

City of Stockton
Crisis in Government
Case #0123



Summary

In response to complaints received, the 2023-2024 Grand Jury investigated potential new Brown Act violations by members of the Stockton City Council. Previous complaints regarding the same type of violation by the City Council were also received during the 2022-2023 Grand Jury term. Because those complaints were received late in that term, they were forwarded to the 2023-2024 Grand Jury for evaluation and potential action.

The 2023-2024 Grand Jury also received complaints regarding the creation of a work environment of fear within Stockton City Government. The alleged sources of that fear were created by individuals associated with 209 Times, LLC, a Social Media Platform (SMP), through e-mails, and public comments that have left city staff and elected officials continuously intimidated.

Background

In March 2023, a sitting Stockton City Councilperson, alleging fear for their safety, filed a police report and a request for a restraining order against a known political activist, Motecuzoma Patrick Sanchez. The city councilperson alleged that the threats received were based on

confidential information from a Stockton City Council Closed Session meeting that had just ended 30 minutes prior to the incident. Knowledge of that confidential information would indicate a Brown Act violation by someone present in the closed session.

A hearing on the restraining order was held in the Superior Court of San Joaquin County. The presiding Judge ruled that a restraining order would be inappropriate as it would prevent a citizen from contacting their elected representatives.

However, the filing of the restraining order brought to light that there had been a violation of the Brown Act by someone in attendance at a Closed Session of the Stockton City Council. The City Attorney hired an outside firm to conduct an investigation to determine whether a Brown Act violation had occurred and to identify the source. The Grand Jury has been informed that the investigation resulted in findings that a Brown Act violation had occurred. However, neither the investigative report nor its findings were released to the public.

The Ralph M. Brown Act was adopted to assure the public has access to information on the actions under consideration by public legislative bodies and their actions are conducted in open public forums. It allows a few sessions to be closed to enable certain important matters to be discussed in private among the council members, such as employee discipline and lawsuit decisions. If a council member reveals confidential information learned in closed session it is a violation of the law.

Brown Act, California Government Code § 54950. The Brown Act or “Open Meeting Law” is officially known as the Ralph M. Brown Act and is found in the California Government Code § 54950 et seq.

The 2023-2024 Grand Jury received complaints from numerous City employees and officials regarding their belief that a threatening work environment has been created by the ongoing bullying and intimidation from individuals connected to this SMP. Those interviewed told the

Grand Jury that if they if did not agree with and/or support the positions pushed by this SMP, then they would be vilified and unfairly attacked in posts on that outlet.

The SMP claims that they are not a news agency and therefore cannot be held to the same ethical standards for news agencies regarding the verification of facts. The Society of Professional Journalists (SPJ) revised its Code of Ethics in 2014, including the following requirements:

- Label advocacy and commentary
- Weigh the consequences of publishing personal information
- Identify sources clearly
- Avoid conflicts of interest and disclose unavoidable conflicts

This SMP claims their social media posts are simply “expressions of citizen views” written under and protected by the freedom of speech provision of the U.S. and California constitutions. However, in their posts, there is no evidence of the validity of the information stated. The information posted is presented in a slanted and/or politically biased way to create perceived “facts”. Unfortunately, as is often the case with current social media, the content of posts is perceived by the reader as real and true. The SMP is misleading the public by failing to follow the SPJ standards.

The barrage of posts by this SMP has created a threatening work environment for staff and elected officials in the City of Stockton. The Grand Jury was also made aware that, in addition to these social media posts, City staff feel continually harassed when individuals associated with this SMP bombard them with hundreds of emails, messages, and letters that include personal attacks and demeaning accusations.

It has been reported to the Grand Jury, that these posts are often written in a biased and misleading way, presented as “facts” meant to embarrass the targeted subjects. These actions have resulted in the suppression of open discussions and the sharing of ideas because of fear of being publicly vilified. Good government requires free and open expression without fear of retribution.

City Council meetings are also used as a platform by the supporters of this SMP who, during the Public Comment period, continuously make accusations against the council or staff. They demand what they want done by the Council and City staff. These personal accusations and demands are then posted on their social media platforms but are represented as a public position and not the specific views of the SMP. Stating and supporting political views and then advertising via social media as representing a public position violates the FPPC. The Fair Political Practice Commission (FPPC) requires that the names of persons or organizations (committees) sponsoring information be posted on the advertisement/posts so the reader would be informed who is responsible for publishing the information.

