

Mariposa County Civil Grand Jury 2022-2023

Continuity Report



Compliance and Continuity Report: Past Examination, Present Action

SUMMARY

The Mariposa County Civil Grand Jury (MCCGJ) is a group of volunteer citizens who, over the course of a one year term, are tasked with investigating the operations of local government including county government departments and agencies, joint powers authorities, special districts, and school districts. The MCCGJ conducts multiple investigations, many based on public requests. The MCCGJ must also, by statute, inspect local detention facilities each term.

The goal of the MCCGJ is to determine if local government can be made more efficient, effective, and responsive to the needs of our community. If the answer is “yes,” the MCCGJ creates a report that includes findings on items that need to be addressed, recommended fixes, and required due dates for responses from the elected officials who can ensure implementation as well as invited responses from relevant appointed officials. Because of the one year term limit of each grand jury, it becomes the responsibility of the next grand jury to track responses.

The 2021-2022 MCCGJ final report¹ included findings and recommendations regarding the following:

- #1 Airport Advisory Committee – Board of Supervisors Meeting Discussion
- #2 County Process for Contracting Outside Services – Coulterville Visitor Operations
- #3 County Cemetery Operations
- #4 John C. Fremont Healthcare District – Board Meeting Violations
- #5 Mariposa County Unified School District – Board Member Conflict of Interest
- #6 Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance

The 2021-2022 MCCGJ issued 25 findings and 20 recommendations.

This continuity report was completed by the 2022-2023 MCCGJ based on elected and appointed officials’ initial responses to the findings and recommendations of the 2021-2022 MCCGJ Final Report.

The Board of Supervisors, John C. Fremont Healthcare District and Mariposa County Unified School District Board provided responses as required by Penal Code § 933.05. The Airport Advisory Committee did not provide responses as required by Penal Code § 933.05. The Clerk of the Board, Chief Administrative Officer, Director of Public Works, and Director of County Planning were invited to provide responses and did not. All responses and lack of responses are noted in Table 1 of this Compliance and Continuity Report.

¹ The complete text of the 2021-2022 Mariposa County Civil Grand Jury Final Report can be found here: <https://www.mariposacounty.org/DocumentCenter/View/92397/2021-2022-MCCGJ-FINAL-REPORT?bidId=>

GLOSSARY

AAC	Airport Advisory Committee
BOD	Board of Directors
BOS	Board of Supervisors
CAO	Chief Administrative Officer
CDWR	California Department of Water Resources
COB	Clerk of the Board
CSBA	California School Boards Association
GM	General Manager
HR	Human Resources
JFC	John C. Fremont Healthcare District
MCCGJ	Mariposa County Civil Grand Jury
MCIS	Mariposa County Improvement Standards
MCUSD	Mariposa County Unified School District
PC	Penal Code ¹
PIO	Public Information Officer
PM	Project Manager
PRA	Public Records Act
PW	Public Works
PWD	Public Works Department
RICP	Mariposa County Road Improvement and Circulation Policy
RFP	Request for Proposal
RMA	Private Road Maintenance Agreement
ZOB	Zone of Benefit

BACKGROUND

In reviewing past Grand Jury final reports, the 2022-2023 MCCGJ found that none included Compliance and Continuity Reports prior to that which was prepared by the 2021-2022 MCCGJ. These are not mandated, and given the one year time limit of service, each grand jury establishes its top priorities and utilizes its resources accordingly.

The 2022-2023 MCCGJ decided that continuing to prioritize the preparation and submission of an annual Compliance and Continuity Report was important to fulfill the Grand Jury's function as the mechanism of accountability within the County.

¹ The full text of the specific Penal Codes that are referenced in this report are included in TABLE 2 at the end of the this report.

Clarifying Penal Code

According to California Penal Code Section §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.”

When findings and recommendations are directed to an entity board, the board is required to respond within 90 days of the release of a grand jury's report. Elected county officials or agency heads, on the other hand, are required to respond within 60 days (PC §933(c)).

California Penal Code §933.05 mandates how the local governing board and how the elected officials must respond to the findings and recommendations that fall under their jurisdictions.

To begin, for each grand jury finding, the board or official must respond either (PC §933.05(a)):

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 thereof.

Next, for each grand jury recommendation, the board or official must respond (PC §933.05(b)):

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 thereof.

California Penal Code §933.05 (c) goes on to say:

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 decision-making 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 (§933.05 (c)).

