workload and distribution, and evaluates Program Technician and Program Technician II performance. Other duties performed include responding to sensitive inquiries and developing monthly workload activity schedules.

Associate Governmental Program Analysts (AGPA)

The AGPAs' activities include approving Power to Arrest Trainers, overseeing license data report activities (monthly and ad hoc), working with Department family support staff relating to impacted Bureau licensees, research and responding to sensitive escalated issues, and providing overall high-level analytical support.

Staff Services Analysts (SSA)

The SSAs primarily focus on resolving cashiering problems, running on-demand license application exception reports, assisting licensing technicians to identify and report application deficiencies, providing second-level reviews of company and qualified manager applications, approving badge and emblem applications, and reviewing, analyzing and solving application processing problems that result in backlogs. The SSAs review and verify experience for qualified manager and license applications. They also provide support and assistance to license applicants in building required organization documentation. In addition, they serve as liaisons between DCA Cashiering and Accounting Offices.

Program Technician IIs/Program Technicians

The PT II's are the first point of contact for the application documents, conduct reviews for completeness and issue standardized deficiency letters, as warranted. They also serve as the primary point of contact with company applicants and respond to technical application-related questions by phone or email. They enter information into BreEZe, and process fingerprint rejection notifications. PI application and other license document processing activities are carried out by the 1.0 Program Technician II (PT II) supported by the PI Fund. Historically, when this person is out, other PT IIs supported by the Private Security Services (PSS) Fund must provide backup support. Recently, the PT II supported by the PI Fund was out several months, which resulted in the other licensing staff carrying out all PI application/form processing activities during this time. As previously noted, 10 PT II (SB 559) will be hired shortly to assist with PI licensing activities.

PT IIs also process firearm initial and renewal applications. BSIS Firearms Permit renewal applications from PI licensees and PI qualified managers are processed by PT II staff supported by the PSS Fund.

The PTs process employee applications in BreEZe, answer phones, and process fingerprint rejections.

Office Technicians

The Office Technicians process, sort and distribute paper applications and other mail. They also perform various filing and application distribution activities. As needed, they assist with processing applications and answering phones.

Cashiering Management Services Technician (MST)

The Cashiering MST handles Bureau cashiering activities. The incumbent is an employee of the DCA Central Cashiering Unit and reports to the DCA Fiscal Operations Accounting Administrator. In addition, DCA Cashiering staff also perform other Bureau cashiering activities covered by DCA pro rata costs.

Enforcement Activities

The Bureau's Enforcement function consists of complaint resolutions and investigations. The Complaint Resolution Program operates within the Enforcement Unit (EU).

The EU Complaint Resolution staff receive and attempt to resolve complaints involving Bureau licensees through alternative settlement action. The EU staff receive and investigate complaints from consumers, licensees, law enforcement and other government agencies, and conduct compliance inspections of company licensees which may result in full investigations. EU staff

also recommend and issue citations and fines, and recommend disciplinary actions through the California Department of Justice's (DOJ) Office of Attorney General (OAG).

Table 3 shows that the percentage of PI complaints represent an average of 9% of total consumer complaints received by the Bureau. Of the total complaints referred for investigation, PI investigations represent an average of 7.6% of total Bureau investigations. Table 3 also shows that the percentage of PI related complaints and investigations has been increasing in spite of the overall trend of a decreasing licensee population. Overall, PI licenses (8,831) represent only about 2.5% of the total licenses regulated by the Bureau (about 350,000), but in FY 17-18 PIs accounted for 10.8% of the total complaints received and 9.5% of total investigations completed.

**Table 3
BSIS Consumer Complaints and Investigations**

	FY 14-15	FY 15-16	FY 16-17	FY 17-18	4 YR Avg
Total Complaints Received	2546	1536	1587	1779	1862
Total PI Complaints Received	177	135	164	193	167
Total Investigations Opened	2,900	1,042	1,159	1127	1557
Total PI Investigations Opened	150	117	100	107	119
PI Percent Received	7.0%	8.8%	10.3%	10.8%	9.0%
PI Percent Investigations	5.0%	11.0%	8.6%	9.5%	7.6%

* Prior to the Bureau transitioning to the BreEZe system, criminal conviction information was captured as complaint information which made the total number of complaints received higher than actual. This practice was ended in FY 15-16, resulting in more accurate complaints received data.

Enforcement Workload Assumptions and Task Time Estimates

Due to the repetitive, indefinite nature of handling consumer complaints, inspections, investigations, and issuing citations and fines, there are no specific Enforcement workload assumptions for these addressing the following activities and assigning them to specific license types. There are performance measures for some of these activities. For example, the performance measures for assigning a complaint to an investigator is 10 days and 120 days from complaint receipt to closure. The formal discipline performance measure for completing the entire enforcement process, including Bureau intake, investigation and OAG prosecution is 540 days.

