

CONTINUITY REPORT



2023-24 Santa Clara County
Civil Grand Jury
June 10, 2024

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CONFLICTS

Members of the Civil Grand Jury are conflicted from a Civil Grand Jury investigation if, as a result of prior or current employment or associations, investment in public or private enterprise, financial interest, bias, or personal relationship, they are subject to recusal from participating in a matter before the Civil Grand Jury. Three jurors recused themselves from this matter.

INTRODUCTION

This Continuity Report, prepared by the 2023-24 Santa Clara County Civil Grand Jury (2023-24 Civil Grand Jury), summarizes the responses from public agencies to the 2022 Santa Clara County Civil Grand Jury (2022 Civil Grand Jury) Final Reports. In cases where the response stated that further work would be done, the 2023-24 Civil Grand Jury requested an update. The final 2022 Civil Grand Jury Reports and the responses from the public agencies may be found on the [Civil Grand Jury Reports Archive website](#).

Each published report includes a list of elected officials or agencies required to respond to the Presiding Judge of the Superior Court within 60 or 90 days as specified by California Penal Code section 933.

California Penal Code section 933.05 is specific with respect to the content of the required responses. Under Section 933.05(a), for each finding, the responding party's response must:

- Agree with the finding, or
- Disagree with it, wholly or partially, and explain why.

Similarly, under Penal Code section 933.05(b), for each recommendation, the responding party must report that:

- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

This report summarizes the reports, findings and recommendations, agency responses, and subsequent follow-ups as of the revision date shown below. [Appendix 1](#) shows a summary of agency responses as verified by the 2023-24 Civil Grand Jury's follow-up.

METHODOLOGY

The 2023-24 Civil Grand Jury followed up with responding agencies via interviews and/or written correspondence to verify the completion of accepted recommendations by their implementation dates.

IF YOU ONLY READ THE BALLOT, YOU'RE BEING DUPED

Summary of 2022 Report

The phrasing of ballot measure questions can influence the outcome of an election. Voters almost always rely on the language of the ballot measure question instead of researching the issue. Many voters have difficulty understanding ballot measure questions which can include complicated language. The Civil Grand Jury proposed that an oversight person or body review ballot question-wording.

Key Finding

The wording of ballot measure questions is unregulated at the local level and authors can write ballot measure questions in a way that is confusing or misleading to voters.

Key Recommendations

1a. The County of Santa Clara (County) Board of Supervisors (Board) should ask the County Counsel to review all ballot questions.

1b. Governing entities within Santa Clara County should submit their ballot questions to the County Counsel for review, unless and until Recommendation 1d is implemented.

1c. Governing entities within the Santa Clara County should adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review, unless and until Recommendations 1d and 1e are implemented.

1d. The County should create an independent, citizen-led oversight commission like the recommended Good Governance in Ballots Commission (Commission).

1e. Governing entities within Santa Clara County should submit their ballot questions for review by the Commission pursuant to Recommendation 1d.

1f. The County should take appropriate action to request that the state legislature consider amending current law to require the County Counsel to review and approve local ballot measure questions before they are voted on.

Responses

[County of Santa Clara Board of Supervisors](#)

The County will prepare a resolution for Board approval to implement County Counsel reviews of all ballot measures prior to the statewide elections in calendar year 2024.

The County agrees that tasking County Counsel with reviewing ballot measure questions for accuracy and impartiality would provide a beneficial review of legal conformance to applicable Elections Code provisions.

The County Counsel already reviews County-authored ballot measure questions.

The County disagrees with the recommendation to create a citizen-led commission. The County states:

The County disagrees with this recommendation because it is not warranted or reasonable to implement. The timing of ballot questions being submitted by local jurisdictions to the County elections official does not lend itself to placing such matters on an agenda for a meeting body whose recommendations would be advisory only, after which some determination on the merits of those recommendations would be required by the relevant governing body. Such a mechanism would create a burdensome delay to the Registrar of Voters' ballot preparation process. Recommendation 1b fulfills this purpose more expeditiously and effectively without creation of a new Brown Act body or jeopardizing election timelines.

The County agrees to request the state legislature consider amending current law to require the County Counsel to review and approve local ballot measure questions before they are voted on.

Other Government Agency Responses

[City of Campbell](#)

[City of Cupertino](#)

[City of Gilroy](#)

[City of Los Altos](#)

[Town of Los Altos Hills](#)

[Town of Los Gatos](#)

[City of Milpitas](#)

[City of Monte Sereno](#)

[City of Morgan Hill](#)

[City of Mountain View](#)

[City of Palo Alto](#)

[City of San José](#)

[City of Santa Clara](#)

[City of Saratoga](#)

[City of Sunnyvale](#)

[Santa Clara Valley Water District](#)

[Valley Transportation Authority](#)

[El Camino Healthcare District](#)

[Foothill DeAnza Community College District](#)

[San José Unified School District](#)

[Cupertino Union School District](#)

[East Side Union High School District](#)

In general, the governing entities agreed that ballot measure questions can be confusing or misleading but disagreed that they are unregulated. Governing entities have established procedures for creating and reviewing ballot measures.

The city and town responses stated:

- City and town councils and their attorneys create and review ballot measures.
- City and council meetings discuss ballot question wordings in public meetings.
- The County of Santa Clara does not have authority under state law over Charter Cities. Giving authority to County Counsel to review and edit ballot questions would impinge on a charter city's constitutional authority.