Goals of Continuity and Compliance Report

The purpose of this report is to provide the community an understanding of, and more accurate compliance to, the California Penal Code. The jury believes that if respondents answer questions raised in findings and recommendations as clearly and comprehensively as possible, they will create a higher level of trust and support from the Mariposa County community at large.

This report may offer a model for future MCCGJs.

METHODOLOGY

For background, the MCCGJ read through a number of past MCCGJ Final Reports and studied their findings, recommendations, and responses.

The jury read, analyzed, and used as guidance Continuity and Compliance Reports generated by other county grand juries, especially those highlighted by the California Grand Jurors Association as being especially effective.

The MCCGJ applied the California Penal Code section §933.05 in their analysis of the responses received to the 2021-2022 MCCGJ Final Report findings and recommendations to determine whether the responses were compliant. The jury also noted if any finding or recommendation was missing a response.

DISCUSSION

Using a table format, TABLE 1 provides a quick summary of each of the 2021-2022 MCCGJ reports, details the findings and recommendations from each report, the responses the grand jury initially received from respondents, and the follow up responses the grand jury received when it requested clarification from the respondent.

FINDINGS OF THIS CONTINUITY REPORT 2022-2023

- F1. The MCCGJ received only 42 of the required 50 responses to the investigative findings and recommendations of the 2021-2022 MCCGJ Final Report.
- F2. The MCCGJ received no responses to the 30 invitations to respond to the investigative findings and recommendations of the 2021-2022 MCCGJ Final Report.
- F3. Some respondents did not make clear commitments (e.g., timeframes, further analysis) for implementing agreeable recommendations in the 2021-2022 Final Report.

RECOMMENDATIONS OF THIS CONTINUITY REPORT 2022-2023

- R1. Respondents should review California Penal Codes §933 annually in preparation for responding to Grand Jury Final reports.
- R2. Respondents should be aware and understand that some responses are required by California Penal Code §933.
- R3. Invited respondents should take the opportunity to prepare and submit responses when invited to do so to demonstrate to the County their efforts to improve the services their department provides to the County.
- R4. Respondents should include timeframes and commitments implementing agreeable recommendations.

REQUEST FOR RESPONSES

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per Penal Code 933.05 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following governing boards were required to respond within 90 days pursuant to Penal Code sections §933 and §933.05:

#1 Airport Advisory Committee – Board of Supervisors Meeting Discussion

- Airport Advisory Committee F1, F2, F3, F4, R1, R2
- Board of Supervisors F4, R1, R2

#2 County Process for Contracting Outside Services – Coulterville Visitor Operations

- Board of Supervisors F1, F2, R1

#3 County Cemetery Operations

- Board of Supervisors F1, F2, F3, F4, R1, R2, R3, R4

#4 John C. Fremont Healthcare District – Board Meeting Violations

- JCF Board of Directors F1, F2, F3, F4, F5, R1, R2, R3, R4, R5

#5 Mariposa County Unified School District – Board Member Conflict of Interest

- MCUSD Board F1, F2, R1, R2

#6 Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance

- Board of Supervisor F1, F2, F3, F4, F5, F6, F7, F8, R1, R2, R3, R4, R5, R6

Per Penal Code 933.05 (a)(1) and (2), responses must include acceptance, refutation, and/or clarification of the findings. Per PC 933.05 (b) (1) (2) (3) and (4) a commitment to implementing the recommendations, as appropriate.

The following department heads were invited to respond within 60 days:

#1 Airport Advisory Committee – Board of Supervisors Meeting Discussion

- Clerk of the Board F4, R1, R2

#2 County Process for Contracting Outside Services – Coulterville Visitor Operations

- Chief Administrative Officer F1, F2, R1

#3 County Cemetery Operations

- Director of Public Works F1, F2, F3, F4, R1, R2, R3, R4

#6 Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance

- Director of Mariposa County Planning Department F1, F2, F3, F4, F5, F6, F7, F8, R1, R2, R3, R4, R5, R6
- Director of Mariposa County Public Works F1, F2, F3, F4, F5, F6, F7, F8, R1, R2, R3, R4, R5, R6

Reports issued by the 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 Grand Jury.

TABLE 1

A brief overview of each of the 2021-2022 MCCGJ reports, the findings and recommendations of each report, the responses the 2022-2023 grand jury received.