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Because of the nature of Private Investigator business and the limited types of enforcement options the PI Act affords the Bureau, almost all PI complaints that are referred for investigation where egregious violations are substantiated, are referred to the OAG for administrative action. The PI Act has limited cite and fine authority; for example, the Bureau only has the ability to issue a citation and fine if a PI fails to notify the Bureau of a change of address within the numbers of day specified in the Act. Other PI violations require more investigation, analysis and management review in order to establish sufficient evidence to issue a civil penalty or submit the case to the OAG to prepare an accusation for revocation of licensure. Formal actions filed include Statement of Issues (SOI) and Accusations. A SOI is a legal document formally denying an application for licensure for criminal convictions or conduct constituting grounds for denial in accordance with the practice act. An Accusation is a document formally charging a licensee with violation(s) of the practice act, and notifying the public that the Bureau is attempting to revoke the license.

Enforcement cases referred to the OAG for formal discipline are much higher in cost overall and require not only additional staff time to review, prepare and testify at administrative hearings, but the Bureau must pay costs associated with being represented by the OAG. As previously noted, because the PI Act does not authorize the Bureau to pursue other disciplinary actions (e.g. citation and fine), the only remedy for licensees who violate the PI Act is through the administrative hearing process. PIs represent up to almost 13% of the total disciplinary cases referred to the OAG for formal administrative action. See Table 4 below.

Table 4
Private Investigator Enforcement Actions Referred to OAG
FY14-15 to FY17/18

	FY 14-15	FY 15-16	FY16-17	FY 17-18*	Avg
Total PI Cases Referred to OAG	6	9	11	4	8
Total Cases Referred to OAG (all licenses)	55	91	86	179	101
Percent	11%	9.9%	12.8%	2.2%	7.8%

BSIS Enforcement

*In FY 17-18, the decrease in PI cases referred to the OAG is attributable to transitioning to a new enforcement Manager. Due to the complexity of PI investigations, these cases took the new manager longer to carry out the required review to determine if the Bureau met the required burden of proof. During this same fiscal year, the number or overall cases referred to the OAG increased due to the Bureau's efforts to clear out a backlog and to initiate more PC 23 holds.

Because formal discipline is essentially the only enforcement option available to the Bureau, the percent of Accusations filed with the OAG are disproportionately high for the percent of PI licensees in the total licensee population. Accusations are the most labor-intensive action the Bureau can take on a licensee because the need to demonstrate that the licensee's actions and violation(s) merit revocation of licensure is significantly higher than the need to demonstrate a simple violation of the practice act. While Private Investigators represent only 2.5% of the

Bureau's licensee population, they represent an average of 19.3% of all Accusations filed by the Bureau. (See Table 5)

Table 5
PI Accusations Filed with OAG

Type of Action	FY 14-15	FY 15-16	FY 16-17	FY 17-18	Avg
PI Accusations	5	7	8	*3	6
Total Accusations	24	40	26	40	33
Percent of Total	21%	17.5%	31%	7.5%	19.3%

*In FY 17-18, the Bureau's Enforcement Manager accepted a position with DOJ. Because the Bureau had to recruit and train a new manager, there was a delay in management review of PI investigations and disciplinary actions. This resulted in fewer PI cases moving forward to the OAG in the latter half of FY 17-18.

Enforcement Staff Tasks and Workload Breakdown

The Enforcement Unit contains the following classifications: Staff Services Manager I, Associate Governmental Program Analyst, and Staff Services Analyst.

Enforcement Staff Services Manager I

The Enforcement Manager's primary duties entail developing policies and procedures and implementing effective program management strategies to support enforcement activities in accordance with statutory mandates, timely and in alignment with Bureau priorities; reviewing staff's complaint resolutions, compliance inspections and investigation reports, performing more complex enforcement-related research and analysis; overseeing statistical reports to monitor production activities and for report purposes; and performing general management activities. The incumbent also oversees the complaint, investigation, and citation and fine programs.

Associate Governmental Program Analysts (AGPA)

The EU AGPAs investigate complaints, conduct compliance inspections, and prepare correspondence and reports.

Complaint Resolution Program (CRP) AGPA and Staff Services Analysts

The CRP staff are responsible for complaint intake and resolution, statistical reporting, telephone support, quality control and special projects.

Staff Services Analyst (SSA)

The SSAs are responsible for complaint intake and distribution, managing issued citations, tracking inspection assignments, and serving as point of contact for Violent Incident Reports.

Disciplinary Review Unit Activities

The Bureau's Disciplinary Review Unit (DRU) performs the following activities: reviews criminal offender record information (CORI), also known as rap sheets, on applicants; issues denials of license applications; reviews subsequent arrest and conviction information on licensees;

automatically suspends licenses due to criminal convictions; and coordinates with the Office of the Attorney General (OAG) to take disciplinary actions against licensees. CORI records contain all criminal court appearances in California for a particular individual, including arrests, convictions, dismissals and serious violations. Information about non-California convictions is also received from the FBI via DOJ.

DRU staff also review and prepare case files and correspondence for appeal hearings for applicants whose license has been denied because of criminal records, or for licensees whose licenses have been automatically suspended due to a subsequent conviction or issued a citation and fine. These appeals may go through the formal administrative hearing process or through various BSIS Disciplinary Review Committees. DRU Case Management staff also liaise with the OAG on disciplinary cases, and monitor and refer non-compliant probationary licensees to the OAG.

