prentice|LONG PC

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NEWSLETTER

Prentice|LONG PC - a law firm founded on the principle of service.

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I WILL LEAVE YOU SOFTLY

The time has come, as they say, for me to start the next phase of my life. For just over 35 years I have had the honor to practice law with some truly great people. I started out in the fast lane with a very large firm in Southern California, but subsequently decided I needed to do my own thing — build something that had my name on it. McGuire and Prentice was formed and for ten years my practice involved litigation with public entities and private businesses, primarily in employment. I was fortunate during that period to pursue some first and fourth amendment cases, some of which landed in the United States Supreme Court for briefing.

However, it soon became clear to me based on my appointment as City Attorney for the City of Colfax that my true calling was in public sector defense. On a whim I competed for County Counsel for the County of Madera. For some reason, with no experience at that level, I received the appointment and was there for nine years. But again, the desire for private practice was pulling on me and I joined a municipal law firm, which was the beginning of something I could not imagine. For it was while I was with that firm, that I met Margaret Long. She was a kindred spirit, and we soon came to understand that, as a team, we could build something different. A law firm based truly on service. So, Prentice Long was launched. We focused on counties and are now one of two firms in California with that focus. And although we are not the largest, we are the best at what we do.

My time with "PLPC" has been magical. The people I work with are truly the definition of dedication and expertise. More importantly, they are real people, who are not looking for the gold ring, but to be recognized as contributors to the well-being of the clients we serve and the people within those communities. Thank you, Margaret, for this experience. As I move on I know that the firm will continue to make a large mark on the municipal law landscape.

But I must now, with a calm heart filled with gratitude, find other passions. As one writer put it:

> *If you have done the best you can do and if you have gotten all you could extract from something, you have given all you had to give, then the time has come when you can do no more than say thank you and move on.* — Maya Angelou

Thank You!

David

Here's to David!

IT IS WITH MIXED EMOTIONS...

...that we announce the upcoming retirement of our founding partner, David Prentice. Although he has threatened this many times before, this time we unfortunately think he is serious.

David often tells the story of how *Prentice*|LONG was founded but always leaves out the fact that it was his vision of creating a different type of law firm—one that focuses on client service—that made us who we are. Under his leadership, Prentice Long has grown not only in size but in reputation, becoming a trusted partner to our clients and a home for talented professionals. His unwavering commitment to excellence, integrity, and service has left an indelible mark on our culture and our success.

David truly believes in relationships and will fight relentlessly for anyone lucky enough to be in his inner circle. David's mentorship has helped shape countless careers, his dedication has strengthened our client relationships, and his collaborative spirit will remain at the heart of who we are as a firm. David treats all of us like family, and to David, family always comes first.

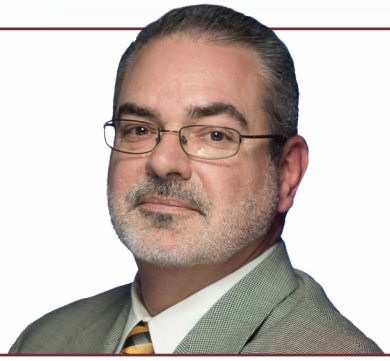
As we bid him farewell in his formal role, we do so with deep gratitude for his many contributions and deep love for him as an amazing man. Here's to David: the man, the myth, the partner who proved you can build a law firm and still have a lot of fun along the way. Our future is bright!

—Margaret E. Long

Welcome

GREGORY P. PRIAMOS

Partner



PLPC extends a warm welcome to our newest Partner, Gregory P. Priamos, who will begin serving as the County Counsel for the County of San Benito. Mr. Priamos has over 37 years of government legal experience, including serving as the County Counsel for Riverside County, from 2014 - 2022. Prior to his appointment as Riverside County Counsel Mr. Priamos served 14 years as the City Attorney of the City of Riverside. He is still the second longest serving City Attorney since Riverside's incorporation in 1883, and is the only Riverside City Attorney to have also served as the Riverside County Counsel, and the only Riverside County Counsel to have also served as the Riverside City Attorney.

Mr. Priamos has extensive experience in advising cities and counties on most every legal issue. His expertise includes Brown Act, code enforcement, conservatorships, County Budget Act, ethics and the political reform act, fire service contracts, group and transitional housing, juvenile dependency, law enforcement, medical marijuana abatement, public health emergencies, public health systems, Public Records Act, receiverships, redistricting, risk management, tribal gaming and resort expansions, and tribal courts, among others.