The school districts, water district, transportation authority, and hospital have boards and legal counsels who review ballot measure questions.

The County will not implement the recommendation to create a Commission so the governing entities will not refer ballot questions to a Commission.

The Town of Los Gatos will submit their ballot questions to the County Counsel and adopt a corresponding resolution or ordinance if the County Counsel confirms that 1) it has the capacity to provide this review and 2) the review can be completed within five days of the Town of Los Gatos' submission.

The City of Morgan Hill will consider consulting with the Office of the County Counsel if there is a question regarding whether a ballot title is appropriate, and there is no potential conflict.

Follow-up

The County agrees that the Board should ask the County Counsel to review all ballot questions and will prepare a resolution for Board approval prior to the statewide elections in calendar year 2024.

UNSPORTSMANLIKE CONDUCT: SANTA CLARA CITY COUNCIL

Summary of 2022 Report

The 2022 Civil Grand Jury investigated numerous complaints about the governance ethics of five Santa Clara City (City) Councilmembers referred to by the media as the “49er Five.” The complaints alleged that the Councilmembers engaged in unethical behavior, their conduct lacked transparency, and they governed as if the City Council owed a fiduciary duty to the San Francisco 49ers Football Company LLC (the 49ers).

The investigation confirmed that the actions of Councilmembers Anthony Becker, Suds Jain, and Kevin Park, who were elected with the campaign backing of Political Action Committees (PACs) affiliated with the 49ers, and Councilmembers Karen Hardy and Raj Chahal, who were aligned with the three, were not consistent with the duties owed to the constituents they were elected to serve. In addition, they created a five-member City Council Voting Bloc and voted in a manner that was favorable to the 49ers. The Council Voting Bloc’s relationship with the 49ers caused severe dysfunction in City governance.

Pursuant to Penal Code section 933.05(f), a draft of the report was sent by the 2022 Civil Grand Jury to the City. Section 933.05(f) prohibits disclosure of reports prior to their public release, which was stated on all correspondence to the City and on all correspondence from the Santa Clara City Attorney to the City Councilmembers and the Mayor. The report was leaked to the press before its official public release. The leak of the draft report resulted in the indictment of Councilmember Anthony Becker, with one misdemeanor charge for leaking the report to a 49er lobbyist and a member of the press and one felony charge of perjury for lying to the 2022 Civil Grand Jury about the leak. This case has not yet been adjudicated (People v. Becker, 2023).

Key Findings

The 2022 Civil Grand Jury found that:

1. The City Council Voting Bloc met regularly, and as often as weekly, with lobbyists for the 49ers. The meetings were typically held serially, with three councilmembers in one meeting and two in the next, leaving the impression they were meeting in a manner to subvert the Ralph M. Brown Act (California Government Code section 54950, et seq.) open meeting requirements. The frequency of meetings with the 49ers lobbyists created concern about the City Council’s governance and led to distrust among councilmembers, as well as between the councilmembers and their constituents.

2. There was concern that the City Council Voting Bloc received real-time influence from 49ers lobbyists during City Council meetings.
3. The Levi's Stadium (Stadium) management company – the Forty Niners Stadium Management Company LLC (ManCo), an affiliate of the 49ers – did not provide sufficient financial accounting to the City/Stadium Authority. Despite ManCo's lack of financial transparency, failure to schedule non-NFL events in a fashion that yielded a financial benefit to the City/Stadium Authority, and repeated unabated fire and safety violations, the City continued to keep ManCo as the operator of the Stadium.
4. The City lacked information about the potential risks that the 2026 FIFA World Cup matches, slated to be held at the Stadium, could pose to the City/Stadium Authority.
5. Councilmembers did not use established best practices when conducting operational tours of the Stadium on game days, which led to concerns that they accepted gifts in violation of the Political Reform Act and City policy, and caused distrust among City councilmembers, with the City staff, and most importantly, with the residents of the City.
6. The relationships between the City, the Stadium Authority, the Forty Niners Santa Clara Stadium Company, LLC (StadCo) – an affiliate of the San Francisco 49ers NFL football team and the tenant of the Stadium – and ManCo were creating ethical dilemmas and governance challenges. The governing body for the City includes the City Council Voting Bloc, which has received significant campaign contributions from 49ers lobbyists, meets regularly with 49ers lobbyists behind closed doors, and has engaged in actions that suggest loyalty to the 49ers above the City.
7. Although the City consulted with the Markkula Center for Applied Ethics at Santa Clara University and boasted of having model ethics rules, those rules were developed before the complexities created by the passage of Measure J. Current policies, such as the City's Admonition and Censure Policy, do not work where the challenges are presented by a minority of the City Council membership.
8. The City Attorney and the City Manager were both fired shortly after raising concerns about the 49ers and councilmembers activities related to the 49ers. Members of City staff, including the former City Attorney and former City Manager, showed commendable loyalty and dedication to the City and its interests.

Key Recommendations

The 2022 Civil Grand Jury recommended:

1. Prior to voting on any 49ers-related matters City councilmembers should publicly disclose if they have met with a 49ers lobbyist regarding a topic on the meeting agenda. The City's existing calendar ordinance (City of Santa Clara Ordinance No. 1950) should be expanded

to include the attendees, agenda, duration, and a detailed summary of matters discussed, to be posted online with the calendar. The City should require that meetings with 49ers lobbyists be recorded. The City should establish an open governance commission to evaluate the City's current open government practices and make recommendations for improvement.