DRU Workload Assumptions and Task Time Estimates

AB 921, (Chapter 635, Statutes of 2016), added Sections 7519.1 through 7519.4 to the Business and Professions Code and established the Private Investigator Disciplinary Review Committee(DRC) effective July 1, 2017. A DRC provides an alternative option to the administrative hearing process for applicants and licensees to file appeals. As of the end of June, 2018, the newly established DRC has not yet met due to no appeals being filed. PI licensees may appeal administrative fines and civil penalties the Bureau assess them and applicants for a PI license may appeal the Bureau's denial of a license application or, the suspension or revocation of a license through the PI DRC except for those actions arising from orders carried out in accordance with Sections 11500-11529 of the Government Code. Typical DRC appeals on an application would involve the denial of an applicant's experience to qualify to take the PI Qualified Manager examination. There are few PIs application denials based on criminal convictions.

Disciplinary Review Unit Staff Tasks and Workload Breakdown

The Disciplinary Review Unit (DRU) contains the following classifications: Staff Services Manager I, Associate Governmental Program Analyst, Staff Services Analyst, Office Technician and Program Technician II.

DRU Staff Services Manager I

The DRU Manager's primary duties include developing policies and procedures and implementing effective program management strategies to support disciplinary activities performed in accordance with statutory mandates, timely and in alignment with Bureau priorities; performing more complex disciplinary-related research and analysis; overseeing various disciplinary statistical reports to monitor production activities and for reporting purposes; attending Committee meetings; and general management activities.

Case Management Associate Governmental Program Analysts (AGPA)

The three CMU AGPAs work with the OAG on disciplinary and probationary license cases. These individuals also perform the rap sheet reviews of license applicants.

Staff Services Analysts (SSA)

The three SSAs prepare case files for DRC appeal hearings, respond to written inquiries, collect and analyze statistical appeals data, review DOJ subsequent arrest and convictions reports, and perform the license auto-suspension process, primarily for security guards.

Program Technicians (PT) and Office Technicians (OT)

One OT and four PT IIs prepare denial correspondence, key information into BreEZe, provide telephone assistance, and perform general office duties.

Administration & Policy Activities

The Administration & Policy Unit provides administrative and policy support to all bureau functions and staff. Support functions include, but are not limited to: human resources activities, budgeting, purchasing/contracts, legislation and regulation development, public relations, information technology and telecommunications, web development, public records requests/subpoenas, examination updating, and special projects.

Administration & Policy Workload Assumptions and Task Time Estimates

The Administration & Policy Unit provides all Bureau functions and staff with mission-critical business support that is repetitive and ongoing. As such, there are no specific unit workload assumptions for addressing the following tasks and workload or assigning them to specific license types. Due to the lack of time and cost accounting records to allocate these costs to specific license types, the CPS cost model spreads these costs based on the number of Unit staff and paid annual hours.

Administration & Policy Staff Tasks and Workload

The Administration & Policy function contains the following classifications: Staff Services Manager I, Associate Governmental Program Analyst, and Staff Services Analyst.

Staff Services Manager I

The Admin/Policy Manager's primary duties include monitoring the Bureau's budget, human resources, purchasing/contracting, legislative/regulatory development, equipment and telecommunications activities; performing more complex analytical duties relating to legislation, the Bureau's laws and rulemaking; and representing the Bureau at meetings.

Associate Governmental Program Analysts (AGPA)

The five AGPAs perform a wide variety of administrative support duties, including but not limited to: human resources (recruitment, classification, compensation, benefits, health and safety issues, etc.), budgeting, purchasing/contracts, legislation and regulation development, ombudsman, public relations, information technology and telecommunications, web development, examination updating, research and analysis, and special projects.

Staff Services Analyst (SSA)

The SSA is the Bureau's Custodian of Records and is responsible for handling all public record act requests and subpoenas received by the Bureau. The SSA also coordinates workshops for the development of the qualifying exams for the PI license, as well as three other licenses supported by the PSS fund and undertakes special projects.

Financial Analysis

Based on historical CalStars Financial Month (FM) 13 information for FY 14-15 through FY 16-17 and estimated FY 17-18 based on FI\$Cal FM 11 Reports, the following presents the Bureau's existing fee schedule; analyses of historical revenues, expenses, PI fund balance, and projections of future revenue/expense requirements and fee projections.

Typically, the analysis of historical financial information, and the resulting averages less anomalies and discontinued practices, are used to project future revenue and expense requirements and fee projections. However, there are three factors affecting the PI fund that complicate using the Bureau's historical averages. (1) there has been no increase in fees since 1998 (20 years); (2) the PSS fund had been inadvertently subsidizing PI-related expenditures for several years; and (3) for the past five years, the PI applicant and licensee population has been decreasing. Consideration must be given to the significant one-time expenditure adjustment needed to bring the PI fund back to the point of fully funding PI- related expenditures without relying on support from the PSS fund, and the fact that there is a decreasing number of PI licensees and, accordingly, an attendant decrease in PI revenues.

Table 6 shows the Bureau's existing schedule of PI licensing-related fees. As previously indicated, there have been no fee increases for PI fees since 1998. As a result, the fees on the schedule do not reflect many years of inflation and cost of living increases that directly impact the cost of the services provided.

