



## STANISLAUS COUNTY CIVIL GRAND JURY

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May 5, 2011

The Honorable Dick Monteith  
Chairman  
Stanislaus County Board of Supervisors  
1010 10<sup>th</sup> Street, Suite 6500  
Modesto, CA 95354

Dear Chairman Monteith:

The Stanislaus County Civil Grand Jury has completed the attached reports relating to your agency: 11-10C – Stanislaus County Sheriff and 11-15C – Child Protective Services. A copy of these reports is being released to you two working days prior to their release to the public, as required by California Penal Code §933.05(f). The Penal Code prohibits you from disclosing any contents of the reports prior to their public release.

Your response to the findings and recommendations in the reports must be submitted to Presiding Judge Ricardo Cordova, Superior Court - Stanislaus County, at PO Box 3488, Modesto, CA 95353. Please submit a hard copy of your response, along with a copy on CD (Microsoft Word or PDF format). Enclosed are guidelines that may be helpful as you prepare your response.

Sincerely,

Denis D. France  
Civil Grand Jury Foreperson  
Fiscal Year 2010-2011

Attachments

**Stanislaus County Civil Grand Jury  
The Stanislaus County Sheriff  
Case #11-10C**

**SUMMARY**

The Stanislaus County Civil Grand Jury received a citizen's complaint dated June 23, 2010, alleging the Sheriff of Stanislaus County violated California Government Code section 3206, the Hatch Act, the Meyers-Miliias-Brown Act (California Government Code section 3506), and Labor Code section 1101, and disregarded a Cease and Desist letter served on him by the law firm representing the Stanislaus Sworn Deputies Association (SSDA) while campaigning for the June 2010 Sheriff's election.

The complainant alleged these actions affected political involvement of members of the SSDA and influenced the outcome of the election

The Grand Jury investigation began approximately August 24, 2010, and was completed approximately November 16, 2010.

The Stanislaus County Civil Grand Jury found the following:

Stanislaus County Sheriff violated California Government Code section 3206 by attending political functions, while in uniform, on at least two separate occasions.

A copy of the non-binding Cease and Desist letter indicates a "fax" and United States Postal Service mail date of January 19, 2010. The letter was "faxed" and mailed to the general address for the Stanislaus County Sheriff's Department. Requests to the SSDA and their law firm regarding the mailing process and physical receipt of the letter went unanswered.

The Hatch Act does not apply in this matter. The Stanislaus County Sheriff is a state constitutionally elected official and the position is neither wholly nor partially funded by the federal government.

The Stanislaus County Sheriff did not violate California Government Code section 3506. No evidence could be found to support the allegation that the Sheriff attempted to forbid or prevent, control or direct, political activities of any of the employees of the Stanislaus County Sheriff's Department.

The Grand Jury recommends that the Sheriff refrain from violating Government Code section 3206 by no longer wearing his uniform to any potential political event regardless of intent.

## **GLOSSARY**

### **California Government Code section 3206 states:**

"No officer or employee of a local agency shall participate in political activities of any kind while in uniform."

### **Hatch Act:**

The Hatch Act, in summary, is a federal law that restricts the political activities of federal workers, as well as those of state and local government employees who work in connection with federally funded programs.

### **The Meyers-Milias-Brown Act (California Government Code section 3506) states:**

"Public agencies and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public employees because of their exercise of their rights under California Government Code Section 3502."

### **California Government Code section 3502 states:**

"Except as otherwise provided by the Legislature, public employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public employees also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public agency."

### **California Labor Code section 1101 states:**

"No employer shall make, adopt, or enforce any rule, regulation, or policy:

- (a) Forbidding or preventing employees from engaging or participating in politics or from becoming candidates for public office.
- (b) Controlling or directing, or tending to control or direct the political activities or affiliations of employees."

**SSDA:** Stanislaus Sworn Deputies Association

**Modesto Bee:** Daily circulation newspaper which has the largest daily circulation in the county of Stanislaus.

**Modesto Bee Editorial Board:** Entity with the Modesto Newspaper that hosted the political debate attended by the Sheriff and his opponent on April 14, 2010.

## **BACKGROUND**

On July 30, 2009, the Sheriff and his political opponent were invited to a political debate, hosted by the SSDA, regarding issues affecting the above-mentioned union, which represented approximately 220 sworn deputies that worked in the custodial facilities.

The Sheriff arrived and participated in the event **in uniform**, which was witnessed by an excess of 220 employees of the Sheriff's department and his political opponent.

A non-binding Cease and Desist letter was sent by the SSDA legal representative to the Stanislaus County Sheriff's Department, dated 01/19/2010, informing the Sheriff he violated California Government Code section 3206 by appearing in uniform for the political function on 06/30/09.

On April 14, 2010, at approximately 2:30 PM, the Sheriff and his political opponent appeared by invitation in front of the Editorial Board of the Modesto Bee newspaper. The purpose was to provide information so that the Modesto Bee Editorial Board could make a determination regarding which candidate to endorse for Stanislaus County Sheriff. The invitation was sent out via e-mail dated April 6, 2010.

