

Ventura County Grand Jury 2013 - 2014



Final Report

City of Ventura Claims Process

April 30, 2014

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City of Ventura Claims Process

Summary

Based on a public complaint, the 2013-2014 Ventura County Grand Jury (Grand Jury) inquired into the methods by which the City of Ventura (City) processes, investigates and settles claims against the City for damages to persons or property. The Grand Jury also investigated how the City's Risk Manager decides which claims are rejected and which are settled. The scope of this investigation was limited to claims of personal or property damage. Due to the sensitivity of the information and for personal privacy concerns, the Grand Jury did not examine complaints against City public safety agencies such as Police or Fire.

In this investigation, the Grand Jury conducted interviews with employees of the City and contractors who support the claims administration process. At issue was a complaint that the City arbitrarily dismissed valid claims without performing thorough investigations. An additional contention was made that the City was violating the California Government Code (California Code) with respect to the time standards for claim submission.

The Grand Jury examined and analyzed several years' worth of data related to claims that were submitted against the City. Of specific interest in the data were the dates and natures of the incidents, the dates of claim submission, and the dates the claims were settled or dismissed. As part of its investigation, the Grand Jury also researched how the other cities of Ventura County (County) handled claims against their governments.

The Grand Jury found that the City is in compliance with California Code requirements with respect to claims made against the City and that the City Risk Manager and his staff are performing their duties as prescribed in the specifications of their jobs. The City does not have a written policy on claims submission and management nor does it have written procedures that its citizens can easily find. The Grand Jury recommends that the City develop and post a claims submission policy and corresponding procedures on its website.

Background

The submission of damage claims against the City is addressed in the City's Code of Ordinances (Code), Division 1, Chapter 1.300, Damage Claims Against the City. [Ref-01] This provision of the Code has been enacted by the City under the authority of Section 935 of the California Code. [Ref-02] Section 911 of the California Code specifies the time requirements for submission of claims in the State of California (State). The times specified in Section 911 of the California Code for submission of damage claims are:

- "A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided not later than six months after the accrual of the cause of action."

- "A claim relating to any other cause of action shall be presented not later than one year after the accrual of the cause of action."

Section 911 of the California Code permits applicants submitting claims that are required within six months to request a 45-day extension if their claim cannot be submitted in a timely manner. There is no such provision for an additional extension in the case of claims that must be submitted within one year. Section 911.3 of the California Code also prescribes the format of rejection letters to inform submitters who do not meet the submission requirements for timeliness. An excerpt from these form letters is provided below:

"The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 901 and 911.2 of the [California] Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the [California] Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the [California] Government Code.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

[Ref-03]

The Grand Jury received a public complaint regarding the City's procedures for handling claims against the City, specifically, misapplication of standards for timely submission and arbitrary rejection of an excessive number of claims without sufficient cause. Claim forms are delivered to the City Clerk at City Hall by mail or in person. The City Clerk is responsible for receiving and logging claims and forwarding them to Risk Management. Claims against the City are approved by the City Risk Manager who reports to the Director of Human Resources.

Methodology

The Grand Jury conducted a comprehensive review of material on the City website that applies to submission of claims against the City. The Grand Jury reviewed City and State ordinances and codes pertaining to making claims for damages and the rules governing their approval or disapproval. The Grand Jury also researched information that was available to the public on all city websites in the County regarding submission of claims and claim forms.

The Grand Jury conducted several interviews of City personnel who are associated with the processing and adjudicating of damage claims. The Grand Jury obtained

and analyzed claims data from the third-party contractor supporting Risk Management to ascertain the types of claims that were made, what type of claims were accepted or rejected, and other pertinent records associated with claims against the City. In analyzing this data, the Grand Jury did not consider claims made against City Public Safety agencies, i.e., police or fire departments, due to the sensitive nature of these claims.