Reason For Investigation

The 2022-2023 Grand Jury began an investigation of potential Brown Act violations by members of the Stockton City Council. The 2023-2024 Grand Jury continued that investigation and also received and investigated complaints regarding a threatening and ineffective work environment created within Stockton City Government involving intimidation by individuals associated with this SMP.

Method of Investigation

Materials Reviewed

- Newspapers:
 - The Record
 - The Los Angeles Times
 - Tracy Press
 - The Sacramento Bee
- Press Releases
- Stockton City Council Meeting Minutes
- City of Stockton Charter
- City of Stockton Code of Conduct

- City of San Francisco Code of Ethics
- City of San Francisco Policies & Procedures
- City of Alameda Policies & Procedures
- City of Lodi Policies & Procedures
- San Joaquin County Court case records

Interviews Conducted

- Current and former Stockton City Councilpersons
- City employees
- Consultants to the City of Stockton
- FPPC Attorney
- Citizens

Websites/Digital Posts

- FPPC
- California League of Cities
- San Francisco Ethics Commission
- 209 Times
- 209 Times other social media platforms: Facebook, Instagram, YouTube, X (formally Twitter)
- NPR: Articles by Yowei Shaw and Kia Miakka Natisse
 - April 29, 2021- The Chaos Machine: An Endless Hole
 - May 6, 2021- The Chaos Machine: Wrathful Lord
 - May 13, 2021- The Chaos Machine: A Looping Revolt
- Stocktonia.org
- The California Fair Employment and Political Practices Commission

Reports

- Previous Grand Jury Reports:
 - 2013-2014 Case 1113

Other Sources

- Stockton City Council and the Brown Act; The Law Applies to Everyone
- FPPC Candidate Filings
- City of Stockton Council Training Records

Discussions, Findings, and Recommendations

1.0 Threatening Work environment

Harassed, Threatened, Coerced, Bullied, Afraid: These are words used by witnesses to describe the atmosphere for those working in Stockton City Hall. Witnesses reported receiving constant emails, letters, phone calls, and comments made in public demanding actions from associates of this SMP. When those associates are not satisfied, the result is insulting and misleading reports posted on social media. These posts claim actions are necessary and allege those not meeting their demands of inappropriate intent and corruption.

City staff and elected officials fear tarnished reputations or unjustified scorn. The result is that they are hesitant to discuss issues openly and mistrust of others in City government is fostered. This leads to less informed decision making and delays in government action.

The FPPA and FPPC have published rules for local government agencies and laws about requiring public information in campaign situations. These guidelines are stated as rules for campaign committees but the definition of committees under these circumstances includes individuals, therefore applicable to the SMP.

When a political consultant uses social media to express political views, the FPPC requires the name of the committee or payor to be on that post in order to have an informed citizenry. This SMP does not appear to follow the FPPC rules. To avoid the threat of public ridicule, what is **not** published can be traded for something of value. Political Consultants are often compensated but compensation is not just limited to money. A filed FPPC Form 460 showed loans from a political

consultant in a campaign for a seat on the Stockton City Council. After being elected, this individual then tried to appoint that same political consultant to several City committees and commissions.

A threatening work environment has also been created internally. For example, the Stockton City Attorney, City Manager, and City Clerk job performance reviews are posted on most Closed Session Council meeting agendas. This practice allows job evaluations to be conducted at any Closed Session meeting because they are a standing agenda item. Although it would be common practice to have an annual review for these positions, a chartered employee should not have to fear for their job by the continual threat of a job performance review at every Closed Session Council meeting.

Another threat to government transparency is the City of Stockton's failure to allow the public access to the required FPPC Form 700 filings for most of the appointed Boards and Commissions via the City's portals. FPPC Form 700 filings can only be obtained by sending a California Public Records Act (CPRA) request to City Clerk.

The Grand Jury has also found that those appointed to work in the Mayor's Office are not bound by the same employment rules as other city staff and therefore are not held to the same standards as city employees.

Findings

F1.1: City government is hampered by a threatening work environment created by the continued harassment and bullying by this SMP. Their actions have affected every level of City government.

F1.2: Members of the Stockton City Council have enabled this SMP to continue a campaign of harassment through their continued association with and appointment of their associates to City Boards and Commissions.

F1.3: City employees have lost confidence in the City Council's ability to ensure a non-toxic and non-threatening working environment.

F1.4: The practice of agendaizing the performance review of chartered officers at every Closed Session Council meeting creates a perception of unstable government in the eyes of City employees and the public.

F1.5: The City does not provide citizens electronic access to all Form 700 filings.

F1.6: There are employees of the Mayor's Office that are not bound by the same employment standards as City Staff.