#1 Airport Advisory Committee – Board of Supervisors Meeting Discussion	
INVESTIGATION: The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) investigated a complaint alleging that an Airport Advisory Committee (AAC) topic was placed on the 2021 Board of Supervisors (BOS) agenda without following proper procedure, including not giving suitable notice to the AAC. Additionally, the complainant was concerned the BOS discussion would address purported inappropriate conduct at past AAC board meetings, leading to unwarranted defamation of character of some AAC board members.	
ANALYSIS:	
FINDINGS	RESPONSES
F1 The August 17, 2021, BOS Regular Meeting Agenda item “J.3. Clerk of the Board of Supervisors-Discussion and Direction to Clarify the Airport Advisory Committee Purpose,” was put on the BOS agenda following policy and procedure.	AAC was required to respond by 9/25/22. No response received.
F2 In regard to this agenda item, the COB made a good faith attempt to inform the AAC chairperson prior to the BOS meeting.	AAC was required to respond by 9/25/22. No response received.
F3 Supervisors informed the AAC board of the BOS agenda item at an AAC meeting prior to the BOS meeting.	AAC was required to respond by 9/25/22. No response received.
F4 Clerk of the Board (COB) and county staff members were aware of the allegations of misconduct at AAC board meetings, but did not take timely action to investigate.	AAC was required to respond by 9/25/22. No response received. COB was invited to respond by 8/26/22. No response received.) <i>Response from BOS received 10/4/22:</i> The Board agrees that the former clerk of the board memo dated August 17, 2021, discusses “heated dissention” and that an environment “contrary to the county’s Discrimination and Harassment Policy” was discovered while researching the purpose of the airport advisory committee. Once discovered, the former clerk of the board states that she requested a board action to clarify the topics causing the “heated dissention” and improve the meeting environment.
RECOMMENDATIONS	RESPONSES
R1 The County should follow the “Mariposa County Policy Against Discrimination and Harassment in the Workplace” policy when made aware of the type of allegations noted in the memo from the COB to the BOS included as an attachment to the AAC agenda item in the August 17, 2021, BOS meeting packet.	AAC was required to respond by 9/25/22. No response received. COB was invited to respond by 8/26/22. No response received. <i>Response from BOS received 10/4/22:</i> The Board agrees that the Mariposa County Policy Against Discrimination and harassment in the Workplace should be followed by all staff at all times. In addition, on February 15, 2022, the BOS adopted a policy governing its various committees. Among other things, this policy clarifies that volunteers serving on advisory boards are subject to the discrimination and

		<p>harassment policy and that establishes a clear procedure for the reporting of issues to HR and the prescribed response up to and including removal of committee member found to be in violation.</p>
R2	<p>County employees and agencies should be made aware that they must file formal written complaints with a County staff supervisor or manager per the "Mariposa County Policy Against Discrimination and Harassment in the Workplace" policy in order to have the issues addressed in a timely manner.</p>	<p>AAC was required to respond by 9/25/22. No response received.</p> <p>COB was invited to respond by 8/26/22. No response received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board partially agrees that employees and departments should be aware of policy requirements to report in writing. This agreement is only partial because, while we agree that employees should be aware of what the policy says, we also believe our employees and department heads must be held to a higher standard. We simply cannot, will not, and do not tolerate acts of discrimination or harassment. Staff are trained to report any and all awareness of discrimination or harassment to HR; and HR staff are directed to investigate allegations in a timely manner regardless of whether a formal complaint was filed.</p>

#2 County Process for Contracting Outside Services – Coulterville Visitor Center Operations

INVESTIGATION:

The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) received a complaint claiming that when the County had posted a Request for Proposals (RFP) for the Coulterville Visitor Center Operations service in 2020, the County had been biased in its choice of vendor. Further, when the County chose to renew the contract in 2021 rather than opening a new RFP process, the County unfairly excluded interested parties from bidding and showed favoritism to certain individuals.

