

18 December 2014

Opinion¹: Post Mortem

Issues/Questions:

1. What information must the Governor provide about Post Mortem?
2. Who determines the scheduling of Post Mortem: the Governor, the Steering Committee, or both?
3. Can the places and times of Post Mortem be changed after they are announced?

This opinion will answer these questions together as they are closely linked.

Post Mortem is mostly discussed in Title 2, Section 202 of the OIL Statutes. However, Title 5, Section 201 includes:

“The Governor and Governor-elect shall call Post Mortem Session and Interim Session in accordance with Title Two, Section 202 of these statutes. *The Governor and Governor-elect shall be responsible for the selection of times and places for these sessions and shall serve notice to the membership of the Steering Committee at least two (2) weeks in advance*” [emphasis mine].

Title 5, Section 201 of the OIL Statutes at first seems to give the Governor the exclusive power to determine the times and place of Post Mortem. However, Title 2, Section 202.C states:

“The Governor may call additional meetings of the Steering Committee as needed. Such meeting shall not interfere with Legislative or Judicial business when either branch is in session. Administrative meetings shall not be considered session for the purpose of this provision. *The Steering Committee shall not meet during the months of December or May, unless two-thirds (2/3) concur to such a meeting*” [emphasis mine].

Although it is in a sub-section dealing with additional meetings of the Steering Committee rather than Post Mortem itself, I believe this sub-section would still apply to Post Mortem. Post Mortem is technically a meeting of the Steering Committee [OIL Statutes, Title 2, Section 202.A]. The sentence about meetings in December or May is not qualified with terms like “additional.” Because Post Mortem is a meeting of the Steering Committee, and because there are limitations on such meetings in December or May, **it is my opinion that any Post Mortem in December or May may only occur with the concurrence of two-thirds (2/3) of the Steering Committee.**

The basis for this two-thirds concurrence in the Statutes is likely the busy schedule of students in those months, given things like final exams and graduations. Furthermore, the requirement of a minimum of two weeks notice recognizes that OIL members have a variety of responsibilities to plan around, including professional, academic, and familial ones. This provides some basis for answering the first question about the information the Governor must provide.

¹Title 5, Chapter 4, Section 400

In the absence of specific guidance in the Statutes, it is my opinion that **the Governor must provide information sufficient to enable reasonable planning by the members of the Steering Committee** and, if it is for a December or May meeting, give them enough information to concur (or not) to the meeting's scheduling. "Information sufficient to enable reasonable planning" should be understood to include:

- 1) **the name of the university or other location** where Post Mortem is to be held; the specific room name or number should also be provided once confirmed/reserved, but is not required for the two weeks notice as it should not affect Steering Committee members' ability to plan.
- 2) **the date and general time of day.** The general time of day, for example, could be morning (8am to noon), early afternoon (noon to 3pm), late afternoon (3pm to 6pm), or evening (after 6pm).

This information, as well as the requirement of notifying the Steering Committee of it two weeks in advance, should be seen as the *minimum*. Further information, like the room name/number and estimated start/end times should be provided as soon as confirmed. Advanced planning and consultation of the Steering Committee in regards to scheduling (especially in the case of December or May meetings) are necessary for effective, fair, and representative Post Mortem sessions.

Furthermore, the provision of this information must be in accordance with the OIL Open Meetings Act of 1995 [OIL Statutes, Title 8, Chapter 2]. Section 202 of that chapter states:

"Agendas must be presented by the Governor prior to the commencement of all regular meetings of the Board of Directors and Steering Committee. Each delegation chair shall be notified by the Secretary of State of all meetings of the Board of Directors and Steering Committee concurrently with the memberships of the Board and the Steering Committee."

Thus, the "information sufficient to enable reasonable planning" (and any subsequent scheduling information) must be released to delegation chairs at the same time as it is to the Steering Committee. This should not, however, be interpreted to mean that the Governor cannot consult with the Steering Committee directly about possible dates, times, and places; indeed, this consultation is to be encouraged to avoid the miscommunications and confusion. It simply means that once the place, date, and general time of day are settled (potentially after consultation between the Governor and Steering Committee), they should be provided to both the Steering Committee and delegation chairs concurrently by the Secretary of State.

An announcement by the Governor in a joint session might meet the standard of the Governor notifying the Steering Committee (if done two weeks or more in advance) as required by Title 5, Section 201 of the Statutes, but it does *not* meet the requirement of the notification by the Secretary of State as required by Title 8, Section 202 of the Statutes. **Thus, as the Statutes currently stand, two separate notifications by two separate officers are actually required in advance of Post Mortem.**

The Statutes do not specify the form these notifications must take (ex: speech, text, email, Facebook post, etc.). Internal legislation that clarified what constitutes "notification" would be welcome. Furthermore, **the Statutes do not discuss amending the times and places of Post Mortem**

once announced. This is unfortunate as it means that any last-minute changes to the place, date, or general time of day could potentially require a minimum delay of two weeks before Post Mortem could be held. Internal legislation should balance the need for flexibility with the fairness of changed scheduling, which could hurt those who have rearranged work schedules, planned to travel long distances (such as from the panhandle, etc.). Requiring a two-thirds or three-quarters majority of the Steering Committee to approve changes to the place, date, or general time of day might be a prudent and reasonable amendment.

UPDATE: 2:40 pm on 12/19/14. A correction was made, changing “international legislation” to “internal legislation”