



City of Arts & Innovation

City of Riverside Administrative Manual

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Policy Owner(s): City Attorney's Office

Approved:



Department
City Manager

SUBJECT:

Responsibilities of City Departments During the Investigation of Claims for Damages

PURPOSE:

To establish a procedure and outline the responsibilities of City Departments during the investigation of Government Tort Claims for Damages ("claims") submitted to the City of Riverside ("City") for damages allegedly caused by the City and/or City employees. The City Attorney's Claims Processing Team, which is under the Litigation Division, self-administers the City's general liability claims. This policy sets forth the expectations for all City Departments to cooperate with and be responsive to the City Attorney's Claims Processing Team when claims are being investigated. The City Attorney's Claims Processing Team consists of in-house Risk Management Specialists ("RMS") and Deputy City Attorneys ("DCA") who are assigned to claims received by the City.

POLICY:

1. Definition of a Claim

A claim may be presented to the City in response to an action, harm, or loss. A "claim" is a written document submitted by a person to the City in accordance with the California Tort Claims Act (*Gov't Code* § 810 *et seq.*), which requires that a claim be submitted to the City prior to filing a lawsuit for money damages. The claims presentation requirements serve two basic purposes: 1) to give the City an opportunity to perform an early investigation of the facts, and 2) to give the City an opportunity to potentially resolve claims before a lawsuit is filed thereby avoiding costly litigation. There are a few exceptions when claimants are not required to submit a pre-litigation claim and can instead proceed straight to litigation. However, City Departments are required to comply with this policy regardless of whether the City Attorney's Claims Processing Team is investigating a claim or a lawsuit.

2. Investigation of Claims: Contacting Involved City Departments

Once a claim is received, the RMS will determine which City department(s) should be contacted to investigate the claim and to make recommendations how to respond to the claim. The purpose of the

investigation is to gather and preserve evidence so that the claim can be evaluated, settled, denied, or defended in potential future litigation. The RMS will send a copy of the claim to the appropriate City department(s) and request a response. The City department(s) involved with a claim are required to assist with the investigation and to issue a department report providing a recommendation of how to respond to the claim. The department report shall be directed to the Assistant City Attorney of the Litigation Division in anticipation of litigation.

Any City employees involved in an occurrence giving rise to a claim shall cooperate with the assigned RMS, DCA, and/or any outside defense counsel retained by the City by furnishing them with any additional information that is requested. Failure to cooperate in good faith may lead to the City's refusal to defend and indemnify the involved City employee(s) in the event of litigation.

If reasonably possible, City employees involved in any incident at work involving property damage or personal injury shall prepare an "Incident Report" and submit the report to his/her immediate supervisor for completion. In cases of severe injury or death, the City Attorney should be contacted immediately. It is the responsibility of all supervisory personnel to establish and maintain safe working conditions and equipment so as to minimize claims.

Communications between City staff and the City Attorney's Office regarding claims are protected from disclosure pursuant to the attorney-client privilege in anticipation of litigation. Protected communications include written and electronic correspondence and verbal communications that are made in anticipation of litigation, constitute legal advice or opinions, pertain to pending litigation, or are made for any other legal purpose. City employees who receive confidential information from the City Attorney's Office shall not share such information with anyone else without the express consent of the City Council.

3. Preservation of Evidence

Because conditions change and memories fade, all evidence related to an incident giving rise to a claim must be preserved by the involved City department(s), including but not limited to any reports, inspections, photographs, audio/video recordings, plans, and/or repairs. Any City department(s) and/or any City employee(s) who receive an "Evidence Preservation/Litigation Hold" letter shall comply with such request. Once the City has been put on notice of potential litigation, the City is obligated to preserve all evidence pertaining to the incident giving rise to a claim until full resolution of the matter, including all electronically stored information ("ESI"). Sources of ESI that must be preserved may include, but are not limited to, electronic documents, text messages, audio and video files, email and electronic correspondence, GPS information, photographs, images and graphics, social networking sites, deleted files, spreadsheets, databases, system usage logs, internet history and cache files, as well as enterprise user information such as contact lists and Outlook calendars. ESI may be located on electronic devices such as smart phones, cell phones, digital cameras, e-messaging systems, digital voice mail systems, tapes, digital voice recorders, portable hard drives, "thumb" drives, iPads, desktop and laptop computers (both work and personal devices if used for City purposes), etc. Once the City receives notice of potential litigation, the law requires the City to suspend its routine document retention/destruction policies and put in place a "litigation hold" to ensure the preservation of evidence. Once a claim or lawsuit has been fully resolved, the assigned DCA will notify the involved City department(s) that the "litigation hold" has been lifted.