

**2001-2002 SANTA CLARA COUNTY CIVIL GRAND JURY**  
**REVIEW OF THE PRACTICES AND PROCEDURES OF THE WORKERS’**  
**COMPENSATION DIVISION**

**INTRODUCTION**

The 2001-2002 Santa Clara County Grand Jury received a citizen complaint regarding various aspects of the Santa Clara County Workers’ Compensation Office operations. The complainant understood the Workers’ Compensation Division must adhere to State/Labor Workers’ Compensation Codes. The complainant, however, indicated inter/intra office procedures in the County Workers’ Compensation Office needed changing in order to improve the following: timeliness in handling cases, courtesy to clients, responsiveness and returning telephone calls. The Grand Jury has the authority to investigate and report on the operations of county departments under Penal Code 925.

Over a three-month period the Grand Jury held meetings with Workers’ Compensation staff and their counsel. The staff graciously supplied all the documents requested plus additional information. To help understand the Workers’ Compensation Division functions, Grand Jury members also read the following:

- “Workers Compensation Claims and Procedures Manual”
- “The Work Injury; An Employees Guide to Workers’ Compensation”
- “Supervisor’s Guide to Workers’ Compensation”

- California Workers’ Compensation Website
- Santa Clara County Risk Management Website
- Unemployment Insurance, Disability Insurance, and Workers’ Compensation; Government Guide Website
- Selected personnel case files

The Grand Jury interviewed several individuals who had filed temporary or permanent Workers’ Compensation claims over the past ten years.

**BACKGROUND**

Workers’ Compensation is the state’s oldest social insurance program, created by the California legislature in 1910, to compensate workers injured on the job. It is a no-fault system, meaning it is not necessary for injured employees to prove their injury was someone else’s fault in order to receive benefits for an on-the-job injury.

Based on the California Workers’ Compensation Website, the employer generally controls the medical treatment for the first thirty days after the injury is reported and the employee is then free to select any treating physician or facility. However, if the employee has notified the employer prior to the injury that he or she has a personal physician, that physician may treat the employee from the date of injury.

Choice of a treating physician differs, however, if the employee and employer have opted for a managed-care program. There are five basic types of Workers' Compensation benefits available:

1. Temporary medical care
2. Temporary disability benefits
3. Permanent disability benefits
4. Vocational rehabilitation services
5. Death benefits

Employees are also entitled to reasonable medical care required to cure or relieve the effects of the injury, with no deductible or copayments required from the injured worker. According to the Workers' Compensation staff, and the "Supervisor's Guide to Workers' Compensation," "The county is self-insured" and all payments processed are paid from the county's operating funds.

The Santa Clara County Workers' Compensation Division is a part of the County Employees Service Agency Risk Management Department. The office is staffed by approximately 40 employees charged with administering the program for employees of the county. (Attachment # 1)

As stated in the "Employee's Guide to Workers' Compensation:"

The Workers' Compensation Division is committed to

providing quality, cost effective service, information about the Workers' Compensation system, and support to those affected by occupational injuries or illness.

On a periodic basis, the Risk Management Department conducts a brief, five-question Customer Service Survey to aid in determining customer satisfaction in each division. The Workers' Compensation Division shared copies of the survey results.

## FACTS

- The Grand Jury received the results of the Fiscal Year 2001 Risk Management Customer Service Survey with details related to the employees experience with the Workers' Compensation Division.
- A five question Customer Service Survey was sent to 120 recipients regarding their experience with the Workers' Compensation Division. (Ref. Finding #7)
- To assist in processing claims, the Workers' Compensation Division has developed extensive procedures and guidelines that comply with state guidelines.
- The purpose, as stated in the "Supervisor's Guide to Workers' Compensation," is to provide all supervisors "with guidance in the event an employee is injured on the job." During an interview, one employee stated the supervisor at a worksite did not seem to know what steps to take when informed of a possible work-related injury. The Worker's Compensation staff agreed that on occasion this situation can occur.