Facts

- FA-01.** Claims against the City are received by the City Clerk either in person or by mail. [Ref-01]
- FA-02.** A keyword search on the City website using the phrase “claim against the City of Ventura” and variations thereof for the procedures necessary for submitting a claim against the City was not successful.
- FA-03.** A Google search of the phrase “claim against the City of Ventura” took the requestor to the City claim form, Risk 103 (Claim for Damages to Person or Property), on the City website. The City website did not contain any procedures for the submission of claims. [Ref-04]
- FA-04.** Further search on the City’s website led to the City’s Citizen Complaint Form procedures under the Police Department section of the website but no further information on the Claim for Damages submission process was found. [Ref-05]
- FA-05.** There are no instructions on the website for filing a claim against the City and there is no mention of, nor link to, the claim form on the site’s “Online Services” page. [Ref-04]
- FA-06.** There is no information posted on the City’s website with respect to the duties and responsibilities of Risk Management.
- FA-07.** The Instructions section of the Risk 103 form contains only time standards and location for submission. (Att-01)
- FA-08.** Five other cities in the County post detailed claim submission instructions as well as claim forms on their websites. [Ref-06, Ref-07, Ref-08, Ref-09, Ref-10]
- FA-09.** Claims received by the Ventura City Clerk are date and time stamped and entered into a logbook by the City Clerk’s staff.
- FA-10.** The City Clerk does not judge the merits or timeliness of claims but only verifies that all required lines are completed and that the form is signed.
- FA-11.** Submission time limits for claims are specified in California Code, Section 911. [Ref-03]
- FA-12.** Time limits for City claim submission start on the date the incident occurred. [Ref-03]

- FA-13.** Procedures exist to extend the claim submission period in certain cases per California Code sections 911.4 to 912.2 inclusive and section 946.6. [Ref-03]
- FA-14.** Claims are forwarded by the City Clerk's staff to Risk Management immediately after being logged in.
- FA-15.** The City Risk Manager reports to the City Human Resources Manager but Risk Management does not appear on the City's website. [Ref-11]
- FA-16.** Initial claim investigation is normally performed by Risk Management Technicians; there are two Risk Management Technicians.
- FA-17.** Risk Management Technician investigation consists of reviewing the claim form to determine if it has been completed correctly, in accordance with State time standards, and of assessing City negligence.
- FA-18.** The City Risk Manager is responsible for all insurance needs of the City including Workers' Compensation insurance and claims, occupational safety, and liability claims and judgments.
- FA-19.** The City Risk Manager protects City assets from overstated or frivolous claims and pays damages to claimants in the event of City negligence. [Ref-12]
- FA-20.** The position of City Risk Manager includes the following job specification: "Under administrative direction, develops, implements, administers, and coordinates risk management programs designed to minimize losses and ensure the efficient and economical operation of the City's liability, Workers' Compensation, safety, employee fitness and health, and loss-control programs." [Ref-12]
- FA-21.** The Risk Manager determines if a claim is valid and may discuss his decision with the City Attorney if necessary.
- FA-22.** The Risk Manager can approve claims up to \$25,000.
- FA-23.** Claims higher than \$25,000 must be approved by the City Manager and City Council.
- FA-24.** Claims must be processed within 45 days, or they are automatically denied and the claimant can resolve the claim via litigation. [Ref-03]
- FA-25.** Risk Management is required to respond to the claimant concerning all claims against the City.
- FA-26.** Claims may be rejected by Risk Management for technical reasons (for example, an improperly completed form), because the City was not negligent, or because the claimant has made an unreasonable demand.
- FA-27.** Rejected claims may be negotiated with the City prior to the claimant filing a lawsuit.
- FA-28.** Claimants whose claims are rejected may appeal to the Human Resources Director, City Manager, or City Attorney.

- FA-29.** The City retains Carl Warren & Company to maintain claim disposition data dating from July 1, 1997, to present.
- FA-30.** Carl Warren & Company specializes in providing claims management and administration services for public entities including cities, school districts, transit districts, counties, risk-sharing pools, and special districts. [Ref-13]
- FA-31.** City claims data is sorted by policy years, which cover the period from July 1 to June 30 each year.
- FA-32.** As of January 1, 2014, the City claims data indicates 60 open claims including 14 claims against Public Safety agencies.
- FA-33.** City claims data includes one claim from policy year 1997-1998, because this claim is still open.
- FA-34.** The City establishes reserve accounts for losses and expenses for each open claim as set-asides in the event payments are made to claimants; these accounts remain open until a claim is settled or closed.
- FA-35.** When payments are made to a claimant, the reserve account is zeroed out in the database and the payment is entered as a Loss Payment; any expenses associated with the claim are entered as a Payment Expense.
- FA-36.** The following table summarizes the status of claims, excluding claims against Public Safety agencies, against the City by policy year:

Policy Year End	Total Claims	Open	Closed	Settlement Reached (1)	Settlement Amount	Reserve Open (2)	No Payment (3)
1998	1	1	0	0	0	\$5,000	Not Applicable
2010	3	2	1	0	0	\$2,000	1
2011	2	1	1	0	0	\$4,365	1
2012	48	1	47	6	\$8,600	\$18,000	41
2013	51	15	36	3	\$13,728	\$26,550	33
2014	27	26	1	3	\$2,503	\$17,045	Not Available
Total	132	46	86	12	\$24,831	\$72,960	76

Notes:

- (1) Settlement Reached: claimant received loss payment from City
- (2) Reserve Open: reserve accounts set aside for loss and expenses for open claims
- (3) No Payment: cases closed with no loss expense to City

- FA-37.** All claims incur Payment Expenses whether or not there is a Loss Payment.

