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Rubio Fights for the People's Right to Know

From my first day of seeking office, I have stood unequivocally on the side of the public's right to know. Based on this belief, I am compelled to issue a statement in response to the County CAO's proposal to limit and restrict public information from the people of Kern County.

I believe in its current form, the County's proposal is in direct violation of State law and, more importantly, may indeed violate the civil rights of the people in Kern County.

It has been said that the people are the very fabric of our democracy. If so, then open government is the needle with which it is sewn. This is perhaps why there are very specific and clear laws that protect people's rights to access public information. The preamble to the Brown Act, which governs our hearings, clearly states:

"...public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations 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."

The Kern County Board of Supervisors is one such instrument and we must always trust Kern County taxpayers and residents, just as they have entrusted us with this great honor of allowing us to serve them in public office.

My strong opposition to the proposed amendments is based on three fundamental findings:

First, the proposed County policy should not thumb its nose at State law. The Open Meeting Law of this state clearly defines what is public and what is not. Late last year, County Counsel presented this Board

with a report indicating as such. I believe Mr. Barmann's memo delineated the issues and provided a clear guide to ensure that we remain within the specified confines of the law.

Second, Paragraph (d) in Section 54957.5 of the Brown Act states, "This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act." Any efforts to limit or delay access to public information, as the CAO's language offers, falls contrary to promise of the Brown Act.

Lastly, the California Constitution Article 3, section (b) paragraph (1) declares it a civil right for the people of California to have access to their government. It states, "The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." Furthermore, the Constitution also provides in paragraph (2) that "a statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people's right of access, and narrowly construed if it limits the right of access." The CAO's proposal is in direct conflict with the word and spirit of paragraph (2).

In addition to the findings, I have many critical questions regarding the proposal.

1. Why now? What problem is being fixed?
2. Both amendments state that request for documents shall be handled by issuing departments. Does that mean that Supervisors, the public's elected representatives, are not allowed to provide copies to the general public?
3. Will the public be required to ask a department for all documents?
4. In the future, will County Supervisors claim they are bound by a County policy not to provide the public with public records?

I believe that as elected officials we must strive to gain the respect and support of those whom we represent. To issue a proposal that denies people of their rights does not warrant their trust nor will it earn their confidence. We should never forget Supreme Court Justice Louis D. Brandeis' visionary statement: "Sunlight is the best disinfectant".

In the end, I believe it is very simple: the public elects us into office and pays our salaries. Therefore, what we do on their behalf should be public. I will never support a proposal that violates state law nor denies citizens of their civil right to have access to their government. Anything less would only provide credence to those who claim we operate under a veil of secrecy. The best way to get rid of secrecy is to expose it. The public always has the right to know.

"As yet another family mourns the death of a loved one at the hands of a gang member, we must act swiftly to address the high rate of gang violence in our community. I will continue to work to provide any and all resources necessary to stop gang violence, particularly as fear and anxiety further grips Bakersfield and Kern County." Supervisor Rubio stated. "These proposals within the Victims of Gang Violence Act of 2006 will work hand-in-hand to hopefully allow children to again walk the streets without the continual fear of being shot by a gang member for simply being at the wrong place at the wrong time or for wearing the wrong color."