- All supervisors are expected to refer employees to the pamphlet “The Work Injury; An Employee’s Guide to Workers’ Compensation” available from the Workers’ Compensation Division. The pamphlet describes what an employee should do when injured on the job and how the Workers’ Compensation system can assist them.
- In “The Work Injury; An Employee’s Guide to Workers’ Compensation” pamphlet, employees are asked to keep their Workers’ Compensation adjuster fully informed of their condition and work status, especially if there are changes. It advises the employee to call if they have questions.
- According to the Workers’ Compensation staff, it is common knowledge among health care providers that patients should not be treated without authorization. The Workers’ Compensation staff assumes the doctor will inform the client of the need for authorization prior to beginning treatment.
- In the communications section of the “Workers’ Compensation Claims and Procedures Manual” it states, “At all times, employees of the Workers’ Compensation Division should provide prompt, courteous service to all county employees. As part of this, all communications should be timely, accurate and professional. Furthermore, all pertinent communication should be documented in individual claims forms. These mandates for communication must be weighed against individual rights to privacy and the need for confidentiality in some instances.”
- According to the staff, claims adjusters’ telephone calls are not monitored. It is the adjusters’ responsibility to log their calls.
- Some claims adjusters are hired with a state certification. The program manager/supervisor is responsible for the employees’ training once assigned to their group. Most claims adjusters are at the level of adjuster III with a “high level of experience.”
- The manager/supervisor works with individuals to address specific claims in process and/or any issues the claims adjuster wishes to discuss. There are biweekly staff meetings to cover changes in procedures or common issues.
- Technical aspects of the tasks performed by Workers’ Compensation staff are routinely reviewed.
- “The Work Injury; An Employee’s Guide to Workers’ Compensation” pamphlet states how essential it is for the employee to work with supervision to prevent a recurring injury and ensure that coworkers are not injured. Training, safety equipment and modifying the work process are mentioned as larger issues to be considered.

## **FINDINGS**

1. Timeliness in the process of authorizing additional treatment or the utilization of support services and specialists may be delayed when the process relies on the medical provider.
2. Since there is no monitoring of telephone calls, there is no assurance that claimants are treated in a courteous manner.
3. Informational and instructional documents about Workers' Compensation were supplied to claimants without a review or explanation of the materials.
4. Although the "Supervisor's Guide to Workers' Compensation" details the steps to promptly report when an employee is injured, some supervisors may not be aware of their responsibility to the employee.
5. Some supervisors are not following all guidelines and or suggestions as presented for their use in the "Supervisor's Guide to Workers' Compensation."
6. Although most individuals expressed satisfaction with the Workers' Compensation Division, they reported telephone calls were not returned in a timely manner. These included periods when individuals were not in the office for multiple workdays or were on vacation. This could not be validated by the Grand

Jury, since there are no records to reference.

7. The last Customer Service Survey sent to county employees was a brief five questions. The response to the Workers' Compensation Division was limited which may lead to erroneous conclusions.

## **RECOMMENDATIONS**

The Santa Clara County Civil Grand Jury recommends that the Workers' Compensation Division:

1. Include information related to the importance of obtaining authorization before seeing a specialist/therapist as the "Employee's Guide to Workers' Compensation" is updated. (Ref. Finding #1)
2. Prepare a second employee's guide, or include in the current guide, information for individuals that have long-term requirements, permanent disability settlements, or injuries having a high probability of recurrence. (Ref. Finding #3)
3. Devise a system to consistently keep employees informed about the Workers' Compensation Division and how it can offer support to those affected by occupational injuries or illnesses. (Ref. Finding #'s 3, 4, & 5)
4. Implement a simple logging and tracking system of incoming phone calls and voice mail messages. The program manager should review the logs on a regular basis. (Ref. Finding # 6)

5. Implement, within the Workers' Compensation Division, a telephone monitoring system for maintaining proper employee/client interaction. (Ref. Finding #2)
6. Use claims technicians to review and log the adjuster's messages and voice mail for response priority when the adjuster is not available for more than one day. (Ref. Finding #6)
7. Make a follow-up call to verify receipt of information when documents are mailed to claimants. (Ref. Finding #3)

The Santa Clara County Civil Grand Jury recommends that the Department of Risk Management:

8. Devise a method to obtain a higher percentage of return from the Customer Service Survey requesting feedback related to the Workers' Compensation Division. (Ref. Finding #7)

## BIBLIOGRAPHY

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**PASSED** and **ADOPTED** by the  
Santa Clara County Civil Grand  
Jury this 17<sup>th</sup> day of January, 2002.

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Bruce E. Capron  
Foreperson

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Norman N. Abrahams, DDS  
Foreperson Pro Tem

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Joyce S. Byrne  
Secretary