2. The City should require councilmembers to be visible at all meetings either in person or on camera.
3. The City/Stadium Authority should hire a certified public accounting firm to conduct a comprehensive audit of Stadium Authority finances and the financial documents submitted by ManCo and continue audits annually thereafter. Additionally, a third-party referee should oversee all of ManCo's management activities and report on a quarterly basis at City Council meetings. The City/Stadium Authority should allocate dedicated staff to oversee Stadium operations.
4. The City/Stadium Authority should request that the 49ers provide a report on the status of the commitments made to the FIFA event and evaluate if the FIFA event poses risks to the City, specifically regarding security costs and the nature of declarations required of the host city. The City/Stadium Authority should pause action regarding FIFA until they receive all of the information due to them.
5. The City/Stadium Authority should adopt a policy and outline procedures for elected and appointed officials to conduct operational tours of the Stadium. The City Council Policy Manual Admonition and Censure Policy should be invoked if policy is not followed. The City should hire an independent consultant to evaluate whether councilmembers violated City Policy No. 050, "Gifts to Appointed and Elected Officials."
6. The City should hire a qualified legal and ethical consultant to evaluate the challenges presented by the unique relationship between the City and the 49ers and prepare a public report. The consultant should examine the consequences and likelihood that the 49ers will continue to influence elected officials and City governance via PACs and lobbyists. Additionally, the consultant should evaluate mechanisms like an oversight body or commission, auditors, and changes to existing policies and codes that better ensure accountability and transparency.
7. The City should add to the City Code of Ethics & Values and the Admonition and Censure Policy a procedure to enable the public to file a complaint and testify at a public hearing to help remediate ethics violations. This should include a procedure for public admonishment, revocation of special privileges, or censure. Additionally, the City should establish an independent Public Ethics Commission, and councilmembers should be required to annually attend training in good governance provided by a third party.

Responses

The respondent to the report, the City Council (which had a governing board that included the City Council Voting Bloc majority) was required to vote to determine if it agreed with these findings and whether it would accept the recommendations (Cal. Pen. Code § 933.05).

City of Santa Clara (Formal Response)

The City of Santa Clara:

1. Disagreed that it met regularly with lobbyists for the 49ers in meetings that subverted the Ralph M. Brown Act's open meeting requirements and led to distrust among councilmembers, as well as between the councilmembers and their constituents and stated it would not implement recommendations to publicly disclose if they have met with a 49ers lobbyist regarding a topic on the meeting agenda.
2. Disagreed that City Council had a Voting Bloc that received real-time influence from 49ers lobbyists during City Council meetings.
3. Disagreed in part that ManCo did not provide sufficient financial accounting to the City/Stadium Authority, stating that the issue was a work in progress; disagreed that the City has identified fire and safety violations that had not been remediated; disagreed in part that the City continued to keep ManCo as the operator of the Stadium in spite of a lack of financial transparency. Stated it would not hire a certified public accounting firm to conduct a comprehensive audit of Stadium Authority finances or advocate for a third-party referee. Stated the Stadium Authority already has staff members assigned to oversee Stadium operations.
4. Disagreed in part that the City lacked information about the potential risks that the 2026 FIFA World Cup matches, slated to be held at the Stadium, could pose to the City/Stadium Authority, and stated it would not provide a status report on the commitments made to the FIFA event by February 1, 2023, because the date was not reasonable. Stated it would evaluate if the FIFA event poses risks to the City by December 31, 2023. Stated it would not halt further action regarding FIFA while waiting for information.
5. Disagreed that the councilmembers did not use established best practices when conducting operational tours of the Stadium on game days. Stated it would implement a policy and outline procedures for elected and appointed officials to conduct operational tours of the Stadium, but would not invoke the Admonition and Censure Policy if policy was not followed. Stated it would not hire an independent consultant to evaluate whether councilmembers violated City Policy No. 050, "Gifts to Appointed and Elected Officials."

6. Disagreed that relationships between the City, Stadium Authority, StadCo, and ManCo are creating ethical dilemmas and governance challenges. Stated the City will not hire a legal and ethical consultant to evaluate the challenges presented by the unique relationship between the City and the 49ers and prepare a public report.
7. Disagreed, in part, that current policies, such as the City's Admonition and Censure Policy, do not work where the challenges are presented by a minority of the City Council membership. Acknowledged the challenges of ensuring that all voices are heard, even when expressed in a minority vote of any Council/Stadium Authority Board action, but disagreed that the City's rules of ethics are not working. Stated it would not add procedures to enable the public to file a complaint and testify at a public hearing to help remediate ethics violations, including a procedure for public admonishment, revocation of special privileges, or censure. Stated it would not establish an independent Public Ethics Commission. Stated councilmembers already do or soon will be trained annually, in good governance.

Follow up to City Response

The 2023-24 Civil Grand Jury confirmed that the implementation of Recommendations 3c (to allocate staff to oversee Stadium operations) and 4b (to evaluate if the FIFA event poses risks to the City/Stadium Authority) are in progress, and Recommendation 5a (to implement a policy and outline procedures for elected and appointed officials to conduct operational tours of the Stadium) is complete. The 2023-24 Civil Grand Jury found no evidence that councilmembers were receiving annual training in good governance, as was stated in the City's response to Recommendation 7c.