ANALYSIS:

FINDINGS		RESPONSES
F1	When it comes to contracts for outside services, the County does not have a set of policies and procedures used by all County departments. This is in violation of County Purchasing Code Chapter 3.08, Section 3.08.040 (C).	<p>CAO was invited to respond by 8/26/22. No response received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board disagrees that the County does not or has not had purchasing policies and procedures for all departments. In addition to Mariposa County Code Section 3.08 itself, the County maintained no less than eight resolutions focused on various areas of purchasing policy (1987-22, 1998-130, 1988-046, 1990-448, 1993-489, 1989-159, 2007-225, and a policy adopted without a resolution number on June 21, 1988.</p>
F2	In 2021, the Chief Administrative Officer (CAO) used his authority as purchasing agent to renew the Coulterville Visitors Center Operations contract.	<p>CAO was invited to respond by 8/26/22. No response received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that the CAO used his authority to enter a new agreement for the operation of the Coulterville visitor center. The agreement was with the same vendor who had been selected through a competitive solicitation process one year earlier and had operated the visitor center in the intervening time.</p>
RECOMMENDATIONS		RESPONSES
R1	The CAO should develop a set of policies and procedures for contracting outside service to be used by all County departments, consolidating them into a manual within 90 days.	<p>CAO was invited to respond by 8/26/22. No response received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that a consolidated purchasing policy would be advantageous, which is why it adopted an amended purchasing ordinance on July 12, 2022, rescinded the previous policies noted above, and adopted comprehensive purchasing and purchasing card policies on August 16, 2022. The adopted policies have been distributed to all staff.</p>

#3 County Cemetery Operations	
INVESTIGATION: The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) received a complaint indicating that the family wanted to inter their deceased loved one in the Mariposa Town Cemetery but faced a number of obstacles. The obstacles included initial difficulty in finding information about the interment process and, soon after, receiving incorrect information from a Public Works employee. The interment process for their loved one took over a year and ultimately ended in the family interring their loved one's remains in an Oakhurst cemetery.	
ANALYSIS:	
FINDINGS	RESPONSES
F1 Information about Mariposa County cemeteries, cemetery committees, and the interment process is difficult to find and is very limited.	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Board agrees that information about public cemeteries is limited.
F2 There is no active Mariposa Town Cemetery Committee to effectively manage public requests for interment.	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Board agrees that the Mariposa Town Cemetery Committee is not currently active. The Mariposa Cemetery itself is active and currently taking caskets and cremations for burial.
F3 The County does not have a set of guidelines for County staff to use to respond to public inquiries regarding interment at its three cemeteries, leading to the public sometimes receiving erroneous information.	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Board does not agree that there are no staff guidelines for cemeteries.
F4 The upkeep of the three County cemeteries is insufficient.	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Board does not agree that the upkeep of the cemeteries is insufficient.
RECOMMENDATIONS	RESPONSES
R1 The BOS should direct staff to add links to, and information about, Mariposa County cemeteries, cemetery committees, and the interment process to the County website within the next three months.	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Board agrees that more information about public cemeteries should be available online and will direct staff to update the County website before the end of the calendar year
R2 The BOS should re-establish a cemetery committee for the Mariposa Town Cemetery within the next six months. (12/28/22)	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u> The Mariposa Town Cemetery Committee is already established but is not active due to a lack of volunteers. Members of the public who would like to volunteer are welcome to contact public works for more information about the responsibilities and application process.
R3 The County should work with the cemetery committees to develop a set of guidelines for staff and committees to use to respond to public inquiries regarding interment at its three	Dir. of PW Dept was invited to respond by 8/26/22. No response received. <u>Response from BOS received 10/4/22:</u>

	cemeteries within the next six months. (12/28/22)	Guidelines are already developed. The Board will direct staff to redistribute and provide training on these guidelines to the relevant parties before the end of the calendar year.
R4	The BOS should direct the Parks and Recreations staff to work with current cemetery committee members to develop a plan for regular upkeep and maintenance needs and, until the Mariposa County Cemetery Committee is back up and running, staff should assess the needs at the Mariposa Town Cemetery. The BOS should work with staff to determine an adequate budget for cemeteries to cover upkeep and maintenance for the 2024 budget.	<p>Dir. of PW Dept was invited to respond by 8/26/22. No response received.</p> <p><i>Response from BOS received 10/4/22:</i></p> <p>By way of clarification, Mariposa public cemeteries are technically not cemeteries at all – they are burial grounds. While the names are used interchangeably, there are many differences between a cemetery and a burial ground. Most relevant to this response is the cost: cemeteries tend to charge large fees for internment that can be used to maintain the property over time while burial grounds have minimal or no fees can therefore provide only minimal maintenance. Additional maintenance for our burial ground would require taking away funds from our local sheriff, roads, and other vital services. A change in service priorities can be considered, but the decision to increase maintenance should be made in the context of the fees that would need to be added or the services that would need to be proportionally reduced.</p>