**Table 6
Private Investigator Fee Schedule**

	Current Fee	Statutory limit
Private Investigator (Application Fee)	\$50.00	\$50.00
Private Investigator Initial License Fee	\$175.00	\$175.00
Private Investigator - Branch -(PIB)	\$30.00	\$30.00
Private Investigator Biennial Renewal	\$125.00	\$125.00
Private Investigator Delinquent Renewal	\$62.50	\$62.50
Private Investigator-Branch-Delinquent Renewal	\$15.00	\$15.00
Private Investigator Re-Instatement Fee	\$187.50	\$187.50
Private Investigator -Branch Reinstatement	\$45.00	\$45.00

Source: BSIS website

Historical Revenue Analysis

Table 7 shows the Bureau's PI Fund revenue for the last four fiscal years. Fee income represents approximately 97.8% of all income. This table does not include a repayment of \$750,000 received in FY 16-17 for repayment of loans made to the State's General Fund in prior fiscal years. A final repayment of \$750,000 is scheduled for FY 18-19, as well as payment of accrued interest associated with the loan; the actual amount will be calculated at the time of the repayment. These repayments are not being considered revenue for the purposes of setting appropriate fee amounts since they do not constitute a regular, ongoing funding stream. However, they are being considered in relation to the overall projected solvency of the PI Fund (see Table 10).

**Table 7
PI Fund Revenues
FY 14-15 through FY 17-18**

	FY14-15	FY 15-16	FY 16-17	FY 17-18*	4 yr avg
Total License Revenue	\$621,000	\$676,000	\$649,000	\$644,000	\$647,500
Other Revenue	\$0	\$31,000	\$22,000	\$33,000	\$21,500
Total Revenue	\$621,000	\$697,000	\$671,000	\$677,000	\$666,500
Percent	100.0%	97.0%	96.7%	95.1%	97.1%

Source Calstars FM 13 reports FY 14-15 through FY 16-17.

*Estimated using Fi\$Cal FM 11 report for FY 17-18

Table 8 summarizes the Bureau's PI Fund Fee Revenue by fee type for FY 14-15 through FY 17-18. At 79.3% of the total, license renewal fees have consistently been the Bureau's primary revenue driver. Historically, the Private Investigator Application and License Fees have together generated only 10.3% of the License Fee revenues. Delinquent License Renewals have brought in

about 3.1% of the total fees. The PI Branch Initial Applications and Renewals provide a negligible amount of income (.3%).

Table 8
Private Investigator Fund License Revenues
FY 14-15 through FY 17-18

License Revenue Source	FY 14-15	FY 15-16	FY 16-17	FY 17-18*	4 year avg	% of Total Licensing Revenue
Private Investigator (Application Fee)	\$25,000	\$25,000	\$23,000	\$20,400	\$17,106	2.6%
Private Investigator (License Fee)	\$62,000	\$47,000	\$48,000	\$48,000	\$51,250	7.7%
Private Investigator Branch	\$1,000	<\$500	\$1,000	\$1,000	\$750	0.1%
Private Investigator-Biennial Renewal	\$500,000	\$566,000	\$523,000	\$527,000	\$529,000	79.3%
Private Investigator Branch-Biennial Renewal	\$1,000	\$1,000	\$2,000	\$1,000	\$1,250	0.2%
Private Investigator Delinquent Renewals	\$23,000	\$17,000	\$23,000	\$20,000	\$20,750	3.1%

Calstars FM 13 Reports FY 14-15 through FY 16-17

*Estimated using Fi\$Cal FM 11 Report FY 17-18

Revenue, Expense and Fund Balance Projections

The Private Investigator Fund is experiencing an ongoing and increasing structural shortfall between revenues and expenditures that will result in the fund depleting its reserves by the end of FY 19-20 unless License fee revenues increase. Table 9 uses historical data for FY 14-15 through FY 17-18 and the DCA Budget Office's estimated revenue and expenses through FY 22-23, to demonstrate this structural problem. As previously noted, the two loan repayments from the General Fund of \$750,000 scheduled in FY 16-17 and in FY 18-19, as well as the related interest payment, are not being included because they do not constitute a regular, ongoing funding stream. However, they are being considered in the overall projected solvency of the PI fund. (See Table 10).

In 1994, AB 3291 repealed the existing Private Investigator Act and reorganized and re-enacted the provisions into two different acts, the Private Investigator Act and The Private Security Services Act. The PI licensing fees have not been increased since 1998, while expenditures have increased significantly. Table 9 shows that the Bureau is not recovering its costs using the current fee structure.

TABLE 9
Private Investigator Fund
Annual Structural Shortfall
FY 14-15 Through FY 22-23
(Dollars in Thousands)

	FY 14-15	Fy 15-16	FY 16-17	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23
	Actual	Actual	Actual	Est	Est	Est	Est	Est	EST
Revenues *	\$621	\$697	\$671	\$677	\$688	\$683	\$683	\$683	\$683
Expenditures	\$707	\$849	\$1,055	\$1,144	\$1,258	\$1,282	\$1,306	\$1,330	\$1,355
Shortfall/Surplus	(\$86)	(\$152)	(\$384)	(\$467)	(\$570)	(\$599)	(\$623)	(\$647)	(\$672)

* Does not include Loan repayments of \$750,000 from the General Fund in FY 2016-17 and Fy 2018-2019
CalStars for FY 14-15 through FY 16-17; FISCAL for FY 17-18; DCA Budget Office PI Fund Condition for FY 18-19 through FY 22-23

Several factors in recent years have contributed to the increase in the structural shortfall and corresponding depletion of the PI fund reserves. In FY 14-15, the fund experienced a significant drop in revenue from former years and while increasing slightly since, the revenues have remained below historical levels. This overall decline in revenue reflects the ongoing decrease in the number of PI applicants and licensees.