Mayor Gillmor and Councilmember Watanabe – Dissent Response

At the December 8, 2022, City Council meeting, the City Attorney stated that Councilmembers could independently submit a dissenting response if there was disagreement with the proposed responses as approved by the Council majority. A dissenting response was submitted by Mayor Lisa Gillmor and Councilmember Kathy Watanabe (Council Minority). The response stated, "We disagree with the Council majority's response because it lacks basic elements of integrity that any formal governmental report should contain and is rooted in unsubstantiated assertions of a legitimate judicial agency."

The Council Minority response agreed with all the key findings and recommendations. However, as a Council Minority, the Mayor and Councilmember lacked the organizational majority to implement the recommendations.

The response also stated that although the City has allocated staff to oversee the Stadium Authority since the 2014-15 fiscal year, “since the firing of the City Attorney in September 2021 and the City Manager in March 2022, there has not been proper oversight by a person with institutional knowledge of ManCo’s day-to-day operations.”

GARBAGE IN, GARBAGE OUT: SANTA CLARA COUNTY PUBLIC CONTRACT DATA

Summary of 2022 Report

The 2022 Civil Grand Jury investigated the lack of public access to the County of Santa Clara's (County) vendor contracts and found that contract information on the County's web portal contained significant errors. The 2022 Civil Grand Jury traced the lack of transparency in contract data to human errors arising from manual data entry and failure to fully implement the County's existing software system.

The 2022 Civil Grand Jury found that the County does not provide the public with accurate contract data because:

- County employees from all departments perform contract data input, but the County lacks standardized processes to input and validate data or manage contracts.
- Training in contract data input is not required.
- The County spent millions of dollars on enterprise resource planning systems, but never fully implemented the contract management module used by most County departments.

These issues resulted in contract data that was inaccurate and unreliable and an example of the data analytics adage "garbage in, garbage out."

Key Findings

The 2022 Civil Grand Jury found:

1. Neither the public nor the Board of Supervisors could accurately determine the total value or expiration dates of contracts because the County had not addressed the known inaccuracies of public contract data.
2. The Active Contracts list on the County Procurement Department website was unreliable because the SAP and Ariba databases contained many errors and omissions, and there was a lack of standardized processes to effectively input and validate contract data.
3. The County did not mandate employees to receive training before entering contract information into enterprise resource planning (ERP) systems.
4. The County failed to fully implement the SAP system contract management module purchased over a decade ago for millions of dollars, resulting in a failure for timely integration of Ariba and SAP systems.

Key Recommendations

The 2022 Civil Grand Jury recommended:

1. The County should:
 - a) Mandate protocols for the accuracy of contract data and mandate training in contract management for employees and use of SAP contract management modules.
 - b) Assign one person responsible for the accuracy of contract data.
 - c) Conduct a full audit and correct the contract database to provide an accurate Active Contract List.
 - d) Continue quarterly accuracy audits on the contract database, documenting statistical evidence of error reduction, until all decentralized department employees are trained on contract management.
2. The County should:
 - a) Reconcile the Term Contracts list with the Active Contracts list for accuracy and consistency before they are distributed and made public.
 - b) Centralize initial input of contract data in each department, or in one centralized department to minimize input errors and inconsistencies. The County Procurement Department should have one quality assurance function responsible for the accuracy of all contract data.
 - c) Establish protocols that ensure that data related to amended contracts are accurately inputted into the ERP system with a new data field to ensure version control.
 - d) Add data fields including an identifier for assigned staff responsible for verifying the accuracy of public contracts.
 - e) Require that all active contracts listed on the Active Contracts List are posted, with none hidden from public view.
 - f) Post an electronic copy of the actual contracts on its website for public view.
 - g) Include the computer-generated number and the County's original contract number on the Active Contracts List to assist with Public Records Act inquiries.
 - h) Include several new fields on the Active Contract List so that vendors and the public can trace contracting authority and action dates.
3. The County should mandate contract management training for County employees, with documentation of satisfactory completion before the employee can enter contract data into the ERP systems.
4. The County should:
 - a) Insist the current Social Services Agency pilot program involving contract data contains all necessary elements to ensure a quality evaluation of the material management module before it is rolled out to other departments.
 - b) Implement the contract management module within SAP for all departments and agencies.

Response

The County responded:

1. Public contract data reports are not inaccurate.
 - a) The County has hired a Compliance Manager to assist and facilitate contract accuracy protocols; would implement employee training by September 1, 2023; and would implement the use of contract management modules in SAP at a future date.
 - b) There was no need to designate a singular person responsible for data accuracy or to conduct a full audit.
 - c) There was no need to conduct a full audit.
 - d) The County would continue quarterly accuracy audits and deploy mandatory management trainings by September 1, 2023.
2. The County partially disagreed and stated it had deployed numerous enhancements to SAP ERP Central Component (SAP ECC) to improve contract compliance with County policy and administrative guidelines. The County's plans to purchase and implement a new ERP system will be a multi-year endeavor requiring considerable resources; it intends to fully utilize Ariba in the near term while it develops specifications for implementing a new ERP solution.
 - a) The County does not have or generate a Term Contracts list.
 - b) The County will consider assessing the idea of centralizing initial data entry and contract administration as part of the future ERP implementation.
 - c) Establishing protocols that ensure that data related to amended contracts are accurately inputted into the ERP system, with a new data field to ensure version control, will be implemented in the future, as departments are integrated into Ariba. Any future ERP system will include these controls and data fields.
 - d) Current SAP and Ariba systems already capture the name of the contract administrator.
 - e) The Active Contracts report provides a list of all active contracts, except those that are removed or redacted to comply with County ordinances, policy, or other legal requirements.
 - f) The County will not post an electronic copy of actual contracts for public viewing because it is not warranted or reasonable. Many contracts include proprietary content or information that requires redaction. Members of the public can submit California Public Records Act (CPRA) requests to view contracts.
 - g) Purchase order or contract numbers are already included in the Active Contracts report on the Procurement public website.
 - h) Including several new fields on the Active Contract List is not warranted or reasonable. Additional information on contracts can be provided as requested through CPRA requests.

