



David Loy, Legal Director  
dloy@firstamendmentcoalition.org

Ginny LaRoe, Advocacy Director  
glaroe@firstamendmentcoalition.org

November 12, 2024

**VIA E-MAIL**

Supervisor Kevin Crye (chair)  
Supervisor Tim Garman  
Supervisor Mary Rickert  
Supervisor Patrick Henry Jones  
Supervisor Chris Kelstrom  
SHASTA COUNTY BOARD OF SUPERVISORS

Sheriff Michael L. Johnson  
SHASTA COUNTY SHERIFF'S OFFICE

**Re: Removal of press and public from Board of Supervisors meeting**

Dear Supervisors and Sheriff Johnson:

We write to protest the removal of the press and public from the Board of Supervisors meeting on Thursday, November 7, which violated the Brown Act's open-meetings protections and raises serious First Amendment concerns.

As we understand the facts, based on our review of recordings of the meeting, an attendee approached the dais and the chair directed her to sit down, which she and a second member of the public did, situating themselves on the floor in front of the dais as a protest. The chair then announced, "People didn't get attention as kids, so we're going to recess for five minutes." At this time, county counsel interjected to advise the chair to first give the protesters a warning, after which the chair said, "Before we recess, will the two individuals, please, seated in front, move. This is your warning before you will be removed." After a pause, the chair continued, "With that, they are not moving. We will be in 5-minute recess." Several minutes later, the chair ordered the press and public to leave the room as well. To our knowledge, there was no evidence of any actual or imminent threat to order or safety sufficient to justify ordering everyone to leave the room. While some individuals may have engaged in debate or dialogue concerning the protest during the recess, they did not commit or threaten any disorder or violence.

Unless there are other material facts of which we are unaware, the order to clear the room unlawfully interfered with the right of the press and public to observe and document the events unfolding during the recess, including the removal and arrest of a protester who remained after the other left.

The California Constitution guarantees the people's right of access to "the meetings of public bodies." Cal. Const. art. I, § 3(b)(1). The Brown Act codifies that right by guaranteeing the press and public may attend meetings of the Board of Supervisors and prohibiting an order clearing the meeting room in all but very limited circumstances.

Under the Brown Act, the meeting room can be cleared only upon a decision by "the members of the legislative body conducting the meeting," and only if the "meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting." Gov't Code § 54957.9.

To our knowledge, none of those conditions were met. The full Board did not vote in open session to clear the room. There is no indication that anyone was interrupting the meeting other than the two people who sat down in front of the dais. Assuming that ordering the removal of those individuals was justified, there is no reason to believe that their removal was insufficient to restore order and allow the meeting to continue without removing everyone else.

Even if clearing the room was somehow justified, the Brown Act mandates that the press must be allowed to remain in the chamber. "Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section," according to Gov't Code § 54957.9, which we brought to your attention in July.<sup>1</sup> There is no evidence that any member of the press was participating in any disturbance that prevented the meeting from continuing, but even assuming otherwise, any such problem could have been addressed by an appropriate order to remove a disruptive individual without clearing the room.

Therefore, even if the conditions were met for the Board to take a public vote to clear the room, members of the press should have been allowed to remain in the room to cover the unfolding events. When journalist Annelise Pierce of Shasta Scout continued to report on the meeting from inside chambers, County Counsel Joseph Larmour approached Pierce to say the press would also need to leave, according to video of the encounter.<sup>2</sup> Pierce questioned the reason, and Larmour replied "because the sheriff has requested" it. Journalists with Shasta Scout, the Record Searchlight and A News Cafe remained in chambers for some period until sheriff's deputies later arrived and gave commands to leave, Pierce reported.<sup>3</sup>

The Brown Act's requirements cannot be evaded merely by contending that the meeting was in "recess." If a recess is called but the meeting is not adjourned, the meeting remains in session

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<sup>1</sup> [FAC letter to Shasta County Board of Supervisors, July 20, 2024](#)

<sup>2</sup> <https://www.youtube.com/watch?v=0fgiBEfKkvM&t=16s>

<sup>3</sup> <https://shastascout.org/as-tensions-mount-in-shasta-county/>

and subject to the requirement that board meetings “shall be open and public, and all persons shall be permitted to attend any meeting,” Gov’t Code § 54953(a), unless the strict requirements of Section 54957.9 are met.

If there is any doubt on that point, the California Constitution mandates that the Brown Act “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” Cal. Const., art. I, § 3(b)(2). Under a broad construction of the Brown Act, the meeting remained in session and subject to the rule against clearing the room except in strictly limited circumstances that were not met in this case.

The order to clear the room also presents significant First Amendment concerns. Under the First Amendment, persons may be removed from the Board’s public meetings only if they cause actual and substantial disruption. “Actual disruption means actual disruption. It does not mean constructive disruption, technical disruption, virtual disruption, *nunc pro tunc* disruption, or imaginary disruption.” *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010). Assuming the protesters who sat in front of the dais actually disrupted the meeting, there is no evidence anyone else was doing so or threatening to do so and therefore no lawful reason to order everyone removed from the meeting room.