- FA-38.** The claims data shows that the City has incurred Payment Losses of \$24,831 and Payment Expenses of \$3,762 on 12 settled claims through December 31, 2013.
- FA-39.** The number of claims that were settled against the following departments since 2012 are: Parks (Trees), 7; Streets, 3; and Water, 2.
- FA-40.** All claims settled, with the exception of claims against Public Safety agencies, were the result of damage to property caused by City personnel and equipment.
- FA-41.** As of December 31, 2013, there were 46 open claims with Loss Reserves of \$72,960 and Expense Reserves of \$18,831, with a net potential expenditure of \$91,791 on unsettled claims.
- FA-42.** Based on an analysis of closed claims for which no loss expense was incurred, approximately 91% of all claims are rejected.

Findings

- FI-01.** The City has not posted a written policy or procedure for submitting claims against the City on its website. (FA-02, FA-03, FA-05)
- FI-02.** The claim form can only be found on the City website with great difficulty. The only instructions contained on the form are the time limits and the address for submission. (FA-02, FA-03, FA-04, FA-05, FA-15)
- FI-03.** Risk Management is not listed under the Human Resources Department or anywhere else on the website. (FA-15)
- FI-04.** The process for submitting complaints against the Police Department is well documented on the City website and easy to find. (FA-04)
- FI-05.** Claim forms against the City are accepted in an expeditious manner. (FA-09, FA-10, FA-14)
- FI-06.** The time requirements for submitting claims are being properly managed by Risk Management. (FA-11, FA-12, FA-13, FA-30, FA-31, FA-32, FA-33)
- FI-07.** The City Risk Manager is fulfilling the responsibilities of his position to minimize loss and liability for the City. (FA-22, FA-33, FA-36, FA-37, FA-38)
- FI-08.** The losses or damages to persons or property paid by the City are valid. (FA-37, FA-38, FA-39, FA-40)
- FI-09.** The Risk Manager is fulfilling the requirements of his position to manage any third-party contract for the administration of general liability and Workers' Compensation claims. (FA-29, FA-30, FA-31, FA-32, FA-33, FA-34, FA-35, FA-36)
- FI-10.** Claims against the City are effectively tracked by Carl Warren & Company contractors until closed. (FA-29, FA-30, FA-31, FA-32, FA-33, FA-36)

Recommendations

- R-01.** The Grand Jury recommends that the City develop written policies and procedures for submitting claims against the City. (FI-01)
- R-02.** The Grand Jury recommends that the City post procedures for submitting claims against the City on its website under the “Online Services” menu, with a clear link to the claims form. (FI-01, FI-02)
- R-03.** The Grand Jury recommends that the City enhance its website search engine so users can easily find claims information. (FI-02)
- R-04.** The Grand Jury recommends that the City post on its website a description of the Risk Manager’s position and duties with respect to claims against the City. (FI-03, FI-06, FI-07, FI-09)

Responses

Responses required from:

Ventura City Council (FI-01, FI-02, FI-03, FI-06, FI-07, FI-09) (R-01, R-02, R-03, R-04)

Responses requested from:

City of Ventura Human Resources Department (FI-01, FI-02, FI-03, FI-05, FI-06, FI-07, FI-09) (R-01, R-02, R-03, R-04)

City of Ventura Risk Manager (FI-01, FI-02, FI-03, FI-05, FI-06, FI-07, FI-09) (R-01, R-02, R-03, R-04)

References

- Ref-01.** City of San Buenaventura [Ventura] website, *Code of Ordinances, DIVISION 1 - GENERAL PROVISIONS, Chapter 1.300 Damage Claims Against the City.*
<http://library.municode.com/index.aspx?clientId=10135&stateId=5&stateName=Califo...> (accessed December 2, 2013)
- Ref-02.** California Government Code, Section 935.
http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=3.6.&title=1.&part=3.&chapter=6.&article= (accessed December 2, 2013)
- Ref-03.** California Government Code, Section 911.
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=911. (accessed December 2, 2013)
- Ref-04.** City of Ventura website, *Claim Form for Damages to Persons or Property.* <http://www.cityofventura.net/files/file/CLAIMFORM1-10.pdf> (accessed February 17, 2014)