3. The County agreed that although the Procurement Department produced training materials, it did not mandate employees participate in the training before entering contract data into the ERP system, and agreed to mandate training in contract management and data entry for all users starting September 1, 2023.
4. The County partly disagreed that it had failed to fully implement the contract management module of the SAP system, preventing the timely integration of contract data from the Ariba and SAP systems and creating incompatibility issues. The County stated that a phased implementation plan for use by other departments across the County is in progress and the County anticipates acquiring a new ERP system at an undetermined future date, whose business requirements will include a new contracts management module for use by all County departments. The County stated:
 - a) The current pilot program regarding contract data at the Social Services Agency does not require materials management functionality, and enhancements to relevant templates and workflows will continue.
 - b) The County will not implement the contract management module within SAP for all departments and agencies because it is not warranted or reasonable.

Follow-up

The 2023-24 Civil Grand Jury inquired with the Board of Supervisors (Board) on November 9, 2023, requesting a response by November 30, 2023. The following are the updated responses from the Board.

- Recommendation 1a, to hire a compliance manager, has been implemented. However, the 2023-24 Civil Grand has been unable to verify the full implementation of employee training in contract management or the use of contract management modules in SAP.
- Recommendation 1d, to continue quarterly accuracy audits, has been implemented. Ongoing accuracy monitoring activities include but are not limited to:
 1. Review of legislative files for all contracts and amendments requiring Board approval at publicly agendaized meetings.
 2. Compliance checks of all requests for the annual delegation of authority known as the Master Contract List.
 3. Preapproval requests for contracts extending beyond a five-year term.
 4. Requests for amendments or changes to purchase orders executed by the Director of Procurement.

Additionally, the County plans to conduct routine spot audits of Board Contracts.
- Recommendation 2c, establishing protocols that ensure that data related to amended contracts are accurately inputted into the ERP system, with a new data field to ensure version control, has been partially implemented. In its November 30, 2023, response, the

County stated it has established protocols for goods and services to capture data related to amended contracts, length of term, and contract value within Ariba.

- Recommendation 3, to mandate training in contract management training for County employees, with documentation of satisfactory completion before the employee can enter contract data into the ERP systems, has been partially implemented. System access is granted only upon mandatory completion of the SAP Navigator Training.

SHOW ME THE MONEY: FINANCIAL TRANSPARENCY NEEDED

Summary of 2022 Report

In California general law, cities are required to comply with California Government Code section 41004, which states, “at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body.” This law is to ensure financial accountability and public transparency through timely and accurate treasurers’ reports given to city councils enabling them to make reliable and sound decisions.

Key Findings

The 2022 Civil Grand Jury found six of the nine general law cities and towns within the County were not in compliance with this state requirement: Los Altos, Los Altos Hills, Los Gatos, Milpitas, Campbell, and Monte Sereno. The City of Cupertino was initially non-compliant but took corrective action during the 2022 Civil Grand Jury’s investigation. The City of Saratoga and the City of Morgan Hill were compliant prior to the investigation.

Key Recommendations

Recommendations 1 through 7 stated that the City of Los Altos; the Towns of Los Altos Hills and Los Gatos; and the cities of Milpitas, Campbell, and Monte Sereno should come into full compliance with Section 41004.

Responses

- [City of Los Altos](#) disagreed with the findings and recommendations and stated that although the recommendations were not warranted, the City of Los Altos would nevertheless provide reports in the manner desired by the 2022 Civil Grand Jury, but would not update its financial policy as recommended.
- [Town of Los Altos Hills](#), [Town of Los Gatos](#), and [City of Cupertino](#) agreed with Findings 3, 4 and 8 and stated the recommendations were implemented.
- [City of Milpitas](#), [City of Campbell](#), and [City of Monte Sereno](#) partially disagreed with their respective findings and stated that they implemented the 2022 Civil Grand Jury’s recommendations.

Follow-up

The 2023-24 Civil Grand Jury reviewed the reports from the City of Los Altos, the Town of Los Altos Hills, the Town of Los Gatos, the City of Milpitas, the City of Campbell, and the City of Monte Sereno, and verified their implementation and compliance with Section 41004.

A HOUSE DIVIDED: CUPERTINO CITY COUNCIL AND CITY STAFF

Summary of 2022 Report

The 2022 Civil Grand Jury investigated the behavior of City of Cupertino (City) Councilmembers toward City staff and found that Councilmembers interfered in the day-to-day operations of the City and behaved inappropriately toward the City Manager and staff including, but not limited to, routine disrespect and the inclination to doubt the accuracy of the City staff's work. The behavior by certain councilmembers towards City staff directly violated the City's ordinances relating to the Council-Manager form of government under which the City operates.