#4 John C. Fremont Healthcare District – Board Meeting Violations	
INVESTIGATION: The 2021-2022 Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding improperly worded agendas and improper actions at John C. Fremont Healthcare District (JCF) board meetings.	
ANALYSIS:	
FINDINGS	RESPONSES
F1 The JCF Board does not always comply with the Brown Act, California Health and Safety Code §3200-32499.4, and California Government Code §54956.87 regarding the wording of closed session agenda items and actions at board meetings.	<u>Response from JCF Board received 8/29/22:</u> JCF’s Board agrees partially with this finding, in that the Board always endeavors to word closed session agenda items and take actions at Board meetings in a manner that is fully compliant with the Brown Act and Health and Safety Code. However, to the extent there have been inadvertent instances of noncompliance, the Board agrees to take all necessary corrective actions to ensure no such instances occur going forward.
F2 The JCF Board does not have a lawyer present during closed session litigation or potential litigation discussions.	<u>Response from JCF Board received 8/29/22:</u> JCF’s Board partially agrees with this finding; JCF’s counsel has, from time to time, attended litigation-related closed session discussions, but the Board will work in conjunction with the CEO to ensure is present at every litigation-related closed session going forward.
F3 Regarding a November 2021 agenda item about the request for registered nurse union recognition, there was improper board discussion of this item during closed session.	<u>Response from JCF Board received 8/29/22:</u> JCF’s Board agrees with this finding, and will ensure no such discussion of agenda items occur in closed session going forward.
F4 The JCF bylaws state that the agenda and minutes are the responsibility of Administration and yet neither the CEO nor the COB have had Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 training.	<u>Response from JCF Board received 8/29/22:</u> JCF’s Board partially agrees with this finding; the Clerk of the Board has not been formally trained in Brown Act or Health and Safety Code §3200-32499.4, but has received some on-the-job training. Further, the CEO has received formal training in these matters in recent years. Still, the Board commits to ensuring that the CEO, and all pertinent staff, receive regular Brown Act and Health and Safety Act trainings from qualified individuals going forward.
F5 The JCF board members are not required to attend Brown Act training. While some have received this training, none retrain on a regular basis.	<u>Response from JCF Board received 8/29/22:</u> JCF’s Board partially agrees with this finding. Board members have, in the past, been required to attend Brown Act training. However, with respect to regular retrainings, the Board and CEO have already begun the process of scheduling a refresher training course, and will ensure that all Board members will be required to attend regularly scheduled trainings going forward.
RECOMMENDATIONS	RESPONSES
R1 The JCF board must follow Brown Act, Health and Safety Code §3200-32499.4, and GC §54956.87 requirements. One way to ensure this would be to use the GC templates.	<u>Response from JCF Board received 8/29/22:</u> This recommendation has been implemented in all Board meeting agendas published since the Grand Jury Report, and will continue to be implemented on an ongoing basis in the future.
R2 JCF’s legal counsel must be present for all closed session items regarding litigation.	<u>Response from JCF Board received 8/29/22:</u> This recommendation has been implemented, as the Board recently held a litigation-related closed sessions after the release of the Grand Jury Report and ensured that legal counsel will attend <u>all</u> litigation-related closed sessions in the future.
R3 The JCF Board must ensure it is only discussing items in closed session that fall under the purview of closed session and are properly noticed.	<u>Response from JCF Board received 8/29/22:</u> This recommendation has been implemented, as the Board recently held a closed session after the release of

		the Grand Jury Report. At that meeting, the Board was careful to discuss only those items in closed session that were properly noticed and fell within the scope of the agenda item. In addition, the Board is committed to ensuring continued compliance at all future meetings.
R4	The JCF Board should ensure staff drafting meeting agendas and minutes have the training they need to carry out that job function.	<u>Response from JCF Board received 8/29/22:</u> This recommendation has not yet been implemented, but the Board, through the CEO, is in contact with personnel who are capable of and willing to provide such training, and is in the process of scheduling the training for the coming weeks.
R5	The JCF Board should schedule Brown Act training on a regular timeframe.	<u>Response from JCF Board received 8/29/22:</u> The recommendation has not yet been implemented, but the CEO is in contact with personnel who are capable of and willing to provide such training, and is in the process of scheduling the training for the coming weeks.