Most recently, Mr. Priamos has been working as a legal consultant to the General Counsel for the Agua Caliente Band of Cahuilla Indians. Mr. Priamos is a proud third generation USC Trojan, an avid golfer, and citrus tree farmer specializing in blood oranges and pink navel oranges. *Prentice*|LONG PC is thrilled Mr. Priamos has joined our amazing team.

Gregory P. Priamos
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Recusal, Abstention, and Related Conflict Procedures

By Rebekah K. Mojica, Associate

Understanding Recusal, Abstention, and Conflicts of Interest

Understanding when and how public officials must – or may choose to – step back from decision-making is essential to maintaining public trust and complying with California law. While the terms "recusal" and "abstention" are often used interchangeably, and both involve not voting, they have distinct meanings and procedural requirements. Additionally, officials may be disqualified from participating in certain matters under long-standing due process principles, even when no financial conflict exists.

Financial Conflicts of Interest and the Political Reform Act

Under the Political Reform Act (Government Code § 87100 et seq):

A public official at any level of state or local government shall not make, participate in making, or in any way attempt to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.

A conflict exists when a decision is likely to have a material financial effect on the official, their immediate family, business interests, sources of income, or significant gifts received in the prior year. These interests are presumed to create a conflict when the effect is not shared by the public generally or by a significant segment of the community. (See Government Code § 87103).

Recusal: Legal Obligations

Under Government Code § 87105

If a financial conflict is identified, the law requires Government Code § 87105 outlines the specific recusal process. The official must:

1. Publicly disclose the conflict,
2. Refrain from participating in any discussion or vote on the matter; and
3. Leave the room until after the discussion and vote have concluded.

The only exception is that the official may speak during public input, if allowed. Even then, many public agencies encourage officials to refrain from making any statement to avoid the appearance of improper influence.

In limited circumstances, exceptions may allow an official to participate despite a financial conflict of interest. For example, the "rule of necessity" may apply when recusal would prevent the body from reaching a quorum or when no other official is legally authorized to act. Other exceptions may apply if the matter involves property or a business in which the official has a unique and controlling interest. These exceptions are narrowly construed, and officials should exercise caution and seek legal counsel before relying on them.

Common Law Conflicts: Bias, Prejudice, and Interest

Separate from financial conflicts, common law conflicts of interest arise from the principle that all public decisions must be made fairly and impartially. Under California case law and the Government Code sections, a public official may be disqualified from participating in a quasi-judicial proceeding if they exhibit bias, prejudice, or a personal interest in the outcome. (See, i.e., Government Code Sections 11425.40). Bias can mean a general lack of impartiality, but more specifically, it includes personal animosity toward a party. Prejudice refers to an official having already formed an opinion about disputed facts. Interest exists when an official stands to gain or lose personally from the outcome. These types of conflicts may require disqualification even in the absence of a financial interest.

Abstention: Exercising Caution When Recusal is Not Required

While recusal is mandated by law in specific circumstances, abstention is a discretionary choice. An official may choose

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to abstain from voting to avoid the appearance of impropriety, such as when the matter involves a close personal relationship, potential bias, or a concern about public perception. Unlike recusal, abstaining officials typically remain present and may still be counted toward a quorum, depending on local rules.

Other Disqualifications and Related Doctrines

In addition to the Political Reform Act and common law bias, Government Code § 1090 prohibits public officials from having a financial interest in contracts made in their official capacity. Violations are strict: the contract is void, and even participating in the discussion may trigger liability. Additionally, Government Code § 1099 prohibits officials from holding incompatible public offices – meaning offices with overlapping or conflicting duties – and requires resignation from one position if a conflict exists. In such instances, it is not sufficient to recuse or abstain.

Quorum and Voting Implications

The legal basis for stepping back from a decision affects how the official's absence is treated. If an official recuses themselves due to a financial or legal conflict, they generally do not count towards a quorum and may not participate in any part of the matter. Contrariwise, abstention depends on local rules and does not necessarily prevent the official from being counted towards the quorum; it may be treated as a "no" vote or excluded from the tally.

When in Doubt, Seek Guidance

Rules governing conflicts of interest are complex and sometimes overlap. Public officials are encouraged to seek legal counsel or consult with the Fair Political Practices Commission when in doubt. Stepping back when required – or even when simply prudent – helps ensure lawful, transparent, and trustworthy governance.

