



# California Fair Political Practices Commission

June 14, 1988

Sterling W. O'Ran III, Staff Director  
Blue Ribbon Commission on Inmate  
Population Management  
Special Projects Branch  
Department of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001

Re: Your Request for Advice  
Our File No. A-88-183

Dear Mr. O'Ran:

You have requested advice regarding the duties of the members of the Blue Ribbon Commission on Inmate Population Management under the conflict of interest code provisions of the Political Reform Act (the "Act").<sup>1/</sup>

## QUESTION

Must the Blue Ribbon Commission on Inmate Population Management adopt a conflict of interest code?

---

<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

### CONCLUSION

The Blue Ribbon Commission on Inmate Population Management need not adopt a conflict of interest code as its members are solely advisory and not designated employees within the meaning of the Act.

### FACTS

The Blue Ribbon Commission on Inmate Population Management (Commission) was created in 1987 to determine youth and adult correctional facilities population projections for the next five years; study the impact of the population projections on construction and operational costs; determine desirable alternatives or punishment options; study utilization of community correctional facilities and make recommendations regarding utilization of those facilities; study options for community-based treatment programs; and study methods used in other jurisdictions.

Based on the results of the studies conducted, the Commission will make a report to the Governor and to the Legislature of its findings and recommendations one year after its first meeting and a final report sometime thereafter.

The Commission is comprised of 25 members. Members consist of the Attorney General, the Secretary of the Youth and Adult Correctional Agency, the Director of the Department of Corrections, the Director of the California Youth Authority, and the chairpersons of the Board of Prison Terms, the Youthful Offender Parole Board, and the Presley Correctional Research and Training Institute. The balance of the members are appointed by the Governor, Senate Rules Committee, the Speaker of the Assembly and the California Judges Association. Those members must have expertise in law enforcement, corrections, sociology, mental health and other related fields.

Members serve without compensation from the Commission. State employee members are reimbursed for per diem or travel expenses by their respective agencies or departments. All other members are reimbursed by the Department of Corrections.

The executive director is appointed by the Commission chairperson and must be an employee of one of the departments within the Youth and Adult Correctional Agency. Each department provides professional and clerical staff necessary to carry out the work of the Commission.

Pursuant to Penal Code Section 14107.5, the provisions establishing the Commission will become inoperative two years after they became effective.

#### ANALYSIS

Section 87302 provides that conflict of interest codes shall enumerate the designated employees within the agency who make or participate in making decisions which may foreseeably have a material financial effect on any financial interest of the designated employee. Section 82019 defines a designated employee as any officer, employee, member or consultant of any agency who possesses decisionmaking authority. The term "designated employee" does not include any unsalaried member of a board or commission which performs a solely advisory function.

A commission possesses decisionmaking authority if:

- (A) It may make a final governmental decision;
- (B) It may compel a governmental decision; or it may prevent a governmental decision by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or
- (C) It makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

Regulation 18700(a)(1).

The Commission will be examining the current correctional system, conducting studies on the utilization of community correctional facilities and reporting its findings to the Governor and the Legislature.

The Commission is not making, compelling or preventing any governmental decision nor will there be recommendations made over a period of time. Any recommendations made by the Commission will be contained in a final report to the Governor and the Legislature. Any decisions to act on those recommendations must be initiated by the Governor or the Legislature. The Commission itself will cease to exist on January 1, 1990.

Based on the facts provided, the Commission is a solely advisory body and need not be covered by a conflict of interest code.

Sterling W. O'Ran III  
June 14, 1988  
Page -4-

If you have any questions or wish to discuss this,  
please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

A handwritten signature in cursive script, reading "Jeanette E. Turvill".

By: Jeanette E. Turvill  
Legal Assistant  
Legal Division

DMG:JET:ld

# Memorandum

Date : May 10, 1988

MAY 13 1 12 PM '88

To : Ms. Diane Griffiths  
Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

From : **Department of Corrections**

Subject : **CONFLICT OF INTEREST CODE FOR THE BLUE RIBBON COMMISSION  
ON INMATE POPULATION MANAGEMENT**

This memorandum is to request information on the need to adopt a Conflict of Interest Code for the Blue Ribbon Commission on Inmate Population Management.

The Blue Ribbon Commission on Inmate Population Management was established through the addition of Title 9 (commencing with Section 14090) to Part 4 of the Penal Code.

The Commission will examine matters related to the correctional system, determine prison and jail population and cost projections, study alternatives and options for criminal punishment, and will make recommendations to the Governor and the Legislature no later than one year after its first meeting. The Commission becomes inoperative two years after it becomes effective and as of January 1, 1990, is repealed.

If you need additional information regarding the Commission, please contact me at (916) 324-9978 or ATSS 454-9978.

Your assistance in this matter is appreciated.

  
STERLING W. O'RAN III, Staff Director  
Blue Ribbon Commission  
on Inmate Population Management



# California Fair Political Practices Commission

May 19, 1988

Sterling W. O'Ran III  
Department of Corrections  
P. O. Box 942883  
Sacramento, CA 94283-0001

Re: 88-183

Dear Mr. O'Ran:

Your letter requesting advice under the Political Reform Act was received on May 18, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeanette Turvill, in the Legal Division, directly at (916) 322-5901.

- We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, we will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths  
General Counsel

DMG:plh

# Memorandum

Date : May 10, 1988

MAY 13 1 12 PM '88

To : Ms. Diane Griffiths  
Fair Political Practices Commission  
428 J Street, Suite 800  
Sacramento, CA 95814

From : **Department of Corrections**

Subject : CONFLICT OF INTEREST CODE FOR THE BLUE RIBBON COMMISSION  
ON INMATE POPULATION MANAGEMENT

This memorandum is to request information on the need to adopt a Conflict of Interest Code for the Blue Ribbon Commission on Inmate Population Management.

The Blue Ribbon Commission on Inmate Population Management was established through the addition of Title 9 (commencing with Section 14090) to Part 4 of the Penal Code.

The Commission will examine matters related to the correctional system, determine prison and jail population and cost projections, study alternatives and options for criminal punishment, and will make recommendations to the Governor and the Legislature no later than one year after its first meeting. The Commission becomes inoperative two years after it becomes effective and as of January 1, 1990, is repealed.

If you need additional information regarding the Commission, please contact me at (916) 324-9978 or ATSS 454-9978.

Your assistance in this matter is appreciated.

  
STERLING W. O'LAN III, Staff Director  
Blue Ribbon Commission  
on Inmate Population Management