#5 Mariposa County Unified School District – Board Member Conflict of Interest

INVESTIGATION:

The Mariposa County Civil Grand Jury (MCCGJ) received a complaint regarding alleged conflict of interest among the Mariposa County Unified School District (MCUSD) Board. The complainant noted that a school board member made a motion and voted on the subject even though he had a relative who was directly impacted by the issue and its resolution. The complainant states that the motion and vote appeared to benefit the board member’s relative. The motion involved COVID testing for all teachers regardless of vaccination status. The relative of the board member was not vaccinated and did not want to be treated differently than vaccinated teachers through mandatory COVID testing.

ANALYSIS:

FINDINGS		RESPONSES
F1	A School Board member made a motion and voted on it when the subject involved a relative.	<i>Response from MCUSD Board received 8/24/22:</i> The District agrees with this finding.
F2	School Superintendent and School Board Members must avoid the appearance of a conflict of interest in order to maintain public trust.	<i>Response from MCUSD Board received 8/24/22:</i> The District agrees with this finding.
RECOMMENDATIONS		RESPONSES
R1	School Board Member should recuse themselves from making motions or voting on matters that involve a conflict of interest or give the appearance of a conflict of interest.	<i>Response from MCUSD Board received 8/24/22:</i> This recommendation will be immediately implemented.
R2	The language in the bylaws should be written to more clearly define conflicts of interest, and the process to determine if a conflict of interest exists.	<i>Response from MCUSD Board received 8/24/22:</i> The District, like most school districts in the State of California, utilizes the services of the California School Boards Association (“CSBA”) related to the creation, adoption, and revision to the District’s Board Policies/Board Bylaws/Administrative Regulations. The Board has directed the Superintendent to ensure that the District’s policies related to conflicts of interest are updated in accordance with the most current policies/bylaws released by CSBA. In the event of any of the conflict of interest language set forth in the District’s policies is out-of-date, the Board will adopt updated versions as promulgated by CSBA.

#6 Road Maintenance Agreements: Standards and Provisions for Long-Term Maintenance	
INVESTIGATION: The MCCGJ received a complaint regarding the County changing a zone of benefit (ZOB) to a private road maintenance agreement (RMA) in 1993. In a ZOB mechanism, the County collects fees and provides regular road maintenance activities. In an RMA, the property owner(s) are responsible for all road maintenance activities (e.g., fee collection and maintenance contracting) with little involvement from the County once the RMA is recorded by the Clerk of the Board.	
ANALYSIS:	
FINDINGS	RESPONSES
F1 A major subdivision ZOB was dissolved by a BOS resolution and the RMA(s) which replaced it did not include conditions for County oversight of effective road management.	Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received. <i>Response from BOS received 10/4/22:</i> The Board agrees that a major subdivision zone of benefit was replaced with a road maintenance agreement that was not subject to County oversight.
F2 There is no mechanism by which the BOS can make certain that a successful RMA application establishes a committee to ensure the condition of the agreement were met.	Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received. <i>Response from BOS received 10/4/22:</i> The Board agrees that it is not responsible for ensuring private road maintenance agreements are enforced and/or effective, nor is there a mechanism for the Board to do so.
F3 There is no mechanism by which the BOS can make certain that a successful RMA applicant requires a committee to collect and manage funds for routine road maintenance and emergency repairs.	Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received. <i>Response from BOS received 10/4/22:</i> The Board agrees that it is not responsible for ensuring private road maintenance agreements are enforced and/or effective, nor is there a mechanism for the Board to do so.
F4 There is no mechanism by which the BOS can make certain that the successful RMA applicant applies enforcement tools (e.g., liens) to ensure delinquent fees and assessments are collected.	Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received. <i>Response from BOS received 10/4/22:</i> The Board agrees that it is not responsible for ensuring private road maintenance agreements are enforced and/or effective, nor is there a mechanism for the Board to do so.
F5 The RICP identifies the duration of road maintenance to extend through the life of the project, a vague term with opportunities for multiple interpretations.	Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received. <i>Response from BOS received 10/4/22:</i> The Board agrees the Road Improvement and Circulation Policy (RICP) provides general guidance in relation to road maintenance and lifespans.