Furthermore, high turnover in key management and leadership positions within City government caused the City to lose employees with significant capabilities and experience, which adversely impacted the City's ability to effectively operate the City. Additionally, the City had left unaddressed key findings and recommendations, such as deficiencies in internal financial controls, and existing operating policies and procedures, by its designated internal auditor, Moss Adams LLP (Auditor).

Key Findings

The 2022 Civil Grand Jury found:

1. The City had a culture of distrust between the Councilmembers and City staff that created dysfunction.
2. The dysfunction prevalent between the City Council and City staff negatively impacted City operations, including the continuing loss of skilled and experienced personnel. A reputation for having a difficult work environment made recruiting of highly qualified applicants difficult.
3. The City did not take sufficient steps to improve the City's financial risk profile as recommended by its retained Auditor.
4. The City's Ethics Policy is generic and lacked enforcement provisions and therefore failed to provide a framework to address ramifications for policy violations.

Key Recommendations

The 2022 Civil Grand Jury recommended:

1. The City should develop or acquire a good governance training and development program for both councilmembers and staff members.
2. The City should hire a consultant to study staff morale and make recommendations to improve retention of employees and the quality of the working environment.
3. The City should:
 - a) Implement the work plan identified in the May 2022 Fiscal Policy Inventory and Gap Analysis Report developed by the City's Auditor.
 - b) Employ the use of continuing annual internal audits.
4. The City should:
 - a) Establish an independent Public Ethics Commission with guidance from experts in applied ethics, such as the Markkula Center for Applied Ethics at Santa Clara University.
 - b) Reinstate enforcement procedures to enable the City Council and the public to file complaints and testify at public hearings to help remediate ethics violations, which include a procedure for public admonishment, revocation of special privileges, or censure.
 - c) Engage a conflict resolution professional to help enhance mutual understanding and respect amongst all stakeholders,
 - d) Publish its current Ethics Policy on the City website.

Response

City of Cupertino:

1. Partially agreed that it should develop or acquire a good governance training and development program for both Councilmembers and staff members. Despite some areas of disagreement, the City agreed that distrust between staff and Councilmembers had been pervasive and mutual. The City stated:
 - It would develop or acquire a good governance training and development program for both Councilmembers and staff members by the end of FY 2022-23.
 - City Council approved an Internal Audit Workplan, which included an Enterprise Leadership Study that assessed the effectiveness of the City's management and governance collaboration framework and provided recommendations to strengthen and streamline procedures to align with best practices for municipal leadership.
 - It acknowledged the need for improved staff training on the role of City staff within the Council-Manager form of government and stated it would develop recommendations for improving staff training and morale.

2. Partially agreed that dysfunction between the City Council and City staff negatively impacted City operations, including the continuing loss of skilled and experienced personnel. The City acknowledged that poor Council-staff relations had contributed to the decisions of staff to leave the City, and reputational issues created challenges for the recruitment and retention of key personnel. The City agreed it should hire a consultant to study staff morale and make recommendations to improve retention of employees and quality of the working environment.
3. Disagreed that it did not take sufficient steps to improve the City's financial risk profile as recommended by its retained Internal Auditor, but agreed that implementation of the City's Internal Audit Workplan should be prioritized and that the internal auditor's recommendations should be implemented. Agreed to implement the work plan identified in the May 2022 Fiscal Policy Inventory and Gap Analysis Report by June 30, 2023. Stated it had implemented the use of continuing annual internal audits.
4. Partially agreed its Ethics Policy was generic and lacked enforcement provisions, and failed to provide a framework to address ramifications for policy violations. Cited its existing Ethics Policy, Resolution 20-011, stating:
 - a) It would not establish an independent Public Ethics Commission because City Council is typically responsible for considering ethics violation and enforcing sanctions where appropriate; few, if any, peer jurisdictions delegate this authority to an independent ethics commission; and the administrative burden and expense of establishing an independent ethics commission was too great.
 - b) It was unclear which prior enforcement provisions the Civil Grand Jury report referenced in its recommendation, but City Council directed the City Attorney to investigate and report back to Council regarding potential violations of the Municipal Code arising out of Council-staff or commissioner-staff relations.
 - c) It would identify opportunities to engage a conflict resolution professional to help enhance mutual understanding and respect among all stakeholders.
 - d) It has published its current Ethics Policy on the City website.

Follow-up

As a result of the 2022 Civil Grand Jury report, the Cupertino City Council hired an independent investigator. The investigation validated the 2022 Civil Grand Jury's findings and resulted in two councilmembers being removed from their committees. In November 2023, the City Council rescinded Resolution No. 20-011, the existing ethics code and adopted a new City of Cupertino Code of Ethics and Conduct for Elected and Appointed Officials. The new ethics code is available on the City's website.

CONSERVATORSHIPS: A CASE FOR ZEALOUS ADVOCACY

Summary of 2022 Report

The 2022 Civil Grand Jury investigated the legal services that the County of Santa Clara Public Defender Office (PDO) provides to conservatees in probate conservatorships. At the time of the report, the PDO had been appointed to represent approximately 300 new petitions for conservatorship per year. Additionally, the PDO was the attorney of record for approximately 3,000 probate conservatees. There was one attorney to handle all the cases, although most were not actively monitored once they had been adjudicated.

