



Superior Court of the State of California
County of Mariposa

F. Dana Walton
Presiding Judge

Michael A. Fagalde
Assistant Presiding Judge

Cynthia Busse
Court Executive Officer

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February 3, 2020

Re: Mariposa County 2019-2020 Grand Jury Interim Report

The current Mariposa County Grand Jury has completed the interim report and reference to your department has been made. Pursuant to Penal Code §933.05(b)(4)(f), this report is being released to your department two (2) working days prior to its public release. Please be advised you are not to disclose any of the contents prior to the public release of the report.

Please submit your response to the report within ninety (90) days to the Honorable F Dana Walton, Assistant Presiding Judge of the Superior Court. Copies of responses will be placed in the final report and said report will be filed with the Mariposa County Clerk.

To assist you with your response, I have enclosed a photocopy of Penal Code §933.05 setting forth the suggested form.

Sincerely,

Honorable F. Dana Walton
Presiding Judge of Mariposa Superior Court

**PENAL CODE - PEN****PART 2. OF CRIMINAL PROCEDURE [681 - 1620]** (Part 2 enacted 1872.)**TITLE 4. GRAND JURY PROCEEDINGS [888 - 939.91]** (Title 4 repealed and added by Stats. 1959, Ch. 501.)**CHAPTER 3. Powers and Duties of Grand Jury [914 - 939.91]** (Chapter 3 added by Stats. 1959, Ch. 501.)**ARTICLE 2. Investigation of County, City, and District Affairs [925 - 933.6]** (Heading of Article 2 amended by Stats. 1973, Ch. 1036.)

(a) For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

933.05. (1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) 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.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the findings of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

(Amended by Stats. 1997, Ch. 443, Sec. 5. Effective January 1, 1998.)

MARIPOSA COUNTY
2019/2020 GRAND JURY
INTERIM REPORT



Pursuant California Penal Code §925 and 933(a), "each Grand Jury shall submit to the Presiding Judge of the Superior Court a final report of its findings and recommendations that pertain to county government matters during the fiscal or calendar year".

Cyber-security Advisory from San Mateo County Civil Grand Jury

SUMMARY

On August 9, 2019, the Mariposa County Grand Jury received an advisory from the San Mateo County Civil Grand Jury (SMCCGJ) regarding the possibility of an electronic hijack of election communications with respect to the propagation of false election results or the dissemination of false voting instructions when counties use social media or other “push” type electronic communications as an outlet for such information.

The advisory recommended that the Mariposa County Civil Grand Jury (MCCGJ) speak with elections officials to understand if this was a potential issue for Mariposa County. To this end, the 2019/2020 MCCGJ asked the Mariposa County Registrar of Voters, Keith Williams, to testify before the Grand Jury. The MCCGJ took the opportunity to also learn about the 2016 California Voter’s Choice Act, scheduled for implementation in Mariposa County beginning in 2020.

GLOSSARY

MCCGJ – Mariposa County Civil Grand Jury

SMCCGJ – San Mateo County Civil Grand Jury

California Voter’s Choice Act – The California Voter’s Choice Act is a new law passed in 2016 that seeks to modernize elections

BACKGROUND

The SMCCGJ sent an advisory to the MCCGJ regarding potential cybersecurity and social media misinformation risks associated with Mariposa County elections. The advisory is consistent with concerns at the state level. The California Legislature has appropriated \$3 million to combat misinformation and strengthen cybersecurity. The Communications Department in the Office of Elections Cybersecurity and Enterprise Risk Management has launched a first-ever public education campaign urging voters to be vigilant about misinformation on social media.¹

Relatedly, the California Voter's Choice Act is a new law passed in 2016 that seeks to modernize elections in California by allowing counties to conduct elections under a new model which provides greater flexibility and convenience for voters. According to the California Secretary of State Website,² this new election model allows voters to choose how, when, and where to cast their ballot by:

- Mailing every voter a ballot
- Expanding in-person early voting
- Allowing voters to cast a ballot at any vote center within their county

Fourteen counties are allowed to conduct elections under the Voter's Choice Act as of 2018.

Ten more counties will do so for the 2020 Elections: Amador, Butte, Calaveras, El Dorado, Fresno, Los Angeles, **Mariposa**, Orange, Santa Clara and Tuolumne.

¹ Information provided by California Secretary of State Website, <https://www.sos.ca.gov/elections/election-cybersecurity/>, accessed 1/6/2020.

