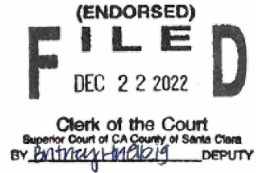


County of Santa Clara

Office of the Clerk of the Board of Supervisors
County Government Center, East Wing
70 West Hedding Street
San Jose, California 95110-1770
(408) 299-5001



Tiffany Lennear
Clerk of the Board



December 19, 2022

The Honorable Theodore C. Zayner
Presiding Judge
Santa Clara County Superior Court
191 North First Street
San Jose, CA 95113

RE: Responses to Civil Grand Jury Final Reports - If You Only Read the Ballot, You're Being Duped

Dear Honorable Judge Zayner:

At the December 13, 2022 meeting of the County of Santa Clara Board of Supervisors (Item No. 63), the Board adopted the response from the Office of the County Counsel to the Final Civil Grand Jury Reports entitled, If You Only Read the Ballot, You're Being Duped.

As directed by the Board of Supervisors and on behalf of the Board President, our office is forwarding to you the enclosed copy of the responses to the Final Grand Jury Reports. The responses constitute the responses of the Board of Supervisors, consistent with provisions of California Penal Code Section 933(c).

If there are any questions concerning this issue, please contact our office at (408) 299-5001 or by email at boardoperations@cob.sccgov.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tina Purpura". The signature is fluid and cursive.

Tina Purpura
Deputy Clerk, Board of Supervisors
County of Santa Clara

Enclosures

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Kim Forrester
LEGAL AND COMPLIANCE OFFICER

MEMORANDUM

TO: Greta S. Hansen, Chief Operating Officer

FROM: James R. Williams, County Counsel *JRW*

RE: Response to the October 2022 Santa Clara County Civil Grand Jury Report: "If You Only Read the Ballot, You're Being Duped"

DATE: November 29, 2022

In October 2022, the Civil Grand Jury released a report entitled "If You Only Read the Ballot, You're Being Duped." The report highlights a statewide issue not unique to local governments in Santa Clara County, namely that there is no comparable official charged with crafting local jurisdictions' ballot measure questions to that function performed by the California Attorney General for State-level proposition questions. Each local jurisdiction is ultimately responsible for determining conformance of their ballot measure questions to the California Elections Code.

The Office of the County Counsel's response to the recommendations of the report are:

Finding 1. The Civil Grand Jury finds that in the current environment, which is unregulated at the local level, it is easy for the author of a ballot measure question to write the question in a way that is confusing or misleading to voters.

Recommendation 1a. The Board of Supervisors should ask the County Counsel to review all ballot questions submitted to it pursuant to Recommendation 1b.

The County agrees with this recommendation and will prepare a resolution for Board of Supervisors approval to implement the recommendation prior to the statewide elections in calendar year 2024. While implementation may require additional resources, the County agrees that tasking County Counsel with reviewing ballot measure questions voluntarily submitted to it,

Adopted: 12/13/2022

Memorandum to Greta S. Hansen, Chief Operating Officer
Re: Response to the October 2022 Santa Clara County Civil Grand Jury Report: "If You Only Read the Ballot, You're Being Duped"
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for accuracy and impartiality concerning the measure's underlying purpose, would provide a beneficial review of legal conformance to applicable Elections Code provisions.

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

Except in cases where the County of Santa Clara is the relevant entity, this recommendation does not apply to the County. The County agrees and has implemented the recommendation through its current practice of County Counsel reviewing, prior to submission to the Registrar of Voters, County-authored ballot measure questions.

Recommendation 1c. Governing entities within Santa Clara County should, by March 31, 2023, adopt their own resolution or ordinance to require submission of their ballot questions to the County Counsel for review prior to submission to the Registrar of Voters, unless and until Recommendations 1d and 1e are implemented.

Except in cases where the County of Santa Clara is the governing entity, this recommendation does not apply to the County. Refer to the response to Recommendation 1b regarding the County's current protocol for its own measures.

Recommendation 1d. The County should create an independent, citizen-led oversight commission like the recommended Good Governance in Ballots Commission as described in the "Solutions" section of this report. The Commission should be implemented by August 1, 2024.

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's ballot preparation process. Recommendation 1b fulfills this purpose more expeditiously and effectively without creation of a new Brown Act body or jeopardizing election timelines.

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

Please see the response to Recommendation 1d.

Memorandum to Greta S. Hansen, Chief Operating Officer

Re: Response to the October 2022 Santa Clara County Civil Grand Jury Report: "If You Only Read the Ballot, You're Being Duped"

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Recommendation 1f. The County should, by March 31, 2023, 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.

The County agrees with this recommendation, recognizing the issue of statewide concern raised by the Grand Jury. The resolution referenced in the response to Recommendation 1a will include a request for such legislation.

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