When the two programs were separated in 1994, an annual \$104,000 payment amount from the PI fund to the PSS fund was established to reimburse the PSS fund for services provided by staff carrying out PI activities but supported by the PSS fund because it was not logistically feasible to allocate Bureau staff providing global type services (e.g. the Licensing Manager oversees both PI and PSS licensing activities) to one or the other fund. This payment amount remained unchanged for over 24 years. By 2015 the Bureau determined that the reimbursement was not covering the costs of the services provided by PSS funded staff to PI activities which was resulting in the Private Security Services fund subsidizing the Private Investigator program. To address this imbalance, two Budget Change Proposals (BCP) were adopted in FY 16-17. One BCP aligned the reimbursement amount with the actual cost of the services provided by staff supported by the PSS fund. The annual reimbursement was increased by \$189,000 for a total transfer of \$293,000 a year, beginning July 1, 2016.

The second BCP established a Program Technician II (PT II) position in the PI fund, to process PI applications and other PI licensing documents. Prior to this BCP, all PI initial and renewal application processing activities and other general licensing-related PI program support activities were carried out by a PT II supported by the PSS Fund. The fiscal impact to the PI fund of this additional position was \$79,000 beginning in FY 2016-17 and continuing. The total impact to the PI fund of these two BCPs beginning in July 2016 was \$268,000 a year.

A FY 17-18 BCP redirected Department Complaint Resolution Program staff, based on the number of complaints they handled for the entities they supported. Based on the complaint breakdown, the Bureau received four positions. Given the number of PI-related complaints, a staff services analyst position was allocated to the PI Fund. However, since the Bureau had already been paying for the position through DCA pro-rata charges, this redirection did not have additional impact on the PI fund.

As a result of legislation enacted in 2017 (SB 559, Chapter 569) that increased PI licensing workload due to a new reporting requirement for all PI licensees organized as an LLC, an FY 18-19 BCP was adopted to establish 0.5 Program Technician II in the PI Fund effective July 1, 2018. The additional fiscal impact to the PI Fund will be \$43,000 in FY 18-19 and \$35,000 ongoing. Due to operational needs, the Bureau is over expending the .5 position to a 1.0 Program Technician II position with funding supported through redirection of operating expenses.

In addition, state employee collective bargaining agreements increased BSIS staff salaries by 4% beginning July 1, 2017, with another 4% effective July 1, 2018 and 3.5% beginning July 1, 2019, for a total increase of 12% over the three-year period. These salary increases are estimated to increase PI fund expenditures by \$40,400 by FY19-20. These salary increases will also increase operating expenses because they will increase both the statewide general administrative pro-rata fees and DCA pro-rata charges for departmental expenses to provide the Bureau with services such as human resources, legal, information technology, call center, cashiering, accounting, budgets, public affairs and the correspondence unit. It will also impact the OAG attorney and hearing office fees charged the Bureau for Enforcement activities. CPS HR estimates that they will result in an additional \$71,000 in charges to the PI Fund by FY 19-20.

By the end of Fiscal Year 19-20, these additional obligations will add an estimated \$414,400 annually to the expenditures from the PI Fund.

Bureau Private Investigator Fund Balance

The California Business and Professions Code (BPC) requires DCA to maintain a separate Private Investigator Fund with a discrete budget and distinct expenditure and revenue statements to account for all money derived from and spent for licensing and regulating private investigators. If, at the end of any fiscal year, the amount in the fund equals or is greater than two years of reserves, license fees or other fees shall be reduced during the following fiscal year. However, this condition has never been present. There is no mandated minimum reserve amount, but DCA and Bureau management agree that a three to six-month reserve is the desired range.

Fund Balance Projection

Table 10 below shows there is a significant fund solvency problem. The table demonstrates that months in reserve are projected to decline rapidly from 8.8 months in FY 16-17 to a negative condition (insolvent) in FY 19-20 and continue in a negative condition through FY 22-23 if nothing is done to increase revenues.

Table 10
Current Projected PI Fund Condition
FY 2016-17 Through FY 22-23

	Actual FY 2016-17	Est. FY 2017-18	Est. FY 2018-19	Est. FY 2019-20	Est FY 2020-21	Est FY 2021-22	Est FY 2022-23
Beginning Fund Balance	\$469	\$840	\$373	\$553	-\$46	-\$669	-\$1,316
Prior Year Adjustment	\$5	\$0	\$0	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$474	\$840	\$373	\$553	-\$46	-\$669	-\$1,316
Revenues and Transfers							
Total Revenues	\$671	\$677	\$688	\$683	\$683	\$683	\$683
Total Transfers *	\$750	\$0	\$750	\$0	\$0	\$0	\$0
Total Revenues and Transfers	\$1,421	\$677	\$1,438	\$683	\$683	\$683	\$683
Total Resources	\$1,895	\$1,517	\$1,811	\$1,236	\$637	\$14	-\$633
Expenditures							
Total Expenditures	\$1,055	\$1,144	\$1,258	\$1,282	\$1,306	\$1,330	\$1,355
Ending Fund Balance	\$840	\$373	\$553	(\$46)	(\$669)	(\$1,316)	(\$1,988)
Months in Reserve	8.8	3.6	5.2	(0.4)	(6.0)	(11.7)	(17.3)