²<https://www.sos.ca.gov/elections/voters-choice-act/>, accessed 1/6/20.

Descriptive Statistics of Mariposa County Voters

Total Registered Voters (as of 2/19)	10,886
No. of Precincts in Nov 2018 Election	25
Turnout for November 2018 Election	
Total Voters	10,853
Vote by Mail Votes (%)	74%
Turnout (%)	77%
Estimated Pop in County (as of 1/18)	18,129

Source: California Secretary of State

PROCESS

On November 20, 2019 at 5:15pm the Grand Jury County Administration Committee and other Grand Jurors met with Williams at the Grand Jury Room.

DISCUSSION

Williams discussed the Voter's Choice Act and the concern raised by the SMCCGJ regarding electronic communications related to elections. Williams said that, in accordance with the Voter's Choice Act of this year, all 10,886 registered voters in Mariposa County will be receiving a mail in ballot via the U.S. Mail for the March 2020 Presidential Primary Election (March 3, 2020). Williams said that historically a higher percentage of voters who chose to vote by mail return their ballots than those who are registered and choose to go to a polling place. All ballots mailed out will have postage paid return envelopes.

Williams said that the new law required that the County also operate walk-in polling places for those who wish to use them. The County will accept walk-in voters at both the elections office and at the Bootjack Fire Department for ten days prior to and including Election Day. In

addition, there will be walk in voting available at the El Portal Library and the Greeley Hill library for two days; March 2nd and March 3rd.

Williams said that all Mariposa County ballots are paper ballots which are either mailed in or collected in a ballot box at a polling place. Mariposa County does not use electronic voting.³ In addition, Williams said that neither the elections office nor Mariposa County use any social media or any other “push” type electronic communication for either polling results or voting instructions. This effectively negates any potential concerns regarding the advisory from San Mateo County relating to the potential for misinformation being sent out of the Mariposa County Clerk’s Office.

Although election results are posted to the County website, that does not take place until after the polls close on Election Day. Moreover, the state always receives the voting results prior to the dissemination of that information by the County.

Finally, the vote counting system is a standalone system, isolated from the internet. The configuration of that system is a “trusted build” received directly from the state. Once this standalone system tabulates the results, they are manually transferred to a secure state connected server system. These protocols help maintain the integrity of County elections.

Williams also mentioned that his office has received Cyber-security training from both a

³ Pursuant to Elections Code section 19205, no part of a voting system shall be connected to the internet at any time. Nor shall any part of a voting system electronically receive or transmit election data through an exterior communication network of any type. For more information, visit the California Secretary of State VoteSure website at <https://www.sos.ca.gov/elections/vote-sure/>, information provided by California Secretary of State website, <https://www.sos.ca.gov/elections/ovsta/security/>, accessed 1/6/2020.

company called Cyber Infrastructure Security and from the Department of Homeland Security.

In speaking with Williams, the committee noted that there is not adequate clean, safe and secure storage available for equipment dedicated to county elections.

FINDINGS:

1. The Mariposa County elections system does not utilize electronic systems or communications that may lead to security issues as related in the advisory from SMCCGJ.
2. The election system as presented by the Registrar of Voters appears to be secure.
3. It is necessary to ensure that the expensive equipment used in this vital county function is properly stored between election usages.

RECOMMENDATIONS:

1. Keith Williams and his Elections Division are to be congratulated on their foresight and dedication to providing Mariposa County with a safe and secure elections process.
2. As it does not appear that Mariposa County is exposed to fraudulent electronic activity as related in the subject advisory, no recommendations for this advisory are given to Mariposa County Elections Officials at this time.
3. That said, it may be prudent for Mariposa County Elections Department to link to the California Secretary of the State VoteSure website, <https://www.sos.ca.gov/elections/vote-sure/>, which includes voting resources and information to report misinformation disseminated via social media by non-election officials.

4. It is recommended that the County allocate appropriate funds and work with the Elections Division to find and procure clean, safe, temperature-controlled, and secure storage for the elections equipment.

REQUESTED RESPONSE

Pursuant to Penal Code sections 933 and 933.05, the Grand Jury requests a response from the following governing body within 90 days:


Mariposa County Board of Supervisors

INVITED RESPONSE

From the following within 90 days:

Keith M. Williams, Registrar of Voters

Elections Department, Division of the County Clerk's Office

Reviewed: 

Honorable F. Dana Walton, Per PC933