**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-Milias-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.