DCA Budget Office

Based on its analysis, CPS HR has determined the current PI fee structure is insufficient to recover actual PI-related costs and will soon reduce the fund reserve to an unacceptable level unless action is taken now. In general, PI licensing revenue is supposed to cover all PI funded costs, including licensing, enforcement, disciplinary review, administration and Bureau overhead, however at current fee levels as shown in table 9, the revenue generated by the current fee structure is not covering ongoing expenditures. Given that staffing levels, workload and other expenditures are expected to grow, the Bureau must either decrease expenses, increase revenue or achieve a combination of both to ensure the PI fund is solvent with a sufficient reserve. As stated above, the PI licensing fees have not been increased since 1998 in spite of staff cost of living increases, additional workload and other changes over the 20-year period. In order to restore the PI fund to financial health, fee increases must be considered as part of the solution. Any fee increases considered for the PI fund should result in revenues that will at least cover annual expenditures with a small additional amount to build and maintain a prudent reserve. CPS HR recommends that the Bureau develop a fee structure that will bring in at least \$1.42 million in

revenue by FY 22-23. This would provide for a 5.2 month reserve by the end of the 2022-23 Fiscal year.

Hourly Rate and Fee Projections

One study objective is to establish a cost basis to fairly assess services the Bureau provides for a scheduled fee and for services that lack statutory scheduled fees. Without an accurate cost accounting system, the most convenient and fairest way to charge for services is to determine an hourly charge based on full absorption costing that accounts for all Bureau PI funded staff, operating and overhead costs. By dividing the Bureau's PI fund expenditures by total staff paid hours, a fully absorbed hourly (and minute) cost rate can be derived to cover the cost of current scheduled fee and non-fee schedule tasks/services not covered by statute.

Table 11 shows the DCA Budget Office's annual estimated expenditures gradually increase through FY 22-23. The number of authorized budgeted positions (PYs – personnel years) will increase in FY 18-19 by .5 PY for SB 559 to 5.5 PYs. The Bureau intends to increase that to 1 PY by redirecting operating expense savings, bringing total PI funded staffing to 6 positions in FY 18-19. Fully absorbed hourly cost is the result of dividing total net expenditures by the annual paid PY hours per fiscal year. Cost per minute is the result of dividing the hourly cost by 60. The cost per minute is applied to Bureau workload assumptions to determine the fully absorbed cost for a scheduled fee task or non-fee scheduled task. The DCA Budget Office uses an average of 1,776 available hours per PY for fiscal year workload budgetary projections. Employees are paid for 2,080 hours each fiscal year.

For cost projection purposes, CPS recommends using a 4-year average of \$122 per hour (or \$2.03/minute) to provide for adequate cash flow and fund reserves.

Table 11
Fully Absorbed Cost using DCA Budget Office Expenditures
FY's 14-15 through FY 17-18

Cost Allocation	FY 14-15	FY 15-16	FY 16-17	FY 17-18	4 year AVG
Expenditures	\$706,000	\$834,000	\$1,055,000	\$1,144,000	\$934,750
Filled Positions	3	3	3.9	5	4
Hours per year	2080	2080	2080	2080	2,080
Total hours	6240	6240	8112	10400	7,748
Cost/hour	\$113	\$134	\$130	\$110	\$122
Cost/minute	\$1.89	\$2.23	\$2.17	\$1.83	\$2.03

Sources: DCA Budget Office

Table 12 compares the financial impact of the current and proposed initial and renewal license fees using FY 17-18 volumes. FY 17-18 was used instead of a 4-year average because of the

declining number of licenses so that the revenue impact would not be overstated by using the higher 4-year average volume. Table 12 compares the estimated revenue from current fees with revenue from fees at \$122 per hour (\$2.03/minute), except for the Biennial PI renewal fees. The PI renewal fees are recommended to be set at a level that would ensure that the total revenue from the fees fully covers the costs of the PI licensing program, including all non-fee structure activities, such as administration, enforcement and discipline.

Table 12
Current and Proposed Fees Estimated Revenue

License	Current Fee	FY 17-18 Volumes	Est Fee Revenue Current Fees	Proposed fee	Est Revenue Proposed Fee
Private Investigator (Application/Examination Fee)	\$50	408	\$20,400	\$340	\$138,720
Private Investigator Initial License Fee	\$175	408	\$71,400	\$385	\$157,080
Private Investigator - Branch -(PIB)	\$30	36	\$1,080	\$90	\$3,240
Private Investigator Biennial Renewal	\$125	4,217	\$527,125	\$265	\$1,117,505
Private Investigator Biennial Branch Renewal	\$30	37	\$1,110	\$65	\$2,405
Total Projected Revenue			\$621,115		\$1,418,950

Source: BSIS FY 17-18 volumes

Closing the Gap

Table 13 demonstrates that an overall increase in revenue from PI licensing fees is required to close the revenue gap and build a satisfactory reserve by meeting or exceeding total expenditures through FY 22-23. This assumes that, except for the fee increases, the Bureau retains the current initial and renewal license fee structure, maintains costs within its control, and does not incur significant increases in costs beyond its control, such as Departmental, inter-service agency and pro rata costs.