Promoting Civil Work Opportunities

By Gretchen Dugan, Law Clerk

AB 2561

Approved and filed with the State of California on September 22, 2024, Assembly Bill ("AB") 2561 became effective law on January 1, 2025. This new law requires public agencies to present vacancy information and retention efforts on an annual basis, with a focus on bargaining units with a vacancy rate of 20% or higher.

In part, AB 2561 adds Section 3502.3 to the California Government Code as follows:

(a) (1) A public agency shall present the status of vacancies and recruitment and retention efforts during a public hearing before the governing board at least once per fiscal year.

(2) If the governing board will be adopting an annual or multiyear budget during the fiscal year, the presentation shall be made prior to the adoption of the final budget.

(3) During the hearing, the public agency shall identify any necessary changes to policies, procedures, and recruitment activities that may lead to obstacles in the hiring process.

(b) The recognized employee organization for a bargaining unit shall be entitled to make a presentation at the public hearing at which the public agency presents the status of vacancies and recruitment and retention efforts for positions within that bargaining unit.

The annual presentation by the governing body regarding bargaining units with a vacancy rate of 20% or higher ought to include, but is not limited to:

- Bargaining unit vacancy totals
- Average number of days to complete the hiring process when a position is posted
- Total number of applicants for vacant positions
- Implemented new recruitment and onboarding system
- Internship opportunities
- Flexible schedules
- Ongoing training and development opportunities

AB 2561 does not prevent a local board or council from holding supplementary hearings regarding vacancies, as the new law's primary legislative intent is to provide opportunities to improve work conditions by promoting recruitment in certain impacted civil service areas, such as public health.

Please feel free to contact us to assist you with any additional inquiries regarding AB 2561 or direction on drafting comprehensive presentations regarding this newly implemented local statute.

Protecting 5150 Privacy

By Caitlin Smith, Associate

Generally, HIPAA and California's Confidentiality of Medical Information Act (CMIA) restrict the disclosure of mental health information. HIPAA generally prohibits healthcare providers from disclosing protected health information to law enforcement officials without the patient's written authorization unless certain conditions are met.

Under 45 CFR § 164.512(j)(1)(i), a provider may disclose information to law enforcement to prevent or lessen a serious and imminent threat to the health or safety of an individual or the public. Similarly, the California Welfare and Institutions Code permits the disclosure of confidential information where the patient, in the opinion of the patient's psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim for purposes of protecting the potential victim. Wel. & Inst. § 5328(a)(18). The code also permits the disclosure of confidential information where the patient's physician or professional person in charge of the facility or his/her designee has probable cause to believe that a patient, while hospitalized, has committed or has been the victim of certain violent and sexual crimes. Wel. & Inst. § 5328.4.

The statutes permitting the disclosure of confidential patient information in cases of emergency do not specifically address the issue of broadcasting confidential information over unsecured radio channels for purposes of officer safety. Given the strict requirements for disclosure, however, it is very possible that broadcasting confidential information over publicly accessible radio channels would constitute a violation of HIPAA or CMIA restrictions on disclosure.

Officer and public safety are important. Agencies typically handle this issue through secure communications (i.e., switching to a secure radio channel for such broadcasts), briefings, or coded language rather than broadcasting names and mental health status over open radio frequencies that can be monitored by the public. California law enforcement agencies have the authority to encrypt their emergency radio communications under both state and federal regulations. The Federal Communications Commission (FCC) allows public safety agencies to encrypt their communications. 47 CFR § 90.553.

By way of example, law enforcement agencies authorized by the California Department of Justice (DOJ) to access the California Law Enforcement Telecommunications System (CLETS) must adhere to certain requirements, including limiting the disclosure of criminal justice information and personally identifiable information to authorized personnel and encrypting the transmission of such information. The DOJ limits the amounts and types of information that may be broadcast over unencrypted radio channels in order to protect criminal justice information and personally identifiable information. The DOJ provides that the transmission of sensitive and personally identifiable information must be encrypted.

It is therefore recommended that a Sheriff's Office use encrypted radio channels to broadcast personally identifiable information of 5150 patients. If this is not possible, the department should consider implementing coded language to better protect the mental health status of individuals identified in emergency responses from public disclosure.

NEW CLIENTS

Prentice|LONG PC welcomes our newest clients.

Clear Creek Community Services District (Westwood, CA)
Susanville Sanitary District
Firenet Lassen JPA
County of Glenn

Click *here* to see a list of all our clients.