A conservatorship is a legal mechanism in which a court appoints a conservator to protect the finances and/or personal affairs of an individual, known as a conservatee. People who are conserved constitute a very vulnerable part of the Santa Clara County community because they have mental or physical limitations. It is vital that the PDO be prepared to fulfill their important role of zealous advocacy. The conservatee loses control of the way in they live and control of their assets once a conservator is appointed.

Key Findings

The 2022 Civil Grand Jury found:

1. The PDO had very little conservatorship data because of limited tracking of outcomes and limitations in the case management system.
2. One attorney provided service for more than 3,000 probate conservatees.
3. Probate conservatorship cases were not actively monitored after adjudication unless an estate was involved.
4. The number of proposed conservatees who will need representation from the PDO is likely to grow. It does not seem feasible that one attorney can provide sufficient representation for the number of conservatees in the County under the current legislative guidelines.
5. The lack of staff leaves little opportunity to develop expertise, cross-training and peer-to-peer collaboration. The supervisor of this division was not required to have probate conservatorship expertise.
6. The PDO did not have formal performance standards or probate case reviews. Cognitively impaired clients may struggle to challenge or complain about the quality of their legal representation.

7. The Nevada Model established a standing order with the court to access clients' records resulting in a significant amount of saved time and resources.
8. The Guardianship Advocacy Program (GAP) achieved success by developing a plan that tracked conservatorship-related data, created a training program, and implemented best practices for case management.
9. The Civil Grand Jury found the PDO's staff to be very helpful and committed to improving the performance of conservatee representation. The dedication of the attorney was evident and appreciated.

Key Recommendations

The 2022 Civil Grand Jury recommended the PDO:

1. Should develop a tracking system that is capable of accurate and timely data collection and should develop data analytics that establish metrics in conservatorship cases and track data related to conservatorship cases.
2. Determine which conservatorship cases can be terminated due to the conservatee's death.
3. Review all probate conservatorship cases where they are attorney of record to determine what case management and case monitoring responsibilities are owed to these clients, and adopt a proactive case management model for all cases that it is responsible for representing.
4. Determine the ideal caseload per attorney and provide the staffing needed to accommodate a proactive style of case management, and evaluate its resource needs to best serve the growing needs of conservatees.
5. Cross train staff specific to conservatorship law and develop written materials.
6. Establish detailed performance standards and quality management standards for conservatorship attorneys; randomly select a percentage of cases for quality review for each attorney annually; and have regular staff meetings for all staff handling probate conservatorships.
7. Explore streamlined ways for attorneys to get needed information in preparation for probate conservatorship cases.
8. Consult with a third party to evaluate its current policies and processes for conservatorship defense and develop a strategic plan for best practices. The GAP achieved success by developing a plan that tracked conservatorship-related data, created a training program, and implemented best practices for case management.

Response

County of Santa Clara Board of Supervisors

The PDO indicated that it agreed with the findings and in its transmittal to the Board of Supervisors stated:

We carefully reviewed the report and its recommendations and welcomed the opportunity to evaluate our probate conservatorship practice considering recent legislative changes and the emerging standard of care within the community of probate attorneys. We value the time and attention the CGJ devoted to this important area of practice and appreciate their recognition of our commitment to these clients, particularly that of our current probate attorney, Brandon Camarillo. (County of Santa Clara, March 16, 2023)

The PDO:

1. Agreed it should develop a tracking system that is capable of accurate, detailed, and timely data collection. It partially agreed it should develop data analytics that establishes metrics in conservatorship cases and track data, stating that probate success outcomes are nuanced, and success is measured differently than a majority of the PDO's other cases.
2. Agreed to conduct an internal audit of its adjudicated cases, noting that the review would involve investigation and resources.
3. Agreed that a review of the 3,000 adjudicated cases, for which the PDO is the attorney of record, should commence. The PDO embraced the recommendation for a proactive case management model.
4. Agreed with both recommendations and stated it had already met with representatives from GAP.
5. Agreed to consult with the local bar, other public defender offices, and former PDO probate staff to develop training and materials that can help institutionalize probate knowledge at the PDO.
6. Stated it would establish performance and quality management standards for conservatorship attorneys; that the unit supervisor would review a percentage of the cases for each attorney on the team and hold regular staff meetings once additional staffing is established.
7. Stated that the last standing order was signed in 2003 and PDO agreed a new standing order was needed.
8. Agreed to seek a third-party agency or person to evaluate its current policies and processes for conservatorship defense.

Follow-up

The 2023-24 Civil Grand Jury followed up with the PDO to confirm the completion of the implementation dates listed in their response. Due to resource constraints, the PDO requested to be allowed to revisit Recommendations 1 and 2 after January 1, 2024. During the follow-up, the 2023-24 Civil Grand Jury learned that the PDO submitted a budget proposal requesting one additional attorney and one social worker during the County's FY 2023-24 budgeting process. The request was not approved, and, as a result, the implementation of Recommendations 2, 3a, and 3b has not happened. The PDO is reviewing whether a reallocation of other resources can occur. The PDO did not supply a new implementation date. Recommendation 6a is partially complete; the supervising attorney did complete their Continuing Legal Education. The PDO did not submit a new implementation date for Recommendations 6b and 6c, but asked that the follow-up response to Recommendation 8 be applied as part of their response. The PDO confirmed the completion of Recommendation 7 by submitting the Standing Order. The PDO has requested the hiring of a third-party agency as suggested in Recommendation 8; this is currently being processed through the County's Procurement Department. The PDO anticipates work will commence in January 2024 with a completion date of March 2024.