In raising fees, the Bureau must also consider the impact on: licensees and the PI fund balance. The Bureau needs to set fees at a level that ensures an adequate reserve, but avoids triggering

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the BPC provision that requires lowering fees when the PI fund has 24 months in reserve. How much the Bureau actually increases the PI license fees should be based on consultation with the DCA Budget Office and the Bureau's licensee base.

Table 13 shows that beginning in January 2020 the proposed increased fees generate approximately \$1.42 million a year and will ensure an adequate fund reserve through FY 22-23. Assuming non-urgency legislation was enacted in 2019, the revised fees would go into effect on January 1, 2020. Given the urgency of the fund condition, CPS HR recommends that the Bureau implement increased fees as soon as possible.

Table 13
Financial Impact of Selected License Fee Increases
on the PI Fund Condition
Fee increase Effective January 1, 2020

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Beginning Fund Balance	\$469	\$840	\$373	\$553	\$332	\$444	\$532
Prior Year Adjustment	\$5	\$0	\$0	\$0	\$0	\$0	\$0
Adjusted Beginning Balance	\$474	\$840	\$373	\$553	\$332	\$444	\$532
Revenues and Transfers							
Total Revenues	\$671	\$677	\$688	\$1,050	\$1,418	\$1,418	\$1,418
Total Transfers *	\$750	\$0	\$750	\$0	\$0	\$0	\$0
Total Revenues and Transfers	\$1,421	\$677	\$1,438	\$1,050	\$1,418	\$1,418	\$1,418
Total Resources	\$1,895	\$1,517	\$1,811	\$1,603	\$1,750	\$1,862	\$1,950
Expenditures							
Total Expenditures	\$1,055	\$1,144	\$1,258	\$1,282	\$1,306	\$1,330	\$1,355
Ending Fund Balance	\$840	\$373	\$553	\$321	\$444	\$532	\$595
Months in Reserve	8.8	3.6	5.2	2.9	4.0	4.7	5.3

* Loan Repayment from General Fund
per Budget Act 2011

Administrative Relief

If appropriate and applicable, the Bureau may wish to consider implementing an administrative relief strategy with this fee increase. In lieu of a lengthy legislative process to change future license fees, CPS HR recommends that the Bureau, in obtaining legislative approval for fee increases also set a statutory maximum higher than the fees currently needed to restore the PI Fund to a satisfactory reserve. By enabling this administrative strategy now, the Bureau would have flexibility in setting fees in the future to ensure adequate fund reserves as revenues decline or expenses increase.

Recommendations

1. After consultation with the DCA Budget Office and its licensees, BSIS should charge for select scheduled and unscheduled services based on a fully absorbed cost rate of \$122 per hour. Where possible, services should be charged based on the actual time the Bureau consumes to provide the service. However, the fees need to be balanced based on cost and impact to the PI community. Some fees, such as application and initial license fees may need to be set lower so as not to unduly discourage new licensing activity. While others, such as renewals, may need to be set higher than the fully absorbed cost to absorb the difference and ensure that all non-fee schedule functions and expenses, such as administrative, enforcement and disciplinary activities are covered.
2. BSIS management should develop a proposal and introduce legislation to revise the fee schedule as soon as possible, and inform current and prospective licensees of the changes.
3. If appropriate and applicable, the Bureau should consider implementing a way to obtain administrative relief in the future in lieu of the lengthy legislative change process.
4. The Bureau should also implement an ongoing schedule to review and revise the annual amount transferred to the PSS fund to recognize increased costs. A three to five-year review cycle will allow for trends to become clear and increases to be more easily absorbed by the Licensees. For example, since the transfer amount was adjusted in FY 16-17, the collective bargaining agreement for BSIS staff established a 12% increase of in salaries and wages between FY 17-18 and FY 19-20. There will also be attendant benefits and department and statewide pro rata cost increases. This general salary increase may well result in significant changes to other expenditure categories. If not accommodated in the annual fund transfer, the PSS Fund will soon be subsidizing the PI fund again. A regular schedule to review and adjust the annual transfer amount will: ensure that the PI fund fully pays for its costs; better maintain fund health for both the PI and PSS funds; and will allow for more gradual changes to the fee structure which could be more easily absorbed by the PI community.
5. The Bureau should consider and discuss with the PI community whether it makes sense to combine the PSS and PI funds into one fund. Given the small size of the PI fund, it is not efficient to keep separate records, and tracking expenditures separately increases costs. Also, given the small size of the fund, even a small change in revenue or expenditures can have a disproportionate impact on the solvency of the fund. Combining the two funds would allow the Bureau flexibility in responding to unexpected changes in revenue or expenses for either fund.
6. The Bureau in consultation with its licensees should also consider pursuing a broader cite and fine authority for PI Licensees in line with its authority for other licensees. It would

be less time consuming and expensive for both the Bureau and licensees who wish to appeal the Bureau's decisions. As described in the report, the current process requires essentially all disciplinary actions to be addressed through the administrative hearing process and requires involvement of the OAG. Broader Cite and Fine authority would allow the Bureau to address violations of the Act to promote compliance in a reasonable manner and provide for licensees to appeal the Bureau's issuance of them to the newly established PI DRC.

