

**Alexander Nguyen**

City Manager



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JUL 24 2019

Ventura County  
Grand Jury

July 17, 2019

Ms. Kathleen Diamond, Foreperson  
County of Ventura  
2018-2019 Ventura County Grand Jury  
800 South Victoria Avenue  
Ventura, CA 93009

Dear Ms. Diamond:

This letter is in response to the Grand Jury report entitled "Public Liability and Youth Sports". On July 16, 2019, the Oxnard City Council took action on this item. Enclosed is the City of Oxnard's response.

Sincerely,

A handwritten signature in blue ink that reads "Luly".

Luly Lopez  
Executive Assistant

## Response to Grand Jury Report Form

Report Title: Youth Sports & Public Liability

Report Date: April 17, 2019

Response by: Alexander, Nguyen  
Terrel Harrison

Title: City Manager  
Title: Cultural & Community Services Director

### FINDINGS / CONCLUSIONS

- I (we) agree with the findings / conclusions numbered: C-01

**C-01.** The Grand Jury concluded that most cities and Districts in the County allow non-affiliated sports leagues to use their facilities to practice or play. However, they do not require proof of compliance with California law regarding protection against concussion-related injuries from these leagues. They also do not require proof that procedures for preventing and reporting child physical or sexual abuse are in place. (FA-01, FA-02, FA-03)

*Response: The City of Oxnard ("City") allows non-affiliated sports leagues to use its facilities to practice and play. The City does not currently have a policy in place requiring non-affiliated leagues to provide proof of compliance with AB 2007.*

- I (we) disagree wholly or partially with the Findings / Conclusions numbered: C-02, C-03  
(Attach a statement specifying any portions of the Findings / Conclusions that are disputed; include an explanation of the reasons.)

**C-02.** The Grand Jury concluded that cities and Districts do not require proof of adequate parental waivers and insurance coverage from non-affiliated sports leagues to protect against legal action that could jeopardize public monetary resources. (FA-04, FA-05)

*Response- partially disagree: We agree, that the City generally does not require proof of parental waivers, and only requires general liability insurance from non-affiliated sports leagues that rent City sports fields for organized games. We disagree that these actions are necessary to protect against legal actions that could jeopardize the City's monetary resources. The Government Claims Act (Cal. Gov. Code Sections 810 et seq.) immunizes the City from money damages arising out of certain policy decisions and activities. The City notes that the discretionary immunities provided by Government Code Sections 820.2 (immunity from policy decisions) and 818.2 (immunity from failure to adopt a law or enactment) would cover many types of claims arising out of the City's decision to rent City sports fields to non-affiliated sports leagues. In addition, the immunity applicable to hazardous recreational activities (Cal. Gov. Code Section 831.7) applies to many types of body contact sports, including but not limited to, football, soccer and basketball, and would likely address concussion-related injuries arising out of those sports.*

**C-03.** The Grand Jury concluded that cities and Districts are underinsured with respect to the type of coverage and coverage amounts to sufficiently protect them from litigation arising from the conduct of youth sports on city or district property. (FA-06)

*Response- disagree. The City is adequately insured with respect to the type of coverage and coverage amounts to sufficiently protect itself from litigation arising from the conduct of youth sports on City property. The City operates a self-insurance program and has excess insurance above \$1 million, to a total of \$27 million. The City's excess insurance covers sexual abuse, and the City has never had any claims as it relates to private operation of youth sports on City property. Notwithstanding the City's adequate coverage, as previously stated, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City's decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws.*

## RECOMMENDATIONS

- Recommendation number R-03 has been implemented.

**R-03.** The Grand Jury recommends that all cities and Districts review their own insurance coverage to ensure that they are adequately protected with respect to potential claims arising from the conduct of youth sports on city or district property. (C-03)

*See response to item C-03*

- Recommendation numbers R-01, R-02 have not yet been implemented, and will not be implemented in the future.

**R-01.** The Grand Jury recommends that all cities and Districts require proof from non-affiliated sports leagues that they are in compliance with California law regarding concussion-related sports injuries and that they have child physical or sexual abuse prevention and reporting procedures in place as a condition of the use of public facilities for practice or play. (C-01)

*Response- This recommendation will not be implemented because it is not legally required by California or Federal law. The City merely permits sports facilities to affiliated and non-affiliated sports leagues. The City does not warrant the quality of the programs nor the competency of the individuals or organizations (including non-affiliated sports leagues) using city facilities. To the extent the City conducts its own, in-house, adult or youth amateur sports competitions, training, camps, or clubs it does and will continue to comply with the law regarding concussion-related sports injuries and child physical or sexual abuse prevention and reporting procedure for its employees. In addition, this recommendation is not reasonable in as much as it will cost additional unfunded staff time to verify non-affiliated sports leagues are in compliance with the relevant California and Federal laws. Should the City voluntarily undertake the duty to establish proof that non-affiliated sports leagues are in compliance with such laws, then the City may expose itself to more liability should it erroneously permit a non-compliant league or team to use a field. The current system places the responsibility on the individual,*

parents or guardians to determine whether an affiliated or non-affiliated sports league, team, coach or program is suitable for the individual or child.

**R-02.** The Grand Jury recommends that all cities and Districts require proof of adequate parental waivers from participants and sufficient insurance coverage from non-affiliated sports leagues as a condition of the use of public facilities for practice or play. (C-02)

*Response- This recommendation, relating to evidence of insurance coverage, will not be implemented. As stated in its response to Conclusion C-02 and C-03, the City believes that the Government Claims Act immunizes the City from many types of liability associated with its decision to rent City sports fields to non-affiliated sports leagues and the City's decision to require or not require the non-affiliated sports leagues to have specific types of insurance coverage and to comply with concussion-related laws. The portion of this recommendation related to the City requiring proof of adequate parental waivers from participants will also not be implemented because the regulatory burden that this requirement would place on the City is not warranted in light of the Government Code immunities provided to cities in these matters.*

Date: 7/16/19 Signed: Tim Flynn 7/16/19  
Tim Flynn, Mayor

ATTEST:  
Michelle Ascencion  
Michelle Ascencion, City Clerk

Date: 7/16/2019 Signed: Alexander Nguyen  
Alexander Nguyen, City Manager

Date: 7/10/19 Signed: Terrel Harrison  
Terrel Harrison, Cultural & Community Services Director

Number of pages attached: 0