The Sheriff arrived and participated in the meeting **in uniform** which was witnessed by approximately three members of the Modesto Bee Editorial Board, three resident citizens, acting as "visiting editors," and his political opponent.

The complainant felt these actions influenced the outcome of the 2010 Stanislaus County Sheriff's election and subsequently filed the formal complaint dated June 30, 2010.

## **METHOD OF INVESTIGATION**

The Stanislaus County Civil Grand Jury conducted its investigation using the following methods:

- Interviewed the Complainant and other citizens, which included the Sheriff.
- Reviewed photograph of July 30, 2009 political debate, before the SSDA, taken by a reporter of the Modesto Bee, showing the Sheriff participating in uniform.
- Reviewed video segment of the Modesto Bee Editorial Meeting, recorded April 14, 2010, showing the Sheriff participating in uniform.
- Reviewed assorted documents, including, but not limited to, the "Invitation to meet with the Modesto Bee Editorial Board," dated April 6, 2010, wherein both the Sheriff and his political opponent were advised the information gathered from their interviews would be used to guide the endorsement decision of the Modesto Bee Editorial Board.
- Reviewed the Cease and Desist letter from the SSDA's legal representative.

- Testimony from the Sheriff confirmed he appeared at both functions in uniform, however not as a political candidate. The Sheriff testified he appeared at the functions specifically to provide information directly related to the Stanislaus County Sheriff's Department.

## **FINDINGS**

- F1. The Stanislaus County Civil Grand Jury finds that the Sheriff did participate in two separate political activities while in uniform. Therefore, the Stanislaus County Civil Grand Jury finds the Stanislaus County Sheriff violated Government Code section 3206.
- F2. Stanislaus County Civil Grand Jury finds no evidence to support the allegation that the Sheriff ignored the Cease and Desist letter because no evidence could be found to confirm he physically received the letter.
- F3. The Stanislaus County Civil Grand Jury finds that the Hatch Act does not apply in this matter. The Stanislaus County Sheriff is a state constitutionally elected official. The position of Sheriff is neither wholly nor partially funded by the federal government.
- F4. The Stanislaus County Civil Grand Jury finds the Stanislaus County Sheriff did not violate California Labor Code section 1101. Our investigation found no evidence to support the allegation that the Sheriff attempted to forbid or prevent any employee from engaging in political activities. Nor did he attempt to control or direct the political activities of any employee of the Stanislaus County Sheriff's Department.
- F5. The Stanislaus County Civil Grand Jury finds the Stanislaus County Sheriff did not violate California Government Code section 3506. Our investigation found no evidence to support the allegation that the Sheriff attempted to interfere with, intimidate, restrain, coerce or discriminate against any Sheriff's Department employee for their exercising of a right to participate in any political activities.

## **RECOMMENDATIONS**

- R1. It is the recommendation of the Stanislaus County Civil Grand Jury that the Sheriff and successors, refrain from wearing a uniform while participating in any political activity.

Regardless of the intent, or the interpretation of the request to participate in any activity potentially political in nature, the Sheriff and successors should refrain from participating in the event(s) while in uniform, which is a direct violation of Government Code section 3206.

**REQUEST FOR RESPONSES**

The Stanislaus County Sheriff

Stanislaus County Board of Supervisors

This report of case # 11-10C is issued by the 2010-2011 Stanislaus County Civil Grand Jury with the following exception: one member of the grand jury volunteered to recuse himself/herself due to a perceived conflict of interest. This person was excluded from all phases of the investigation, including interviews, deliberations, voting, and in the writing and approval of this report. None of the information included in this report was obtained from the excluded grand juror as a means of mitigating a potential bias to the integrity of this report.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

**Stanislaus County Civil Grand Jury  
Child Protective Services  
Case #11-15C**

**SUMMARY**

The 2010/2011 Stanislaus County Civil Grand Jury (SCCGJ) received a complaint requesting the investigation into whether or not the “policies” of Stanislaus County Child Protective Services (CPS) are being followed.

The complainant requested that the SCCGJ examine the policies of Stanislaus County CPS and determine if the policies were being followed and if not, did the lack of compliance prevent it from protecting the lives and well being of children.

After a review of documents and interviewing key personnel, it was determined:

1. CPS, now recognized as Community Services Agency (CSA), does have policies and procedures in place to ensure that children receive Social Worker visits in a timely manner.
2. Social Workers do visit children in a timely manner.
3. Stanislaus County CSA out-performs California state averages.

**GLOSSARY**

**SCCGJ** – Stanislaus County Civil Grand Jury.

**CPS** – Child Protective Services.

**CSA** – Community Services Agency.

**CWS** – Child Welfare Services.

**CPS Social Workers** – CPS clients are provided services by Social Worker IV’s who must possess a Master’s degree in Social Work or a two-year Master’s degree in Counseling. Social Workers at this “IV” level are expected to work independently without extensive supervision, and must perform professional casework of an advanced nature in the most difficult social service areas. (Summary of Stanislaus County Social Worker IV position).