CONTINUITY REPORT

APPENDIX 1: Summary of Agency Responses and Implementation Status

2022 Civil Grand Jury Reports	Responding Agency	Findings			Recommendation Implementation Status			
		Agree	Partially Agree	Disagree	Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
1. If You Only Read the Ballot, You're Being Duped	County of Santa Clara Board of Supervisors	F1				R1a, 1b, 1c, 1f		R1d, 1e
	City of Campbell		F1					R1b, 1c, 1e
	City of Cupertino	Neither agrees nor disagrees		Neither agrees nor disagrees				R1b, 1c, 1e
	City of Gilroy			F1				R1b, 1c, 1e
	City of Los Altos			F1				R1b, 1c, 1e
	Town of Los Altos Hills	F1				R1b, 1c, 1e		
	Town of Los Gatos		F1			R1b, 1c		1e
	City of Milpitas			F1				R1b, 1c, 1e
	City of Monte Sereno		F1					R1b, 1c, 1e
	City of Morgan Hill		F1					R1b, 1c, 1e
	City of Mountain View			F1				R1b, 1c, 1e
	City of Palo Alto		F1					R1b, 1c, 1e
	City of San José			F1				R1b, 1c, 1e
	City of Santa Clara			F1				R1b, 1c, 1e

CONTINUITY REPORT

2022 Civil Grand Jury Reports	Responding Agency	Findings			Recommendation Implementation Status			
		Agree	Partially Agree	Disagree	Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
	City of Saratoga		F1					R1b, 1c, 1e
	City of Sunnyvale			F1				R1b, 1c, 1e
	Santa Clara Valley Water District		F1					R1b, 1c, 1e
	Valley Transportation Authority			F1				R1b, 1c, 1e
	El Camino Healthcare			F1				R1b, 1c, 1e
	Foothill-DeAnza Community College District			F1				R1b, 1c, 1e
	San José Unified School District			F1				R1b, 1c, 1e
	East Side Union High School District			F1				R1b, 1c, 1e
	Cupertino Union School District			F1				R1b, 1c, 1e
2. Unsportsmanlike Conduct: Santa Clara City Council	The City of Santa Clara		F3a, 3c, 3d, 4, 7	F1a, 1b, 1c, 2, 3b, 5, 6	R3c, 4b (partial), R5a			R1a, 1b, 1c, 1d, 2, 3a, 3b, 4a, 4c, 5b, 5c, 6a, 6b, 7a, 7b, 7c
	The City of Santa Clara City Council Minority Dissent Response	F1a, 1b, 1c, 2, 3a, 3b, 3c, 3d, 4, 5, 6, 7			R3c	* See note below		

CONTINUITY REPORT

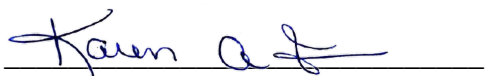
2022 Civil Grand Jury Reports	Responding Agency	Findings			Recommendation Implementation Status			
		Agree	Partially Agree	Disagree	Has Been Implemented	Will Be Implemented	Requires Analysis	Will Not Be Implemented
3. Garbage In, Garbage Out: Santa Clara County Public Contract Data	County of Santa Clara Board of Supervisors	F3	F2, 4	F1	R1a (partial), R1d, 2d, 2e, 2g, 3, 4a	R2c		R1b, 1c, 2a, 2b, 2f, 2h, 4b
4. Show Me the Money: Financial Transparency Needed	City of Los Altos			F1, 2		R1		R2
	Town of Los Altos Hills	F3			R3			
	Town of Los Gatos	F4			R4			
	City of Milpitas		F5		R5			
	City of Campbell		F6		R6			
	City of Monte Sereno		F7		R7			
	City of Cupertino	F8			R8			
5. A House Divided: Cupertino City Council and City Staff	City of Cupertino		F1, 2, 4	F3	R3b, 4b (partial), R4d	R1, 2, 3a, 4a, 4c,		
6. Conservatorships: A Case for Zealous Advocacy	The County of Santa Clara	** See note below			R1a(partial), R1b (partial), R4a, 4b, 5, 6a (partial), R7, 8	R2, 3a, 3b, 6b, 6c		

*Note: The Council Minority responded that R1a, 1b, 1c, 1d, 2, 3a, 3b, 4a, 4b, 4c, 5a, 5b, 5c, 6a, 6b, 7a, 7b, 7c will be implemented; however, as a Council Minority, the members lack the organizational majority to implement the recommendations.

**Note: There were no formal responses to the findings as proscribed by Penal Code section 933.05(b) but the Board response agreed or partially agreed with the majority of the recommendations as demonstrated by their written response March 16, 2023.

CONTINUITY REPORT

This report was **ADOPTED** by the Santa Clara County 2023-24 Civil Grand Jury on this 10th day of June, 2024.

A handwritten signature in blue ink, appearing to read "Karen Enzensperger", is written over a horizontal line.

Karen Enzensperger

Foreperson