- Ref-05.** City of Ventura website, Police Department page, *File a Citizen Complaint*. <http://www.cityofventura.net/page/file-citizen-complaint> (accessed February 17, 2014)
- Ref-06.** City of Camarillo website, *Instructions for Filing a Claim*. <http://www.ci.camarillo.ca.us/docs/Instructions%20for%20filing%20claim.pdf> (accessed February 17, 2014)
- Ref-07.** City of Moorpark website, *Liability Claims Against City*. <http://moorparkca.gov/businessdirectoryii.aspx?bid=209> (accessed February 17, 2014)
- Ref-08.** City of Ojai website, *Filing a Claim for Damages with the City of Ojai*. http://www.ci.ojai.ca.us/vertical/sites/%7B6CAA84A0-9B68-4637-964F-ED4B5D8E7542%7D/uploads/Claim_form_for_web.pdf (accessed February 17, 2014)
- Ref-09.** City of Simi Valley website, *City Clerk*, “download claim form” link. <http://www.simivalley.org/index.aspx?page=75> (accessed February 17, 2014)
- Ref-10.** City of Thousand Oaks website, *Claims*. http://www.toaks.org/government/depts/city_clerk/services/claims.asp (accessed February 17, 2014)
- Ref-11.** City of Ventura website, *Departments*. <http://www.cityofventura.net/departments> (accessed March 31, 2014)
- Ref-12.** City of Ventura website, *Risk Manager (#M40)* job description. <http://www.jobaps.com/VEN/specs/classspecdisplay.asp?ClassNumber=M40&R1=undefined&R3=undefined> (accessed March 31, 2014)
- Ref-13.** Carl Warren & Company website, *Claims Management and Solutions*. <http://www.carlwarren.com/cwhome.html> (accessed March 6, 2014)

Attachments

- Att-01.** City of San Buenaventura Form: Risk 103 (Claim for Damages to Person or Property)

Glossary

TERM**DEFINITION**

City	City of Ventura/San Buenaventura
Code	City of San Buenaventura, Code of Ordinances
California Code	California Government Code
County	Ventura County
Grand Jury	2013-2014 Ventura County Grand Jury
State	State of California

Attachment 01

**City of San Buenaventura Form: Risk 103
(Claim for Damages to Person or Property)**



City of San Buenaventura

CLAIM FOR DAMAGES TO PERSON OR PROPERTY

FILE WITH: City Clerk's Office, P.O. Box 99, Ventura, CA 93002-0099

Instructions

1. Claims for death, injury to person, or damage to personal property or growing crops must be filed no later than six months after the occurrence. (Gov. Code Sec. 911.2.)
2. Claims for damages to real property must be filed no later than one year after the occurrence. (Gov. Code Sec. 911.2.)
3. Read entire claim form before filing.
4. See page 3 for diagram upon which to locate place of accident.
5. This claim form must be signed on page 3 at bottom.
6. Attach separate sheets, if necessary, to give full detail. SIGN EACH SHEET.

RESERVE FOR FILING STAMP

CLAIM NO. _____

To: **City of San Buenaventura**

Name of Claimant	Claimant Social Security No.	Date of Birth
Home Address of Claimant	City, State & Zip	Home Telephone Number

Is the claim filed on behalf of a minor? ☐ Yes ☐ No

If yes, please state relationship to the minor _____ Minor's Date of Birth _____

When did DAMAGE or INJURY occur? Date _____ Time _____	Names of any City employee(s) involved in DAMAGE or INJURY.
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When did the incident or event that caused the damage or injury occur, if different from date of damage or injury?

Date: _____

When did you discover the damage or injury, if the discovery date is different from the actual date of damage or injury?

Date: _____

If this claim is for equitable indemnity, give date claimant was served with the complaint.

Date: _____

Where did damage or injury occur? If applicable, include street address, city/county, and direction of travel if car accident.

Describe the specific damage or injury incurred as a result of the incident.

Explain the circumstances that led to the alleged damage or injury. State all facts that support your claim against the City and why you believe the City is responsible for the damage or injury. If known, provide the name(s) of the City employee(s) who allegedly caused the damage or injury.

