



**City of  
Santa Clara**  
The Center of What's Possible

(ENDORSED)  
**FILED**  
DEC 21 2022  
Clerk of the Court  
Superior Court of CA County of Santa Clara  
By: *[Signature]* DEPUTY

Mayor

Lisa M. Gillmor

**Councilmembers**

Kathy Watanabe, District 1  
Raj Chahal, District 2  
Karen Hardy, District 3  
Kevin Park, District 4  
Suds Jain, District 5  
Anthony J. Becker, District 6

December 8, 2022

Honorable Judge McGowen  
Presiding Judge  
Superior Court of California, County of Santa Clara  
191 North First Street  
San Jose, CA 95113

RE: CITY OF SANTA CLARA RESPONSE TO THE 2022 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT "IF YOU ONLY READ THE BALLOT, YOU'RE BEING DUPED"

Honorable Judge McGowen:

The City of Santa Clara is submitting its response to the 2022 Santa Clara Civil Grand Jury Report titled, "If You Only Read The Ballot, You're Being Duped." In accordance with California Penal Code section 933.05(a) and (b), the City has prepared the following response to Finding 1 and to Recommendations 1b, 1c, and 1e.

**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.

**Response:** Disagree.

The City of Santa Clara disagrees with the finding that the drafting of ballot measures at the local level is unregulated. As provided in the report, the California Election Code sets forth the procedures for drafting and approving a measure to be placed on the ballot. The process for approving a ballot measure includes public noticing requirements and a public hearing, which allows for public participation before a measure is approved by the City Council to be placed on the ballot. Furthermore, Elections Code § 9190 allows a voter of the jurisdiction to challenge, by writ of mandate, any measure for "false, misleading or inconsistent information." There is a straightforward statutory process for the adoption of ballot questions that provides an opportunity for the public to review and challenge those questions if they fall short of the legal requirements. These processes help safeguard against confusing or misleading ballot questions.

**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.

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**Response:**

This recommendation will not be implemented because it is not warranted and is not reasonable for the County of Santa Clara to have additional oversight over another local agency for a statutorily permitted process. The County of Santa Clara, including the County Counsel, has no legal jurisdiction over a local agency's ballot measure language. Each local agency is responsible for drafting local ballot measures in compliance with state law. Moreover, the California Constitution provides the City of Santa Clara, as a Charter City, with control over its own municipal affairs, including control over its conduct of municipal elections. (Cal Constitution Article XI, section 5) City Staff drafts ballot measure questions in consultation with the City Attorney's Office before being approved by the City Council at a publicly noticed meeting.

**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.

**Response:**

This recommendation will not be implemented because it is not warranted and is not reasonable. For the City of Santa Clara, it is the responsibility of the City Attorney to review ballot questions for legal compliance. As stated in Recommendation 1b, the City disagrees with the recommendation to have additional oversight by the County of Santa Clara over the City's ballot measure questions. The City will not be adopting a resolution or ordinance to require submission of the City's ballot questions to the County Counsel.

**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.

**Response:** This recommendation will not be implemented because it is not warranted and is not reasonable. As provided in Recommendation 1b, the County of Santa Clara does not have any jurisdiction over the City of Santa Clara in its drafting of ballot measure questions. This would also apply to any bodies created by the County of Santa Clara, like the proposed Good Governance in Ballots Commission. In addition, as a Charter City, the City maintains local control over its conduct of municipal elections. Implementing this third-party review process would constrain the City's independent authority to conduct its municipal elections.

This concludes the City of Santa Clara's response to the Findings and Recommendations

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from the Civil Grand Jury's report. We appreciate the Civil Grand Jury's time and commitment to address this matter and for allowing our City to respond.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa Gillmor". The signature is fluid and cursive, with the first name "Lisa" being more prominent than the last name "Gillmor".

Mayor Lisa Gillmor

cc:

Rajeev Batra, City Manager

Steve Ngo, Interim City Attorney