Appendix: BSIS Private Investigator Licensing Workload Assumptions

Initial Paper Applications

Private Investigator Qualified Manager (PIM)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean Apps (30%) Analyst Review	PT II	0.0%	40	Cashiering, mail, data entry, approval
	SSA	0.0%	60	Review and Approval
			100	Total for Initial Clean App
Management Review (15%)	SSM I	15.0%	30	Review
			130	Total for initial applications requiring management review
Initial deficiency/Information Clarification Efforts	PT II	70.0%	40	Cashiering, mail, data entry
			15	Prepare and send 1st deficiency letter
			45	Return processing
	SSA		30	Review
			130	Total for initial deficiency
Management Review (5%)	SSM I	5%	60	Review
			190	Total for initial deficiency requiring management review
Second deficiency/Information Clarification Efforts	PT II	40.0%	40	Cashiering, mail, data entry
			15	Prepare and send 2nd deficiency letter/email
			60	Return processing/Follow-up assistance
	SSA		30	Review
			145	Total for secondary deficiency
Management Review (5%)	SSM I	5%	60	Review
			205	Total for initial deficiency requiring management review

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Initial Paper Applications

Private Investigator License (PIL)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (10%)	PT II		50	Cashiering, mail, data entry, approval
Analyst Management Review (15%)	SSA		30	Review
	SSM I		60	Review
			140	Total for initial applications requiring management review
Initial deficiency/Information Clarification Efforts	PT II	90.0%	50	Cashiering, mail, data entry
			15	Prepare and send 1st deficiency letter
			60	Return processing/Follow-up assistance
Analyst Review	SSA		20	Review
			145	Total for initial deficiency
Management Review (5%)	SSM I	5%	60	Review
			205	Total for initial deficiency requiring management review
Second deficiency	PT II	45.0%	50	Cashiering, mail, data entry
			15	Prepare and send 2nd deficiency letter
			60	Return processing/Follow-up assistance
Analyst Review	SSM I		20	Review
			145	Total for second deficiency
Management Review (5%)		5%	60	Review, approval
			205	Total for Return processing/Follow-p assistance requiring management review

Initial Paper Applications

Private Investigator Branch (PIB)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (90%)	PT II		30	Review, data entry, approval
Initial deficiency	PT II	10.0%	30	Cashiering, mail, data entry
			15	Prepare and send 1st deficiency letter
			35	Return processing
Analyst Review	SSA		10	Review
			90	Total for initial deficiency

Initial Online Applications

Private Investigator License (PIL)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (30%)	PT II		30	Review, data entry, approval
Analyst Review	SSA		30	Review
			60	Total Review
Management Review (5%)	SSM I	5.0%	60	Review
				Total for initial applications requiring management review
			120	
Initial deficiency/Information Clarification Efforts	PT II	70.0%	30	Cashiering, mail, data entry
	SSA		15	Prepare and send 1st deficiency letter
			60	Return processing/Follow-up assistance
Analyst Review			20	Review
			125	Total for initial deficiency
Management Review (5%)	SSM I	5%	60	Review
			185	Total for initial deficiency requiring management review
Second deficiency	PT II	30.0%	30	Cashiering, mail, data entry
	SSA		15	Prepare and send 2nd deficiency letter
			60	Return processing/Follow-up assistance
Analyst Review			20	Review
			125	Total for second deficiency
Management Review (5%)		5%	60	Review
				Total for Return processing/Follow-up assistance requiring management review
			185	

Private Investigator Branch (PIB)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (90%) Analyst Review	PT II SSA		30 10	Data entry, approval Review
Initial deficiency Analyst Review	PT II SSA	10.0%	30 15 35 10	Data entry Prepare and send 1st deficiency letter Return processing Review
90				Total for initial deficiency

Renewal Paper Application Processing

(same process as coupons)

Private Investigator	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (90%)	PT		30	Cashiering, mail, data entry, approval
Initial deficiency	PT	10.0%	30	Cashiering, mail, data entry, approval
			15	Prepare and send 1st deficiency letter
			35	Return processing
			80	Total for initial deficiency

Private Investigator Branch (PIB)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (98%)	PT		30	Cashiering, mail, data entry, approval
Initial deficiency	PT	2.0%	30	Cashiering, mail, data entry, approval
			15	Prepare and send 1st deficiency letter
			35	Return processing
			80	Total for initial deficiency

ARP Renewal application processing

Private Investigator License (PIL)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (70%)	PT		30	Cashiering, mail, data entry, approval
Initial deficiency	PT	30.0%	30	Cashiering, mail, data entry, approval
			15	Prepare and send 1st deficiency letter
			35	Return processing
			80	Total for initial deficiency

Private Investigator Branch (PIB)	Class	% Def	Time (Min)	Task Description & Assumptions
Clean app (95%)	PT		30	Cashiering, mail, data entry, approval
Initial deficiency	PT	5.0%	30	Cashiering, mail, data entry, approval
			15	Prepare and send 1st deficiency letter
			35	Return processing
			80	Total for initial deficiency



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