We are also troubled by additional actions county officials took that degraded the press and public’s ability to observe and document issues of clear public interest. The county conducted law enforcement activities under the cover of darkness. Video shows the lights were turned off in the meeting chamber during the recess, before sheriff’s deputies entered the room, ordered press to leave under threat of arrest and then placed the protester under arrest. Additionally, we question why members of the public were not only forced from the meeting chambers, but also from the building lobby, further diminishing transparency. And we question why members of the press who had been given deputy consent to continue observing and recording activities in the meeting chamber from an open doorway, were later obstructed by deputies.<sup>4</sup> In a live broadcast of events, Pierce described seeing Supervisor Garman observing the arrest of the protester from inside the building with some proximity to the law enforcement activity, undermining the argument that the chamber was cleared for safety reasons.

Vague and unsupported assertions about “safety” cannot justify clearing the room. As courts have confirmed, “mere speculation about danger” is insufficient to justify infringing First Amendment rights. *Bay Area Peace Navy v. United States*, 914 F.2d 1224, 1228 (9th Cir. 1990).

Following the meeting, the Sheriff’s Office issued a news release, a copy of which is attached, saying the room was cleared “for safety,” without providing further details to support that justification, and stating that “other individuals who failed to obey lawful orders to exit the

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<sup>4</sup> <https://www.youtube.com/watch?v=YYX5r2kn1AQ>

chambers may also face charges.” Given that the order to clear the room was unlawful and that, even assuming it was not, members of the press had a statutory right to remain in the meeting room, we urge the Sheriff to withdraw this threat.

After the meeting, Deputy County Executive Officer Stewart Buettell also issued a news release, a copy of which is attached, that describes “the procedure that was followed” as a “protocol that has been in place for more than a year” and asserts this “protocol was crafted in cooperation” with the Board, County Counsel, Sheriff’s Office, District Attorney’s Office. Regardless of any such protocol, it is still the responsibility of the Board to conduct its meetings in accordance with the Brown Act and the First Amendment.

For all of these reasons, the order to clear the room was unlawful and cannot support any charges against members of the press and public observing the protest and related events. We ask the Board and Sheriff to ensure that the rights of the press and public to observe and document events at future Board meetings are fully respected.

Thank you for your attention to this issue. Please let us know if you have any questions.

FIRST AMENDMENT COALITION



David Loy  
Legal Director

FIRST AMENDMENT COALITION



Ginny LaRoe  
Advocacy Director

cc: Joseph Larmour, County Counsel  
David J. Rickert, County Executive Officer  
Stewart Buettell, Deputy County Executive  
David Maung, Public Information Officer



# SHASTA COUNTY SHERIFF

Michael L. Johnson  
SHERIFF-CORONER

## **MEDIA RELEASE**

### **Board of Supervisors Meeting Disrupted, Individual Arrested**

On Thursday, November 7, 2024, at 7:13 PM, Shasta County Sheriff's Deputies responded to the Shasta County Board of Supervisors Chambers at 1450 Court Street, Redding, to a report of an individual sitting on the floor of the Board chambers refusing to leave and disrupting the meeting.

Arriving deputies cleared the Board Chambers for safety and located 40-year-old Jennifer Lynn O'Connell-Nowain seated on the floor of the chambers. O'Connell-Nowain was given numerous orders to exit the chambers but would not comply.

O'Connell-Nowain was arrested and booked into the Shasta County Jail on charges of 403 PC Disturbing a Public Meeting.

This incident remains under investigation and other individuals who failed to obey lawful orders to exit the chambers may also face charges.

Case# SCSO24-004689

Contact: Tim Mapes, Public Information Officer

Phone: (530) 245-6149

Date: 11/08/2024

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# SHASTA COUNTY

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County Administrative Office  
1450 Court Street, Redding, CA

## P R E S S   R E L E A S E

**Media Contact:**

Stewart Buettell, Deputy CEO  
Shasta County  
SBuettell@shastacounty.gov  
530-225-5561

**FOR IMMEDIATE RELEASE**

November 8, 2024

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### **Disruption during Board of Supervisors Meeting**

**Shasta County, CA** – At the November 7, 2024, Board of Supervisors meeting, a disruption occurred by attendees that necessitated county staff requesting assistance from law enforcement officers to restore order and to allow for the resumption of the meeting.

The procedure that was followed was the product of a protocol that has been in place for more than a year. This protocol was crafted in cooperation with the Board of Supervisors, the County Administrative Office, County Counsel, the Shasta County Sheriff's Office, and the Shasta County District Attorney's Office.

This agreed upon process was established with the safety of the general public and county staff in mind, so that all involved parties have a consistent method to restore order following a disruption and recess by the Board of Supervisors.

All parties worked together to follow the established protocol during this incident and the meeting was allowed to continue as planned.

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