**AB 636 Measure 2C** – The Assembly Bill defining Social Worker Contacts.

**SafeMeasures.org** - An organization that reports on behalf of the state compliances, by County, of family reunification cases.

**CWS Outcomes System Summary for Stanislaus County** – This is a report generated by U.C. Berkeley on behalf of the State of California publishing CWS outcomes.

**CWS Outcomes System Summary for the State of California** – This is a report generated by U. C. Berkeley on behalf of the State of California publishing CWS outcomes.

### **BACKGROUND**

On August 18, 2010 a complaint was filed with the SCCGJ. The complainant accused Stanislaus County CPS of “failure to act” consistently in regards to “at risk” children. The complainant requested the SCCGJ take action to determine if 1) there were policies in place to ensure “at risk” children are contacted by Social Workers and 2) if the policies were being followed. The SCCGJ assigned the Social Services Committee to investigate the complaint.

### **METHODOLOGY OF INVESTIGATION**

The investigation of this complaint took place between August 2010 and February 2011. During the investigation the following actions were taken by the investigating committee:

1. Reviewed the “All County Letter 09-31” from the State of California Health and Human Services Agency, Department of Social Service which outlined the Policies and Procedures for Safety and Risk Assessments to be completed by Child Welfare Services (CWS).
2. Reviewed the Stanislaus County CSA procedures as they pertain to CPS.
3. Interviewed under oath the complainant and selected Stanislaus County CPS staff.
4. Analyzed California State and Stanislaus County data on the timeliness of visits by Social Workers during month 1, month 2, and month 3 of children being assigned a Social Worker by CSA.
5. Received a demonstration of the software mandated by the State of California which captures data on potential CPS clients.
6. Made an on-site visit to Stanislaus County CPS offices.



**FINDINGS**

- F1. The SCCGJ finds that Stanislaus County CSA and CPS does have policies and procedures in place that directs Social Workers to complete personal contacts with clients on a monthly basis.
- F2. The SCCGJ finds that Stanislaus County CSA is in compliance with their policies.
- The SCCGJ also finds that Stanislaus County CSA's compliance rate is higher than the State of California average.
  - A report from SafeMeasures.org which tracks AB 636 Measure 2C for the month of November 2010, reported Stanislaus County CSA was in compliance with monthly visits 94% of the time.
  - The CWS Outcomes System Summary for Stanislaus County for the fourth quarter of 2009 reported during October 2009 that Stanislaus County CSA was in compliance with monthly visits 92.8% of the time, during November 2009 94.4% of the time and during December 2009 94.7% of the time.
  - The CWS Outcomes System Summary for California for the fourth quarter of 2009 reported that during October 2009, California was in compliance with monthly visits 93.1% of the time, during November 2009 92.6% of the time and during December 2009 92.9% of the time.

**RECOMMENDATIONS**

The Stanislaus County Civil Grand Jury recommends that the staff and management of the Community Services Agency receive accolades from the Stanislaus County Board of Supervisors for not only adhering to policies and procedures but for exceeding California State averages. (A copy of this report will be sent to Board of Supervisors).

**REQUESTS FOR RESPONSES:**

No response is required.

This report of case #11-15C is issued by the 2010-2011 Stanislaus Civil Grand Jury with the following exception: three members of the grand jury volunteered to recuse themselves due to a perceived conflict of interest. These persons were excluded from all phases of the investigation, including interviews, deliberations, voting and in the writing

and approval of this report. None of the information in this report was obtained from the excluded grand jurors as a means of mitigating a potential bias to the integrity of this report.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigations.

## **HOW TO RESPOND TO FINDINGS & RECOMMENDATIONS**

### **Responses**

The California Penal Code §933(c) specifies both the deadline by which responses shall be made to the Civil Grand Jury Final Report recommendations, and the required content of those responses.

### **Deadline for Responses**

All agencies are directed to respond to the Presiding Judge of the Stanislaus County Superior Court,

- Not later than 90 days after the Civil Grand Jury submits a final report on the operations of a public agency, the governing body of that agency shall respond to the findings and recommendations pertaining to the operations of that agency.
- Not later than 60 days after the Civil Grand Jury submits a final report on the operation of a County agency, the elected head governing that agency shall respond to the findings and recommendations pertaining to the operations of their agency.
- Information copies of responses pertaining to matters under the control of a county officer or agency are to be sent to the Board of Supervisors.
- A copy of all responses to the Civil Grand Jury reports shall be placed on file with the clerk of the public agency and the Office of the County Clerk, or the city clerk when applicable.
- One copy shall be placed on file with the applicable Civil Grand Jury by, and in the control of, the currently impaneled Grand Jury, where it shall be maintained for a minimum of five years.

### **Content of Responses**

For each Civil Grand Jury findings and recommendations, the responding person or entity shall report one of the following actions:

- The respondent agrees with the finding
- The respondent disagrees wholly or partially with finding and shall include an explanation.
- The recommendation has been implemented, with a summary regarding the implemented action.
- The recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame if it is to be implemented later.
- The recommendation will not be implemented because it is unwarranted or unreasonable, with supportive explanation.