F6	There is concern that public access to privately maintained roads can result in additional wear and tear as well as safety and liability concerns.	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that there is concern that public access on private roads can result in additional wear and liability issues.</p>
F7	Some Mariposa County regulations and policies regarding road design and maintenance standards (e.g., RICP and MCIS) are older than ten (10) years.	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that some road design and maintenance standards are at least ten years old.</p>
F8	Mariposa County has no review authority for amendments to an RMA.	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that it does not have review authority for road maintenance agreement amendments,</p>
RECOMMENDATIONS		RESPONSES
R1	Within the next six (6) months, the BOS should ensure that the changes or amendments to road maintenance agreements should be consistent and in conformance with standards set in the RICP and MCIS. (F1, F5, F7)	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board does not agree that it is the responsibility of the County to ensure private road maintenance agreements are in conformance with the current RICP, but encourages the private parties engaged in such agreements to review their agreements and current standards.</p>
R2	Effective immediately, approved BOS resolutions should document clarity of decision and reasoning for the resolution (e.g., rescinding or amending road maintenance agreements). (F1, F5, F7)	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that resolutions should clearly document the decisions that are made and believe that, as a rule, this is already the practice of the County.</p>
R3	<p>With the next six (6) months, a standard RMA template guideline should be developed and adopted by the BOS with the following provisions:</p> <ol style="list-style-type: none"> a. Define the roles and responsibilities for implementing the conditions of the agreement (e.g., establishment of a road maintenance association). (F2) b. Specifications for collection and allocation of funds for road maintenance. (F3) 	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board does not agree that the County should provide a template for private road maintenance agreements. These agreements are the responsibility of private parties and each should seek its own legal counsel for support drafting or updating legal documents.</p>

	<p>c. Lien authorities to ensure compliance. (F4)</p> <p>d. Road maintenance duration responsibilities per the updated RICP. (F5)</p> <p>e. An annual self-inspection and compliance report. (F6, F7)</p>	
R4	<p>Within the next six (6) months, the BOS should approve by resolution an update of the RICP including clearly identified standard duration periods and responsibilities with clearly defined terms. Approved changes should be made in an act by BOS resolution and should document clarity of decision and reasoning for the resolution. (F5, F7)</p>	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that updates to our road improvement and circulation plan and other road related processes and procedures are necessary (R4-R6). It cannot commit to completing these updates within six months. Public works already has a significant workload and, like many county departments, is attempting to manage that workload with a high number of vacancies. When the department can be staffed appropriately or other work can be completed, there will be time to focus on the needed updates.</p>
R5	<p>Within the next six (6) months, the BOS should approve by resolution an update of the MCIS. Approved changes should be made in an act by BOS resolution and should document clarity of decision and reasoning for the resolution. (F7)</p>	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that updates to our road improvement and circulation plan and other road related processes and procedures are necessary (R4-R6). It cannot commit to completing these updates within six months. Public works already has a significant workload and, like many county departments, is attempting to manage that workload with a high number of vacancies. When the department can be staffed appropriately or other work can be completed, there will be time to focus on the needed updates.</p>
R6	<p>Within the next six (6) months an amendment procedure should be established that requires interdisciplinary review by the County when a project and associated RMA is amended. (F8)</p>	<p>Directors of Mariposa County Planning Department and Mariposa County Public Works were invited to respond by 8/26/22. No responses received.</p> <p><u>Response from BOS received 10/4/22:</u> The Board agrees that updates to our road improvement and circulation plan and other road related processes and procedures are necessary (R4-R6). It cannot commit to completing these updates within six months. Public works already has a significant workload and, like many county departments, is attempting to manage that workload with a high number of vacancies. When the department can be staffed appropriately or other work can be completed, there will be time to focus on the needed updates.</p>

TABLE 2

The following is the full text of the California State Penal Codes that are referenced in this report.

929.

As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released. Prior to granting approval pursuant to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including, but not limited to, the identity of witnesses and any testimony or materials of a defamatory or libelous nature.

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. Final reports on any appropriate subject may be submitted to the presiding judge of the superior court at any time during the term of service of a grand jury. A final report may be submitted for comment to responsible officers, agencies, or departments, including the county board of supervisors, when applicable, upon finding of the presiding judge that the report is in compliance with this title. For 45 days after the end of the term, the foreperson and his or her designees shall, upon reasonable notice, be available to clarify the recommendations of the report.

(b) One copy of each final report, together with the responses thereto, found to be in compliance with this title shall be placed on file with the clerk of the court and remain on file in the office of the clerk. The clerk shall immediately forward a true copy of the report and the responses to the State Archivist who shall retain that report and all responses in perpetuity.

(c) No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

(d) As used in this section "agency" includes a department.

933.05.

(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:

(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 decision making 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.