THIS CLAIM MUST BE SIGNED ON PAGE 3

RISK 103 PAGE 1 OF 3 REV. 1-10

The amount claimed, as of the date of presentation of this claim, is computed as follows:

Damages incurred to date (exact):

Damage to property\$ _____
 Expenses for medical and hospital care ...\$ _____
 Loss of earnings\$ _____
 Special damages for\$ _____
 General damages for\$ _____
 Total damages incurred to date\$ _____

Estimated prospective damages as far as known:

Future expenses for medical and hospital care..... \$ _____
 Future loss of earnings \$ _____
 Other prospective special damages \$ _____
 Prospective general damages \$ _____
 Total estimate prospective damages: \$ _____

Total amount claimed as of date of

presentation of this claim: \$ _____

NOTE: If this claim exceeds \$10,000:

☐ Indicate if greater than \$25,000

☐ Or less than \$25,000

INSURANCE INFORMATION: (must be completed if claim involved a motor vehicle)

- Do you have automobile insurance? Yes ☐ No ☐
- Has claim been filed or will a claim be filed with your insurance company? Yes ☐ No ☐
- Name of your insurance company _____
- Policy number _____
- Insurance company's mailing address and telephone number (include area code) _____
- Amount of deductible _____
- Are you the registered owner? Yes ☐ No ☐
 If no, who is? _____
- Make of vehicle _____ Model _____ Year _____

Was damage and/or injury investigated by police? _____ If so, name officer(s) involved _____

Were paramedics or ambulance called? _____ If so, name of the company _____

If injured, state date, time, name and address of doctor of your first doctor visit _____

WITNESSES to DAMAGE or INJURY: List all persons and addresses of persons known to have information:

Name _____	Address _____	Phone _____
Name _____	Address _____	Phone _____
Name _____	Address _____	Phone _____

DOCTORS or HOSPITALS:

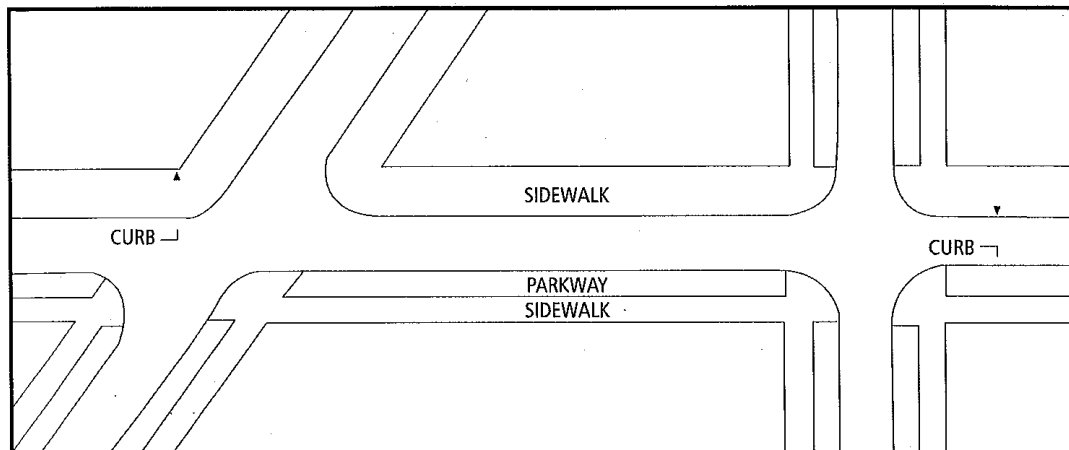
Doctor _____	Address _____	Date Visited _____
Doctor _____	Address _____	Date Visited _____

THIS CLAIM MUST BE SIGNED ON PAGE 3

RISK 103 PAGE 2 OF 3 REV. 1-10

READ CAREFULLY

For all accident claims, place on following diagram names of streets, including North, East, South, and West; indicate place of accident by "X" and showing house numbers or distances to street corners. If another vehicle was involved, designate by letter "A" location of other vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw other vehicle; location of other vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1," and the point of impact by "X." **NOTE:** If diagrams below do not fit the situation, attach a proper diagram signed by claimant.



Signature of Claimant or person filing on his/her behalf giving relationship to Claimant:

Typed or Printed Name:

Date:

Representative Information (must be completed, if an attorney or authorized representative files the claim)

Name of Attorney/Representative: _____ Telephone No. (include area code): _____

Mailing Address: _____

IMPORTANT INFORMATION:

- This claim must be signed by the claimant or his/her authorized representative.
- Claims must be filed with City Clerk (Govt. Code Sec. 915a). Presentation of false claim is a felony (Penal Code Sec. 72).

In compliance with the Americans with Disabilities Act, this document is available in alternate formats by contacting the City Clerk's Office at (805) 658-4787 or through the California Relay Service.

THIS CLAIM MUST BE SIGNED ON PAGE 3

RISK 103 PAGE 3 OF 3 REV. 1-10 