Recommendations

R1.1: The City Council should stop enabling the SMP from interfering with effective city government through their continued association and/or support of individuals associated with the SMP.

R1.2: By March 31, 2025, the City Council should adopt rules for handling unlawful threatening Communications received by City officials and employees. Unlawful threats, not covered under the First Amendment, should be referred to the District Attorney's office.

R1.3: By March 31, 2025, the City should adopt an ordinance similar to the City of San Francisco Campaign and Governmental Conduct Code Section 1500 et seq., to strengthen election transparency. That ordinance requires political consultants and candidates to file reports directly to the City in all municipal elections listing business relationships, financial investments, and who they pay for political help or receive in-kind support from, as well as indicating who they support in elections.

R1.4: By March 31, 2025, the City should not agendize Chartered Officers performance reviews on an ongoing basis but set them annually or for specific situations which require notice by law.

R1.5: By March 31, 2025, the City should amend its policies and procedures to make all Form 700 filings available to the public online.

R1.6: By March 31, 2025, the City shall enact a policy that all employees of the Mayor's office are under the same mandated employment rules and laws as the rest of the City staff.

2.0 Brown Act

The City has reportedly spent thousands of dollars on investigations including potential Brown Act violations. Witnesses confirmed these investigations did take place. However, the citizens of Stockton, who funded these investigations, have not been allowed access to the findings of Brown Act violations. The purpose of the Brown Act is to ensure transparency in government.

Citing attorney-client privilege, the Stockton City Council continually rebuffed requests from the 2023-2024 Grand Jury to turn over the publicly funded report findings, not the report itself, on the recently completed Brown Act violation investigation. While the Grand Jury was unable to obtain this information, the report's existence and findings were released on official City letterhead by a member of city council: another apparent Brown Act violation. This letter was subsequently posted on a SMP. Although the post was titled as an "official news release", no other social media platforms or news outlets reported or confirmed the released report or findings. It should be noted that the City made no official news release.

By not releasing any information regarding the Brown Act violation investigation directly to the Grand Jury, the Council has "tied the hands" of the Grand Jury. The Grand Jury made clear to the City Council's representative that we wanted the results of the findings of that investigation, yet they were not forthcoming with those answers. This has prevented the fulfillment of our mandate which is to investigate and ensure that local governments are acting in compliance with

the laws, to identify illegal and inefficient actions, and to recommend procedures to correct these shortcomings.

While some cities prohibit cell phones or recording devices in Closed Sessions, Stockton does not. It was reported to the Grand Jury that attendees regularly have used their phones during Closed Sessions.

Findings

F2.1: There have been multiple and continued Brown Act violations regarding the release of confidential discussions that occurred during Council Closed Sessions.

F2.2: Violation of Closed Session confidentiality leaves the Council unable to carry out their responsibilities in the best interests of the public because they are not able to have free and open discussions due to the atmosphere of distrust.

F2.3: The City Council lacks rules preventing the use of any electronic communication devices during Closed Sessions.

F2.4: There is a lack of transparency concerning Brown Act violation investigation findings that have been funded by citizen tax dollars.

F2.5: The use of official City stationery by an individual council member misleads the public to believe the content reflects an official City position.

F2.6: The Council has received training regarding the Brown Act, but some members have demonstrated open disregard for that training.

F2.7: The Brown Act includes provisions to assess penalties for violations by the City Council. The public has received no information that any penalties have been assessed.

Recommendations

R2.1: By March 31, 2025, the City should amend its Closed Session policies and procedures to minimize the risk of revealing confidential information. There should be a requirement that no phone, electronic communication or recording devices be allowed in the room when it is a Closed Session. Additionally, each attendee should sign a pledge of secrecy on entering each meeting as an immediate and continual reminder that the rules of the Brown Act apply.

R2.2: By March 31, 2025, the City should develop a City Ordinance regarding Brown Act violators that includes an impartial process for determining whether the Brown Act confidentiality requirement related to Closed Session has been violated and appropriate sanctions for the violator, including but not limited to, mandatory public censure and removal from committees and commissions.

R2.3: By March 31, 2025, the City should enact a policy that all findings of Brown Act violations investigations must be released to the Civil Grand Jury within seven days of receipt by the Council.

R2.4: By March 31, 2025, the City should amend their policies and procedures regarding the use of City Stationary. For example, the City of Lodi ordinance states:

Section 7.4 Use of City Letterhead or City Seal

All Council Member correspondence written on City resources, i.e. letterhead, staff support, postage, etc., will reflect a majority position of the Council, not individual Council Members' positions. All Council Member correspondence using City resources shall be copied to the full Council.

3.0 Grievance Process

The Grand Jury has been told by City employees that the process for filing and resolving complaints of harassment and/or bullying is not fully understood. The City Ethics Hotline is also used by the public and some public complaints have included threats and attacks on city staff. Complaints are filed on the City Ethics Hotline utilizing email or phone. The Hotline is managed by a third-party consultant to ensure confidentiality of the process. However, this confidentiality appears to have been compromised by leaks.

Findings

F3.1: The confidentiality of the City's Ethics Hotline process has been compromised after the complaints are referred to City staff.

Recommendations

R3.1: By March 31, 2025, the City should hire an independent third party to investigate the City's Ethics Hotline process to regain employee and public trust in the system.

Conclusion

The efficient and ethical governing of the City of Stockton is under attack by both external and internal forces. This must be stopped. Externally, individuals utilizing a SMP have consistently attempted to undermine the local democratic process by misleading the Stockton electorate and attempting to affect election results through unethical influence.

Internally, members of the Stockton City Council, who support the efforts of that SMP, are complicit in the deterioration of comradery, trust, respect, and ethical governing in Stockton. The continued violations of the tenets of the Brown Act by council members undermine the provision of good government to the citizens of Stockton.

The Grand Jury strongly supports the Freedom of Speech Rights guaranteed by the United States Constitution. However, the abuse of those rights by individuals utilizing this Social Media Platform to spread misinformation and create a threatening work environment for City staff and elected officials is unacceptable and must be stopped.

Glossary

- **209 Times LLC:** A limited liability company that is reported on the Secretary of States (SOS) website as “Suspended-FTB”. All officers listed on the SOS website are named as Motecuzoma Patrick Sanchez. This individual also owns Tecuani LLC and Tlatoani Consulting, both of which are consulting firms that serve politicians
- **AB 1234:** Assembly Bill 1234 requires local agency officials to take an ethics training course upon election or appointment and every two years during their term
- **Brown Act:** Government Code sections 54950 et seq regulating the conduct of public meetings, closed session meetings and related public information requirements
- **Bully:** Aggressive behavior to cause discomfort or cause someone to do something by means of coercion
- **CPRA:** California Public Records Act: The California Public Records Act allows the public the right to request access to records
- **Closed Sessions:** The Ralph M. Brown Act in California allows closed sessions for local legislative bodies, such as boards, councils, and commissions, to meet privately in certain circumstances
- **et seq:** To include sections immediately following the identified section

- **City Charter:** The document establishing the City of Stockton and defining its authority and framework for the government organization, akin to its constitution
- **FPPA:** Fair Political Practice Act
- **FPPC:** Fair Political Practice Commission
- **Fictitious Name Statement:** When operating a business as a sole practitioner but doing so under a name other than yours, you are required to file a Fictitious Business Name statement so the public knows the identity of the business owner
- **FPPC Form 700:** Every elected official and public employee who makes or participates in making governmental decisions is required to submit a Form 700 which is also titled a Statement of Economic Interests. The Form provides transparency and ensures accountability in governmental decisions. Reporting is related to income, investments, interests in real property, and business positions
- **Harass:** To bother or disturb persistently, to intimidate or coerce, as with persistent demands
- **LLC:** An LLC is a limited liability corporation which is the underlying legal vehicle of the tasks it purports to do, such as a partnership or a corporation. If the organization is not under a structured legal definition, it could be a sole proprietorship
- **Misleading:** Unsupported by any foundational facts
- **NPR:** National Public Radio
- **SMP:** A social media platform called 209 Times, LLC

- **SPJ:** Society of Professional Journalists: An organization of Professional Journalists and collegiate institutional members, founded in 1920.
- **Threat:** To state one's intention to take hostile action against in retribution for something done or not done
- **Unethical:** Not in compliance with accepted ethical standards for media outlets and journalists

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911.924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

This report was issued by the Grand Jury except for one member of the jury. This juror was excluded from all parts of the investigation including interviews, presentations, deliberations, and the development and acceptance of the report.

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

Note: If the responder is an elected official, the response must be sent within 60 days of receipt.

Mail or hand deliver a hard copy of the response to:

Honorable Gus C. Barrera II, Presiding Judge
San Joaquin County Superior Court
180 E Weber Ave, Suite 1306J
Stockton, California 95202

Also, please email a copy of the response to, Irving Jimenez Staff Secretary to the Grand Jury, at civilgrandjury@sjcourts.org.